

Alternative CEDAW Report

**Report of civil society organizations on the implementation of the
Convention on the Elimination of All Forms of Discrimination against
Women in Bosnia and Herzegovina**

(2019–2023)

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Title:

Report of civil society organizations on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in Bosnia and Herzegovina (2019–2023)

Report prepared by activists from across Bosnia and Herzegovina:

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Summary

The Alternative CEDAW Report by civil society organizations (CSOs) in Bosnia and Herzegovina for the period 2019-2023 provides an overview of national legislation, administrative rules and procedures, and practices. It also identifies obstacles to the exercise of women’s human rights and offers insight into the actual state of gender equality in Bosnia and Herzegovina. The report was developed by activists from various civil society organizations under the coordination of organizations *Rights for All* and the *Helsinki Citizens’ Assembly* (hCa) Banja Luka.

The alternative report generally follows the structure of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Each chapter concludes with a set of specific recommendations defined based on the analysis of the situation in selected areas.

Reporting on individual areas is based on desk research of laws and other relevant documents, as well as a systematic review of relevant data available. This approach facilitated the identification of problems and the formulation of well-founded and solid recommendations. The analysis also highlighted the need for adequate gender statistics. Additionally, where necessary, the authors drew attention to previous recommendations from the CEDAW Committee to which the state has not yet fully responded properly.

In drafting this report particular attention was paid to an intersectional approach, and each of the thematic areas focused on the specific positions of multiply marginalized groups of women. Furthermore, transparency of the process was ensured in all stages of the report drafting, with a special focus on involving activists from organizations dealing with issues related to multiply marginalized groups of women.

The report was developed by activists from across Bosnia and Herzegovina: Adrijana Hanušić Bećirović, Aida Ćosić, Aleksandra Petrić, Amina Dizdar, Prof. Dr Amila Ždralović, Amra Kadrić, Biljana Savičić, Dženana Alađuz, Gordana Vidović, Larisa Kovačević, Maida Omerćehajić, Medina Mujić, Meliha Sendić, Mirsada Bajramović, Tanja Mandić Đokić and Željka Umičević.

Introduction: context, drafting methodology, and content overview

Prepared by Prof. Dr. Amila Ždralović

Having looked into the 6th Periodic Report of Bosnia and Herzegovina in 2019 (CEDAW/C/BIH/6), the CEDAW Committee welcomed the progress that Bosnia and Herzegovina had achieved in enacting legislative reforms. However, the Committee also expressed concern about the “general lack of awareness of the Convention, the Optional Protocol, and the Committee’s general recommendations” in BiH. It recommended that the State “raise awareness among the general public, both men and women, about women’s rights under the Convention, the Optional Protocol, and legislation prohibiting discrimination against women.”¹

As indicated by research and reports,² all the societal weaknesses – characterized by a general lack of understanding of international and national legal frameworks, as well as a patriarchal and heteronormative sociocultural context have become particularly evident with the outbreak of the COVID-19 pandemic, which has affected all individuals but additionally and very specifically women, particularly multiply marginalized groups of women. During this period, gender equality was on standby³, while established institutional mechanisms for gender equality proved ineffective⁴. More specifically, the weaknesses in the system regarding the establishment and promotion of gender equality particularly came to the forefront during the crisis, thus confirming the overall absence of comprehensive strategies and intersectional approaches.

Considering legal regulations, strategic documents, and gender action plans, Bosnia and Herzegovina can be said to have made some progress in institutionalizing gender equality. However, various analyses have shown that there is a gap between legal provisions and the

¹ CEDAW/C/BIH/CO/6 (November 2019) Concluding Observations on the Sixth Periodic Report of Bosnia and Herzegovina, p. 1–2. (Available at: https://arsbih.gov.ba/wp-content/uploads/2020/06/BOS_CEDAW-C-BIH-Concluding-Observations-6_AsAdopted.pdf).

² For example: Hasanbegović, Delila and Dizdar, Amina, (2021). Orange report 6: Report on the State of Human Rights of Women in Bosnia and Herzegovina. Sarajevo: SOC. (Available at: https://soc.ba/site/wp-content/uploads/2021/07/Narandzasti_EN_FINAL-za-web.pdf); Haar, Robin, Miftari, Edita i Negruta, Ala (2021) Rapid gender assessment of COVID-19 in Bosnia and Herzegovina. Sarajevo: UN Women. (Available at: <https://eca.unwomen.org/en/digital-library/publications/2021/7/rapid-gender-assessment-of-covid-19-in-bosnia-and-herzegovina>); UN Women (2021). Country Gender Equality Profile of Bosnia and Herzegovina. Sarajevo, Bosnia and Herzegovina. (Available at: <https://eca.unwomen.org/en/digital-library/publications/2021/7/country-gender-equality-profile-bih>).

³ Ždralović, Amila and Popov Momčinović, Zlatiborka, (2020). Gender Equality Situation – Effects of the Implementation of Gender AP on Local Level in Six Selected Local Communities (Tuzla, Srebrenik, Gračanica, Milići, and Srebrenica). Tuzla: Association „HO HORIZONTI“ Tuzla and Association „Forum žena“ Bratunac, p. 7. (Available at: http://horizonti.ba/wp-content/uploads/stanje_ravnopravnosti_spolova.pdf).

⁴ Analyses indicate that recommendations from institutional gender equality mechanisms and reminders of previously undertaken obligations have generally been disregarded by other government institutions (Ždralović, Amila /2021/ Ethic of Care and Its Reflections on *the Feminist Theories of Law and Justice, Sociological Discourse*). Year X, No. 20, p. 59; Ždralović, Amila, (2020). On the Pandemic from a Gender Perspective, Series “Pandemic and Law”, Issue number. 7, Sarajevo University - Law School, p. 2. (Available at: <https://www.pfsa.unsa.ba/pf/wp-content/uploads/2020/05/Doc.-dr.-Amila-%C5%BDrdalovi%C4%87.pdf>).

actual situation on the ground⁵, that gender equality mechanisms in BiH are being increasingly neglected as we move down to lower levels of government⁶, and that the highly disadvantaged position of marginalized groups of women is often being disregarded⁷. Although BiH has worked intensively over the past 20 years to develop a legal, political, and institutional framework for achieving gender equality, further enhancement of legislative and other measures for realizing gender equality in practice is needed. This entails reform processes and policies across all areas and at all levels, using specially developed gender mainstreaming tools.

Alternative Report by Civil Society Organizations on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Bosnia and Herzegovina for the period 2019-2023 aims to not only provide an overview of national legislation, administrative rules, procedures, and practices but also identify barriers to the exercise of women's human rights and offer insights into the actual state of gender equality in Bosnia and Herzegovina. Activists from various non-governmental organizations were involved in the report drafting process, which was prepared and coordinated by organizations Rights for All and the Helsinki Citizens' Assembly (hCa) Banja Luka. The process of involving the activists and organizations was open and transparent, which was particularly important from the perspective of an intersectional approach. The specific positions of multiply marginalized groups of women were highlighted in each of the thematic areas covered by the report.

The data collection, analysis, and drafting of recommendations took place from May 2022 to June 2023. Throughout this period, meetings were held to determine the report's methodology, structure, approaches, and content of individual sections. The report largely follows the general structure of the CEDAW Convention. Each chapter concludes with specific recommendations based on the analysis of the situation in the respective area.

The first part covers the general obligations of the State to ensure a legal and political framework for the implementation of the Convention, as well as the broader social context that may hinder gender equality. The following chapters address specific observations in various areas.

⁵ For example: Ždralović, Amila and Popov Momčinović, Zlatiborka, (2020). Gender Equality Situation – Effects of the Implementation of Gender AP on Local Level in Six Selected Local Communities (Tuzla, Srebrenik, Gračanica, Milići, and Srebrenica), Tuzla: Association „HO HORIZONTI“ Tuzla and Association „Forum žena“ Bratunac, p. 7. (Available at: http://horizonti.ba/wp-content/uploads/stanje_ravnopravnosti_spolova.pdf).

⁶ For example: Kadribašić, Adnan, Chiarenza, Barbara and Čehajić-Čampara, Maida, (2020). Polazna studija o barijerama političkom učešću žena u Bosni i Hercegovini [Baseline Study on Barriers to Political Participation of Women in Bosnia and Herzegovina]. Sarajevo: UNDP, p. 41.

⁷ For example: Malkić, Aida and Bošnjak, Emina, (2019). Pozicija, uključenost i prava žena koje pripadaju manjinskim i marginaliziranim grupama u BiH [Position, Inclusion, and Rights of Women Belonging to Minority and Marginalized Groups in Bosnia and Herzegovina]. Sarajevo: Fondacija CURE and Fondacija za osnaživanje žena, p. 57; Šadić, Sanela, Ždralović, Amila and Emirhafizović, Mirza, (2020). Jednoroditeljske porodice – Mapiranje prava i potreba samostalnih roditelja/ki na području općine Centar Sarajevo [Single-Parent Families - Mapping the Rights and Needs of Single Parents in the Municipality of Centar Sarajevo]. Sarajevo: Fondacija CURE.

The second part focuses on human trafficking. Based on presented statistics, women and children are identified as the dominant categories among human trafficking victims. This section also includes an analysis of the criminal legislation in Bosnia and Herzegovina, court practices related to the exploitation of women and children, and support systems for victims of human trafficking. Like all other chapters, this chapter also concludes with practical recommendations to harmonize and improve criminal legislation of BiH to explicitly recognize forced marriage and forced begging as human trafficking offenses, improve access to justice and effective legal remedies, ensure continuous public awareness and education of experts who are in whatever way involved in the victim support system, provide for adequate prosecution of the offenses, and improve the support system for victims and potential victims, and more.

The third part looks into gender equality in public and political life. In this section of the Report, the authors recognize the positive initial impact of gender quotas on women's participation in parliaments in Bosnia and Herzegovina, acknowledging that through the legal and institutional measures taken, the State declared but failed to deliver on its formal interest in promoting gender equality. The section reviews available statistical data and institutional mechanisms for gender equality in the country, addressing (in)consistencies of relevant regulation with the BiH Gender Equality Law, and the issue of the invisibility of marginalized groups of women in politics. It concludes with recommendations to, among other things, align the Law on Council of Ministers with the BiH Gender Equality Law, amend the BiH Election Law, remove barriers to women's participation in BiH through continuous promotion of anti-discrimination culture, etc.

The fourth part focuses on education and includes an analysis of the laws governing this area, a review of available data confirming restricted access to primary and secondary education for marginalized groups, a look into research indicating biases and stereotypes in the educational process, an overview of data demonstrating horizontal and vertical segregation in education, and a discussion on the measures related to the prevention of sexual and gender-based violence in educational institutions. The practical recommendations provided at the end of this chapter focus on ensuring actual (rather than merely egalitarian) access to education, using gender-sensitive language in educational institutions, modernizing teaching content, eliminating all forms of violence in educational institutions, removing horizontal and vertical segregation in education, educating and sensitizing teaching and other staff, creating guidelines for teaching staff to prevent homophobia/transphobia, and ensuring adequate support for LGBTI students. Furthermore, the recommendations include revising narrowly assumed patriarchal sex markers in application documents and other forms.

The fifth part addresses employment and economic and social benefits. This chapter includes, among other things, a review of official data and research confirming significant gender inequalities in the labor market, the underrepresentation of women in positions of economic

power and decision-making, as well as an overview of legislation governing the areas of labor and employment. Stereotypes and discrimination that define the position of women, especially marginalized groups of women (such as lesbian, bisexual, and transgender women - LBT women) in the employment process and workplaces are identified based on previous research. Among other things, specific attention has been given to issues of gender-based violence and harassment in the workplace, employment strategies that fail to address specific groups of women (such as Roma women and other marginalized groups), unpaid female labor, maternity leave payments, access to childcare services, gender pay gap, and (co)ownership of property, and the like. Based on the identified issues, concrete recommendations have been formulated to generally improve the economic position of women in Bosnia and Herzegovina.

The sixth part identifies issues of discrimination against women in the field of healthcare, as well as the unavailability of healthcare services related to pregnancy, childbirth, and the postpartum period. This segment of the report includes an analysis of regulations in healthcare, social protection, and family law, as well as criminal and misdemeanor legislation. Additionally, specific issues are identified based on published research and reports. After that, recommendations are provided to align the healthcare and health insurance systems, continuously assess the implementation and effects of health strategies and policies, and regularly adopt such documents, improve the availability of information and services in the field of sexual and reproductive health, incorporate sexual education into formal education, adequately investigate violence against mothers in hospitals and establish systematic protection and prevention measures, and implement a transparent system of ongoing training for healthcare workers on sexual and reproductive health.

The seventh part addresses the issue of marriage and family relationships. The legislation that governs this area recognizes discrimination against individuals of different sexual orientations and/or gender identities. It has been observed that some of the recommendations of the CEDAW Committee in this area have been ignored (for example, recommendations regarding the abolition of mandatory mediation). This section of the Report also addresses issues of child marriages, the establishment of the Alimony Fund, and more. In light of the presented issues, appropriate recommendations have been provided concerning the adoption of laws on same-sex partnerships, the abolition of mandatory mediation in divorce proceedings, defining the concept of single parenting, establishing an alimony fund, and adequate sanctioning of non-compliance with alimony obligations. Additionally, recommendations to abolish provisions allowing marriage to individuals under 18 years of age and the criminalization of forced marriage in accordance with the Istanbul Convention, as well as the provisions allowing the legalization of extramarital cohabitation with a person under 16 years of age are given. Another set of recommendations aims at raising awareness about the harmful effects of underage marriages and promoting amendments to labor laws to introduce concepts of paternal,

parental, and maternal leave and raise awareness about the importance of fathers utilizing parental leave.

The eighth and ninth sections address separately outlined and distinct topics. More specifically, in the eighth section, the authors address the topic of violence against women. They identify legislative shortcomings, present official statistics while highlighting their deficiencies, provide data collected by civil society organizations, and point out previous recommendations from the CEDAW Committee to which the state has not yet adequately responded. Based on the presented situation, recommendations are provided, which, among other things, speak of the need for the adequate recognition of gender-based violence in the Gender Equality Law of Bosnia and Herzegovina. Also, they speak of the need for a clear definition of a victim of a criminal offense in the criminal codes, recognition of the right of the victim to support and protection in criminal proceedings, and introduction of a provision that recognizes the culpability of incitement to violence and hatred based on sexual orientation and gender identity in the criminal codes of the Federation of Bosnia and Herzegovina and the Brčko District. It is also recommended to expand the definition of family in the laws on protection from domestic violence in the Federation of Bosnia and Herzegovina and the Brčko District. Additionally, conceptual guidelines are provided for the adoption of state and public policies that would encompass all forms of gender-based violence. The recommendations also include, among other things, general guidelines for a gender-responsive methodology for collecting data on gender-based violence. In addition, it is recommended to enhance the work of professionals and improve measures of support and assistance for women who have survived violence.

Finally, the ninth section addresses the topic of women, peace, and security, which is particularly specific in the context of Bosnia and Herzegovina. In this chapter, the author discusses, inter alia, the issue of prosecuting sexual violence crimes during conflicts and reparations for women victims of war crimes. Based on the identification and presentation of key issues, concrete suggestions are provided for updating the revised strategy for the prosecution of war crimes cases, enhancing regional cooperation in the criminal prosecution of war crimes, and subsequently establishing an effective and comprehensive framework for reparations. Concrete proposals are also presented regarding other identified issues, such as the adoption of a Transitional Justice Strategy and a Program for the Protection of Victims of Sexual Violence Committed in War. Additionally, there are suggestions for the legal recognition of children born as a result of wartime sexual violence as civilian war victims, granting them necessary rights and benefits.

The goal of the summary and general overview of the content is not to encompass all aspects of the Alternative Report but rather to provide a broad overview of the topics the authors addressed and describe how they approached them. Evidently, the focus of the Alternative Report was on a desk analysis of laws and other relevant documents, as well as on meta-

analysis and systematic presentation of relevant, primarily quantitative data, while relying on official statistics and research. Given that the authors are activists with rich experience in grassroots activism, the recommendations provided at the end of each chapter hold a special practical significance and have the potential to significantly enhance the status of women's human rights in Bosnia and Herzegovina. This approach facilitated the identification of problems and the formulation of well-founded and concrete recommendations. The analysis also highlighted the need for adequate gender statistics. Furthermore, where necessary, attention was once again drawn to previous recommendations from the CEDAW Committee to which the State has not responded adequately.

1. Gender equality and prohibition of discrimination

Prepared by Prof. Dr. Amila Ždralović

Contribution by: Željka Umićević (Helsinki Citizens' Assembly Banja Luka)

Over the past 20 years, Bosnia and Herzegovina has been actively working on developing a legal framework for gender equality. However, this progress should be viewed in relation to possible avenues for improving the legal framework, the discrepancy between the formal legal framework and actual social practices, and ultimately the absence of both gender-sensitive approaches and gender mainstreaming tools.

In principle, the Constitution of Bosnia and Herzegovina incorporates principles of equality and prohibition of discrimination, explicitly prohibiting discrimination based on sex (Article II/4 of the Constitution of BiH). In the Concluding Observations on the Sixth Periodic Report of BiH, the CEDAW Committee pointed out limitations in the constitutional definition of discrimination. Additionally, within the framework of the “Women Citizens for Constitutional Reform” Initiative⁸, an expansion of prohibited grounds for discrimination has been proposed. On the other hand, all formal discussions regarding constitutional reforms exclude feminist perspectives and generally do not provide space for incorporating the voices of women activists.⁹

The only opportunity for activists from the “Women Citizens for Constitutional Reform” Initiative to highlight the importance of incorporating a gender component into the Constitution of BiH was during a thematic session of the four parliamentary committees of Bosnia and Herzegovina. This session took place in December 2021 and was organized by the Ministry of Human Rights, specifically the Gender Equality Agency of BiH. The theme of the session was the implementation of recommendations from the CEDAW Committee regarding

⁸ „Građanke za ustavne promjene” [Women Citizens for Constitutional Reform] is an initiative founded in 2014. The initiative brings together organizations and activists from Bosnia and Herzegovina and advocates for a Constitution that will ensure greater protection of human rights and freedoms, with a particular focus on integrating a gender perspective. The initiative has created a document called the “Platform of Women’s Priorities for Constitutional Reform and Amendments to the Constitution of Bosnia and Herzegovina from a Gender Perspective” (More at: Inicijativa “Građanke za ustavne promjene”, 2013, Platforma ženskih prioriteta za ustavne promjene sa amandmanima na Ustav Bosne i Hercegovine iz rodne perspektive, available at: <https://gradjankezaustavnepromjene.wordpress.com/platformu-zenskih-prioriteta>; <https://womencitizensforconstitutionalreform.wordpress.com>).

⁹ Ždralović, Amila, (2021). Izborno zakonodavstvo Bosne i Hercegovine - rodna analiza [Election legislation of Bosnia and Herzegovina - gender analysis]. In: I. Citiković, Reforma izbornog zakonodavstva [Reform of Election legislation], Posebna izdanja Knjiga CXCVIII, Odjeljenje društvenih nauka – Knjiga 17, Sarajevo: Akademija nauka i umjetnosti Bosne i Hercegovine, p. 315–329, DOI: 10.5644/PI2021.198.18; Balić, Lejla i Ždralović, Amila, (2019). Učešće žena u zakonodavnoj izvršnoj i sudskoj vlasti [Participation of women in legislative, executive, and judicial branches of government]. In: Ždralović, A., Gavrić, S. and Rožajac Zulčić, M. (ur.), Koje je roda sigurnost: 20 godina Rezolucije Vijeća sigurnosti 1325 „Žene, mir i sigurnost” i njezina provedba u BiH. Sarajevo: [What is the gender of security: 20 years of the 1325 Resolution “Women, Peace and Security” and its implementation in BiH] SOC, p.81–104; Izmirlija, Midhat and Ždralović, Amila, (2019). Feministička teorija, nauka i istraživanje u BiH [Feminist Theory, Science and Research in BiH] In: Gavrić, S. and Ždralović, A. (ur.). Teorija, pravo, politike. Uvod u rodne studije za studentice i studente društvenih nauka. [Theory, Law and Policies: Introduction into gender studies for students of humanities] Sarajevo: SOC and Law School, p. 63.

the Sixth Periodic Report on the implementation of the CEDAW Convention. This was also the first time in the history of Bosnia and Herzegovina that solutions for the Constitution of BiH were presented by a group of civil society organizations. The adoption of the presented solutions would define more clearly the prohibition of discrimination in the Constitution and enhance women's rights.

The Law on Gender Equality of Bosnia and Herzegovina, adopted in 2003 and amended in 2009, follows the structure of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women.¹⁰ However, it could still be further improved, and Chapter 8 of this Report highlights the need to recognize gender-based violence as a form of discrimination against women. This law also served as a basis for establishing institutional mechanisms for gender equality, which are described in the chapter on political and public life.

The legislative framework for protection against discrimination has been significantly improved through the adoption of the Law on Prohibition of Discrimination in Bosnia and Herzegovina in 2009, along with its amendments in 2016. While equity and principles of non-discrimination are incorporated into other legal regulations as well, certain areas are consistently perceived as gender-neutral, and laws, policies, and strategies frequently overlook the specific needs of women.

Various chapters of this report point to different forms of discrimination, especially the discrimination faced by multiply marginalized women. This underscores the discrepancies between the normative and the actual, and this gap can only be bridged by genuinely integrating a gender perspective into policy-making at all levels of government. As demonstrated by many analyses¹¹, gender equality requires systematic and strategic use of different instruments and tools. However, it's important to note that besides knowledge and skills, these steps often rely on gender-sensitive statistics, which will be further discussed later in the report.

Recommendations

1. Apply *gender mainstreaming* strategy in legislative drafting and policy-making, as well as in budgeting, and develop a methodology for monitoring the implementation of *gender mainstreaming* by relevant institutions.
2. Laws and policies should address the issues concerning the status of women, with special attention to addressing intersectional discrimination. This involves continuous and appropriate assessments based on gender-disaggregated statistics – data categorized by sex as well as other distinguishing factors in the context of

¹⁰ See more at: <https://arsbih.gov.ba/project/zakon-o-ravnopravnosti-spolova-u-bih>.

¹¹ For example: Milinović, Jelena, (2019). Rodna analiza [Gender analysis] In: Gavrić, S. and Ždralović, A. (ur.). Teorija, pravo, politike. Uvod u rodne studije za studentice i studente društvenih nauka. [Theory, Law and Policies: Introduction into gender studies for students of humanities] Sarajevo: SOC and Law School

intersectionality. For a comprehensive understanding of the situation, it's important to consider the possibility of developing qualitative methodologies and tools to take into account the specific position of particularly vulnerable groups of women, such as LBT (lesbian, bisexual, and transgender women), single mothers, Romani women, and others.

3. The State should implement more effective programs and policies aimed at eradicating stereotypes about women and men, as well as the roles they have in society.
4. The Constitution of Bosnia and Herzegovina should ensure greater protection of human rights and freedoms, with a special focus on a gender perspective, while taking into account the five priorities defined in the document "Platform of Women's Priorities for Constitutional Reform and Amendments to the Constitution of Bosnia and Herzegovina from a Gender Perspective". These priorities are a) The use of gender-sensitive language in the Constitution of BiH; b) Introducing affirmative action principles in the Constitution of BiH to work towards full gender equality; c) Expanding the existing catalog of fundamental rights to include provisions with respect to common health care services, social and family care; d) Affirmation of a higher level of judicial and legal protection of human rights and liberties, and e) Introduction of the principle of direct democracy in the process of constitutional reform.

2. Human trafficking

Prepared by: Meliha Sendić and Aida Ćosić (NGO „Centar ženskih prava“)

Contribution by: Mirsada Bajramović (Association „Zemlja djece“) and Tanja Mandić Đokić (an activist for the rights of persons with disabilities)

2.1. Strategic and Legislative Framework for Combating Human Trafficking in Bosnia and Herzegovina

In January 2020, authorities adopted a new Strategy for Combating Human Trafficking in Bosnia and Herzegovina for the period 2020-2023, which incorporated many recommendations from the GRETA Committee. The Strategy is accompanied by the Action Plans of the institutions of Bosnia and Herzegovina, as well as action plans from Entity, cantonal, and Brčko District governments for the institutions under their jurisdiction.

However, authorities have not secured budgetary funds for their implementation, hence activities are solely carried out with the support of donor funds. Out of 94 planned activities for 2020, 61 were fully realized, 2 were partially realized, and 31 activities were not realized during the reporting period.¹²

2.2. Referral Mechanism for Victims of Human Trafficking

With the adoption of the new strategy, the national referral mechanism for combating human trafficking has been reformed. Eighteen coordination bodies have been established: one team at the level of the Federation of Bosnia and Herzegovina, one team in each of the ten cantons within the Federation of Bosnia and Herzegovina, six teams in Republika Srpska, and one team in Brčko District. Their task is to coordinate the response of relevant institutions concerning the prevention, investigation, and prosecution of human trafficking cases, as well as providing assistance to victims. These teams comprise representatives from the police, prosecution, social welfare centers, labor inspectorates, as well as other institutions such as health clinics, ministries of justice, finance, and education, depending on the decision of the Entity, Brčko District, or cantonal government that establishes the team.

Only in three cantons are women appointed as coordinators of these bodies, while representatives of relevant NGOs are included in only five teams at the Federation level, in

¹² State Coordinator for Combating Human Trafficking (2021). Report on the State of Human Trafficking and the Implementation of the Strategy for Combating Human Trafficking in Bosnia and Herzegovina for 2020, page 37. (Available at: http://msb.gov.ba/anti_trafficking/dokumenti/godisnji_izvjestaj/Archive.aspx?langTag=bs-BA&template_id=104&pageIndex=1).

Brčko District, and three cantonal teams. Local authorities have often appointed individuals without prior experience in the field of human trafficking as members of the coordination teams.

2.3. Statistical Data Collection System

Women and children continue to be the most dominant groups among the identified victims of human trafficking. At the national level, a comprehensive and coherent statistical data collection system has been established to gather data on identified potential victims of human trafficking. The data is categorized by gender, age, and forms of exploitation. According to official data, a total of 188 victims were identified from 2019 to 2021, and among them, 80% were women. In Bosnia and Herzegovina, children constitute the majority of identified victims (59% in 2019¹³ and 50% in 2020¹⁴). Due to chronic poverty, marginalization, and social discrimination, Romani children remain particularly vulnerable.¹⁵ The majority of victims are exploited for forced begging and sexual exploitation.

2.4. Legal Practice in Cases of Exploitation of Women and Children

In 2020, the District Court in Banja Luka issued a verdict in which the father of a thirteen-year-old Romani girl and members of the “groom’s” family, who arranged the sale of the girl for BAM 1,000 to establish a forced marriage, were acquitted of child trafficking charges. According to the rationale of the verdict, there was an “inescapable legal error, which the accused could not have known, as different rules apply among Romani people.”¹⁶

The first-instance court in Brčko District qualified a child exploitation case as coercion, but the prosecution appealed, and the case was sent back for retrial before the appellate court. In the retrial, the first-instance court issued a verdict finding the defendant guilty of human trafficking and sentencing him to one year in prison, which is significantly below the prescribed legal

¹³ State Coordinator for Combating Human Trafficking, Report on the State of Human Trafficking in Bosnia and Herzegovina for the year 2019, Sarajevo, March 2020. (Available at: http://www.msb.gov.ba/anti_trafficking/dokumenti/godisnji_izvjestaj/default.aspx?id=19181&langTag=en-US).

¹⁴ State Coordinator for Combating Human Trafficking, Report on the State of Human Trafficking in Bosnia and Herzegovina for the year 2020, Sarajevo, March 2021. (Available at: <http://msb.gov.ba/PDF/12082021.pdf>).

¹⁵ Council of Europe, Action Plan for Bosnia and Herzegovina for the period 2022–2025. (Available at: <https://rm.coe.int/action-plan-bh-hrv-2758-4686-7462-1/1680a61b53>).

¹⁶ The defense of the accused also argued that this was a part of Romani tradition. (Available at: <https://www.newipe.net/2022/04/26/ugovoreni-i-prisilni-brakovi-od-krivice-odgovornosti-krsenja-prava-djece-do-ekonske-nejednakosti/>).

minimum of five years. The court found that there were mitigating circumstances, specifically, the fact that the accused was married and the father of three children.¹⁷

2.5. Effective and Proportional Penalties

Courts in Bosnia and Herzegovina impose lenient penalties that are neither effective nor proportionate nor deterrent to such offenses.

In human trafficking cases tried before the Court of Bosnia and Herzegovina between January 1, 2009, and December 31, 2020, a total of 35 prison sentences and three suspended sentences were pronounced. The longest prison sentence imposed was 12 years, while seven individuals were sentenced to prison terms exceeding five years. Fourteen individuals received prison sentences ranging from one to five years, and an equal number received prison sentences of less than one year.

In the Entities and the Brčko District, the majority of imposed prison sentences were for one year or were conditional sentences.¹⁸

The plea agreement institute is also applied in human trafficking cases. In cases where plea agreements were concluded with perpetrators of human trafficking, criminal sanctions were often close to or even below the prescribed legal minimum, and thus fail to achieve the purpose of punishment. The European Convention on Combating Human Trafficking, as well as applicable domestic legislation, provides provisions for the confiscation of ill-gotten gains acquired through the commission of criminal offenses. Yet, this provision is rarely used, mainly because human traffickers usually do not keep records of their illegal earnings but also because, during the investigation, actions are not taken to determine the potential amount of ill-gotten gains acquired through the commission of the criminal offense i.e., because the prosecution does not provide evidence of such gains.

In human trafficking investigations, judicial authorities are obligated to efficiently investigate all relevant circumstances of the case. This includes conducting an investigation to determine the “true nature of the relationship” between the accused person and the victim, following clear lines of investigation to gather available evidence, while avoiding relying excessively on the victim’s testimony.

¹⁷ GRETA. Expert Group on Combating Human Trafficking, Access to Justice and Effective Remedies for Victims of Human Trafficking, Third Round of Evaluation, Strasbourg, published on June 28, 2022.

¹⁸ Achieving Justice for Victims of Human Trafficking: The response of Bosnia and Herzegovina’s criminal justice system, with recommendations, December 2021.

However, it happens sometimes that the relevant circumstances of the case are not investigated efficiently and promptly, as a result of which accused individuals are acquitted of charges related to committing the crime of human trafficking. For instance, in cases of child begging, there are often failures to adequately investigate the true nature of the circumstances that forced children into begging. Sometimes it is simply about a lack of parental care, or it might be that parents or guardians are economically exploiting the children.

The consequence of such actions in cases of forced child begging is that they are prosecuted as criminal offenses of neglect or abuse of a child or minor, despite the obvious presence of elements of the crime of human trafficking.

2.6. Criminal laws of Bosnia and Herzegovina and human trafficking

The criminal codes in Bosnia and Herzegovina define the criminal offense of human trafficking, but they differ in terms of sentencing policies and recognized forms of exploitation. The minimum sentence for the criminal offense of trafficking in persons in Republika Srpska is twice as low compared to other criminal codes in Bosnia and Herzegovina. Forced marriage and forced begging are not explicitly recognized in the criminal codes of the Federation of Bosnia and Herzegovina and Brčko District, which is why in practice, certain cases are often classified as neglect or abuse of a child, especially when potential victims are Romani people.

The criminal legislation in Bosnia and Herzegovina does not contain a definition of “victim of a criminal offense,” nor does it define the rights of victims, nor does it provide free legal assistance to victims during criminal proceedings. Under the existing provisions of the criminal procedure codes in Bosnia and Herzegovina, the injured parties can only seek compensation or damages from the perpetrator of the criminal offense.

To implement the Strategy for Combating Trafficking in Persons in Bosnia and Herzegovina (2020–2023), which sets victim protection as a strategic goal, an Action Plan for the implementation of the Strategy was adopted, and “minimum standards for supporting victims of trafficking in persons, especially children, in Bosnia and Herzegovina” were defined. Among other things, the Action Plan states that victims of trafficking in persons have the right and opportunity to use free legal assistance and counseling during interviews with representatives of competent institutions, as well as during the assistance, care, and reintegration process during civil, administrative, or criminal proceedings.

Free legal assistance is provided through the Ministry of Justice of Bosnia and Herzegovina, legal services of guardianship authorities, centers for the provision of free legal aid, authorized

non-governmental organizations providing free legal aid, or other available forms of free legal assistance in Bosnia and Herzegovina.

In Bosnia and Herzegovina, there is no specific hotline for victims and witnesses of human trafficking. The criminal offense of human trafficking can be reported to the emergency police number, but representatives of marginalized groups often do not have enough confidence in the police. When receiving reports about forced marriages and child begging, police officers frequently inquire about the victim's affiliation with the Roma population.¹⁹ The legal assistance process and other forms of support to women who are victims of human trafficking currently do not provide information in various formats (such as audio, written, sign language, etc.) nor do they offer benefits tailored to the needs of women with disabilities.

Under the law, victims of human trafficking have the right to be informed in an understandable manner about their rights during the ongoing legal proceedings and the applicable procedures.

Unfortunately, practical experiences indicate that in most situations, victims are not aware of the rights they have during the proceedings. This is often because their rights, such as the right to make damage claims, are presented to them in a way and language they do not understand.

Victims of human trafficking, being injured parties in the process, have the right to receive the verdict after the conclusion of the proceedings, as they have the right to appeal the verdict, especially regarding damage claims. The court respects this legal provision.

There are no official studies or analyses that provide insight into the number of identified or potential victims of human trafficking who have withdrawn from further proceedings because they have not been properly informed about the right to free legal assistance and support or have not been adequately prepared and supported to provide their testimonies - especially minors - in a way to ensure sufficient elements for raising charges.

The level of "cooperation" from identified or potential victims largely depends on the support provided to them i.e., how well they are informed of the proceedings and actions that await them during the prosecution, in the language they can comprehend, and an approach tailored to their needs.

2.7. Care, assistance, and support for victims of human trafficking

The Ministry of Security of BiH and the Ministry of Human Rights and Refugees of BiH have the obligation to secure certain funds for civil society organizations that provide care for victims of human trafficking. A contract for accommodation and assistance to victims was concluded in

¹⁹ Source: NGO Zemlja djece u BiH.

2020 with five safe houses.²⁰ Since the state budgets for 2019 and 2021 were not adopted, safe houses for victims of human trafficking did not get financial support.

There have been cases where certain victims of human trafficking could not be accommodated in safe houses due to a lack of available accommodation capacities. Authorities have initiated the process of standardizing safe houses by developing Minimum Standards and Criteria for the selection of non-governmental organizations that provide accommodation and assistance to victims of human trafficking in BiH. The chronic lack of professional staff in local social welfare centers persists, and in some social welfare services, there are no employed social workers at all.

Systematic development of rehabilitation and (re)integration programs is still lacking. The majority of victims remain exposed to the same factors that initially contributed to their involvement in human trafficking rings, which puts them at risk of going through the same ordeals again.

Standardized assistance services for victims of human trafficking and identified/potential victims have not been ensured in Bosnia and Herzegovina.

In principle, there is an obligation to inform victims and identified/potential victims about their rights, institutions, and organizations when they come into contact with officials and others, regardless of whether they are placed in shelters, safe houses, or other forms of accommodation, to help them receive assistance according to their individual needs. However, information provision is not guaranteed and is not carried out comprehensively, uniformly, and consistently.

While the Ministry of Security of BiH and the Ministry of Human Rights and Refugees of BiH have allocated some funds for civil society organizations that provide care for victims of human trafficking, no funds were secured for civil society organizations that provide free legal aid to victims of human trafficking, especially during the preparation and filing of damage claims.

Governmental free legal assistance centers, where they exist, do not have a specific budget allocated for working with victims and identified victims of human trafficking.

The majority of funding for non-governmental organizations offering services such as free legal assistance, safe houses, and shelters is obtained from international sources.

In line with international standards, victims of human trafficking and their families have the right to compensation in both criminal and civil courts. All criminal procedure codes in BiH

²⁰ MFS „Emmaus“ Doboj Istok, Fondacija „Lara“ from Bijeljina, „Medica“ from Zenica, Citizens' Association „Budućnost“ from Modriča and „Žena BiH“ from Mostar.

stipulate that both the prosecutor and the court are obligated to inform the injured parties about their right to file a claim within the criminal proceedings.

However, victims are informed about their right to seek compensation in criminal and civil proceedings in a way that is not understandable to them. On the other hand, when prosecutors inform the injured party in criminal proceedings about their right to seek compensation, they often fail to fulfill their obligation to gather the evidence necessary for awarding the compensation. Based on the above, one can conclude that informing victims about their right to seek compensation in proceedings is often done only as a mere formality.

Past practice indicates that victims, apart from being formally acquainted with their rights during the proceedings regarding the right to claim compensation for damages, do not have insight into the right to effective legal assistance from the early stages of the proceedings, which would help them actually obtain damages.

A case was conducted before the District Court in Banja Luka against the accused for committing the criminal offense of human trafficking, which involved the trafficking of a minor girl for the purpose of sexual exploitation. The Center for Women's Rights represented the injured party in that legal proceeding and submitted a claim for compensation for non-pecuniary damage.

On February 19, 2019, the court found the accused guilty, sentenced him to five years in prison, and awarded the victim 7,500 BAM in non-pecuniary damages. The Supreme Court of the Republika Srpska (RS) upheld the first-instance verdict on September 10, 2020.²¹

In the *Janjić* case, which was conducted before the Court of Bosnia and Herzegovina against a teacher who sexually exploited a minor victim, the Court partially awarded a claim and ordered the payment of a lump sum of BAM 5,000 to the victim.²²

RECOMMENDATIONS

- 1) Harmonize the criminal legislation in Bosnia and Herzegovina regarding the criminal offense of human trafficking in order to align the recognized forms of exploitation and punitive measures.
- 2) Secure budgetary funds at all levels of government for the implementation of action plans for the implementation of the Strategy to Combat Trafficking in Human Beings in Bosnia and Herzegovina (2020–2023).

²¹ Mehmed Odobašić, RS Supreme Court, second-instance verdict of September 10, 2020.

²² Jelenko Janjić, Court of BiH, first-instance verdict of September 11, 2009.

- 3) Enhance a human rights-based approach, with a focus on better victim identification and referral procedures, especially in cases involving children, as well as access to justice and effective legal remedies.
- 4) Ensure that social welfare centers and shelters for victims of human trafficking are adequately funded and that social workers are equipped with the necessary resources for efficient work in their role as temporary legal guardians.
- 5) Implement mandatory informative and educational training courses for all professionals involved in any capacity in the support system for victims of human trafficking.
- 6) Establish a continuous sensitization program for all stakeholders in the protection chain.
- 7) Consistently apply the Criminal Procedure Code when it comes to filing damage claims.
- 8) Encourage courts to adjudicate damage claims within the framework of criminal proceedings.
- 9) Introduce as a mandatory practice that along with a witness summons a clear notification about the right to submit damage claims is sent.
- 10) Inform injured parties in human trafficking criminal proceedings about their right to free legal assistance services.
- 11) Include women and gender equality CSOs into referral mechanisms for victims of human trafficking.
- 12) Ensure adequate prosecution, especially in cases of forced child begging.
- 13) Explicitly recognize forced marriage and forced child begging as human trafficking offenses in the criminal legislation of the Federation of Bosnia and Herzegovina and Brčko District.
- 14) Define “victims of criminal offenses” and their rights in the criminal laws of Bosnia and Herzegovina, and prescribe the provision of free legal assistance to victims during criminal proceedings.
- 15) Ensure financial resources for safe houses providing accommodation services to victims of human trafficking.
- 16) Develop empowerment programs for victims to facilitate their dignified reintegration into society after victimization, as well as their training for future life and work.
- 17) Ensure standardized assistance services to victims of trafficking and identified or potential victims.
- 18) Allocate funds for civil society organizations offering free legal assistance to victims of human trafficking, particularly during the preparation and filing of damage claims.
- 19) Governmental free legal assistance centers should establish a separate budget dedicated to working with victims of human trafficking.

3. Political and Public Life (Article 7) and Participation at the International Level (Article 8)

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Contribution by: Biljana Savičić (Citizens' Association „Budućnost“) and Tanja Mandić Đokić (an activist for the rights of persons with disabilities)

Public and political life is one of the most important areas of social life from the perspective of gender equality. As such, it is recognized and regulated by domestic²³ and international documents²⁴ that formally and legally ensure the equality of all citizens, without discrimination based on sex. Women have equal rights with men to participate in public and political life: to vote and run for office without discrimination in public elections, to equally participate in the distribution of positions of power and decision-making roles in all public bodies and committees through appointments, delegation, and the like, to represent their governments at the international level, and to be considered equal actors in the political arena.

Bosnia and Herzegovina has made significant efforts *de jure* to regulate this area. However, *de facto*, the situation is far from positive, as indicated by reports on women's underrepresentation in legislative and executive bodies at all levels, various forms of discrimination they face, and the lack of effective mechanisms for implementing sustainable gender equality principles. International treaty bodies²⁵ with a mandate to monitor the implementation of specific agreements and track the state of human rights in Bosnia and Herzegovina, highlight challenges and make recommendations for addressing obstacles that hinder equal enjoyment of human rights for women and men. Timely reporting to these mechanisms and effective monitoring of the implementation of recommendations are

²³ The Constitution of Bosnia and Herzegovina, in Article 2 - Human Rights and Fundamental Freedoms, explicitly recognizes men's and women's rights to freedom of thought, conscience, and religion, freedom of expression, and freedom of assembly and association in the same manner and under the same conditions. The Law on Gender Equality in Bosnia and Herzegovina, Article 20, stipulates that state bodies at all levels of organizations of authorities, and local self-government bodies, including legislative, executive and judicial authorities, political parties, legal persons with public authorities, legal entities owned or controlled by the state, entity, canton, city or municipality, or over whose work a public body exercises control, shall ensure and promote equal gender representation in governance, decision-making processes, and representation. The Law on Prohibition of Discrimination explicitly prohibits discrimination based on disability (Article 2). However, a very small number of women with disabilities hold public office or even participate in the work of state/entity institutions.

²⁴ Bosnia and Herzegovina is a signatory to a number of important and binding international documents that guarantee gender equality and prohibit discrimination based on gender. Among them are the UN Convention on the Elimination of All Forms of Discrimination Against Women (1979), CEDAW Committee's General Recommendation No. 23 "Women in Political and Public Life" (1997), and the Beijing Declaration and Platform for Action (1995).

²⁵ There are ten treaty bodies that monitor the implementation of specific treaties, consisting of independent experts with recognized expertise in the field of human rights protection.

beneficial for the state of Bosnia and Herzegovina. This provides a unique opportunity for the country to assess the situation on the ground, including through data collection and analysis, and to review its legal provisions and policies.

The main challenge is to “compel” authorities in Bosnia and Herzegovina to improve policies that ensure equal participation of women and men in public and political life across all spheres of society, which ultimately leads to more efficient developmental processes.

3.1. Rear-view mirror look at the state’s action on the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW) in response to previous reports from Bosnia and Herzegovina

The area of the rule of law is usually examined from the perspective of specific procedures and groups that are at a high risk of human rights violations. When it comes to assessing the respect for fundamental freedoms in Bosnia and Herzegovina, the recommendations provided by UN human rights protection mechanisms focus on two specific themes: (1) safeguarding freedom of thought and expression, and (2) women’s participation in political life. Since 2006, the Committee on the Elimination of Discrimination against Women (CEDAW) has been continuously receiving reports from state parties and civil society organizations (known as shadow reports), based on which it formulates recommendations to the state aimed at eliminating discrimination and ensuring greater participation of women in political life. BiH institutions are expected to adopt annual operational plans that would enable systematic and coordinated actions in the process of integrating gender-sensitive principles into their work through the Gender Action Plan.

Thanks to international monitoring and recommendations, Bosnia and Herzegovina has adopted important legal standards for equal participation of women and men in decision-making and leadership roles, in line with international human rights agreements. The Law on Gender Equality in Bosnia and Herzegovina²⁶ guarantees equal gender participation in the distribution of executive authority functions in public bodies and committees, and in representing governments at the international level, and in the political arena. Structurally, this Law is largely based on the CEDAW document. The Law serves a dual purpose – it prohibits gender-based discrimination and establishes legal standards in the field of gender equality. The Election Law of Bosnia and Herzegovina, which has been aligned with the Law on Gender Equality thanks to the recommendations of the Committee²⁷, stipulates that equal gender

²⁶ Law on Gender Equality in Bosnia and Herzegovina - refined text, (Official Gazette 32/10). (Available at: <https://arsbih.gov.ba/?project=zakon-o-ravno-pravnosti-spolova-u-bih>).

²⁷ In 2013, the Committee expressed satisfaction in its key conclusions with the amendment of Article 20 of the Gender Equality Law in Bosnia and Herzegovina, which ensures 40% women’s participation in political life, and the Election Law guaranteeing a mandatory 40% female candidates on political party lists. However, the Committee also expressed concern over the low and

representation is ensured with a minimum of 40% representation of women on electoral lists. Gender quota had a positive initial impact on women's participation in parliaments in Bosnia and Herzegovina, but it is not the sole determinant of women's political participation.²⁸ Specific individual measures outlined in the Election Law have also influenced the number of women in the legislature. However, despite women constituting more than 40% of political candidates in elections, the number of elected women remains significantly lower across various regions, with only a few exceptions. Gender equality provisions in regulations are often overlooked. The executive branch is predominantly male-dominated. Similarly, women make up one-quarter of Bosnian and Herzegovinian ambassadors and consuls general.²⁹ Research points to significant discrimination against women with disabilities in relation to exercising their right to vote.³⁰

The CEDAW Committee expressed concern that the "State party has not established mechanisms to monitor and assess the impact of the Action Plan and that representatives of civil society organizations did not participate meaningfully in the development of the plan." This stance has been confirmed in the 2020 and 2021 European Commission's Reports for Bosnia and Herzegovina, which state the following: "The regulations on gender equality are yet to be harmonized throughout the country and effectively implemented. Bosnia and Herzegovina (BiH) has a Gender Action Plan for the period 2018–2022, as well as an Action Plan for the implementation of the UN Resolution on Women, Peace, and Security.³¹ Republika Srpska has adopted the Strategy for Combating Domestic Violence for the period 2020–2024. Women are underrepresented in politics and public life. Gender impact assessments are not conducted as required under the law."³²

stagnant representation of women in parliaments and authorities, as well as the insufficient visibility provided by media and political parties to female candidates during election campaigns.

²⁸ UN Women, (2021). Country Gender Equality Profile of BiH Sarajevo: UN Women.

²⁹ UN Women, (2021). Country Gender Equality Profile of BiH Sarajevo: Bosnia and Herzegovina

³⁰ The analysis titled "Accessibility of the Right to Vote for Persons with Different Types of Disabilities in BiH" from 2020 indicates that the problems are related to the access to polling stations and the confidentiality of voting. Additionally, women with intellectual or psychological impairments often do not exercise their right to vote due to ongoing court decisions regarding the removal of legal capacity from individuals with diminished intellectual abilities or mental disorders.

³¹The Gender Action Plan for BiH (GAP) is a key mid-term public policy document adopted by the Council of Ministers of BiH in line with the Gender Equality Law. As summarized by UN Women, "the aim of the Gender Action Plan is to provide guidance to ministries and other institutions to integrate gender-sensitive principles into their work in accordance with the Gender Equality Law." The Gender Equality Agency of Bosnia and Herzegovina is responsible for initiating and coordinating the development of the Gender Action Plan in collaboration with entity gender centers, as well as for monitoring its implementation and coordinating activities with all relevant bodies in the process. The Council of Ministers of BiH has appointed the Administrative Board for the Coordination and Monitoring of the Implementation of the Gender Action Plan. This board is responsible for providing guidelines for the development of annual operational plans and their adoption, as well as for reporting progress to the Council of Ministers and the Parliamentary Assembly of BiH.

³² 2021 Report on Bosnia and Herzegovina along with the document "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions," Strasbourg, 19 October 2021, SWD (2021) 291. (Available at: https://europa.ba/wp-content/uploads/2021/10/izvjestaj-o-bosni-i-hercegovini-za-2021-godinu_1636467943.pdf).

By taking a series of legal and institutional measures, the state has demonstrated formal interest in promoting gender equality, but it has not yet confirmed it in practice. Formal and legal equality doesn't imply substantial, let alone actual equality. Substantial equality entails relationships based on parity, while formal and legal equality are regulated at a minimum of 40% representation of the less represented gender (traditionally women), while the actual representation rarely exceeds 20%.

It is quite clear that the authorities of Bosnia and Herzegovina are not fully prepared to establish more humane gender relations in society, which remains largely traditional and patriarchal. Women do not have the same rights and opportunities as men, especially in political life, where their marginalization is visible to the naked eye.

Therefore, civil society organizations are grateful to the CEDAW Committee for drawing attention in the Sixth Periodic Report (2019) on Bosnia and Herzegovina, point 30 to its general recommendation No. 23 (1997) on women in political and public life and target 5.5 of the Sustainable Development Goals.

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 30 (a):

The Committee urges the State party to "adopt the amendments to the Election Law of Bosnia and Herzegovina to increase the quota for women candidates on electoral lists of political parties to 50 percent and the Law on the Council of Ministry of Bosnia and Herzegovina to introduce a minimum quota of 40-percent for the representation of either sex on the Council of Ministers."

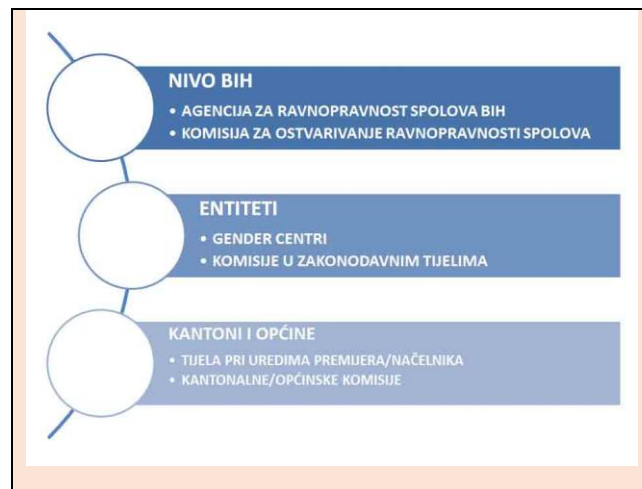
Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 30 (b):

The Committee urges the State party to "consider replacing the open list system with a "zipper" system for the nomination of candidates from both sexes on electoral lists of political parties, ensuring that the first out of every pair of subsequent ranks on electoral lists is given to a woman candidate and introducing reserved seats for women in the parliaments of all entities. In this regard, the Committee recommends that the State party seek technical assistance from international partners, as appropriate."

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 30 (c):

The Committee urges the State party to “provide capacity building programs for women candidates on campaigning and political leadership skills, in particular for women facing intersectional discrimination such as Roma women, and raise among political leaders and the general public that the full, equal, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full implementation of the human rights of women.”

3.2. Institutional Mechanisms for Gender Equality



Taken from the website of the Gender Equality Agency of Bosnia and Herzegovina³³

Institutional mechanisms for gender equality represent bodies and individuals established by the competent legislative and executive authorities, as well as administrative bodies at all levels of government in Bosnia and Herzegovina, in order to implement the Gender Equality Law in BiH, coordinate and achieve the program goals of the Gender Action Plan of Bosnia and Herzegovina, and ensure the implementation of international standards in the field of gender equality.³⁴

³³ Available at: <https://arsbih.gov.ba/oblasti/institucionalni-mehanizmi-za-ravnopravnost-spolova/>.

³⁴ At the state level, there is the Gender Equality Commission of the Parliamentary Assembly of Bosnia and Herzegovina, while at the entity level, there are the Gender Equality Commission of the House of Peoples and the Gender Equality Commission of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, as well as the Committee for Equal Opportunities of the National Assembly of Republika Srpska. Gender equality commissions of cantonal assemblies in the Federation of Bosnia and Herzegovina have also been established. At the local level, commissions operate within municipal councils or assemblies in almost all municipalities in Bosnia and Herzegovina.

At the executive level, there is the Gender Equality Agency of Bosnia and Herzegovina, which operates under the Ministry of Human Rights and Refugees of BiH, while at the entity level, there are the previously established Gender Center of the Federation of Bosnia and Herzegovina and the Gender Center – Center for Equality and Gender Equality of the Government of

The key actors in the implementation and monitoring of the gender mainstreaming process in Bosnia and Herzegovina are the Gender Equality Agency and the entity *gender* centers. These three institutional gender equality mechanisms are the key lever in initiating and implementing activities in the field of gender equality. They should serve as an extended arm of civil society organizations and government bodies. However, due to their specific role and the effort not to antagonize government authorities, their timely responses and actions often remain lacking. In that sense, they should be provided with greater autonomy and independence from government authorities, which would contribute to their stronger and more transparent operation.

Gender equality mechanisms are not established in all municipalities, nor are their responsibilities sufficiently defined, hence, they have no influence on local policies and decisions. Research conducted in 15 municipalities of the Dobož region and Posavina Canton³⁵ found that these commissions hold meetings on average once or twice a year, while members are not familiar with their responsibilities or the provisions of the Gender Equality Law and the Gender Action Plan (GAP).

Municipal statutes stipulate that in addition to councilors, external members from the professional community can also be appointed to gender equality commissions. In practice, political parties appoint external members from their membership rather than from the professional community, which results in incompetent and disinterested individuals holding these positions.

3.3. Women in the Executive Authority

Women are still underrepresented, or even absent in the executive authorities in Bosnia and Herzegovina. The lack of political will and resistance from political parties towards gender equality is equally evident in the example of women's representation in the executive authorities, where "the appointment of women, unfortunately, is more of an exception than the rule,"³⁶ and in the external structures of party decision-making bodies, where they are a small minority. The representation of women at a minimum of 40% in these bodies is not the discretionary right of the ruling political party or coalition in the executive authority, nor an internal matter of a political party, but a legally regulated provision. As such, it should have

Republika Srpska. At the cantonal level in the Federation of Bosnia and Herzegovina, cantonal gender equality committees have been established. Gender equality commissions have been set up at the offices of municipal mayors.

³⁵ Assessment of the Work of Local Gender Equality Commissions, NGO "Budućnost" from Modriča, 2021.

³⁶ Pod lupom: Da li su žene u politici samo radi broja [Are women in politics just for the sake of numbers?] (Available at: <https://bit.ly/3xCpsPZ>).

been incorporated into relevant legislation at all levels in Bosnia and Herzegovina and implemented in practice since 2009.

In 2022, for the first time, a woman was elected to the Presidency of Bosnia and Herzegovina. The highest executive body in Bosnia and Herzegovina, which performs the function of the government – the Council of Ministers of BiH, in its new term (2022–2026), also has a woman president for the first time since the establishment of this governmental body. The appointment of the first female president gives hope that space is gradually opening up for women but also highlights the need for regulating women’s participation by specific regulations, both in the legislative and executive branches, in accordance with the Law on Gender Equality of Bosnia and Herzegovina. In the Council of Ministers, only one female minister has been appointed across nine ministries, while there were two women in the previous term.

In the previous term, the government of Republika Srpska had six female ministers (38%), and in the new term (2022–2026) it has four (25%). The Prime Minister is male, as in the previous term. Also, in the previous term, there were one female and one male Vice Prime Minister, whereas both Vice Prime Ministers in the new term are male.

In the Federation of Bosnia and Herzegovina, there were three female ministers in the previous term, and in the new term with 16 ministries, there are four female ministers.

According to information gathered during November and December 2022³⁷, one woman with a disability is a member of parliament in the new composition of the National Assembly of Republika Srpska, while 12 women with disabilities are employed in the ministries of the Government of the Federation (of which six in the FBiH Ministry of the Interior) in various departments, but none of them hold a managerial position.

A degrading fact is that the implementation of the Gender Equality Law has been stagnant for years, as a result of which we see inadequate representation of the interests of female citizens who also contribute to public budgets that are largely used to finance the existence of political parties and fully fund the operations of government bodies. By delaying the enforcement of this law, political parties, in their dual role as interest-based political organizations and as part of the government, perpetuate gender inequality and support gender-based discrimination in the political sphere. It’s concerning that non-governmental organizations, often funded by international organizations, are usually more engaged in this issue than the government, which is funded by the citizens of Bosnia and Herzegovina.

³⁷ Information collected through a questionnaire sent to the parliaments at all levels (National Assembly of Republika Srpska, Parliament of the Federation of Bosnia and Herzegovina, Parliamentary Assembly, and House of Peoples) as well as to the entity governments and the Council of Ministers.

The Gender Equality Law in Bosnia and Herzegovina, in paragraph 4 of Article 20, sets an obligation to adopt specific measures in cases where one gender is not sufficiently represented. At this moment, no government has been formed with at least 40 percent of ministers of underrepresented gender. Women continue to be underrepresented in all governments in Bosnia and Herzegovina. For nine years, only one attempt has been recorded to align the relevant legislation with the Gender Equality Law. This was an initiative aimed at establishing legally prescribed gender equality in the Council of Ministers of Bosnia and Herzegovina, but it was unsuccessful. Similarly unsuccessful was the attempt in the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina in 2012 to decline the composition of the Council of Ministers of Bosnia and Herzegovina proposed for confirmation, as it did not reflect the legally prescribed representation of women.

3.4. Women in the legislative authority of Bosnia and Herzegovina

Gender quota in the Election Law of Bosnia and Herzegovina has existed throughout most of the political history of Bosnia and Herzegovina, but it exclusively pertains to the positioning and representation of women on candidate lists. This places the fate of women in politics, as well as women's politics, in the hands of the traditionally and patriarchally oriented electorate in Bosnia and Herzegovina, as was demonstrated after the introduction of open lists in 2000.³⁸

In the 2022 General Elections, Bosnia and Herzegovina witnessed a decrease in the percentage of elected women in the House of Representatives of the Parliament of Bosnia and Herzegovina – from 21.4% in 2018 to a mere 16.66% in 2022! At the entity level, there is a modest increase in the representation of women, with 26.53% in the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina and 18% in the National Assembly of Republika Srpska.

Women represent enormous potential but their representation is insufficient, not only against the fact that they constitute over 50% of the population but also due to many other factors.³⁹

The results of the 2022 General Elections published by the Central Election Commission of Bosnia and Herzegovina (CIK BiH) testify to a continuously declining trend in the number of

³⁸ Representation of women in the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina has sharply declined, dropping from 26% to 4.76%, while at the entity level it managed to stay at approximately the same level. In the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, the percentage of elected women increased from 15% to 17.4%, while in the National Assembly of Republika Srpska it decreased from 18.46% to 14.86%.

³⁹ Based on published data from the Central Election Commission of Bosnia and Herzegovina, female candidates in the 2020 Local Elections were younger (average age 39) compared to male candidates (average age 43); female candidates were more educated (75% with higher education) compared to their male counterparts (67% with higher education).

https://www.izbori.ba/Documents/2020/Zbirna_Statistika_2020.pdf

women in the largest legislative bodies in Bosnia and Herzegovina. Among the 42 representatives in the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, there are only seven women. For comparison, in the previous term of this legislative body from 2018 to 2022, there were 11 women.

A limiting factor for greater participation of women in governance is the influence of gender biases and stereotypes present among the electorate, as well as within political parties, which offer fewer opportunities for female members in decision-making positions within parties, legislative bodies, and the executive branch. With women comprising only around 20% of legislative bodies and even less of executive and other elected bodies, it's clear that they are represented far below the legal minimum.

3.5. Women in the local authority

In the local elections held in November 2020, only 29 women compared to 396 men ran for the office of mayor, and only five were elected.⁴⁰

Out of 2,417 municipal lists, women were list-holders of 450 of them (19%). It is common for political parties to almost always nominate women for second, fifth, or eighth positions on the candidate lists.⁴¹ A total of 42.27% of women were candidates at all levels of local government in BiH, and fewer than 20% were elected to local councils/assemblies (21.8% in FBiH and 17% in RS). Women from minority groups are barely represented in decision-making processes, and there are no measures to promote the political representation of women from disadvantaged groups. The responsibility for this lies with the competent authorities, as this is an obligation, not an option. Women's participation in public and political life is a mandatory standard for realizing human rights.

The Gender Center of the Government of Republika Srpska⁴² conducted an analysis of women's participation in the electoral process for the 2020 Local elections from a gender equality perspective. The findings clearly indicate that women remained underrepresented during this electoral process, especially in positions of highest decision-making at all levels of local government. The campaign took place under particularly challenging circumstances caused by the COVID-19 pandemic, mostly on internet platforms, media, and social networks. This

⁴⁰ Central election commission of BiH. (Available at: https://www.izbori.ba/Documents/2020/Zbirna_Statistika_2020.pdf).

⁴¹ Under the Election Law, Article 4.19, it is prescribed that candidates of the underrepresented gender shall be distributed on the lists as follows: at least one (1) candidate of the underrepresented gender among the first two (2) places on the list, two (2) candidates of the underrepresented gender among the first five (5) on the list, and three (3) candidates of the underrepresented gender among the first eight (8), and so on.

⁴² Available at: https://www.vladars.net/sr-SP-Cyrl/Vlada/centri/gendercentarrs/Documents/%D0%9B%D0%9E%D0%9A%D0%90%D0%9B%D0%9D%D0%98%20%D0%98%D0%97%D0%91%D0%9E%D0%A0%D0%98%202020%20analiza.docx_518096195.pdf.

provided an opportunity for female candidates to present themselves more easily to the electorate. The analyses confirmed that women were visible even under these conditions, as much as the election centers within political parties allowed for their presence.

The research study titled “Local Gender Equality Landscape”⁴³ covered 41 municipalities in Bosnia and Herzegovina and analyzed the readiness of local communities to implement gender equality⁴⁴. Key findings from the research indicate that municipal authorities resist issues of gender equality as they do not fit in the prevalent traditional context.

3.6. Women in political parties

Despite certain legal measures being taken in Bosnia and Herzegovina, particularly the introduction of quotas in the Election Law of BiH and the Law on Political Party Financing, there has not yet been a substantial change in the status and influence of women in political life. They remain on the margins of political power, without significant impact on policy-making and implementation.⁴⁵

A significant obstacle to gender equality in political life is the insufficient support of political parties towards their female members in creating political programs and achieving political affirmation, despite no explicit barriers for women’s participation in party organs stated in party statutes.

Political parties often do not allow meaningful participation of women in electoral and post-electoral processes. There’s also a perception that women lack sufficient political skills. There is also a problem of the overall invisibility of women in electoral campaigns, especially at the local level. Women from marginalized groups are barely represented in political life. Media play a crucial role in this, as gender biases in reporting tend to reinforce dominant ideologies and attitudes about women in politics, based on gender stereotypes.

⁴³ The study was conducted at the end of 2022 as part of the project “Strengthening the Role of Local Communities in Bosnia and Herzegovina.” (Available at: <https://www.undp.org/bs/bosnia-herzegovina/publications/pejaz-rodne-ravnopravnosti-na-lokalnom-nivou>).

⁴⁴ In the positions of city or municipality mayors in the targeted municipalities/cities, there were no women, and from 1995 to the present day, no women have held this position in 30 municipalities (which is 78.9% of the total number of municipalities). Most municipalities have gender equality commissions in which women comprise 56.5%. The representation of women in leadership positions within the councils of members/councilors is also significantly lower compared to men. Even 26 out of the total of 38 municipalities, or 68.4%, stated that women are not holding this position. When it comes to the number of women in the role of president of the assembly/council, women are also significantly underrepresented. Out of a total of 38 municipalities, only six are chaired by women (15.8%). Compared to the previous term, there is a noticeable decrease in the number of women in the position of president of the municipal/city council. In the total sample of 38 municipalities, there are five fewer women in this position compared to the previous term.

⁴⁵ Available at: <https://bhnovinari.ba/bs/2021/12/14/zene-u-politickom-zivotu-bih-kvote-se-postuju-samo-na-papiru/>).

We live in a patriarchal society. To engage in politics successfully, women in Bosnia and Herzegovina need to possess many more skills than men, as they are simultaneously devoted to other life roles. Being perceived as the pillars of families, women's involvement in politics often does not fit in this vision of reality. It is believed that their priority is to focus on family, children, and parents.

Research conducted in 15 municipalities in Bosnia and Herzegovina revealed that women in political parties primarily participate in women's forums or groups and deal with so-called "women's issues." These forums typically have no substantial influence within political parties and do not participate in significant decision-making. They mainly serve to create an illusion of women's equal participation in the work of political parties.⁴⁶ Violence against women in public life is a serious problem that threatens to escalate into significant consequences. Women are leaving political parties, hesitating to run for office, deleting their profiles on social media, and facing serious health issues as a result. Thirty-two out of a total of 84 surveyed female politicians have experienced some form of violence (mainly online, primarily in the form of psychological violence, misogynistic remarks, and sexualized threats), and almost half of them faced these issues precisely because they are women.

The visibility and public presence of women politicians are particularly low in the run-up to the elections. The success of female candidates in elections depends on their positions within political parties, their rankings on electoral lists, the quality of their promotion during election campaigns, voter preferences, and other factors. The low percentage of elected women in the November elections clearly points to the need to not only ensure a minimum presence of women (at least 40%) on electoral lists but also legislate for a minimum percentage of their representation in elected offices.

A unique feature of most political parties is the internal party structure for women, which seems to exist more for the sake of mobilization of women voters rather than to focus on gender equality or empowerment of women. Women are underrepresented in all party structures and constitute an average of 17% of the party membership, even though the number of women and men seems balanced.

Women are largely sidelined and gender issues are ignored due to the dominance of men and the low level of democratization within party structures. In some parties, there is a party president's dominance in the selection of party officials and candidates.

⁴⁶ Citizens' Association "Budućnost" from Modriča, (2019). Analysis of the implementation of the Action Plan for UN Security Council Resolution 1325 in Bosnia and Herzegovina.

Article 20 of the Law on Gender Equality of Bosnia and Herzegovina imposes an obligation on political parties to respect the provisions of gender equality, specifically to ensure and promote equal gender representation in governance, decision-making, and representation, with a minimum of 40% representation for the underrepresented gender. However, the mechanisms for monitoring the implementation of this law and the recommendations at the state level are not sufficiently developed, and the legal regulations regarding party functioning provide ample room for non-transparent and undemocratic practices.

Indeed, Bosnia and Herzegovina is one of the rare countries without a political party law, and all initiatives to enact such a law at the state level have failed due to political reasons. As a result, parties in Bosnia and Herzegovina are registered based on three laws on political organizations at the entity or local levels. The registration of political parties is carried out in 16 courts across the country.

Apart from the examples mentioned above, the fact that there is no central registry or registries at the entity level, nor a unified body or bodies overseeing their activities, clearly indicates that the oversight over the actions of political parties is highly complicated. This legal-normative framework essentially allows for institutionalized gender inequality within parties, as demonstrated by a study conducted by UN WOMEN. The study found that the majority of political parties have party structures for women, but these structures lack the mandate to advance the party's work in terms of gender equality and women's empowerment.⁴⁷

Gender analysis of the statutes⁴⁸ and practices of the strongest political parties in Bosnia and Herzegovina shows that the most common forms of marginalization within the parties are:

- the ghettoization of gender-related issues in party structures (women's branches, forums, clubs).
- domination of men in party structures, and
- low democratization level, due to the complete dominance of male leaders in all aspects of party life.

3.7. Civil society organizations and human rights defenders

⁴⁷ Kadribašić, Adnan, (2020). Baseline Study on Barriers to Political Participation of Women in Bosnia and Herzegovina. Sarajevo: UN Women and UNDP, p. 37.

⁴⁸ Kuratko Pani, A., (2015). 50 shades of BiH politics. Gender Equality Analysis in Political Parties in Bosnia and Herzegovina. Sarajevo, Association INFOHOUSE, p. 11; Petrić, N., (2021). Presentation of the results of the review of statutes of political parties in the Parliament of Bosnia and Herzegovina from the gender equality perspective Udružene žene Banjaluka. (Available at: <https://unitedwomenbl.org/wp-content/uploads/2021/04/Analiza-Statuta-parlamentarnih-politi%C4%8Dkih-partija-u-BiH-pdf>).

Civil society organizations that independently or jointly conduct many advocacy campaigns towards government institutions have made significant contributions to improving the status of women in all spheres, including participation in public and political life. In Bosnia and Herzegovina, there is no central registry for NGOs, as registration is carried out at different levels⁴⁹, and data about their profiles cannot be easily found⁵⁰. With no mechanisms to promote the participation of women human rights defenders in the civil sector, there are no sanctions either.⁵¹

Civil society organizations have continuously pointed out violations of the provisions of the Law on Gender Equality in Bosnia and Herzegovina and the international obligations of the country. Apart from several appeals to relevant domestic and international institutions, open letters have been sent, and press conferences and roundtable discussions have been organized due to the ongoing violations of the Law on Gender Equality in Bosnia and Herzegovina and the international obligations of the country in the process of amending the Election Law of Bosnia and Herzegovina. The main demands included a more transparent process, equal inclusion of male and female candidates on electoral lists in an alternating manner, and the allocation of compensatory mandates to underrepresented genders in the institution for which the elections were organized. Additionally, equal gender representation was sought in all bodies responsible for conducting elections at all levels.

The announcement of amendments to legislative regulations poses a threat to the further functioning and survival of non-governmental organizations. Authorities in Republika Srpska have drafted and introduced into parliamentary procedure a Draft law on the Special Registry and Publicity of the Work of Non-Profit Organizations. This draft law contains provisions that prohibit NGOs from engaging in political activities. The provisions are very broadly defined so as to hinder any action by civic associations aimed at improving legislative regulations and better protecting citizens – which is the very reason why such associations are formed. By restricting “political activities” and “political engagement” (e.g. submitting initiatives for proposing laws), introducing oversight over the types of activities that associations can undertake, and implementing direct control through inspections, this draft law dangerously encroaches upon constitutionally guaranteed rights and freedoms and leaves ample room for competent institutions to severely limit the work of organizations that criticize their activities.

⁴⁹ Registration is done at the state level, in the Federation of Bosnia and Herzegovina at the cantonal levels, while in Republika Srpska, district courts have jurisdiction.

⁵⁰ Associations dedicated to the prevention and consequences of gender-based violence, Roma associations, associations for rare disease patients, associations for children with disabilities and their parents, organizations focused on the promotion and protection of human rights, and humanitarian organizations are all civil society organizations whose activities are crucial for the functioning of vulnerable segments of society in Bosnia and Herzegovina.

⁵¹ Available at: <https://diskriminacija.ba teme/organizacije-civilnog-dru%C5%A1tva-djeluju-tamo-gdje-dr%C5%BEava-%C4%8Desto-zaka%C5%BEe>.

The authorities are attempting to present to the public that the work of civic associations is not regulated, that these associations do not operate transparently, and that they are not accountable to anyone.⁵² Alongside imposing dual reporting obligations, the proposed draft also labels and discriminates against associations and foundations from Republika Srpska whose activities and projects are funded by foreign governments and organizations. At the same time, the Draft law excludes associations and foundations financed from public budgets⁵³, even though the mechanisms for allocating financial resources to them are insufficiently transparent and a source of various political abuses, especially during the pre-election period.

There is also a trend of establishing so-called “government’s non-governmental organizations”, the task of which is to criticize the work of other civil society organizations but not the actions of the current authorities. Their function seems to be focused on simulating a diversity of opinions on current issues. Such organizations only make statements to express support for the government or condemn critics of the government.⁵⁴ Research has confirmed that there are well-founded suspicions that many civil society organizations in Bosnia and Herzegovina are merely “tools of individuals close to politics, used to exploit public funds. In return, governments at all levels receive political support.”⁵⁵

In its 2021 report, the European Commission stated that civil society organizations and human rights activists have continued to raise awareness about civil and political rights. This is happening in an environment that is not open to criticism but is receptive to negative statements from government officials that resonate in the media, particularly the statements concerning civil society in general and the funding of specific associations.

3.8. Statistics

According to data from the Statistical Office, women make up about 45% of the total number of employees in Bosnia and Herzegovina. It’s concerning that the share of women among

⁵² This statement is entirely untrue. There is indeed legal regulation in place, and civic associations are obliged to submit various reports to the institutions of the Republika Srpska. Each association, as a legal entity, is required to submit a final financial statement to the Agency for Mediation, Information Technology, and Financial Services (APIF). When receiving financial funds at a bank, the association must provide the basis for the inflow of funds in order to be able to use it. Additionally, these associations are subject to inspections by the Tax Administration of the Republika Srpska.

⁵³ At first glance, such organizations may appear similar to other civil society organizations focused on improving specific areas such as judicial independence, human rights, or environmental protection. Yet, upon closer examination of their work and activities, it becomes evident that such organizations’ agendas lack any public interest.

⁵⁴ This analysis of the state of non-governmental organizations and the utilization of existing collaboration mechanisms with institutions in Bosnia and Herzegovina and international organizations was conducted by the Youth Development Institute KULT in 2021. (Available at: http://www.mpr.gov.ba/web_dokumenti/default.aspx?id=11377&langTag=bs-BA).

⁵⁵ The research was conducted by the Global Initiative Against Transnational Organized Crime. (Available at: <https://balkans.aljazeera.net teme/2022/2/7/vlade-u-bih-trose-milione-javnog-novca-na-finisiranje-sumnjivih-organizacija>).

unemployed individuals with higher education qualifications is significantly higher compared to men – as much as 64%.⁵⁶

The analysis of the representation of women in law enforcement agencies at the state and entity levels in Bosnia and Herzegovina shows that women are underrepresented in these structures, as well as at lower levels of the police system in the country, particularly in decision-making positions and higher ranks. In the civil service, the representation of women is somewhat better, around 40%, but the percentage of women in leadership positions is significantly below that figure. In the police service, there are about 14% women, but only about 0.5% of women in all law enforcement agencies in BiH have high ranks. The State Investigation and Protection Agency (SIPA) is the leading police agency in Bosnia and Herzegovina in terms of the number of female police officers within its ranks, with 75 female police officers, which is 15.12% of the total employees. In other police bodies, this percentage ranges from 5.25% to 10.13%, according to the latest report from the Ministry of Security of Bosnia and Herzegovina from 2020.⁵⁷

The participation of women in the police, armed forces, and peacekeeping missions has increased to a certain extent compared to previous years, but equal participation has not yet been achieved. In Bosnia and Herzegovina (BiH), no woman currently holds the highest position within a police agency, which means that no woman serves as a director, commissioner, minister, or deputy in any of the 16 police agencies. Within the police structure of BiH, there are only five women in the position of Chief Inspector, of which one in the Border Police of BiH (8.33%) and four in the Ministry of Interior of Republika Srpska (4.54%).

The number of women participating in international peacekeeping missions on behalf of Bosnia and Herzegovina has significantly increased, largely due to measures of positive discrimination.

In the judicial sector, women are relatively well-represented compared to other branches. However, there is a discrepancy between the number of women working in the judiciary and the number of women in high-ranking positions within judicial bodies or higher courts. The judiciary is the only branch of government where women are not underrepresented, and it's also the branch where a gender equality strategy is in place. This, however, doesn't mean that there are no gender biases within the judiciary. Addressing these biases is also one of the goals of the gender equality strategy.

⁵⁶ Association BH Journalists (December 2021). Women in the political life of BiH: Gender quotas are only respected on paper. (Available at: <https://bhnovinari.ba/bs/2021/12/14/zene-u-politickom-zivotu-bih-kvote-se-postuju-samo-na-papiru/>).

⁵⁷ Plevljak, Benjamin and Kržalić, Aida, (2021). The position of women in the police forces in Bosnia and Herzegovina (BiH) Sarajevo: Center for Security Studies (Available at: <http://css.ba/wp-content/uploads/2021/08/Polozaj-zena-u-policijskim-agencijama-u-BiH-PUBLIKACIJA-FINALNA.pdf>).

When it comes to women with disabilities, the organization *MyRight* estimates that less than 2% of them are visible and actively involved in organizations or local communities, which is an unacceptably low percentage considering that there are 161,083 women with disabilities in Bosnia and Herzegovina.⁵⁸

3.9. Diplomatic service

Bosnia and Herzegovina is the only country in the region without a law on foreign affairs, despite having all the institutions responsible for conducting foreign affairs.⁵⁹ The Ministry of Foreign Affairs of BiH, which has significant budgetary resources, carries out the tasks under its remit without the aforementioned law.

Bosnia and Herzegovina has its ambassadors, consuls, and representatives worldwide, stationed in 44 embassies, six consulates, and six permanent missions. It's quite astonishing that all of them carry out their engagements without clear and precise legal frameworks and internal regulations. In the session of the Presidency of Bosnia and Herzegovina held on March 20, 2023, new diplomatic representatives of Bosnia and Herzegovina around the world were appointed.⁶⁰ Of the total number, women make up only one-fourth, 25%.⁶¹ In 2020, 23% of women against 77% of men participated in diplomatic missions. Men are holders of as much as 2/3 of the diplomatic passports.

RECOMMENDATIONS

- 1) Align the Law on the Council of Ministers with the Law on Gender Equality to prevent the confirmation of the proposed government composition unless a minimum of 40% of women are proposed for ministerial positions.
- 2) Amend the Election Law of Bosnia and Herzegovina to include provisions for allocating mandates to the underrepresented gender (e.g., through compensatory lists) and ensure a system that will result in the election of at least 40% women in the state and entity parliaments, regardless of the distribution of votes on the lists.
- 3) Institutionalize, in line with the Gender Equality Law, the proportional participation of women from political parties, legislative and executive authorities, as well as civil society

⁵⁸ Available at: <https://www.myright.ba/ovdje-sam-vidljiva-i-ponosna>.

⁵⁹ The Ministry continues to operate in line with the document "General Directions and Priorities for the Implementation of Foreign Policy in BiH", which was adopted by the Presidency of BiH in 2003.

⁶⁰ Available at: https://bs.wikipedia.org/wiki/Spisak_diplomatskih_predstavni%C5%A1tava_Bosne_i_Hercegovine.

⁶¹ Available at: <https://europa.ba/wp-content/uploads/2022/01/Gender-Country-BH-web.pdf>.

organizations in all reform processes, including financial and other discussions. This should be achieved by involving them in all formal bodies and mechanisms.

- 4) Stipulate sanctions for political parties that fail to comply with gender equality provisions, especially when proposing and appointing governments. Such parties should be deprived of political party financing from public budgets.
- 5) Remove barriers to women's participation through continuous promotion of anti-discrimination culture in political parties, companies, organizations, and institutions, as well as by ensuring appropriate representation of female leaders in the media.
- 6) Ensure that gender mechanisms at all levels operate synchronously, in line with international standards and commitments, with adequate human, technical, and financial resources and appropriate professional capacities, particularly at the local level, focusing on the impact of their actions.
- 7) Support gender mechanisms in building their human and other resources to adequately fulfill their legal obligations.
- 8) State authorities should ensure that state and entity gender mechanisms can operate and act without any political pressures or influences. It is particularly important for gender mechanisms to continuously monitor the adoption of laws, provide their comments and suggestions thereto, and delegate the task of organizing training to non-governmental organizations to avoid unnecessary use of human resources for these activities.
- 9) State and entity gender mechanisms should allocate funds to civil society organizations that will conduct training and enhance the capacities of local gender equality commissions, enabling them to carry out their mandated activities.
- 10) The Agency and entity *gender* centers should create a document to be sent to municipal authorities, addressing the appointment of external members to commissions from among the experts or civil society organizations, and establishing criteria for membership in these and other commissions/committees. It is necessary to develop guidelines for the commissions with topics that should be addressed and forwarded to the municipal assembly for their consideration.
- 11) Take immediate action to address the authorities expressing concerns about the proposed law that aims to establish control over the work of CSOs and prohibit political activities of civil society organizations receiving financial support from foreign sources. This will impact the sustainability of the non-governmental sector, control their work, and hinder advocacy activities. The state is obligated to ensure the unhindered functioning of civil society organizations, including a communication and collaboration system that respects their independence, and to allocate financial resources accordingly for their operations.

4. Equality in education

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4.1. Access to education

Recommendation of the CEDAW Committee, Article 10

“The signatory states will take all possible measures to eliminate discrimination against women in order to ensure their equal rights with men in the field of education.”

The Framework Law of Bosnia and Herzegovina governing the principles of preschool, primary, and secondary education and upbringing, and adult education, as well as the establishment and functioning of educational institutions in Bosnia and Herzegovina, including supplementary classes for children who are citizens of Bosnia and Herzegovina abroad⁶², mandates compulsory primary education for all children. Article 16 of this law states:

“Compulsory education begins in the calendar year in which, on April 1st a child reaches six years of age and lasts continuously for a period of no less than eight years. The competent educational authorities and schools in Bosnia and Herzegovina are obligated to create all necessary conditions for the proper commencement of a nine-year primary school by June 2004 at the latest. The competent educational authorities, upon the initiative or with the consent of parents and in consultation with other relevant and expert institutions, may allow a one-year earlier or delayed start of compulsory education if it is in the best interest of the child. Compulsory education is free of charge. Free primary education is provided to all children. Child, in the sense of this Law, is every person under eighteen years of age.”

Under the aforementioned law, preschool education is defined as a part of overall societal care and is regulated by the laws of entities, cantons, and the Brčko District.

Under the same law, secondary education is accessible to everyone and is free in public institutions. However, we cannot but mention a problem that is increasingly present but not as widely recognized in society i.e., “education dropout”. This specifically refers to the decision of

⁶² Official Gazette of BiH no. 18/2003 and 88/2007- state law,

students to leave secondary education, but the important question here is whether this decision is a choice/decision of the students or a consequence of the established criteria within the education system. The reasons for students dropping out of education are many, but the consequences for society are very unfavorable. It is about students who belong to vulnerable social groups and are at risk of social exclusion and economic vulnerability. The consequences of dropping out of education are multiple and relate to hindered and insecure employment prospects. They are highly unfavorable for the psychological well-being and social engagement of individuals concerned, often leading to their social exclusion.

According to data from the Statistical Office of the Republika Srpska (RS), during the previous school year (2021/2022), 149 boys and 73 girls dropped out of high school, with the majority dropping out in the first grade. Statisticians have calculated that poor academic performance forced 76 of them to drop out of school, while poverty was a reason in the case of eight students. Lack of family support led one girl to leave high school. According to the Statistics Office, in the 2021/2022 school year, in 61.7% of cases, high school students were leaving education due to illness, pregnancy, marriage, and other personal reasons.⁶³

Marginalized groups of children often face various types of discrimination and stigma, hence Romani children, especially girls, are the least enrolled in primary and secondary schools. Roma children often do not attend preschool education, and the primary education attendance rate in their case is approximately the same for both genders (70.9% boys and 67.8% girls).⁶⁴

The enrollment rate in secondary education is 18% for girls and 26.6% for boys. Only 4.5% of Romani girls complete secondary school.⁶⁵ Some Roma children never receive an invitation for enrollment to school because they are not registered in the Birth Registry.

In addition to the above-mentioned factors, Romani children have difficult access to education due to poverty, lack of resources for schooling, and lack of interest from parents and the community. Romani girls also face gender-related challenges: parents more often decide to educate male children, while it is considered more important for girls to stay at home, help with household chores, and take care of younger siblings. Staying at home is seen as beneficial for preserving their morals and traditional values, which might be threatened by socializing with

⁶³ Accessed on April 25, 2023 at: <https://vecernjenovosti.ba/166477/vijesti/sve-se-vise-napusta-srednja-skola-brak-i-sportska-karijera-precu-od-diplome/>.

⁶⁴ Platform for the Promotion of Rights and Status of Roma Women in Bosnia and Herzegovina, (2020). Association of Roma Women Bolja Budućnost [Association of Roma Women “Better Future”] from Tuzla (Available at: <https://www.bolja-buducnost.org/index.php/en/o-nama/dokumenti/summary/2-dokumenti/36-platforma-za-unapredenje-prava-i-polozaja-romkinja-u-bosni-i-hercegovini>).

⁶⁵ Platform for the Promotion of Rights and Status of Roma Women in Bosnia and Herzegovina, (2020). Association of Roma Women Bolja Budućnost [Association of Roma Women “Better Future”] from Town/City Tuzla (Available at: <https://www.bolja-buducnost.org/index.php/en/o-nama/dokumenti/summary/2-dokumenti/36-platforma-za-unapredenje-prava-i-polozaja-romkinja-u-bosni-i-hercegovini>).

peers. Child marriages for girls result in the discontinuation of education and the responsibility of caring for a husband and children.

Girls and women with disabilities are still not adequately included in regular primary education. Although significant progress has been made in recent years, their inclusion in the educational system is often symbolic. This is especially true for girls with disabilities from rural areas.

The law allows children with disabilities to attend regular classes when possible. Schools often claimed not to be able to accommodate this group of children due to a lack of financial resources and equipment. Children with developmental difficulties attend classes according to regular curricula in mainstream schools or special schools.⁶⁶

According to the situational analysis⁶⁷ of the status of children in Bosnia and Herzegovina from March 2020: “In the 2017/2018 school year, there were 283 special education institutions and schools with special departments for children with disabilities, attended by 964 children (33% girls) in primary schools and 380 children (of which 38% were girls) in secondary schools. An additional 3,934 children with disabilities attended regular primary schools (36% girls), and 931 children attended regular secondary schools (41% girls). Since the total number of registered children with disabilities in regular education is less than 2% of all school children, it is considered that some children with disabilities attend regular education without their difficulties being identified, while others drop out or do not attend any form of education.”

4.2. Gender biases and stereotypes

The Foundation CURE has conducted an analysis⁶⁸ titled “*The View from another angle: Textbook policy and analysis of stereotypes in high school textbooks in the Sarajevo Canton*”, identifying a significant number of stereotypes and prejudices. In this research, seven textbooks were analyzed and various forms of stereotypes, prejudices, misogyny, as well as other indicators of unequal status between men and women, were mapped. Violations of laws, conventions, and amendments that Bosnia and Herzegovina has signed and adopted were also identified. Following is one of the important conclusions that emerge from this research, concerning gender stereotypes: “Women and girls are underrepresented in textbooks, both in terms of numbers and visibility, across all subjects, grades, and textbooks. This is evident in

⁶⁶ Available at: https://ba.usembassy.gov/wp-content/uploads/sites/270/HRR_2019.pdf.

⁶⁷ Available at: <https://www.unicef.org/bih/media/4966/file/Situaciona%20analiza%20o%20polo%C5%BEaju%20djece%20u%20Bosni%20i%20Hercegovini.pdf>.

⁶⁸ Mujić, Medina and Knežević, Saša, (2016). *The View from another angle: Textbook policy and analysis of stereotypes in high school textbooks in the Sarajevo Canton*. Foundation CURE. (Available at: <https://fondacijacure.org/wp-content/uploads/2022/03/Pogled-iz-drugog-ugla.pdf>).

texts, images, and illustrations, where they are less frequently (if at all) represented compared to men and boys. Men are more frequently portrayed as occupation holders than women, thus creating an impression that women are less frequently employed. This contradicts the reality. Men and women are associated with traditional professions, with the range of professions associated with women being significantly narrower.” Men are not portrayed in “female professions” (e.g. caregivers), and women are only occasionally shown in predominantly male professions. This distorts the reality presented in the textbooks and fails to reflect new developmental trends. When men and women are portrayed together in a professional situation, the man usually holds a leading position (e.g. doctor vs. female nurse). Household activities, both in images and texts, are depicted as exclusively women’s tasks, while men are occasionally shown in the context of agricultural work or going to war. Women are most commonly portrayed as mothers who take care of their children and nurse them when they are sick. Fathers are almost invisible and are mostly depicted in circumstances that are not part of everyday life. The fact that many women have to raise children on their own is almost completely ignored (in modern texts), while in textbooks, the dominant image of the “holy family” with the father-mother-child dynamic prevails.

Historical depictions tend to distort and overlook women’s roles. When depicting hunter-gatherer cultures, the linguistic choice often ignores the fact that it was exclusively women who gathered seeds, fruits, or plants, thereby providing a significant portion of the needed food. Almost without exception, textbooks use the generic male gender.⁶⁹ Based on this analysis and within the context of stereotypes, a possible conclusion is that the three main pillars of education are influenced by pre-existing and learned systems interwoven with various influences such as tradition, stereotypes, patriarchy, customs, the dominant role of former living systems, and more. To address and ultimately resolve this issue, systemic activities are needed such as various education programs for parents who are already quite aware of the need for equal treatment of their male and female children. However, the education system lacks that subjective perspective, and its practices often remain unchanged. Ministries of education should provide more detailed and clear definitions for the rules of textbook drafting and approval.⁷⁰

With the support of the Gender Equality Agency of Bosnia and Herzegovina, and referring to the publication *“The View from another angle: Textbook policy and analysis of stereotypes in high school textbooks in the Sarajevo Canton*, the Foundation CURE recently sent a letter to the FBiH Ministry of Education, emphasizing the need to change the current textbooks in the Sarajevo Canton, as they contain a range of gender stereotypes, inaccurate statements, statements inciting hatred and highlighting inequality, violence, falsehoods, outdated and

⁶⁹ Ibid., p. 87.

⁷⁰ Ibid., p. 36.

discriminatory information, and unequal treatment of genders and sexes, inadequately representing women, and lacking gender-sensitive language. Hence, the modification of textbooks and the correction of their content are necessary. However, the content has not yet been corrected, and students are still studying from rather outdated textbooks.

The Law on Prohibition of Discrimination in Bosnia and Herzegovina guarantees equal rights to all individuals in all areas of life, regardless of sexual orientation and gender identity, while the Law on Gender Equality in Bosnia and Herzegovina protects them from discrimination based on sex, gender, and sexual orientation. However, the education system is still influenced by gender and sex stereotypes, which is particularly evident in the textbooks used in curricula. The consequences LGBTI individuals face during their education have a negative impact on their future opportunities, whether it's individuals who have *come out* or those who felt they had to conceal their sexual orientation and/or gender identity. Research has shown that 35% of LGBTI individuals did not have enough options when choosing a high school, and 18% of LGBTI individuals dropped out of higher education. Additionally, 38% of LGBTI individuals who *came out* during their education noticed a change in attitudes from their peers and teaching staff after coming out, 5% of LGBTI individuals reported discrimination in education, and 81% of LGBTI individuals believe that the teaching staff is insufficiently sensitive to these issues. Furthermore, 20% of the general population considers it a problem if individuals who are known to be LGBTI are part of the staff of educational institutions.⁷¹

Also, existing inclusion programs for Romani children in education in Bosnia and Herzegovina have shown a range of weaknesses. These include an insufficient project approach to ensuring mediators (Roma teaching assistants), poor communication, and implementation of legal regulations regarding monitoring the education of Romani children (involving various levels of government and institutions and their coordination), as well as the misuse of affirmative actions.

Antigypsyism, stereotypes, and prejudices against the Roma community exist among both students and school staff, and the principle of compulsory primary education is not fully implemented. Discrimination manifests in student grades, seating Romani children at the back of the classroom, limiting their participation in extracurricular activities, handling their absences, and the quality of dedication to children and communication with parents.

⁷¹ Gačanica, Lejla, (2021). Socio-ekonomski položaj lezbijki, gej, biseksualnih, transrodnih i interseksualnih osoba u Bosni i Hercegovini (The socio-economic position of lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals in Bosnia and Herzegovina). Sarajevo: Sarajevo Open Center

4.3. Horizontal and vertical segregation in education

According to the data from the Statistics Agency of Bosnia and Herzegovina⁷², in the 2021/2022 school year, a total of 264,598 students were enrolled in 1,752 primary schools. This represents a decrease of 3,461 students or 1.3% compared to the previous school year. Female students accounted for 48.5% of all students. At the end of the 2020/2021 school year, a total of 29,435 students completed high school, which is a decrease of 1,705 students or 5.5% compared to the end of the 2019/2020 school year. Of the students who completed school, 51.2% were male and 48.8% were female.

When it comes to the first and second cycles of studies (master's and specialist degrees), according to the Statistics Agency of Bosnia and Herzegovina, a larger number of women relative to men complete these cycles of studies. If we look at the third cycle (doctoral studies), women are notably underrepresented, and their percentage decreases significantly compared to the first and second cycles.

The situation in the labor market is quite different, as there are not enough women in responsible and high-ranking positions.

According to the research "Women and Men in Bosnia and Herzegovina,"⁷³ among individuals who completed higher education in the year 2020, 60% were women and 40% were men. Of these 60%, more than half graduated, obtained master's degrees and completed doctoral studies in fields such as health care and social welfare, education, and social sciences. These are also the areas of education where women outnumber men. A larger number of men completed their higher education in the fields of information and communication technologies, engineering, manufacturing, construction, and services.

It could be said that there is horizontal segregation, with one gender being predominantly represented in specific fields of education or occupations, as well as vertical segregation, with a significant decline in the number of women completing the third cycle of education (Ph.D. studies).

When it comes to marginalized groups, the state committed to the full social inclusion of Roma and Romani women based on the Action Plan for the period 2021-2025.⁷⁴ However, this plan does not address the core issues nor does it include a gender perspective or tools for addressing gender issues. This Action Plan is not comprehensive when it comes to education; it

⁷² Statistics Agency of Bosnia and Herzegovina, Demographics and Social Statistics - Primary Education in the School Year 2021/2022 (Available at: https://bhas.gov.ba/data/Publikacije/Saopštenja/2022/EDU_03_2021_Y2_0_BS.pdf).

⁷³ Statistics Agency of BiH, (2022). Women and men in BiH Sarajevo.

⁷⁴ Action Plan for the Social Inclusion of Roma and Romani Women for the Period 2021-2025 (December 2020). Ministry of Human Rights and Refugees of Bosnia and Herzegovina.

only focuses on the Romani language in education and the elimination of stereotypes. Furthermore, the funds allocated for improving the access of Romani children to the education system and their retention rate need to be separated from funds for socially vulnerable categories. This is particularly problematic because the funds that are supposed to assist Romani girls and boys in enrolling in schools and throughout their education are neither adjustable nor accessible.

4.4. Sexual and gender-based violence in educational institutions

Sexual and gender-based violence is present in educational institutions and has been on the rise in recent years, especially after students returned to school following the COVID-19 pandemic, during which most classes were conducted online. The CURE Foundation has been conducting educational workshops in high schools for many years, and this school year, due to the emergence of more serious forms of violence among students, there has been a sudden need for similar workshops in elementary schools.

Some representatives of the school staff have alerted the non-governmental sector to a significant increase in gender-based violence and violence in the relationships of youngsters. Consequently, they required expert assistance in organizing educational workshops on violence prevention. Institutional support has been lacking because the teaching staff is not adequately trained on how to respond to violence, and the curriculum is overloaded, leaving insufficient time during regular subject classes and homeroom periods for meaningful violence prevention work. In 2022, the CURE Foundation received notification from the Ministry of Education of Sarajevo Canton that topics have been prepared for the 2022/2023 school year to be discussed with elementary and high school students. These topics are focused on preventing various forms of violence and protecting students. In an attempt to intensify the work with students, the schools were granted approval to hire psychologists and social workers on a permanent basis.

The extent of genuine effort in preventing gender-based violence in educational institutions remains to be seen in the upcoming period, but research indicates that there is a lack of awareness about gender equality in the field of higher education. Acknowledging that low awareness of gender equality among male and female teachers in educational institutions contributes to even greater inequality between men and women, numerous international and European documents prescribe standards for aligning educational content with the values of gender equality. To this end, data from the publication titled *Challenges of Integration of*

*Gender Equality in the University Community: Against Gender-Based Violence*⁷⁵ show that curriculum and programs must be aligned with European Union standards in the field of gender equality. The publication points to a very alarming state in this field, as it pertains to a topic that is far from being a priority within universities. Particularly disheartening is the finding from this comprehensive research that over 70% of male and female students have never attended classes or subjects related to this topic, not even within extracurricular activities.

RECOMMENDATIONS

- 1) The language used in educational institutions is predominantly masculine. There is a need for both theoretical and practical implementation of gender-sensitive language in educational institutions. This entails utilizing gender-sensitive language in school textbooks and supplementary materials used in schools and higher education institutions in order to ensure equal visibility for both women and men.
- 2) Modernizing educational content for primary, secondary, and tertiary education in accordance with European standards and practices for achieving gender equality within educational institutions is essential. This is also one of the criteria that countries aiming to join the European Union must meet, to achieve gender equality in society.
- 3) Equal access to education must be provided for all minority and marginalized groups of children and youth to ensure they have equitable opportunities within the educational system, free from discrimination and stigma based on any grounds.
- 4) The issue of student dropout from education requires a multidisciplinary and holistic approach first to acknowledge its presence and then to ensure early detection of the dropout risk and timely intervention. It's crucial to develop preventive programs for working with families and students and to facilitate the reintegration of students who have dropped out of the education system. Investing in the education of young people and ensuring measures through various social policies to prevent and reduce the risk of dropping out of the education system represents an investment in a more promising future for our young generations and society as a whole.
- 5) There is a need for a uniform approach to addressing the problems of horizontal and vertical segregation in education and the root causes of these issues. Such an approach would directly impact the solving of gender segregation issues. Gender segregation contributes to a range of societal issues, such as limited access to education and employment, unequal pay, gender stereotypes, and restricted access to certain professions. All of these factors perpetuate unequal power dynamics between genders

⁷⁵ Spahić Šiljak, Zilka, Kovačević, Jasna and Husanović, Jasmina, (2022). *Challenges of Integration of Gender Equality in the University Community: Against Gender-Based Violence* TPO Foundation.

in both public and private spheres of life. Gender segregation results in unequal rights for men and women within society, as well as unequal opportunities presented to them in the job market.

- 6) It's necessary for relevant ministries of education and other educational bodies to collaborate with civil society organizations focused on youth, gender stereotypes, and peer violence.
- 7) A comprehensive strategy needs to be developed to ensure the inclusion of Roma children (especially girls) in educational institutions. Public budgets should allocate funds for these purposes, including the implementation of programs aimed at integrating these children, as well as those from lower socioeconomic backgrounds.
- 8) Addressing peer violence, which is continuously increasing, requires a much more serious approach. Vigilant monitoring of actions taken by competent authorities in such cases is essential.
- 9) Introducing subjects that cover sexual education, *cyberbullying*, stereotypes, and related topics into school curricula is crucial. It's not enough for these topics to be occasionally addressed during class community hours. A significant structural reform of the education system is needed, which the competent authorities in Bosnia and Herzegovina are not capable (nor willing) to implement.
- 10) In line with all the aforementioned, the necessary education reform in the segment of equality should be based on the Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions on establishing a European Education Area by 2025. (COM/2020/625 final).⁷⁶
- 11) Incorporate gender equality criteria into textbook policies and eliminate stereotypes related to sexual orientation, gender characteristics, and gender identity from textbooks at all levels of education.
- 12) Ensure education and awareness for teaching and other educational staff on working with LGBTI individuals and preventing the violation of their human rights in educational institutions.
- 13) Develop guidelines/handbooks for teaching staff to prevent homophobia/transphobia and provide adequate support for LGBTI students.
- 14) Revise gender and sex markers in application documents and other forms to include categories beyond male/female.⁷⁷

⁷⁶ Accessed on May 3, 2023: <https://eur-lex.europa.eu/legal-content/HR/ALL/?uri=CELEX%3A52020DC0625>.

⁷⁷ Gačanica, Lejla, (2021). Socio-ekonomski položaj lezbijki, gej, biseksualnih, transrodnih i interseksualnih osoba u Bosni i Hercegovini [The socio-economic position of lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals in Bosnia and Herzegovina], Sarajevo: Sarajevo Open Center

5. EMPLOYMENT, ECONOMIC AND SOCIAL BENEFITS

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5.1. Inequality and discrimination in employment

In the labor market of Bosnia and Herzegovina, there is a pronounced inequality between men and women. In 2020, the employment rate was 29.9% for women compared to 50.9% for men. According to the Labor Force Survey for the third quarter of 2022, out of the total employed population in Bosnia and Herzegovina, only 36.1% were women compared to 63.9% who were men.⁷⁸

The situation in the labor market is particularly unfavorable for women with disabilities. A 2021 research study based on interviews with 103 women with various types of disabilities revealed that only 22 respondents (21.35%) were employed, while 69 (66.99%) were unemployed.⁷⁹ These are women with work capacity, mainly with secondary vocational school qualifications, whose professions are not competitive in the labor market.

Women are continuously underrepresented in positions of economic power and decision-making, particularly in the positions of directors and members of the management and supervisory boards of public companies in Bosnia and Herzegovina. According to available research⁸⁰, the representation of women in leadership positions in these companies at all levels of government is far below the legally prescribed minimum of 40%. At the level of Bosnia and Herzegovina, no woman has been appointed as a director of a public company, and women’s participation on boards stands at around 26%. In the Brčko District, a woman is the director of only one out of four public companies, while they are represented on boards with 10.5%. The situation is not better at the entity level either. Women comprise 22.5% of board members in public companies owned by the Federation of Bosnia and Herzegovina and 15% in public

⁷⁸ Statistics Agency of BiH. A Release, Year III, No. 3, December 9, 2022. (Available at: https://bhas.gov.ba/data/Publikacije/Saopštenja/2022/LAB_00_2022_Q3_1_BS.pdf).

⁷⁹ Isić, U., (2021). Research on the Socioeconomic Position of Women with Disabilities in Bosnia and Herzegovina. (Available at: <https://tinyurl.com/2p9y2ndz>).

⁸⁰ Šehić, D. and Čatović, A., (2021). Representation of Women in Leadership Positions in Public Companies in Bosnia and Herzegovina: Gender Analysis. PRAVA ZA SVE (Rights for All). (Available at: <https://pravazasve.ba/bs/wp-content/uploads/sites/5/2022/03/Prava-za-sve-Rodna-analiza-N.pdf>).

companies in Republika Srpska. The representation of women in director positions of public companies is 4% in Republika Srpska and 16.6% in the Federation of Bosnia and Herzegovina.

Discrimination in the field of employment is prohibited by the provisions of the Law on Gender Equality in Bosnia and Herzegovina, the Law on Prohibition of Discrimination in Bosnia and Herzegovina, as well as all labor laws in force at different levels of government in the country. However, women continue to face discrimination in employment and work relationships, starting from job advertisements to recruitment, work, and finally, termination thereof.

CSO studies suggest that relatively more women than men reported gender-based discrimination in the recruitment process: 71% of women compared to 65% of men who had more than one job interview reported receiving questions that could imply gender-based discrimination.⁸¹ Furthermore, during job interviews, 49% of women compared to 27% of men were asked if they have children or if plan to have them. Of particular concern is the data showing cases where women were asked during the interviews for medical evidence indicating that they were not pregnant.⁸² Stereotypes and discrimination during the recruitment process particularly affect LBT women. They often receive openly homophobic questions or comments during job interviews, and this same practice continues in the workplace, where they are more frequently subjected to sexual harassment, verbal and physical abuse, as well as sexual blackmail by unwanted outing more often than the general population.⁸³

5.2. Gender-Based Violence and Harassment in the Workplace

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 36 (g):

The Committee recommends that the State Party “consider ratifying the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization (ILO).

Regardless of the prohibition of sexual harassment through anti-discrimination legislation at the national level and existing labor laws, research shows that women are extensively subjected to

⁸¹ Ramić-Marković, S., (2022). Gender-based discrimination in the field of work in Bosnia and Herzegovina Helsinki Citizens' Assembly Banja Luka, p. 47. (Available at: https://hcabl.org/wp-content/uploads/2022/03/RodnoZasnovanaDiskriminacijaBiH_web.pdf).

⁸² Ibid.

⁸³ Gačanica, Lejla, (2021). Socio-ekonomski položaj lezbijki, gej, biseksualnih, transrodnih i interseksualnih osoba u Bosni i Hercegovini [The socio-economic position of lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals in Bosnia and Herzegovina]. Sarajevo: Sarajevo Open Center

sexual harassment in the workplace. There has been no progress in considering the ratification of ILO Convention No. 190 on Violence and Harassment of 2019.⁸⁴

According to available data from civil society organizations, in 2021, 40% of women reported being victims of at least one form of sexual harassment in the workplace. Particularly concerning is the fact that these cases were not reported to the relevant institutions due to fears of stigma and job loss, as well as a lack of trust in institutions and unfamiliarity with their rights or the process of reporting harassment.⁸⁵

In Republika Srpska, at the end of 2021, the Law on Protection against Harassment at Work was adopted.⁸⁶ Although, according to the definition provided in the provisions of this law, workplace harassment encompasses “any behavior towards an employee, a group of employees, or an employer, which can cause physical, psychological, or sexual harm,⁸⁷” the legislator failed to include specific provisions in this document to define and penalize gender-based harassment or violence in the workplace.

5.3. Employment strategies

Recommendation of the CEDAW Committee on Bosnia and Herzegovina’s Sixth Periodic Report (2019), point 36 (g):

The Committee recommends the State Party to “incorporate a gender perspective in employment strategies taking into account the needs of disadvantaged groups of women and introduce targeted measures to create further employment opportunities for these women.”

After the expiration of the last valid employment strategy in the Federation of Bosnia and Herzegovina in 2020, a new strategy has not been adopted. The available proposal for the Employment Strategy in the Federation of Bosnia and Herzegovina for 2021–2027⁸⁸ referred to the issue of women’s unemployment as a general category, without addressing the problem of multiple discrimination and the challenging situation of highly vulnerable subcategories, such as

⁸⁴ Ratification status available at:

https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810.

⁸⁵ Ramić-Marković, S., (2022). Gender-based discrimination in the field of work in Bosnia and Herzegovina Helsinki Citizens’ Assembly Banja Luka, p. 40.

⁸⁶ Law on Protection against Harassment at Work of Republika Srpska. Official Gazette of the Republika Srpska, No. 90/21.

⁸⁷ Ibid. Article 6.

⁸⁸ A proposal for the Employment Strategy in the Federation of Bosnia and Herzegovina for 2021–2027. (Available at: https://parlamentbih.gov.ba/v2/userfiles/file/Materijali%20u%20proceduri_2021/Prijedlog%20Strategije%20zapo%C5%A1ljava%20u%20Federaciji%20BiH%20-%20bosanski%20jezik.pdf).

women who have survived domestic violence, Romani women, women in rural areas, and the like.

In Republika Srpska, the Employment Strategy of Republika Srpska for the period 2021–2027⁸⁹ is still in effect. This strategy defines the category of vulnerable or disadvantaged individuals in a broader sense, and in addition to women as a general category, it identifies victims of violence and single parents as specific categories, both of which largely consist of women. However, when it comes to specific priorities and measures, the strategy only marginally incorporates a gender perspective. For instance, within the strategic goal related to improving social inclusion and ensuring equal opportunities, the strategy refers to the vulnerable categories of the unemployed population as a whole. Ultimately, this strategy fails to include gender-sensitive indicators for each of the defined strategic goals and to specifically identify women within target groups when it comes to specific measures. In Republika Srpska, the Women’s Entrepreneurship Development Strategy for the period 2019–2023⁹⁰ is also in effect. However, it does not mention vulnerable groups of women, such as women with disabilities or Romani women, at all.

5.4. Maternity Benefits

Recommendation of the CEDAW Committee on Bosnia and Herzegovina’s Sixth Periodic Report (2019), point 36 (e):

The Committee recommends that the State Party should “harmonize regulations on maternity benefits and ensure equal maternity benefits and remuneration during maternity leave in all parts of the State Party.”

Discrimination in the disbursement of maternity benefits based on the mother’s residence is still present in Bosnia and Herzegovina. This issue is particularly pronounced in the cantons of the Federation of Bosnia and Herzegovina. At the end of 2022, the Law on Material Support to Families with Children in the Federation of Bosnia and Herzegovina⁹¹ was adopted, according to which mothers who are not employed receive an amount equivalent to 55% of the minimum wage in the Federation for a duration of 12 months, which is around BAM 298. Although this law prescribes a minimum amount for the allowance, cantons can increase this amount according to their financial capabilities, which again contributes to the unequal position of

⁸⁹ Republika Srpska Employment strategy (2021– 2027). (Available at: <https://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mpb/PAO/Pages/Стратегија-запошљавања-РС.aspx>).

⁹⁰ Women’s Entrepreneurship Development Strategy for period 2019-2023. (Available at: <https://tinyurl.com/55tej3vw>).

⁹¹ Law on Material Support to Families with Children in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of Bosnia and Herzegovina number 52/22.

unemployed mothers residing in different cantons. Moreover, in the early stages of implementing this law, issues with disbursements arose due to complex divisions of authority and the administrative overload of the Federation and relevant cantonal authorities responsible for enforcement.⁹² Furthermore, at the level of the Federation of Bosnia and Herzegovina, the maternity leave benefit for employed mothers is not regulated by law, consequently, several cases have been recorded where mothers did not receive any compensation from the employer during maternity leave. On the other hand, in the Republika Srpska, benefits for all mothers on maternity leave are paid from the Public Fund for Child Protection. This payment amounts to the full salary of employed mothers, which is reimbursed to the employer, while unemployed mothers receive 405 BAM.

5.5. Childcare

Access to widely available and affordable childcare services is considered a key factor influencing women's employment. However, the functioning of childcare institutions is not regulated nor is it provided in the same way in all parts of the country. The amount of subsidies provided by competent authorities varies in different parts of the country and is different for public versus private preschool institutions/daycares. For example, in Banja Luka, a subsidy from the city budget for the costs of childcare services in private preschool institutions was introduced only in 2022, in the amount of 60 BAM⁹³, while in Sarajevo Canton, this subsidy amounts to 200 BAM⁹⁴.

5.6. Property and Inheritance

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 40 (a):

The Committee recommends that the State Party should "take steps to eliminate obstacles to women's equal access to land and other property, including through awareness raising campaigns on women's equal rights to property and inheritance, so as to enhance women's access to financial credit and loan."

⁹² N1 BiH. (December 15, 2022). Explanation from the Sarajevo Canton Government: All mothers on maternity leave will receive a benefit of BAM 996. (Available at: <https://n1info.ba/vijesti/pojasnjenje-iz-vlade-ks-sve-porodilje-ce-dobijati-naknadu-od-996-km/>).

⁹³ Regulation on co-financing the costs of childcare services in private preschool institutions within the territory of the city of Banja Luka. (Available at: <https://www.banjaluka.rs.ba/wp-content/uploads/2022/04/PRAVILNIK-SUBVENCIIJE-VRTICI.pdf>).

⁹⁴ Government of Sarajevo Canton, (August 19, 2021). Sarajevo Canton Government: Subsidies for childcare in Sarajevo Canton kindergartens increased to BAM 200. (Available at: <https://mo.ks.gov.ba/aktuelno/novosti-sa-vlade/vlada-ks-povecane-subvencije-za-djecu-u-vrticima-kantona-sarajevo-na-200>).

Even though under the current provisions of the Bosnian and Herzegovinian legislation, women and men are equal in terms of property ownership and inheritance, the situation in practice is quite different.

Women in Bosnia and Herzegovina own and co-own properties to a significantly lesser extent than men. In Republika Srpska, women represent only 28.1% of independent property owners and 35.8% of co-owners with a ½ share in the property.⁹⁵ The latest data on women's participation in purchasing various types of properties in the Federation of Bosnia and Herzegovina show that they are represented at around 32%, which is not significantly different compared to previous years.⁹⁶

Research from civil society organizations indicates that the percentage of Romani women who own property is extremely low: only 9% of Romani women are registered as co-owners of property, and only 11% of Romani women have property registered in their own names.⁹⁷ Ownership of properties is mainly held by men (husbands or partners), although it's not uncommon for women to have acquired the right to reside in the property.

LBT (Lesbian, Bisexual, Transgender) women are less likely to have their own property. They are more often economically dependent, credit-ineligible, and face greater challenges in achieving independence.⁹⁸

The 2021 research study based on interviews with 103 women with various types of disabilities revealed that only six women (7.05%) were owners of the property in which they lived.⁹⁹

Many women, especially in rural areas, are not registered as co-owners of properties, marital or non-marital, acquired through joint efforts or work of partners.¹⁰⁰ Their unprotected position is particularly problematic due to the principle of trust in land registries¹⁰¹, often resulting in property transactions occurring without the consent of the unregistered partner.

⁹⁵ Republika Srpska Institute of Statistics, (2021). Women and men in Republika Srpska (Available at: https://www.rzs.rs.ba/static/uploads/bilteni/zene_i_muskarci/Zene_i_muskarci_2021_web.pdf).

⁹⁶ Federation of BiH Institute of Statistics, (2022). Women and men in the Federation of Bosnia and Herzegovina. (Available at: <http://fzs.ba/wp-content/uploads/2022/12/zene-i-muskarci.pdf>).

⁹⁷ Association of Roma women „Bolja budućnost“ from Tuzla, (2021). Analysis of the study findings on the awareness level and information needs of Roma women and men regarding property registration and complaint resolution mechanisms in eight municipalities/cities with a significant Roma population in Bosnia and Herzegovina. (The research was conducted on a sample of 650 Roma women.)

⁹⁸ Gačanica, L., (2021). The socio-economic position of lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals in Bosnia and Herzegovina. Sarajevo Open Center

⁹⁹ Isić, U., (2021). Research on the Socioeconomic Position of Women with Disabilities in Bosnia and Herzegovina. (Available at: <https://tinyurl.com/2p9y2ndz>).

¹⁰⁰ In the Federation of Bosnia and Herzegovina, the Family Law explicitly stipulates that if one spouse is registered as the owner of property, the other spouse can request a correction of the registration, in accordance with the Law on Land Registries of the Federation of Bosnia and Herzegovina.

¹⁰¹ See: Powlakić, M. and Mezetović Međić, S., (2018). Regulation of Property Relations of Marital and Extramarital Partners and Gender Equality.

Women who choose to engage in agriculture and family farming, aiming to contribute to the economic development of their households, must be registered as (co-)owners of land. Women who do not have land registered in their name need to seek consent from their husbands/partners to use the land to access incentives for starting their own businesses.¹⁰²

In many communities, patriarchal customs still prevail, leading parents to exclusively attribute property to male children, and many women renounce their rightful paternal inheritance in favor of their brothers or other male family members.¹⁰³ Finally, women also face the issue of costly and lengthy legal proceedings in which the separation of marital property from the estate becomes necessary.

5.7. Unpaid labor and household work

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 36 (c):

The Committee recommends that the State party should “intensify its efforts to ratify the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization (ILO).”

According to the latest publicly available Labor Force Survey, published as an annual thematic bulletin in Bosnia and Herzegovina for the year 2019, the participation of women in unpaid household work, including agricultural work, amounted to 70.9%.¹⁰⁴ These gender-disaggregated data are not included in the releases of Labor Force Survey data, which have been published quarterly since 2020.

According to the 2020 study conducted by the Gender Equality Agency of Bosnia and Herzegovina¹⁰⁵, routine household chores are extremely unequally divided between women and their partners. In as many as 93.8% of relationships, women perform all or most of the

Collection of papers from the Sixth International Conference “Days of Family Law.” (Volume VI, Issue 6). Page. 44–67.

¹⁰² Friedrich-Ebert-Stiftung, Office in Bosnia and Herzegovina, (2021). Ownership of real estate through the prism of gender equality. (Available at: https://bosnia-and-herzegovina.fes.de/fileadmin/user_upload/documents/17_06_2021_infografika_-_vlasnistvo_nekretnina.pdf).

¹⁰³ Manojlović, M., (2019). Hercegovke sve češće prihvataju očevo nasljedstvo.[Engl. Herzegovinian women increasingly embrace their father's inheritance]. Diskriminacija.ba / Mediacentar Sarajevo. (Available at: <https://www.diskriminacija.ba teme/hercegovke-sve-%C4%8De%C5%A1%C4%87e-prihvataju-o%C4%8Devo-nasljedstvo>).

¹⁰⁴ Statistics Agency of BiH, (2019). 2019 Labor Force Survey TB 10. (Available at: https://bhas.gov.ba/data/Publikacije/Bilteni/2019/LAB_00_2019_TB_O_BS.pdf).

¹⁰⁵ Hasanagić, S. and Papović, M., (2020). The impact of the gender division of family and household chores on the professional life of employed women in Bosnia and Herzegovina. Gender Equality Agency of BiH. (Available at: <https://arsbih.gov.ba/wp-content/uploads/2020/09/Uticaj-rodne-podjele-porodi%C4%8Dnih-i-ku%C4%87anskih-poslova-na-profesionalni-%C5%BEivot-zaposlenih-%C5%BEena-u-BiH.pdf>).

household work, including tasks such as tidying up, cleaning, cooking, meal preparation, etc. In 84% of relationships, women are the ones who perform all or most of the mental work when it comes to routine household chores, including planning, organizing, and managing daily activities.

Of particular concern is the invisible category of women who are informally employed as domestic workers in private households, where they are often discriminated against and exposed to harassment, abuse, and exploitation. Bosnia and Herzegovina has not yet ratified Convention No. 189 on Domestic Workers from 2011 by the ILO, which obliges states to guarantee these workers the same basic labor rights available to other workers.¹⁰⁶

5.8. Collection and analysis of statistical data

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 47:

The Committee recommends that the State party establish a consolidated system for the collection, analysis, and dissemination of data, disaggregated by sex, age, disability, ethnicity, location, and socioeconomic status at all levels.

Some progress has been made in terms of collecting and publishing data on the economic and social position of women in Bosnia and Herzegovina disaggregated by sex. The regular thematic bulletin "Women and Men in BiH" from 2022 includes data on average salaries classified by activity and sex, as well as the structure of employees by activity (Statistical Classification of Economic Activities– NACE Rev 2). Expectedly, the data show lower average salaries for women in the vast majority of covered areas of activity.

Gender-disaggregated statistics on the economic effects of the COVID-19 pandemic, including data on employment, layoffs, and working from home are not available. It is necessary to improve both the collection and publication of gender-disaggregated data on the socioeconomic status of members of national minorities, as the bulletin currently includes only data on unemployed members of national minorities registered with employment services in Bosnia and Herzegovina. The available data is not collected in the same way across the entire country. The Employment Bureau of Brčko District has not yet processed data on unemployed individuals by their affiliation with national minorities, but data on unemployed members of the Roma national minority are available.

¹⁰⁶ Ratification status available at:

https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:6940750363060:::P11300_INSTRUMENT_SORT:3.

Different and diverse categories of economic and employment statistics are still missing, such as gender-disaggregated data on changes in labor activity (e.g., from unemployment to employment, from inactivity to employment, recently started jobs, the average time between leaving formal education and starting the first job, etc.), as well as data on women's participation in the so-called informal economy.

RECOMMENDATIONS

- 1) Ensure full implementation of the provisions of the Law on Prohibition of Discrimination in Bosnia and Herzegovina, the Law on Gender Equality in Bosnia and Herzegovina, and labor legislation relating to equality and prohibition of discrimination in employment and work, including appointments to leadership positions in public enterprises.
- 2) Ensure regular adoption of employment strategies throughout the country, with an integrated gender perspective and gender-sensitive measures, particularly taking into account the needs of members of marginalized groups.
- 3) Harmonize provisions on maternity benefits and ensure equal benefits across the entire country for unemployed mothers and mothers employed in the public and private sectors.
- 4) Ensure equal functioning of childcare institutions throughout the country, including availability and amounts of subsidies.
- 5) Take measures to eliminate barriers to equal access for women to property ownership, loans, economic incentives, and inheritance.
- 6) Establish a comprehensive system for collecting, analyzing, and regularly publishing gender-disaggregated statistics on the economy and employment, including data on the economic impacts of the COVID-19 pandemic, while considering a uniform approach to collecting data on women belonging to marginalized groups.
- 7) Expand the provisions of the labor laws of the Federation of Bosnia and Herzegovina, Republika Srpska, and the Brčko District to include a prohibition on asking questions about pregnancy during employment interviews, as well as a prohibition on asking questions about sexual orientation, sex markers, and gender identity. Expand the provisions of the Republika Srpska Labor Law on discrimination, explicitly listing sexual orientation, sex markers, and gender identity as protected grounds.

6. Healthcare and Family Planning

Prepared by: Amra Kadrić

Contribution by: Tanja Mandić Đokić (an activist for the rights of persons with disabilities)

6.1. Differences in Legal Provisions on Health

The right to healthcare and health insurance in Bosnia and Herzegovina (BiH), due to its specific structure, is established at the entity¹⁰⁷ and Brčko District¹⁰⁸ levels. The legislative framework, which is more or less harmonized, guarantees equal access to healthcare for all individuals, without discrimination on any grounds. However, despite efforts to align health laws and strategies with international gender equality standards, differences in accessing healthcare services are evident. Women with disabilities, women victims of violence, women residing in rural and remote areas, and Romani women continue to face particular challenges in accessing healthcare services.

The right to sexual and reproductive health for women is partially regulated by various regulations in the fields of health care, social protection, and family law, as well as criminal and misdemeanor legislation. In the Federation of Bosnia and Herzegovina, after the expiration of the Sexual and Reproductive Health and Rights Policy, a Strategic Framework for Sexual and Reproductive Health for the period 2020-2026 has been developed, however, it has not yet been adopted.¹⁰⁹ In the Republika Srpska (RS), a Strategy for the Advancement of Sexual and Reproductive Health (2019-2029) has been adopted and it focuses on equal access to family planning, reducing the rate of reproductive organ diseases, and providing information on sexual and reproductive health. However, the effectiveness of sexual and reproductive health policies, as well as other health policies is not systematically assessed.¹¹⁰

The possibilities for assisted reproductive technologies (ART) differ between the entities due to regulatory discrepancies. In the Federation of Bosnia and Herzegovina (FBiH), only homologous in vitro fertilization (IVF) is allowed, whereas in the Republika Srpska (RS), both homologous and heterologous IVFs are provided. In FBiH, the procedure is reserved for married or

¹⁰⁷ Health Insurance Law of the Federation of BiH (Official Gazette of the Federation of BiH, number: 30/97, 7/02, 70/08, 48/11, 36/18, 61/22), Law on Healthcare of the Federation of BiH (Official Gazette of the Federation of BiH, number: 46/10, 75/13), Law on Mandatory Health Insurance of Republika Srpska (Official Gazette of Republika Srpska, number: 93/22), Healthcare Law of Republika Srpska (Official Gazette of Republika Srpska, number: 57/22).

¹⁰⁸ Health Insurance Law of the Brčko District (Official Gazette of Brčko District, no. 1/03, 7/02, 19/07, 2/08, 34/08, 34/19, 19/20), Healthcare Law of the Brčko District (Official Gazette of Brčko District, no. 38/11).

¹⁰⁹ UN Women, (2022). 2021 Country Gender Equality Profile of BiH (Available at: <https://europa.ba/wp-content/uploads/2022/01/Gender-Country-BH-web.pdf>).

¹¹⁰ Ibid.

unmarried partners only, while RS extends the possibility to single women undergoing infertility treatment.¹¹¹ Same-sex couples do not have access to infertility treatments.

Inequalities in accessing rights are present due to different financial and institutional arrangements, which is why it is necessary to harmonize the healthcare system to ensure equal access to healthcare services and health insurance.¹¹²

6.2. Availability of healthcare workers in rural healthcare centers

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 38 (a):

“The Committee recommends that the State party promote staff retention in rural health care centers through incentives such as higher remuneration.”

Women in rural and smaller areas often lack adequate access to specialized examinations in the domain of sexual and reproductive health, as healthcare availability is particularly problematic in parts of Bosnia and Herzegovina where larger healthcare centers are not established. In some areas, emergency medical assistance can be as far as 60 km away. The issue of preventive healthcare is not systematically addressed, which is especially problematic in isolated rural communities.

An additional complicating factor for opening clinics or conducting field specialist gynecological examinations is the required quotas, specifically the number of women living in a certain area. The patients often do not have the right to choose their doctors nor do they receive comprehensive and targeted information about sexual and reproductive health and family planning.¹¹³ Women with disabilities who live in rural areas face even greater difficulties in acquiring proper medical care, as health centers are located in the city, and proper transport is not available. The lack of infrastructure renders health services inaccessible and costly, and doctors are often reluctant to visit local clinics.¹¹⁴

Women in areas where the trend of emigration is noticeable are additionally affected. The state failed to take systematic measures to prevent brain drain, which continues, most notably

¹¹¹ FBiH Law on Infertility Treatment through Medically Assisted Reproduction (Official Gazette of FBiH, number: 59/18, 44/22), RS Law on Infertility Treatment through Medically Assisted Reproduction (Official Gazette of RS, no. 68/20).

¹¹² Progress Report on the Implementation of the Beijing Declaration and Platform for Action in Bosnia and Herzegovina within the Beijing +25 Process, 2019. (Available at: <https://arsbih.gov.ba/wp-content/uploads/2019/05/Izvjestaj-o-napretku-Peking25-Bosna-i-Hercegovina.pdf>).

¹¹³ Ibid.

¹¹⁴ UN Women, (2022). Country Gender Equality Profile of BiH (2021). (Available at: <https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/2021/7/UNW%20Profil%20rodne%20ravnopravnosti%20BiH.pdf>).

in the healthcare sector.¹¹⁵ Medical personnel leaving the country has a general impact on the quality and accessibility of healthcare services, especially in locations where women did not receive equal treatment in accessing the right to health even before the mass drain of medical workers.

6.3. Access to high-quality healthcare

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 38 (b):

“The Committee recommends that the State Party ensure access to affordable, accessible, and high-quality health care, including sexual and reproductive health services, especially for women belonging to disadvantaged groups, by ensuring universal health insurance and by raising awareness among women available health services.”

The state has not taken appropriate measures to ensure that women, especially those from vulnerable groups (victims of gender-based violence, human trafficking, and forced marriage, irregular migrants, asylum seekers, lesbians, transgender women, women working in the informal sector, Romani women, women with disabilities), have access to health insurance and services under equal conditions.

Access to healthcare services is particularly problematic for women with disabilities. There is a clear lack of necessary equipment for medical examinations (such as specialized gynecological tables), as well as insufficient training of medical personnel to work with women with disabilities. According to research conducted by the Helsinki Citizens' Assembly from Banja Luka, as much as 41% of healthcare institutions stated that their staff is inadequately or only partially trained to work with women with disabilities, 56% of respondents reported not having a specialized gynecological table, and around 70% of healthcare institutions highlighted that they do not have any support mechanism for women with disabilities, such as counseling services.¹¹⁶

Efforts have been made to integrate the prevention of gender-based violence, victim protection, and responses to violence into the healthcare system of Bosnia and Herzegovina. However, individuals who have survived domestic violence and required various medical

¹¹⁵ European Commission, (2022). Country Report (Available at: https://neighbourhood-enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2022_en).

¹¹⁶ Helsinki Citizens' Assembly from Banja Luka, (February 2020). Access of Women with Disabilities in Bosnia and Herzegovina to Sexual and Reproductive Health and Family Planning – situation analysis. (Available at: <http://hcabl.org/wp-content/uploads/2020/03/Pristup-%C5%BEena-sa-invaliditetom-u-BiH-seksualnom-i-reproduktivnom-zdravlju-i-planiranju-roditeljstva.pdf>).

services related to the violence often end up paying for services themselves, as support is not equally accessible in all parts of the country.¹¹⁷

Romani women also face a range of issues combined with discrimination and stigma. In particular, they experience disparities in access to healthcare information and services, including reproductive health. Many Romani women were not enrolled in the public insurance system due to poverty, social marginalization, but also due to local legal requirements.¹¹⁸

Internally displaced and returnee women face problems if they are living outside of the entity they are registered in, as they may lose rights acquired in the places of displacement.¹¹⁹

In practice, there have been reports of lesbians having negative experiences with mental health professionals in public institutions, ranging from unprofessional and stigmatizing treatment to certain procedures that can be classified as “conversion therapy”. Transgender and intersex individuals continue to be marginalized when it comes to their medical needs, which are not recognized in the public healthcare system.¹²⁰

Women asylum seekers are entitled to primary healthcare¹²¹, which entails a very narrow range of emergency or basic health services. Although reproductive health protection is included in primary care, in practice, women asylum-seekers exercise this right only partially and exclusively through the involvement of domestic or international non-governmental organizations. Primary healthcare does not cover childbirth assistance or hospitalization.¹²² The legal framework does not recognize irregular migrant women as beneficiaries of healthcare services.

Data on pregnancy termination are not available due to the lack of systematic records. Although under the current entity regulations, every woman has the right to terminate pregnancy within the first ten weeks, access to this right is not equal in all parts of Bosnia and Herzegovina. Furthermore, pregnancy termination is sometimes performed without anesthesia or with inadequate anesthesia, while in some parts of Bosnia and Herzegovina, general

¹¹⁷ UN Women, (2021). Country Gender Equality Profile of BiH. (Available at: <https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/2021/7/UNW%20Profil%20rodne%20ravnopravnosti%20BiH.pdf>).

¹¹⁸ US Department of State, (2020). Country Reports on Human Rights Practices: Bosnia and Herzegovina. (Available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/bosnia-and-herzegovina/>).

¹¹⁹ UN Women, (2021). Country Gender Equality Profile of BiH. (Available at: <https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/2021/7/UNW%20Profil%20rodne%20ravnopravnosti%20BiH.pdf>).

¹²⁰ Sarajevo Open center, (2022). Pink Report 2022, Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina. (Available at: https://soc.ba/site/wp-content/uploads/2022/05/Rozi-izvjestaj-2022_za-web.pdf).

¹²¹ Law on Asylum in Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, no. 11/16, 16/16).

¹²² UNHCR, Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 3rd Cycle, 34th Session Bosnia and Herzegovina. (Available at: [Universal Periodic Review Third Cycle - Bosnia and Herzegovina - Reference Documents | OHCHR](https://www.unhcr.org/refugees-and-returnees/2022/05/unhcr-submission-by-the-united-nations-high-commissioner-for-refugees-for-the-office-of-the-high-commissioner-for-human-rights-34th-session-universal-periodic-review-3rd-cycle-bosnia-and-herzegovina)).

anesthesia is separately charged.¹²³ Due to pregnancy, women are often victims of institutional violence within the healthcare system. Research indicates that pregnancy poses a risk to the further development of one's career, as well as to taking up employment. The decentralization of the healthcare system is particularly evident in cases of pregnant women whose labor unexpectedly begins in a local community that is not their place of residence.¹²⁴

The waiting time for healthcare examinations in public sector health institutions is too long, which is why more and more women opt for private healthcare providers where they receive quality services and better treatment by the healthcare staff. Contraceptive methods are not equally included in the essential drug lists, so they are mostly available only for a fee. The process of inclusion in the essential drug list is largely inefficient and takes a long time. There is no systematic education about contraceptive methods, and information about them is mostly obtained through mass media.¹²⁵

In Bosnia and Herzegovina, the HPV vaccination program is not available, nor is a comprehensive family planning approach established.¹²⁶ The Sarajevo Canton Ministry of Health is the only entity in Bosnia and Herzegovina that has allocated funds and initiated HPV vaccination efforts. However, the funds are limited and not enough vaccines are provided.¹²⁷

The laws at the entity level in the fields of health, social protection, and education in Bosnia and Herzegovina do not contain provisions that mandate compulsory sex education.¹²⁸

6.4. Violence in healthcare facilities

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 38 (c):

¹²³ The Ombudsman Institution for Human Rights in BiH, UNFPA, (January 2012). Human rights in the field of sexual and reproductive health. (Available at: https://ba.unfpa.org/sites/default/files/pub-pdf/liudska_prava_u_oblasti_seksualnog_i_reproduktivnog_zdravlja_u_bih.pdf).

¹²⁴ Hrnčić, Zlatan, (January 2021). Nasilje nad trudnicama u BiH, porodica, zdravstveni sistem, radni odnosi. [Violence against pregnant women in Bosnia and Herzegovina, family, healthcare system, employment relationships] (Available at: www.tpo.ba/dokument/Nasilje_nad_trudnicama.pdf).

¹²⁵ The Ombudsman Institution for Human Rights in BiH, UNFPA, (January 2021). Human rights in the field of sexual and reproductive health. (Available at: https://ba.unfpa.org/sites/default/files/pub-pdf/liudska_prava_u_oblasti_seksualnog_i_reproduktivnog_zdravlja_u_bih.pdf).

¹²⁶ Ibid.

¹²⁷ Sarajevo Canton Ministry of Health (Available at: <https://vlada.ks.gov.ba/aktuelnosti/novosti/ministar-vranic-potroseno-511-doza-hpv-vakcina-u>).

¹²⁸ The Ombudsman Institution for Human Rights in BiH, UNFPA, (January 2021). Human rights in the field of sexual and reproductive health. (Available at: https://ba.unfpa.org/sites/default/files/pub-pdf/liudska_prava_u_oblasti_seksualnog_i_reproduktivnog_zdravlja_u_bih.pdf).

“The Committee recommends that State party promptly investigate all allegations of violence against women by staff in maternity wards.”

A study conducted by civil society organizations on violence and corruption in maternity wards¹²⁹ and women’s childbirth experiences suggests that 50% of expecting mothers or their family members have provided money or gifts in maternity wards, before or after childbirth. The money giving is done openly or secretly. Money is given both voluntarily and in response to requests from medical staff. The main reasons for giving money are poor treatment and conditions in hospitals, hence such actions are hoped to lead to better service for the mothers. Additionally, the research has shown that offering bribes creates inequality in treatment. Individuals who did not agree to participate in corruption were thus put in even more subordinate positions. According to research findings, 46% of women felt that their rights were violated during their stay in the maternity ward, 22.0% were pressured by the staff to do something, 32.1% of women felt coerced into a certain method of childbirth, 28.3% believed they were treated poorly because they didn’t offer bribes, 44.7% didn’t receive support during breastfeeding, while 32.1% confirmed that the maternity ward bathrooms were dirty.

In its 2022 Country report, the European Commission warned Bosnia and Herzegovina that it must improve conditions in hospitals and maternity hospitals and ban obstetric violence, in line with its obligations under the Istanbul Convention.¹³⁰

6.5. Training to healthcare staff

Recommendation of the CEDAW Committee on Bosnia and Herzegovina’s Sixth Periodic Report (2019), point 38 (d):

“The Committee recommends that the State party provide training to all health service staff on the sexual and reproductive health and rights of women, in particular pregnant women and women and girls living with HIV/AIDS.”

The state has not taken the necessary steps to ensure continuous training for healthcare staff about sexual and reproductive health and women’s rights. Efforts have been made to integrate the prevention of gender-based violence into the healthcare system; however, training for professionals in the healthcare sector, social services, police, and judiciary is neither mandatory

¹²⁹ Transparency International, Centers of civil initiatives, Association „Baby steps“, (2021). Fight against corruption in maternity wards. (Available at: <http://www.babysteps.ba/wp-content/uploads/2021/03/PUBLIKACIJA-FINAL.pdf>).

¹³⁰ European Commission, (2022). Country Report (Available at: https://neighbourhood-enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2022_en).

nor continuous.¹³¹ There is no comprehensive training program on sexual and reproductive health in the country.¹³²

Only 2% of the total healthcare funds were allocated to preventive care in 2020, which includes information, education, and counseling programs, immunization and early disease detection programs, health status monitoring, epidemiological tracking, disease risk control, and disaster response preparation programs.¹³³

RECOMMENDATIONS

- 1) Take necessary steps to align the healthcare and health insurance systems to ensure that all women, especially marginalized categories of women, have the right to equal access to healthcare services.
- 2) Implement ongoing assessment of the implementation and effects of health strategies and policies, and ensure their regular adoption.
- 3) Improve the availability of information and services in the field of sexual and reproductive health, while concurrently integrating comprehensive sexuality education into the educational system.
- 4) Conduct thorough investigations into violence committed against birthing mothers in hospitals and establish systematic protection and prevention measures.
- 5) Establish a transparent system of continuous training for healthcare staff in sexual and reproductive health.

¹³¹ UN Women, (2021). Country Gender Equality Profile of BiH (Available at: <https://europa.ba/wp-content/uploads/2022/01/Gender-Country-BH-web.pdf>).

¹³² US Department of State, (2020). Country Reports on Human Rights Practices: Bosnia and Herzegovina. (Available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/bosnia-and-herzegovina/>).

¹³³ Statistics Agency of Bosnia and Herzegovina, Demographics and Social Statistics, June 30, 2022. (Available at: https://bhas.gov.ba/data/Publikacije/Saopštenja/2022/NHA_01_2020_Y1_1_BS.pdf).

7. Marriage and family relationships

Prepared by: Amina Dizdar (Sarajevo Open Center)

Contribution by: Larisa Kovačević (Association of Roma Women „Bolja budućnost“ Tuzla), Aleksandra Petrić (Foundation „Udružene žene“), and Tanja Mandić Đokić (an activist for the rights of persons with disabilities)

7.1. Equal enjoyment of the right to marriage and family life

Family laws of the FBiH and RS govern the right to marriage and family life. These laws regulate relationships in marriage, relationships between parents and children, custody, adoption, rights and responsibilities of family members, legal effects of non-marital partnerships, and the jurisdiction concerning these matters. Family is defined as a community of life between parents and children, other blood relatives and in-laws, adoptive parents and adoptees, as well as individuals from non-marital partnerships if they live in a common household. From the given definition, it is evident that a family does not include the community of life between two persons of the same sex. Also, there is no special law on same-sex partnerships in Bosnia and Herzegovina that would regulate relationships within these partnerships. This leads to discrimination against individuals with different sexual orientations and/or gender identities in violation of Articles 8 and 14 of the European Convention on Human Rights. This has a cascade of implications limiting the enjoyment of other rights, such as the right to protection from domestic violence committed by a partner or inheritance rights following the death of a partner.

Legislation does not specifically recognize women with disabilities as a particularly vulnerable group to GBV, despite analyses indicating that the extent of violence experienced by people with disabilities, particularly women, is substantial.¹³⁴

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 46 (a) and (b):

The Committee recommends that the State party (a) repeal any requirement for mandatory mediation in divorce proceedings under the family law of the Federation of Bosnia and Herzegovina and introduce the definition of a single mother into all family legislations in accordance with the Istanbul Convention; (b) Ensure the payment of

¹³⁴ Analysis of gender-based violence against people with disabilities in Bosnia and Herzegovina from 2019.

alimony by fathers in a timely manner, including by introducing penalties for non-compliance with alimony obligations.

Family laws still contain provisions regarding mediation and reconciliation between marital partners. Before filing for an amicable divorce, marital partners with children are required to file a request for mediation or reconciliation. This poses a particular problem, especially if a person has experienced violence, as it further traumatizes them and jeopardizes their safety. Also, this provision is contradictory to the recommendation made by the Committee on the Elimination of Discrimination Against Women in its Concluding Observations on the Sixth Periodic Report of Bosnia and Herzegovina.

The Family Law of the Federation of Bosnia and Herzegovina does not recognize the term “single parent” but it states that only one parent takes care of the child if the other parent is deceased, declared dead, of unknown residence, prevented from caring, or if their legal capacity has been removed or limited. The Family Law of Republika Srpska defines a single parent as an individual who independently exercises parental rights over a child whose other parent has died or is unknown.¹³⁵ However, it happens that one parent does not care for the child, despite not having any legal obstacles, thus effectively making the other parent a single parent. Therefore, the definition of a single parent should be improved, and single parents should be provided additional protection, particularly by ensuring effective enforcement of child support payments.

Republika Srpska has a Draft Law on Temporary Child Support. This draft envisions the establishment of an Alimony Fund that would provide allowances to single parents for child support, after which the Fund would assume the role of a creditor in enforcing child support payments. If an obligated party fails to fulfill their child support obligations, their travel documents will be confiscated or the issuance of such documents will be denied. The mentioned draft law is still in procedure. There are no indications in the Federation of Bosnia and Herzegovina and the Brčko District that such a law will be on the agenda soon. In 2014, the Government of the Federation of Bosnia and Herzegovina tasked the FBiH Ministry of Justice to consider the possibility of forming a Fund in collaboration with the FBiH Ministry of Labor and Social Policy. Despite several initiatives and parliamentary inquiries, this issue remains unresolved.

7.2. The right to freely choose a marital partner

¹³⁵ Single parenting is also defined by existing social protection laws at the level of entities, the Brčko District of Bosnia and Herzegovina, and cantons.

Family laws guarantee the freedom to choose a marital partner, and marriages that are entered into out of fear induced by serious threats or under deception will not be valid. For a marriage to be valid, individuals entering into marriage must be of legal age. Family laws, however, provide the possibility of marrying at the age of 16 if individuals have reached sufficient mental maturity to understand the seriousness and consequences of marital relationships. Bosnia and Herzegovina thus violates international standards and fails to provide protection for minors, especially from Roma communities. The system overlooks sanctioning arranged marriages by attributing them to the tradition of the Roma community.

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point (c):

The Committee recommends that the State Party continue to raise awareness among Roma communities about the harmful effects of child and forced marriage on the education, health, and development of girls.

Bosnia and Herzegovina failed to take any actions to raise awareness within Roma communities about the harmful effects of child and/or forced marriages in accordance with the CEDAW recommendation. The United Nations Committee on the Rights of the Child, which monitors the implementation of the Convention on the Rights of the Child, of which Bosnia and Herzegovina is a signatory, recommended in 2019 that Bosnia and Herzegovina eliminate all exceptions in family laws that allow for the child marriage.¹³⁶

In early 2023, Republika Srpska adopted a new Family Law, which retained the provision that allows for the marriage of minors aged 16 or older. The Criminal Codes provide sanctions for individuals who facilitate the marriage that is prohibited by law. The Criminal Code of Republika Srpska prohibits forced marriage, which can also be considered a criminal offense of human trafficking. The criminal codes of the Federation of Bosnia and Herzegovina and the Brčko District, however, do not contain provisions criminalizing forced marriage. All three criminal codes impose penalties on adults who live in non-marital partnerships with individuals under the age of 16. However, if a marriage takes place, there will be no criminal prosecution, i.e., the initiated prosecution will be suspended.

7.3. Equal rights and responsibilities of parents for childcare

Fathers in Bosnia and Herzegovina have the right to use parental leave after the child's mother has utilized maternity leave of 42 or 60 days (labor laws in the Federation of Bosnia and

¹³⁶ Recommendation no. 17, UN Committee on the Rights of the Child, (2019). Concluding Observations on the Fifth and Sixth Combined Periodic Report of Bosnia and Herzegovina. CRC/C/BIH/CO/5–6.

Herzegovina, the Brčko District and Republika Srpska and Law on Labor in Institutions of Bosnia and Herzegovina). The term still used in all laws is maternity leave, although a neutral term would be parental leave, as it pertains to a right that can be exercised by both parents. According to research by the Sarajevo Open Centre, out of 500 surveyed fathers, 13 had used maternity [read: parental] leave. Surveying men who have become parents revealed that the primary reason for not utilizing paternal leave is a lack of awareness about the right. As many as 49.7% of fathers who didn't use parental leave stated that they were unaware of this possibility. The second reason is that the father is employed while the mother is not, which was claimed by 44.8% of fathers. A small but still notable number of fathers, 11.2%, stated that women are the ones taking care of the children.¹³⁷ These data contribute to forming a picture of the reasons for the underrepresentation of women in the labor market, despite a higher percentage of women having obtained formal education compared to men.¹³⁸

RECOMMENDATIONS

- 1) Adopt laws on same-sex partnerships at the entity and Brčko District level in Bosnia and Herzegovina to regulate the rights and obligations of individuals in same-sex relationships.
- 2) Eliminate the requirement for mediation in divorce proceedings and include and define the term "single parent."
- 3) Ensure that fathers timely pay child support by establishing an alimony fund and introducing penalties for non-compliance with child support obligations.
- 4) Repeal the provision allowing marriage for individuals under 18 years of age and criminalize forced marriage in line with the Istanbul Convention.
- 5) Repeal the provision that legalizes a non-marital partnership involving an individual under the age of 16 as marriage.
- 6) Undertake activities to raise awareness about the harmful effects of child marriages, especially in Roma communities.
- 7) Amend existing labor laws to introduce concepts of paternal, parental, and maternal leave, and allow for the use of allowances during leave in accordance with the Directive (EU) 2019/1158 of the European Parliament and Council of 20 June 2019 on work-life balance for parents and caregivers.
- 8) Carry out activities to raise awareness about the importance of fathers utilizing parental leave and its impact on women's representation in the labor market.

¹³⁷ Sarajevo Open center, (2022). Father on maternity leave: Research on Legislative and Administrative Barriers to the Use of Maternity Leave in Bosnia and Herzegovina. Sarajevo.

¹³⁸ Statistics Agency of Bosnia and Herzegovina, (2022). Women and men in Bosnia and Herzegovina. Sarajevo.

8. GBV AGAINST WOMEN

Prepared by: Aleksandra Petrić, Foundation „Udružene žene“

Contribution by: Larisa Kovačević (Association of Roma Women „Bolja budućnost“ Tuzla), Amina Dizdar (Sarajevo Open Center), and Tanja Mandić Đokić (an activist for the rights of persons with disabilities)

8.1. Inconsistency of laws and public policies

Bosnia and Herzegovina has failed to harmonize laws and public policies in the field of gender-based violence and align them with international standards. Laws in BiH are almost entirely gender-neutral. They do not recognize, for example, that women and children are the most common victims of domestic violence, nor do they acknowledge the structural nature of violence against women as gender-based violence. While a gender-based violence definition exists in the Law on Gender Equality of BiH, it remains gender-neutral.¹³⁹ The current situation indicates that protection from various forms of gender-based violence is not legally guaranteed throughout the country, thus placing women exposed to violence in an unequal position and denying them equal legally assured access to protection. Criminal laws do not recognize the term “victim”, only “injured parties” of a criminal act, nor do they define gender-based killings of women (femicide). The application of entity-level laws on protection from domestic violence only partially enables protection for women and children subjected to violence. The Brčko District of BiH still has dual regulations on domestic violence, and for some of its forms, it foresees misdemeanor penalties, which in practice leads to more lenient punishments for perpetrators.

The Criminal Codes of the Federation of Bosnia and Herzegovina, Republika Srpska, and the Brčko District recognize the concept of hate crimes. However, incitement to violence and hatred based on sexual orientation and gender identity is only prohibited by the Criminal Code of Republika Srpska. Under the Law on Protection from Domestic Violence in Republika Srpska, family members are defined as individuals who were or still are in an emotional and intimate relationship, regardless of whether they live or have lived in the same household. Such a provision does not exist in the laws on protection from domestic violence in the Federation of

¹³⁹ Article 6(2) of the Law on Gender Equality in BiH defines GBV as “any action that inflicts or could inflict physical, psychological, sexual, or economic harm or suffering, as well as the threat of such actions that restrict a person or group of people from enjoying their human rights and freedoms in both public and private spheres of life.”

Bosnia and Herzegovina and the Brčko District. This means that violence occurring within same-sex relationships is not treated as domestic violence.

Bosnia and Herzegovina lacks a state policy aimed at preventing and combating all forms of gender-based violence. Entity-level strategies are only focused on preventing and combating domestic violence,¹⁴⁰ and they identify responsible institutions and general timeframes. These strategies do not include specific measures aimed at preventing and combating violence against Romani women and LGBTIQ+ individuals. Women with disabilities are not recognized by laws as a vulnerable category in the context of gender-based violence, despite analyses¹⁴¹ indicating that individuals with disabilities in Bosnia and Herzegovina, particularly women, experience a significant amount of violence.

8.2. Official GBV Statistics

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 26 (e):

The Committee recommends that the State Party “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.”

Bosnia and Herzegovina lacks a unified database for all forms of gender-based violence. Different public institutions use various methodologies and forms to collect data on cases of violence, and the data collection process is incomplete and inconsistent. Primary data collection focuses on acts of domestic violence and sexual violence and includes data on gender, age, and the relationship between the victim and the perpetrator. Data on ethnic affiliation and disability of the victim and perpetrator are sporadically collected. This points to the fact that institutions in BiH lack a comprehensive understanding of the nature and forms of gender-based violence.

Limited official data¹⁴² speak of the number of men and women who have been reported, accused, and convicted of domestic violence and criminal offenses against sexual freedom, morality, or sexual integrity. These data are disaggregated by gender and age groups of perpetrators and victims. Official data also identify 55 cases of women's homicides in the

¹⁴⁰ Strategy for the Prevention of Domestic Violence in Republika Srpska for the period 2020–2024 and Strategy for the Prevention and Fight Against Domestic Violence in the Federation of Bosnia and Herzegovina for the period 2022–2027.

¹⁴¹ Đokić Mandić, Tanja, et al., (2019). Analysis of gender-based violence against people with disabilities in Bosnia and Herzegovina. The Coalition “Informal Group of Organizations of Persons with Disabilities” in the Doboj region.

¹⁴² Statistics Agency of BiH, (2022). Thematic bulletin: Women and men in BiH. Sarajevo, p. 90-97.

period 2016-2020¹⁴³; however, data on gender-based killings of women are not presented. The Ministry of Family, Youth, and Sports of Republika Srpska periodically collects and publishes¹⁴⁴ data from public institutions recognized as subjects of protection against domestic violence. Data is collected, processed, and published according to regulations that govern the content of records and reports on domestic violence.¹⁴⁵ This regulation does not mandate all institutions to disaggregate data based on gender, age, ethnic affiliation, disability, and the relationship between the victim and the perpetrator.

The Ministry of Internal Affairs of Republika Srpska publishes¹⁴⁶ data on registered domestic violence cases, as well as on criminal offenses against sexual integrity and sexual abuse and exploitation of children. However, these data are not disaggregated according to the parameters recommended by the CEDAW committee. In the period from 2019 to 2021¹⁴⁷, the Ministry of Internal Affairs of Republika Srpska recorded 3,236 criminal offenses related to domestic violence. The data are disaggregated by age, gender, and the relationship between the perpetrator and the victim, as well as the victim's disability, but not by ethnic affiliation. During the same period, 14 cases of rape, 11 cases of sexual extortion, and 42 cases of sexual harassment were recorded, and data is disaggregated by sex and age of the victim and the perpetrator. The Ministry of Internal Affairs of Republika Srpska maintains records disaggregated by sex, age, ethnic affiliation, and the relationship between the victim and the perpetrator, and it has recorded 12 cases of women's murders.

The information collected by the Ministry of Internal Affairs of FBiH (FMUP)¹⁴⁸ is primarily disaggregated by the sex and age of the perpetrator and the victim. From 2019 to 2021, the Federation Ministry of the Interior (FMUP) recorded 2,735 cases of domestic violence, 118 cases of indecent acts, and 46 cases of rape. Regarding the criminal offense of murder, FMUP maintains records categorized by the sex and age of the victim and the perpetrator. During the same period, nine cases of women's murders were recorded. The Police of Brčko District of BiH recorded 42 cases of domestic violence¹⁴⁹ and three cases of rape from 2019 to 2021¹⁵⁰. The data are disaggregated by the sex and age of the perpetrator and the victim.

SOS helplines (1264 for Republika Srpska, 1265 for the Federation of Bosnia and Herzegovina) managed by civil society organizations have noted an increased number of reports of violence

¹⁴³ According to the data from the Ministries of Internal Affairs of Republika Srpska, the Federation of Bosnia and Herzegovina, and the Brčko District of Bosnia and Herzegovina.

¹⁴⁴ Website of the Ministry

¹⁴⁵ Regulation on the Content of Records and Reports on Domestic Violence, Official Gazette of Republika Srpska, No. 58/2021.

¹⁴⁶ Website of the Ministry

¹⁴⁷ In 2022, the Foundation „Udružene žene“ conducted a monitoring of the work of public institutions. The presented data were obtained through inquiries.

¹⁴⁸ Ibid.

¹⁴⁹ The low number of recorded criminal offenses of domestic violence in Brčko District indicates that most of these forms of violence are processed in misdemeanor proceedings.

¹⁵⁰ Ibid.

and calls for help during the COVID-19 pandemic. In 2019, a total of 4,202 calls were received, while in 2020, there were 5,011 calls (800 more calls than the previous year). The fact that more survivors of violence sought help is also evident from the records of safe houses in Bosnia and Herzegovina, which are also run by civil society organizations. During the first seven months of 2019, 347 women and children stayed in safe houses, while in the same period of 2020, safe houses provided support for 519 women and children.¹⁵¹

According to research conducted by Romani women's organizations, 45.1% of Romani women have been subjected to multiple forms of violence, 47% of Romani women believe they should stay in a marriage with a violent husband, 34% of Romani children have witnessed physical violence by their father or their mother's partner against their mother, and 50% of Romani women have restricted mobility conditioned by their partner/husband's permission.¹⁵² It is not possible to determine the exact number of Roma women exposed to violence because the institutions and safe houses for women victims of violence maintain no statistics.¹⁵³ Civil society organizations point to an increased number of femicides and an inadequate response from government institutions to prevent it by the implementation of available legal measures.¹⁵⁴

8.3. Training of professionals

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 26 (c):

The Committee recommends that the State Party "assess the impact of the capacity-building provided to the judiciary, the police and other law enforcement officers, as well as relevant service providers, on the strict application of legislation criminalizing all forms of gender-based violence against women and on gender-sensitive investigation and interrogation methods."

Public institutions in Bosnia and Herzegovina lack a consistent institutional approach to training professionals in the field of preventing and combating gender-based violence. There are no regulations that make these training programs mandatory for all law enforcement officers (judiciary, police), nor for those who provide general support services. Data¹⁵⁵ shows that capacity building largely relies on the collaboration between public institutions and

¹⁵¹ Statistics Agency of BiH, (2022). Thematic bulletin: Women and men in BiH Sarajevo, p. 98–99.

¹⁵² Association of Roma Women „Bolja budućnost“, (2017). Study on GBV against Romani women. Tuzla.

¹⁵³ Informal Romani Women Network "Success" (2022). Policy brief – When Laws Do Not Apply Equally: Gender-Based Violence against Romani Women..

¹⁵⁴ Data collected through media monitoring indicates 16 cases of femicide in Bosnia and Herzegovina during the period 2020-2021.

¹⁵⁵ Data collected by Foundation "Udružene žene" during the 2022 monitoring of the work of public institutions.

international organizations, as well as non-governmental organizations that provide specialized support services to victims. The training impact assessment is not carried out systematically and institutionally. No data is available on how training programs contribute to improving approaches to working with survivors and the prosecution of violence against women through investigations. Also, no sensitized approach to working with marginalized groups of women, including Romani women, LGBTIQ+ individuals, elderly women, and women with disabilities has been observed.

The Ministry of Health of the Federation of Bosnia and Herzegovina, in collaboration with UNFPA, conducts annual training for approximately 300 professionals based on the “Strengthening the Response of the Health System in the Federation of Bosnia and Herzegovina to Gender-Based Violence” package. By mid-2022, 1,700 healthcare professionals have completed this training. The Police Training Directorate of the Ministry of Internal Affairs of Republika Srpska conducted a specialized training program for police officers dealing with domestic violence cases in 2021, certifying 97 officers from all police departments in Republika Srpska. The training was conducted based on the Regulation on the Procedure and Method of Conducting Risk Assessments¹⁵⁶, which stipulates that a police officer conducting mandatory risk assessments in domestic violence cases must have completed specialized training for working on domestic violence cases and possess a valid certificate thereon. A lack of structured training impact assessment on the work of professionals with women victims of violence with clear progress indicators is missing.

8.4. Access to general and specialized support services

Recommendation of the CEDAW Committee on Bosnia and Herzegovina’s Sixth Periodic Report (2019), point 26 (a):

The Committee recommends that the State Party “provide women who are victims or survivors of gender-based violence, including those belonging to disadvantaged groups, with adequate support and assistance, including free legal aid, access to accessible shelters, medical treatment and psychosocial counseling, and provide financial support to civil society organizations that give assistance to such victims and survivors. “

Bosnia and Herzegovina failed to ensure that all law enforcement officials and professionals providing general support services comply with their legal obligation and inform women who have survived various forms of gender-based violence, in a comprehensible manner, about their

¹⁵⁶ Regulation on the Procedure and Method of Conducting Risk Assessment, Official Gazette of Republika Srpska, No. 126/20. This is currently the only regulation that governs mandatory training for professionals in the field of gender-based violence in Bosnia and Herzegovina.

rights and available services within protective institutions. Amendments to the Law on Protection from Domestic Violence of the Republika Srpska¹⁵⁷ have established an obligation for all institutions¹⁵⁸ to inform victims of domestic violence, in a comprehensible manner, about all rights they have under this and other regulations, as well as about institutions, bodies, legal entities, and organizations that provide assistance, support, and protection, upon first contact. These amendments have also stipulated that victims of domestic violence have the right to free legal assistance. Other regulations in Bosnia and Herzegovina do not contain similar provisions, nor are victims of other forms of gender-based violence covered by this obligation to provide information.

Research shows that women victims of domestic violence have limited access to information about the measures that social welfare centers can take to protect their rights, as well as measures related to the rehabilitation and integration of violence victims (support for employment, financial assistance, access to social housing, etc.).¹⁵⁹

There are regions in Bosnia and Herzegovina where victims of gender-based violence do not have access to free legal assistance provided by legal assistance institutions (Tuzla Canton, Zenica-Doboj Canton, Federation of Bosnia and Herzegovina). These institutions state that they act as *ex officio* legal representatives for offenders. Some institutions claim to have not provided free legal assistance to victims (Cantonal Legal Assistance Office in Goražde). The Cantonal Legal Assistance Office in Odžak provided legal assistance to 18 victims of domestic violence in divorce proceedings during the period 2019-2021. In the same period, the Free Legal Assistance Center of the Government of Republika Srpska provided legal assistance to 177 victims, two of whom were victims of sexual violence.¹⁶⁰

In contrast, civil society organizations in Bosnia and Herzegovina provided free legal assistance for women who were exposed to various forms of violence 4,263 times during the period 2019-2021. The highest number of cases occurred in 2020 during the peak of the COVID-19 pandemic. Currently, eight safe houses are operating in Bosnia and Herzegovina, managed by civil society organizations. These safe houses provide not only shelter but also free psychological support through psychotherapeutic work and SOS counseling, general counseling support, medical assistance, financial support, as well as assistance with employment and economic empowerment to exit violence.¹⁶¹ Two SOS hotlines (1264 for RS, and 1265 for FBiH)

¹⁵⁷ Law on Amendments to the Law on Protection from Domestic Violence of the Republika Srpska (Official Gazette of the Republika Srpska, No. 84/19). The Law came into force on May 1, 2020.

¹⁵⁸ Police, courts, prosecutors' offices, social welfare centers, healthcare and educational institutions.

¹⁵⁹ Foundation „Udružene žene“, (2020). Experiences of women victims of violence receiving support services from social welfare centers. Baseline report for BiH.

¹⁶⁰ Data collected by the “Udružene žene” Foundation through monitoring the work of institutions during 2022.

¹⁶¹ The Foundation for Local Democracy Sarajevo and the NGO “Budućnost” Modriča, on behalf of the Safe Network Bosnia and Herzegovina (March 2020). An analysis of the impact of COVID-19 on specialized support services for victims of domestic violence in Bosnia and Herzegovina.

are fully supported by trained counselors from the NGO sector, most of whom are not paid for providing this type of support to victims. SOS hotlines are not equally accessible to all victims because they are linked to telecommunication providers for which the state pays for licenses or short numbers. This is also the only cost borne by the state for the operation of SOS hotlines.

Institutions in Bosnia and Herzegovina employ different funding models for the accommodation of domestic violence victims in safe houses¹⁶². Meanwhile, specialized services for victims of violence who do not reside in safe houses are provided thanks to the support of international donors, including assistance for women victims of other forms of violence.

The Ministry of Family, Youth, and Sports of Republika Srpska allocates budget funds of 300,000 BAM annually for the temporary accommodation and shelter of victims of family violence, which covers 70% of the legally regulated obligations. The remaining 30% is the responsibility of local communities, which sporadically allocate funds for this purpose. It is concerning that local social welfare centers often avoid the obligation to place women and children victims of violence in safe houses in order to avoid paying the costs, thereby endangering the safety of survivors and limiting their access to support services.

In the Federation of BiH, funding for safe houses is planned as a grant for implementing the Law on Protection from Domestic Violence. The Ministry of Labor and Social Policy of the Federation of BiH allocates around 250,000 BAM annually as a transitional solution until the adoption of regulations governing the placement of victims of domestic violence in safe houses. These funds are insufficient to cover the operating costs of five safe houses in this entity¹⁶³, which are also inadequately funded by cantonal institutions, except for the safe houses in Sarajevo and Zenica. As a result, these safe houses rely on support from international donors.

Sustainable exit strategies and support for women who have survived violence through economic empowerment, financial assistance, employment support, and social housing depend on programs implemented by civil society organizations, with very limited support from public budgets.

Safe houses are not accessible to women with disabilities. They also lack support from the violence prevention actions budgets. In addition, Romani women who turn to institutions and shelters face challenges in obtaining support and/or services that are typically available to victims of domestic violence. Romani women victims of gender-based violence encounter a range of challenges: they have nowhere to go, and safe houses offer very short-term and inefficient solutions. Male children over the age of 15 cannot be accommodated with their

¹⁶² For example, in 2020, the Ministry of Human Rights and Refugees of BiH allocated budget funds for the operational expenses of safe houses in BiH for the first time, in the amount of 100,000 BAM (12,500 KM per safe house).

¹⁶³ The Foundation for Local Democracy Sarajevo and the NGO "Budućnost" Modriča, on behalf of the Safe Network Bosnia and Herzegovina (March 2020). An analysis of the impact of COVID-19 on specialized support services for victims of domestic violence in Bosnia and Herzegovina.

mothers in safe houses, and victims do not want to leave their children with the perpetrator. Changing their place of residence affects their access to social benefits, leaving Romani women without any income and ultimately pushing them towards returning to the perpetrator, where they sometimes endure even greater violence due to leaving or reporting. This creates a cycle of dependence on a system that does not function properly. As a result, the cycle of violence continues because victims are pushed to choose between their children and survival on one hand, and returning to the perpetrator without safe accommodation and adequate support to live independently on the other.¹⁶⁴

8.5. Prosecuting gender-based violence and access to justice for survivors

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 26 (d):

The Committee recommends that the State Party “ensure that all forms of gender-based violence against women, including domestic violence, are duly investigated and prosecuted, that perpetrators are adequately punished and that victims have access to appropriate redress, including compensation.”

Continuous monitoring of court proceedings shows that there are no significant changes in the context of tightening penal policies, protecting the rights of women who have survived violence, and who participate as witnesses in proceedings against perpetrators of violence, nor in the realization of compensation in criminal proceedings. In 65% of criminal proceedings for domestic violence in Republika Srpska and Brčko District and over 70% of the same proceedings in the Federation of Bosnia and Herzegovina, conditional sentences have been imposed as a warning sanction. In 18% of proceedings in Republika Srpska and Brčko District, and 29% of proceedings in the Federation of Bosnia and Herzegovina, prison sentences have been imposed, often below the legal minimum, by applying mitigating circumstances in the sentencing process. What is concerning is that perpetrators of violence who are re-offending, especially domestic violence re-offenders, as well as offenders who, in addition to domestic violence, committed other criminal acts in conjunction, are also receiving lenient sentences.

Adult women who have survived any form of gender-based violence are generally not recognized as victims entitled to special protection and support when testifying. The passivity of the victim in criminal proceedings is often interpreted as being against her interests, but also against the interests of the criminal prosecution function. Courts still rely on the victim's statement that she is withdrawing from criminal prosecution and that she is not making a claim

¹⁶⁴ Informal Romani Women Network “Success” (2022). Policy brief – When Laws Do Not Apply Equally: Gender-Based Violence against Romani Women..

for damages as mitigating circumstances or as a reason to drop the criminal prosecution. It is concerning that in only 6% of criminal proceedings against perpetrators of violence, the victim has filed a claim for damages, and there is only one recorded case in which victims of violence¹⁶⁵ were awarded such a claim. In their judgments against the perpetrators, the courts in Bosnia and Herzegovina continue to refer women who have survived violence to civil proceedings for compensation, which they usually do not initiate due to a lack of adequate legal assistance and financial resources to cover the costs.

RECOMMENDATIONS

1. The Law on Gender Equality of Bosnia and Herzegovina should recognize gender-based violence as a form of discrimination against women and define it in the context of socially constructed roles, behaviors, activities, and attributes that society considers appropriate for women and men.
2. Define the concept of a victim of a criminal offense in the criminal codes of Republika Srpska, the Federation of Bosnia and Herzegovina, and the Brčko District of Bosnia and Herzegovina and ensure the recognition of the victim's right to support and protection in criminal proceedings.
3. Remove provisions on misdemeanor penalties for domestic violence from the Criminal Code of the Brčko District of Bosnia and Herzegovina.
4. Introduce provisions that recognize as a crime incitement to violence and hatred based on sexual orientation and gender identity in the criminal codes of the Federation of Bosnia and Herzegovina and the Brčko District of Bosnia and Herzegovina.
5. Expand the definitions of family in the laws on protection from domestic violence in the Federation of Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina to include individuals who have been or are still in an emotional and intimate relationship, regardless of whether they live or have lived in the same household.
6. Adopt state and entity-level public policies that encompass all forms of gender-based violence, with clear measures, including measures aimed at prevention, combating violence, and supporting multiply marginalized groups of women. Ensure that policies have clear timelines for implementation and progress indicators. Establish coordination mechanisms for

¹⁶⁵ An example is the case before the Basic Court in Bijeljina for the criminal offense of child exploitation for pornography, in which the court granted the claim and ordered the accused to pay an amount of 4,000 BAM to each minor victim as compensation for pecuniary and non-pecuniary damage within one year from the date of the final judgment.

policy implementation with responsible institutions at all levels of government, along with mechanisms for continuous monitoring of implementation based on progress indicators and transparent reporting.

7. Establish a framework methodology at the level of Bosnia and Herzegovina for systematic collection and classification of comparable official data on all forms of gender-based violence, including domestic violence and gender-based killings of women (femicide), taking into account basic parameters recommended by the CEDAW Committee (age, ethnicity, disability, type of violence, and perpetrator-victim relationship). Make the collected data publicly available on a regular basis.

8. Regulate the obligation to attend regular training on all forms of gender-based violence and gender-sensitive approaches in working with survivors for all professionals in the protection system who come into contact with victims and perpetrators in cases of gender-based violence during the provision of general support services and interventions. Regularly allocate financial resources for conducting these training programs in the public budgets of responsible institutions overseeing or managing the work of gender-based violence protection entities. Conduct training in collaboration with women's non-governmental organizations that have extensive experience in providing specialized support and assistance to victims of gender-based violence. Conduct training impact assessments regularly based on clearly measurable progress indicators.

9. Establish the obligation for all law enforcement officers and professionals providing general support services to inform women who have survived various forms of gender-based violence about their rights and available services within the protection entities in an understandable manner.

10. Ensure access for women who have survived any form of gender-based violence to general support services, including free legal assistance and protection of rights related to social and healthcare services, without discrimination on any basis, while applying an approach based on human rights protection and the needs of the violence survivors.

11. Provide sustainable and adequate funding for women's organizations that offer specialized support services and assistance to survivors of all forms of gender-based violence from public budgets. This should be done through transparent and responsible public procedures at all levels (national, entity, cantonal, municipal) for all specialized services, including safe houses, helplines, free legal and psychosocial support, and sustainable strategies for women's economic empowerment to exit violence.

12. Strengthen punitive policies for gender-based violence offenses and ensure access to effective and sensitized support and assistance measures for survivors who testify in proceedings against perpetrators of violence.

9. WOMEN, PEACE, AND SECURITY

Prepared by: Adrijana Hanušić Bećirović (TRIAL International)

9.1. War crime prosecution

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 16 (d):

The Committee recommends that the State Party “adopt, without delay, the revised national war crimes processing strategy, in which a timeline is defined for the prosecution of all war crimes by 2023, so as to accelerate the prosecution of crimes of sexual violence committed during the conflict of the 1990s.”

The first War Crime Prosecution Strategy was adopted at the end of 2008, outlining that the most complex cases should be completed within seven years at the state level, and the remaining cases within 15 years. However, this timeline for processing the most complex cases was not adhered to, leading to the creation of the Revised Strategy for processing war crime cases, which was eventually adopted in September 2020. According to the Revised Strategy, all war crime cases were intended to be concluded within five years, namely by 2023. Although the Revised Strategy stipulated that the Supervisory Body for monitoring the implementation of the Revised State Strategy for processing war crime cases should be established within 30 days of its adoption, this was only realized in March 2023. In the meantime, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC BiH) had the responsibility of overseeing the work of the prosecution and the courts, within its remit and capacities. However, certain strategic areas and individual measures fell beyond the scope of this body's legal authority. Eventually, it became evident that war crime cases would not be concluded by the end of 2023, as envisaged by the Revised Strategy.¹⁶⁶ As a result, it will be necessary to either set a new, longer deadline or develop another document of this kind.

The fact that a considerable amount of time has passed since the crimes were committed and witnesses and suspects are passing away is a significant challenge. Another particular challenge is the insufficient cooperation between neighboring countries Croatia and Serbia in the prosecution of war crimes. Without strengthening regional cooperation, by the end of 2023, the pending war crime cases will primarily involve the suspects who are beyond the reach

¹⁶⁶ The deadline for resolving war crime cases will once again not be met. BIRN analysis, October 28, 2022. (Available at: <https://detektor.ba/2022/10/28/rok-za-riesavanje-predmeta-ratnih-zlocina-ponovo-nece-biti-ispostovan/>).

of Bosnia and Herzegovina's judiciary.¹⁶⁷ The Prosecutor's Office of Bosnia and Herzegovina needs to intensify efforts to prosecute the most complex cases and improve the quality of investigations and indictments.¹⁶⁸

Although there has been progress in prosecuting sexual violence crimes during the war in previous years, the numbers remain disproportionately low compared to estimates of the prevalence of sexual violence in the war in Bosnia and Herzegovina. This perpetuates a state of impunity for these crimes. An additional problem is the fact that even in cases where individuals who have committed rape or other forms of sexual violence during the war are convicted, especially in cases tried at the entity level, the convicts are sentenced to minimal prison sentences (typically ranging from three to five years).¹⁶⁹ Such a practice is inconsistent with international standards, is not proportional to the gravity of the crime committed, and undermines the deterrent effect of punishment.

9.2. Reparations to women who are victims of war crimes

Recommendation of the CEDAW Committee on Bosnia and Herzegovina's Sixth Periodic Report (2019), point 16 (e):

The Committee recommends that the State Party "establish a fund to provide compensation and other forms of reparation to women who are victims of war crimes."

While Bosnia and Herzegovina has established certain mechanisms for reparations for civilian war victims in recent years, primarily through attempts to address the needs of victims by adopting specific legal solutions, it still cannot be said that it provides adequate and complete support to survivors in accordance with international standards. General challenges stemming from the complex socio-political system and the deficient and unharmonized legal framework in Bosnia and Herzegovina have a negative impact on the level of protection of the rights of survivors concerning their access to compensation and other reparations measures.

A fund that would ensure compensation for damages and other forms of reparations for victims of war crimes is still lacking in Bosnia and Herzegovina. An administrative collective reparations program that would provide all survivors in Bosnia and Herzegovina with easy access to compensations and other necessary reparations measures under the same conditions and with the same degree of rights protection has never been established.

¹⁶⁷ It is estimated that 174 cases against 393 individuals (35.5% of the total number of pending cases) are on hold due to the unavailability of the suspects.

¹⁶⁸ SDW, (2022). European Commission, Bosnia and Herzegovina Report 2022, 336 final, p. 22–23.

¹⁶⁹ More at: TRIAL International, (2018). Punishing conflict-related sexual violence - guidelines for combating inconsistencies in sentencing Sarajevo.

There were several attempts to adopt significant strategic documents to improve the status of civilian war victims in a consistent and internationally standardized manner but they all have failed. Some of the most notable were the Draft State Strategy for Transitional Justice, the Program for Victims of Sexual Violence in War, as well as the Draft Law on the Protection of Victims of Torture in Bosnia and Herzegovina. In all three cases, the authorities of Republika Srpska issued reservations on the texts, citing the infringement of the constitutionally recognized competence of this entity and the lack of funds necessary for their implementation.

As a result, victims must navigate the existing complex social assistance system, which is inconsistent due to differences in legislation. The recognition of the status of victims of war torture or civilian war victims in BiH is regulated in three different ways in the Federation of Bosnia and Herzegovina, Republika Srpska, and the Brčko District, mainly through the regulation governing social protection of victims as one of the vulnerable population groups. The practical consequence of such legal regulation for the rights of victims is unequal treatment in terms of conditions for exercising rights, standards for proving victim status, the scope of guaranteed rights, and unequal monthly compensation amounts, ranging from 137 BAM to 680 BAM, depending on their place of residence.

Due to various obstacles in the process of verification, as well as stigma and other factors, only a small number of survivors receive some form of reparations for wartime sexual violence, specifically around 1,000 out of an estimated 20,000 victims in Bosnia and Herzegovina.

In addition to the inconsistent standards, the existing legal provisions in all three laws also have other clear shortcomings. For example, in Republika Srpska, there are obstacles to proving victim status, including the lack of a guarantee of identity protection for victims who have previously been granted identity protection measures in criminal proceedings under this law. Particularly alarming is the fact that the deadline for submitting applications for recognition of the status of a torture victim in this entity is five years from the date the law came into force (expiring in October 2023). Consequently, many torture victims who decide to pursue the process of obtaining status will be deprived of this possibility and right. For this reason, a coalition of civil society organizations sent an initiative to the relevant ministry in the Government of Republika Srpska in February 2023, calling for the removal or at least an extension of this deadline. The Government declined the initiative with the explanation that they see no need for further extension of this deadline.

Furthermore, in the Federation of Bosnia and Herzegovina and the Brčko District, survivors, for example, are not provided with priority access to healthcare services and free access to spa rehabilitation, which are significant rehabilitation measures recognized as such by both victims and medical and psychiatric experts. On the other hand, in Republika Srpska, the right to spa

rehabilitation was recognized in 2018, but its implementation has not been ensured until the present day, while this opportunity is regularly offered through advertised competitions to other categories of war victims such as war veterans with disabilities and the families of fallen fighters.

In the Federation of Bosnia and Herzegovina, a Draft Law on the Protection of Civilian War Victims was established in 2022, as the first law in this entity to specifically address the rights of civilian war victims. Although it offers certain advantages, this draft does not provide for the right to priority access to healthcare services or assistance with the costs of spa treatment and medical rehabilitation, nor does it grant priority for such services.

For years, there has been very little discussion about children born as a result of war, as evidenced by the fact that there are still no official records of the exact number of these children in Bosnia and Herzegovina. Recognizing the status of children born as a result of war has multiple significance, both for the children themselves and for their mothers who are survivors of wartime sexual violence. These children often face issues related to their identity, stigma, marginalization, and isolation. Mothers have often raised them in difficult socio-economic conditions without any support. Children born as a result of war-time rape, except in the Brčko District, are not legally recognized as a category of war victims. While it is commendable that in the Brčko District they have the possibility of applying for the status of civilian war victims, the outcome of their application is conditioned by the previously granted status to the mother. This, however, should not be a requirement, as some children may not have contact with their mothers or the mothers may not have established this status for other reasons. Additionally, children born as a result of war, apart from the possibility of gaining recognition of their status, are not legally granted other related rights, such as priority in education and scholarships. The aforementioned Draft Law on the Protection of Civilian War Victims in the Federation of Bosnia and Herzegovina (FBiH) provides the possibility of establishing the status but without the related rights that would address their basic needs, such as facilitated access to education and its funding, or employment benefits.

In the absence of an established reparations program that would provide access to compensation, victims are forced to rely on individual proceedings in criminal and civil courts. Many victims of war crimes have filed lawsuits against entities and sometimes even against the state, which they hold responsible for their suffering. However, their claims have been rejected due to the statutes of limitations, a practice that the United Nations Committee Against Torture determined in its 2019 decision to be contrary to relevant international standards, as it prevents victims from exercising their right to an effective legal remedy.¹⁷⁰

¹⁷⁰ Mrs. A vs. Bosnia and Herzegovina (August 22, 2019). Application no. 854/2017 CAT/C/67/D/854/2017.

Victims who have filed compensation claims are further burdened by the rule that the losing party should pay the costs of the proceedings. Some courts have compelled these victims to pay high legal expenses to the entities they have sued, which can amount to several thousand BAM. As a result, these citizens - the majority of whom are already in very difficult socio-economic situations, often on the brink of poverty - are subject to enforcement proceedings. Their property is seized, a portion of their earnings (if they have any) is withheld, or they are forced to take out loans. All of this is to pay the money to the entity they originally sued, seeking compensation for the immense harm they suffered during the war. Following the decision of the Constitutional Court of Bosnia and Herzegovina in 2018, which found a violation of the rights of wartime rape victims in such situations, the state and the Federation of Bosnia and Herzegovina's attorney general's offices ceased pursuing these costs. However, despite international recommendations¹⁷¹, Republika Srpska continues to persist in this practice.

Starting in 2015, after a long period of neglecting the aspect of enforcing damage claims in criminal proceedings and automatically referring injured parties with their claims to civil courts, the prosecutors and courts in Bosnia and Herzegovina finally began to fulfill their legal obligations by taking necessary steps and awarding compensation to victims of wartime sexual violence within criminal proceedings. From June 2015 to the time of writing of this report, a total of 17 cases in Bosnia and Herzegovina have concluded with final verdicts. In two cases, in addition to establishing the criminal responsibility of the perpetrators, the courts imposed appropriate sanctions and awarded damages to the victims of wartime sexual violence ranging from 15,000 to 40,000 BAM per victim.

In these cases, a total of 23 perpetrators have been ordered to compensate 20 victims of sexual violence. Such practice has notably become established before the Court of Bosnia and Herzegovina, along with three positive examples from lower instance courts. However, the primary challenge lies in ensuring the actual payment of the awarded compensation to the victims. Relevant European and international standards require the establishment of a mechanism for the payment of compensation to victims by the state or entity in cases where perpetrators are unable to pay the amount or hide the assets from which payment could be made through enforcement proceedings. Setting up a fund or designating a specific budget line for this purpose would provide an adequate response to this challenge. Nevertheless, even though the 2019 decision of the Committee Against Torture established a violation of the rights of a victim of sexual violence with awarded compensation, which she was unable to collect

¹⁷¹ In its last two reports, the European Commission has called the entities, specifically Republika Srpska, to consider abolishing the costs of proceedings for victims of war torture, to which statutes of limitations have been applied in the past. European Commission (2022), p. 29. The United Nations Special Rapporteur on the promotion of truth, justice, reparations, and guarantees of non-recurrence, in his report on the visit to Bosnia and Herzegovina, described this practice as unethical and unacceptable as well as contrary to international standards for the protection of victims of serious human rights violations and humanitarian law. Report (2022) A/HRC/51/34/Add.2, point 56.

through the enforcement procedure, Bosnia and Herzegovina has not yet implemented the decision in terms of compensating the victim and establishing a mechanism for compensating all victims in such situations. Despite the tremendous efforts made by the non-governmental organization TRIAL International over the past four years and the support of other international organizations in this process, it is evident that there is not a willingness among all stakeholders to resolve this problem for the benefit of the victims who are awaiting payment. For example, even though the Minister for Human Rights and Refugees of Bosnia and Herzegovina, after prolonged efforts, adopted a decision enabling the initial implementation of individual compensation for the petitioner Mrs. A. of 30,000 BAM, this decision was not supported by certain ministers from the Council of Ministers of Bosnia and Herzegovina in March 2023. In such circumstances, it is difficult to anticipate any progress toward introducing systemic solutions for other victims in similar situations.

RECOMMENDATIONS

- 1) Update the Revised Strategy for the Prosecution of War Crimes by setting a new deadline for prosecution or create a new Revised Strategy.
- 2) Enhance regional cooperation in the prosecution of war crimes and strengthen penal policies for wartime sexual violence.
- 3) Establish an efficient and comprehensive framework for reparations that ensures equal protection of rights, equal benefits, and equal criteria for accessing rights for all victims of wartime sexual violence throughout the territory of Bosnia and Herzegovina.
- 4) Adopt a Transitional Justice Strategy and a Program for the Protection of Victims of Wartime Sexual Violence.
- 5) Adopt a Framework Law on the Protection of Victims of War Torture at the national level to ensure a consistent legal framework. Alternatively, focus on improving and harmonizing the existing legal framework in all administrative units.
- 6) Either abolish or extend the deadline for submitting applications for obtaining the status of a torture victim in the Republika Srpska, which expires in October 2023. Evaluate the implementation of the Law on the Protection of Victims of War Torture in Republika Srpska, address identified shortcomings, including removing excessive obstacles for proving the status of a war torture victim, and ensure effective access to spa rehabilitation for victims.

- 7) Ensure that the feedback and suggestions from experts and the interested public are considered in the draft Law on Civilian War Victims, and prioritize victims of wartime sexual violence in accessing healthcare services and spa rehabilitation in the Federation of Bosnia and Herzegovina.
- 8) Ensure in all administrative units that children born as a result of wartime rape are legally recognized as a category of civilian war victims, granting them necessary rights and benefits, particularly through facilitated access and funding for their education, and providing employment support and housing assistance.
- 9) Review the stance of the Constitutional Court of Bosnia and Herzegovina on the application of statutes of limitations on claims for compensation from entities and the state based on objective liability in light of relevant international standards, especially considering the UNCAT decision in the case *Mrs. A. v. BiH* from 2019.
- 10) Cease to claim court costs from war crime victims whose claims for compensation were rejected due to statutes of limitations in Republika Srpska. In the meantime, halt enforcement against victims and consider possibilities for refunding amounts previously collected from survivors.
- 11) Ensure that the practice of awarding damages in criminal proceedings continues and establish consistent practices across all judicial institutions in Bosnia and Herzegovina.
- 12) Promptly implement the UNCAT decision in the case “Mrs. A. v. Bosnia and Herzegovina,” beginning with compensating Mrs. A. and providing a proper apology.
- 13) Ensure that victims effectively receive compensation awarded in criminal proceedings, even in cases where restitution cannot be collected from the perpetrator. This could be achieved through the establishment of a dedicated state fund or specific budget lines as a supplementary source of compensation for the inflicted harm.