

Anti-discrimination policy in Bosnia and Herzegovina

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Abstract

Bosnia and Herzegovina (BiH) is a multinational state that has only been learning to coexist for thirty years, despite the strong separatist tendencies of the Republika Srpska. As a European country, it is also involved in various problems of the continent, especially in terms of contemporary crises related to the nationalist and populist activities, etc. The prohibition of discrimination contained in the *Constitution of Bosnia and Herzegovina* of 1995 and other legal documents poses a very difficult task for the state authorities in terms of developing policies aimed at protecting marginalised groups and those excluded from political, economic and social life. The aim of this article is to identify the problems related to the implementation of the above-mentioned tasks and the activities of the emerging civil society to combat discrimination and promote diversity in BiH. The basic question concerns the chances of implementation of the policy against discrimination by artificially created state. The search for answers is possible through the analysis of legal documents, the discussion of cases of violations, and the use of national and international studies and reports. Studies on areas of political, economic and social life other than those discussed here were also helpful.

Keywords: Bosnia and Herzegovina, Europe, human rights, discrimination, anti-discrimination law, anti-discrimination policies, equality/diversity

Polityka antydyskryminacyjna w Bośni i Hercegowinie

Streszczenie

Bośnia i Hercegowina (BiH) to państwo wielonarodowe, które od trzydziestu lat uczy się współistnieć, pomimo silnych tendencji separatystycznych Republiki Serbskiej. Jako państwo europejskie, jest również uwikłane w różne problemy kontynentu, zwłaszcza w aspekcie kryzysów związanych z działalnością nacjonalistyczną i populistyczną itd. Zakaz dyskryminacji zawarty w *Konstytucji Bośni i Hercegowiny* z 1995 roku i w innych dokumentach prawnych stawia przed władzami państwowymi bardzo trudne zadanie w zakresie opracowywania polityk mających na celu ochronę grup margina-

lizowanych i wykluczonych z życia politycznego, gospodarczego i społecznego. Celem niniejszego artykułu jest próba zidentyfikowania problemów związanych z realizacją powyższych zadań oraz działań rodzącego się społeczeństwa obywatelskiego na rzecz zwalczania dyskryminacji i promowania różnorodności w BiH. Podstawowe pytanie badawcze dotyczy szans zrealizowania polityki antydyskryminacyjnej przez państwo sztucznie stworzone. Szukanie odpowiedzi możliwe jest dzięki analizie dokumentów prawnych, omówieniu przypadków naruszeń oraz wykorzystaniu krajowych i międzynarodowych badań i raportów. Pomocnymi okazały się również opracowania dotyczące innych niż omawiany obszarów życia politycznego, gospodarczego, czy społecznego.

Słowa kluczowe: Bośnia i Hercegowina, Europa, prawa człowieka, dyskryminacja, prawo antydyskryminacyjne, polityka antydyskryminacyjna, równość/różnorodność

Bosnia and Herzegovina (BiH) “emerged less as an independent state than as a visible protectorate” (Blitz 2015: p. 50) under the *General Framework Agreement for Peace in Bosnia and Herzegovina* (well-known as *Dayton Agreement*) signed in Paris on 14 December 1995. On the basis of Annex 4, the parties implemented the constitution of the new state. The legal and systemic solutions it established were intended to prevent future ethnic conflicts and ensure the participation of the three most numerous nations (Bosniaks, Croats and Serbs) in power. The federal state created at that time had a complicated constitutional order, which over time became the cause of an inefficient central government with extensive mechanisms for representing the above-mentioned nations/ethnic groups (consociational democracy). This led to an unproductive government in which every important issue remained deadlocked because the ruling tripartite states (Bosnia, Herzegovina, Republika Srpska) had conflicting priorities based on ethnic politics rather than common ideals (Yordán 2003: p. 59–74). According to Article V of the Constitution, the Presidency consists of three members: two persons elected from the Federation of Bosnia and Herzegovina (representing Bosniaks and Croats) and one Serb from the Republika Srpska (they are replaced every eight months). This is a discriminatory element against members of other ethnic groups and has been the subject of a complaint to the European Court of Human Rights in Strasbourg (cases *Sejdić and Finci v. Bosnia and Herzegovina*, as well as *Slaven Kovačević v. Bosnia and Herzegovina* – see below).

The imposed system of governance in BiH eventually became a symbol of fictitious stability or stagnation, which for a long time blocked changes towards a democratic rule of law. In the long run, this led to deep political polarisation and disagreements between the main parties of the ruling coalition, which resulted in a standstill in the work of democratic institutions and reforms on the way to EU accession negotiations. It was not until 2016 that the EU decided to start such negotiations. In 2016, the European Commission (EC) identified 14 key areas that the candidate country needed to reform in order to start negotiations, including the functioning of democratic institutions, the rule of law, fundamental rights, human rights, including problem of discrimination, and administrative reform. According to the *Bosnia and Herzegovina 2022 Report* accompanying the *Communication on EU Enlargement Policy*, “political parties based in the Republika Srpska entity blocked legislative and executive institutions at state level and adopted initiatives

to unilaterally take over state competences at entity level, in breach of the constitutional and legal order" (European Commission 2022: p. 3). Moreover, the President of Republika Srpska, Milorad Dodik, is still trying to secede from BiH in 2024. But do almost thirty years of coexistence not create opportunities for the survival of this multinational state, unique in the world? Isn't forced diversity the basis for building peaceful coexistence, even if it is sometimes imposed by international bodies? Doesn't this in turn force state and local authorities to adopt effective anti-discrimination policies?

The aim of this article is to provide answers to the above-mentioned questions by focusing on:

- firstly, the analysis of the legal documents that form the basis for the functioning of public authorities and citizens;
- secondly, the analysis of the actions of the authorities and the effectiveness of the decisions they take;
- thirdly, the analysis of the participation of citizens in the governance of their own state.

The research used the reports,¹ which were helpful in checking the adaptation of the law to the studied reality, and academic literature, which enabled the understanding the studied facts. Due to the form of the article, it was limited to presenting basic facts about the history of anti-discrimination legislation, the functioning of the institutions established to monitor and combat the phenomenon of discrimination, and the attitudes of citizens towards the discussed problem. Attempts were also made to highlight the slow process of building civil society, as well as the threats resulting from the developing populism within the state, which is characteristic of Europe as a whole and is hampering this process.² While this article does not cover every aspect of the issue, it is focused on the key problems related to anti-discrimination policy in BiH, as identified in available documents and studies.

Anti-discrimination law

In Bosnia and Herzegovina, human rights and fundamental freedoms are the basis of the constitutional system, and numerous international human rights conventions "represent not only international obligations but also a pillar of the country's constitution" (COE

¹ The used **research materials** include general reports on combating all forms of discrimination, such as *Bosnia and Herzegovina Events of 2023 in the World Report 2024* (also *Bosnia and Herzegovina Events of 2024 in the World Report 2025*) prepared by Human Rights Watch, as well as specific reports presenting the situation of people discriminated in various areas of social life, such as national and ethnic groups, sexual minorities, gender and worldview (for example, *Trafficking in Persons Report: Bosnia and Herzegovina*, see: U.S. Department of State 2024). According to research conducted in 2012 by the Open Society Fund – Bosnia and Herzegovina, „86% of the country's citizens believe that discrimination is a serious problem in society, with ethnicity and religion being perceived as the most common grounds for discrimination" (Kadribašić 2013: p. 59; Open Society Fund – Bosnia and Herzegovina 2012). Research documents also include reports resulting from participation in international organisations, such as the Commission staff working document *Bosnia and Herzegovina 2022 Report*, accompanying the *2022 Communication on EU Enlargement policy* (European Commission 2022).

² E.g. new laws in Republika Srpska criminalise defamation and restrict foreign funding for civil society (Human Rights Watch 2024).

2022: p. 4). On the basis of international human rights law, which is directly enshrined in the Constitution, citizens can appeal directly to national and international institutions (e.g. the European Court of Human Rights in Strasbourg since 2002 or the committees of the UN treaty conventions in Geneva). These obligations are based primarily on the fundamental principles of human rights – freedom and equality. The principle of liberty allows for self-determination and personal security against state action. The principle of equality is a general principle that is relevant to the entire catalogue of constitutional rights and a public subjective right to equal treatment.

The principle of non-discrimination is primarily a derivative of the principle of equality, understood as: the right to equal treatment by public authorities at the level of their application (equality before the law), legislation (equality in law) and the prohibition of discrimination in political, social or economic life on any grounds. Equality refers primarily to the equality of women, i.e. equal rights with men, because discrimination against women is still one of the most important problems of social life in BiH. In the psychological sense, efforts are being made to equalise opportunities for women in various areas of social and political life through so-called positive discrimination (maintaining temporary or permanent solutions and legal measures aimed at equalising opportunities for people and groups discriminated against for various reasons, in this case gender), the purpose of which is to internally strengthen the sense of one's own value. The prohibition of discrimination is primarily directed at public authorities, requiring them to respect human dignity and prohibiting any unjustified differentiation between people.

This is clearly stated in Article II par. 4 of the *Constitution of Bosnia and Herzegovina*: "The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex I to the Constitution shall be ensured to all persons in BiH without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, membership of a national minority, property, birth or other status." This is a standard non-discrimination provision found in various international human rights instruments.

Based on the *Constitution of Bosnia and Herzegovina*, the *European Convention on Human Rights* and the European Union's anti-discrimination directives, the **Law on Prohibition of Discrimination** was adopted in 2009. Its aim is to create a legal framework for ensuring „equal rights and opportunities for all persons in BiH" and „define a system of protection from discrimination" (Law on Prohibition of Discrimination 2009: art. 1(1)). In accordance with the Constitution of BiH and international standards of human rights and fundamental freedoms, „this Law defines responsibilities and obligations of legislative, judicial, executive authorities in BiH", as well as legal persons that „shall ensure protection, promotion and creation of conditions for equal treatment" (Law on Prohibition of Discrimination 2009: art. 1(2)).

Article 2 of the *Law on Prohibition of Discrimination* provides a definition of discrimination, and the following articles explain the different forms of discrimination – direct and indirect (Article 3), harassment, including sexual harassment, mobbing, segregation

and activities leading to incitement to discriminate and helping others to discriminate or inciting them to discriminate (Article 4). In turn, Article 5 is important, because it presents exceptions to the principle of equal treatment. They are primarily intended to equalise opportunities for people belonging to marginalised groups.

Specific laws should also be mentioned, such as the ***Law on the Rights of National Minorities in Bosnia and Herzegovina***, which entered into force on 6 May 2003. Its main purpose is to regulate the rights and obligations of members of national minorities in BiH and the obligations of the authorities of BiH in respecting, protecting, preserving and developing the ethnic, cultural, linguistic and religious identity of every member of a national minority in BiH who is a citizen of BiH. This law is important for strengthening anti-discrimination law and equality of citizens (Law on the Rights of National Minorities in Bosnia and Herzegovina 2003).

When discussing the anti-discrimination legislation in force in Bosnia and Herzegovina, it is necessary to emphasise the role of the *European Convention on Human Rights*, which, through Article 14 (prohibition of discrimination), opened the way for citizens of BiH to take their country to the European Court of Human Rights in Strasbourg on grounds of discrimination. However, while this article is limited by the need to present another violated right or freedom listed in this document (Article 14 is called the "Cinderella of human rights", see: O'Connell 2009), the ratification of Protocol 12 does not create any restrictions, especially in the field of substantive law. It is worth noting that BiH was one of the first Council of Europe states to ratify this protocol in 2005.

Institutions

When listing the institutions that, by virtue of their tasks and competences, should deal with combating all forms of discrimination, the role and importance of the Institute of the Human Rights Ombudsman of Bosnia and Herzegovina, the main national institution dealing with the protection of human rights and fundamental freedoms and thus, with combating discrimination, should be highlighted first.

The Human Rights Ombudsman of Bosnia and Herzegovina

The foundations for the work and functioning of the Ombudsman of Bosnia and Herzegovina are laid down in Annexes IV and VI of the *General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement)*, concluded on 14 December 1995. On the basis of these documents, this institution started its work in 1996. The first Law on the Human Rights Ombudsman of Bosnia and Herzegovina was adopted in 2000, amended in 2002 and further amended in 2004 and 2006. The Law defines the powers and competences of the Human Rights Ombudsman. The rules of procedure for monitoring "the work of bodies and institutions according to the allegations contained in a complaint and *ex officio*, including other important issues related to the functioning of this national human rights mechanism for protection of fundamental human rights and freedoms" (Ombudsmen of BiH W/W).

One of the most important areas of activity of the Ombudsman is the prevention and elimination of all forms of direct and indirect discrimination. The Human Rights Ombudsman of Bosnia and Herzegovina has also played an active role in implementing the law, providing assistance to victims, initiating investigations and making recommendations. However, so far the Ombudsman has been rather passive in solving systemic problems leading to discrimination and has only paid attention to cases that are subject to court proceedings (Huszka 2017: p. 243).

It is thanks to the activities of the ombudsmen that we have important information about various forms of discrimination and the frequency of their occurrence (*Priručnik...* 2016).

Ministry of Human Rights and Refugees Bosnia and Herzegovina

The Ministry of Human Rights and Refugees has been established within the Government of Bosnia and Herzegovina. According to Article 12 of the *Law on Ministries and Other Administrative Bodies of Bosnia and Herzegovina*, its competences include:

- monitoring and implementing international conventions and other documents in the field of human rights and fundamental freedoms;
- coordinating and preparing reports on the implementation of obligations under international conventions and international documents, which are to be submitted to the competent local authorities and institutions and international institutions and organisations;
- cooperating with various institutions, religious communities, associations; creating an immigration and asylum policy, etc. (Ministarstvo... W/W/W).

According to Article 8 of the 2009 *Law on the Prohibition of Discrimination*, the Ministry was obliged to develop a methodology for collecting data on discrimination after the adoption of the law, but this obligation was not fulfilled, nor were the annual reports of the aforementioned Ministry, as required by the law (Huszka 2017: p. 243). The first report was submitted to the Parliamentary Assembly of Bosnia and Herzegovina only in 2016. The next report covered the period 2016–2020. It took into account the problems arising from the impossibility of collecting data due to the lack of data from institutions that did not provide it. Therefore, the data presented are not complete. Moreover, none of the institutions provided information on how the adopted laws are implemented, how many internal procedures for protection from discrimination have been initiated and whether registers of cases/persons of discrimination are kept (see: *Izveštaj o pojavama diskriminacije u Bosni i Hercegovini 2016–2020*).

These examples show that the problem of discrimination and its prevention is still in its infancy in the country and also requires greater efficiency of the Ministry in its relations with various institutions.

The courts

With the adoption of the *Law on Prohibition of Discrimination* in 2009, a slow reform of the judiciary also began, although three years after the Act came into force, court

practice was very poor: by 2012 (according to statistics kept by the organisation *Vasa prava*), only three cases were pending and five cases were dismissed (Hanušić 2013).

However, in 2018–2019 there were already 352 discrimination cases pending before the courts (*Izveštaj... 2016–2020*: p. 6).

Anti-discrimination was included in the dialogue on judicial reforms in 2011. First of all, the procedures for judicial proceedings in cases of discrimination were adopted, in which the person filing a complaint in the Municipal Court is guaranteed that the burden of proof is on the perpetrator (defendant). An official defence lawyer and the possibility of free legal aid became increasingly important. However, practice shows that victims are not aware of the protection mechanisms in discrimination cases due to their ignorance. The legal education of society is one of the basic problems of the state. The first and most important step in protection against discrimination is knowledge of the law and the use of rights and protection mechanisms. Effective protection is only possible if discrimination is reported and proceedings are initiated before institutions for the protection against discrimination. This is where organisations and associations play a very important role (Čaušević 2019: p. 674–680).

Anti-discrimination policy

Discrimination is an extremely negative phenomenon both from a social point of view, as it leads to a feeling of inequality between people, and from a legal point of view, as it is prohibited by the basic legal acts in force in BiH. The prohibition of discrimination contained in the *Constitution of Bosnia and Herzegovina* of 1995 (Article I par.7 concerning prohibition of discrimination and deprivation of citizenship, Article II par. 4 with a list of prohibited grounds for discrimination) poses a very difficult task for the state authorities to develop policies that protect marginalised and excluded groups from political, economic and social life. This is all the more difficult because the complex state structure created by international bodies in the *Dayton Agreement* of 1995 allows for discrimination of citizens (and not only) by elected political authorities, state institutions, but also by economic entities. This phenomenon has long been reinforced by the segregated education system, which has not yet been truly reformed to build a modern, multicultural society. Despite the existence of state institutions (the Human Rights Commissioner, the Ministry of Human Rights and Refugees, courts) aimed at combating discrimination in various areas of life of citizens of the Federation, discrimination is still present in BiH's society. Corrupt elites, deteriorating economic conditions leading to increasing unemployment and lack of social security are the reasons why young people leave the country in search of a better future abroad. The so-called grassroots activity is a harbinger of the beginning of change. It manifests itself in the actions of individuals, social movements (e.g. *Bosnian Spring*), emerging non-governmental organisations or in complaints about discrimination, including to the European Court of Human Rights in Strasbourg.

The anti-discrimination policy developed by the authorities is a set of processes and procedures implemented by the state to maximise equality and integration in society

and to promote equal opportunities. The main task of the state has been to define these concepts in order to determine what is acceptable and unacceptable behaviour.

BiH faces many challenges related to discrimination against marginalised and vulnerable groups, such as Roma, older persons, persons with disabilities, returnees, children, persons deprived of their liberty, women and men victims of wartime sexual violence, women from rural areas and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.

According to the report of the Ministry of Human Rights and Refugees (MHRR) about the cases of discrimination in BiH, discrimination is present in almost all areas of life (*Izveštaj... 2016–2020*).

The *Law on Prohibition of Discrimination* specifies the areas of special protection in Bosnia and Herzegovina (Article 6). These are:

- 1) Employment, work and working conditions, including access to work and self-employment, remuneration, dismissals and promotions;
- 2) Education, science and sports (access to education should not depend on the immigration status of children or their parents);
- 3) Social protection, including social security and social assistance (allowances for youth, housing allowance, etc.) and the treatment of beneficiaries of social protection;
- 4) Health protection, including access to care and treatment for patients;
- 5) Trainings, including initial and continuous professional training, all types and levels of vocational education, professional development, additional qualification, requalification, and gaining practical work experience;
- 6) Justice and administration, including the activities of police and other law enforcement officials, border control officials, military and prison personnel (all persons should be equal before courts and tribunals);
- 7) Access to housing, including housing conditions and termination of a lease contracts;
- 8) Public information and the media;
- 9) Membership of professional organisations, including participation in employers' or workers' unions or any other organisations whose members are engaged in a particular profession, access to benefits provided by such organisations;
- 10) Goods and services designated for public use and public places, including, for example, when buying goods in a shop, applying for a loan from a bank, and entering disco, cafe or restaurant;
- 11) Participation in cultural and artistic activities. (*Law on Prohibition of Discrimination 2009: art 6*).

Equal participation of all citizens in family life is also guaranteed by the law: „full equality of rights and responsibilities in relation to marital community, during marital community and divorce, including rights and responsibilities in raising children”, as well as guarantee of the rights of the child, including the protection measures required by his or her status as a minor, by his or her family, society and the state (*Law on Prohibition of Discrimination 2009: p. 6*).

In addition to those listed in the law, measures are taken to equalise opportunities for LGBTI people (see more: LGBTI Equal Rights Association... WWW) and to protect victims of human trafficking. With regard to both groups, the state is not taking the appropriate measures to which it has committed itself in international documents.

The legal provisions in force in BiH do not always reflect the way things are done in practice. With regard to both groups (LGBTI and victims of trafficking), the state is not taking the appropriate measures to which it has committed itself in international documents. The analysis of the situation of LGBTI people in Bosnia and Herzegovina became the basis for the ECRI (European Commission against Racism and Intolerance) action strategy aimed at equal opportunities, prohibition of further discrimination, equal rights in all spheres of life and promotion of diversity (COE 2022).

According to the *2024 Trafficking in Persons Report*, "The Government of Bosnia and Herzegovina (BiH) does not fully meet the minimum standards for the elimination of trafficking in persons, but is making significant efforts to do so" (U.S. Department of State 2024). On the other hand, the report highlighted the inadequate approach to trafficking victims from the Romani community – "some authorities did not investigate cases of potential forced child begging and forced labor involving members of the Romani community but rather justified them as traditional cultural practices and customs and returned children to their families, even when their parents were involved in their exploitation" (U.S. Department of State 2024).

Discrimination and intolerance against Roma, internally displaced persons and refugees returning to their places of residence is a serious problem. They face numerous physical attacks and hate speech. "Of 19 ongoing trials in September, the Organization for Security and Cooperation (OSCE) recorded zero convictions" (Human Rights Watch 2025).

Grassroots activity

The people of BiH live a double life – one imposed from above by the international community and the decision of the politicians who run the state, and the other, a bottom-up life developed every day in their everyday environment.

Lord Dahrendorf wrote in his book *Reflections on Revolution in Europe*: "The formal process of constitutional reform takes at least six months; the general feeling that the economic reform is improving may not appear until six years later; the third condition of the path to freedom is to provide the social conditions that will transform the constitution and economy from institutions that operate only in favorable conditions to those that operate in all conditions and are resistant to both external and internal storms – and sixty years may not be enough to create such conditions. [...] Civil society is the key here. It bridges the time gap and the scale of political and economic reform into a single whole. It is in this area that both reforms must be anchored if they are to survive" (Dahrendorf 1991: p. 86–87).

The future of the state depends on civic awareness. Building civic awareness is very difficult and time-consuming, and in the conditions of Bosnia and Herzegovina, where we

are dealing with strong nationalism and centrifugal forces (Milorad Dodik in the Republika Srpska), it may seem impossible.

The fundamental dispute over the political system is blocking reform, with neither side willing to make concessions. In addition, they question the consensus reached in *Dayton Agreement*, even though it is beneficial to them, because citizens have only a limited ability to replace rulers through elections (Szpala 2022).

Despite the difficulties of collective civic action, social mobilisations in the country have increased in size, number and intensity in recent years. One example is the so-called *Bosnian Spring*. This was an organised social movement triggered by the events of February 2014, when police brutally attacked a demonstration of unemployed workers from privatised factories in the former industrial centre of Tuzla in BiH. The police action sparked solidarity rallies across the country. Workers from several privatised and bankrupt factories joined forces to demand action on jobs, unpaid wages and pensions. Students and political activists joined the workers. New forms of grassroots solidarity emerged in the wake of the protests, but Bosnian citizens still appear to be affected by deteriorating economic conditions, corrupt elites, rising unemployment and non-existent social protection (Milan 2015).

In recent years, protests against all forms of violence against various minority groups have intensified. Violence against women, especially women with disabilities, is a particularly serious social problem. In 2022–2023, twenty women were killed in BiH. On 14 August 2023, demonstrations took place in several cities due to the slowness of the courts and the weak response of the police and state institutions to domestic violence (Jagietto-Szostak 2023).

Another type of grass roots activity are **non-governmental organisations (NGOs)**, called also **civil society organisations (CSOs)**. They play an important role in providing education, psychological support, legal and material assistance and building social awareness. They operate not for financial gain, but to achieve the goal of doing good to others. They are partners of international organisations in implementing the recommendations on the protection of human rights contained in international documents.

For example, the European Economic and Social Committee's opinion *EU–Bosnia and Herzegovina relations: the role of civil society* contains the following recommendations for civil society organisations in BiH:

- „To stimulate bottom-up approaches and self organisation of civil society, contributing to strengthening the societal ownership of CSOs.
- To raise awareness on the role of civil society in the political process.
- To facilitate networking and partnership building, i.e. exchange of information, know how and experience.
- To increase knowledge and understanding of EU integration, EU policies, and European Institutions.
- To increase education and training within CSOs.
- To stimulate interethnic and interreligious dialogue and increase the level of cooperation, networking and twinnings among CSOs.” (European Economic and Social Committee 2009; point 1.4).

These CSOs include both global organisations, such as *Amnesty International*, and local organisations. One of such international NGOs (CSOs) is international organisation *UN Women*, which has been present in BiH since 2008, when a project office was established. It was upgraded to a country office with a resident in 2013. The organisation's "work for gender equality and women's empowerment focuses on three main areas:

- Gender-responsive governance and leadership;
- Ending violence against women;
- Women's economic empowerment" (UN Women WWW).

UN Women supports Bosnia and Herzegovina in adopting "global standards to achieve gender equality, and works with governments and civil society to design laws, policies, programmes and services to implement these standards" (UN Women WWW).

Another international organisation focused on young people is *Humanity in Action Bosnia and Herzegovina*. It is an important part of the international educational community of students and young professionals in Europe and the United States. The members of this organisation describe themselves as follows: "We are committed to liberal democracy, pluralism, social justice and human rights, particularly in the transatlantic context. We promote these values through education and forms of civic engagement shaped by the specific historical and cultural contexts of Bosnia & Herzegovina and our partner organizations in Denmark, Germany, the Netherlands, Poland and the United States" (Humanity in Action Bosnia and Herzegovina WWW).

Applying to the European Court of Human Rights (ECHR)

An application is one of the means by which citizens who have exhausted their domestic remedies can have their rights upheld by an impartial arbiter. Most of the cases won at the ECtHR concerned discrimination against civil and political rights.

Sejdić and Finci v. Bosnia Herzegovina, 22.12.2009

A precedent-setting case was the joint application of Dervo Sejdić and Jakob Finci, citizens of BiH. Born in 1956 and 1943 respectively, they live in Sarajevo. The first is of Roma origin and the second is Jewish. Both are prominent public figures. In its preamble, the Bosnian constitution distinguishes between two categories of citizens: the so-called "constitutional peoples" (Bosniaks, Croats and Serbs) and "others" (Jews, Roma and other national minorities, as well as those who do not identify with any ethnic group). The House of Peoples of the Parliamentary Assembly (Second Chamber) and the Presidency are composed exclusively of persons belonging to the three constituent peoples. The two gentlemen (Sejdić and Finci) were not allowed to stand for election to the House of Peoples of the Parliamentary Assembly. The judgment of the European Court of Human Rights found that the constitutional arrangements introduced by the *Dayton Agreement*, according to which the right to stand for election to the tripartite Presidency and the Second Chamber of the National Parliament is granted only to persons who declare themselves to be Bosniak, Croat or Serb, is discriminatory. There was a violation

of Article 14 of the *European Convention on Human Rights* (prohibition of discrimination) together with Article 1 of Protocol No. 1 (right to free elections) and Article 1 of Protocol No. 12 (general prohibition of discrimination) to the Convention (European Court of Human Rights 2025: p. 2).

Baralija v. Bosnia and Herzegovina, 29.10.2019

In 2019, the ECtHR ruled in favour of Irma Baralija, a local politician from Mostar, who sued the state for preventing her from voting or standing in elections in the city of Mostar, where local elections had not been held since 2008. The Court found that a legal loophole had been created by the authorities' failure to implement the 2010 Constitutional Court ruling on the arrangements for local elections in Mostar. As a result, municipal elections were held in Mostar in December 2020. Civil society and international observers described the process as generally free and fair. The Mostar City Council held its first meeting on 5 February and elected a new mayor on 15 February. There was a violation of Article 10 of the *Charter of Fundamental Rights of the European Union*. 1 of Protocol 12 (U.S. Department of State 2023).

Pilav v. Bosnia and Herzegovina, 09.06.2016

The case concerned a complaint by a politician residing in Republika Srpska (one of the two territorial entities of BiH), who identified himself as Bosniak, that it was legally impossible for him to run for the Presidency of the country. There was a violation of Article 1 of Protocol 12 (European Court of Human Rights 2025: p. 5).

Zornić v. Bosnia and Herzegovina, 15.07.2014

"Ms Zornić's ineligibility to stand for election to the House of Peoples and the Presidency of Bosnia and Herzegovina because she refused to declare affiliation to any particular ethnic group but declared herself as a citizen of Bosnia and Herzegovina and, in accordance with the Constitution, only those who declared affiliation with the so-called 'constituent peoples' (namely, Bosniacs, Croats and Serbs) were entitled to stand for election" (European Court of Human Rights 2025: p. 5). The Court held that there had been a violation of Article 14 (prohibition of discrimination) in conjunction with Article 3 of Protocol No. 1 (right to free elections) in respect of Ms Zornić's inability to stand for election to the House of Peoples of Bosnia and Herzegovina.

There was also a violation of Article 1 of Protocol No. 12 (general prohibition of discrimination) in relation to Ms Zornić's ineligibility to stand for election to both the House of Peoples and the Presidency of BiH (European Court of Human Rights 2025: p. 5).

Slaven Kovačević v. Bosnia and Herzegovina, 29.08.2023

The applicant, Slaven Kovačević, although a citizen of BiH, does not belong to any particular ethnic group. He argued that the candidates who best represented his views because of their ethnic origin did not meet the territorial and ethnic requirements (only Bosniaks could stand in Bosnia, Croats in Herzegovina and Serbs in Republika Srpska).

The ECtHR found that the combination of these requirements (territorial and ethnic) constituted discriminatory treatment "in the context of the right to participate in elections to the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, it considered that the same was true in respect of the right to vote in elections to the Presidency of Bosnia and Herzegovina" (European Court of Human Rights 2023).

Conclusions

The situation in BiH is not simple. It is a multinational state with areas of strong segregation and inter-ethnic tensions that determine the political reality and prevent the normal development of the state. Since January 2024, there has been a dispute over the constitutional tribunal initiated by Milorad Dodik, the leader of the Bosnian Serbs, who seeks separation from BiH, but also from European control (Wankiewicz 2024).

The above problems are aggravated by the unstable political (development of populisms), economic and social (migrations) situation in Europe, which strengthens nationalist sentiments. All this creates an atmosphere that is not conducive to building equality and strengthening diversity in the state, especially since the accession negotiations to the European Union, which began in March 2024, made it independent from the implementation of the judgments of the European Court of Human Rights on discrimination against Jews, Roma and others. "BiH authorities made at best slow progress in tackling these and other rights challenges, including femicide and war crimes accountability" (Human Rights Watch 2025). And while global issues – digital technology, artificial intelligence, climate crises, pandemics, conflicts – are added to domestic problems, they can be factors that mobilise the inhabitants of BiH to act not only for their own benefit, but also for the benefit of the global village. The citizens of this country are also interested in joining the European Union. The emerging civil society in BiH has a long tradition of peaceful coexistence among different ethnic groups and a will to change towards a democratic rule of law. However, these changes depend on the proper functioning of public institutions, education without ethnic segregation and the activity of citizens themselves. An important element that helps in this analysis is to draw attention to the social change that is taking place, leading to greater awareness of one's human rights and action to make use of them. Positive change is slow but visible. Unfortunately, changes in social attitudes take the longest. BiH has only been transforming its social, economic and political life for thirty years. But there is also a generational change taking place and, thanks to new technologies, young people are perceiving the reality around them differently.

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