

MEDIA COVERAGE OF THE CASES AND THE WORK OF THE JUDICIARY DURING THE PANDEMICS IN BOSNIA AND HERZEGOVINA



Report:

Media coverage of the cases and the work of the judiciary during the pandemics in Bosnia and Herzegovina

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1. Introduction

So far, there has been no analysis of the media coverage of the cases and the work of the judiciary in Bosnia and Herzegovina (BiH). Researches and journalistic articles, that were done so far have indicated a number of problems in the communication of the judicial institutions with the media and public, along with a generally low level of professional media standards in BiH.^[1]

Some of the problems in communication of judicial institutions are the lack of a proactive transparency, unequal practice of information published on the pravosuđe.ba webpage, the anonymisation of the data related to court cases, and the inconsistent implementation of the Law on Freedom of Access to Information.^[2] Investigative reports, on the other hand, demonstrate low standard of media reporting in BiH, lack of capacities and expertise for good quality, comprehensive reporting, especially in the areas that require a degree of expertise, such as ecology, EU integration and the judiciary, as well as the presence of problematic media contents, such as misinformation and propaganda, which is especially the case with the online media.^[3] In order to survive, media outlets have to rely on marketing revenue and on the revenue from public budget, which, in the absence of adequate legislative framework, is allocated on the basis of insufficiently transparent procedures and arbitrary decisions, which enables political and financial pressure on the media.^[4] Furthermore, with the emergence of numerous online media and anonymous portals, and in the absence of (self) regulation, we see a growing presence of clickbaits and sensationalistic contents of a questionable credibility and

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- [1] Erna Mačkić, 2018, *Transparentnost pravosuđa u Bosni i Hercegovini u domenu procesuiranja koruptivnih krivičnih djela*, Analitika, <https://www.analitika.ba/sites/default/files/publikacije/Transparentnost%20pravosudnih%20institucija%20-%20osvrt.pdf>; On media reporting, see, e.g. IREX reports for BiH, <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-bosnia-herzegovina.pdf>
- [2] Key problems were identified through interviews with media representatives in the first part of the research. See also Emina Dizdarević, 2018, *Pravosuđe internim aktima ograničava medijski pristup*, <https://detektor.ba/2018/11/08/pravosudje-internim-aktima-ogranicava-medijski-pristup-video/>
- [3] See, e.g., Irex izvještaje za BiH: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-bosnia-herzegovina.pdf>
- [4] Sanela Hodžić i Anida Sokol, 2017, *Za transparentnije i legitimnije finansiranje iz javnih budžeta. Izvještaj s preporukama: Smjernice za javne organe u BiH*, Mediacentar Sarajevo, https://www.media.ba/sites/default/files/transparentnije_i_legitimnije_finansiranje_medija_iz_javnih_budzeta_-_smjernice_za_javne_organe_u_bih_-_bhs.pdf

the expansion of misinformation, propaganda and hateful narratives online.^[5] In the country with a low level of media literacy, such contents may represent a significant threat for democratic processes.^[6]

In the previous report, we have presented the results of the first part of the research, wherein we analysed quality of public communication and transparency of work of the BiH judiciary during the pandemics, especially in the period from 15 March to 15 May 2020, and made recommendations for the increase of transparency in the work of the judicial institutions.

By doing so, we have shown that, during the pandemics, the judicial institutions have continued communicating as usual and have failed to adequately respond the communicational challenges. We have also noticed that communicational practices during the pandemics were not equal. Good communication with media and with public depended primarily on the will and responsibility of individual spokespersons, rather than as the result of a strategic approach and consistent communicational policies. The research has shown that the reduced work and cancelled hearings have resulted in a decreased amount of information offered to the public by these institutions, growing difficulties in their communication with media and the public, as well as a lower interest of the media in the information relating to the work of the country's judiciary.

In this report, we are presenting results of the second research aimed at elucidating the way in which the media have been reporting on the judicial cases and the work of the judiciary in BiH during the COVID-19 pandemics. The research includes several cases, selected for their great media coverage and/or their public relevance, such as the Respirators Case or the Constitutional Court decisions, inter alia, its order issued by the Federal Civil Protection Crisis HQ to prohibit movement of persons aged under 18 and over 65 in the territory of the FBiH.^[7] Here, we consulted the Media Centre's research and the AIRE Centre's (Advice on Individual Rights in Europe) legal consultants and experts. Our focus was on advantages and disadvantages in the media investigation of specific cases and of the work of

[5] Anida Sokol, 2020, *Modeli propagande, dezinformacija i mržnje u medijima i komunikacijama u Bosni i Hercegovini*, SEENPM, https://www.media.ba/sites/default/files/rsl_research_bih_local_language_final_0.pdf <https://seenpm.org/wp-content/uploads/2020/09/Research-publication-1-BiH-ENG.pdf>

[6] Ibid.

[7] 106th Sessiaon of the Grand Chamber. Contittuional Court. <http://www.ccbh.ba/novosti/sjednice/?id=8df4d385-2c8c-494f-88c0-588d1ce062a2&lang=bs>

judiciary in BiH, and their potential implication and impact on the public perception of the country's judiciary. Finally, we have made recommendations for the media for the improvement of media coverage of court cases and of the work of the judicial institutions in general.

The research includes an overview of media content of selected mainstream online media – BHRT, RTRS, Dnevni avaz, Klix.ba and Nezavisne Novine – in the periods of relevance for the selected cases. These media were selected due to their importance and their agenda-setting capacity^[8] when it comes to some issues of a public importance, but also by including different types of media - public broadcasters and private media, as well as different geographic locations – the Federation of BiH and the Republika Srpska. Klix.ba and Dnevni avaz are the most widely read online news media in Bosnia and Herzegovina,^[9] while Nezavisne Novine is one of the most widely read news portals in the Republika Srpska. In addition to these media outlets, we have included online editions of public broadcasting services BHRT and RTRS, while we also analysed the media content published in the media that had launched researches of the aforementioned cases, i.e., Detektor.ba, Gerila.info, Capital.ba, and e-Trafika. In the course of this research we followed the following aspects of media work: the way in which texts and titles were formulated (sensationalistic, biased or neutral); sources used in texts (official, speculations, anonymous); and data presented (related to specific cases, of relevance or of no relevance for public, irrelevant for the case in question, etc.). Selected cases are:

- » The “Respirators’ Case” (April-December 2020) – procurement of respirators from China, for which the Government of the Federation of BiH made, by the end of April 2020, the payment of 10,5 million BAM, through the fruits and vegetables producing and processing firm FH Srebrena Malina, for which the Prosecutor’s Office of BiH initiated ordered an investigation of the procurement procedure of the respirators, and then, by the end of December, pressed charges for “conspiring to abuse office, accept rewards for trading influence, money laundering and document fraud”.^[10]
- » The “RS Mobile Hospital” Case (March - July 2020) – Decision of the Government of the Republika Srpska from March 2020 to apply urgency procedure to purchase, through the Public Health Institute of the Republika

[8] According to the agenda-setting theory, media determine and impose specific issues of public interest.

[9] For the list of the most widely read portals in BiH, see on: <https://www.alexacom/topsites/countries/BA>

[10] Information on the indictment: <http://www.tuzilastvobih.gov.ba/?id=4696&jezik=b>

Srpska, a mobile hospital within ten days followed by the decision to cancel the contract with the supplier in May 2020. The RS Public Prosecutor's Office formed the case relating to the purchase of this mobile hospital.^[11]

- » The HJPC sessions (March-December 2020) – media coverage of the sessions of the High Judicial and Prosecutorial Council during the COVID-19 pandemics.
- » Media coverage of decisions of the Constitutional Court relating to the orders issued by the Federal Civil Protection Crisis HQ issued in April 2020, and measures of restricted movement and obligation to wear face masques during the COVID-19 pandemics issued in December 2020 (April 2020 and December 2020).
- » Media coverage of cases of murders and physical and sexual violence in the course of 2020 (the case of Sadiković, who was accused of sexual torture in January 2020, and the December 2020 case of a murder in the Otes neighbourhood),
- » Coverage of the court cases (the Kikić Case of March 2020, the criminal offence of receiving gift and other forms of benefits, and permission to individuals to enter into the area of intensive spread of Coronavirus without medical examination and obligatory isolation).

In addition to the review of the media reporting of these cases, we conducted interviews with journalists: Semir Hamba, the editor of Klix.ba, and Tijana Kecman, the journalist of BHR and used materials from interviews with journalists conducted in the first part of the research (Ljiljana Mitrović, the journalist of Nezavisne Novine, Selma Učanbarlić, the journalist of CIN, Vera Bugarin, journalist, the Srna News Agency, Zinaida Đelilović, the journalist of Oslobođenje, Denis Džidić, Director of BIRN). The interviews were done in order to get an insight into the circumstances in which journalists have been working during the pandemics and limitations in their communication with judicial institutions.

[11] Admir Muslimović, 2020, *Tužiocima nisu ubrzali rad na predmetima u vezi s pandemijom*, Detektor, <https://detektor.ba/2020/09/02/tuziocima-nisu-ubrzali-rad-na-predmetima-u-vezi-s-pandemijom/>

2. The media sector in BiH and its work during the pandemics

Before presenting a review of the media content, we need to point at the circumstances in which the media in BiH have functioned, as well as the standards of the media coverage in BiH, particularly during the COVID-19 pandemics. The media sector in BiH is characterized by a great number of media outlets: 103 television stations, 152 radio stations, three public broadcasting services, 8 dailies and 181 publications.^[12] Many of those have scarce revenues and low capacities for high quality professional reporting, while they are often under the influence of political parties or business groups exerted by non-transparent and arbitrary patterns of financing and ownership.^[13] Many local media outlets do not have adequate equipment or staff, especially journalists specialised in specific themes, such as the judiciary, while journalists are often underpaid and are tasked with writing several stories a day.^[14] Furthermore, revenue from advertising in Bosnia and Herzegovina is in constant decrease; during the COVID-19 pandemics the media have suffered additional financial losses and a drastic decrease in revenues. Therefore, they were forced to reduce the size of media content while there were cases of journalists being made redundant as part of austerity measures.^[15]

Researches have shown that there was a sudden decrease of revenues from advertising in the first three months of the pandemics, up to 80 %, which has an impact on the work of the media and the quality of media reporting, while, in some cases, revenues from public budget for local public media has dropped as well.^[16]

[12] Data collected from registers of the Regulatoruy Communications Agency andthje Press Council of BiH.

[13] Sanela Hodžić i Anida Sokol, 2017, *Za transparentnije i legitimnije finansiranje iz javnih budžeta. Izveštaj s preporukama: Smjernice za javne organe u BiH*, Mediacentar Sarajevo, https://www.media.ba/sites/default/files/transparentnije_i_legitimnije_finansiranje_medija_iz_javnih_budzeta_-_smjernice_za_javne_organe_u_bih_-_bhs.pdf

[14] See, for example, the local media situation in the region of Birač: Anida Sokol, 2019, *Media usage in Birač region and Kalesija*, Mediacentar, Accessible on: https://www.media.ba/sites/default/files/media_usage_habits_birac_region_0.pdf

[15] Minela Pamuk, 2020, *Prioritet za pomoć entitetskih vlada će imati mediji koji nisu otpuštali radnike*, Mediacentar Sarajevo, <https://www.media.ba/bs/magazin-novinarstvo/prioritet-za-pomoc-entitetskih-vlada-ce-imati-mediji-koji-nisu-otpustali-radnike>

[16] Slađan Tomić, *Tokom pandemije u BiH desetine otkaza u medijima*, Media.ba 2020, <https://media.ba/bs/magazin-novinarstvo/tokom-pandemije-u-bih-desetine-otkaza-u-medijima>

Media employees have been under additional pressure during the COVID-19 pandemics due to the fear that they could contract the virus working in the field, increased workload, difficult communication with institutions and hindered access to information and interlocutors, which were all the factors that impacted the quality of media content.^[17]

The analyses done so far show that the quality of media reporting does not meet the high standards of journalistic profession and that there are constant breaches of professional norms, especially online.^[18] The Regulatory Communication Agency (RCA) succeeds, to a certain extent, to regulate the media content of radio and televisions stations and is able to pronounce fines for breaches of the code and rules, but it has been doing it sporadically and upon citizens' reports.^[19] Efficiency of a self-regulatory system of the Press and Online Media Council of BiH, on the other hand, is lesser, given that its activities are limited to non-binding decisions relating to the media content that demonstrate breaches of the BiH Press Code.^[20] This inefficiency is particularly expressed in online sphere, with a great number of misinformation, spread by anonymous portal, but also by the professional media, motivated by financial or political goals.^[21] Although these anonymous portals are the greatest source of misinformation and fake news, the Raskrinkavanje platform for fact-checking has disclosed misinformation and fake news published or re-transmitted by professional media such as RTRS, the Srna News Agency, Alternativna televizija, Dnevni avaz, Oslobođenje, N1, etc. Dissemination of fake news, misinformation and conspiracy theories have been especially frequent as well as particularly dangerous for public health during the COVID-19 pandemics.

Furthermore, breaches of professional norms appear in the form of selective and biased reporting based on political and ethno-national bias. Biased reporting, especially in the mainstream media, is also often aimed against political opposition or voices that are critical towards those in power, such as civil society or journalists.

[17] See, for example, Slađan Tomić, 2020, Tokom pandemije desetine otkaza u medijima, Media.ba, <https://media.ba/bs/magazin-novinarstvo/tokom-pandemije-u-bih-desetine-otkaza-u-medijima>

[18] See, e.g. Irex reports for BiH: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-bosnia-herzegovina.pdf>

[19] See Regulatory Communications Agency: <https://www.rak.ba/bs-Latn-BA/>

[20] See, e.g. IREX izvještaje za BiH: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-bosnia-herzegovina.pdf>

[21] Tijana Cvijetićanin i drugi, 2019, Disinformation in the Online Sphere. The Case of BiH. Association of Citizens "Why not", https://zastone.ba/app/uploads/2019/05/Disinformation_in_the_online_sphere_The_case_of_BiH_ENG.pdf

Political representatives and civil society rarely express concern with the breaches of professional media standards, while in general, citizens lack media and information literacy skill to recognise and react to problematic media content.^[22]

The journalists who were interviewed say that the media often lack capacities to follow court cases or HJPC's sessions and they choose those who they consider to be of public interest, and these are often the topics and personalities related to political and other scandals.^[23] They also say that journalists lack knowledge and skills for the themes relating to judiciary and that the media often have to rely on statements issued by judicial institutions, which are, in their view, sketchy and incomprehensible to the public, and that, in the absence of official data, they seek information from unofficial sources. Most of the BiH media generally lack critical reporting and constructive media content, as well as a broader elaboration of themes.

[22] Anida Sokol, 2020, *Modeli propagande, dezinformacija i mržnje u medijima i komunikacijama u Bosni i Hercegovini*, SEENPM, https://www.media.ba/sites/default/files/rsi_research_bih_local_language_final_0.pdf <https://seenpm.org/wp-content/uploads/2020/09/Research-publication-1-BiH-ENG.pdf>

[23] Semir Hambo, editor Klix.ba, interview, 4.2.2021.

3. Codes and rules related to reporting on court cases

BiH has codes and rules for professional media reporting (including those related to reporting on judiciary and court cases) adopted by the Regulatory Communication Agency and the Press and Online Media Council in BiH.^[24] Besides, some media have their internal reporting codes. The codes and rules of the Regulatory Communication Agency are binding and the Agency may pronounce sanctions if broadcasters do not observe them. On the other hand, the Press Code is not mandatory, but based on a self-regulatory system and ethical principles that should govern the work of all professional media outlets. The Complaint Commission of the Press Council considers citizens' complaints relating to specific media contents and may issue a recommendation to editors to delete the content, or to publish an apology or a denial. This system is inefficient when it comes to a great number of media that ignore these suggestions and, given the fact that numerous anonymous portals do not have their contact details published nor do they publish the names of individuals to whom recommendations could be sent.^[25]

The Press and Online Media Code, inter alia, requires from journalists to ensure, in all their work, a respect for factual truth and the right of the public to know the truth (Article 2), and that journalists shall report only on the basis of facts, the origin of which is known to the journalists (Article 5).^[26]

Some of the provisions of the Press and Online Media Code related to court cases and the work of judiciary are:

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- [24] Press Council Code. https://www.vzs.ba/index.php?option=com_content&view=article&id=218&Itemid=9; For the rules and codes of the Regulatory Communications Agency, see on: <https://www.rak.ba/bs-Latn-BA/brdcst-regulations>. See also Nidžara Ahmetašević, 2018, Da pravda bude vidljivija: Priručnik za novinare i novinarkе koji izuještavaju o sudskim procesima i radu tužilaštva u BiH, Mediacentar Sarajevo. https://www.media.ba/sites/default/files/da_pravda_bude_vidljiva_final_web.pdf
- [25] See, e.g. IREX izvještaje za BiH: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-bosnia-herzegovina.pdf>
- [26] Press and Online Media Code: https://www.vzs.ba/index.php?option=com_content&view=article&id=218&Itemid=9

Article 9 – **Privacy**

Journalists shall avoid intrusions into an individual's private life unless such intrusions are necessary for the public interest. Topics involving personal tragedy shall be treated with consideration, and the affected individuals shall be approached with a discretion and sympathy.

Article 10 - **Persons Charged With Criminal Offenses**

Journalists shall not treat any individual as a criminal prior to a court sentence to that effect. Journalists have the duty not to prejudge the guilt of an accused person. Journalists have the duty to publish information about the dismissal of charges against, or the acquittal of, anyone whose filed charges or commenced trial they had reported about previously.

Article 10a – **Protection of Witnesses**

Journalists shall demonstrate special caution and sensitivity when reporting about witnesses in war crime proceedings, respecting rules and regulations in terms of not identifying the protected witnesses. Journalists shall generally avoid identifying witnesses in war crimes trials, as well as their relatives and friends, unless their identification is necessary for the complete, fair and accurate reporting about the trial, and if such identifying shall not cause misinterpretation of the truth or the trial process.

Article 11 - **Protection of Children and Minors**

When treating children and minors, journalists have an obligation to be extremely careful, respecting ethical norms and the Convention on Children's Rights, starting with the child's interest. Journalists are obligated to protect the child's identity in procedures not involving the public. Journalists shall not interview or photograph children under the age of 18, regarding matters involving the child's family, in the absence of or without the consent of a parent or guardian. Journalists shall not identify children under the age of 18 when they are victims of crimes.

Code on Audio-visual Media Services and Radio Services ^[27] also requires fairness and impartiality (Article 5), and this Code has a special provision (Article 15) related to the coverage of judicial proceedings:

- 1) Media service provider shall objectively and accurately report on court proceedings. This includes disclosure of information related to judicial and prosecutorial decisions, including acquittals, decisions not to conduct investigations and decisions on the suspension of investigation.
- 2) Media service provider shall respect the presumption of innocence until a final court decision enters into force.
- 3) Media service provider shall, during the judicial proceedings, respect the right to privacy of all persons (in any capacity) involved in such proceedings. Special protection will be provided to minors and other vulnerable persons, as well as victims, witnesses and families of victims, witnesses, suspects, the accused and the convicted persons.
- 4) In cases in which statutory prohibitions or restrictions on disclosing the identity of witnesses are applicable, media service provider shall particularly pay attention not to broadcast information that might reveal or refer to a trail that could lead to the identification of witnesses. Additionally, special attention shall be paid to the broadcasting of information that, combined with the information published elsewhere, could lead to the disclosure of the identity of witnesses.
- 5) The identity of sexual assault victims shall not be revealed neither directly nor indirectly, by broadcasting the material that could lead to the disclosure of the identity of such victims, unless the victims themselves give consent, or in the case of a prior approval issued by the competent authority.
- 6) During direct reporting from the court proceedings or recording in courtrooms, which are previously allowed by a competent authority, respect of provisions in paragraphs (1) to (5) of this Article must be ensured.

[27] Code on Audiovisual Media Services and Radio Services <https://docs.rak.ba/articles/333eb24f-ca18-4ef2-a9ab-8f402e8a4f40.pdf>

4. Media reports on judiciary during the pandemics

Limited work and cancelled hearings during the pandemics have resulted in a reduced number of information the institutions could provide to public, along with a more difficult communication with the media and the public, that occurred due to the limited work of judicial institutions and reduced capacities of the media during the pandemics as well as a decreased interest of the media for information related to the work of the judiciary. Judicial institutions' spokespersons confirmed in the first part of this research that during the pandemics the media were less interested in information on cases and their work, especially during the first months when COVID-19 was in the focus of all news.

As it was noted in the first part of the research, the cases that were followed the most were the ones related to the pandemics (e.g. the Rajo Kikić and Fadil Novalić Case before the Court of BiH)^[28] and public procurements (the RS Public Prosecutor's Office),^[29] then the cases of terrorism and terrorism-related cases (the Court of BiH), various criminal offences and war crimes. During the pandemics, the media followed and published press releases and other information issued by judicial bodies in BiH, along with the information about suspended investigations, indictments, open cases (especially due to Coronavirus), prolonged detentions, confirmed indictments, etc. The greatest number of news items, as the first analysis has shown, during the first two months of the pandemics (15 March to 15 May 2020), on the portals of Klix.ba and Nezavisne novine, are related to the Prosecutor's Office of BiH, the Court of BiH, the District Court in Banja Luka, the District Prosecutor's Office in Banja Luka, the Prosecutor's Office of HNK, the Cantonal Court in Sarajevo, etc. Most of the news items were in the form of short reports/statements, without detailed investigation and analysis. A fewer number of articles were related to the work of courts/prosecutor's offices during the pandemics. The sources issued in the news related to judiciary and court cases were mostly press releases issued by judicial institutions or spokespersons, prosecutors, defence lawyers and judges. The press statements were mainly those from HJPC, the Court of BiH, the Prosecutor's Office of BiH, the Federal Prosecutor's Office, the Constitutional Court of BiH, and the Cantonal Court in Sarajevo, but for some news items/information, the sources cited were individuals employed by those institutions: Zlatko Knežević, President of

[28] The Court of BiH, written answer, 9.9.2020.

[29] The RS Public Prosecutor's Office, written answer, 24.9.2020.

the Constitutional Court of BiH, Milan Tegeltija, President of the HJPC, and Amila-Mimica Kunosić, a member of the HJPC, Bojan Stević, President of the District Court in Trebinje, Ranko Debevec, President of the Court of BiH. A few number of articles analysed measures and decisions of the judicial institutions taken during the pandemics which indicates that the work of the judiciary is rarely being analysed in depth and that there is rarely a critical attitude towards judicial decisions, which limits the level of information of public and may lead to simplifications, and to often exclusively negative or exclusively positive public perception.

In the following part of the report we will show the results of the case studies in several selected court cases and of a broader media coverage of the work of the judicial institutions with the objective of presenting advantages and disadvantages of the media coverage, its potential implications and impact on public, and to make recommendations for the improvement of media reporting on court cases and the work of judicial institutions.

5. Case studies:

5.1. The “Respirators” Case

The “Silver Raspberry” or “Respirators” Case was one of the most popular media themes in the course of 2020. It began with the information published on 27 April 2020, on the Fokus.ba portal about an import of 100 respirators from China, for which the Government of the Federation paid 10,5 million BAM. The problem was the fact that the importer of those respirators was the FH Srebrena malina firm, which dealt with cultivation and processing of fruits and vegetables, the fact that was confirmed to Fokus.ba buy the Indirect Taxation Authority of BiH.^[30] The following day, Fokus.ba published the information that the Agency for Medicine and Medical Devices of the FBiH had issued the necessary licence for import on the basis of authorisation signed by Fahrudin Solak, the then Director of the Federal Civil Protection Directorate.^[31] The information was published by all the media in Bosnia and Herzegovina, and shortly afterwards the information that the Prosecutor’s Office of the Canton of Sarajevo had formed the case to investigate the procedure of procurement of the respirators was published, with SIPA being involved in the investigation.^[32] By the beginning of May, the information was published that the Prosecutor’s Office of BiH will take over the “Respirators” Case, and by the end of December charges were pressed for “conspiring to abuse office, accept rewards for trading influence, money laundering and document fraud”.^[33]

In this case the media have played an exceptionally important role and published information that led to investigation and later to indictment by the Prosecutor’s Office of BiH. There were attempts to discredit the work of journalists and the Federal Civil Protection Directorate, led by Fahrudin Solak, sent a request to the Prosecutor’s Office of the Canton of Sarajevo to urgently initiate investigation in

[30] Poljoprivredno gazdinstvo dobilo posao od 10,5 miliona maraka za nabavku respiratora, Fokus.ba, 27.4.2020, <https://www.fokus.ba/vijesti/bih/poljoprivredno-gazdinstvo-dobilo-posao-od-105-miliona-maraka-za-nabavku-respiratora/1753735/?fbclid>

[31] Solak je FH Srebrnu malinu proglasio ovlaštenom za uvoz respiratora, Fokus.ba, 28.4. 2020, <https://www.fokus.ba/vijesti/bih/fokus-ba-saznaje-solak-je-fh-srebrnu-malinu-proglasio-ovlastenom-za-uvoz-respiratora/1754728/>

[32] U slučaj nabavke respiratora uključila se i SIPA, Klix.ba, 28.4.2020, <https://www.klix.ba/vijesti/bih/u-slucaj-nabavke-respiratora-ukljucila-se-i-sipa/200428060>

[33] Information in indictment: <http://www.tuzilastvobih.gov.ba/?id=4696&jezik=b>

order to investigate biased and wrong claims in the media relating to the purchase of the respirators, which led the Association of BiH Journalist to react.^[34]

From the end of April to the end of December 2020, the media published numerous information and speculations relating to this case, statements of various persons, organisation and institutions, whereas there were misinformation and unverified contents. Most of the media content was published from the end of April to the end of May (several hundreds at each portal, while some portals, like Klix.ba, published dozens of stories about this case on a daily basis. Based on an overview of the content published on the Klix.ba, Avaz.ba, BHRT, RTRS, and Nezavisne novine portals, one can reach the following conclusions:

5.1.1. Fragmentary media reporting

Online media published new information about the “Respirators” Case on a daily basis and the manner of their reporting on the case may be described as *fragmentary* – without broader contextualisation and presenting more information in one story. Great many stories on this case were short, written on the basis of one source and one piece of information. This manner of reporting may be explained by great interest in the case, motivated by desire to be the first to publish information, but also by the need to get as many clicks on the story as possible. We need to emphasise, however, that titles on this case were mostly neutral (without sensationalism), and that the media in some cases used the term „exclusive“ when they obtained the information before other media outlets.^[35]

5.1.2. Sources

Although the majority of online media used one or two sources in one story, we need to emphasise that most of the sources were relevant –statements made by experts, individuals and institutions relevant for the case (e.g. Jelka Milićević, the Minister of Finance of FBiH), spokespersons, such as those representing the Indirect Taxation Authority of BiH, SIPA and the Prosecutor’s Offices. The sourced used by the media were also documents, such as the Order of the Crisis HQ of

[34] BH novinari: Javni protest Fahrudin Solaku, direktoru Federalne uprave civilne zaštite, <https://bhnovinari.ba/bs/2020/04/30/bh-novinari-javni-protest-fahrudin-solaku-direktoru-federalne-uprave-civilne-zastite/>

[35] Klix.ba ekskluzivno objavljuje: Ovo su mjere zabrane izrečene Novaliću, Solaku i Hodžiću, Klix.ba, 31.5.2020, <https://www.klix.ba/vijesti/bih/klix-ba-ekskluzivno-objavljuje-ovo-su-mjere-zabrane-izrecene-novalicu-solaku-i-hodzicu/200531078>

the FBIH on distribution of 80 respirators to hospitals,^[36] customs declarations,^[37] document-report of the Court of BiH,^[38] documents of the Agency for Medicinal Products and Medical Devices of BiH.^[39] In some cases, it is not clear how the media obtained the documents (this way of reaching sources may indicate the so-called *leak journalism*), but they used the investigative methods and in several stories and over a longer period of time they obtained new information. In this case, Klix.ba was the most active, presenting new data and using methods of investigative journalism, which is still in an embryonic phase in BiH in the mainstream portals in BiH, while other media outlets covered by this sample, i.e. BHRT, RTRS, Nezavisne novine and Dnevni avaz mainly published information and statements of the institutions or the information from the news agencies and other media outlets. Still, in a number of stories, claims were presented without citing their sources; thus, the Klix.ba portal has used the phrase “according to our knowledge, while Dnevni avaz writes “according to our sources in the Government of the FBIH”.^[40] On Klix.ba we have noticed numerous stories where well-known public figures and political parties denounce the case, demand investigation and dismissals, and these stories are often based on a transmission of statement from the social media posts, which are not necessarily relevant for the case itself and for the public interest. Thus, for example, based on a Facebook post, a story was published that Vojin Mijatović, the Vice-President of SDP, pressed criminal report against the Srebrena malina firm and its manager, Fikret Hodžić^[41] (without further

[36] Zašto je Jelka Miličević potpisala odluku o raspodjeli respiratora ako se ranije žalila na nepravilnosti, 30.4.2020, <https://www.klix.ba/vijesti/bih/zasto-je-jelka-milicevic-potpisala-odluku-o-raspodjeli-respiratora-ako-se-ranije-zalila-na-nepravilnosti/200430036>

[37] Ekskluzivno otkrivamo: Respiratori su nabavljeni po cijeni 80 hiljada KM po komadu!, Klix.ba, 28.4.2020, <https://www.klix.ba/vijesti/bih/ekskluzivno-otkrivamo-respiratori-su-nabavljeni-po-cijeni-80-hiljada-km-po-komadu/200428183>

[38] Klix.ba ekskluzivno objavljuje akt suda: Solak i Hodžić se sumnjiče za pranje novca i brojne zloupotrebe, Klix.ba, 11.5.2020, <https://www.klix.ba/vijesti/bih/klix-ba-ekskluzivno-objavljuje-akt-suda-solak-i-hodzic-se-sumnjice-za-pranje-novca-i-brojne-zloupotrebe/200511097>

[39] “Srebrena malina” tek jučer dobila saglasnost Agencije za lijekove, a respiratore su uvezli u subotu, Klix.ba, 28.4.2020. <https://www.klix.ba/vijesti/bih/srebrena-malina-tek-jučer-dobila-saglasnost-agencije-za-lijekove-a-respiratore-su-uvezli-u-subotu/200428149>

[40] Ko je koga prevario: Solak naručio respiratore, Hodžić isporučio ventilatore!?, Dnevni avaz, 30.4.2020, <https://avaz.ba/vijesti/bih/566756/ko-je-koga-prevario-solak-narucio-respiratore-hodzic-ispорucio-ventilatore>

[41] Vojin Mijatović podnio krivičnu prijavu protiv Fikreta Hodžića zbog afere “respiratori”, Klix.ba, 28.4.2020, <https://www.klix.ba/vijesti/bih/vojin-mijatovic-podnio-krivicnu-prijavu-protiv-fikreta-hodzica-zbog-afere-respiratori/200428137>

investigation and a follow up story), just like the comments by Predrag Kojović, the President of the Naša Stranka, he posted on Twitter were also published. ^[42]

5.1.3. Misinformation

The media published several misinformation about the “Respirators” Case, which were exposed by the Raskrnjavanje, the fact-checking platform. Dozens of media, for example, published the story of the Srna news agency that the trial of Fadil Novalić, Fajrudin Solak and Fikret Hodžić would begin on 29 June 2020, although there was no indictment in this case at that moment.^[43] Some portals that re-transmitted this misinformation were: Klix, Radio Sarajevo, Nezavisne, Glas Srpske, TKportal Avaz. live and USK Vijesti. Media published this misinformation because on 29 June 2020 a hearing was scheduled in the “Fadil Novalić et al.” Case, where decision was to be taken to issue a prohibition order against Aleksandar Zolak, Director of the Agency for Medicinal Products and Medical Devices of BiH.^[44]

Another misinformation published by Dnevni avaz was that the procured respirators were actually ventilators. Dnevni avaz published the story that the ordered respirators, were actually ventilators, and the proof for that was that it could be seen on the photos taken at the airport (in English, the words ventilator and respirator are synonymous).^[45] This Avaz story was re-transmitted by numerous other portals, some of them being Dnevnik, Poskok, Hrvatski medijski servis, Hercegovina info, Bljesak, Srednja Bosna, Cazin. net, Grad Busovača, Mreža and others.^[46] These misinformation were the product of the copy-paste journalism, lack of capacities and failure to double-check information in the media outlets, but also ignorance of some terms (to summon a hearing does not mean the start of a trial, ventilators are not the same as respirators, etc.).

[42] Kojović prokomentarisao nabavku respiratora: Klasična interna SDA podjela partijskih zadataka, Klix. ba, 29.4.2020, <https://www.klix.ba/vijesti/bih/kojovic-prokomentarisao-nabavku-respiratora-klasicna-interna-sda-podjela-partijskih-zadataka/200429092>

[43] Nije tačno da sutra počinje suđenje Novaliću, Solaku i Hodžiću, Raskrinkavanje.ba. <https://raskrinkavanje.ba/analiza/nije-tacno-da-sutra-pocinje-sudjenje-novalicu-solaku-i-hodzicu>

[44] Ibid.

[45] Ko je koga prevario: Solak naručio respiratore, Hodžić isporučio ventilatore!?, Dnevni avaz, 30.4.2020, <https://avaz.ba/vijesti/bih/566756/ko-je-koga-prevario-solak-narucio-respiratore-hodzic-istorucio-ventilatore>

[46] Nije tačno da je “Solak naručio respiratore”, a “Hodžić isporučio ventilatore”. Raskrinkavanje.ba <https://raskrinkavanje.ba/analiza/nije-tacno-da-je-solak-narucio-respiratore-a-hodzic-istorucio-ventilatore>

5.1.4. Spinning and placing the case into an ethno-national context

Given the ethno-national divisions in the media sector, in some media outlets this case was also presented in an ethno-national context. Thus, the media such as Stav described the whole case as an attempt of coup d'état and attack on Bosniaks,^[47] while, for example, RTRS, reported that Radovan Kovačević, the spokesman of SNSD, said that everything related to the purchase of respirators in the Republika Srpska was transparent and that, unlike the FBiH, not a single unusable respirator had been purchased in the RS.^[48] Other mainstream media published similar statements by political parties and highly positioned politicians in BiH.

5.1.5. Absence of additional investigation

Although the media outlets obtained numerous relevant data and documents, they still failed to investigate and explain some segments of the whole case, such as, how and why the case was transferred from the Cantonal Prosecutor's Office to the Prosecutor's Office of BiH. Media reports were brief, based on some sources, while there were no comprehensive stories that reconstruct and explain the whole event. In addition to this, all the stories lack basic information about the case that would offer readers a more comprehensive background of the story.

The interviewed journalists mentioned that they did stick to professional standards with their reporting, but also claimed there was a lack of information they received from the Prosecutor's Office of BiH and the Court of BiH, and that, given the relevance of the case and public interest, as well as the need of public to have timely information, in those circumstances it was the duty of journalists to seek information from other, un-official sources.^[49]

5.1.6. Mobile hospital in the RS

The case of mobile hospital in the RS was not given sufficient media space in BiH and public was denied numerous information. By the end of March, media reported that the Government of the Republika Srpska passed the Decision to carry out the

[47] Pokušaj državnog udara: Novalić prebačen u Tužiteljstvo BiH, Stav, 29.5.2020, <https://arhiv.stav.ba/pokusaj-drzavnog-udara-novalic-prebacen-u-tuziteljstvo-bih/>

[48] Kovačević: U Srpskoj sve transparentno, za razliku od FBiH (VIDEO), 11.6.2020, <https://lat.rtrs.tv/vijesti/vijest.php?id=387883>

[49] Semir Hambo, editor, Klix.ba, 4.3.2021; Tijana Kecman, journalist, BHRT, telephone interview, 4.3.2021.

procedure, via the Public Health Institute of Republika Srpska for the procurement of a mobile hospital with 500 hospital beds and 6,000 square meters within 10 days.^[50] The first contingent of equipment for the mobile hospital arrived to the Banja Luka Airport on 3 April, and the public was informed on 29 April that the installation of the hospital had begun.^[51] Given that the purchase was not carried out within the ten days as announced, the media reported that the reason for the delay was that it was necessary to wait for a licence from the Agency for Medicinal Products of BiH, which was denied by the Agency because an official request related to the import of mobile hospital and accompanying equipment had never arrived to the Agency.^[52] After the accusations made by the political opposition in the RS that this was the case of larceny,^[53] and because the complete delivery had not been made, the RS Emergency HQ concluded that the Public Health Institute of the Republika Srpska should demand unilateral cancellation of the contract with the supplier of the mobile hospital, the “Balkan Global” company and the refunding 4,2 million BAM.^[54] Media published that the “Balkan Global” company re-funded two million BAM to Public Health Institute of the Republika Srpska, once the contract on the purchase of mobile hospital in the RS was cancelled, and subsequently the total amount.^[55] Public Prosecutor’s Office of the RS has formed the case related to the procurement of the mobile hospital, but the results of this investigation are still unknown to the public. The media have informed that the police officers of the Directorate for Organised and Serious Crime of the Ministry of Interior of the RS, upon the request made by the Special Unit for Combatting Corruption, Organised

[50] Vlada Srpske donijela odluku o nabavci pokretne bolnice, Nezavisne novine, 21.3.2020. <https://www.nezavisne.com/novosti/drustvo/Vlada-Srpske-donijela-odluku-o-nabavci-pokretne-bolnice/590037>

[51] Pokretna bolnica i dalje samo šator, Instinomjer, 29.5.2020, <https://istinomjer.ba/pokretna-bolnica-i-dalje-samo-sator/>

[52] Vladimir Kovačević, Oprema za pokretnu bolnicu još uvijek u carinskim procedurama, Detektor, 27.5.2020, <https://detektor.ba/2020/05/27/oprema-za-pokretnu-bolnicu-jos-uvijek-u-carinskim-procedurama/>

[53] Šta je kupila Vlada RS-a? Nebojša Vukanović tvrdi da su ukradena 4 miliona KM na šatoru za svadbe, Klix.ba, 24.5.2020, <https://www.klix.ba/vijesti/bih/sta-je-kupila-vlada-rs-a-nebojsa-vukanovic-tvrdi-da-su-ukradena-4-miliona-km-na-satoru-za-svadbe/200524098>

[54] Traži se raskid ugovora o kupovini pokretne bolnice i povrat 4,2 miliona, Nezavisne novine, 29.5.2020, <https://www.nezavisne.com/novosti/bih/Trazi-se-raskid-ugovora-o-kupovini-pokretne-bolnice-i-povrat-42-miliona-KM/601747>

[55] Zeljković: “Balkan Global” uplatio preostali novac za mobilnu bolnicu, Nezavisne novine, 19.6.2020, <https://www.nezavisne.com/novosti/drustvo/Zeljkovic-Balkan-Global-uplatio-preostali-novac-za-mobilnu-bolnicu/605551>

Crime and the Most Serious Forms of Economic Crime of the Public Prosecutor's Office of the RS, have undertaken investigative actions relating to the procurement case, but the Prosecutor has not made his decision yet.^[56]

5.1.7. Insufficient research and fragmented information

In the case of the Mobile hospital, the mainstream media have failed to make the effort to investigate this procedure (between March and October 2020), as they did in the Ventilators case. Only a few of the media outlets, like the Detektor.ba, e-Trafika, Gerila.info and Capital.ba made an attempt to obtain additional information, while the others were satisfied to convey the statements made by the Government of Republika Srpska, and the accusations by the opposition parties in short articles, and without any further research. In late May, the Detektor.ba published that some of the medical equipment that required, among other things, a permit by the Agency, was sitting at the custom's office on the airport, and that the clearing procedure had not yet been started; in July 2020, the e-Trafika published that the Mobile Hospital was imported without the permit, and that the information on the customs duties and taxes were not aligned^[57]. The Detektor.ba also tried to investigate why the state level prosecution had not taken over the case "Mobile Hospital" as they had the "Ventilators" case, as this was not clear to the general public.^[58]

Most of the media have failed to investigate the shady parts of the story: why had not all parts of the hospital been delivered,^[59] at what stage was prosecution of the case, and how did it happen that the hospital was sold to Turkey for 5 million EUR, what is a significantly higher amount than the one in RS.^[60] Investigation and

[56] ANALIZA: Zašto Državno tužilaštvo nije preuzelo predmet "Pokretne bolnice" poput "Respiratora", 14.10.2020, <https://detektor.ba/2020/10/14/zasto-drzavno-tuzilastvo-nije-preuzelo-predmet-pokretne-bolnice-poput-respiratora/>

[57] Mobilna bolnica uvezena bez dozvole: Podaci o carinjenju i porezima se ne poklapaju, 20.7.2020, e-traffic <https://www.etratika.net/drustvo/75757/mobilna-bolnica-uvezena-bez-dozvole-podaci-o-carinjenju-i-porezima-se-ne-poklapaju/>

[58] ANALIZA: Zašto Državno tužilaštvo nije preuzelo predmet "Pokretne bolnice" poput "Respiratora", 14.10.2020. <https://detektor.ba/2020/10/14/zasto-drzavno-tuzilastvo-nije-preuzelo-predmet-pokretne-bolnice-poput-respiratora/>

[59] Republika Srpska: Afera nabavke mobilne bolnice, BHRT, 31.1.2021, <https://bhrt.ba/republika-srpska-afere-nabavke-mobilne-bolnice/>

[60] Ristić potvrdio: Pokretna bolnica prodana u Tursku za pet miliona evra, 15.7.2020, Nezavisne novine, <https://www.nezavisne.com/novosti/drustvo/Ristic-potvrdio-Pokretna-bolnica-prodata-u-Tursku-za-pet-miliona-evra/610655>

criticism was lacking, particularly at RTRS, who did not even broadcast the criticism by the opposition. Moreover, noteworthy was the absence of any statement by the Prosecution Office of Republika Srpska and RS authorities that had implemented the procurement.

5.1.8. Misinformation

This case has not been a part of analysis by fact-checking platforms; however, some of the published data suggest that there are some inconsistencies. For example, the media published that not all equipment had arrived to RS because they were waiting for the Agency for Medicinal Products of BiH to issue the permit; however, at a later date, the Agency stated that “official request for import of the mobile hospital and accompanying equipment has not been received by the Agency.” It is not clear whether the request had ever been sent, and why the permit had never been issued. There have been some speculations in the public that the hospital cost 3.65 million BAM, but was paid 4.2 million BAM^[61]; President of the Government of RS, Radovan Višković, explained the difference as the amount of VAT paid. He did not explain how the VAT was refunded.

5.1.9. Sources

Sources in the media coverage on the mobile hospital in RS were one-sided, and the media mostly conveyed the statements by the government or the opposition in RS. Some of the sources were: Branislav Zeljković, Director of the Public Health Institute of RS; Member of the Presidency of BiH Milorad Dodik; Slaven Ristić, owner of the “Global Balkan” and “Tehnički remont Bratunac” – the company that was the mediator in the procurement of the mobile hospital; Aleksandar Zolak, Director of the Agency for Medical Products and Medical Devices of BiH.

5.2. HJPC Sessions

The BiH media have been relaying information on HJPC sessions only sporadically, and in most cases only to convey the announcements by the Council. The High Judicial and Prosecutorial Council publishes the agenda of their sessions on the web page pravosude.ba, as well as a number of records and reports from the sessions; in addition, during the pandemic, some sessions were held by phone or

[61] Višković: Avionski prevoz bolnice plaćen zbog straha da će biti zaplijenjena, Nezavisne novine, 27.4.2020, <https://www.nezavisne.com/novosti/drustvo/Viskovic-Avionski-prevoz-mobilne-bolnice-placen-zbog-straha-da-ce-biti-zapljenjena/596393>

electronically.^[62] In the interviews from the first part of the survey, the journalists said that the HJPC had changed their communication with the media in recent years and opened their sessions and disciplinary proceedings to public; however, during the pandemic, the HJPC sessions held by phone or online could not have been followed, and such decisions were questioned in public.^[63] After the relaxation of measures in June 2020, sessions continued to be held in the premises of the institutions, and the journalists were able to follow them from a separate room by a video link, after having sent a request to that effect, and with mandatory compliance with epidemiological measures and while maintaining physical distance. The HJPC informed the public on their decisions by issuing press releases, or posting on the web page of the institution, and on the Facebook social network; in addition, during the pandemic, the HJPC responded to the media questions by electronic mail (as had been the practice even before the pandemic). Most of the interviews were also done in writing, by phone or via appropriate internet platforms. The published announcements concerned, among other things, the conclusions adopted at sessions held by phone, and sessions where decisions were made that proceeding with criminal cases against health of population was an absolute priority for all judicial institutions in BiH, the decision to start initiative to adopt the intervening Regulation on Temporary Measures in judicial bodies in BiH, the initiative regarding online hearings, and conclusion regarding the necessity to enhance monitoring of all public procurement during the pandemic.

Overview of media reports on HJPC sessions suggest that the media typically only convey the announcements and statements, without any additional verification or investigation, and that the media reports typically focus on specific individuals in the HJPC, like Milan Tegeltija.^[64] Some of the media, like the BHRT, Klix.ba and Dnevni avaz, have published information on the work of the HJPC and on some specific sessions, but they have done it only sporadically, while other media outlets, like RTRS and Nezavisne, have rarely done so. Media reports on the HJPC sessions are mostly based on the press releases, agendas prepared for HJPC sessions, or statements given by individuals.^[65] Dnevni avaz, for example, publishes information

[62] See: <https://vstv.pravosudje.ba/>

[63] Admir Muslimović, 2020, *Novinarima onemogućeno praćenje elektronske sjednice VSTV-a*, Detektor <https://detektor.ba/2020/11/18/novinarima-onemoguceno-pracenje-elektronske-sjednice-vstv-a/>

[64] Tegeltija na hitnoj sjednici VSTV-a: Spreman sam ići na poligraf, nezakonito me prisluškuju, Klix.ba, 3.12.2020, <https://www.klix.ba/vijesti/bih/tegeltija-na-hitnoj-sjednici-vstv-a-spreman-sam-ici-na-poligraf-nezakonito-me-prisluskuju/201203037>

[65] Sjednica VSTV-a BiH: Imenovanje glavnog federalnog tužitelja u fokusu, 22.10.2020, <https://avaz.ba/vijesti/bih/603765/sjednica-vstv-a-bih-imenovanje-glavnog-federalnog-tuzitelja-u-fokusu>

on what should be on the agenda of the HJPC session, without any follow-up articles, while the Klix.ba often passes on the releases.^[66] What appears to be lacking is the analytical approach to media coverage and additional research into individual decisions. The media have conveyed the initiative by the HJPC to amend the Code of Criminal Procedure in order to enable online trials in urgent cases that cannot be postponed and that involve the health risk of the participants in the procedure,^[67] but most of the media omitted to provide any information about this procedure, or any broader discussion on the matter. Often, the media say what would be in the agenda of the HJPC, without any additional or follow-up information on the session. For example, the media reported the plan to analyse the work processes of recording the costs of criminal proceedings against recommendation by the Audit Office of BiH, and the information on audio recording of all actions and hearings during criminal procedures before courts, without providing any subsequent information on these activities.^[68] Continual reporting on the work of judiciary, or provision of expert explanation of legal terms and judicial procedures or of the background information relevant to the cases would provide for a better public understanding of the workings of the system of justice.

The interviewed journalists still said that they were following the sessions which they believed were interesting for the public, particularly if they were related to certain political affairs, but that sometimes, due to lack of staff, they chose to simply convey the announcements that are often cursory and unclear to the general public.^[69]

5.3. Decisions by the Constitutional Court

The Constitutional Court has announced a number of rulings regarding the measures adopted by BiH authorities for the purpose of preventing spread of the Covid-19. In April 2020, the Constitutional Court ruled that the challenged instructions by the FBiH Civil Protection prohibiting freedom of movement of persons under 18 and over 65 in the Federation of Bosnia and Herzegovina

[66] VSTV imenovao nosioce pravosudnih funkcija, Klix.ba, 16.9.2020, <https://www.klix.ba/vijesti/bih/vstv-imenovao-nosioce-pravosudnih-funkcija/200916097>

[67] VSTV BiH: Potrebne hitne dopune zakona o krivičnom postupku za realizaciju online suđenja, Klix.ba, 3.4.2020, <https://www.klix.ba/vijesti/bih/vstv-bih-potrebne-hitne-dopune-zakona-o-krivicnom-postupku-za-realizaciju-online-sudjenja/200403139>

[68] Sanela Gorušanić-Butigan izabrana za potpredsjednicu VSTV-a, Klix.ba, 24.6.2020, <https://www.klix.ba/vijesti/bih/sanela-gorusanovic-butigan-izabrana-za-potpredsedicu-vstv-a/200624040>

[69] Tijana Kecman, 4.3.2020, Semir Hambo, 4.3.2020.

constituted violation of the freedom of movement guaranteed under Article II/3 of the Constitution of Bosnia and Herzegovina.^[70] The Government of FBiH and the FBiH Civil Protection Headquarters were instructed to align the Instruction by the FBiH Civil Protection Headquarters with the standards of the Constitution of BiH and European Convention within five days from the date of receiving this decision. In December, the Constitutional Court of Bosnia and Herzegovina held a session and passed a ruling that the measure of restriction of movement and mandatory wearing of face masks during the COVID-19 pandemic constituted violation of basic human rights. In this case, the Court still concluded that the second part of the appellation requesting cancellation of the challenged instructions was unfounded because it would, in view of the clear public interest to introduce the necessary measures to protect population against pandemic, cause negative consequences before the legislative and the highest executive power have had time to take measures from the scope of their authorities and obligations.^[71]

Information on these decisions were mostly conveyed by the media participating in this survey without any additional analyses or explanation.^[72] In both cases, the media conveyed these press releases without any expert opinion or follow-up research.^[73] The Klix.ba announced that the Constitutional Court of BiH had passed the decision that the measures restricting movement and imposing wearing of the face masks during the COVID-19 pandemic were unconstitutional, but it had not terminated them, and instead set a deadline for the Parliament and the Government of FBiH to take the required action to adjust the instructions.^[74] Information on what activities were required was not provided, and neither were the follow-up reports on this case. Media reports on this issue were extremely important because

[70] 106th Sesion of the Grand Chamber, <http://www.ccbh.ba/novosti/sjednice/?id=8df4d385-2c8c-494f-88c0-588d1ce062a2&lang=bs>. Vidjeti i http://www.ustavnisud.ba/dokumenti/AP-1217-20-1234093.pdf?utm_source=Klix.ba&utm_medium=Clanak

[71] Decision on Admissibility and Merit, the Constitutional Court, <http://www.ustavnisud.ba/dokumenti/AP-3683-20-1262390.pdf>

[72] Ustavni sud BiH: Zabranom kretanja za starije od 65 i mlađe od 18 godina prekršena su ljudska prava, 22.4.2020, <https://www.klix.ba/vijesti/bih/ustavni-sud-bih-zabranom-kretanja-za-starije-od-65-i-mladje-od-18-godina-prekršena-su-ljudska-prava/200422025>

[73] Ustavni sud BiH: Mjere o nošenju maski i zabrani kretanja predstavljaju kršenje ljudskih prava. BHRT. 22.12.2020, <https://bhrt.ba/ustavni-sud-bih-mjere-o-nosenju-maski-i-zabrani-kretanja-predstavljaju-kršenje-ljudskih-prava/>

[74] Ustavni sud ipak nije ukinuo sporne mjere, vlastima dat rok mjesec da ih prilagode, Klix.ba, 22.12.2020, <https://www.klix.ba/vijesti/bih/ustavni-sud-ipak-nije-ukinuo-sporne-mjere-vlastima-dat-rok-mjesec-da-ih-prilagode/201222144>;

only partial reporting of information, without emphasising that the Constitutional Court concluded that the part of the appeal requiring cancellation of the challenged instruction were unfounded in view of the clear public interest, might have influenced people's behaviour and encouraged them to not comply with the prescribed measures.

The interviewed journalists said that their media houses had taken issue with the whole case, but they also pointed at the shortcomings in communication with the Constitutional Court, what had often forced them to seek information from other sources, and was too restricted, written in legal lingo, often not easily understandable to people.^[75]

5.4. Media reports on court cases

As stated in the first part of the survey, the court cases with respect to which the media asked most questions in 2020 were the cases related to the pandemic (e.g. Rajo Kikić and Fadil Novalić at the Court of BiH)^[76], terrorism cases and offenses related to terrorism (Court of BiH), various criminal offenses and war crimes. During the pandemic, the restricted work and postponed hearings resulted with fewer information the institutions had to share with the public, so the media were less interested in judicial cases. One of the cases widely reported in the media concerns the verdict pronounced to the border police officer Rajo Kikić for the criminal offense of accepting a gift or other form of benefit, who had allowed persons coming from Austria, from an area with high level of coronavirus, to illegally enter BiH, without health check or decision on isolation.^[77] From March to July 2020, the media reported on this case solely by conveying the announcements by the Prosecution of BiH and Court of BiH, and they published information on the indictment being brought by the Prosecution of BiH, ordering detention and the ruling by the Court of BiH. The media also reported the statements by the Prosecution BiH that by committing the offense, the suspect had exposed health and lives of citizens of BiH to great risk.^[78] In this case, the media mostly failed to use the additional information, apart from what they had received from the institutions of justice.

[75] Tijana Kecman, 4.3.2020, Semir Hambo, 4.3.2020.

[76] The Court of BiH, written answer, 9.9.2020.

[77] Granični policajac BiH zbog 20 eura mita osuđen na 5 mjeseci zatvora, Klix.ba, <https://www.klix.ba/vijesti/bih/granicni-policajac-bih-zbog-20-eura-mita-osudjen-na-5-mjeseci-zatvora/200713052>

[78] Predložen pritvor osumnjičenom za puštanje putnika mimo procedure, <https://www.klix.ba/vijesti/bih/predlozen-pritvor-granicnom-policajcu-osumnjicenom-za-pustanje-putnika-mimo-procedura/200319074>

5.5. Media reports on the cases of murders, physical and sexual violence

During the pandemic, the media continued reporting on cases of murders, physical and sexual violence, although the number of media reports covering topics other than COVID-19 was lower than usual in the first months of the pandemic. The reports on murders, physical and sexual violence are mostly reported in the “black chronicle” section of the media, which are, according to the findings of the survey, the most read sections in the online media in BiH.^[79] The analyses have pointed at a number of problematic aspects in reporting on cases of murder, physical or sexual violence, particularly when they involve sensitive issues like gender based violence or reporting on marginalized social groups, like migrants and refugees.^[80] The problems with reporting on these cases include: sensationalist headings, brutal details of violence and photographs showing scenes of violence, disclosure of the identity of the victim and the perpetrator, disclosure of private details that are not in the interest of the public, failure to respect the presumption of innocence, unverified sources, reliance on unofficial sources, and reporting on specific cases and lack of thematic approach.

During the pandemic, the media reported on arrests, indictments, detention and trials in cases of murders, physical and sexual violence. One such example is the case of Sadiković, who was accused of rape, illegal deprivation of freedom and infliction of light bodily injury. Media have published information on the arrest, detention, ordering detention, bringing indictment by the Cantonal Prosecution of Sarajevo, and confirmation of the indictment by the Cantonal Court in Sarajevo over the period from January to May 2020.^[81] The tabloid media like the Dnevni

[79] Belma Buljubašić, Crna hronika: Najčitaniji sadržaj”, media.ba, 7.2.2020, <https://media.ba/bs/magazin-novinarstvo/crna-hronika-najcitaniiji-sadrzaj-koji-se-prati-poput-telenovele>

[80] Elvira Jukić Mujkić, 2016, Research on media reporting on gender-based violence against women in Bosnia and Herzegovina, UN Women, <https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/country/bosnia/media%20reporting%20on%20gbv-eng-final.pdf?la=en&vs=3803>; Vanja Stokić, Predrasude o izbjeglicama i migrantima: Stanje na terenu i policija demantuje medije, media.ba, 26.11.2020, <https://media.ba/bs/magazin-novinarstvo/predrasude-o-izbjeglicama-i-migrantima-stanje-na-terenu-i-policija-demantuju>

[81] Denis Sadiković tri dana držao djevojku zarobljenu u stanu, Avaz.ba, <https://avaz.ba/vijesti/crna-hronika/540731/uhapsen-denis-sadikovic-tri-dana-drzao-djevojku-zarobljenu-u-stanu>; Denis Sadiković sumnjiči se da je silovao djevojku: Šta kaže advokat Mehmedbašić, 9.1. 2020, Dnevni avaz, <https://avaz.ba/vijesti/crna-hronika/540770/denis-sadikovic-sumnjiči-se-da-je-silovao-djevojku-sta-kaze-advokat-mehmedbasic>

avaz reported a number of brutal details regarding the physical violence and private details about both the victim and the perpetrator the disclosure of which had not been in the public interest, and which they acquired from unofficial sources.^[82] The media have not disclosed the victim's identity, but the identity confidentiality was compromised as they had published the name, surname and photograph of the suspect with whom the victim had a relationship. Other media, like the Klix.ba, published only the official information, that the indictment was confirmed, but that due to the sensitivity of the case, more details remained unknown.^[83] This way of reporting about sexual and physical violence, without any thematic approach and any explanation of the mechanisms of assistance, combined with disclosure of private details and details of the violent act, is not in the interest of public, and can additionally stigmatise the victim.

There were also the reports on migrants and refugees in BiH, especially in connection with the crimes like murders, robberies, thefts, damaging property of another, grand theft, possession of drugs, etc. One of the most closely followed cases was the case of murder of a BiH national in Otes, near Ilidža, Sarajevo, when three persons had been injured and one died, and the Ministry of Interior of Sarajevo Canton found a connection with migrants. When reporting on the protests of citizens after the murder, the media openly said that the murder had been committed by the migrants, and they also used sensational terms like "horrendous murder".^[84] The media also published the photograph and the name of the person for whom the notice had been issued, and later also of the arrest (the face was blurred), although the criminal investigation found that the arrested individual had nothing to do with the murder.^[85] The sources they had used included the Police Administration and

[82] Šta je Denis Sadiković, osumnjičen za silovanje, kazao inspektorima: Naš odnos je neobičan, vučem je za kosu, 10.1.2020, Dnevni avaz, <https://avaz.ba/vijesti/crna-hronika/541100/sta-je-denis-sadikovic-osumnjicen-za-silovanje-kazao-inspektorima-nas-odnos-je-neobican-vucem-je-za-kosu>; Detalji optužnice za silovanje: Želiš li da nas raznesem bombom? 30.3.2020, Dnevni avaz, <https://avaz.ba/vijesti/crna-hronika/558649/detalji-optuznice-za-silovanje-zelis-li-da-nas-raznesem-bombom>

[83] Potvrđena optužnica za Denisa Sadikovića zbog silovanja, Klix.ba, <https://www.klix.ba/vijesti/crna-hronika/potvrđena-optuznica-protiv-denisa-sadikovica-zbog-silovanja-i-protupravnog-lisenja-slobode/200330080>

[84] Ogorčeni mještani Ilidže okupili su se danas u Maloj aleji kako bi osudili sinoćnje ubistvo u Otesu, koje su počinili migranti, Klix.ba, <https://www.klix.ba/vijesti/bih/mjestani-ilidze-ogorceni-zbog-migranata-mi-brinemo-o-njima-a-oni-nam-vracaju-ubistvom/201118073>

[85] Migrant osumnjičen za učešće u ubistvu na Otesu ranije osuđivan uvjetno, Klix.ba, <https://www.klix.ba/vijesti/svijet/migrant-osumnjicen-za-ucesce-u-ubistvu-na-otesu-ranije-osudjivan>

Prosecution of Sarajevo Canton, who had given them the information on the number of indictments in 2020 against migrants and refugees, and the number of verdicts.^[86] This way of reporting, that places the emphasis on the origin of the suspect and that, according to analyses to date, often portrays the migrants and refugees as perpetrators and dangerous persons, contributes to additional stigmatisation of this population, and may influence the attitude of citizens towards them.^[87]

[-uvjetno/201118165](https://www.klix.ba/vijesti/crna-hronika/pogledajte-fotografije-hapsenja-migranta-iz-maroka-na-iliidzi/201119094); Pogledajte fotografije hapšenja migranta iz Maroka na Ilidži, Klix.ba, <https://www.klix.ba/vijesti/crna-hronika/pogledajte-fotografije-hapsenja-migranta-iz-maroka-na-iliidzi/201119094>

[86] The spokesperson of the Prosecutor's Office of the Canton of Sarajevo stated that, as of December 2020, there were 9 indictments, while seven were in the investigation phase.

[87] Rea Adilagić, R, 2019, Od viktimizacije do demonizacije: Gdje je istina? Istraživanje o načinima izvještavanja medija o migrantima i izbjeglicama, Udruženje BH novinari, https://bhnovinari.ba/wp-content/uploads/2019/09/od_viktimizacije_do_demonizacije_gdje_je_istina_BHN_feb_2019.pdf; Anida Sokol, 2020, Hate Narratives in the Media and User generated content, SEENPM, Mediacentar Sarajevo, <https://seenpm.org/wp-content/uploads/2020/12/Resilience-research-publication-2-BiH-English.pdf>.

6. Conclusions and recommendations

During the COVID-19 pandemic, the media continued reporting on court cases, although in a lesser extent than usual. Some of the reasons for the reduced scope of media reporting on the cases included postponed hearings, restricted work of the judicial institutions, as well as the difficult communication with the judicial institutions. However, in most cases, the media reports on court cases and work of the system of justice was fair, but often fragmented, based on a single source or announcement, and lacking additional insight into individual cases or different aspects of the cases, or the background. In cases involving high ranking officials, like the Ventilators case, where the public pressured the media to provide them regular and timely information, the media reporting was regular, but mostly fragmented, based on one or a couple of sources and new information acquired by the media. There was not enough context and background information to reconstruct the whole case, while in some other cases, like the HJPC sessions, the reports were lacking continuity, and additional investigation. When reporting on murders and rapes in the black chronicles, some ethical principles were breached, like the right to privacy, and brutal details of violence were shared. In some cases, the media reported some misinformation, such was the news shared by the Srna agency that trial to Fadil Novalić, Fahrudin Solak and Fikret Hodžić in the Ventilators case had started in late June, although there had been no indictment at that time.^[88] Such misinformation is the result of copy-past journalism, lack of capacities and fact checking by the media, but also the lack of understanding of certain legal terms and procedures.

During the COVID-19 pandemic, the media worked in difficult circumstances, with insufficient capacities, with higher workload, and with the additional stress due to fear of contagion. Still, as shown in this analysis, the media in some cases exhibited lack of sensitivity in reporting on some social groups, like migrants and refugees, lack of expertise when reporting on special topics, like justice system, which requires certain level of understanding of legal procedures and terminology, but some of the media also demonstrated lack of integrity in cases of reporting on sexual violence. However, most of the reports were fair, but superficial, and only some less popular media had contributed to better public information and made some more in-depth and new information.

[88] Nije tačno da sutra počinje suđenje Novaliću, Solaku i Hodžiću, Raskrinkavanje.ba, <https://raskrinkavanje.ba/analiza/nije-tacno-da-sutra-pocinje-sudjenje-novalicu-solaku-i-hodzicu>

Recommendations:

- » Ensure compliance with the codes of ethics and professional codes of the Council for Press and Online Media and Regulatory Agency for Communications, especially the codes on reporting on judicial cases (see Section 2);
- » Pay special attention to covering cases that concern marginalised social groups and cases of murder, violence and rape. Such cases need to be covered thematically, and not only through selected cases, and without sensationalism, without sharing private details and details of violence, disclosing identity of the victim and perpetrator (except when such disclosure is in public interest), photographs of violence and without additional stigmatisation of victim or perpetrator, while respecting presumption of innocence.
- » For the purpose of better public information, it is necessary to present information on the context and course of the cases, not only the new information the media got hold of.
- » Besides the announcements, also make analyses and follow-ups (e.g. not only share information that a session was announced, but also what was concluded at the session, and what happened in connection with it);
- » Consult several sources on a specific case and avoid one-sided reports and reports based on a single source (e.g. government or opposition); verify information with several sources and regularly contact judicial institutions, and consult experts and seek additional opinions;
- » Work to provide additional education to the media on how to report on judiciary and court cases, on the role and competencies of the judicial institutions, legal terminology, ethical principles, reporting on the minorities and marginalised groups, etc.
- » The institutions of justice should improve their communication practices (see recommendations given in the first report), issue announcements with more substance, which would include more contextual information as well as clarification of the legal terms and judicial procedures, and encourage reporting continuity by providing more regular announcements.

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