



Enhancing Institutional Capacities on Freedom of Expression and Information in Bosnia and Herzegovina (EFEx)

**Council of Europe Training Module on Human Rights Monitoring and Reporting,
Freedom of Expression and Access to information**

DC-FoE_2024_16
30 September 2024

The role and responsibility of the Council of Europe in protecting freedom of expression has been underlined in the "Reykjavik Principles for Democracy", the [Reykjavík Declaration – United around our values](#).

Funded through the voluntary contribution of the Swedish International Development Cooperation Agency (Sida), the Project ["Enhancing Institutional Capacities on Freedom of Expression and Information in Bosnia and Herzegovina" \(EFEx\)](#) aims to enhance the protection of FoE and FoI in BiH by making a contribution towards human-rights based legal framework and practices, through enhancing the capacities of key duty bearers (the Ministry of Human Rights and Refugees - MHRR - and other institutions with responsibilities in this area) and right-holders representatives (media actors and CSOs), to integrate a human rights-based approach in their work.

The action builds on past and current Council of Europe (CoE) activities in the area of Freedom of Access to Information/Media and Freedom of Expression in BiH, including a pilot project funded by SIDA and implemented in 2019/2020.

The objective of this project will be achieved through three inter-connected components focusing on:

- (1) freedom of expression;
- (2) freedom of access to information and
- (3) capacity building of Ministry of Human Rights and Refugees

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text. The source text must always be acknowledged as follows "© Council of Europe, year of the publication". All other requests concerning the reproduction/ translation of all or part of the document, should be addressed to the Directorate of Communications, Council of Europe (F-67075 Strasbourg Cedex or publishing@coe.int).

The opinions expressed in this work are the responsibility of the author(s) and do not necessarily reflect the official policy of the Council of Europe.

Prepared within the Project Enhancing Institutional Capacities on Freedom of Expression and Information in Bosnia and Herzegovina (EFEx) by Tetyana Oleksiyuk, Svjetlana Milisic-Velickovski and Henry Lovat, Council of Europe Consultants.

www.coe.int/freedomofexpression

TABLE OF CONTENTS

I. Introduction and overview	4
II. Sessions	6
Session 1: Hate Speech	6
Session 2: Media Freedom and Regulation	12
Session 3: Best practices in international human rights monitoring and reporting	17
Session 4: Defamation and SLAPPS	18
Session 5: Safety and Protection of Journalists	24
Session 6: Transparency and Access to Government Information.....	30
Session 7: Freedom of Expression Online	37
Session 8: Access to Information for Information Officers	41
Session 9: Freedom of Information and Right to Privacy	47
III. Reference materials	53

I. Introduction and overview

Focus

Training is a central element of the activities of the Working Group on monitoring and reporting on freedom of expression and freedom of information in Bosnia and Herzegovina. Reflecting the focus of the Working Group, the following training is designed as an initial proposal for the planning of the activities during 2024-25.

Training objective

The training module is designed to mainstream best practices in monitoring and reporting in freedom of expression and access to information and specifically in Bosnia and Herzegovina. Moreover, the programme aims to provide the basis for sustainable, ongoing training and cross-sector professional development regarding these issues in BiH.

Target audience

The audience includes mainly the members of the Working Group. Other stakeholders identified by the Working Group, MHRR and/or MoJ are also likely to attend the training.

Structure

The training module is covering the following topics:

1. Best practices in human rights monitoring and reporting substantive,
2. Freedom of Expression (FoE)
3. Access to Information (AtI).

Sessions

The training module is composed of nine sessions. Each session is planned for one or two days, with a focus on general and specialised topics delivered by national and international experts and practitioners. The training sessions including sub-topics, accompanying activities, possible materials and modes of delivery are set out below indicatively. Moreover, trainers have not been selected yet.

- Session 1 - Q2 2024: FoE (1): Hate Speech
- Session 2 - Q2 2024: FoE (2): Media Freedom and Regulation
- Session 3 - Q3 2024: Best practices in international human rights monitoring and reporting
- Session 4 - Q4 2024 FoE (3): Defamation and SLAPPs
- Session 5 - Q1 2025 FoE (4): Safety and Protection of Journalists
- Session 6 - Q1 2025: AtI (1) Transparency and Access to Government Information
- Session 7 - Q2 2025: FoE (5): Freedom of Expression Online
- Session 8 - Q2 2025: AtI (2) Access to Information for Information Officers
- Session 9 - Q3 2025: AtI (3) Freedom of Information and Right to Privacy

Apart from the training on Freedom of Expression Online, where alignment with other CoE project outputs is to be considered, all sessions will take place in person. All training sessions should be highly interactive, promoting the engagement and active learning of the participants. Sessions regarding substantive monitoring and reporting elements should include an extensive practical aspect facilitating the participants work for the management and development of substantive responses to relevant international recommendations (as set out in the “Schematic Paper: Mapping BiH’s Substantive FoE and FoI Obligations”). These exercises should be prepared and circulated in advance of each session to participants, to allow preparation and maximise learning from these exercises.

For all in-person sessions, to the extent possible, it is recommended that lead trainers prepare pre- and post-training multiple choice assessment exercises for participants, to evaluate the level of knowledge and understanding before and after the training sessions.

The aim is to convene training sessions regularly every two months and, if possible, in plenary for the Working Group members and other attendants.

The training sessions on certain topics/areas aim to inform, complement, and leverage relevant outputs of the EFEx project, other trainings and activities, such as ongoing and upcoming domestic and international reporting schedules. For this reason, for example, the third training session is scheduled for September 2024, by when the draft of the Comparative analysis (study) on good monitoring and reporting practices on freedom of expression and information of other European countries will be prepared. The overall time frame and order of sessions will be managed and determined by the Council of Europe in coordination with local partners.

II. Sessions

Session 1: Hate Speech

1. **Learning objectives:** At the end of this session, the participants will be able to: understand the concept, difference and links between hate speech, freedom of expression and non-discrimination; demonstrate knowledge of the international legal framework on hate speech, including the standards set by the case-law of the ECtHR; identify effective responses to hate speech; assess the conformity of the national legislation and practices with international standards; analyse international recommendations in respect of hate speech and consider elements for adequate responses.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, scenarios and case-studies, group exercises, facilitated discussion, resource person.
4. **Prerequisite:** Online Course on Hate Speech for Civil servants developed in the framework of the Project Horizontal Facility – Joint EU/CoE Action HF23 – “Towards an equal, inclusive and tolerant Bosnia and Herzegovina”
5. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
6. **Additional reading:** To be suggested by the trainer/s.
7. **Evaluation:** To extent practicable, trainer/s to prepare pre- and post-training questionnaires (e.g. multiple-choice format) to allow assessment of levels of knowledge and understanding of participants at session outset and close.
8. **Duration / division of timing:** The agenda and timing of the session will be for the trainers engaged to determine. This is likely to be informed, however, by the extent of the material/topics to be covered in each section.
9. **Content** (indicative organisation of topics/elements):

DAY 1

Part 1: Introduction to Hate Speech

Topics

- Notion of hate speech: definitions in various legal instruments and case-law
- Links between hate speech and discrimination
- Protected characteristics/grounds
- Consequences of hate speech
- Hate speech and freedom of expression

- Obligation of the state to prevent and sanction hate speech
- Importance of effective responses to hate speech and the risks of misuse of hate speech regulations

The trainer should provide a brief overview of the suggested topics, starting from the assumption that all participants have attended the online Course on Hate speech for Civil Servants. Considering the participants' knowledge acquired in that course, the topics in this part of the training should be addressed in an interactive and dynamic way, without lectures, allowing participants to ask for clarifications, discuss controversial issues and share experiences.

Real life cases on hate speech (online, in the print media, by public figures etc.) may be used for short exercises and discussion.

Positive obligations of the State to prevent and sanction hate speech might be best described by the case law of the ECtHR (such as [Beizaras and Levickas v. Lithuania](#), Application no. 41288/15, 14 January 2020; [Király and Dömötör v. Hungary](#), Application no. 10851/13, 17 January 2017).

Court cases and other examples from Bosnia and Herzegovina (e.g. *Prosecution of Bosnia and Herzegovina against Fatmir Alispahić*, Court of Bosnia and Herzegovina no. S1 2 K 041128 21 K and S1 2 K 041128 22 KŽ) may be used to further discuss the protected characteristics.

Reference materials

- [CoE Recommendation R \(97\) 20 of the Committee of Ministers to member States on "hate speech"](#)
- [CoE Recommendation CM/Rec \(2022\)16 of the Committee of Ministers to member States on combating hate speech](#)
- [ECRI General Policy Recommendation no 15 on combatting hate speech](#)
- [International Covenant on Civil and Political Rights](#)
- [UN Human Rights Committee General Comment no. 34 on Article 19](#)
- [International Convention on the Elimination of All Forms of Racial Discrimination](#)
- ECtHR judgments: [Gunduz v. Turkey](#), [Dmitriyevskiy v. Russia](#)

Part 2: International Legal Standards

Topics

- Relationship between the right to freedom of expression and the prohibition of hate speech under the international law (ICCPR, ICERD, EU Charter for Fundamental Rights, ECHR)
 - Protection of human dignity, the right to equality and non-discrimination
 - Justified limitation of the right to freedom of expression or exclusion from protection
- Freedom of expression, offensive speech and hate speech under the ECHR (Article 10 (2), Article 17 ECHR)

- Hate speech and rights of others
- Hate speech and public order
- Special categories of speech
- Relevant factors in assessing hate speech (Rabat Plan of Action, ECtHR case-law, ECRI General Policy Recommendation no 15, CoE Recommendation (2022)16)
- Hate speech online

The trainer provides an overview of the international legal and institutional aspects of the topic.

Examples from the case law of the ECtHR (such as [Pavel Ivanov v. Russia](#), Application no. 35222/04, judgment of 20 February 2007; [Seurot v. France](#) (dec.), Application no. 35222/04, judgment of 20 February 2007; [Smajić v. Bosnia and Herzegovina](#) (dec.), Application no. 48657/16, judgment of 16 January 2018; [Vejdeland and others v. Sweden](#), [Savva Terentyev v. Russia](#), [Mariya Alekhina and others v. Russia](#) (Pussy Riot), [Vajnai v. Hungary](#), Application no. 33629/06, judgment of 08 July 2008) should be used to explain where the line is to be drawn between permissible and impermissible speech and to underline that measures to combat hate speech should not be used as a pretext to inhibit public debate and silence critical voices, political opponents or persons belonging to minorities.

A case study could be conducted to demonstrate the application of relevant factors in assessing hate speech, based on a case such as [Jersild v. Denmark](#), Application no. 15890/89, judgment of 23 September 1994.

Reference materials

- [EU Charter for Fundamental Rights](#)
- [Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence](#)
- [Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems](#)
- ECtHR judgments [Aksu v. Turkey GC](#), Application nos. 4149/04, 41029/04, judgment of 15 March 2012; [Nepomnyashchiy and Others v. Russia](#), Application nos. 39954/09, 3465/17, judgment of 30 May 2023; [Sürek v. Turkey \(no. 4\) \[GC\]](#), Application no. 24762/94, 08 July 1999, [Perinçek v. Switzerland](#), Application no. 27510/08, 15 October 2015

Part 3: Preventing and Combating Hate Speech

Topics

- Level of severity of hate speech (prohibited under criminal law, sanctioned by civil or administrative law; other harmful types of expression)
- Need for a comprehensive and multistakeholder approach
- Legal framework: criminal, civil, administrative law, including the legislation on online hate speech
- Self-regulation: media, internet intermediaries

- Prevention (awareness raising, education, training, media coverage, use of counter-speech and alternative speech)
- Support for the targets of hate speech
- Role of different actors

This part of the session could start with a large group discussion on what types of measures can be taken to prevent and combat hate speech. The trainer facilitates the discussion, thereby introducing the suggested topics. The participants should understand how different levels of severity of hate speech require different responses and how different actors can contribute to the prevention and countering of hate speech.

Reference materials

- [Recommendation CM/Rec \(2022\)16 of the Committee of Ministers to member States on combating hate speech](#)
- [UN Strategy and Plan of Action on Hate Speech](#)
- [Recommendation CM/Rec \(2018\)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries](#)

DAY 2

Part 4: Assessing the Compliance of National Legislation, Policies and Practices with International Standards and Recommendations

Topics

- Constitutional provisions
- Criminal code of BiH (including the amendment from 2021), Criminal codes of FBiH, RS, BDBH; challenges in applying provisions of criminal codes
- Civil law aspect (Law on Prohibition of Discrimination, Law on Gender Equality, Law on Civil Obligations); lack of court cases under these provisions
- Hate speech and elections – Law on Elections and case-law of the Court of BiH
- Hate speech in the practice of regulatory bodies (Communications Regulatory Agency)
- Self-regulatory Press and Online Media Code
- Activities of Ombudsman Institution, amendments to the Law on Ombudsman for Human Rights
- Ministry of Human Rights and Refugees: [Mapping Responses to Hate Speech in Bosnia and Herzegovina](#), Council of Europe, 2022

The trainer briefly presents the constitutional, legislative and institutional framework related to hate speech in Bosnia and Herzegovina and facilitates discussion on challenges in their implementation. The discussion may revolve around the topics suggested above.

A resource person, such as a representative of the Institution of the Ombudsman for Human Rights or a representative of an NGO, could be invited to animate this part of the session.

As an introduction to Part 5 of the training, the document [Mapping Responses to Hate Speech in Bosnia and Herzegovina](#) could be used to devise a small-group exercise, where the trainees would be tasked with assessing the progress of Bosnia and Herzegovina in three identified clusters of activities related to hate speech problem: improving legislation and policy; improving capacity of key stakeholders; educating and raising awareness.

Reference materials

- [Decision of the High Representative](#) adopting the Law on Amendments to the Criminal Code of Bosnia and Herzegovina - Official Gazette of Bosnia and Herzegovina no. 46/21
- “Hate speech in the practice of the courts of Bosnia and Herzegovina”, Amila Ferhatović, in [“Selected Segments from the Human Rights Protection Field”](#) (p. 141-159), Sarajevo, 2021
- Law on amendments to the Law on Ombudsman for Human Rights - Official Gazette of Bosnia and Herzegovina no. 61/23

Part 5: Facilitated practicum – Preparing and assessing responses to international monitoring body recommendations (3+) in respect of hate speech (to be identified with MHRR)

- Recommendations – to be considered, addressed in and compared across groups:
 - UPR Recommendation 120.57: “Continue efforts to combat intolerance, hate speech and all types of discrimination” (Qatar)
 - UPR Recommendation 120.21: “Provide training to law enforcement and judiciary officers in tackling discrimination, hate speech and acts of violence based on the sexual orientation and gender identity of the victims” (Denmark)
 - Committee on the Elimination of Racial Discrimination: Follow-up letter sent to the State party (September 2020) re. Paragraph 20 (a) and (b) of the Concluding Observations (September 2018): “However, the Committee regrets the lack of information on specific measures taken to: (a) strongly condemn and distance itself from racist hate speech and discriminatory statements in public discourse, including by public figures at the State and entity levels; and (b) call upon those responsible to ensure that their public statements do not contribute to incitement of racial hatred. The Committee considers the response of the State party unsatisfactory and requests the State party to include, in its next periodic report, detailed information on the concrete measures taken to implement these recommendations, as well as on their impact.”
 - Baseline evaluation report by GREVIO published on 8 November 2022: “117. (...) Despite the fact that violence against women committed in the digital sphere has steeply risen in the last few years in Bosnia and Herzegovina, with 60% of calls received by the telephone helplines being related to such cases, GREVIO is not aware of any initiative having been undertaken to involve ICT companies in the prevention of online and technology-facilitated violence against women. 118. GREVIO invites the authorities of Bosnia and Herzegovina to promote the

involvement of the private sector, the communication technology sector and the media in the development and implementation of policies to prevent and combat all forms of violence against women.”

- Elements of exercise (in/across groups):
 - To consider recommendations considering:
 - general standards,
 - developments in BiH law and practice,
 - previous BiH reports and assessments.
 - To consider possible indicators and data points capable of serving as bases for responses (including identifying relevant sources of information).
 - To consider how a possible response might be prepared, inc. institutions and stakeholders principally involved and process of gathering, managing information, and compiling/analysing relevant data.
 - To assess current situation regarding the recommendation.
 - To consider possible substantive responses, inc.
 - Describe activities and measures undertaken in order to implement the recommendation
 - Analyse results/effects of these activities
 - Point to any future activities or follow up
 - Consider possible impacts of cited activities/measures
 - To consider how proposed responses may be assessed.
 - Peer assessment: to compare across groups and discuss/assess.

Note: given the range of backgrounds and familiarity of training participants, and potentially large numbers of trainees in any session, it is recommended to ensure that groups are composed of participants from a mix of backgrounds.

Session 2: Media Freedom and Regulation

1. **Learning objectives:** At the end of this session, the participants will be able to: understand the role of the media in a democratic society and the importance of journalistic freedoms; recognise negative and positive obligations of the State with respect to the freedom of the media; demonstrate knowledge about means, goals and principles of media regulation; explore challenges and risks in the media sector in Bosnia and Herzegovina; analyse international monitoring body recommendations in respect of media freedom and media regulation and consider elements for adequate responses.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, small-group exercises, scenarios, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Additional reading:** To be suggested by the trainer/s.
6. **Evaluation:** To extent practicable, trainers to prepare pre- and post-training questionnaires (e.g. multiple-choice format) to allow assessment of levels of knowledge and understanding of participants at session outset and close.
7. **Duration / division of timing:** The agenda and timing of the session will be for the trainers engaged to determine. This is likely to be informed, however, by the extent of the material/topics to be covered in each section.
8. **Content** (indicative organisation of topics/elements):

DAY 1

Part 1: Importance of freedom of the media

Topics

- Role and function of the media
 - Public watchdog
 - Imparting and receiving information
 - Duties and responsibilities
- New concept of the media
 - Traditional media
 - Digital media
 - Citizen journalism
- Securing media freedom, independence and pluralism: negative and positive obligations of the State

The trainer introduces the concept of the media as a cornerstone of democracy, referring to the international standards and jurisprudence of the ECtHR in this respect and guides discussion on how new media (news portals, social media, blogs, podcasts) change the possibilities for imparting information and ideas.

Ranking of Bosnia and Herzegovina in the [World Press Freedom Index](#) in 2023 and previous years can be used as a starting point for discussion about the media freedom in Bosnia and Herzegovina and the world today, to be followed by an explanation by the trainer of a difference between positive and negative obligations of the State to secure effective enjoyment of the freedom of expression, including the freedom of the media.

Reference materials

- [UN Human Rights Committee General Comment no. 34 on Article 19](#) (para. 13, 40)
- [Joint Declaration on Media Freedom and Democracy \(2023\)](#)
- [Recommendation CM/Rec \(2011\)7 of the Committee of Ministers to member states on a new notion of media](#)
- ECtHR judgments: [Pedersen and Baadsgaard v. Denmark \[GC\]](#); [Magyar Helsinki Bizottsag v. Hungary \[GC\]](#); [Centro Europa 7 S.r.l. and Di Stefano v. Italy](#); [Goodwin v. United Kingdom \[GC\]](#); [Ozgur Gundem v. Turkey](#); [Mazepa and Others v. Russia](#); [Dink v. Turkey](#)

Part 2: Media freedom and journalistic privileges

Topics

- Freedom to report and comment on the matters of public interest
- Freedom to choose the way of selecting, editing and presenting information and ideas
- Freedom to have recourse to exaggeration and provocation
- Protection of the identity of confidential sources
- Protection against search and seizure
- Protection against physical violence and intimidation

The trainer presents and discusses with the group the journalistic freedoms stemming from the international instruments and the case-law of the ECtHR.

In order to demonstrate the scope and limits of the principle of the protection of journalists' sources, the trainer prepares scenarios for work in small groups, based on the ECtHR cases e.g. [Goodwin v. United Kingdom \[GC\]](#), [Nordisk Film & TV A/S v. Denmark \(dec.\)](#) and [Voskuil v. the Netherlands](#).

Reference materials

- [CoE Recommendation No. R \(2000\) 7 of the Committee of Ministers on the right of journalists not to disclose their sources of information](#)
- [UN Human Rights Committee General Comment no. 34 on Article 19](#) (para. 45)

- ECtHR judgments: [Thorgeir Thorgeirson v. Iceland](#); [Jersild v. Denmark](#) [GC]; [Dalban v. Romania](#) [GC]; [Becker v. Norway](#); [Roemen and Schmit v. Luxembourg](#); [Ozgur Gundem v. Turkey](#)

Part 3: Media Regulation – International standards

Topics

- Notion of media regulation
 - Interference with freedom of expression: three-part test
 - Means: laws, other legally binding instruments, self-regulatory codes, codes of ethics
 - Goals: promote freedom of expression, pluralism, diversity of content, fair competition, efficiency of the communication systems
- Principles of media regulation:
 - Regulation tailored to the type of media (broadcast, print, online)
 - Media pluralism
 - Transparency of ownership
 - Independence of regulatory bodies
 - Impartiality of public service media
- Regulating different types of media: broadcast media; print and online media
- Regulating journalism
- Self-regulation and coregulation

Short scenarios based on ECtHR cases may be used to discuss and explain when a denial of broadcasting licence does or does not constitute a violation of Article 10 ([Glas Nadezhda EOOD and Elenkov v. Bulgaria](#), [Centro Europa 7 S.r.l. and Di Stefano v. Italy](#); [Medya FM Reha Radyo ve iletirim Hizmetlery A.Y. v. Turkey \(dec.\)](#))

Reference materials

- CoE [Recommendation CM/Rec\(2018\)1](#) on media pluralism and transparency of media ownership
- CoE [Recommendation Rec \(2000\) 23](#) on the independence and functions of regulatory authorities for the broadcasting sector
- CoE [Recommendation \(1996\) 10 on the Guarantee of the Independence of Public Service Broadcasting](#)
- [OSCE The Media Self-regulation Guidebook, 2008](#)
- ECtHR judgments: [Informationsverein Lentia and others v. Austria](#); [Manole and others v. Moldova](#); [Sunday Times v. the United Kingdom \(no. 2\)](#); [Gaweda v. Poland](#), [NIT S.R.L. v. the Republic of Moldova](#) [GC] etc.

DAY 2

Part 4: Media environment in Bosnia and Herzegovina

Topics

- Broadcast media: issue of RAK's political and financial independence;
- Print and online media: non-binding nature of the self-regulatory Press and Online Media Code; impact of the Republika Srpska draft Law on the Special Registry and Publicity of the Work of Non-Profit Organisations on media outlets registered as NGOs;
- Public broadcast services: non-implementation and lack of harmonisation of the existing legislation; blocked funding and institutional instability of the national public broadcaster BHRT;
- Media ownership: lack of regulation, high risks of concentration;
- Media pluralism and independent journalism: large number of media outlets without real pluralism; dependence on public funding; pressures from large advertisers; questionable objectivity of some media; difficult position of the media operating as NGOs;
- Journalists' status: weak labour protection, pressures from the publishers and media owners

The aim of this part of the training is to assess the compatibility of media regulation in Bosnia and Herzegovina with international standards. Participants should be invited to identify and discuss the challenges that Bosnia and Herzegovina faces in the media sector. Some of the trainees (e.g. representatives of the RAK, the Press and Online Media Council) should be able to contribute to this part of the training considerably, by identifying problems and risks in their area of work. The trainer should guide the discussion to revolve around the suggested topics.

Reference materials

- [*Bosnia and Herzegovina: Media Freedom in Survival Mode*, Media Freedom Rapid response, 2024](#)
- [*Analysis: Backsliding in Bosnia and Herzegovina as Media Freedom Faces Myriad Challenges*, International Press Institute, 2023](#)
- [*Media Ownership Monitor 2023*, BIRN, 2023](#)
- [*Venice Commission and the OSCE/ODIHR: Joint Opinion on the draft law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organizations \(2023\)*](#)

Part 5: Facilitated practicum – Preparing and assessing responses to international monitoring body recommendations (3+) in respect of media freedom and regulation (to be identified with MHRR)

Topics

- Recommendations – to be considered, addressed in and compared across groups:

- UPR Recommendation 120.100: “Guarantee free and independent media and promote an open democratic media landscape in respect of freedom of opinion and expression and the right to access information” (Sweden)
- UPR Recommendation 120.90: “Reform the public radio and television broadcasters with the goal of ensuring that they serve all segments of society through the equal use of all official languages” (Croatia)
- Human Rights Committee General Comment no. 34 on Article 19: Freedoms of opinion and Expression (2011), general remark no. 16: “States parties should ensure that public broadcasting services operate in an independent manner. In this regard, States parties should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”
- OSCE Recommendations on protecting media freedom and freedom of expression in the regulation of online content in South East Europe: F. An enabling environment: 6.d. “Take measures to promote media and digital literacy as well as critical thinking, including by covering these topics as part of the regular school curriculum and by engaging with civil society organisations and other stakeholders to raise awareness about these issues.”
- Elements of exercise (in/across groups):
 - To consider recommendations in light of:
 - general standards,
 - developments in BiH law and practice,
 - previous BiH reports and assessments.
 - To consider possible indicators and data points capable of serving as bases for responses (including identifying relevant sources of information).
 - To consider how a possible response might be prepared, inc. institutions and stakeholders principally involved and process of gathering, managing information, and compiling/analysing relevant data.
 - To assess current situation regarding the recommendation.
 - To consider possible substantive responses, inc.
 - Describe activities and measures undertaken in order to implement the recommendation
 - Analyse results/effects of these activities
 - Point to any future activities or follow up
 - Consider possible impacts of cited activities/measures
 - To consider how proposed responses may be assessed.
 - Peer assessment: to compare across groups and discuss/assess.

Note: given the range of backgrounds and familiarity of training participants, and potentially large numbers of trainees in any session, it is recommended to ensure that groups are composed of participants from a mix of backgrounds.

Session 3: Best practices in international human rights monitoring and reporting

1. **Learning objectives:** This session will provide an opportunity to present and reflect on understandings of best practices in human rights monitoring and reporting, drawing on international standards and guidance, as well as comparative analysis prepared for the purposes of the EEx project.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, small-group exercises, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Evaluation:** To extent practicable, trainers to prepare pre- and post-training questionnaires (e.g. multiple-choice format) to allow assessment of levels of knowledge and understanding of participants at session outset and close. (Note: may be less practicable for this session than others.)
6. **Duration / division of timing:** The agenda and timing of the session will be for the trainers engaged to determine. This is likely to be informed, however, by the extent of the material/topics to be covered in each section.
7. **Content** (indicative organisation of topics/elements):
 - Human rights monitoring and reporting: international standards and guidance
 - National human rights monitoring and reporting arrangements: comparative analysis
 - Human rights monitoring and reporting in BiH: current arrangements

Note: the content and scope of this training session will largely depend on the content of the EEx comparative analysis report when further advanced. Reflecting this, the proposed elements of this training should be developed once the relevant report is substantively completed. This training session may also be combined with a broader presentation and discussion of the comparative analysis when complete: given this, the proposed scheduling for Q3 2024 should be understood as indicative only.

Session 4: Defamation and SLAPPS

1. **Learning objectives:** This session should enable the participants to: understand the relationship between the right to freedom of expression and the right to privacy/reputation; apply the balancing exercise between these two rights; become familiar with the international standards in relation to the criminal sanctioning of defamation; understand the notion and impact of SLAPPS; analyse international body recommendations in respect of defamation and consider elements for adequate responses.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers
3. **Methodology:** Combination lecture/PPT-based presentation, multimedia, scenarios and case-studies, small-group exercises, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Additional reading:** To be suggested by the trainer/s.
6. **Evaluation:** To extent practicable, trainers to prepare pre- and post-training questionnaires (e.g. multiple-choice format) to allow assessment of levels of knowledge and understanding of participants at session outset and close.
7. **Duration / division of timing:** The agenda and timing of the session will be for the trainers engaged to determine. This is likely to be informed, however, by the extent of the material/topics to be covered in each section.
8. **Content** (indicative organisation of topics/elements):

DAY 1

Part 1: Defamation – International Standards

Topics

- Introduction to the notion of defamation
- Right to protection of reputation (Article 8 ECHR, Article 17 ICCPR)
- Limitation of freedom of expression (Article 10 para 2 ECHR, Article 19 para 3 ICCPR)
- Balance between the right to reputation and the right to freedom of expression
- Three-part test
- ECtHR criteria for the balancing exercise:
 - Contribution to a debate of public interest
 - Distinction between statements of fact and value judgments
 - Veracity of statements and good faith
 - Position of the person making the statement
 - Position of the person whose reputation is affected
 - Context, form, style and consequences

- Nature and severity of sanctions
- Criminal sanctions for defamation
 - Harsh sanctions, criminal record, stronger chilling effect
 - Disproportionate and unnecessary for protection of individual reputations
 - Detrimental to democracy
 - International bodies calling for decriminalization and restraint in use of criminal sanctions
 - Trend of decriminalization in Europe
 - ECtHR standards

The first part of the training could open with a warm-up exercise: the participants are distributed several statements (from the actual case-law of the Constitutional Court of Bosnia and Herzegovina or the ECtHR) and asked whether they consider them as defamatory or not.

“Pyramid of protected speech” exercise could be used to familiarize the participants with different levels of protection from defamatory speech, depending on the position of the target. The participants, working in pairs, are asked to draw a blank pyramid on a piece of paper and fill it in, so that the category of persons (private individuals, state and state institutions, public figures, politicians, judges, civil servants) enjoying the highest degree of protection from defamatory and offensive expressions - is at the top of the pyramid, while the category required to display the greatest degree of tolerance towards criticism is at the bottom.

A case-study based on the ECtHR judgment (such as [Mladina d.d. Ljubljana v. Slovenia](#), 2014, [Radio Broadcasting Company B92 AD v. Serbia](#), 2023) is used to demonstrate the Court’s use of “balancing criteria”.

Reference Materials

- ECtHR judgments: [Lingens v. Austria](#); [Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina](#)[GC]; [Axel Springer AG v. Germany](#) [GC]; [Castells v. Spain](#); [Bodrožić v. Serbia](#); [Feldek v. Slovakia](#); [Ristamaki and Korvola v. Finland](#); [Kasabova v. Bulgaria](#); [Otegi Mondragon v. Spain](#); [Tamiz v. the United Kingdom](#); [Palomo Sanchez and others v. Spain](#) [GC]; [Lopes Gomes da Silva v. Portugal](#); [Janowski v. Poland](#); [Morice v. France](#)[GC]; [Oberschlick v. Austria no. 2](#); [Tolstoy Miloslavsky v. the United Kingdom](#); [Lindon, Otchakovsky-Laurens and July v. France](#); [Cumpănă and Mazăre v. Romania](#) [GC]; [Raichinov v. Bulgaria](#); [Flinkkilä and Others v. Finland](#); [Şener v. Turkey](#); [Bédat v. Switzerland](#) [GC]; [Stoll v. Switzerland](#) [GC]; [Amorim Giestas and Jesus Costa Bordalo v. Portugal](#) etc.
- [European Court of Human Rights: Guide on Article 10 of the European Convention of Human Rights](#), 2023;
- [European Court of Human Rights: Factsheet – Protection of reputation](#), 2024

- [*UN Special Rapporteur on Freedom of Opinion and Expression: Promotion and protection of the right to freedom of opinion and expression, UN Doc. E/CN.4/1999/64, 29 January 1999, para. 28;*](#)
- [*Joint Declaration by the UN Special Rapporteur, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression of 10 December 2002;*](#)
- [*UN Human Rights Committee General Comment no. 34 on Article 19 \(2011\), para 47;*](#)
- [*Parliamentary Assembly of the Council of Europe: Towards decriminalization of defamation, Resolution 1577 \(2007\)*](#)

Part 2: Defamation – BH Legislation and Jurisprudence

Topics

- FBiH, RS and BDBH Laws on protection against defamation: based on key principles developed by the ECtHR, but lacking precision and clarity in certain respects
- High percentage of defamation lawsuits filed by public officials and politicians
- New legislation in Republika Srpska – recriminalization of defamation
- Jurisprudence of BH courts: uneven application of international and European standards (issues of public interest, distinction between facts and opinions, factual basis for value judgments; wider limits of acceptable criticism for public persons, good faith defence)
- Length of proceedings

Data on percentage of defamation lawsuits filed by public officials and politicians, and on the length of defamation proceedings could be presented.

An analysis of the decisions of the Constitutional Court of BH can help the participants to better understand the most frequent omissions of regular courts in the application of the laws on protection from defamation (e.g. AP-2423/18; AP-1854/17; AP-4408/14; AP-668/13; AP-2544/18; AP-5008/13; AP-1241/19; AP-2751/19)

Reference Materials

- [*Suing to Silence: Lawsuits Used to Censor Bosnian Journalists - Detektor*, 2020](#)
- [*European Commission Bosnia and Herzegovina 2023 Report*](#)

Part 3: Strategic Lawsuits Against Public Participation (SLAPPs)

Topics

- Introduction to the concept
- Characteristics of SLAPP lawsuits
- Statistics
- Impact of SLAPPs

- Proposals for/ International mechanisms for preventing and countering SLAPPS
 - EU: [Directive of the European parliament and the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings](#) (“Strategic lawsuits against public participation”)[1]
 - CoE: [Draft Recommendation of the Committee of Ministers to member states on countering the use of SLAPPS](#)
 - Important procedural guarantees (e.g. early dismissal, compensatory damages for the defendant)
- ECtHR case law: [OOO Memo v. Russia](#), Application no. 2840/10, judgment of 15 March 2022

The trainer should illustrate the notion of SLAPP lawsuits with some real-life examples.

A video on SLAPP targets or on anti-SLAPP regulations campaign can be shown.

In order to animate the participants, the trainer can present the [“European SLAPP contest”](#), an anti-award competition organised annually by CASE (Coalition Against SLAPPS in Europe) to draw attention to the most abusive lawsuits and litigants in Europe.

Reference materials

- III. The Human Rights Commissioner of the Council of Europe: [“Time to take action against SLAPPS”](#)

DAY 2

Part 4: SLAPPS in BiH: Law and Practice

Topics

- Examples of SLAPPS in Bosnia and Herzegovina
- SLAPPS under current legislation (civil procedure laws, defamation laws)
- Recommendations and initiatives for an anti-SLAPP legislation

Reference materials

- [SLAPPS in Bosnia and Herzegovina, 2023](#)
- [OHCHR Report - Safety of journalists and access to information in Bosnia and Herzegovina - ENG.pdf \(un.org\), 2022, p. 27](#)

Part 5: Facilitated practicum – Preparing and assessing responses to international monitoring body recommendations (3+) in respect of defamation and SLAPPS (to be identified with MHRR)

- Recommendations – to be considered, addressed in and compared across groups:

- [Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#), Appendix to the Recommendation, Guideline 6: “As part of the reviews of laws and practices, member States which have defamation laws should ensure that those laws include freedom of expression safeguards that conform to European and international human rights standards, including truth/public-interest/fair comment defences and safeguards against misuse and abuse, in accordance with the European Convention on Human Rights and the principle of proportionality, as developed in the relevant judgments of the European Court of Human Rights. Furthermore, given the chilling effect that legislation criminalising particular types of expression has on freedom of expression and public debate, States should exercise restraint in applying such legislation, where it exists.”
- [Recommendation CM/Rec \(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#), Appendix to the Recommendation, Guideline 13: “Member States must exercise vigilance to ensure that legislation and sanctions are not applied in a discriminatory or arbitrary fashion against journalists and other media actors. They should also take the necessary legislative and/or other measures to prevent the frivolous, vexatious or malicious use of the law and legal process to intimidate and silence journalists and other media actors.”
- European Commission, Bosnia and Herzegovina 2023 Report (November 2023), p. 36: “The reintroduction of criminal penalties for defamation in the Republika Srpska entity in July 2023 severely impacts the environment for civil society, restricting freedom of expression and of the media and represents a major step backwards in the protection of fundamental rights.”
- European Commission, Bosnia and Herzegovina 2023 Report (November 2023), p. 40: “To prevent an environment that forces journalists into self-censorship, courts should step up their efforts to ensure expedient processing of defamation cases and consistency of case-law on damages awarded.”
- Elements of exercise (in/across groups):
 - To consider recommendations in light of:
 - general standards,
 - developments in BiH law and practice,
 - previous BiH reports and assessments.
 - To consider possible indicators and data points capable of serving as bases for responses (including identifying relevant sources of information).
 - To consider how a possible response might be prepared, inc. institutions and stakeholders principally involved and process of gathering, managing information, and compiling/analysing relevant data.
 - To assess current situation regarding the recommendation.
 - To consider possible substantive responses, inc.

- Describe activities and measures undertaken in order to implement the recommendation
- Analyse results/effects of these activities
- Point to any future activities or follow up
- Consider possible impacts of cited activities/measures
- To consider how proposed responses may be assessed.
- Peer assessment: to compare across groups and discuss/assess.

Note: given the range of backgrounds and familiarity of training participants, and potentially large numbers of trainees in any session, it is recommended to ensure that groups are composed of participants from a mix of backgrounds.

Session 5: Safety and Protection of Journalists

1. **Learning objectives:** This session will enable the participants to: understand the impact of threats against journalists on journalists themselves and society as a whole; recognise the obligation of the state to protect journalists and journalistic activities; identify key international principles and standards governing the protection of journalism and the safety of journalists; critically analyse how those principles have been applied in Bosnia and Herzegovina; analyse international body recommendations in respect of protection and safety of journalists and consider elements for adequate responses.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, scenarios and case-studies, small-group exercises, multimedia, resource person, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Additional reading:** To be suggested by the trainer/s.
6. **Evaluation:** To extent practicable, trainers to prepare pre- and post-training questionnaires (e.g. multiple-choice format) to allow assessment of levels of knowledge and understanding of participants at session outset and close.
7. **Duration / division of timing:** The agenda and timing of the session will be for the trainers engaged to determine. This is likely to be informed, however, by the extent of the material/topics to be covered in each section.
8. **Content** (indicative organisation of topics/elements):

DAY 1

Part 1: Introduction:

Topics

- Role and importance of journalists and the media (rights and duties)
- Negative and positive obligations of the state with respect to the freedom of the media
- Protection of journalists as a prerequisite of their right to freedom of expression
- Other media actors enjoying the same protection
 - Citizen journalists
 - Individuals or groups of individuals
 - Civil society organisations and NGOs
 - Whistle-blowers
 - Academics
 - Bloggers

In the introductory part of this session, after a quick recap of the session on Media Freedom (role and importance of journalists and the media, negative and positive obligations of the state with respect to the freedom of the media), the trainer can introduce the topic by a small group exercise related to the greatest threats facing journalists and the measures that can be taken to avoid such risks.

Positive obligations of the state to provide protection for journalists may be explained in a case study based on the ECtHR case [Khadija Ismayilova v. Azerbaijan](#), 2019; to be compared with the case of [Gaši and Others v. Serbia](#), 2022.

Reference materials

- [UN Human Rights Committee General Comment no. 34 on Article 19](#) (para 44)
- [European Court of Human Rights, Key Theme - Article 10, Positive obligations of the State to protect journalists and journalistic activities](#)
- [European Court of Human Rights, Key Theme- Article 10, Contributions to public debate: Journalists and other actors](#)
- ECtHR judgments: [Ozgur Gundem v. Turkey](#); [Mazepa and Others v. Russia](#); [Dink v. Turkey](#); [Gongadze v. Ukraine](#); [Cengiz and others v. Turkey](#); [Steel and Morris v. United Kingdom](#); [TASZ v. Hungary](#); [Heinisch v. Germany](#); [Hertel v. Switzerland](#); [Magyar Helsinki Bizottsag v. Hungary](#)

Part 2: Threats to Journalists

Topics

- Types of threats (physical, psychological, legal, economic, digital)
- Effects of threats (chilling effect, impact on psychological health of journalists)
- Specific risks faced by female journalists: the “double attack”
- Documenting the threats
 - [CoE Safety of Journalists Platform](#)
 - Platform on threats to journalists in the Western Balkans: [Safejournalists Western Balkans](#)
 - UNESCO [Observatory of killed journalists](#)
- Responses to threats: prevent, protect and prosecute
 - Put in place legislative framework
 - Prevent or suppress offences against journalists and other media actors
 - Condemn violence and threats
 - Bring the perpetrators of those crimes to justice
- Measures to suppress threats coming from the state
 - Review of defamation, anti-terrorism, national security etc. laws
 - Elimination of overbroad definitions
 - Application of the proportionality principle when applying such laws

- Adequate procedural safeguards and effective remedies are provided for against abuse of these laws

Real-life cases of threats to journalists can be used for discussion.

When presenting the platforms for protection of journalists, they should be accessed and demonstrated online.

A short video on [Council of Europe Campaign for the Safety of Journalists](#) (2023); or [CIN video on Violence against journalists in BiH](#) (2019); or another video related to the topic can be shown.

Reference materials

- [Knowing the truth is protecting the truth: highlights of the UNESCO Director-General's report on the safety of journalists and the danger of impunity, 2022](#)
- [The safety of journalists and the issue of impunity: Report of the Secretary-General \(on women journalists\), 2017](#)
- [Online violence against women journalists: a global snapshot of incidence and impacts, 2020](#)

Part 3: International Legal Framework and Mechanisms for Protection

Topics

- Council of Europe
 - ECHR and case-law of the ECtHR (protection under Article 10, and other relevant articles - Art 2, 3, 5, 6, 7, 8, 11, 13, 18)
 - [Recommendation CM /Rec \(2016\)4 to the members states on the protection of journalism and safety of journalists and other media actors](#) (4 pillars: prevention, protection, prosecution, promotion; implementation strategy)
- UN
 - Universal Declaration
 - ICCPR: right to freedom of expression and opinion; right to life; right to an effective remedy; prohibition of torture or cruel, inhuman and degrading treatment and punishment; right to liberty or security of the person; right to liberty of movement
 - [Human Rights Committee General Comment no. 34 on Article 19](#) (para 23)
 - [UN Plan of Action on the safety of journalists and the issue of impunity](#)
 - Activities of the UN Special Rapporteur on Freedom of Expression
- EU
- OSCE

At the end of Part 3, a group activity can be carried out, using the document [How to protect journalists and other media actors : Extended implementation guide \(prevention and promotion pillars\)](#), so that each group responds to one set of questions from the Self-assessment tool

(Appendix to the Extended Implementation guide, pp 73-88). To be followed by guided discussion.

Reference materials

- [How to protect journalists and other media actors: Extended implementation guide \(prevention and promotion pillars\)](#)
- [How to protect journalists and other media actors: Implementation guide \(protection and prosecution pillars\)](#)

DAY 2

Part 4: Safety and Protection of Journalists in Bosnia and Herzegovina

Topics

- Current provisions of Criminal Codes – insufficient protection
- Most cases of attacks and threats remain unpunished
- Women journalists as targets
- Continuous verbal attacks by politicians
- Application of defamation laws still not harmonized
- No anti-SLAPP laws

The trainer guides a discussion around the existing measures and regulations in Bosnia and Herzegovina, or a lack thereof, and how this may increase the risks for journalists.

A dynamic approach to the topic could include inviting a resource person - a journalist or a lawyer dealing with media cases, to contribute to this discussion.

Reference materials

- [OHCHR Report - Safety of journalists and access to information in Bosnia and Herzegovina, 2022](#)
- [Gender Equality and Freedom of Expression in BH, 2020](#)

Part 5: Facilitated practicum – Preparing and assessing responses to international monitoring body recommendations (3+) in respect of safety and protection of journalists (to be identified with MHRR)

- Recommendations – to be considered, addressed in and compared across groups:
 - UPR Recommendation 120.87: “Guarantee media freedom and the protection of journalists and media workers, especially women, notably by ensuring the appropriate judicial follow-up to cases of threats and violence against them” (Austria)
 - UPR Recommendation 120.94: “Guarantee freedom of expression and freedom of the press, including by ensuring national data collection and appropriate judicial follow-

- up to cases of threats and violence against journalists and media professionals, and combat acts of intimidation against them” (France)
- [Recommendation CM/Rec \(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#), Appendix to the Recommendation, Guideline 2: (...) “The legislative framework and its implementation should guarantee effective protection of female journalists and other female media actors from gender-related dangers in the course of their work. Due attention should be paid to the importance of adequate labour and employment laws to protect journalists and other media actors from arbitrary dismissal or reprisals, and from precarious working conditions that may expose them to undue pressures to depart from accepted journalistic ethics and standards.”
 - [Recommendation CM/Rec \(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#), Appendix to the Recommendation, Guideline 8: “Legislation criminalising violence against journalists should be backed up by law enforcement machinery and redress mechanisms for victims (and their families) that are effective in practice. Clear and adequate provision should be made for effective injunctive and precautionary forms of interim protection for those who face threats of violence.”
 - [Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#), Appendix to the Recommendation, Guideline 15. “State officials and public figures should not undermine or attack the integrity of journalists and other media actors, for example on the basis of their gender or ethnic identity, or by accusing them of disseminating propaganda, and thereby jeopardise their safety. Nor should they require, coerce or pressurise, by way of violence, threats, financial penalties or inducements or other measures, journalists and other media actors to derogate from accepted journalistic standards and professional ethics by engaging in the dissemination of propaganda or disinformation. State officials and public figures should publicly and unequivocally condemn all instances of threats and violence against journalists and other media actors, irrespective of the source of those threats and acts of violence.”
- Elements of exercise (in/across groups):
 - To consider recommendations in light of:
 - general standards,
 - developments in BiH law and practice,
 - previous BiH reports and assessments.
 - To consider possible indicators and data points capable of serving as bases for responses (including identifying relevant sources of information).
 - To consider how a possible response might be prepared, inc. institutions and stakeholders principally involved and process of gathering, managing information, and compiling/analysing relevant data.

- To assess current state of affairs relative to recommendation.
- To consider possible substantive responses, inc.
 - Describe activities and measures undertaken in order to implement the recommendation
 - Analyse results/effects of these activities
 - Point to any future activities or follow up
 - Consider possible impacts of cited activities/measures
- To consider how proposed responses may be assessed.
- Peer assessment: to compare across groups and discuss/assess.

Note: given the range of backgrounds and familiarity of training participants, and potentially large numbers of trainees in any session, it is recommended to ensure that groups are composed of participants from a mix of backgrounds.

Session 6: Transparency and Access to Government Information

1. **Learning objectives:** The training aims to raise awareness of the participants in Tromsø and Aarhus Convention standards and their implications in Bosnia and Herzegovina. Objectives include defining official information, overviewing international legal, institutional, and practical aspects, understanding ECHR standards of freedom to information protection, assessing national legislation's conformity with international standards, and building capacity for monitoring and reporting.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, small-group exercises, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Evaluation:** To the extent practicable, trainers prepare pre- and post-training questionnaires (e.g., multiple choice format) to allow assessment of levels of knowledge and understanding of participants at the session outset and close. (Note: This session may be less practicable than others.)
6. **Duration/division of timing:** The agenda and timing of the session will be determined by the trainers engaged. However, this is likely to be informed by the extent of the material/topics to be covered in each section.
7. **Content** (indicative organisation of topics/elements):

DAY 1

Part 1: Introduction to Key International Standards in Access to Official Information

Topics

- Access to official information – key instrument for transparency of government
 - The trainer invites the participants to discuss the importance of access to official information in brainstorm mode.
 - The trainer recorded the most typical thoughts, contradictory thoughts, and questions that can be of value for further discussion on a flip chart.
- Evolution of International Standards in Access to Official Information. The trainer provides an overview of international standards in access to official information and their crucial role in promoting transparency within governments and public institutions.
- The trainer presents the periods of the evolution of international standards in access to official information and the progress in the recognition of access to official information as a fundamental human right, as follows:

- The right to access official information is recognised as a fundamental human right in various international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR). The ICCPR, under Article 19, emphasizes the right to freedom of expression, including the right to seek, receive, and impart information.
- The European Convention on Human Rights (ECHR) doesn't explicitly mention a right to access official information, the European Court of Human Rights (ECtHR) has recognized that the right to freedom of expression (Article 10 of the ECHR) includes the right to receive and impart information, which can have implications for access to information issues.
- The Council of Europe Convention on Access to Official Documents, often referred to as the Tromsø Convention, is an international agreement that focuses on access to official information. Additionally, the Aarhus Convention (UNECE) focus on access to information in the context of environmental matters.

Reference materials

- [International Covenant on Civil and Political Rights](#) (ICCPR)
- [European Convention on Human Rights](#) (ECHR)
- [General comment No.34 on Article 19: Freedoms of opinion and expression, 29 July 2011, CCPR/C/GC/34](#)
- [Report of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#) to the General Assembly on the right to access information, published on 4 September 2013 (A/68/362)
- [Council of Europe Convention on Access to Official Documents](#)
- [The United Nations Economic Commission for Europe \(UNECE\) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)
- [Report](#) submitted by Bosnia and Herzegovina on legislative and other measures taken in Bosnia and Herzegovina to give effect to the provisions of the Council of Europe Convention on Access to Official Documents
- [UNESCO Reports on Public Access to Information](#) UNESCO, Report Survey on Public Access to Information and assessing progress,
- [SDG 16 Data Initiative Report 2022: Are we on track to meeting the 2030 agenda?](#)
- Oversight mechanism: growth in numbers <https://www.unesco.org/reports/access-to-information/2022/en/oversight-mechanism-growth-numbers>
- Global report on the implementation of access to information laws, UNESCO <https://unesdoc.unesco.org/ark:/48223/pf0000383160>
- [Right to Information Laws Trends Snapshot: Based on the Global RTI Rating, 2020](#)

Part 2: Access to official information: definition and criteria in ECHR case law

Topics

- Access to official information as a component of freedom of expression in the European Convention on Human Rights
 - Overview of Article 10 of the European Convention on Human Rights regarding freedom of information. The right to receive official information is a fundamental right that promotes transparency, accountability, and public participation in governmental affairs. Recognized globally, with implementation varying by country through specific Fol laws and regulations.
 - Overview of the evolution of ECHR case law towards the right to information protection.
 - Definition and criteria according to the ECHR – case law.
- [Case of Magyar Helsinki Bizottság v. Hungary](#) – the participants will explore ECtHR approach in protecting the right to information. The trainer presents and discusses with the participants the threshold criteria for the right of access to state-held information, identified in this case:
 - The purpose of the information request
 - The nature of the information sought
 - The role of the applicant
 - Ready and available information

Reference materials

- ECtHR, [Case of Magyar Helsinki Bizottság v. Hungary](#), Application no. 18030/11, judgment of 8 November 2016
- ECtHR, [Társaság a Szabadságjogokért v. Hungary](#), Application no. 37374/05, judgment of 14 April 2009
- ECtHR, (dec.), [Sdruženi Jihočeské Matky v. the Czech Republic](#) Application no. 19101/03, judgment of 10 July 2006
- ECtHR, [Youth Initiative for Human Rights v. Serbia](#), Application no. 48135/06, judgment of 25 June 2013)
- ECtHR, [Österreichische Vereinigung zur Erhaltung, Stärkung und Schaffung v. Austria](#), Application no. 39534/07, judgement of 28 November 2013

Part 3: Key principles and standards of Aarhus and Tromsø Conventions

Topics

- Key principles and standards of Aarhus Convention. The trainer delves into the Aarhus Convention's fundamental principles and standards, focusing on:
 1. ensuring public access to environmental information,
 2. the right to access information without declaring a specific interest, and
 3. the critical role of public participation in environmental decision-making processes.

The lecture aims to unpack these key elements, highlighting their significance in fostering environmental democracy and enhancing transparency and engagement in environmental governance:

1. Ensuring accessibility of environmental information to the public
 2. Balancing the need for access without requiring an interest to be stated
 3. Public participation in decision-making processes under the Aarhus Convention.
- Key principles and standards of the [Tromsø Convention](#). The group explores the Tromsø Convention, focusing on its broad scope in ensuring the public's right to access official documents without discrimination. They discuss the convention's unique stance that applicants need not justify their requests for information. Additionally, they examine the new obligation for public authorities to assist applicants in identifying the desired document and the principle of equality in processing these requests.
 - Scope of Tromsø Convention, guarantee of the right of everyone, without discrimination on any ground, to have access, on request, to official documents held by public authorities.
 - Reason to ask for official information: an applicant for an official document shall not be obliged to give reasons for having access to the official document.
 - Important new obligation: the public authority shall help the applicant identify the requested official document as far as reasonably possible.
 - Equality in processing requests: in general, the requests for access to official documents shall be dealt with on an equal basis, the trainer explained via examples from the administrative practice.

Reference materials

- The [Aarhus Convention: An Implementation Guide](#) (second edition)
- [Environmental democracy in Bosnia and Herzegovina: Aarhus Convention Shadow Implementation Report 2021 \(arnika.org\)](#)
- Council of Europe, [Convention on Access to Official Documents and Explanatory Report](#)
- [Report](#) submitted by Bosnia and Herzegovina on legislative and other measures taken in Bosnia and Herzegovina to give effect to the provisions of the Council of Europe Convention on Access to Official Documents

DAY 2

Part 4: Restrictions of access to information

Topics

- The trainer presents the concept of a public-interest test: Access to information contained in an official document may be refused if its disclosure would or would be likely to harm legitimate interests unless there is an overriding public interest in disclosure.
- The topic is illustrated with the provisions of:

1. Article 3 of the Tromsø Convention,
 2. Article 4 of the Aarhus Convention, and
 3. Article 10 of the European Convention on Human Rights.
- The trainer presents the main provisions of international agreements (incl. Tromsø and Aarhus) regarding limitation on access to official information and facilitates the discussion on simultaneous use of both regulations in Bosnia and Herzegovina.
 - Restrictions of access to information in ECHR case law. The trainer presents and discusses with the participants the cases where ECHR decided about restrictions on freedom of information to protect certain overriding interests. Article 10(2) establishes a three-part test for assessing restrictions on access to information as part of freedom of expression, as follows:
 - The restriction must be prescribed by law.
 - The restriction must protect one of the interests listed in Article 10(2).
 - The restriction must be “necessary in a democratic society” to protect that interest.
 - The trainer illustrates the material with the relevant ECHR case-law ([Centre for Democracy and Rule of Law v. Ukraine](#), Application no. 75865/11, [Studio Monitori and Others v. Georgia](#) Application nos. 44920/09 and 8942/10, [Bubon v. Russia](#), Application no. 63898/09, [Affaire Cangj v. Turkey](#), Application no. 24973/15
 - The [Tshwane Principles on National Security and the Right to Information](#)
 - Brief introduction to the Tshwane Principles, highlighting their significance in balancing national security concerns with the right to information. Participants will be divided into small groups to discuss specific principles, examining their implications, challenges, and practical applications in various scenarios.
 - The group discusses selected principles jointly or in small groups.

Reference materials

- [Guide on Article 10 of the European Convention on Human Rights](#)
- [The Global Principles on National Security and the Right to Information \(The Tshwane Principles\)](#)
- [The Johannesburg Principles on National Security, Freedom of Expression and Access to Information](#)

Part 5: Facilitated practicum – Assessing Compliance of National Legislation with International Standards in Access to Information according to Tromsø Convention

The following topics/issues to be considered, addressed in and compared across groups:

- Reporting to [Access Info Group](#) and communicating with the Consultations of the Parties under the Tromsø Convention (the structure of the report, baseline requirements).
- Standard of Article 1 of the Tromsø Convention on the scope of official documents: “official documents” means all information recorded in any form, drawn up or received

and held by public authorities. c.f. Definition of "document" and "information" according to the Tromsø Convention and law on Fol in Bosnia and Herzegovina.

- Standard of Article 1 of the Tromsø Convention on the scope of the definition of “public authorities.” The definition of "information owner" in the law on Fol in Bosnia and Herzegovina for the purposes of access to official information.
- Standards of Article 3 of the Tromsø Convention on possible limitations to access to official documents. Application of “public-interest test” according to the recommendation of Article 3 of the Tromsø Convention: “access to information contained in an official document may be refused if its disclosure would or would be likely to harm any of the interests mentioned in paragraph 1, unless there is an overriding public interest in disclosure”.
- Standards of Article 5 of the Tromsø Convention on non-discriminatory request processing: “requests for access to official documents shall be dealt with on an equal basis”.
- Standards of Article 8 of the Tromsø Convention on the national regulations, which guarantee an expeditious and inexpensive review procedure (the right of the requestor to have access to a review procedure before a court or another independent and impartial body established by law). Overview of the oversight body's responsibilities:
 - steering tasks: coordinating and integrating related policies at national and local levels, supporting public agencies in establishing appropriate organizational structures and administrative procedures to facilitate compliance with Fol laws and obligations.
 - application responsibilities: hearing appeals from individuals or entities regarding access to information requests, investigating complaints related to the non-disclosure or improper handling of information requests, and issuing binding decisions or recommendations to ensure compliance with Fol legislation and policies, ensuring citizens have access to public information in a proper timeframe.
 - monitoring and evaluation: involves continuous monitoring and evaluation of the effectiveness of Fol implementation and public sector information dissemination across different levels of government.
- Standards of Article 10 of the Tromsø Convention on proactive disclosure practices: “at its own initiative and where appropriate, a public authority shall take the necessary measures to make public official documents which it holds in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest”.
- Elements of exercise (in/across groups):
 - To consider recommendations in light of:
 - general standards,
 - developments in BiH law and practice,
 - previous BiH reports and assessments, submitted to the [Access Info Group](#)

- To consider possible indicators and data points capable of serving as bases for responses (including identifying relevant sources of information).
- To consider how a possible response might be prepared, inc. institutions and stakeholders principally involved and process of gathering, managing information, and compiling/analysing relevant data.
- To assess current situation regarding the recommendation.
- To consider possible substantive responses, inc.
 - Describe activities and measures undertaken in order to implement the recommendation
 - Analyse results/effects of these activities
 - Point to any future activities or follow up
 - Consider possible impacts of cited activities/measures
- To consider how proposed responses may be assessed.
- Peer assessment: to compare across groups and discuss/assess.

Note: given the range of backgrounds and familiarity of training participants, and potentially large numbers of trainees in any session, it is recommended to ensure that groups are composed of participants from a mix of backgrounds.

Session 7: Freedom of Expression Online

1. **Learning objectives:** This session will enable the participants to: become aware of the opportunities and challenges that the internet poses to the enjoyment of the right to freedom of expression; understand how the international legal principles on freedom of expression are applied in the online context; recognise justifiable limitations of the right to freedom of expression online; analyse international body recommendations in respect of freedom of expression online and consider elements for adequate responses.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, multimedia, small-group exercises, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying rubric for consideration in group-work exercise to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Additional reading:** To be suggested by the trainer/s.
6. **Evaluation:** To extent practicable, trainers to prepare pre- and post-training questionnaires (e.g. multiple-choice format) to allow assessment of levels of knowledge and understanding of participants at session outset and close.
7. **Duration / division of timing:** The agenda and timing of the session will be for the trainers engaged to determine. This is likely to be informed, however, by the extent of the material/topics to be covered in each section.
8. **Content** (indicative organisation of topics/elements):

DAY 1

Part 1: Internet and freedom of expression – international standards

Topics

- Internet as a platform for the exercise of the freedom of expression
 - Opportunities and challenges
 - Application of general principles related to the freedom of expression
 - Particular nature of expression online
- Access to the internet
 - Internet shutdowns
 - Restriction of access
 - Blocking and filtering of content - must be based on clear legal framework (principles set out in the ECtHR judgment [Ahmet Yıldırım v. Turkey](#))
- Legitimate interferences: e.g. copyright-protected content, protection of minors
- Bulk interception of communications

- Liability for third party-generated content
- Liability for hyperlinks
- The “right to be forgotten”
 - EU [General Data Protection Regulation](#) (Article 17)
 - Court of Justice of the EU: [Google Spain v. Gonzalez](#), C-131/12, 2014
 - ECtHR: [Hurbain v. France](#)
- “Fake news” and disinformation

The complexity of the application of general principles in the context of online hate speech could be demonstrated in a case-study based on the 2023 ECtHR judgment [Sanchez v. France](#) [GC], (including the dissenting opinions). Participants, working in small groups, could be asked to argue as representatives of the applicant and representatives of the state.

Reference materials

- [UN Human Rights Committee General Comment no. 34 on Article 19](#) (paragraph 43)
- [The Special Rapporteurs from the four international and regional protection systems Joint Declaration on Freedom of Expression and the Internet](#), 2011
- ECtHR judgments: [Pravoye Delo and Shtekel v. Ukraine](#); [Cengiz and others v. Turkey](#); [Jankovskis v. Lithuania](#); [Kalda v. Estonia](#); [Ahmet Yıldırım v. Turkey](#); [Kablis v. Russia](#); [OOO Flavus and others v. Russia](#); [Neij and Sunde Kolmisoppi v. Sweden](#) (dec.); [Aleksy Ovschinnikov v. Russia](#); [K.U. v. Finland](#); [Delfi v. Estonia](#); [Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary](#); [Pihl v. Sweden](#) (dec.), [Magyar Jeti Zrt v. Hungary](#) etc.

Part 2: Freedom of expression and the internet in Bosnia and Herzegovina

Topics

- Lack of regulation
- Application of general principles governing freedom of expression and ECtHR standards
- Decisions of the Constitutional Court of BH
- Canton Sarajevo draft Law on Minor Offences – regulating spreading of “fake news”

Reference materials

- [OSCE: Regulation of Online Content in South East Europe](#), 2018
- [Recommendation CM/Rec\(2022\)16 of the Committee of Ministers to member States on combating hate speech](#) (Principles and guidelines related to the legislation regarding online hate speech – no. 16-27)

Part 3: Facilitated practicum – Preparing and assessing responses to international body recommendations (3+) in respect of freedom of expression online (to be identified with MHRR)

- Recommendations – to be considered, addressed in and compared across groups:

- Human Rights Committee General Comment 34 (2011): 15. “States parties should take account of the extent to which developments in information and communication technologies, such as internet and mobile based electronic information dissemination systems, have substantially changed communication practices around the world. (...) States parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto.”
- UPR Recommendation 120.89 (focus on FoE online): “Provide freedom of the media by conducting timely investigations and prosecutions of perpetrators of attacks, intimidation, threats or other criminal acts against journalists, including gender-based or online” (Canada)
- [Recommendation CM/Rec \(2022\)16 of the Committee of Ministers to member States on combating hate speech](#): Principles and guidelines on legislation regarding online hate speech: 17. “Member States should define and delineate, in line with [Recommendation CM/Rec\(2018\)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries](#), the duties and responsibilities of State and non-State actors in addressing online hate speech. Member States should furthermore create clear rules and procedures for effective co-operation with and between those actors regarding the assessment and investigation of online hate speech that is prohibited under criminal, civil or administrative law.”
- [Recommendation CM/Rec \(2022\)16 of the Committee of Ministers to member States on combating hate speech](#): Principles and guidelines on legislation regarding online hate speech: 24. “Member States should have a system in place for the disclosure of subscriber information in cases where competent authorities have assessed that online hate speech is in breach of the law and authors and disseminators are unknown to the competent authorities. Member States should ensure that any disclosure of available information on their identity is in line with European and international human rights law.”
- [Recommendation CM/Rec \(2022\)16 of the Committee of Ministers to member States on combating hate speech](#): Principles and guidelines on legislation regarding online hate speech: 27. “Member States should ensure that their legislative framework sets out a legal duty for media operating online not to disseminate hate speech that is prohibited under criminal, civil or administrative law, that it makes appropriate provision for the restriction or disabling of access to such hate speech posted by third parties in their comments sections or collaborative spaces on their platforms and that it subjects such restrictions ultimately to independent judicial review.”
- Elements of exercise (in/across groups):
 - To consider recommendations in light of:
 - general standards,
 - developments in BiH law and practice,
 - previous BiH reports and assessments.

- To consider possible indicators and data points capable of serving as bases for responses (including identifying relevant sources of information).
- To consider how a possible response might be prepared, inc. institutions and stakeholders principally involved and process of gathering, managing information, and compiling/analysing relevant data.
- To assess current situation regarding the recommendation.
- To consider possible substantive responses, inc.
 - Describe activities and measures undertaken in order to implement the recommendation
 - Analyse results/effects of these activities
 - Point to any future activities or follow up
 - Consider possible impacts of cited activities/measures
- To consider how proposed responses may be assessed.
- Peer assessment: to compare across groups and discuss/assess.

Note: given the range of backgrounds and familiarity of training participants, and potentially large numbers of trainees in any session, it is recommended to ensure that groups are composed of participants from a mix of backgrounds.

Session 8: Access to Information for Information Officers

1. **Learning objectives:** training session specifically designed for Information Officers, focusing on their role in managing, processing, and safeguarding official documents and personal data while ensuring the right to information and privacy and providing them with the tools to organize the performance of their duties.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, small-group exercises, facilitated discussion.
4. **Advanced materials:** Recommendations and accompanying materials for consideration in group-work exercises to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
5. **Evaluation:** To the extent practicable, trainers should prepare pre- and post-training questionnaires (e.g., multiple choice format) to allow assessment of levels of knowledge and understanding of participants at the session outset and close.
6. **Duration/division of timing:** The agenda and timing of the session will be determined by the trainers engaged.
7. **Content** (indicative organization of topics/elements):

DAY 1

Part 1: The Basics of Access to Official Information Obligations

Topics

- The scope of the right to access official information held by government or public bodies.
- Overview of international and regional legal frameworks governing the right to information, including conventions, directives, and guidelines relevant to the role of Information Officers.
- TROMSØ Convention and Aarhus Convention provisions and their implementation in performing Information Officers' duties.
 - Principle of equality in access to official information,
 - Request processing,
 - Access to documents in different formats,
 - Access to archived documents.
- Re-use of public sector information and protection of confidentiality
 - Open data principles according to the Open Data Charter
 - European regulation on open data
 - High-value open data sets and open data standards

- The scope and limitations of the right to information within the context of promoting transparency and accountability in public administration:
 - Necessity in a democratic society,
 - Legitimate interests for the official information restriction,
 - Access to information and national security,
 - Access to information and protection the rights of others, protection of the reputation of others and prevention of the disclosure of information received in confidence
 - Access to information and maintaining the authority and impartiality of the judiciary.

Reference materials

- [Council of Europe Convention on Access to Official Documents and Explanatory Report](#)
- [The United Nations Economic Commission for Europe \(UNECE\) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)
- [European Convention on Human Rights](#), Article 10
- [Open Data Charter](#)
- [Directive \(EU\) 2019/1024](#) of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information
- [UNESCO Massive Open Online Course: Access to Information Laws and Policies and their Implementation](#)

Part 2: The Basics of Right to Privacy and Personal Data Protection

Topics

- The right to privacy: protection of personal data, including any information relating to an identified or identifiable natural person (data subject).
- Consent of the data subject, processing personal data, and ensuring that individuals have control over their information.
 - Lawfulness, Fairness, and Transparency: Data processing should be lawful, fair, and transparent to the data subject, with clear communication about how their data is used.
 - Purpose Limitation: Personal data must be collected for specified, explicit, and legitimate purposes and not further processed in a manner incompatible with those purposes.
 - Data Minimization: The collection of personal data should be limited to what is necessary in relation to the purposes for which they are processed.
 - Storage Limitation: Personal data should be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.
 - Data Subject Rights: Data subjects have rights under privacy law, including the right to access, correct, delete their data, and object to its processing.

- Accountability and Governance: Data controllers are responsible for and must be able to demonstrate compliance with the principles of data protection, necessitating appropriate policies, procedures, and records.
- Measures to keep personal data accurate and, where necessary, kept up to date; reasonable steps to be taken to ensure that inaccurate data are either erased or rectified.
- Measures to keep personal data secured and processed to ensure protection against unauthorised or unlawful processing.
- General overview of Council of Europe and the European Union regulations.

Reference materials

- [European Convention on Human Rights](#), Article 8
- [General Data Protection Regulation](#)
- [Guide on Article 8 of the European Convention on Human Rights](#)

Part 3: Balancing Information Access with Privacy Rights by the Information Officers.

Topics

- Examination of the acts of the Council of Europe and the European Union, highlighting the Convention for the Protection of Individuals regarding the [Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data \(Convention 108\)](#) and its [modernised version \(Convention 108+\)](#).
- Justified limitation of the right to freedom of expression or exclusion from protection (ICCPR- Article 19 para 3, ECHR - Article 10 para 2)
- Relevant factors in balancing the right to information and the right to privacy under international law (ECtHR case-law, General Comments #34, CoE Recommendation)
- Concept of legitimate public interest (ECtHR, (dec.), [Centre for Democracy and Rule of Law v. Ukraine](#), Application no 75865/11, judgment of 3 March 2020 ; ECtHR, [Studio Monitori and Others v. Georgia](#), Application nos. 44920/09 and 8942/10, [Bubon v. Russia](#), Application no. 63898/09, 7 February 2017; [Case Cangı v. Turkey](#), Application no. 24973/15
- Necessity in democratic society a contribution to public debate
- Access to information for journalists (bloggers, activists etc. - ECtHR case-law criteria under [case of Magyar Helsinki Bizottság v. Hungary](#))

Reference materials

- [Council of Europe Convention on Access to Official Documents](#)
- [The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data \(CETS No. 108\)](#)
- [Additional protocol to Convention 108 regarding supervisory authorities and transborder data flows \(ETS No. 181\)](#)
- ECtHR, [Case of Magyar Helsinki Bizottság v. Hungary](#)

DAY 2

Part 4: National Legislation, Policies, and Practices in Access to Official Information and Personal Data Protection

Topics

- Constitutional provisions on official information and personal data,
- Relevant Laws of BiH, FBiH, RS, BDBH
- The institutional mechanisms in place for implementing and overseeing the right to information, highlighting best practices in governance.
 - Activities of Ombudsman Institution
 - Ministry of Human Rights and Refugees authority
- Discuss the practical challenges Information Officers face in applying these standards to real-world scenarios and the strategies to address them.
- Oversight and control in access to official information in Bosnia and Herzegovina

The trainer makes a short overview of the authorities, responsible for oversight in access to information in Bosnia and Herzegovina. The instruments to ensure effective implementation are discussed, namely power of controlling authority, liability measures and public control.

- BiH institutions have disclosed information as required.
- Institutions maintain work transparency.
- An Information Officer is appointed and acts within their authority.
- A special register of requests, procedures, and decisions on access rights and document re-use is maintained.
- Law provisions are enforced upon receiving access and re-use requests.
- Information on costs and conditions for document access and re-use is published
- Activities of Ombudsman Institution (Amendments to the Law on Ombudsman for Human Rights)
- Involvement of non-governmental organisations and civil society organisations in monitoring the implementation of the Law on Freedom of Access to Information at the Level of Institutions of Bosnia and Herzegovina.

Reference materials

- Law on Freedom of Access to Information at the Level of Institutions of Bosnia and Herzegovina
- Law on Freedom of Access to Information of the Republika Srpska
- Law on Freedom of Access to Information in the Federation of Bosnia and Herzegovina
- Law on Freedom of Access to Information in Bosnia and Herzegovina in the Brčko District of Bosnia and Herzegovina
- Law on Protection of Personal Data

- Instruction on implementation of the Law on Freedom of Access to Information in Bosnia and Herzegovina (Brčko District of Bosnia and Herzegovina)
- Rulebook on the implementation of the Law on personal data protection in the Agency for personal data protection in Bosnia and Herzegovina
<http://www.azlp.ba/propisi/Default.aspx?id=5&pageIndex=1&langTag=en-US>

Part 5: Facilitated practicum – Processing requests for official information and personal data request

- Discuss the processes and procedures for managing official information and personal data effectively and securely:
 - System of registration of official information and personal data,
 - Information Officers' power and obligation while processing official information and personal data,
 - Coordination and cooperation with the other authority's departments.
 - Forms of access to official documents: access to the information that needs to be collected from several documents.
 - Possibility of submitting an anonymous request for access to information.
 - Obligations of the official information administrators (state authorities) in processing requests: time limits, justification of refuse, payment for copying.

The trainer provides the participants with examples of requests for official information and makes an overview of the legislative requirements for processing them. The participants are divided into several groups to work on their tasks and then present the results and conclusions. The joint facilitated discussion focused inter alia on the following aspects:

- Discuss the processes and procedures for managing requests for information, including assessing the public interest, exemptions, and handling sensitive or personal data:
 - Different types of requests (by content and by forms – via e-mail, telephone, etc.)
 - Practical issues of request processing – equality, language, ready and available information
 - People with disabilities as requestors,
 - Anonymous requests,
 - Forms of official information available, limits of obligation to change the official information format,
 - Reimbursement for copying and printing
- Restricting access to official information and personal data
 - Legitimate interests in national legislation
 - Public interest test and its application
 - Restriction applied to information in a document,
 - Information that cannot be restricted.
- Proactive publication and use of technology and digital platforms to facilitate access to information while ensuring data protection and privacy compliance

- Public registers and authorities' official websites,
- Open data and reuse of official information
- Need for a comprehensive approach,
- Discuss the importance of continuous learning and capacity building in staying abreast of legal developments, technological advancements, and emerging challenges in information management.
 - Awareness raising
 - Education and literacy
 - Training (public officials, journalists, judiciary, police)
 - Media coverage
- Access to official information and personal data for special actors:
 - Journalists, activists, bloggers (those who perform watchdog activities)
 - Attorneys, judges, state servants
 - Official information for press and journalists

Additional materials

- [Council of Europe Convention on Access to Official Documents](#)
- Law on Freedom of Access to Information at the Level of Institutions of Bosnia and Herzegovina
- Law on Freedom of Access to Information of the Republika Srpska
- Law on Freedom of Access to Information in the Federation of Bosnia and Herzegovina
- Law on Freedom of Access to Information in Bosnia and Herzegovina in the Brčko District of Bosnia and Herzegovina
- Instruction on implementation of the Law on Freedom of Access to Information in Bosnia and Herzegovina (Brčko District of Bosnia and Herzegovina)
- Law on Archival Material and the Archives of Bosnia and Herzegovina (Official Gazette of BiH, 16/01)
- [UNESCO, 2022 Report on Public Access to Information \(SDG 16.10.2\), Oversight mechanism: growth in numbers](#)
- [UNESCO, Global report on the implementation of access to information laws, Intergovernmental Council of the International Programme for the Development of Communication, 33rd, Paris, 2022](#)

Session 9: Freedom of Information and Right to Privacy

1. **Learning objectives:** Define notions of the right to information and right to privacy; provide an overview of the international legal, institutional, and practical aspects of the topic; familiarize with the standards set by the case law of the ECHR; to train the skills in using international standards while balancing freedom to information and right to privacy.
2. **Logistic requirements:** training room, laptop, projector, internet connection, flipchart, paper, and markers.
3. **Methodology:** Combination lecture/PPT-based presentation, small-group exercises, facilitated discussion.
4. **Materials:** As indicated below.
5. **Advanced materials:** Recommendations and accompanying guidelines for consideration in group-work exercises to be prepared by trainer/s and circulated as far ahead of planned training delivery as practicable.
6. **Evaluation:** To the extent practicable, trainers should prepare pre- and post-training questionnaires (e.g., multiple choice format) to allow assessment of levels of knowledge and understanding of participants at the session outset and close.
7. **Duration/division of timing:** The agenda and timing of the session will be determined by the trainers engaged.
8. **Content** (indicative organization of topics/elements):

DAY 1

Part 1: Understanding the Basics of Freedom of Information and Right to Privacy

Topics

- Introduction to the right to privacy and personal data protection. The origins and evolution of personal data protection, including a historical overview of international documents and how they laid the groundwork for current data protection laws.
- Importance of effective private life protection in the modern digital realm,
- Overview of the core principles guiding the processing of personal data, including:
 - fairness (the principle of transparency in processing personal data);
 - legitimate purpose;
 - data minimisation, storage limitation, integrity, and confidentiality.
 - proportionality of personal data processing;
 - accuracy (relevance) of personal data.
- The obligation of the State to prevent and sanction right-to-privacy violations.
- Introduction to freedom of information under the European Convention on Human Rights, ICCPR, Aarhus Convention and Tromsø Convention:
 - From a component of freedom of expression to the universal right,
 - Tromsø Convention and its role in ensuring the public sector transparency,

- Access to information on a request and proactive disclosure,
- Access to information in the modern digital realm,
- Introduction to the balanced approach and procedures for limitation of freedom of information.

Reference materials

- [European Convention on Human Rights](#), Article 8 and Article 10
- [Council of Europe Convention on Access to Official Documents and Explanatory Report](#)
- [The United Nations Economic Commission for Europe \(UNECE\) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)
- [General Data Protection Regulation](#)
- [Guide on Article 8 of the European Convention on Human Rights](#)

Part 2: International Legal Standards in Freedom of Information and Right to Privacy

Topics

- Relationship between the right to information and the right to privacy under international law.
- Introduction to key terms in freedom of information: official document, information request, requestor's rights, official information administrator, proactive publication, and Information Officer's role.
- Introduction to key terms in data protection: personal data, data processing, anonymisation, data controller, data processor, third parties, and data protection officer roles.
- Overview of the international documents and national legislation
- Protection of right to information:
 - ECHR - Article 10,
 - ICCPR Article 19,
 - EU Charter for Fundamental Rights Article 42,
- Protection of right to privacy:
 - ECHR - Article 8
 - ICCPR Article 17
 - EU Charter for Fundamental Rights Article 8,
 - The right of a person to request a copy of the personal data that the authority holds about them (Article 15 of the GDPR)
- Analysis of the conditions under which personal data may be legally processed, emphasizing consent, legal obligations, vital interests, public interest, and legitimate interests.
- Re-use of public sector information and protection of confidentiality
 - Open data principles according to the Open Data Charter

- European regulation on open data
- High-value open data sets and open data standards

Reference materials

- [European Convention on Human Rights](#), Article 8 and Article 10
- [EU Charter for Fundamental Rights](#)
- [Open Data Charter](#)
- [Directive \(EU\) 2019/1024](#) of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information
- [Guidelines on the Protection of Individuals With Regard to the Processing of Personal Data in a World of Big Data](#)

Part 3: Balancing Access to Information with Privacy Rights – International Standards and ECHR case-law

Topics

- Familiarise participants with the standards set by the case law of the European Court of Human Rights (ECHR) and other relevant jurisdictions on balancing the right to information with privacy rights.
- Discuss how the ECHR evaluates each case to determine the balance between the right to privacy (Article 8 of the Convention) and the right to freedom of expression (Article 10 of the Convention).
- Detailed discussion on the rights afforded to individuals regarding their personal data, including the right to access, correct, delete, and object to the processing of their data.
- Examination of circumstances under which the rights of data subjects may be limited, focusing on national security, public safety, and other significant interests.
- Relevant factors in balancing the right to information and the right to privacy under international law (ECHR case-law, [HRC General Comments #34](#), CoE Recommendation)
 - Equality of rights: the ECHR has stated that the outcome of a case should not differ based on whether it was brought under Article 8 by the person whose privacy was breached or under Article 10 by the publisher, emphasizing that both rights merit equal respect.
 - [Legitimate public interest](#): the Court recognises a legitimate public interest in information about criminal investigations and the behavior of public figures, especially when their conduct contradicts their public persona.
 - Public Interest vs. Privacy and reasonable expectation of privacy: in cases requiring a balance between respect for private life and freedom of expression, the court holds that public interest in the information can justify limitations on privacy, especially when involving public figures.
 - Respect for private life in public information: the ECHR notes that the mere fact that information is in the public domain does not remove the protection of private life. The

targeted collection and use of such information for purposes significantly different from those for which it was made public can raise serious privacy concerns.

- Contribution to public debate: the Court considers whether the published material contributes to a debate of public interest.
- Public person reputation: the Court assesses the public status of the person affected by the publication, recognising that public figures are subject to wider limits of acceptable criticism.
- Subject matter of the publication: evaluation of the information disclosure and its relevance to the public interest.

Reference materials

- [European Convention on Human Rights](#), Articles 8 and 10
- [Factsheet – Whistleblowers and freedom to impart and to receive information](#)
- [Guide to the Case-Law of the of the European Court of Human Rights \(Data Protection\)](#)
- [Recommendation No. R\(2002\)2 of the Committee of Ministers of the Council of Europe on access to official documents, 21 February 2002](#)
- ECtHR, [Ciubotaru v. Moldova](#), Application no. 27138/04, judgment of 27 April 2010
- ECtHR, [S. and Marper v. the United Kingdom](#), Applications nos. 30562/04 and 30566/04, judgment of 4 December 2008
- ECtHR, [Halford v. The United Kingdom](#), Application no. 20605/92, judgment of 25 June 1997

DAY 2

Part 4: National Legislation, Policies, and Practices in Balancing Access to Information with Privacy Rights

Topics

- Constitutional provisions
- Relevant Laws of BiH, FBiH, RS, BDBH
- Oversight bodies for access to information and personal data protection – overview of international approaches. The trainer presents the overview of different approaches in oversight and control on implementation of access to official information legislation, namely:
 - Information Commissioner and Commission,
 - Government agencies
 - Ombudsman
 - The requirements of independency and effectiveness
- The institutional mechanisms for implementing and overseeing the right to access official information and personal data protection in BiH.
 - Activities of Ombudsman Institution
 - Ministry of Human Rights and Refugees authority

- Discussion of the advantages and weaknesses of the mechanisms for implementing and overseeing the right to access official information and personal data protection:
 - Protection of Individual Rights: Dedicated frameworks and institutions for data protection empower individuals by granting them rights over their personal data, including the right to access, rectify, and erase their information.
 - Legal Recourse and Redress: The establishment of supervisory authorities and legal mechanisms provides individuals with avenues for seeking recourse and redress in cases of data misuse or breaches of their right to access information.
 - Promotion of Accountability: Oversight bodies and regulatory agencies tasked with monitoring compliance help hold entities accountable for their handling of personal data and access to information.
 - Standardization of Practices: Implementing regulations and oversight mechanisms help standardize data protection and access to information practices across sectors, fostering consistency and reliability.
 - Examine the role of oversight bodies or data protection authorities in reviewing decisions related to the public-interest test, including any appeals processes.
- Discussion on the practical challenges in applying access to information legislation while balancing personal data protection.

Reference materials

- Law on Freedom of Access to Information at the Level of Institutions of Bosnia and Herzegovina
- Law on Freedom of Access to Information of the Republika Srpska
- Law on Freedom of Access to Information in the Federation of Bosnia and Herzegovina
- Law on Freedom of Access to Information in Bosnia and Herzegovina in the Brčko District of Bosnia and Herzegovina
- Instruction on implementation of the Law on Freedom of Access to Information in Bosnia and Herzegovina (Brčko District of Bosnia and Herzegovina)
- Law on Archival Material and the Archives of Bosnia and Herzegovina (Official Gazette of BiH, 16/01)
- [Council of Europe Convention on Access to Official Documents and Explanatory Report](#)

Part 5: Facilitated Practicum on Public-Interest Test Application in Balancing Access to Information with Privacy Rights

The practicum aims to deepen understanding of the complex interplay between the right to information and privacy rights according to ECHR case law and Tromsø Convention, enhancing the ability of participants to navigate these issues in their professional roles. It includes elements that reflect the complexity and nuances of real-world scenarios.

Topics

- Overview of the structure of Article 8 and Article 10 of the European Convention on Human Rights.
- Human Rights Committee approach to restricting access to information under the Article 19 of ICCPR.
- Overview of the Tromsø Convention approach to restricting information (Article 3) and [Explanatory report](#).
- Significance of the public-interest test in the legal framework.

Elements of exercise (in/across groups):

- This exercise is based on a detailed scenario involving a request for information that includes personal data. The scenario should be complex enough to require careful consideration, such as a request for information about a public official's expenses that includes personal details. Each group has its own information, and the results of the mini-group exercise are further presented to the joint group and discussed.
- The trainer underlines the necessity of using the international standards on information limitation (while deciding on personal data disclosure) during all the stages of interaction between the requestor and the State authorities
 - at the level of information administrators, processing a request (national legislation, Tromsø Convention),
 - at the level of oversight authority (national law on oversight authority, European Convention on Human Rights, Tromsø Convention)
 - at the level of national courts (ECtHR, [Leander v. Sweden](#), Application no. 9248/81, judgment of 26 March 1987; [Handyside v. UK](#), Application no. 5493/72, judgment of 7 December 1976 ; [Amann v. Switzerland](#), Application no. 27798/95, judgment of 16 February 2000 ; [Bărbulescu v. Romania](#), Application no. 61496/08, judgement of 5 September 2017)
- The trainer guides participants in identifying and discussing the key issues at the request, such as the public interest in accessing the information, the privacy rights of individuals involved, and any potential harm that might arise from disclosure.
 - The participants discuss the criteria for applying the public-interest test, weigh the benefits of disclosing the information against the potential impact on privacy rights. This includes considering the relevance of the information to public debate, accountability, and the severity of any infringement on privacy.
 - The task is to make a balanced decision, considering the right to information and personal data protection. Participants should debate the extent to which privacy can be compromised in the interest of transparency and the public good.
- Integrated discussions of relevant case law and precedents that illustrate how similar situations have been handled, providing valuable insights into the application of the public interest test.

III. Reference materials

- [Guide on Article 8 of the European Convention on Human Rights](#)
- [Guide on Article 10 - Freedom of expression \(coe.int\)](#)
- [Council of Europe Convention on Access to Official Documents](#)
- [Recommendation No. R \(91\) 10 on the communication to third parties of personal data held by public bodies;](#)
- [Recommendation CM/Rec\(2020\)1 of the Committee of Ministers to member States on the human rights impacts of algorithmic systems;](#)
- [Recommendation CM/Rec\(2019\)2 of the Committee of Ministers to member States on the protection of health-related data;](#)
- [Recommendation CM/Rec\(2018\)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfill the rights of the child in the digital environment;](#)
- [Recommendation CM/Rec\(2018\)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries;](#)
- [Recommendation CM/Rec\(2016\)8 of the Committee of Ministers to the member States on the processing of personal health-related data for insurance purposes, including data resulting from genetic tests](#)