

GENDER ANALYSIS FOR THE EUROPEAN UNION AND COUNCIL OF
EUROPE
FREEDOM OF EXPRESSION AND FREEDOM OF THE MEDIA IN BOSNIA
AND HERZEGOVINA – JUFREX 2
HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY
2019-2022

GENDER EQUALITY AND FREEDOM OF EXPRESSION IN BOSNIA AND HERZEGOVINA

Recommendations for gender mainstreaming

N1info.com	Buka - Online Magazin	Klix.ba	24 sata	Neither	Klix.ba	Facebook groups and pages
Neither	Vecernji list	Index.hr	Al Jazeera	Buka - Online Magazin	Al Jazeera	
	TV vijesti			Krajina.ba	Avaz.ba	
			Facebook groups and pages			Russia Today

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Introduction

About this analysis

This report is the second deliverable within the gender analysis conducted for the *Freedom of Expression and Freedom of the Media in Bosnia and Herzegovina – JUFREX 2, Horizontal Facility II* from November 2019 to January 2020.

This analysis was conducted in order to generate data that will serve as the basis for the recommendation of possible routes for gender mainstreaming within JUFREX 2 in BiH, with a view to expanding the approach to other project countries.

The Gender Analysis Terms of Reference required an investigation into the following areas:

- The situation of men and women in the media sector (roles, control of resources, decision-making, gender-based discrimination).
- Representation of men and women by the media.
- Existing legal and policy framework on the media, especially regulatory framework relating to freedom of expression and freedom of the media, as well as relating to the protection of journalists, and the extent to which it considers gender equality.
- Implementation of programmes and initiatives on freedom of expression and freedom of the media, and the extent to which they have a gender-equality perspective.

Based on these domains of interest, five research questions were defined to explore **1)** social norms and stereotypes, **2)** gender gaps, **3)** regulations, **4)** ongoing initiatives, and **5)** theoretical considerations at the intersection of gender equality and freedom of expression.

The key methods included: **a)** a desk review, **b)** interviews with key informants and conducting a content analysis of interview data, and **c)** collecting and analysing examples of journalists' complaints filed with professional associations, as well as relevant court cases from domestic and international courts.

About the project

JUFREX2 is a Joint Programme of the European Union and the Council of Europe and aimed at promoting freedom of expression and freedom of the media by providing support to legal professionals, media regulatory authorities, and media actors in six countries of the Western Balkans.¹

In Bosnia and Herzegovina (BiH), the key JUFREX2 partners are the Centres for Education of Judges and Prosecutors of the Federation of BiH (FBiH) and the Republika Srpska (RS), the Bar Associations from these two entities, the Communications Regulatory Agency of BiH, the BiH Press Council, and the Association of BH Journalists. JUFREX2 is a continuation of the first JUFREX project implemented from 2016 to 2019 ([CoE, 2019](#)) in the same region.

¹ Albania, Bosnia and Herzegovina, Kosovo (in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence), Montenegro, North Macedonia, and Serbia.

Institutional context

Since 1998, gender mainstreaming has been one of the key principles of the Council of Europe (CoE) [see Recommendation [R\(98\)41](#)]. Further, it is one of the six strategic objectives of the [Council of Europe Gender Equality Strategy 2018-2023](#). In the sixth strategic objective, the CoE undertakes to take into account the different needs of, and the policies' differential impacts on men and women, boys and girls, as well as subgroups, which also requires collection and analysis of sex-disaggregated data, balance in representation, training and tools, adequate staffing and performance monitoring.

About this report

The following report includes three main parts, the list of literature and addenda. The first part provides a short background on the gender equality situation in BiH and freedom of expression in the country, as well as the as explanation of methods used in this research. Key findings are presented per gender analysis question in part 2, substantiated with primary data analysis of cases and interviews wherever possible, as well as other sources. Conclusions and recommendations are in part 3.

Addenda include the relevant Council of Europe standards which pertain to media and gender equality (Addendum 1), a more detailed analysis of the entity criminal codes (Addendum 2), a list of interviewees and interview questions (Addendum 3), and an overview of the JUFREX2 results and recommendations for gender mainstreaming (Addendum 4).

Part 1. Background and Methodology

1.1 Freedom of expression in BiH: the gender-blind international comparisons

The greatest threat to freedom of expression in BiH is the difficult economic situation within the country's media industry, which exposes journalists to the risk of political blackmail and increases their likelihood of dependence on political support. Journalists' income and livelihoods are especially threatened when media owners decide to subtly silence them, or when public officials decide to financially exhaust them (and their employers) through long and expensive defamation cases. Beyond these activities, which have a chilling, direct effect on the freedom of expression, the general working conditions present an even more persistent and difficult problem. For example, at least a third of journalists in BiH work without adequate contracts, many journalists receive salaries with significant delays, while unionisation and collective bargaining are not a practice in most private media outlets ([BiH Ombudsperson, 2017](#)).

International nongovernmental organizations note that the country has a sound legal framework for protecting freedom of expression, but that the environment is increasingly hostile to critical media, effectively contributing to stagnating or declining country indicators of freedom of expression.

The Bertelsmann Transformation Index (TI) for example, shows a decline in the freedom of expression score for BiH from 8 (max. 10) in 2006 to 6 in 2010 and stagnation at that level ever since ([Bertelsmann Stiftung, 2019](#)). Of the four Political Participation indicators in Bertelsmann's TI, freedom of expression is scored the lowest and BiH is consequently categorized as a 'defective democracy' ([Bertelsmann Stiftung b, 2019](#)). According to the IREX Media Sustainability Index (MSI), BiH demonstrates negligible progress in freedom of speech, business management, and support to institutions necessary for media sustainability, as well as a continued decline in the professionalism of journalists and the plurality of the news ([IREX MSI, 2019](#)). In the World Press Freedom Index, BiH is ranked 63rd out of 180 countries with an almost equal score to Croatia and Greece, and slightly ahead of Kosovo, Albania, Serbia, Montenegro, and Macedonia ([Reporters Without Borders, 2019](#)). In short, different international comparisons vary in findings in relation to BiH, but overall, the trend of stagnation in relation to freedom of expression can be observed.

Some of the concerns which the international watchdogs record, are the suppression of freedom of assembly and freedom of expression, i.e. the protests and media reporting in Republika Srpska related to the unresolved death of David Dragicevic in March 2018, and the increasing use of defamation cases as a strategy to stump freedom of expression, as well as increasingly restrictive regulation of the online sphere.

However, none of the regular reports by the international non-profits and other organisations,

take into consideration the different levels of the realization of freedom of expression between groups. Such international reports and indicators do not report about key gender issues related to freedom of expression in BiH or the fact that no mainstream media outlet in BiH consistently reports about Roma, and especially not in the Romani language.

The Council of Europe's (CoE) *Recommendation on Gender Mainstreaming* from 1998 [R(98)41] and the [Council of Europe Gender Equality Strategy 2018-2023](#) necessitates looking into gender differences in program and policy design, but also beyond, into other social hierarchies which create inequalities, such as ethnicity, sexual orientation, and social status. This intersectionality is also emphasized in the CoE's *Recommendation on Preventing and Combating Sexism* from 2019 (CM/Rec(19)1). The same recommendation brings forward a useful explanation of what constitutes sexism, as well as a more specific contextualisation of sexism in the media sector. Sexism in the media includes [CM/Rec(2019)1, point II.c]:

- “sexual, sexualised and racialised depictions and objectification of women, men, girls and boys, including in advertising, films, television, video games and pornographic material,
- derogatory or trivialising reporting about women's appearance, dress and behaviour rather than balanced and informed discussion of their views and opinions,
- reporting and imaging women and men in stereotypical roles within the family and community,
- reproducing and perpetuating gender stereotypes with respect to victims of gender-based violence,
- unbalanced representation and the lack of meaningful participation of women in diverse professional and informative roles

(experts, commentators), especially with respect to minority women.”

In summary, the CoE's *Recommendation on Gender Mainstreaming* from 1998 [R(98)41], the [Gender Equality Strategy 2018-2023](#), and the *Recommendation on Preventing and Combating Sexism* from 2019 (CM/Rec(19)1) provide the most relevant institutional basis for this gender analysis.

The purpose of this analysis, based on CoE standards, is to identify how sexism, gender-based, and other inequalities influence the media and the judiciary in BiH, and how JUFREX2 can ensure that:

1. Gender issues do not affect the program achievements negatively;
2. Project activities do not reinforce gender issues or gender gaps;
3. The project successfully addresses some of the identified gender issues.

1.2 Gender equality in BiH: the context for freedom of expression

Women in BiH are exposed to high levels of intimate-partner violence, though still comparatively less than women in the rest of the Western Balkans. According to the most recent prevalence study ([OSCE, 2019](#), Table 5.1) 11 percent of women in BiH experienced physical and/or sexual violence from their partners since the age of 15, similar to North Macedonia and Kosovo, and lower than in Serbia, Montenegro, and Albania, while stalking is also relatively rare compared to the rest of the region. An additional 8 percent experiences physical and/or sexual violence from persons who were not their partners ([OSCE, 2019](#), Table 5.1).

Between 2014-2018, BiH courts were processing only 12 cases of gender-based and sexual harassment in accordance with articles 27 and 29 of the BiH Law on Gender Equality, and issued only two convicting sentences (one financial and one probation) (analysis of [HIPC Structure of Criminality Reports, 2014-2018](#)). This low number of reports reflects low trust in judicial institutions among female victims of such crimes. Most gender-based violence (GBV), especially domestic violence cases are processed in accordance with the Criminal Codes in the entities and Brcko District, while exact statistics on court cases are not available.

Compared to other countries, a much higher percentage of women in BiH (64 percent) were directly affected by the conflict ([OSCE, 2019](#)). In BiH, sexual violence was used as a military strategy, while sexual exploitation and human trafficking occurred in higher frequency during and after the

conflict. Men were exposed to sexual violence in conflict also. With men having comprised the majority of military forces in the 1992-95 war, they almost inevitably faced torture, degrading and inhumane treatment if they were captured by the belligerent side. Some were also exposed to sexual violence in camps, a topic that remains taboo to this day (see for example [Clark, 2017](#)).

Men are more often victims and perpetrators of homicide in general. In 2017, the intentional homicide rate in BiH for women was 0.6 and for men 1.9 (per 100,000) ([Gender Statistics Databank, 2019](#)). In most homicide cases, including femicide, men are more often perpetrators than women. Male suicide mortality rate in BiH was 14.6 per 100,000 persons, compared to 3.6 for women ([Gender Statistics Databank, 2019](#)).

In BiH, 69.9 percent of the population aged 16-79 was using the internet in 2019, compared to 53.6 percent globally and 82.5 percent in Europe ([ITU, 2020](#)). The gender gap in BiH is 5.3 percentage points in favour of men (72.8 percent of men - 67.5 percent of women using the internet in 2019, [ITU, 2020](#)). By the size of the gender gap, BiH is ranked 79th out of 112 countries in 2019, behind most European countries and most other JUFREX countries.

Male labour market participation rate is double that of women. Over 58 percent of men of working age are participating in the labour market, compared to less than 36 percent of women ([The World Bank Social Development Data, 2019](#)). This means that most women of working age are inactive in the labour market - they are neither employed nor looking for work. Part of the reason is the unequal distribution in the economy of care, since women are still expected to take up most of the care for children and elderly, and many women have little choice, because of the limited job supply in BiH, gender-based discrimination in access to employment, e.g. against pregnant women, poor

working conditions in female-dominated sectors such as trade and textiles, and finally, because of unavailable childcare services and low maternity benefits.

Fertility rates in BiH are the lowest in the region, at 1.3 total births per woman (comp. Albania 1.6, Croatia 1.4, Kosovo 2, North Macedonia 1.5, Montenegro 1.7, Serbia 1.5) (see [World Development Indicators, 2019](#)). The country faces a significant outflow of high-demand professionals such as medical and IT workers, but also manual labour and services workers. In comparison, in 2017, the net migration for Croatia was -40,000 citizens, and for BiH -107,000.

It is difficult to estimate how these migration flows will affect the gender equality issues in BiH, but the first effects that can be noted are the faster declining unemployment rates for women than for men in 2017 compared to 2016 (by 7 percentage points for women and 4 percentage points for men) (see [World Development Indicators, 2019](#)). The total number of unemployed women and men in BiH decreases annually with population outflow, same as the male and female labour force and working age population overall.

Women are politically underrepresented at all levels of government in BiH. Their participation in the BiH Parliamentary Assembly increased from 16.7 in 2010 to 21.4 in 2014 ([The World Bank Social Development Data, 2019](#)). The 2018 elections brought no further improvement at a state and entity level, and only modest improvement in several cantonal assemblies due to changes in the election rules. Women are underrepresented in the state and entity governments as ministers and prime ministers, as well as in the executive posts at local and cantonal levels. Beyond numeric underrepresentation, women's perspectives are rarely sought in policy development and adoption, although the latter is partially true for all citizens, since the most

important policies are rarely deliberated in public fora or even in parliaments. Many political decisions in BiH are taken by an exclusive, all-male club of political party leaders whose power strategy depends on media closely following their often-fabricated political conflicts.

BiH adopted its first Law on Gender Equality in 2003, while it was changed in 2009 ([BiH Official Gazette 32/10](#)). The country's institutional mechanism for gender equality includes a state-level Gender Equality Agency of BiH (GEA), two entity Gender Centres (GCs), state and entity-level parliamentary commissions for gender equality/equal opportunities, as well as a number of advisors, committees, and boards in cantons and municipalities. Political divisions between the RS and the state institutions in the 2014-2018 mandate severely affected the relations between gender institutional mechanisms, causing significant delays in several multi-million international projects and delaying progress in gender equality reform.

The difficult political context and the structural issues are beyond JUFREX2's reach. Still, the project can have an impact on the deeply ingrained gender stereotypes, norms, and ways of doing things in the media and the judiciary.

1.3 Research questions and methods

Based on the domains of interest defined in the terms of reference, the following research questions were set at the beginning of the gender analysis process:

1. How do harmful gender norms and stereotypes influence the media sector and the judiciary in BiH?
2. Which relevant gender differences exist in the situation, conditions, needs,

- participation, access to resources, control of assets, and decision-making powers in the media sector and the judiciary?
3. How successfully is gender mainstreaming regulated in the media sector in BiH?
 4. Which activities in the country have the potential to address the gaps and issues identified?
 5. Which theoretical considerations should be taken into account at the intersection between freedom of expression and gender equality in program design?

To address these five questions, three key methods were employed:

- a. Desk review of existing analyses on gender equality and freedom of expression;
- b. Interviews with key informants, including key stakeholders in the project, and analysis of interview data;
- c. Analysis of complaints filed with professional organisations and self-regulation bodies.

The desk review started by searching the preliminary evidence in relation to the first three research questions, as a basis for the interview stage, and continued in parallel with the interviews. In the desk review, published in-country research was given priority (Box 1), along with known in-country examples (Boxes 3-8). Further, a number of domestic and international policies (e.g. Addendum 1 and 2), court cases (e.g. Box 10), and research reports were analysed.

Interviews were conducted in December 2019 and January 2020. Interviewees included the representatives of the BH Journalists Association, the BiH Press and Online Media Council, the state-level Communications Regulatory Agency, the entity Centres for Education of Judges and Prosecutors, the Republika Srpska Bar Association, and one legal expert in media law from the Federation of BiH Supreme Court. The interview

questions sorted by different groups of interviewees are provided in the Addendum 3.

The analysis of complaints relied significantly on the valuable data provided by the BH Journalists Association and the BiH Press and Online Media Council. The main limitation of this approach is in the fact that many incidents endangering journalists' freedom of expression or rights of other stakeholders remain unreported and undocumented. This data is still indispensable until other sources become available, such as consistent court case statistics related to media or rigorous prevalence surveys.

Part 2. Findings on Key Gender Issues

This section lists findings in relation to the five main research questions pertaining to **1)** stereotypes, **2)** gender gaps, **3)** regulations, **4)** existing initiatives, and **5)** key theoretical considerations at the intersection between gender equality as a principle and women's rights on one side, and freedom of expression and media freedoms on the other. The desk review has shown that a body of research already exists in the country in relation to some of the research questions.

Box 1. Earlier research on gender issues, media, and the judiciary in BiH

Women are underrepresented as news subjects in BiH ([Who Makes the News, 2015](#)), especially women politicians in the election campaign period ([Popov Momcinovic, 2014](#)).

Media often perpetuate societal gender norms and stereotypes, for example by reporting about gender-based violence (GBV) only when a crime occurs, without sustained interest in the problem of GBV or in positive stories which may empower survivors ([Iukic Mujkic, 2016](#); [OSCE, 2019](#)).

Women journalists are more often targeted in cyberbullying and anonymous threats in social networks and on-air than their male colleagues ([BiH Ombudsperson, 2017](#); [Popov Momcinovic et al., 2019](#); [Zablocki 2018](#); [Rosà, 2019](#); [Jeremić et al., 2019](#)).

A number of analytical texts points also to known perpetrators of sexual harassment and discrimination, including colleagues, supervisors, politicians, and government officials (see [Jeremić et al., 2019](#); [Čilić, 2018](#); [Zablocki, 2018](#)) while gender institutional mechanisms fail to react in some instances ([Zablocki, 2018](#)).

Authorities, especially the police, at times underestimate the gravity of threats women journalists receive and do not associate such acts with existing provisions of the Criminal Codes ([OSCE Panel Discussion in 2019](#)).

An increasing number of journalists in the country are women ([Popov Momcinovic et al., 2019](#)), while their representation in management posts is relatively low (37 percent of editors, 28 percent of managers), with the Public Broadcasting System having the worst gender balance ([Unkic and Iukic-Mujkic, 2018](#); [Dzihana, 2018](#)).

Women journalists face unequal treatment in employment, promotions, salaries, professional training, and parental rights ([Popov Momcinovic et al., 2019](#)).

Sexism occurs also within judicial institutions ([Halilovic and Huhtaten, 2014](#)), while people involved in the judicial process can also influence it significantly with their own bias ([Halilovic et al., 2017 English](#)). In 2011, the OSCE reported that there was inadequate adjudication in GBV cases ([OSCE, 2011](#)), although the situation has been improving since ([Atlantic Initiative, 2018](#)).

2.1 Harmful gender norms and stereotypes in the media sector and the judiciary

How do harmful gender norms and stereotypes influence the media and the judiciary in BiH?

In short, gender stereotypes influence the media and advertising content, as well as the position of women and men in the media industry and the legal professions. There are five key gendered roles women are assigned in media and advertising content - carers, victims, sex objects, commercial commodities, and guardians of group honour, but most often, they are not represented in the media at all, especially not in their political and/or expert capacities. Conversely, the media represents men in mostly political and public roles (experts, commentators, leaders), while in crisis reporting, they are mostly either rescuers or perpetrators. The media also participates in political conflicts, at times using sexist content to discredit women politicians. Gender stereotypes also influence women's positions as journalists and bloggers. They often experience verbal attacks, including derogatory and offensive language, threats and intimidation online and offline, from readers and news subjects. Instances of GBV have been also recorded among legal professionals, while gender-bias inevitably influences the judicial process.

Finding 1: Gender stereotypes are reproduced in the media and advertising content.

² In Bosnian, Croatian, Montenegrin, Serbian, the grammatical gender of the noun and the verb should match.

Women as missing values, men as leaders

In 2015, only 14 percent of the news subjects in the TV, radio, and print media in 2015 in BiH were women. They were heavily underrepresented in the political and economic news ([Who Makes the News, 2015](#)). The only progress between 2005 and 2015 emerged from the democratisation of production through the internet and social media.

Box 2. Representation of women in media content

GMMP, 2005 15% of news subjects were women: <i>By media type</i> <ul style="list-style-type: none">- 18 % in TV news- 15% in radio news- 13% of newspaper articles <i>By program category:</i> <ul style="list-style-type: none">- 11% of political/government news- 13% of economy/business news 14% of crime/violence news
GMMP, 25 March 2015 14% of all news subjects were women: <i>By media type:</i> <ul style="list-style-type: none">- 18% in TV news- 15% in radio- 14 % in newspaper articles- 28 % in Internet and Twitter <i>By program category in TV, radio, print:</i> <ul style="list-style-type: none">- 16% of political/government news- 12% of economy/business news- 12% of crime/violence news- 38% of science/health news 23% of social/legal news

The absence of women is evident not merely in what is said, but also in how it is said. Usage of the female gender within the local language ([Causevic & Zlotrg, 2011](#))² continues to be unacceptable for conservative linguists when it comes to male-dominated professions and public functions. This is particularly evident in the Public Broadcasting System (PBS):

“...predsjednik Vlade Republike Srpske Željka Cvijanovic izjavila je...” (RTRS, 16.03.2018);

“...poslanik Naše stranke Sabina Ćudić prezentovala je...” (BHRT, 20.11.2019).³

A number of other language norms are simply codified gender stereotypes (see [Causevic & Zlotrg, 2011](#)) and the media play a key role in either reproducing or breaking them.

Women as victims, men as perpetrators

Women are more often portrayed as victims than survivors of accidents, crime, natural disasters, wars, poverty and similar events ([Who Makes the News, 2015](#)). Further, media reports about GBV almost exclusively within the crime sections, whilst information and interviews with survivors who left their abusers and are doing better are almost entirely absent ([Lukic Mujkic, 2016](#)), which further disempowers those women experiencing violence.

Bodies and stereotypes sell advertising space

The advertising industry in BiH and the region reproduces gender stereotypes, at times with public funding. Some campaigns are worth flagging here.

A 2017 campaign of the RS Ministry of Interior against driving under the influence of alcohol showed men as heavy drinkers and women as poor drivers ([ATV, 20.01.2019](#)). The civil society's request for gender review ([SOC, 2018](#)) resulted in the RS Gender Centre's recommendation to the Ministry of Interior to remove all discriminatory contents from public campaigns ([RS GC, 2018](#)). A few years earlier, the same Ministry cautioned the drivers to fasten their seatbelts with a video in which a man tells a woman: “Zaveži! Dosta priče,

veži pojas!” [Zip it! Quit the talk and fasten your seatbelt!] ([ATV, 10.06.2014: 0.00-0.12](#)).

Since 2012, Eronet, the mobile services operator in partial ownership of the FBiH Government, has been promoting their offers with controversial, objectifying content (see [HT Eronet YouTube channel, 2012](#)) which aired also on public television. Some of the video advertisements objectified men as well. Their 2017 billboard (Exhibit 1) promoted their products as a choice between two women: “One is 35, the other 25 - tough choice”.

Exhibit 1. HT Eronet Billboard in Sarajevo



Source 1. Photo by author

Women politicians as public bodies

Biased media also actively participates in political conflicts by targeting rival politicians. Women leaders, on top of criticism for their politics and ethnicity, also face misogynist portrayals. For example, the BN Television's New Year's Eve [video](#) about the RS Government President Željka Cvijanović involved derogatory and offensive language ([Lučka et al., 2018](#)) under pretence of satire. In social media, such content is more influential than in television, because it allows for endless reproduction. According to Vučetić ([2020](#)), the *meme* culture in BiH is still not used as a tool in

³ 'Predsjednik' instead of 'predsjednica', 'poslanik' instead of 'poslanica'.

inter-party conflicts in BiH, but this is not entirely correct. Exhibit 2 is an example of a political meme posted by one local party branch about women from other political parties. It body-shames women politicians from BiH.

Exhibit 2. Meme about Finnish and BiH politicians



Source 2. SDP Gornji Vakuf Uskoplje [Facebook](#), 22.12.2019

Both traditional and online forms of media are used by political parties to discredit political opponents in BiH, and when the opponents are women, the go-to strategy used to discredit them is objectification through sexualised comments or body-shaming.

Finding 2: Gender stereotypes influence women working in the media.

Women journalists, guardians of group honour

Women journalists are at times perceived as traitors by their own ethnic groups and targeted by different vengeance groups online (examples in Box 3), especially in relation to war crimes

reporting ([OSCE Women in Media Panel Discussion](#), 2019).

Box 3. Women journalists attacked as traitors

Meliha Kešmer writes about [extremism](#). She was attacked online when the Facebook group “Naš haber” [Our News] tagged her as a traitor: “We need no other enemies when we have them in our own ranks” (Nas haber, [08.12.2019](#)). Comments included misogynistic slurs.

Martina Mlinarević Sopta, blogger, received death threats in 2019 as a vocal critic of Croat nationalist politicians and harmful traditional norms ([Safejournalists.net](#), 2020). One threat said: “What right to speak against the Croat people, you might lose the other tit, go smirch Croats in Czechia.”

Dalija Hasanbegović, journalist, experienced numerous instances of cyberbullying and verbal threats in 2019, including being accused of wanting to convert Muslims to Christianity ([Interview, Radio Sarajevo](#), 2019).

Lejla Čolak received online rape and death threats because of her post on Facebook criticizing public display of religion and wearing of nikab in 2016.

Similarly, when reporting or commenting about crimes of *other* groups, both women and men journalists face verbal abuse, but the offences on women usually combine sexist and ethnic slurs/threats (Box 4).

Box 4. “Other” group’s women journalists as targets

Gloria Lujanovic, contributor for Dnevnik.ba wrote about war crimes committed by the foreign fighters on the Bosniak side during the 1992-95 conflict ([Dnevnik.ba](#), 14.08.2018). She was then abused online, while one Twitter user called for violence against the “Ustashi whore” ([Dnevnik.ba](#), 19.08.2018).

Arijana Saračević Helać, a journalist, and her male colleague Sanel Kajjan were publicly called out in an article by [Dnevnik.ba](#) in 2017 because of their reactions in social media to the suicide of Slobodan Praljak in The Hague. The article led to a number of death threats online and offline ([Safejournalists.net](#), 2020).

Pejka Medić, a PBS editor received online rape and death threats because of her post on Facebook

glorifying Serbian war criminals, which was brought to public attention by Slobodna-bosna.ba in 2017.

A traditional societal expectation is that a woman should not inflict shame upon her family, religion, or nation. In-group controls work to discipline women from any dishonourable action. Adversaries from outgroups tap into that symbolic connection by attacking women's honour and integrity.

However, some of the examples here demonstrate irresponsible use of freedom of expression in social networks by journalists themselves. Still, calls to violence against journalists cannot be justified in any way.

Women journalists' bodies as public bodies

A stereotype about successful women's, including journalists' advancement in public life through sexual favours is so influential in BiH that even public officials and other public personalities resort to sexual insinuations when the usual *Zip it!* does not do the job. Further, criticism against women journalists often includes body-shaming, similar to politicians. Some examples are given in Box 5.

Box 5. Shaming and gender-based harassment

"I suggest they paint the studio in brothel colours, or pink, and then we shall have a nightclub. What kind of messages are you sending with those faces? Is the silicone going to start pouring out over there?" Dragan Mektić, the former BiH Minister of Security talking at the RTRS journalist Biljana Knežević at a press conference in 2015 ([Lučka et al., 2018](#), p.30).

"And so, as the water washes down my associations about Selma and her CINical website, I am thinking about the oldest profession in the world - prostitution. (...) After today's article, at least it is clear who Selma Učanbarlić and her female colleagues at CIN are

spreading their legs for. Only the price eludes us." Emir Talirević, doctor, in 2016 ([Lučka et al., 2018](#), p.32).

Public employee Dženan Selimbegović used online derogatory and offensive language against journalists Arijana Saračević and Sanela Pašović Gadžo: "two used up women, one with bad hair dye, the other with bad collagen in her lips. People call them journalists..." ([Safejournalists.net, 2017](#)).

This derogatory language is a go-to strategy to discredit influential women, the same as with women politicians

Finding 3: Gender stereotypes and gender power relations influence the judiciary and the judicial procedure.

Friendly banter between colleagues

Sexism and GBV also occur within the judicial institutions and among legal professions. There are known examples of GBV among attorneys ([Etrafika.net, 2019](#)) and court personnel (Box 6).

Box 6. Attacks on women legal professionals

The Honorary President of the RS Bar Association (RSBA) Jovan Čizmović slapped his colleague Meliha Filipović in 2019. The RSBA condemned the attack ([RSBA, 2019](#)) but Čizmović remains the Honorary President since the disciplinary process is ongoing.

One of the total of eight cases of sexual harassment processed in FBiH courts in accordance with the Law on Gender Equality involves a male judicial official and a female court staff (interview, 17.12.2019). The alleged perpetrator Vladimir Špoljarić was appointed President of the Sarajevo Cantonal Court a few months before the sexual harassment charges. Dnevnilist.ba ([Šimić-Đinđić, 10.10.2019](#)) stood up in defence of the judge, claiming that the sexual harassment allegations are nothing but defamation, an attempt to discredit him as a Croat judicial official in Sarajevo.

In a survey of the judicial sector, 28 percent of respondents reported having encountered inappropriate sexualized jokes and comments, while a number of them downplayed the importance of everyday sexism ([Halilovic and Huhtanen, 2014](#)).

Justice is blind, the law is neutral

In 2011, the OSCE reported on the inadequate adjudication in domestic violence cases, e.g. court sentencing at or below minimum penalties and the prosecution ignoring certain charges in domestic violence cases, such as sexual violence ([OSCE, 2011](#)). The situation has been improving since then ([Atlantic Initiative, 2018](#)), but the personal biases inevitably influence the procedure and the seemingly gender-neutral legal norms.

Gender bias influences the BiH media and the judiciary. Firstly, parts of the media and advertising industry reinforce gender stereotypes with biased representations of women and men. Secondly, journalists are themselves exposed to stereotyping, sexism, and harassment. Similar issues are observed in the judiciary, although to a lesser degree.

2.2 Gender differences in the media sector and the judiciary

Which relevant gender differences exist in the situation, conditions, needs, participation, access to resources, control of assets, and decision-making powers in the media sector and the judiciary?

Women journalists report more frequently on incidents of derogatory and offensive language from readers and news subjects, while male journalists report more physical attacks, threats and intimidation, online attacks, legal and investigative pressures, and being denied access to information. Legal protection for women journalists' rights is lacking as they have low trust in, and satisfaction with, the police and judiciary. Legal professionals have limited understanding of gender issues in cases involving freedom of expression and media freedoms. In BiH, very few reported violations of the Press Code pertain to gender equality. Few defamation cases have sexism as a component. Women's and men's employment in the media industry in BiH is increasingly precarious, and the position of freelancers particularly vulnerable. An increasing share of journalists are women in BiH, whilst they remain underrepresented in decision-making posts.

Finding 4: Women in the media report more frequently verbal violence, men more often report physical violence, but data on sexual and gender-based harassment on the job is almost entirely missing.

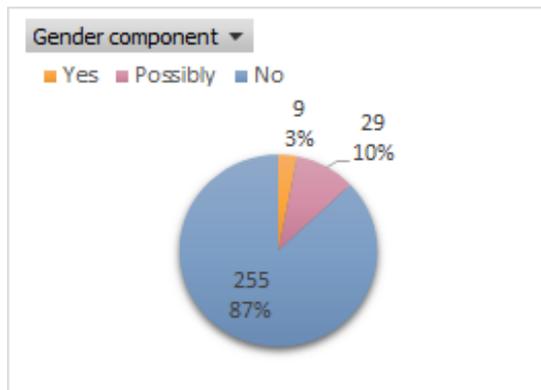
The two criteria which help detect gendered violence and abuse are 1) gendered or sexualised content and 2) significantly higher prevalence of violence and abuse among persons of one sex, perpetrated mostly by the other sex. A possible 3rd criterion is mentioned in section 2.5 (p. 24).

Gendered content

In relation to the first criterion, the gendered content of offences against journalists, presented in the examples from section 2.1 (Box 2, Box 3, Box 4) with explicit gender-based or sexual slurs and comments, although shocking, are not often

documented, based on available data. Around 3 percent of the incidents reported to the BH Journalists Association (BHJA) reflect sexism and misogyny in the content of the abuse, and an additional 10 percent require further analysis (Exhibit 3).

Exhibit 3. Reported incidents with gendered content



Source 3. own analysis of BHJA data (Mapiraj.ba, 2019)

The limitation of this graph is that it is based on incident summaries which do not provide enough detail. Also, many journalists fail to recognize and flag gendered content in the abuse they experienced. Lastly, 42 percent of the BHJA members are women, 58 percent men (BHJA, 2020), and consequently, more men report incidents to the BHJA.

Gendered because of prevalence/incidence

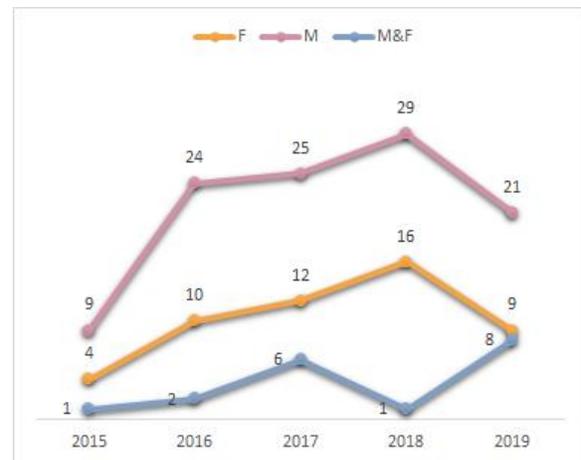
In relation to the second criterion, the prevalence of attacks on men and women journalists, such studies have not been published for BiH, although there are claims that women journalists are more likely to experience abuse online than men in BiH. The BiH Ombudsperson, in a special report noted

⁴ Demos news item (2014) in which the Ombudsperson and the OSCE Representative on the Freedom of the Media (2015) referred to English language comments in Twitter, in response to tweets by selected few journalists and celebrities from U.S. and U.K. The Vox Digitas report (Bartlett et al., 2014.b) mentioned in the news item does not include that finding. Other Demos reports are more informative, e.g. Misogyny on Twitter (Bartlett et al., 2014).

that “women journalists experience three times more abusive comments than their male colleagues” online (2017, p. 49).⁴ The recent OSCE *Women in Media Panel Discussion (2019)* shared experiences of women journalists who received threats and offences, some of them reiterating that women journalists are exposed to more abuse online than men. A global International Federation of Journalists (IFJ) survey has shown that 64 percent of women journalists surveyed in different countries have experienced online abuse (IFJ, 25.11.2018).

Since prevalence studies for BiH are not available, incidence analysis may provide some evidence. In incidents reported to the BHJA SOS phone line, men reported more incidents and were targets twice as often as women (Exhibit 4).

Exhibit 4. Journalists as targets of attacks in BiH by sex 2015-2019 (attacks on individuals only)



Source 4. own analysis of the BHJA phone line data

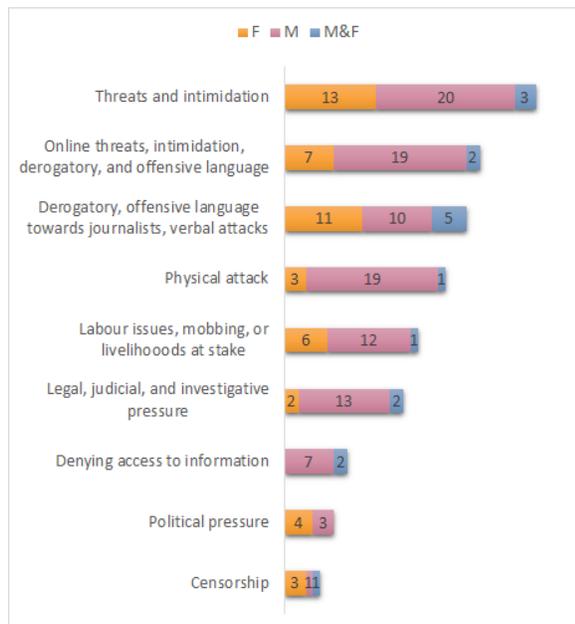
Looking at different types of reported pressures/attacks⁵ (Exhibit 5), the only type which

⁵ The author abandoned the initial BHJA categorization of incidents as some of the categories were not clear, e.g. “public reaction to an event” or “threats/pressures”. Additionally, a small share of the reported incidents cannot exactly be interpreted as pressures or attacks against freedom of expression, e.g. someone simply asking for legal advice.

affected women more than men is the derogatory and offensive language and verbal attacks (in the offline sphere). Nearly half of such incidents (42 percent) in the 2015-19 period, targeted women journalists on the job. In one recent study, a woman journalist said: “I believe that women are significantly more exposed to insults because they [perpetrators] do not expect that women will fight, react, and confront them” ([Popov Momcinovic et al. 2019](#), p.9).

Conversely, men were targeted disproportionately more in most other types of pressures, including: offline threats and intimidation; online threats, intimidation, derogatory, and offensive language; and especially in physical attacks; and legal, judicial, and investigative pressures.

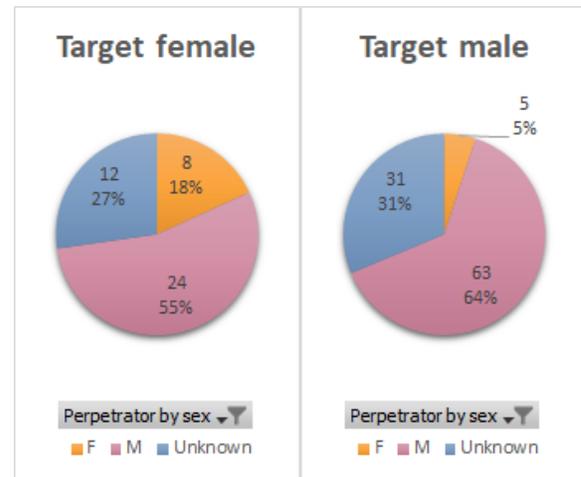
Exhibit 5. Types of attacks (2015-19) by sex of the target (individuals only, min. 4 instances)



Source 5. own analysis of the BHJA phone line data

Seven out of eight physical attacks on journalists in 2019 reported to the BHJA ([Mapiraj.ba, 2019](#)), were all on men, and all were carried out by other men (if the perpetrator was known).

Exhibit 6. Targeted journalists and perpetrators by sex



Source 6. own analysis of the BHJA phone line data

In looking at the structure of perpetrator groups (Exhibit 6), it becomes clear that men were the most frequent perpetrators of attacks reported, and pressuring of journalists, regardless of the target’s sex. The share of female perpetrators was slightly higher in incidents targeting women journalists, but most perpetrators were men. In around 55 percent of incidents reported by women, men were perpetrators.

There are two limitations to the incidence analysis. First, it reflects only what is reported, not the real number of incidents. Second, some journalists experience multiple incidents and some persons occur as perpetrators in multiple incidents. Incidence therefore explains how often attacks occur, but not how common the experience of such attacks and pressures is among men and among women. A prevalence study would eliminate the double-counting of the same persons and would take a representative sample of journalists in BiH.

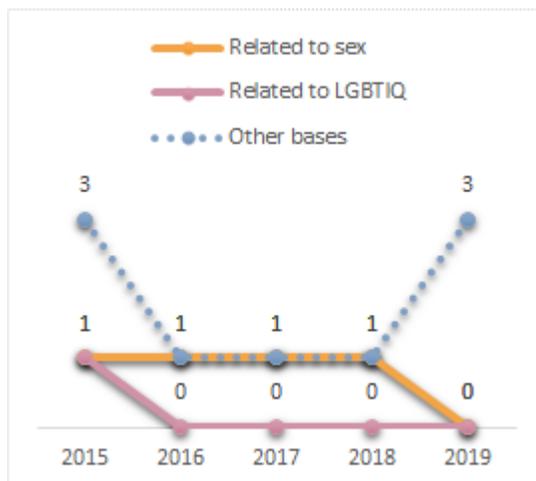
Furthermore, the BHJA phone line database or any other database in the country does not specifically track the discrimination and sexual or gender-based harassment which takes place in the

newsrooms. One survey of 50 women journalists (Beširević, 2018) reported that every fifth respondent experienced some form of gender-based discrimination. Instances of discrimination, sexual and gender-based harassment, and GBV in the newsrooms exist, but there are no rigorous prevalence studies to detect levels of exposure among men and women journalists.

Finding 5: Fringe online media outlets violate gender equality principles of press self-regulation, but mainstream media indiscriminately take over such content.

The [BiH Press and Online Media Code](#) includes a commitment to avoid prejudice, offensive insinuations, and comments pertaining to sex and sexual orientation (art. 4 and 4a). The BiH Press Council (PC) recorded 14 violations of those two articles (Exhibit 7) in the past five years, of which five were related to sex and two included anti-gay prejudice.

Exhibit 7. Press Code violations relating to gender equality (2015-2019)



Source 7. own analysis of the BiH PC data (2020)

Sex-based cases are in Box 7. All five texts published in sensationalist online media outlets talked about sexual activity, former partners, or simply used sexist figures of speech to discredit these women politicians, activists, or journalists.

Box 7. The list of violations of the Press Code gender equality principle

“”Tko o čemu Andrea Topić o devastaciji pomorskog dobra na Hvaru” [Look who’s talking, Andrea Topic about devastation of coastal areas] ([BiH PC, 30.09.2019](#))

“Tko je Bosanka koja se brutalno osramotila pred Clintonom a nije Monica Lewinsky” [Who is the Bosnian woman who brutally embarrassed herself in front of Clinton, she is not Monica Lewinsky?!] ([BiH PC, 28.12.2018](#))

“Mauzer bh. diplomatije” [Mauzer of BiH diplomacy] ([BiH PC, 10.03.2017](#))

“Afera koja razara familije u Sanskom Mostu...” [An affair destroying families in Sanski Most] ([BiH PC, 28.07.2016](#))

“Prijateljski poziv Sandi Hagen jer će poslije mjesec dana biti ne prijateljski” [A friendly invitation to Sanda Hagen, because it will turn unfriendly a month from now] ([BiH PC, 06.06.2015](#)).

The source of these texts were fringe web portals, who trade in libel and other attacks, though, some of the contents were taken over by mainstream media outlets.

One case of irresponsible media which also deserves attention is described in Box 8, although it has not been reported to the PC.

Box 8. Accusing a GBV victim of defamation

A woman working in the Sarajevo Cantonal Court reported a judge for sexual harassment in 2019. Later that year, Dnevno.ba accused the woman of defamation, portraying her experience as a plot to remove a Croat judicial official from the Court ([Šimić-Đinđić, 12.10.2019](#)).

Defamation accusations can be used to silence women speaking out about gender-based or sexual harassment by public officials ([Fox, 05.06.2019](#)).

Finding 6: Women journalists have low trust in the police and judiciary, while legal professionals have limited experience in applying gender-related legal provisions in cases related to freedom of expression.

Women reporters rarely report verbal attacks, cyberbullying, and sexual and gender-based harassment to police. Some of the reasons are:

- 1) They want to keep the public attention on their reports and not on them as reporters ([OSCE Panel Discussion, 2019](#));
- 2) They do not always recognize the seriousness or the gendered nature of harassment and discrimination ([OSCE Panel Discussion, 2019](#));
- 3) They fear stigmatization ([Beširević, 2018](#));
- 4) They do not trust the system's ability and even willingness to protect women from these gendered issues ([Popov Momcinovic et al., 2019](#)).

Police officers fail to perform due risk assessments, and at times underestimate the gravity of threats, failing to associate attacks with existing relevant provisions of the Criminal Codes or the Law on Gender Equality ([OSCE Panel Discussion, 2019](#)). The RS Ministry of Interior actively tracks attacks on journalists however (interview, 10.01.2020).

Women journalists have low trust in, and low satisfaction with, the work of the judiciary as well ([Popov Momcinovic et al., 2019](#)). There are no known court cases involving journalists in which gender bases, motivations, or manifestations played a significant role in the criminal or civil

procedure, according to legal professionals (interviews 17.12.2019, 18.12.2019, 13.01.2020, 20.01.2020). Judges, prosecutors, and attorneys in the country therefore lack experience and familiar examples from which to learn when it comes to gender issues in civil and criminal lawsuits related to freedom of expression.

Finding 7: Women are underrepresented in managerial posts in the media and often face gender-based unequal treatment in access to employment and labour rights.

In BiH, most editors and managers of media outlets are men. A recent study found that around only 33 percent of senior editors and 25 percent of media directors (32 percent overall) in 292 analysed TV, radio, press, and online media outlets are women, while the situation is significantly better in the radio and news agencies, and significantly worse in the TV media outlets ([Unkic and Iukic-Mujkic, 2018](#); [Dzihana, 2018](#)). In public media outlets, women form 45 percent of steering boards, in private media outlets 27 percent, and in the Public Broadcasting System only 17 percent ([Dzihana, 2018](#)). Women's representation in management posts is therefore below the 40 percent standard, although these levels are still comparable to most other countries - globally, the representation of women in management posts is below 30 percent ([Dzihana, 2018](#)).

An increasing number of journalists are women ([Popov Momcinovic et al., 2019](#)), although claims about feminisation of the journalist profession are unsupported with statistics as of yet for BiH. Women are definitely the majority of journalism students in BiH ([e.g. FPN, 2018](#)), but there are no verifiable statistics for media.

In terms of media institutions, the Communications Regulatory Agency (CRA) Council has six members, all male. In appointing members, the BiH Parliamentary Assembly breached the Law on Gender Equality, art. 20 (minimum 40 percent of either sex), as well as disregarded the Law on Communications, art. 39 (BiH OG [31/03](#), [75/06](#), [32/10](#), [98/12](#)). The CRA director is also male. One problem is that fewer women apply for the Council posts (interview, 19.12.2019).

Women journalists face unequal treatment in employment, promotion, salaries, and maternity-related rights ([Popov Momcinovic et al., 2019](#)), as do other women in the labour market.

Finding 8: Women's influence on decision-making in the judicial system is relatively satisfactory compared to other branches of government and sectors.

Women are underrepresented in leadership roles in the higher-level judicial institutions, although the gender balance in the judiciary is better than in other public structures, e.g. compared to parliaments and governments, public and private companies, or diplomatic staff. Women make up 56 percent of judges and prosecutors and 29 percent of all judicial officials at higher levels of the judiciary in BiH; in lower level courts, they form two thirds of judges and prosecutors and half of the court presidents ([USAID MEASURE-BiH, 2019](#)). Most members of the High Judicial and Prosecutorial Council (HJPC) are women (9 out of 15).

To summarize the findings for the second research question, women journalists and public personas in BiH are often exposed to sexism and misogyny online and offline, which they underreport for lack of trust in institutions. Still, men experience more

violent attacks as journalists, and more online attacks, usually by other men. Many attacks occur between media outlets. Women are underrepresented in managerial posts in the media and regulatory institutions, although increasing number of journalists are women. There is a gender balance in judicial institutions in BiH, while women are slightly overrepresented in the HJPC and underrepresented as judicial officials in entity and state courts and prosecutors' offices.

2.3 Media and gender equality regulation

How successfully is gender mainstreaming regulated in the media sector in BiH?

This section discusses the three sets of regulations relevant for gender and freedom of expression, trying to answer specific questions about regulation:

- Gender equality, discrimination, and elections regulations - what role they prescribe for media;
- Criminal Codes - the level to which they can safeguard gender equality and the protection of journalists from GBV and other forms of violence, and their freedom of expression;
- Media regulations - the level to which they are gender-sensitive, including for women working in the media.

A general assessment is that these three sets of regulations are gender sensitive, although general regulation on gender equality, discrimination, and elections is blind when it comes to protection of women journalists. The key shortcoming is in the implementation of all provisions, because of the passive approach of gender institutional

mechanisms and media institutions which usually react only upon complaints, and in the absence of audience action.

Finding 9: Country regulations in the area of gender equality, discrimination, and GBV assign to media a role of allies, recognize the problem of glass-ceilings in the media, but not the gendered issues journalists and editors are exposed to, nor the importance of freedom of expression for women.

In various international documents, the media are defined as gender equality allies, but also as stereotyping channels, spaces of abuse and violation of gender equality principles, as well as organizations with limited access to women in decision-making, spaces with glass-ceilings that prevent their progress.

The CoE set important standards in relation to gender equality and gender-based violence. The CoE [Istanbul Convention](#) defines an important role for the media in its article 17, inviting states parties to encourage self-regulation to prevent gender-based violence and protect human dignity, as well as to advance parents', children's, and educators' information and media literacy about potential abuses via internet communication tools. Media are also subject to measures to avoid secondary victimisation (art. 18). BiH has been a party to the Convention since 2013.

The most important and the most recent CoE *Recommendation on Preventing and Combating Sexism* [[CM Rec. \(2019\)1](#)] provides definitions and recognized forms of sexism in the media. Further, it calls for state action to prevent sexism online by raising awareness about sexist misuse of social media, providing expert online advice on how to deal with online sexism and how to report it,

researching cyber-sexism and cyber-violence, and integrating a gender equality perspective into all policies, programmes and research in relation to artificial intelligence. The Recommendation advises member states to:

- explicitly ban sexism in the media and in advertising,
- include expressions of sexism in defamation laws, self-regulatory policies for ICT, media, and advertising sectors, and
- fund gender-sensitive media content, including on vulnerable groups of women, which would promote positive images of women.

Addendum 1 provides a more detailed overview of other CoE standards.

The national legislation on gender equality, GBV, elections, and discrimination reflects the policymakers' understanding of the media as key to awareness raising.

Laws on the Protection from Domestic Violence in FBiH ([OG FBiH 20/13](#)) and in RS ([OG RS. 102/2012, 108/2013, 82/2015 i 84/2019](#)) do not define specific requirements from the media when reporting about domestic violence, while this should be stipulated at least in respect to secondary victimisation.

The [Law on Gender Equality in BiH](#) (LoGE) (BiH Official Gazette, 32/10) prescribes equal access to media regardless of sex, prohibits derogatory or humiliating portrayal of people based on their sex, and requires media to promote gender equality (art.21). Victims can seek protection from discrimination via a civil case (LoGE, art. 23 and the Law on Prohibition of Discrimination in BiH) and from GBV in a criminal case (LoGE art. 29 and 31). Public authorities also carry civil liability for failing to meet their obligations (art. 30). Gender institutional mechanisms are authorized to review

complaints from individuals and groups in accordance with articles 26 (points i and j) and 27 (point e). These provisions enable individuals and civil society organizations to file complaints about the media and advertising content. This law does not address the problem of the exposure of specific groups of women (e.g. politicians or journalists) to public harassment in the media.

The [BiH Election Law](#) (BiH Official Gazette 23/01, last changes 31/16) bans gender stereotypes or offensive and humiliating portrayal of men and women in paid election campaigns (art. 16.4, point 3). This provision safeguards women's rights to stand for office. A comparable provision to safeguard women's freedom of expression does not exist in BiH.

Discrimination based on sex, sexual orientation, gender identity, or sexual characteristics is prohibited in all spheres of life, including in public information and media, as stipulated in the [Law on Prohibition of Discrimination in BiH](#) art. 6 (BiH Official Gazette 59/09, 66/16). Incitement to discrimination is also considered discrimination, as well as harassment and mobbing (art. 4). These provisions are relevant to media content and to journalists' working conditions, including the backlash they often experience. Victims can resort to administrative proceedings (art.11) and to special lawsuits for protection from discrimination (art. 12).

The BiH Gender Action Plan ([2018-2022](#)) includes a set of awareness-raising measures (II.4), the goal of which are gender sensitive electronic and print media in BiH. The only measure considering the different conditions of men and women working in the media is II.4.5 - tracking the gender balance in the management of public and private media.

Finding 10: The RS Criminal Code includes provisions against sexist hate

speech and incitement to violence, and to protect freedom of expression, unlike the FBiH Criminal Code.

The [Criminal Code of BiH](#) (CCBiH) (BiH OG 3/03, last changes 35/18), the Criminal Code of FBiH (CCFBiH) and the relatively new RS Criminal Code (RSCC) includes a list of acts which can be the basis for criminal procedures when journalists' rights are violated, whether by employers, public officials, public authorities or by audiences. For a detailed analysis of Criminal Codes, see Addendum 2.

In the [CC FBiH](#) (FBiH OG 36/2003, last changes 75/2017), criminal acts related to sexual abuse relevant for women and men working in the media include rape (art. 203), sexual intercourse through abuse of position (art. 205) which is applicable to the labour context ([Bešliagić, 2014](#)), coerced sexual intercourse (art. 206), and lechery (art. 208). Other forms of violence, insults, intimidation and threats are covered with articles 182, 183, 296, 362. Articles related to discrimination (177, 279) include sex, sexual orientation, and gender identity. However, articles on incitement to hatred and incitement to violence (163 and 363) do not include sex, sexual orientation, or gender identity.

The [RSCC](#) (RS OG 64/2017 and Constitutional Court decision 104/2018) includes criminal acts related to sexual abuse, including rape (art. 165), sexual blackmail (art. 166), sexual harassment (art. 170), and lechery (concupiscence) (art. 171). Other forms of violence, insults, intimidation and threats are covered by articles 141, 144, 150, 210, 232, and 329. Article 139 relates to discrimination and includes sex, sexual orientation, and gender identity, while unequal treatment in employment and social rights is addressed in articles 211, 212, 214. Articles related to incitement to hatred and to violence (358, 359) include sex, sexual orientation, and gender identity. Freedom of expression and press is protected in articles 161 and 162.

The RSCC is generally more advanced than the CC FBiH. However, both laws have limitations in their protection from cyberbullying and similar online acts which may be gender-based, while the most recent CoE Recommendation [[CM Rec. \(2019\)1](#)] encourages criminalisation of sexist hate speech. Nevertheless, the first court decision on the protection of a woman journalist from online threats and intimidation was adopted in 2016 at the Visoko Municipal Court ([Sokol, 03.09.2018](#)) in accordance with the CC FBiH art.183 on serious threats.

Finding 11: Media self-regulation and regulation includes gender sensitive provisions, the application of which is weak, as audiences and news subjects rarely use them, and duty bearers do not apply them.

The [Press and Online Media Code of BiH](#) stipulates that journalists should adhere to human rights standards and promote gender equality. More importantly, journalists will “give their best to avoid incitement to hatred” (art.3), and “will avoid” direct and indirect comments which cause persons to be treated unequally based on their sex, gender, sexual and gender identity, gender expression and sexual orientation (art.4a). The Code does not include specific guidelines for GBV reporting, although general provisions on reporting on crime apply:

- empathize with the affected (art. 9),
- presume innocence (art. 10), and
- protect minors’ identities of (art.11)

As shown in section 2.2, very few violations of gender equality provisions of the Code (art. 4 and 4a) have been reported to the BiH PC in the past five years. The PC, as a self-regulatory body, and the BHJA as a professional association, increasingly

promote PC mediation in disputes arising from the violation of the Code (interviews 08.01.2020, 10.10.2020), which could potentially decrease the number of defamation court cases.

The CRA is in charge of two codes regulating the audio-visual and radio media, and the advertising industry, in accordance with the Law on Communications (BiH OG [31/03](#), [75/06](#), [32/10](#), [98/12](#)) art. 46. The BiH [Code on Audio-visual Media Services and Radio Services](#) from 2015 (art.3, para.3-5) requires media services not to engage in hate speech, incitement to hatred, violence or discrimination based on gender and sexual orientation (art.4). Media service providers are requested to respect the right to privacy of all persons involved in judicial proceedings, including victims, suspects, and convicted persons (art. 15, para. 3) and to protect the identity of sexual assault victims, except with their informed consent or with approval of a responsible authority (art. 15, para. 5). These are important provisions for GBV cases, because identification of the perpetrator can lead to identification of victims ([Qaid et al. 2016](#); [Dekic, 2017](#)), and may bring the survivors additional risk. The BiH [Code on Commercial Communication](#) from 2015 includes similar provisions related to intimidation, incitement to hatred, violence, or to discrimination based on gender and sexual orientation, (art. 3, para. 3-4). Neither code discusses gender stereotyping, however. The CRA is of the opinion that a broad margin of appreciation is necessary in the application of the two codes (interview 19.12.2019), as these regulate key domains of freedom of expression. Still, the CRA issued a warning ([CRA, 07.03.2018](#)) to the Radio Television of Republika Srpska (RTRS) in relation to the RS Ministry of Interior campaign (see Finding 1).

The BiH Law on Communications (BiH OG [31/03](#), [75/06](#), [32/10](#), [98/12](#)) recommends equitable representation in the appointment of the seven-member Council of the CRA to a four-year term.

This means that the representation of either sex should not be below 40 percent ([Law on Gender Equality](#)), while the current Council is all-male.

The [Law on the Public Broadcasting System of BiH](#) (Official Gazette of BiH 78/05, 35/09, 32/10, 51/15, 25/16) includes equitable representation provisions in appointment of the director, staff, and management board of the Public Broadcasting Corporation (art. 7, para. 5 and art. 5, para. 3). Furthermore, the public broadcasting services are mandated to represent the interests of both sexes and ensure their participation in the programme (art. 7, para. i). In relation to advertising, the Law defines the principles which the public broadcasting services are to abide by, including that TV advertising and teleshopping will not damage the respect for human dignity or include discrimination on the basis of race, sex, and nationality, among other principles (art. 30, para. 4).

The [BiH Freedom of Access to Information Act](#) (BiH OG 28/00, 45/06, 102/09, 62/11, 100/13) defines the right of access to information in control or possession of public authorities. One of the exceptions to this right is protection of privacy (art. 8).

The [FBiH Defamation Act](#) (FBiH OG 19/03, 73/05), the [RS Defamation Act](#) (RS OG 37/01), and the [Defamation Act of Brcko District of BiH](#) (OG BD BiH, 14/03) do not include any gender equality provisions. Interviewees were sceptical of the need to include sexism in defamation acts so as to protect women from such forms of defamation [[CM Rec. \(2019\)1](#)], since most were unaware of such cases in BiH (interviews 17.12.2019, 18.12.2019, 19.12.2019, 08.01.2020, 10.01.2020, 13.01.2020, 20.01.2020.).

In sum, the gender equality regulations understand the role of media in awareness raising. Media regulations include gender sensitive provisions related to media and advertising content and

representation in the media. Neither set of laws reflect the expectations women in the media and advertising industries have from gender equality institutions in protecting their rights. The FBiH Criminal Code provisions related to incitement to hatred and violence require amendments in relation to sex, sexual orientation, and gender identity. The application of Criminal Codes in protection from online violence and threats has yet to evolve.

2.4 Existing initiatives

Which activities in the country have the potential to address the gaps and issues identified?

Finding 12: There is limited space and support in BiH for feminist and other activist media, while there is currently momentum in the media organizations in focusing on some of the gender issues in the industry.

There are very few media outlets in BiH in which women journalists, bloggers, or media researchers can publish content related to gender equality, feminism, women's and LGBTIQ rights, as organisational websites cannot be considered media in the full sense. A rare example of feminist media is [ŽenskaPosla.ba](#), while [Diskriminacija.ba](#), [Media.ba](#), [Lgbti.ba](#), [Abraš Media](#), [Analiziraj.ba](#), [Tacno.net](#), [6yka.com](#), and the Roma portal [Udar](#) all provide some space for feminist writing, though it is not their primary purpose. Further, this type of media production depends on foreign sources of funding, as the profit-making business models cannot be adopted for these outlets given the small size of their audiences.

In addition to JUFREX2, there are currently several large projects supporting media in BiH, including:

- The USAID five-year Independent Media Empowerment Project (IMEP) implemented by the Centre for Promotion of Civil Society (CPCD);
- The regional Coalition of Information and Media Users in South East Europe (CIMUSEE) which focuses on media and information literacy;
- USAID's regional Balkans Media Assistance Project ([BMAP](#)) which focuses on media sustainability, independence, professionalism, journalist competence, legal support to journalists, and citizen engagement.
- Western Balkan's Regional Platform ([Safejournalists.net](#)) for Advocating Media Freedom and Journalists' Safety, implemented by regional journalists' associations and funded by the EU.

Two of these projects include a strong gender component. The regional platform [Safejournalists.net](#) gives space to women journalists to reflect on their own safety, working conditions, and gender issues. The BMAP also includes activities to strengthen gender equality, e.g. through media grants which encourage applicants to increase diversity in media representations and address gender and other social issues ([BMAP, 03.06.2019](#)).

At an international level, things have been changing during the last decade. The Advancing Gender Equality in Media Industries ([AGEMI](#)) Project, funded by the EU and implemented from 2017 to 2019, developed a number of learning tools on gender and media, focusing on a wide range of topics, including advertising. In 2018, the International Federation of Journalists (IFJ) launched a #DontTroll campaign to stop online harassment of women journalists globally ([IFJ](#),

[28.11.2018](#)). In 2019, the CoE launched a call for proposals for grants to promote the fight against sexism ([Mobilise against Sexism, 2019](#)).

These international initiatives influenced awareness among the regional and domestic media organizations. In 2019, the Balkan Investigative Reporting Network (BIRN) launched an initiative to gather stories of women journalists who faced online violence in the Balkans ([BIRN, 2019](#)). Local media organisations such as the BHJA and the MediaCenter also published analyses and testimonies of women journalists, often focusing on online abuse. The BHJA will work on its own Gender Equality Strategy in 2020 with support from an Amsterdam-based association Free Press Unlimited (interview, 10.01.2020).

Finding 13: There are no systematic initiatives or analyses at the cross-section of gender, media, and the judicial system.

The most important gender mainstreaming interventions in the judicial system in the past decade were implemented by the Atlantic Initiative (AI). Their portfolio on gender and the judiciary focused on judicial responses in GBV processing, but also on the GBV and gender bias inside the judicial system. With donor funding, the AI helped develop organisational policies and establish a network of advisors for sexual and gender-based harassment in the judicial system, which they regularly train in new skills (interviews 17.12.2019, 20.01.2020). Further, the OSCE Mission to BiH organized professional education for judges and prosecutors on discrimination (interview 20.01.2020), and for police on GBV in the previous years. In 2020, the OSCE will train staff from the selected prosecutor offices (Bijeljina, Prijedor, Konjic, Mostar) in the country on hate speech processing (interview 20.01.2020), which

may include women journalists' experiences with hate speech. No examples of systematic initiatives which specifically focus on the cross-section of media law and gender equality were found.

In the media production, there is limited space and support for feminist media. There is however growing awareness among media organisations of the gender issues in the media industry. The level of analysis is still superficial from a gender perspective, as attention is mostly on online violence and women's representation in management posts, while other gender issues are not discussed, e.g. sexual and gender-based harassment of journalists at work, parental rights, gender pay gap in the media, or the gender issues and stereotypes in the advertising industry. Further, no examples of initiatives focusing on the intersection of gender equality and media law were identified.

2.5 Theoretical considerations

Which theoretical considerations should be taken into account on the intersection between freedom of expression and gender equality in program design?

When is an attack against a journalist a gendered issue and when a shared experience for journalists regardless of their sex, sexual orientation, or gender identity?

Finding 14. Currently only the verbal attacks and threats against journalists with explicit gendered or sexualized content, or cases of sexual and gender-based violence against journalists can be considered gendered issues.

Based on practice, two solid criteria can be applied to identify a gendered issue: 1) if the content/form of the attack is sexual or gender-based; 2) if the phenomenon itself disproportionately affects one sex and the perpetrator is disproportionately of the other sex. A possible third criterion may be to look at the relations of power, entitlements, objectification, and status ([Felipe Russo and Pirlott, 2006](#)) in the given situation, but it is extremely difficult to prove the gendered power relations in public life. For example, when Milorad Dodik acted in derogatory and offensive manner towards the BNTV journalist Ljiljana Faladžić Jekić in 2014, he did not use sexist slurs or any content of gendered nature. He was, however, by status, in a much stronger position of power than the journalist, and he was policing her behaviour. But Dodik did an exact same thing to Vladimir Kovačević, also a BNTV journalist in 2010. It is therefore difficult to assert that Dodik's attack in 2014 was gender-

based only because the journalist was a woman. Milorad Dodik polices journalists of any sex, that is an established fact by now, although some of his verbal attacks were of gendered nature as well.

Some sources claim that women journalists are more likely to experience online abuse than men (criterion 2), and in this case, nearly all such incidents against women journalists online would need to be examined as gendered. However, the evidence in Finding 4 (section 2.1, p.9) does not support the claim. The sources cited by other authors, the Demos incidence study (2014) and the IFJ prevalence survey (IFJ, 25.11.2018) did not include men and neither study presented its methods in detail.

Women journalists do report more derogatory and offensive language and verbal attacks offline than men do, and the verbal abusers are mostly men, based on what is reported to the press association (Exhibit 4) (criterion 2), but the difference is not as significant as in the domestic violence cases for example. However, many instances of gender-based and sexual harassment by news subjects go unreported. There is a high likelihood that the number of verbal attacks, derogatory, and offensive language would be higher and the gender difference larger if journalists were reporting also unwanted sexual advances or the spread of sexual rumours about journalists by supervisors, colleagues, and news subjects.

Men journalists more often experience most other types of abuse, including physical attacks (Exhibit 4). These types of attacks probably do not meet the second criterion because perpetrators in most of those cases are also men.

The sexual and gender-based harassment that journalists experience is absent in the databases of attacks, in known court cases, and in analyses of freedom of expression. Such harassment by news subjects and audiences is rarely reported to BHJA, let alone to police and investigators. Sexual and

gender-based harassment by colleagues and supervisors is rarely even mentioned, let alone reported.

Finding 15. There are hidden gender issues in the media and advertising industries in BiH which need to be uncovered.

Sexual and gender-based harassment is one elephant in the room, while the absence of engagement in the country on the advertising industry regulation and self-regulation is the other. Svensson and Edström (2014) place the problem of tension between gender equality and freedom of expression in the advertising industry on the increasingly dominant market-oriented conception of freedom of expression, in which commercial advertising is regulated as equally valuable as other forms of expression. The other conceptualisation, the democratic freedom of expression would see gender equality and freedom of expression as equally important and regulate commercial advertising as a lower form of freedom of expression, i.e. with a narrower margin of appreciation. In BiH, advertising is regulated by the Code on Commercial Communications, but there is little interest and engagement from any actor to track how the gender equality principle is enforced in advertising and if changes are needed.

Further, there are currently only a few examples at the cross-section of defamation and gender, which did not have significant impact on public discussion, although the problem can easily increase considering the decline in media professionalism (IREX MSI, 2019).

Should media organisations and projects dedicate special activities and budgets to gender issues which are currently invisible? A simple answer is yes, because the mere fact that some injustices are

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invisible in a society puts the affected groups in a subjugated position. By the same logic, women journalists should shed light on what makes some groups of women invisible.

Part 3. Conclusions and Recommendations

The previous chapter summarized the findings of the gender analysis conducted for the Council of Europe JUFREX2 in BiH. In this section, the conclusions about the key gender-analysis questions are provided and elaborated, and simple recommendations included. These recommendations are provided in reference to the expected project results, the list of which is included in Addendum 4 (p. 51). The boxes include the tools that some of the recommendations refer to.

3.1 Harmful gender norms and stereotypes

The first gender analysis question: *How do harmful gender norms and stereotypes influence the media sector and the judiciary in BiH?*

Conclusion 1: Harmful gender norms and stereotypes influence the working conditions in the media (finding 2) and the judiciary (finding 3), making it more difficult for women to succeed and advance in their professions. Implicit biases or even overt prejudice are integrated into media and advertising content (finding 1), laws and adjudication (finding 3), having wider consequence for the society.

Women are not voiceless and powerless in either of these professions, and their representation in decision-making is better in the judiciary and media than in political, military, diplomatic, and business leadership. In the judiciary, women form the majority of judges and prosecutors. The pervading influence of stereotypes through outputs of these professions is somewhat of a paradox. One explanation is sexism, a system rewarding those

who condone it and policing those who oppose it. Overt stereotypical portrayal of men and women in the media content and advertising, although still present, is decreasing in the press, audiovisual, and radio media channels, and increasing online. All channels, though online media less so, share the same problem - the invisibility of women as news subjects, in part because most leadership positions in the society are occupied by men, but also because of media myopia towards women leaders or women's perspectives. At the same time, gender stereotypes and prejudice find their way into the content and form of abuses which journalists experience from news subjects, audiences, colleagues, and supervisors whose underlying belief is that women journalists deviated from their assigned gender role of staying at home, or at least of being compliant when in public. Gender norms and stereotypes influence the judiciary, both in terms of working conditions and adjudication.

Box 9. Useful resources on Freedom of Expression, Gender Equality, and Access to Justice

1. “Mehanizmi zaštite od online nasilja: Priručnik za novinarke i novinare” [Mechanisms of Protection Against Online Violence: A manual for female and male journalists] ([Gačanica and Arnautović, 2018](#));
2. [AGEMI](#) platform with learning tools and resources;
3. Facilitator’s Guide For Media Reporting on GBV in the Syria Crisis ([Oaid et al., 2016](#));
4. Media Coverage of Gender-Based Violence Handbook ([Dekić, 2017](#));
5. CoE Human Rights Channel [presentation](#) of the Recommendation on *Preventing and Combating Sexism* from 2019 ([CM/Rec\(19\)1](#)) in 4 languages including Croatian.
6. Harvard Implicit Associations Test ([Implicit.harvard.edu, 2011](#)) enables detection of subconscious biases in relation to sex and sexual orientation, available in Serbian language.
7. Atlantic Initiative manual Gender Bias and the Law (Halilovic et al., 2017, available in [BHS](#) and [English](#)) for judges, prosecutors, lawyers, and students of law, especially thematic unit 6.
8. Guidelines for Preventing Sexual and Gender-Based Harassment in The Judicial Institutions in BiH ([AI and HIPC, 2015](#)).

Recommendation 1: Integrate exercises to detect gender biases in capacity building for the media, judges, prosecutors, and police officers.

Within the intermediate result 1 “Members of the judiciary, legal professionals and police officers improve application of European standards on Freedom of Expression”, JUFREX2 can integrate simple gender bias questionnaires and examples (e.g. Box 9, tools 6 and 7) into capacity building sessions for judges, prosecutors, and journalists. Each capacity building event could integrate a section dedicated to gender issues starting from implicit gender biases which influence our

decisions. One way is to use simple games, e.g. detecting women’s roles in a sample of daily newspapers. Another more powerful approach is to ask participants to test their own biases, e.g. through Harvard Implicit Associations Test ([Implicit.harvard.edu, 2011](#)). Further, an example from boxes 3-6 (pages 13-18) can be used to demonstrate how these biases affect the media industry.

3.2 Gender differences in the media sector and the judiciary

Next, the desk review explored the following: *Which relevant gender differences exist in the situation, conditions, needs, participation, access to resources, control of assets, and decision-making powers in the media sector and the judiciary?*

Conclusion 2: Types of abuse journalists experience differ by sex (finding 4). Since legal professionals and police working on media cases often lack experience in gender-based violence and discrimination (finding 6), protection of journalists from such forms of abuse at the gender/media intersection seems to be weaker, even though majority of judges adjudicating such cases may be women. The majority of police officers investigating such cases are men though. At the same time, some media outlets violate principles for years, including those that are gender-based (finding 5), and the wider margin of appreciation

applied in cases related to freedom of expression may have resulted in their increasing irresponsibility, if not impunity. Managements of media outlets are male dominated (finding 7), and insensitive at best, or complicit at worst, in covering up some forms of abuse in the newsrooms or failing to take protective measures against gender-based abuse in the field.

Three problems seem particularly concerning: 1) The invisibility of sexual and gender-based harassment towards and among journalists; 2) Physical attacks, direct threats and intimidation in which men journalists are mostly targeted; and 3) Direct psychological and verbal violence that women journalists more often report. There is little sound evidence currently that women journalists are more likely to experience online abuse than men, but between those men and women journalists who are experiencing online abuse, women are more likely to experience gender-based or sexualised threats and comments.

An evident source of abuse with gendered content against women journalists, but also other women from public life, are the irresponsible online media outlets which use libel and slander, derogatory and offensive language, and even incitement to hatred or violence, and thereby initiate attacks against women and men journalists or public personas.

The trust between journalists and the response system is fragile, shattered by previous meek responses, unfavourable court decisions, or even police and the judicial officials who, knowingly or unknowingly, were contributing to victimisation with their own implicit biases.

Managements of media houses, who are mostly men, sometimes fail to support or ensure safe environments for women and men journalists,

while too many women have given up on the idea of running for higher posts already by the time they reach the years of experience required for such positions.

Recommendation 2.1: Increase awareness about gender standards and issues among relevant judges, prosecutors, and especially police officers.

Within the intermediate result 1. “Members of the judiciary, legal professionals and police officers improve application of European standards on Freedom of Expression”, JUFREX2 can raise awareness among legal professionals and journalists about gender-based and other discrimination, gender-based violence (especially sexual and gender-based harassment), misogyny and hate speech by using

A) Council of Europe recommendations and resolutions at the intersection of gender equality and media. Relevant recommendations and resolutions are provided in Addendum 1 (p.43).

B) The examples of cases mentioned in the Gender Bias and the Law manual ([Halilovic et al., 2017](#)) and/or in Box 10.

C) Incidents which were documented by the Press Council or journalist associations, and which include a gender component.

The key is to rebuild trust between journalists and institutions that should protect freedom of expression and gender equality.

The online model-course should include examples of cases relevant to gender equality.

Box 10. Interesting ECtHR cases for discussion

Cases	Art.
1. Women on Waves vs. Portugal (ECtHR, 31276/05), the state prevented a Women on Waves ship promoting decriminalization of	10

abortion from entering Portuguese territorial waters - suppression of FoE;	
2. Open Door and Dublin Well Woman v. Ireland (ECtHR, 14235/88 and 14234/88), Supreme Court restraining the applicants from providing pregnant women with information concerning abortion abroad;	10, 34, 35, 41
3. Özpinar v. Turkey (ECtHR, 20999/44), dismissal of a judge for reasons from her private life - sexist stereotyping is used to discredit women candidates for promotions and leadership roles, e.g. in public media;	8, 13
4. Söderman vs. Sweden (ECtHR, 5786/08), state failing to protect the person from unauthorized filming - unauthorized filming and recording in private life;	8
5. Halford v. the UK (ECtHR, 20605/92), unauthorized recording and leaks to the press about a female high-ranking police candidate for promotion who complained about discrimination based on sex;	8, 13
6. Z. v. Finland (ECtHR, 22009/93), violation of Art. 8 by releasing to the public the medical records of a private party after a sexual assault case in court - relevant to publishing medical records in GBV court cases.	8, 13, 41
7. Bayev and others v. Russia (ECtHR, 67667/09), gay activists processed by the state for the administrative offence of “public activities aimed at the promotion of homosexuality among minors”.	10, 14
8. Beizaras and Levickas v. Lithuania (ECtHR, 41288/15), discrimination through refusal to investigate hate-speech comments about same-sex kiss on Facebook;	8, 13, 14, 34, 35, 41

Recommendation 2.2 Advocate strengthening media organizational policies against GBV and for safer working conditions.

Within result 3 “Media actors and relevant stakeholders, including Universities, contribute to an enabling environment for freedom of expression and freedom of the media”, implementing partners in JUFREX2 can help define protocols and contact points for sexual and gender-based harassment, and other GBV inside media outlets. These contact points can help establish a

better evidence base for this type of violence. Further, owners need to put in place better safety measures.

3.3 Media and gender equality regulation

The analysis explored the following: *How successfully is gender mainstreaming regulated in the media sector in BiH?*

Conclusion 3: Some aspects of freedom of expression are blind spots for gender institutional mechanisms and regulation (findings 9 and 15) as well as for media regulation and self-regulation, which mostly focus on media as the source of gender stereotypes, discrimination, and hate speech. Even these gender sensitive provisions cannot be implemented without active watchdogs who will submit complaints (finding 11); protection through criminalization of incitement to hatred, discrimination, and violence on the basis of sex, sexual orientation, and gender identity is unsatisfactory in FBiH, same as the application of the legal protection against endangerment of safety online.

Pressures and attacks against women’s freedom of expression, stereotypes in advertising, and the relationship between defamation and gender are blind spots both for gender equality regulation and for media regulation. Pressures and attacks against women’s freedom of expression are left to protection through criminal codes, one of which is inadequate in some respects. Stereotypes and

discrimination in advertising are not systematically monitored by any institutional or civil watchdogs. There is little understanding that libel and slander can be used as gender discrimination or that women who report violence and discrimination can be further victimized by accusing them of defamation.

Recommendation 3.1: Support more systematic monitoring and application of the media regulation and self-regulation.

Within the intermediate result 2 “The minors’ protection in BiH audio-visual media services field improved”, JUFREX2 could consider extending the application of its activities regarding protection of minors to gender equality. The project can encourage the CRA to more actively monitor breaches of the gender equality provisions of the two codes related to commercial communications and media. Although this is not currently possible with the technology at the CRA’s disposal, closer cooperation with gender institutional mechanisms, media, and women’s organisations may help the CRA to act, instead of just reacting. Similarly, the Press Council can advance its own capacities to detect gender dimensions of Press and Online Media Code breaches, while this can be easily ensured through regular communication with the entity gender centres and the GEA.

Recommendation 3.2: Open the discussion about more gender-sensitive media laws and regulations with wider media community.

Although JUFREX2 was not designed to address policy change at top levels, it can open the discussion with the wider media community about the need for policy changes identified in this report. This partially fits within the intermediate result 3 “Media actors and relevant stakeholders, including Universities, contribute to an enabling environment for freedom of expression and

freedom of the media”. BiH Code on Commercial Communication should be amended to clearly require advertisers not to perpetuate harmful gender (and other) norms and stereotypes in commercials (relevant CoE recommendations [CM/Rec \(2019\)1](#), [PACE/Rec 1799\(2007\)](#), and [CM/Rec \(2013\)1](#)). Further, defamation acts in BiH should be amended to include expressions of sexism in accordance with the CoE Recommendation [CM/Rec \(2019\)1](#). In-country examples relevant to the issue of sexism and defamation include the cases described in both Box 7 and Box 8. Lastly, the FBiH Criminal Code requires a detailed legal analysis from the perspective of media freedoms and gender equality.

3.4 Existing initiatives and resources

The fourth question the analysis focused on was: *Which activities in the country have the potential to address the gaps and issues identified?*

Conclusion 4, based on findings 12 and 13: The civil society’s, international organizations”, and governments’ interest in some issues at the intersection of media and gender exists, although tokenistic and not strategic, while areas such as feminist media production, sexual and gender-based harassment of journalists inside newsrooms and in the field, gender and defamation, gender and advertising and similar, have not been picked up yet.

Important topics at the intersection of gender and media are reflected in some of the media initiatives

in the country, e.g. attacks and pressures on women journalists, women's representation in the management of media, and gender stereotypes in media and advertising content. However, no organisation focuses strategically on wider gender issues in and around media, and only a few media outlets provide space for feminist freedom of expression. Some groups of women still have extremely limited access and opportunities to freedom of expression initiatives.

Recommendation 4.1: Support feminist research of media and advertising content.

Within the intermediate result 3 "Media actors and relevant stakeholders, including Universities, contribute to an enabling environment for freedom of expression and freedom of the media", JUFREX2 can encourage development of rigorous watchdog methodologies to monitor sexism in the media and advertising, especially at Journalism studies and in media organisations.

3.5 Theoretical considerations

The last question the gender analysis briefly considered was: *Which theoretical considerations should be taken into account at the intersection between freedom of expression and gender equality in program design?*

Conclusion 5: Some forms of abuse both men and women journalists experience are possibly underreported, and a sound evidence basis is therefore missing for more serious policy advocacy on those issues (finding 15).

Women journalists underestimate the connection between sexual and gender-based harassment at work and their own freedom of expression, while

they also distrust the system's capacity and willingness to protect them from it, which leads to such abuse remaining largely hidden (finding 15). Further, women journalists and media activists perpetuate the mistakes of the first waves of feminism by thinking of women as a monolithic group, failing to take into account their own position of power compared to some groups of women, and thereby their own responsibility to empower those subgroups as news subjects and as news makers, where they are even more invisible than women as a whole.

Recommendation 5.1: Improve the evidence basis on abuses in the media and hidden issues.

Within the intermediate result 3 "Media actors and relevant stakeholders, including Universities, contribute to an enabling environment for freedom of expression and freedom of the media", JUFREX 2 can support:

- A) Universities in partnership with gender centres to conduct a survey to detect the prevalence of different forms of violence, abuse, labour rights violations among women and men journalists.
- B) Legal professionals in advocating for a more advanced tracking system of court cases involving media, including a gender component of cases.
- C) Media associations to conduct research into who is excluded from the media industry.

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Addenda

1. Council of Europe standards at the cross-section of gender equality and freedom of expression

Relevant articles of the European Convention on Human Rights (1950):

Art. 8. Right to respect for private and family life: “1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Art. 10. Freedom of expression: “1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing

the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Art. 14. Prohibition of discrimination: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Relevant recommendations

Committee of Ministers Recommendation CM/Rec(84)17 of 1984 on Equality Between Women and Men in the Media covers electronic and print media and calls on national authorities to share information on gender equality initiatives with the media and encourage that all media research disaggregates data by sex, evaluates impact of stereotyping and prejudiced media content, analyses media messages and language from the gender perspective. Further, it recommends to national authorities to initiate adult education programmes in the media targeting vulnerable groups of women among others, as well as to encourage media to take positive action in their own ranks, including at decision-making levels, technical services, and use of new technologies, and to ensure equal treatment in working conditions and equitable representation in management and supervisory bodies. It calls for media to preserve the dignity of women in publicly-funded publicity campaigns, encourage wider participation of women in discussions and awareness-raising.

PACE Recommendation 1555 (2002) on the Image of Women in the Media calls for member states to treat and process sexism in the same manner as racism, regulate gender equality in the media, improve human rights institutions' connection to the entire population, encourage

media monitoring, improve self-regulation in the advertising industry, improve women's representation in the decision making in the media, improve women's access to communication resources and technologies, support training of journalists. The CoM was invited to promote ethical standards at international level and set up a women journalists' observatory to explore the issues.

PACE Resolution 1557 (2007) and Recommendation 1799 (2007) on the Image of Women in Advertising calls on member states to prevent abuse of the freedom of expression in the advertising industry against the dignity of women as well as men, since the growing advertising trend uses human, predominantly female bodies to draw attention to products. Among other measures, it calls for states' full endorsement of the CEDAW, Beijing Platform for Action, national legislation against incitement to discrimination, options for collective lawsuits in discrimination cases, national self-regulating schemes and educational measures for the advertising industry. In the Recommendation, Committee of Ministers is invited to develop a European code of good conduct for the advertising profession, but the CM responded that this is best dealt with through self-regulation.

PACE Resolution 1751 (2010) on Combating Sexist Stereotypes in the Media calls on member states to initiate and promote education activities, awareness-raising, media self-regulation, legislation, codes of good practices, quotas, reporting mechanisms, focus on youth, and promote media literacy to combat sexist stereotypes. Further, it calls for sanctioning of GBV and GB discrimination, as well as sanctioning of incitement by ways of sexist remarks or insults, and equal access to media for women politicians. It further invites member states to encourage research, proactive engagement of female experts in media, awards, think-tanks. Media are invited to train journalists, promote gender awareness in

regulatory and self-regulatory authorities, promote balanced representation in staff, management, and in the program

CM Recommendation CM/Rec(2013)1 on Gender Equality and the Media includes the following guidelines for MS: appropriate legal framework which mandates respect for human dignity and prohibits discrimination; media regulators should respect GE principles; states should promote awareness. Media organisations should adopt self-regulatory measures, standards, and supervision to ensure equal access and representation in the media, including management, non-stereotyped roles for women and men, avoidance of sexist advertising, gender discriminatory language and sexist incitement to GBV and GBD. Necessary measures recommended in the guidelines included: Gender analysis of media policies, including the findings in the annual public media reports; national indicators for gender equality in the media and regular monitoring and evaluation; complaints procedures and accountability channels for violation of GE principles in the media; research and publication on GE and the media; and gender sensitive media literacy.

CM Recommendation CM/Rec (2016)4 on the Protection of Journalism and Safety of Journalists and Other Media Actors recognizes the human rights violations of journalists and other media actors when reporting about crime, and the fact that their identities, including sex, gender identity, or sexual orientation, are often the subject of these violations by state and non-state actors. The Recommendation calls for implementation of guidelines to safeguard freedom of expression through: 1. prevention (including prevention of gender-based violence and discrimination); 2. Protection, including gender-specific protection measures; 3. Prosecution, including investigating racial and sexual bases of attacks against journalists, combating impunity, etc.; 4. Promotion

of information, education, and awareness raising. Relevant principles include creating an enabling environment for freedom of expression, where, among others, women journalists will be protected from GBV and discrimination in performing their jobs.

CM Recommendation CM/Rec (2019)1 on Preventing and Combating Sexism brings a useful definition of sexism in the media: Sexism in the media – electronic, print, visual and audio – contributes to an environment that tolerates and trivialises “everyday” sexism. It is manifested through:

- sexual, sexualised and racialised depictions and objectification of women, men, girls and boys, including in advertising, films, television, video games and pornographic material;
- derogatory or trivialising reporting about women’s appearance, dress and behaviour rather than balanced and informed discussion of their views and opinions;
- reporting and imaging women and men in stereotypical roles within the family and community;
- reproducing and perpetuating gender stereotypes with respect to victims of gender-based violence;
- unbalanced representation and the lack of meaningful participation of women in diverse professional and informative roles (experts, commentators), especially with respect to minority women.

The appendix of the Recommendation gives detailed account of how sexism, discrimination, and GBV pervade the public space, including the internet, social media, and algorithms which govern online content. The important recommendation is to treat sexist hate speech in the same manner as racist hate speech is currently treated by authorities. The governments are

invited to prosecute sexist hate speech in all, including new media. The specific recommendations on the internet include:

- Develop information and undertake campaigns to raise awareness about sexist misuse of social media,
- Establish online resources providing expert advice on how to deal with online sexism and how to report it;
- Undertake regular studies and gather sex- and age-disaggregated data on cyber-sexism and cyberviolence.
- Integrate a gender equality perspective in all policies, programmes and research in relation to artificial intelligence.

Regarding sexism in the media, the following measures are recommended:

- Ban sexism in media and advertising;
- Include expressions of sexism in defamation laws;
- Self-regulatory policies against sexism and sexist hate speech in ICT, media, and advertising sectors;
- Media and advertising organisations to address sexism;
- Institutional mechanisms for complaints on sexism in the media and advertising;
- Education, training, tools for journalists, media and advertising professionals;
- Research and awareness-raising campaigns;
- Equal participation in media decision-making and in media content;
- Funding gender-sensitive media content, including on vulnerable groups of women, which would also promote positive images of women.

2. Relevant provisions in entity criminal codes

Criminal Code of BiH (CCBiH) (BiH OG 3/03, last changes 35/18) prohibits unequal treatment based on sex, sexual orientation, and other bases by official persons in the institutions of BiH (art. 145). This provision is relevant to journalists who face unequal treatment in access to employment or to employment rights on any basis including sex at the public broadcasting services. Further, incitement to ethnic, racial, or religious hatred by any persons (art. 145a) is punishable by law, which is relevant to women (and men) journalists who experience verbal abuse on ethnic basis by public officials, editors, or general audiences. Criminal Code of BiH also defines that disclosing secret information is not a criminal act if the secret information contravenes the constitutional system of BiH, and it is therefore published in public interest, when such publishing does not result in serious damage to BiH (art. 164., para. 9). This is particularly important for investigative journalists and whistle-blowers who may face prosecution based on article 164, and this may result in a wider chilling effect on the freedom of expression. Unauthorized publication of details from criminal proceedings, when the publication of such information is forbidden by law or by court decision, is a criminal act (art. 237, para.4), same as disclosing the identity of a protected witness (art. 240, para. 3 and 4).

Criminal Code of FBiH (FBiH OG 36/2003, last changes 75/2017), includes similar provisions to those in the state-level act and some additional criminal acts which are processed at entity, cantonal, district, and local courts. The provisions relevant to freedom of expression include:

- No crime in publishing secret data which contravenes the constitutional order (art. 158, para. 5 and art. 388, para. 5);

- Incitement to ethnic, racial, or religious hatred is a criminal act (art. 163);
- Unauthorized recording and filming (art. 188 and 189);
- Unlawful prevention of printing, sale, and distribution of books, magazines, newspapers and similar (art. 191);
- Breach of secrecy in the court, misdemeanours, and administrative procedure (art. 350) and identifying the protected witness (art. 352);
- Incitement to hatred and violence, hate speech through grave breach of media and journalist standards, thereby endangering public order (art. 363);
- Unauthorized access to computer data or programs and intercepting their transmission (art. 393, para. 2), interference with the electronic data processing system and network (art. 396), and unauthorized access to a secure system and electronic data processing network (art. 397) and computer sabotage (art. 398).

Criminal acts relevant to working conditions for women (and men) journalists include:

- Violation of equality principle, i.e. discrimination on different bases, including sex and sexual orientation, in access to rights (art. 177);
- Abuse in performing the service, including physical or psychological pain, intimidation and insults (art. 182);
- Seriously threatening to endanger a person or a group of persons (art. 183);
- Violation of equality principle in employment (art. 279);
- Violation of labour rights, including protection of women (art. 280), unemployment-related rights (art. 281), social insurance rights (art. 282 and 283),

and failing to take occupational safety measures (art. 285).

- Extortion (art. 295) and blackmail (art. 296);
- Violent behaviour through harsh insults or maltreatment, violence, or similar (art. 362).

Criminal acts related to gender-based violence applicable in the context of working conditions for women (and men) journalists include rape (art. 203), sexual intercourse through abuse of position (art. 205) which is applicable to the labour context ([Bešlagić, 2014](#)), coerced sexual intercourse (art. 206), and lechery (art. 208).

The [RS Criminal Code](#) (RS OG 64/2017 and Constitutional Court decision 104/2018) includes the following provisions relevant to freedom of expression:

Access to information, protection of sources, freedom of expression, and similar provisions:

- Criminal records may be disclosed upon request based on justified interest (art. 93, para. 2);
- No crime in disclosing or publishing secret data or official secrets which contravene the constitutional order (art. 154, para. 2 and art. 323, para. 5), but the same principle does not apply in disclosing secrets of the RS (art. 292);
- Breach of secrecy in the court, misdemeanours, and administrative procedure (art. 337) and disclosing the identity of a protected witness (art. 338);
- Unauthorized recording, filming, and taking photographs (art. 155 and 156);
- Unauthorized use of personal data (art. 157);
- Computer sabotage (art. 408), unauthorized access to a protected computer, computer network, telecommunications network and the

electronic data processing system (art. 411), and unauthorized prevention of access to a public computer network (art. 412) and unauthorized use of a computer or a computer network (art. 413).

- Violation of the freedom of expression, including by denying or restricting public speech, establishing of information services, press and other media freedoms, or by censorship and preventing access to information for journalists, except in cases of state or official secrets (art. 161);
- Unlawful prevention of printing, sale, and distribution of books, magazines, newspapers and similar (art. 162);

Hate speech and hate crimes:

- Incitement to violent change of the RS constitution (art. 294) and incitement to terrorist acts and other acts to intimidate citizens, force institutions to take certain action, or encourage citizens to join groups who aim to perform these acts (art. 303);
- Inciting disorder (art. 358) and inciting violence and hatred through means of public communication on different bases including sex, sexual orientation, and gender identity (art. 359).

Criminal acts relevant to working conditions for women (and men) journalists include:

Unequal treatment:

- Violation of equality principle, i.e. discrimination in access to rights (art. 139);
- Violation of the equality in employment principle and rights in unemployment (art. 211), violation of social insurance rights (art. 212) or abuse of those rights (art. 213), and failing to take occupational safety measures (art. 214);

- Violating basic employee rights, including protection of pregnancy and parenthood (art. 209);

Violence, abuse, intimidation, threats:

- Coercion - forcing or threatening others to commit an act or not take action (RS CC, art. 141);
- Stalking, which may but does not need to have a gender component (RS CC art. 144);
- Seriously threatening to endanger a person or a group of persons (art. 150);
- Abuse on the job, including offending, humiliating, abusing or otherwise harassing an employee (art. 210);
- Extortion (art. 232) and blackmail (art. 233);
- Violation of human dignity through abuse, intimidation, physical harm etc. by an official person (art. 329);

Criminal acts related to gender-based violence applicable in the context of working conditions for women (and men) journalists include rape (art. 165), sexual blackmail (art. 166), sexual harassment (art. 170), and Lechery (Concupiscence) (art. 171).

The RS CC includes a section on criminal acts against marriage and family in which publication of information about children which may put them in a threatening position or expose them to ridicule is criminalized (art. 189), but disclosing of identities involved in criminal proceedings in domestic violence cases is not specifically mentioned. However, general provisions of article 338 apply.

3. Interviewees and interview questions

- **Press Council of BiH (Dženana Burek, Director; Maida Bahto-Kestendžić, Project Coordinator)**

How has the first JUFREX project contributed to gender equality in relation to the freedom of expression and freedom of media?

Any examples of consistent and rigorous methodology for media and advertising content monitoring from a gender perspective?

Any violations of the gender equality provisions of the Press and Online Media Code?

Gender-sensitive labour and social rights standards for press and online media as an option for self-regulation?

Any representative surveys on gender-stereotypes about or in the media?

How to differentiate gender-based safety issues from safety issues journalists of any sex face?

Existing initiatives which may improve any of the identified problems?

- **BH Journalists Association (Borka Rudić, General Secretary)**

How has the first JUFREX project contributed to gender equality in relation to the freedom of expression and freedom of media?

Any attacks on journalists reported to the telephone helpline of the Association with elements of discrimination and hate speech based on sex, sexual orientation, or elements of gender-based violence?

Any examples of consistent and rigorous methodology for media and advertising content monitoring from a gender perspective?

Opinion on sexism as an expression of defamation, as well as prosecution of hate speech and incitement to violence against women journalists?

Any representative surveys on gender-stereotypes about or in the media?

How to differentiate gender-based safety issues from safety issues journalists of any sex face?

Existing initiatives which may improve any of the identified problems?

- **Communications Regulatory Agency (Amela Odobašić, Spokesperson; Azra Maslo, Complaints Department; Lea Tajić, International Cooperation and Media Literacy Department)**

How has the first JUFREX project contributed to gender equality in relation to the freedom of expression and freedom of media?

Issues with the Codes on commercial communication and audio-visual media and radio services;

Measures at disposal in relation to Codes;

Issues in application of gender equality provisions of the Law on Communications, e.g. appointment of Council members.

Space for improvements in other regulation;

Existing initiatives which may improve any of the identified problems.

- **RS Centre for the Training of Judges and Prosecutors (Mila Čolić, Professional Education Department)**
- **FBiH Centres for the Training of Judges and Prosecutors (Davor Trlin, Professional Education Department)**

- **Legal expert and practitioner, Sijetlana Milišić Veličkovski, Supreme Court of FBiH**

How has the first JUFREX project contributed to gender equality in relation to the freedom of expression and freedom of media?

Judges' level of understanding of sex, sexual orientation, gender identity, or gender expression as a basis of discrimination (incl. in labour), hate speech, or hate crime;

Judges' level of understanding of sexism as an expression of defamation;

Known cases;

Professional standards on gender-based harassment and violence in courts;

Protocols for reaction, what they would entail.

- **RS BAR Associations (Irena Puzić-Obradović, Executive Board)**

How has the first JUFREX project contributed to gender equality in relation to the freedom of expression and freedom of media?

Attorneys' level of understanding of sex, sexual orientation, gender identity, or gender expression as a basis of discrimination (incl. in labour), hate speech, or hate crime;

Attorneys' level of understanding of sexism as an expression of defamation;

Known cases;

Codes of conduct and sanctions within BAR associations;

Protocols for reaction, what they would entail;

4. JUFREX2 results and recommendations for gender mainstreaming

Results	Recommendation
<p>1. Members of the judiciary, legal professionals and police officers improve application of European standards on Freedom of Expression</p> <p>1.1 Attendees of trainings seek further information and ways to apply newly acquired knowledge on FoE.</p> <p>1.1.1 Attendees of trainings have a national version of HELP online model-course on Protection of Journalists available which allows them to better understand the topic.</p> <p>1.1.2 Attendees of trainings have a remodelled, modernised and updated HELP online model course on Freedom of Expression in local language available which allows them to better understand the topic.</p> <p>1.1.3 Local trainers got updated and expanded Training manual on freedom of expression and the media which allows them to better understand the topic.</p> <p>1.2 Judges, prosecutors and lawyers understanding of topics related to FoE is enhanced.</p> <p>1.2.1 Judges, prosecutors and lawyers are included in Cascade trainings on issues related to FoE.</p> <p>1.3 Police officers' understanding of their role to protect journalists is reinforced.</p>	<p>Recommendation 1: In capacity building for the media, judges, prosecutors, and police officers, integrate exercises to detect gender biases. Use simple games, e.g. detecting women's roles in a sample of daily newspapers or ask participants to test their own biases, e.g. through Harvard Implicit Associations Test (Implicit.harvard.edu, 2011). Examples from boxes 3-6 (pages 13-18) can be used to demonstrate how these biases affect the media industry.</p> <p>Recommendation 2.1: In capacity building, increase awareness among relevant judges, prosecutors, and especially police officers about: A) Council of Europe recommendations and resolutions at the intersection of gender equality and media (Addendum 1, p.43); B) The examples of cases mentioned in the Gender Bias and the Law manual (Halilovic et al., 2017) and/or in Box 10; C) Incidents documented by the Press Council or journalist associations, and which include a gender component (Box 7 and 8). The HELP online model-course should include examples of cases relevant to gender equality.</p>

<p>1.3.1 Police officers are included on specific training on FoE, hate speech in particular, and protection of journalists.</p>	
<p>2. The minors' protection in BiH audiovisual media services field improved.</p> <p>2.1 CRA works proactively on strengthening media freedoms through media literacy and protection of minors initiatives.</p> <p>2.1.1 Expertise on protection of minors provided to the CRA will Increase capacity of the media regulatory authority to efficiently protect minors in the sphere of audiovisual media services.</p> <p>2.1.2 Studies on users' media habits and protection of minors, with the focus at the role of regulator will be at disposal to regulator for enhancing regulatory practices and to other groups interested in promoting media literacy.</p>	<p>Recommendation 3.1: Support more systematic monitoring and application of the media regulation and self-regulation. The project can encourage the CRA to more actively monitor breaches of the gender equality provisions of the two codes related to commercial communications and media. Although this is not currently possible with the technology at the CRA disposal, closer cooperation with gender institutional mechanisms, media, and women's organisations may help the CRA to act, instead of just reacting to complaints. Similarly, the Press Council can advance its own capacities to detect gender dimensions of Press and Online Media Code breaches through regular communication with the entity gender centres, the GEA, and women's organisations.</p>
<p>3. Media actors and relevant stakeholders, including Universities, contribute to an enabling environment for freedom of expression and freedom of the media</p> <p>3.1 Enhanced dialogue between media, judiciary and law enforcement professionals in regard to improvement of FoE in BiH</p> <p>3.1.1 Inter-professional discussion on FoE, between judiciary and media professionals is active and on-going.</p> <p>3.2 Students of faculties of Law and Journalism are aware of rights and duties of journalists and Council of Europe standards on Freedom of expression and the media and young generations are better fit to fulfil their responsibilities in the media domain.</p>	<p>Recommendation 2.2 Advocate strengthening organizational policies within media against GBV and for safer working conditions. Implementing partners in JUFREX2 can help define protocols and contact points for sexual and gender-based harassment, and other GBV inside media outlets. These contact points can help establish a better evidence base on this type of violence. Further, owners need to put in place better safety measures.</p> <p>Recommendation 3.2: Open the discussion about more gender-sensitive media laws and regulations with wider media community. Although JUFREX2 was not designed to address policy change at top levels, JUFREX2 can open the discussion about the need for policy changes identified in this report. BiH Code on Commercial Communication should be amended to clearly require from</p>

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3.2.1 Law and Journalism students are being trained on the rights and duties of journalists and Council of Europe standards on Freedom of expression and the media, in particular through the HELP online course.

advertisers not to perpetuate harmful gender (and other) norms and stereotypes in commercials (relevant CoE recommendations [CM/Rec \(2019\)1](#), [PACE/Rec 1799\(2007\)](#), and [CM/Rec \(2013\)1](#)). Further, defamation acts in BiH should be amended to include expressions of sexism in accordance with the CoE Recommendation [CM/Rec \(2019\)1](#). In-country examples relevant to the issue of sexism and defamation include the cases described in Box 7 and Box 8. Lastly, the FBiH Criminal Code requires a detailed legal analysis from the perspective of media freedoms and gender equality. There is clearly a need to amend the articles criminalizing incitement to hatred and violence, specifically to include sex, sexual orientation, and gender identity in the wording.

Recommendation 4.1: Support feminist research of media and advertising content. JUFREX2 can encourage development of rigorous watchdog methodologies to monitor sexism in the media and advertising, especially at Journalism studies and in media organisations.

Recommendation 5.1: Improve the evidence basis on abuses in the media and hidden issues. JUFREX 2 can support: **A)** Universities in partnership with gender centres to conduct a survey on prevalence of different forms of violence, abuse, labour rights violations among women and men journalists; **B)** Legal professionals to advocate for a more advanced tracking system of court cases involving media, including a gender component of cases; **C)** Media associations to conduct research into who is excluded from the media industry.

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