

## **UN demands more efficient protection of journalists from BiH state - media community believes that Media Ombudsman Office could contribute to better protection of journalists and media freedom**

Although Bosnia and Herzegovina can boast of laws protecting the media, freedom of speech and access to information, although the institutions are mouth full of the protection of human rights and media freedom, the real image of the media in B&H is completely different. Even what the state institutions record, and there are serious deficiencies, is just as bad as the real picture of the situation in which media and journalists find themselves. The Report on Freedom of Speech and Status of Media Freedom in B&H of the B&H Ministry of Human Rights and Refugees of B&H states that "the legal framework for the protection of freedom of expression and freedom of the media is generally considered as advanced and compatible with the highest international standards, but in practice there are fewer or major problems in the implementation of legal provisions".

### **European legislation with poor practice**

Year after year, the country declines in various analyses of the state of the news media, and the latest Report of the Reporters Without Borders says that B&H was ranked 65th in the free media in 2017. Although this report puts it in front of the countries in the region and in the first half of the group of 180 countries covered by the report, the fact that B&H has declined on this and similar charts for years is a good cause for concern. That the attention should be paid to the media freedom was also emphasized by the OSCE Mission in Bosnia and Herzegovina stating that "the state that used to serve as an example of media freedom in the region, to some extent, has been losing its glory".

Apart from the Laws and the Constitution guaranteeing freedom to media in B&H, besides the journalists' associations, the Ombudsman for Human Rights is also responsible for the successful consumption of these freedoms. According to its definition, the Ombudsman for Human Rights of B&H is considering cases relating to weak functioning or violation of human rights by any body of Bosnia and Herzegovina, its Entities and Brčko District.

The Ombudsman Institution says that they consider all complaints related to violations of rights by the authorities in B&H, and in cases of discrimination and in the case of other legal and natural persons.

"The ombudsman Institution stands for freedom of expression and undisturbed media work in the society, which is a precondition for the development of every democratic society, and in the previous period, apart from addressing of journalists and media workers themselves, we have opened several ex officio cases which referred to threats to journalists or media workers, assaulting the same and similar", which was stated from the Institution. They added that the Ombudsman Institution, as well as other national human rights institutions, cannot be a party in the proceeding. In addition, the Ombudsman's institution states that it only "issues recommendations" and "advises citizens" if it finds a violation of rights. Thus, the Institution somehow admits that its hands are tied when it comes to concrete solutions.

### **Ombudsmen need to work more to protect the freedom of the media**

This is also considered by Mehmed Halilović, media law expert and former media Ombudsman of the Federation of Bosnia and Herzegovina, who says that the need for such an institution is obvious but that it does not do what it is expected from it.

"The current Ombudsman institution is not doing enough to promote and protect media freedom," Halilović said, emphasising that the Ombudsman Institution in B&H for the first time, this year, published a special report on the position of journalists and cases of threats. And in the abovementioned report of the Ombudsman, published in June 2017, under the heading "Special Report on the Position and Case of Threats to Journalists in B&H", the general information on legislation and the Ombudsman's views on the position of journalists are stated.

Hence, it was stated that the United Nations Human Rights Committee expressed concerns about the situation in B&H regarding the freedom of expression and harassment and intimidation of journalists, but also partly emphasizes the inefficiency of the institution itself, because it failed to obtain official information from the relevant institutions about endangering media freedom and threats to journalists. Although a guilt of this cannot be attributed to the institution itself but to the state, the fact is that the state feels no obligation towards the Ombudsman to approach a problem seriously and more seriously. How much the state is concerned about journalists, media and media freedoms is confirmed by the fact that only two parties have responded to the Ombudsman's inquiries on the political view of the situation in journalism in B&H, while 11 did not consider it necessary to talk about this issue.

## **Prosecutor's Office without any information on the attacks on journalists**

On the other hand, the Prosecutor's Offices in B&H, at all levels, could not give this institution information on the attacks on journalists because it cannot be specifically recorded by the system used by prosecutors. The UN Human Rights Council also warns that "the institutions in B&H do not keep records of data related to oppression and intimidation of journalists".

Namely, according to data from the Prosecutor's Office, there are no officially registered cases related to attacks on journalists for the period from 2012 to 2017, while the B&H journalists, for that period, record a total of 266 attacks on journalists. So, we come to different figures about the attacks on journalists and the violation of media freedom, depending on who publishes them, on which Ombudsman warned, suggesting a more serious approach to the problem. But, as usual, it will remain on the recommendations while the changes will be expected in practice.

Halilović, also, said that the role of the Ombudsman was of the values in the law but is almost unnoticed in practice.

"In general, they support the principles represented in the Laws on freedom of access to information, stand beside journalists and non-governmental organizations in defence of these principles, but show no great interest or success in concrete cases when authorities fail to fulfil their obligations and do not meet the specific requirements for access to information, " says Halilović.

## **Ombudsman for Media**

The Association of BH journalists in its objectives quotes the lack of permanent and professional protection of the rights and safety of journalists, freedom of expression and media in B&H through the Instruments of the Ombudsman for Human Rights in B&H. The Association advocates greater involvement in resolving disputes related to the application of the Freedom of Access to Information Act and advocates for the formation of a special media department at the Ombudsman institution.

The ombudsman Institution stated that it recognizes the need for increased work in the field of media freedom, as well as the position of persons working in the media or freelancers.

"Regarding the application of the Law on Free Access to Information in Bosnia and Herzegovina, the Ombudsman Institution has issued a number of recommendations to the authorities and bodies with public authority every year, according to its statutory powers", was

stated from the Institution and added that they "follow the application of laws, act reactively to violations of rights, as well as preventively informing legislative bodies in B&H on these issues."

### **Journalists (do not) believe in the efficiency of the ombudsman's recommendations**

However, journalists themselves are sceptical about the possibility for the Ombudsman for Human Rights Institution to help solving the obvious problems.

"I do not see the way that the Institution mentioned, or the Public Relations Office in the Ombudsman Institution could help journalists," said Jurica Gudelj, a journalist from Mostar. "We now see the effects of the work of the Ombudsman and this institution is not in a position to assist citizens in their efforts to solve their problems. Journalists are faced with a series of problems and pressures each working day, and it is insignificant for them if a case is solved in a period of a half a year or a year.", says Gudelj.

Elvir Padalović, a journalist from Banja Luka, states that his experience with the Ombudsman Institution relates to the fact that the institution has analysed the case reported by the editorial office and that they have received their opinion. Although there are no objections to this part of the Ombudsman's work, he says that support to media must be more concrete.

"The question is how much the Ombudsman's opinion is relevant in relation to other institutions, or how much is their opinion respected by others. Support to media has to be more concrete." says Padalović.

However, regarding the question on the journalists' allegations of slow response in the reaction and absence of a special media department, the Ombudsman for Human Rights Institution in B&H says that they are trying to conduct and end the investigation of each case as soon as possible.

"However, we must be aware that any person that consider itself deprived of rights perceives any reaction of power as too slow, which is a normal subjective feeling which, nevertheless, before any decision is made, we must objectively consider. Regarding the lack of a media department at the Ombudsman Institution, the absence of a department does not affect any way the exercising the rights of journalists and media workers who address the Ombudsman Institution. Of course, the possible opening of such a department or any other department that would be devoted to a part or exclusively of the mentioned matter is not excluded, but it depends on many objective

factors, such as the number of appeals, available funds and others", was concluded from the Ombudsman Institution for human rights of B&H.

And while the United Nations recommends to our country to take immediate action to fully investigate the alleged threats and intimidation of journalists and media and to ensure the protection of journalists, media workers and human rights activists from all attacks, and to investigate and deal with such attacks and to bring responsible parties to the face of justice, it seems that in a country that always has more important things than important ones, this too has to wait.

The content of this text is the sole responsibility of author and BH Journalists Association and can in no way be taken to reflect the views of the European Union. 

## **Biography:**

Berislav Juric was born in 1980 in Tomislavgrad. Since high school days, he is engaged in journalism. Since 2000, he is a journalist and an associate of numerous internet portals. In addition, he writes poetry and prose. He won the first prize for the poetry cycle of Simics meeting in 1998 and 2006. He was also awarded for the best text published in the Student List of the University of Mostar. In 2013, he received the first prize of the Foundation, Fr. Grgo Martić, for the collection of stories 'Naspavani psi laju'. He lives and works in Mostar.