

**THE PRICE OF PROTESTS:
FREEDOM OF ASSEMBLY PRACTICES OF
THE COMPETENT INSTITUTIONS IN BIH**



Sarajevo, 2020

Human Rights Papers of Sarajevo Open Centre Paper 72

Title: The Price of Protests: Freedom of Assembly Practices of the Competent Institutions in BiH
Title of the original: Cijena protesta: Prakse nadležnih institucija u oblasti slobode okupljanja u BiH

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Language Editing: Srđan Arkoš

Layout/Design: Nađa Čengić

Translation from BHS to English: Aida Spahić

Publisher: Sarajevo Open Centre, www.soc.ba

On behalf of the Publisher: Emina Bošnjak

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The publication was produced as part of a project funded by the MATRA Fund of the Embassy of the Kingdom of the Netherlands. The contents of this publication are the sole responsibility of the publisher and can in no way be taken to reflect the views of the donors.



Kingdom of the Netherlands

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SUMMARY

This Report analyses the right to freedom of assembly, with a focus on practices of the competent authorities: the ministries of the interior in the cantons of the Federation of Bosnia and Herzegovina and the Republika Srpska, and the Police of Brčko District. The practice of other actors in Bosnia and Herzegovina has also been researched, those competent to decide on the exercise of the right to assembly (ministries of transport, municipal bodies, private persons). Although the focus is on practice, positive regulations pertaining to notifications and the possibility of banning assemblies have also been analysed, as well as their compliance with international standards. The main goal of the research was to determine whether the practice of the institutions in Bosnia and Herzegovina is restrictive with respect to the right to freedom of assembly and what are the challenges that assembly organisers face.

The research covered the entire territory of Bosnia and Herzegovina in the time period from 1 January 2017 until 31 December 2019. The results of the research indicate that the number of public assemblies in Bosnia and Herzegovina is growing, as is the number of their participants. Legislation, however, differs in different parts of Bosnia and Herzegovina, with the common characteristic that it is not in line with international standards. Poor legislation, its poor application in practice and the large discretion granted to actors in this field lead to restrictions and discrimination in the exercise of the right to public assembly in Bosnia and Herzegovina. Practices of the authorities vary depending on assembly purpose, i.e., they are restrictive where assemblies tend to criticize the local government or focus on the rights of women and LGBTI people. Therefore, it is necessary to align domestic laws throughout the country, to harmonize them with international standards and to continuously train state authorities with respect to international standards in this field and their application.

In view of the above, this Report makes recommendations for the development of a quality framework for the exercise of the right to freedom of assembly in Bosnia and Herzegovina, in line with international standards.

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1 INTRODUCTION

The right to freedom of assembly is one of the fundamental human rights. It implies the intentional and temporary presence of people in a public place for the purpose of collective expression of common interests and goals. It can be expressed in different ways, so this term includes protests, strikes and demonstrations, but also various gatherings, walks and performances. However, the goal is always the same: to collectively express and promote common views and interests.

Everyone has the right to freedom of peaceful assembly and association with others, which also includes the right to form and to join trade unions for the protection of their interests. This right may be limited only by law and to the extent necessary in a democratic society, in the interest of national or public security, i.e., to prevent disorder or crime, to protect health or morals, or to protect the rights and freedoms of others.

The importance of exercising the right to freedom of assembly is substantial. Sometimes, this is the most effective or even the only way to promote the views and interests of individuals and groups who would not otherwise be able to express their views to the public and (especially) the authorities. Thus, freedom of assembly provides an opportunity to influence the legislature and the executive, to make marginalized groups more visible, or to initiate or accelerate change in a particular area (for example, rights of LGBTI people, rights of war veterans, workers, etc.). The protection of the right to freedom of assembly is therefore crucial for human rights defenders and social movements in general.

In Bosnia and Herzegovina (hereinafter: BiH), freedom of assembly is guaranteed by the Constitution, but also by international acts and the constitutions of the entities, the Statute of the Brčko District of BiH (hereinafter: BD) and laws. However, despite the numerous legal acts that confirm it and indicate that it is one of the basic indicators of democracy and the rule of law, freedom of assembly in BiH is very often restricted or prohibited. Therefore, we explore in this Report the practices of the relevant bodies in BiH regarding the exercise of the right to freedom of assembly. The Report seeks to identify whether this practice is restrictive and, if so, whether that is the case only in certain parts of BiH or only in relation to certain groups of people (e.g. women, workers, war veterans, trade unions, LGBTI people). The Report also provides an overview of the key principles elaborated in international instruments and case law regarding freedom of assembly and analyses the extent to which they are respected in BiH practice. The aim is to identify the basic challenges that assembly organisers in BiH face and to make suggestions for overcoming them. Examples of good practice are illustrated and then compared with examples of not providing sufficient protection for the exercise of the

right to freedom of assembly. Finally, the Report provides important guidelines and recommendations aimed at limiting government discretion and eliminating the possibility of arbitrary interpretation of the relevant legislation. It will be useful not only to those who enforce the laws in the field of public assembly, but also to the legislators and assembly organisers to which these laws apply.

The overview of the right to freedom of assembly is based on reports of organisations that monitor the exercise of this right in practice in BiH, international, regional and national, as well as answers to questionnaires submitted to state authorities that decide on exercising this right in practice, answers to questionnaires submitted to assembly organisers in BiH, media reports and other publicly available data.

Given that Sarajevo Open Centre (hereinafter: SOC) is preparing a report that will deal exclusively with the legal framework on freedom of assembly in BiH and its compliance with respective international standards, this Report will focus on practice, while the normative acts analysed here are only those relating to public assembly notification procedure and the possibility of banning assemblies. Other regulations of the relevant international, regional and national bodies are not, therefore, in the focus of this Report, but deserve attention in the context of their impact on the notification procedure and bans on assemblies.

2

RESEARCH GOAL AND METHODOLOGY

Researching the right to freedom of assembly in BiH with a focus on the practice of the competent authorities is a very complex task, not only because of the multitude of applicable laws but also because of numerous actors that can decide on the exercise of this right. Given that the goal was to make an overview of the current situation in practice and give constructive suggestions for its improvement, the research was qualitative, with the use of quantitative indicators. In this way, we came not only to normative and statistical data, but also direct experiences and opinions of those who organise assemblies in BiH, as well as those who decide thereon in practice.

The research was conducted in the period March – July 2020 and was limited to a review of the period from 1 January 2017 to 31 December 2019. The specific research time frame leads to more precise findings than an open time frame. However, in order to make the subject of the research completely clear and to present an actual portrayal of the practice of institutions with respect to the right to freedom of assembly, we decided to also pay attention to individual cases that occurred before or after the specified period. This allowed us to avoid dealing with the research subject in isolation from the broader context of the right to freedom of assembly and the relevant practice of institutions, and allowed us to get a clearer picture of whether there is progress in institutional practice and its approximation to international standards.

In this regard, the research included:

1. Mapping and identification of the practice of the competent authorities with respect to the right to freedom of assembly in BiH in the specified period;
2. Examining the compliance of that practice with applicable legislation and international standards;
3. Making recommendations for improving the existing practices of the competent authorities in BiH in this field.

Accordingly, data collection through questionnaires (primary sources) and content analysis of the relevant BiH legislation and international standards (secondary sources) were applied as methods.

The questionnaire collected statistical data and data on immediate experiences and opinions of those who organise assemblies in BiH, on the one hand, and those who decide on them in practice, on the other. The questionnaire was delivered by e-mail to the relevant authorities, organisations, foundations, associations, trade unions and individuals. Given the Covid-19 pandemic, no face-to-face interviews or first-hand data

collection (structured assembly observation) were planned.

The questions for the competent authorities differed from the questions for assembly organisers. However, both questionnaires covered open-ended and partially open-ended questions and ranking questions (see annexes). Regarding the research population, the ministries of the interior (hereinafter: Mols) in all ten cantons in the Federation of BiH (hereinafter: FBiH), Mol of the Republika Srpska (hereinafter: RS) and the BD Police were selected as the competent authorities in this field, as well as known assembly organisers in the specified period. Assembly organisers were identified primarily through media articles from the period 2017-2019, but also by reviewing complaints to the Institution of the Human Rights Ombudsman of BiH (hereinafter: Ombudsman) and case law in the observed period. Questionnaires were then sent to all identified organisers (but not all of them submitted their responses – more on this in Chapter 4).

The research covered the entire territory of BiH (both entities and BD) to compare the data obtained from different parts of BiH and contrast them with international standards in this field, in order to reach conclusions and recommendations that will make the exercise of freedom of assembly available to all persons in all places in BiH, which is a key prerequisite for achieving the rule of law.

In analysing the normative framework (national and international), the focus was on what the reporting process should look like and what an assembly organiser must submit when submitting a notification, and how and under what conditions the competent authority can ban the assembly.

With respect to BiH legislation, all acts that directly and/or indirectly relate to freedom of assembly have been analysed, including: the Constitution of BiH, the Constitution of FBiH, the Constitution of RS, the Statute of BD, constitutions of cantons, as well as legal acts at all levels that indirectly or directly regulate freedom of assembly in BiH. Therefore, in addition to the analysis of the laws on freedom of assembly, normative acts pertaining to public order and peace, traffic, use of public areas, security agencies, police officers and protection of the rights of persons belonging to national minorities were also analysed.

Furthermore, acts pertaining to the practice of the competent authorities in this field were analysed, which include: media articles, reports and analyses of non-governmental organisations, reports of international organisations, court rulings (both domestic and international) and complaints to the Ombudsman.

As to the international acts, the research analysed acts of international and regional organisations dealing with the right to freedom of assembly and international and regional conventions that enshrine this right.¹

The main goal of the research was to determine whether the practice of institutions in BiH with respect to the right to freedom of assembly is in line with international stan-

ards, i.e., what are the challenges faced by assembly organisers, as well as to make recommendations for overcoming them. Accordingly, the focus of the research was on the following five questions:

1. Is the practice of the competent authorities in BiH in line with the current legislation in this field?
2. Is the practice of the competent authorities in BiH in line with international standards in this field?
3. What are the obstacles to exercising the right to freedom of assembly in BiH?
4. Do these obstacles exist in legislation, in practice or in both legislation and practice?
5. Is the practice of the competent authorities restrictive or is this only the case with regard to certain groups and their right to public assembly?

The report, following the Introduction (Chapter 1) and the Goal and Methodology (Chapter 2), first provides an overview of international standards, citing the relevant practice of international courts and of other states regarding the right to freedom of assembly (Subchapter 3.1). This is followed by a description of the legal framework and practice in BiH (Subchapter 3.2). Next is an analysis of responses to the questionnaires submitted to the relevant actors in BiH (Chapter 4). The report ends with conclusions (Chapter 5) and recommendations aimed at improving the practice and legislation in this field in BiH (Chapter 6), which are followed by Annexes, i.e., the questionnaires submitted to the relevant actors in BiH (Chapter 7).

3

NORMATIVE FRAMEWORK AND DESCRIPTION OF RESTRICTIVE PRACTICES

This part of the Report provides an overview of the relevant international standards and practices and domestic legislation and practice, with a focus on the procedure of assembly notification and the possibility of banning it.

| 3.1. International Standards and Practice with Respect to the Right to Freedom of Public Assembly

The right to freedom of assembly is one of the most important political rights. In regulating this right, each state has an obligation to comply with several general principles, of which we single out:

1. The enjoyment of the right to freedom of assembly must be ensured for all, without discrimination on the grounds of race, sex, sexual orientation, religion, political opinion or other protected grounds in the context of the organisers and participants of the assembly.²
2. The state should regulate or interfere as little as possible in the exercise of this right. Otherwise, there is a risk of arbitrariness of state authorities and the possibilities of abuse.³
3. Only certain types of assemblies may be prohibited by law. In addition, the legal prohibition must be sufficiently precise (to prevent broad discretion of the competent state authorities in its interpretation)⁴ and be justified (for example, because a particular type of assembly is a risk for national security or human health).⁵ And even in such situations, the state should choose the mildest measure available to it with which a legitimate goal can be achieved (for example, to provide additional security rather than prohibit assembly).⁶ This means that any restriction to the right to freedom of assembly must comply with the principles of legality, necessity and proportionality.⁷

With respect to advance notification, international standards read that it should not be mandatory for all types of assemblies and that some types of assemblies do not warrant any form of official regulation.⁸ Public assembly is a right, not a privilege, therefore, notification should be understood as a notice of intent rather than a request for permission.⁹ Advance notification should, accordingly, be sought only for the purpose of enabling the state to reconcile the right to assembly with the rights and lawful interests of others and with the aim of preventing disorder or crime. In any case, the notification process must not be complicated or bureaucratic, which primarily refers to the content of the notification and its deadline. In this sense, the content of the notification must not

oblige assembly organisers to provide detailed information (basic information such as date, time, duration and place of the assembly, along with names and contact details suffice),¹⁰ whereas the notification period must not be long or precisely determined (however, sufficient time should be granted to the competent state authorities to prepare for possible security-related tasks). Also, assemblies can be spontaneous, i.e., without an identified organiser.¹¹ Such assemblies are very frequent and most often represent a response to current events in the state.¹² The law should explicitly stipulate that spontaneous assemblies are not subject to the obligation of advance notification in situations in which the statutory deadline cannot be met.¹³

As to the place, time and purpose of public assembly, international standards and practices indicate that they are often extremely important in order to reach the target audience or for the reasons of symbolism, and should be freely chosen by the organiser.¹⁴ In this sense, even private property in some cases should be open to the public, because otherwise the growing privatisation of public spaces would certainly impact freedom of assembly.¹⁵ Furthermore, the states may not impose a general prohibition on the time and duration of assembly¹⁶ nor may they prohibit an assembly solely because another assembly is scheduled at the same time and / or in the same place.¹⁷

However, there are certain limitations:

Although public assembly constitutes a legitimate use of public space just like any commercial activity or the movement of vehicles and pedestrians,¹⁸ the state may prohibit assembly at a particular place if such assembly would pose a threat to any of the protected grounds.¹⁹ Therefore, the majority of states define certain spaces by their domestic laws as unacceptable for public assembly (for example, the space near the legislature in the laws of Germany, Croatia and Ukraine).²⁰ However, the provision stipulating that public assembly is allowed in “appropriate”, “accessible” or “convenient” places is not in line with international standards, as it allows for broad interpretation and abuse.²¹

Although the subject of the assembly must not be a ground for restricting the exercise of this right, an actual risk of violence or a serious threat to public order at the assembly may serve as such ground. For that reason, the use of symbols (flags, uniforms, signs, banners, etc.) that are essentially and exclusively linked with physical violence or serve to intimidate others is not allowed.²² However, any restriction should be proportionate to the risk,²³ which means that the existence of a hypothetical risk of violence or an individual act of violence is not sufficient to prohibit assembly. They can only serve as reason and obligation for the intervention of the state, and by no means a reason for dissolving the entire assembly.²⁴

The situation in practice differs, but it indicates a tendency of banning assemblies that are not acceptable to the governing structure (under another pretext). In Budapest, for example, the Pride Parade was banned several times under the pretext of the state not

being able to divert traffic, while in Serbia the excuse was that pride parades posed a high security risk and that even the strictest police escort would not be able to protect participants.²⁵ Furthermore, public authorities are often not aware of the importance of freedom of assembly and consider it harassment to the public. In 2017, the Montenegrin Ministry of the Interior proposed that a general prohibition be introduced on assemblies on roads into the Law on Public Assembly and Public Events, because assemblies undermine the right to freedom of movement and freedom of entrepreneurship of citizens who are not its participants.²⁶ The decision of the Constitutional Court of the Republic of Croatia is also illustrative, stating that the Law on Public Assembly can be defined as “a law the basic purpose of which is to restrict the constitutionally guaranteed right of citizens to freedom of public assembly”²⁷ and not to enable and facilitate the exercise of freedom of assembly. Finally, states are also using the current Covid-19 situation to restrict or prohibit the exercise of the right to freedom of assembly.²⁸ Thus, in March 2020, the Pervomaisky District Court in Bishkek (Kyrgyzstan) imposed a four-month ban on any assembly and declared peaceful demonstrations a disturbance of the stable functioning of the daily life in the Kyrgyz capital. The Court stated Covid-19 as a justification for this ban, although the decision was made on March 4, 2020, when there were no confirmed cases in that state.²⁹

However, there are also positive examples. Germany, for instance, has a long history of protecting the right to freedom of assembly. The state has the right to end an allowed protest only as a last resort, i.e., if the protest in its entirety poses a specific danger. Furthermore, in Uganda, the Constitutional Court ruled in March 2020 that the suppression of peaceful assemblies was unconstitutional and the Court declared unlawful and unconstitutional Article 8 of the Law on Public Order Management, which was used to disperse spontaneous demonstrations and opposition rallies. The judge stressed in the verdict that only undemocratic and authoritarian regimes tend to ban peaceful assemblies.³⁰

| 3.2. Normative Framework and Practice with Respect to the Right to Freedom of Assembly in Bosnia and Herzegovina

In BiH, the right to freedom of assembly is not regulated by a single law at the state level, but by a number of laws and bylaws at the level of cantons, entities and BD. There are twelve laws on public assembly: ten at the cantonal level, one at the BD level and one at the RS level,³¹ while the FBiH Mol prepared a preliminary draft of the FBiH Law on Public Assembly.³² They all share a common focus on the regulation of the right to freedom of assembly (not on enabling and protecting it), and they all stipulate that it is primarily the organiser who is responsible for security during the exercise of this right. Furthermore, the numerous bylaws and non-competent bodies / individuals that, in accordance with these acts, can decide on the right to freedom of assembly in BiH further complicate the normative framework. For example, in the case of assemblies on the move, the organiser is also required to obtain the consent of the competent Ministry of Transport to change the traffic regime (which must then be confirmed by the competent

Ministry of the Interior).³³ When the assembly is to take place in a space owned by a (private) natural or legal person, the organiser is obliged to obtain their consent as well.³⁴ When we take into account also the provisions that stipulate that spaces appropriate for public assemblies will be defined by city, municipal or mayoral acts,³⁵ there is no doubt that BiH acts impose additional obligations on assembly organisers, thus departing from international standards.

All laws on public assembly in BiH stipulate mandatory advance notification. It must be submitted to the Mol police administration / the police in the place where the assembly is to be organised. Submission deadlines vary from 2 to 7 days, depending on the law.³⁶ However, all laws also stipulate that any change in the content of the notification is considered to be a new notification, which departs from international standards which clearly indicate that the notification process, if any, must not be complicated or bureaucratic. Furthermore, all laws on public assembly – with the exception of the Law on Public Assembly of the Central Bosnia Canton – require the organiser to submit numerous data in the notification.³⁷ In addition to the data prescribed by international standards (date, time, duration and place of assembly, along with organisers' names and contact details), the BiH laws require much more information. Thus, domestic laws stipulate that the following must be submitted to the competent state authority as part of the notification: programme and purpose of the assembly, information on the place, date and time, its duration, estimated number of participants, personal data of the organiser, responsible person, leader and stewards, information on the measures to be taken to maintain order and peace, information on items to be carried by the participants, as well as a detailed route (if it is an on-the-move assembly).³⁸ Given that international standards explicitly prohibit requiring some of this information,³⁹ the obligation of BiH legislators to amend regulations in this field is evident.⁴⁰

When it comes to restricting or banning assemblies, most BiH laws allow for a broad interpretation, creating room for abuse. For example, although the purpose of the assembly should not be a reason to ban it (unless it calls for violence and / or involves violence and rejection of democratic principles),⁴¹ the practice in BiH is often contrary.⁴² In practice, the international standard stipulating that public assemblies should not be banned just because another assembly is planned in the same place and at the same time is not adhered to,⁴³ nor are those prohibiting a general ban on assemblies⁴⁴ or the general proclamation of public assemblies as disruptions of public order and peace and harassment of citizens.⁴⁵ The competent authorities and actors who can decide on freedom of assembly in practice are usually not well informed about international standards and the importance of the right to freedom of assembly.⁴⁶ All those who want to promote content not popular with the governing structure are under attack.⁴⁷ There are even verdicts by the BiH Constitutional Court for violating the right to freedom of assembly. So far, the most important among them was passed in 2018, when the Court accepted the appeal of SOC and others, finding that the authorities of Sarajevo Canton violated the right to freedom of assembly of LGBTI people as they failed to ensure safety of participants of the 2014 Merlinka Festival.⁴⁸

Despite the limitations of the legislative framework, the practice of exercising and attempting to exercise the right to freedom of assembly in BiH is expanding, which is especially evident in the period covered by this report (2017-2019). The number of assemblies is increasing, as is the number of their participants.⁴⁹ Also, the number of violations of this right is increasing,⁵⁰ which leads to an increased number of complaints to the Ombudsman.⁵¹

4

PRESENTATION OF RESEARCH RESULTS

This part of the Report contains an analysis of the data obtained by the method of collecting data through a questionnaire, along with key findings and typical statements of the most important actors in this field. Therefore, the analysis in this chapter follows the questions from the Questionnaire (see Annexes I and II).

The questionnaire for assembly organisers in BiH (Annex I) was submitted to well-known organisers in BiH in the period covered by this report (for an explanation, see Chapter 2 of the Report).⁵² The questionnaire for the competent authorities (Annex II) was sent to: RS Mol, BD Police and Mols of ten cantons in FBiH.⁵³ The same questionnaire was submitted to all competent authorities, therefore, the differences in the number and type of data are due to the fact that some authorities failed to submit complete responses even after repeated requests to supplement them.

HOW MANY PUBLIC ASSEMBLIES WERE HELD IN THE PERIOD FROM 1 JANUARY 2017 TO 31 DECEMBER 2019?			
	No. Of NOTIFIED ASSEMBLIES	No. Of INTERRUPTED ASSEMBLIES	No. Of BANNED ASSEMBLIES
RS	6030	1	15
BD	1582	0	0
BOSNIAN PODRINJE CANTON	144 (9 spontaneous)	0	0
HERZEGOVINA-NERETVA CANTON	No response		
CANTON 10	683	0	0
SARAJEVO CANTON	9913 (587 spontaneous)	0	1
POSAVINA CANTON	847 (0 spontaneous)	0	0
CENTRAL BOSNIA CANTON	No response	1	4
TUZLA CANTON	5732 (229 spontaneous)	30	9
UNA-SANA CANTON	2117 notified (12 spontaneous)	2	2
WEST HERZEGOVINA CANTON	1182 (0 spontaneous)	9	1
ZENICA-DOBOJ CANTON	4910	2	1

Table 1 (data from the competent authorities' responses)

| 4.1. Experiences of Assembly Organisers with Notifying and Organising Public Assemblies

According to the statistics of the competent authorities, the practice of exercising the right to freedom of assembly in BiH is very widespread. Also, the number of assemblies increased over the years, with the second year (2018) being the most active in the observed period.⁵⁴ Furthermore, the analysis of the responses to the questionnaires indicates that most commonly organised in BiH are street performances, street actions and gatherings on the move. Although the majority of assemblies start spontaneously,⁵⁵ not a large number of spontaneous assemblies was recorded in relation to the total number of assemblies in BiH.⁵⁶ However, this result is probably due to inadequate legal provisions that practically do not recognize spontaneous assemblies.

The majority of the submitted responses to the questionnaires indicate negative experiences of assembly organisers in BiH regarding their notification and organisation. The most problematic aspect, according to the organisers, is the bureaucratic nature of notifications, while they underline discrimination by the competent authorities with respect to assembly organisation. On the other hand, international standards require that states have a simple system for notifying a public assembly⁵⁷ and emphasise that it is the obligation of the state to facilitate and protect the right to freedom of public assembly. International standards also stipulate that the enjoyment of the right to freedom of assembly must be ensured for all, without discrimination on any grounds.

These, as well as other challenges faced by assembly organisers regarding the right to freedom of assembly, will be described in detail in Subchapter 4.3. of this Report.

| 4.2. Appropriateness of Legal Obligations Imposed on Assembly Organisers

The majority of assembly organisers in BiH believe that the legally prescribed obligations are not adequate and that they should be differently (legally) formulated. The most commonly mentioned are:

- too many data are requested for assembly notification (as already mentioned, it is especially problematic to provide personal data of organisers and stewards);⁵⁸
- the obligations of assembly organisers regarding additional security are excessive (especially because this obligation can be imposed in a short time prior to the assembly and may incur additional funds);⁵⁹
- the obligation for assembly organiser to be acquainted with all persons who will attend the assembly is unlawful and practically impossible;⁶⁰
- the envisaged sanctions against the participants, organisers, leaders and stewards are too severe and disproportionate in relation to the stipulated misdemeanours and discourage citizens from exercising their right to public assembly.⁶¹
- In contrast, international standards indicate that the state should fully cover the costs of security measures at assemblies, as other practices would significantly discourage

the enjoyment of the right to freedom of assembly and could lead to a de facto ban on assemblies for all citizens unable to cover those costs.⁶²

4.3. Challenges Faced by Assembly Organisers in Relation to Institutions

One of the questions in the questionnaire for organisers referred to challenges in relation to institutions, where they were asked to rank the most significant challenges from 1 (most important) to 5 (least important). The most frequently mentioned answers are listed in Table 2.

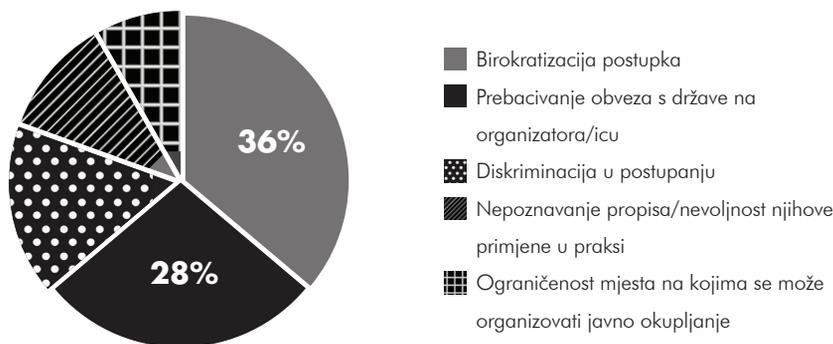


Table 2 (data from responses of assembly organisers)

(1) The bureaucratization of the procedure is the most significant challenge that assembly organisers face in BiH.⁶³ They state that the problem is primarily the fragmentation of the assembly notification system and the lack of clear guidelines, whereas in practice the powers are largely transferred to local authorities (which further define under what conditions and where assemblies can be organised).⁶⁴ This allows, among other things, the non-competent ministries, municipalities and legal entities to decide on the right to freedom of public assembly and assess the security risk. An additional problem is the non-cooperation of the bodies involved in the decision-making process. Communication between the state authority and assembly organiser is also a challenge, because it is not uncommon (especially previously) that the only possible way of communication is to personally deliver the documentation or send it by post.⁶⁵ The situation is further complicated by the fact that most of the information is not publicly available on the websites of the competent authorities and it is very difficult to talk about established practices.⁶⁶ Therefore, assembly organisers agree in their responses that state authorities should have clearer protocols of communication between themselves and with the parties, as well as a more transparent and professional approach to work. They also point out that the many regulations are not clear enough and enable subjective (and often discriminatory) interpretation by the competent authorities. Finally, differences in procedures and actions in different parts of BiH are not logical and indicate the need for legislation and practice in all parts of the country to be unified.⁶⁷

Bureaucratization also implies a large number of data required when notifying, where the provision of organisers' and stewards' personal data is particularly problematic.⁶⁸ In addition, organisers say that notification deadlines are very problematic because they are too strict and prevent spontaneous assemblies.⁶⁹ In this regard, the Centre for Environment states that, when there is a need for urgent action and drawing public attention to a certain phenomenon, due to limitations conditioned by legal provisions, they often have to miss the moment to act or opt only to send messages via social networks and media. On the other hand, often the competent authorities do not respect the legal deadlines for deciding on the request, which contributes to the impossibility of holding assemblies that need to be held on a specific date.⁷⁰

(2) Another challenge reported by almost all assembly organisers in relation to the institutions is the transfer of obligations from the state to the organiser.⁷¹ Although it is essentially included in the first mentioned challenge, this problem is very widespread in practice and it was particularly underlined by organisers in their questionnaire responses, therefore, we also singled it out. In this context, the organisers emphasised as the biggest problem the obligation to protect assembly participants. According to the current regulations, assembly organisers must provide a medical team, firefighters, and very often a professional security agency, which is in fact the job of the state.⁷²

(3) The challenge that is also reported by the majority of respondents is the discrimination by the competent authorities⁷³ which occurs because of the assembly purpose.⁷⁴ The Helsinki Committee for Human Rights in Bijeljina states that this discrimination is not visible in legislation, but that it manifests itself in practice in the form of additional administrative obstacles and excessive precautionary measures. Association ReStart Srpska states that in their case there is frequent pressure from the police, who call them every day for "informative talks", including on the day of the assembly. In their responses, SOC emphasise that public assemblies aimed at promoting the rights of LGBTI people are always classified as high-risk assemblies by the competent authorities and additional measures are imposed on the organisers to obtain approvals. CURE Foundation states that any event they organise is marked as risky. The treatment by employees in the competent authorities when this Foundation submits notifications is also extremely problematic. Namely, as CURE Foundation states in its answers, "prior to any activity, the representatives of the CS Mol (police station, depending on the municipality in which the activity is organised) request meetings and communication via private phone numbers 'to reach me in time' and not to contact the office. I encountered some truly bad reactions by employees; once, in the Police Station of the Stari Grad Municipality, they managed to dig out a case of a woman who committed violence against a man by spilling hydrochloric acid on him – they opened the case to inform me of it, of the identity of the persons, and then warned me that CURE should tackle the issue of violence against men and stop dealing exclusively with women as men are also experiencing violence." Such behaviour of state authorities is absolutely unacceptable and it is necessary to train police officers, as well as enable communication with all parties in writing.

However, discrimination in treatment does not only mean discrimination by the police but also other bodies that decide on the exercise of the right to freedom of assembly (ministries of transport, municipal bodies, owners of private properties). SOC, for example, states that it has a fair cooperation with the Mol and Police Administration of Sarajevo Canton, and that their previous notifications of public assemblies took place in an atmosphere of cooperation, mutual respect and esteem.⁷⁵ There are assembly organisers who state that they did not have any problems with the competent authorities.⁷⁶ However, the problem often arises when other actors are involved in the notification process, to whom the competent authorities allow the right to decide on assembly organisation in BiH, and discrimination occurs in cases of assemblies that promote ideas that are controversial in the opinion of these actors. Therefore, the organisers point out in their responses that the opportunity for discriminatory practices of non-competent bodies can be reduced if only the provisions of the laws on public assemblies (without applying, for example, the law on the temporary use of public space) apply in practice and the decision on this right is left exclusively to the Mols/BD Police.⁷⁷ Their decision to restrict the right to freedom of assembly must be made solely on the basis of an analysis of whether any of the protected grounds are threatened, and should in no way be conditioned on the consent of non-competent authorities / persons.⁷⁸

(4) The fourth most significant risk that assembly organisers in BiH face is the ignorance of state authorities about regulations, or their reluctance to apply them.⁷⁹ The organisers state that the legal deadlines for decision-making on the request of the parties are often not respected and that a long decision-making period makes it impossible sometimes to hold a public assembly on the desired date (that can be extremely important).

(5) Finally, some organisers state the limited places where public assemblies can be organised as one of the main challenges they face when exercising the right to freedom of assembly.⁸⁰ This problem is especially present in Banja Luka, where only two places are allowed for public assemblies: the Krajina Square and Mladen Stojanović Park.

In conclusion, it is necessary to simplify the procedure for organising public assemblies throughout BiH, with a clear indication of who is responsible for what and what are the steps to be taken.⁸¹ It is necessary to abolish the practice of the competent authorities not to allow the organisation of assemblies that promote ideas not acceptable to local authorities or critical of certain social phenomena.⁸² In that sense, it is necessary to train employees in state authorities, especially people who are in higher positions, because their decisions are often crucial in terms of the practice of the institution they lead.⁸³

| 4.4. Challenges Faced by the Competent Authorities in Relation to Public Assemblies

The two most common challenges faced by the competent authorities in BiH with public assemblies are providing security for public assemblies⁸⁴ and assembly organisers not being aware of legal provisions.⁸⁵

With respect to the first challenge, a specific problem is the fact that the police have insufficient level of material and technical capacities,⁸⁶ especially when it comes to road-blocks and gatherings on the move.⁸⁷ Also, in practice, the organisers often engage a significantly lower number of stewards than stated in the notification.⁸⁸ According to the competent authorities, the challenge is also the fact that the organisers often do not hire professional security agencies at assemblies.⁸⁹

With respect to the second challenge, the competent authorities particularly emphasise the problem of submitting incomplete and untimely notifications.⁹⁰ The problem in practice is often the lack of knowledge about the regulations, specifically the obligations of assembly organisers, and non-compliance with additional measures prescribed by the police administration in certain cases.

Other challenges reported by the authorities are: poor communication between the local community approving the venue of public assembly,⁹¹ short deadline for assembly notification in cases of mass gatherings of citizens, along with the duty of police officers to make a plan of action and organise and coordinate the work of all services that will be engaged in public assembly in a short period of time,⁹² time and place of public assembly,⁹³ many persons participating in assemblies who are prone to crime and other unlawful acts,⁹⁴ disturbing public order and peace by physical attack and especially insolent behaviour.⁹⁴

The analysis of responses of the competent authorities leads to the conclusion that their main concerns in relation to public assemblies are the possibility that they will escalate into disturbances of public order and peace and the fact that assembly organisers do not notify them on time and do not submit all legally required information. By amending the legislation to harmonise it with international standards, both of these concerns of state authorities could be mitigated, if not completely eliminated

| 4.5. How Do the Competent Authorities Understand the Right to Freedom of Assembly?

All competent authorities were asked “What is your position on public assemblies in general, do they have their purpose and how necessary are they in a democratic society? Please explain.” and they all responded that they understood the importance of this right and that it was necessary in a democratic society. Some also referred to international documents promoting this right (for example, the Guidelines on Freedom of Peaceful Assembly of the OSCE Office for Democratic Institutions and Human Rights and the Venice Commission or the ECHR).⁹⁵ Some also criticized the current legislation in BiH, pointing out that it is not in line with international standards. For example, the Police Administration of Sarajevo Canton Mol emphasised in its response that in the 2020 work programme they proposed activities related to the adoption of a new law in this field which will comply with the recommendations of domestic and international institutions.⁹⁶ Also, the BD Police stressed that the BD Law on Public Assembly does not reflect the prin-

principle of presumption in favour of public assembly, as required by international standards. Accordingly, they believe, it is necessary to regulate this field in a way that will “enable, realize, support and protect the right to freedom of peaceful assembly in Brčko District of Bosnia and Herzegovina.”⁹⁷ They also stated that the mayor of BD has appointed a working group to draft the Law on Peaceful Assembly which aims to improve the exercise of the right to freedom of peaceful assembly in BD and that this right should be limited only in exceptional cases – those prescribed by law and necessary in a democratic society and in the interest of public security or public order and peace and for the purpose of preventing criminal offenses, protecting health or morals, or protecting the rights and freedoms of others.⁹⁸

All of the above is in line with international standards. However, in practice, it seems that most of the competent authorities in BiH still see public assembly as an opportunity for incidents and disturbances of public order and peace.⁹⁹ Organisation ToPeeR stated in its responses that the institutions always view public assemblies as protest against something, while Citizens’ Group Justice for David underscored that their peaceful assemblies were portrayed by the government as an attack on the institutions or a call for their overthrow. The Ecological Society Bistvo from Kruščica pointed out that the government puts public assembly participants in an inconvenient position, labels and punishes them. Another indicative response is, for example the one of BD Police to the question “How many public and spontaneous assemblies have you been notified of in the past three years (period from 1 January 2017 to 31 December 2019) in the territory under your jurisdiction?” which states that they “implemented security measures” at a total of 1582 public assemblies, while Mol of Central Bosnia Canton responded to this question listing only the cases of disturbances of public order and peace.

Judging by the received responses, the majority of the competent authorities blindly follow the legal provisions, without thinking about the importance of the right to freedom of assembly or the adaptation of legal regulations to special situations such as, for example, spontaneous assemblies.¹⁰¹ This means that changes in legal provisions and strict listing of exemptions to the rules would also improve the practice in this field.

HOW MANY PUBLIC ASSEMBLIES WERE HELD IN THE PERIOD FROM 1 JANUARY 2017 TO 31 DECEMBER 2019?

	NO. OF ASSEMBLIES ORGANIZED	NO. OF INTERRUPTED ASSEMBLIES	NO. OF BANNED ASSEMBLIES
BANJA LUKA CENTRE FOR HUMAN RIGHTS (RS)	1 (on the move; co-organiser)	0	0
BISTVO (CENTRAL BOSNIA CANTON)	Unspecified (higher number; started as spontaneous)	1	0
BOLJA BUDUCNOST (TUZLA CANTON)	13 (1 street performance and 12 street actions)	0	0
CENTRE FOR ENVIRONMENT (RS)	34 (10 performances and 24 on the move)	1	0
CIVIL RIGHT DEFENDERS BIH (SARAJEVO CANTON)	1 (supporters)	0	0

**HOW MANY PUBLIC ASSEMBLIES WERE HELD IN THE PERIOD FROM
1 JANUARY 2017 TO 31 DECEMBER 2019?**

	No. Of NOTIFIED ASSEMBLIES	No. Of INTERRUPTED ASSEMBLIES	No. Of BANNED ASSEMBLIES
CURE FOUNDATION (SARAJEVO CANTON)	Minimum 15 (street actions and gatherings on the move)	0	1
HELSINKI COMMITTEE FOR HUMAN RIGHTS IN BIJEIINA (RS)	5 (street actions; no spontaneous assemblies)	0	0
YOUTH INITIATIVE FOR HUMAN RIGHTS IN BIH (SARAJEVO CANTON)	Unspecified (higher number)	0	Unspecified
KVART (RS)	11 (of which at least 7 on the move)	1	0
OŠTRA NULA (RS)	3 (on the move)	1	0
JUSTICE FOR DAVID (VIENNA, AUSTRIA, BUT MOSTLY ACTIONS IN THE RS)	Daily from March 26, 2018 until an assembly ban was imposed due to Covid-19)	All after December 25, 2018	All after December 25, 2018
PRIDE MARCH (SARAJEVO CANTON)	1 (on the move)	0	0
ReSTART SRPSKA (RS)	3 and co-organisers of 5-6	1	0
TC SOLIDARITY UNION (TUZLA CANTON)	Higher number (over 10)	0	0
SOC (SARAJEVO CANTON)	3 and several smaller street actions and performances	0	3
TOPEER (OVERCOMING DIFFERENCES THROUGH TOLERANCE) (RS)	Higher number	0	1

Table 3 (data from responses of assembly organizers)

| 4.6. Reasons for Interrupting or Banning Public Assemblies in BiH

Prekidi i zabrane javnih okupljanja u BiH nisu česti.

Interruptions and bans of public assemblies in BiH are not common.

The most common reason for interrupting public assembly is the fact that the assembly:

1) was not announced¹⁰² or 2) led to a traffic blockade.¹⁰³ For example, West Herzegovina Canton (which had the most widespread practice of interrupting assemblies during the observed period)¹⁰⁴ interrupted assemblies on nine occasions during the observed period, each time for these two reasons. According to them, in all nine cases these were “unannounced and unlawful” public assemblies that led to a traffic blockade¹⁰⁵ or “blatant examples of unlawful behaviour of organisers and participants of unannounced public assemblies, who tried to pursue their partial interests through traffic blockades and other pressures”.¹⁰⁶ However, international standards allow unannounced, spontaneous gatherings as a direct response to current events and also indicate that the state must be more flexible in terms of changing traffic routes if this is necessary to exercise the right to freedom of assembly. The competent authority is obliged in each specific case to separately assess whether any of the protected grounds is endangered and, in accordance with the principles of legality, necessity and proportionality, to decide whether it is necessary to end the assembly.

Other reasons cited by the competent authorities as reasons for the interruptions of assembly include endangering the order established by the constitution and failure to hold the assembly in the place stated in the notification.¹⁰⁷ However, as many as three organisers in BiH had their assemblies interrupted because of the presence of Justice for David group members.¹⁰⁸ For example, the March 8 event of the Centre for Environment in Banja Luka was interrupted by the police, although it was notified and approved, because persons bearing the insignia of the Justice for David group appeared among the participants. One of their members (a steward at this assembly) was called to the police for an interview after the gathering. Since they did not receive any decision on the misdemeanour report even a year after that interview, the Centre believes that this call to the police was an act of intimidation of the civil sector. The Centre also stated that, after they publicly supported the group of citizens Justice for David, they stopped receiving support from the police in organising monthly rides of the Banja Luka Critical Mass Citizens' Initiative (that they founded and initiated). They still receive approvals for public assemblies from the City Administration of the City of Banja Luka, but there is no support from the police (as escorts). More specifically, the Banja Luka Police Administration is now demanding compensation for such services. This is fully in conflict with international standards.

With respect to assembly bans, the practice throughout BiH is that assemblies are generally not banned.¹⁰⁹ The most widespread practice of assembly banning in the observed period was in the RS, but if we consider that 6030 assemblies were organised in the RS in the observed period, the ban for 15 of them is not too excessive.

Assemblies are most often banned due to incomplete and untimely notification.¹¹⁰ Other reasons include the place (not legally allowed)¹¹¹ and failure to implement additional security measures necessary according to the police assessment.¹¹² However, there are also cases when the assemblies were not prohibited, but there was no approval from the competent authority¹¹³ or it arrived late¹¹⁴ making it impossible to hold the assembly. Concerning, however, are two examples that constitute exemptions from the statement that public authorities in BiH generally do not prohibit assemblies: Justice for David group and SOC. As for the Justice for David group, all their gatherings were banned after 25 December 2018.¹¹⁵ Such a general assembly ban is not in line with international standards which require that each case be considered separately and that it be assessed separately whether the planned assembly poses a threat to any of the protected grounds. It is also very problematic that assemblies of other organisations, foundations and individuals are interrupted if people who support the Justice for David group are seen at them.¹¹⁶ This is a violation of international standards and must be abolished as a practice in BiH. Assemblies that do not incite to violence or reject democratic principles must not be banned, no matter how shocking or unacceptable their purpose may be to the governing structure.¹¹⁷ Another example of an exemption to the practice that state authorities in BiH rarely ban public assemblies is the nongovernmental organisation SOC. Namely, in the three-year period observed in this Report, SOC assemblies were banned in almost 50% of cases. In the period from 1 January 2017 to 31 December 2019, they organised three larger

gatherings and several smaller street actions and performances, but they were banned three times in that period. In all three cases, and in line with SOC's activities, the purpose of the assembly was to promote the rights of LGBTI people. The first case refers to the 2017 International Day against Homophobia and Transphobia,¹¹⁸ the second to the 2018 International Day of Transgender Visibility, and the third was the 2019 Merlinka International Queer Film Festival. In all three cases, assemblies were banned due to administrative obstacles: in 2017 due to administrative silence of the competent authority, and in 2018 and 2019 due to failure to obtain approvals from private owners to organise gatherings to promote LGBTI rights on locations owned by them.

With respect to the use of legal remedies in cases of assembly bans, it is not widespread in any part of BiH. As for the competent authorities, we received responses in this context only from West Herzegovina Canton and Zenica-Doboj Canton, in which they stated that they banned assemblies only once in the observed period, but that the organisers did not apply the legal remedy available to them. Zenica-Doboj Canton did not give an explanation, while West Herzegovina Canton stated that it was an announced protest of the trade union and, since it was important for the union to hold a gathering on a certain day, no legal remedy was applied (because the second instance decision would not have arrived in time).

The answers of assembly organisers do not indicate a different practice either. The main problem seems to be the lack of independent control in the second instance procedure, so the organisers do not believe that their appeal will be resolved independently, objectively and differently from the first instance decision. The trust of citizens could be built by the existence of a separate body, composed of experts in the field of the right to freedom of assembly, who would consider the complaints of organisers regarding the exercise of the right to freedom of assembly.¹¹⁹

| 4.7. Proposals and Recommendations by the Competent Authorities and Assembly Organisers for Public Assembly Regulation in BiH

Almost all the proposals of the competent authorities relate to the improvement of the assembly notification procedure. Canton 10 proposes to create a uniform notification form, which would more clearly define the obligations of assembly organisers. Central Bosnia Canton proposes to simplify the notification procedure, i.e., to enable electronic communication between medical institutions, fire and other services that issue their certificates to the parties, and the parties submit them to the competent police stations. According to their assessment, this would shorten the time of collecting documentation and simplify the notification procedure itself, because these institutions would deliver their certificates and other documentation by e-mail directly to police stations. Una-Sana Canton proposes to simplify the issuance of notifications and that this procedure, instead of police administrations, be done by police stations (which in fact perform all direct security activities). They also state that the notification procedure could be speeded up and simplified if the notification was submitted in person at the competent police administra-

tion, because the organiser, if necessary, could supplement the notification at that time. Zenica-Doboj Canton emphasises that city and municipal councils are obliged to make a decision on determining the space for spontaneous assemblies and recommends that citizens be aware of the existence of such places, or that such places be visibly marked. Finally, West Herzegovina Canton in its responses only pointed out that they believe that public assembly “should and must” remain the exclusive competence of the cantons in FBiH and that for them “any initiative to exclude public assembly from the competence of cantonal Mol and transferring it to FMol (...) is unacceptable”, without giving reasons for such an attitude.

The proposals of assembly organisers in BiH focus on harmonizing legal provisions throughout BiH and their harmonization with international standards.¹²⁰ The law should regulate the right to freedom of assembly to the minimum possible extent. The focus should be on the presumption of legality of organising assemblies, which is not the case with the positive regulations.¹²¹ The right to freedom of public assembly must not be seen as a security or political issue, but as a human rights issue, which in fact it is.¹²² Therefore, it would be most appropriate to separate the administering from the security aspects in a way that the former is regulated by experts and the latter by security agencies.¹²³

Assembly organisers agree with the competent authorities that the notification procedure should be simplified and made available electronically.¹²⁴ As Civil Rights Defenders in BiH state in their responses, “the notification should not be ‘reporting’ an assembly but ‘announcing’ it.” The place, time and duration of the assembly must not be limited by law nor should it be determined by a decision of the municipality.¹²⁵ The obligations of assembly organisers should be reduced (especially with regard to security and liability for damages caused), and the legal provisions should stipulate spontaneous assemblies.¹²⁶ In addition, there must be a clear distinction between non-profit public gatherings to raise awareness about problems in the society and where the right to freedom of assembly is exercised, on the one hand, and for-profit, cultural, artistic and sports events, on the other.¹²⁷ Finally, it is necessary to introduce independent and effective oversight over the work of the competent authorities, as well as adequate sanctions in cases of irregularities.¹²⁸ For all these reasons, it is necessary to train the competent authorities.¹²⁹

The general conclusion of the research is that in the period 2017-2019 BiH has not made progress in exercising the right to freedom of assembly. The analysis of the responses to the questionnaires shows that respect for this right varies depending on the purpose of the assembly. In this regard, the more critical the planned assembly is towards the local government, the less likely it is that the assembly will be allowed, or that, if allowed, it will pass peacefully and as required by international standards. That is why gatherings of the group of citizens Justice for David are not welcome in Banja Luka, but they can easily be held in Sarajevo or Zenica.

On the other hand, assemblies that promote the rights of women and LGBTI people do not seem to be welcome in any part of BiH. This is certainly related to the lack of aware-

ness in the field of the right to freedom of assembly, but also awareness of human rights (especially the rights of women and LGBTI people). Therefore, it is necessary to raise public awareness (primarily among persons with public authority) about women's and LGBTI rights. However, awareness raising is carried out through public events, protests and street actions, so we come to a closed circle of conservatism, ignorance and discrimination. The solution may be to implement the recommendations from this Report and to introduce LGBTI topics into education systems, state institutions and the media. In this way, the process of sensitizing both the competent authorities and the public in relation to these groups can be successfully initiated.

5

CONCLUSION

The exercise of the right to freedom of assembly serves as an indicator of systemic problems in the application and respect of human rights. This right contains a positive obligation of the state to protect and promote it. Freedom of assembly may be restricted only in accordance with the law, i.e., to the extent necessary in a democratic society to protect national security, public safety, public order, health and morals, or the rights and freedoms of others. However, poor legislation, poor implementation in practice and the high discretion left to actors in this field lead to restrictions and discrimination in the exercise of the right to freedom of assembly in BiH.

The results of the research indicate that the practice of the competent authorities depends on the purpose of the assembly, i.e., that it is restrictive in case of assemblies that criticize the local government or focus on the rights of women and LGBTI people. Although the research indicates that Sarajevo Canton (in terms of assemblies promoting the rights of women and LGBTI people) and the RS (in terms of gatherings aimed at criticizing local government) stand out in a particularly negative way, the fact is that there have been no mass assemblies in other parts of BiH focusing on these issues. Therefore, the general conclusion is that the practice of the competent authorities throughout BiH is restrictive if the assemblies are organised to promote these causes.

The examples of Justice for David and SOC point to a major problem. The exercise of the right to freedom of assembly should not be allowed only in case of assemblies that are acceptable to the governing structures and / or attitudes of the majority in society. It is the opposite examples that shows how the state respects the rule of law. It cannot serve as justification for a ban if the space where citizens want to assemble is privately owned, because modern international law can make an exception in this case. If the space, although privately owned, is still open to the public and generally accessible to all, it is important to ensure the effectiveness of the right to freedom of assembly and to enable assembly in such a space to attract public attention.

In this respect, the majority of organisers stated in their responses that it is necessary to:

1. harmonize domestic laws throughout BiH;
2. harmonize them with international standards;
3. continuously train state authorities on the content and application of international standards in this field.

When harmonizing the BiH laws, (1) the focus should be on harmonization with respect to the notification procedure and obligations of assembly organisers, so that each individual

and organisation can organise an assembly in another entity / canton / BD without the necessary help of colleagues from that entity / canton / BD, i.e., to enable equality of all persons in BiH in exercising the right to freedom of peaceful assembly. Therefore, it is necessary to enact a single law at the level of BiH, or at least a single law at the level of FBiH (it already exists in the RS and BD) to regulate this field in a uniform way for all citizens. The practical aspect of implementation can be placed under the competence of the cantons, RS and BD.

When harmonizing domestic regulations with international standards, (2) the focus should be on standards defining that the purpose of peaceful assembly must not serve as reason for its prohibition or restriction. In addition, it is important to regulate this field with a single law, and not with a multitude of laws and bylaws that allow non-competent bodies and private persons to make decisions thereon.

As to the training of state authorities, (3) it is important that they be continuous and mandatory. Additional training of police officers in this field would ensure that they become familiar with the importance of the right to freedom of assembly and the importance of the role of the police in exercising this right.¹³⁰ Training on international standards is particularly important as they define that the right to freedom of assembly is a legitimate use of public space, just like movement of cars and pedestrians.

The analysis of questionnaire responses shows that the most significant challenges for assembly organisers in BiH in relation to the institutions are:

1. bureaucratization of the procedure;
2. transfer of organisation-related obligations from the state to the organiser;
3. discrimination in treatment;
4. lack of knowledge about regulations / unwillingness to apply them in practice;
5. limited number of places where public assembly can be organised.

On the other hand, the competent authorities state the following as the most significant challenges in relation to the right to freedom of assembly:

1. public assembly security;
2. assembly organisers not aware of the legal provisions.

Finally, the research which covered the entire territory of BiH and the time period from 1 January 2017 to 31 December 2019 reveals that:

1. applicable regulations allow for arbitrary interpretation and impose additional obligations on assembly organisers not supported by international standards;
2. inappropriate practices of the competent authorities lead to additional restrictions in the exercise of the right to freedom of public assembly, i.e., to violations of both domestic laws and international standards.

6

RECOMMENDATIONS

The above conclusions indicate that it is necessary to take a number of measures and activities in order to fully enable the exercise of the fundamental human right to freedom of assembly in BiH. In order to overcome the identified shortcomings, and as possible solutions to improve the current situation in this field, we present the following recommendations:

| 6.1. Recommendations to Legislators

- Consult with civil society organisations on amending existing or enacting new law(s) on freedom of assembly.
- Based on consultations and identified problems in practice, establish new principles in legislation, such as:
- Regulations must be harmonized with international standards in this field (taking into account the Guidelines on Freedom of Peaceful Assembly of the OSCE Office for Democratic Institutions and Human Rights and the Venice Commission and this Report and respect the principles of legality, necessity and proportionality).
- In the case of amendments to existing laws (rather than the enactment of a single law), they must be mutually harmonized throughout BiH.
- Abolish the application of other laws to public assembly (for example, those on the temporary use of public spaces or traffic safety).
- Create a centralized assembly notification system, so that only the MoI decides on the exercise of freedom of assembly (prevent decisions on the right to freedom of public assembly by non-competent bodies or private persons).
- Make a clear distinction between non-profit public assemblies where the right to freedom of assembly is exercised, on the one hand, and for-profit, cultural, artistic and sports events, on the other.
- Explanation and timely delivery of the decision to ban the assembly must be mandatory.
- Review of any decision restricting freedom of assembly must be timely.
- Introduce independent and effective oversight over the actions of the competent authorities that decide on freedom of assembly (urgent court proceedings).
- Fully transfer the obligation to protect public order and peace at assemblies to the state. The provision of such protection must be free of charge.
- Abolish the responsibility of the organiser for the damage caused by assembly participants he / she could not prevent it with reasonable efforts.
- Abolish disproportionately severe sanctions for organisers, leaders and stewards at assemblies in the event of minor offenses.
- Change the nature of assembly notification in the sense that it does not constitute an approval system. In this context, replace the current local language term used

for notification (“prijava” meaning “report”) with a term that would denote “announcement” or “notification”.

- Reduce the scope of information requested in the notification (ask only for information about assembly time, duration, place and organiser’s name and contact information).
- Introduce more flexible and shorter deadlines for assembly notification.
- Abolish the provision stipulating that any change to assembly notification is considered a new notification.
- Abandon the presumption of inadmissibility of assemblies in public places and places generally accessible to the public, with the possible indication of a narrow range of exceptions that must be justified by legitimate reasons (real and immediate danger to health and safety of people and property). In doing so, take into account that public assembly is a legitimate use of public space just like any commercial activity or movement of vehicles and pedestrians.
- Recognize spontaneous assembly and exempt it from the notification obligation and prevent the lack of prior notification of a spontaneous gathering to serve as a legitimate basis for its banning.
- Recognize simultaneous assemblies and allow two or more assemblies at the same time and / or in the same place if there the requirements are met thereon.
- Abolish the provision that allows discriminatory treatment of foreign nationals with respect to assembly organising.
- Amend the provisions that define public assembly as a gathering of a certain number of people.
- Do not limit public assembly to a certain time of day.

| 6.2. Recommendations to the Executive

- Invite the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association to make an objective assessment of the situation in BiH.

| 6.3. Recommendations to the Mols/BD Police

- Organise continuous and compulsory training of employees, which will be led by experts in the field of freedom of assembly. It is obligatory to include the practice of the ECHR in the trainings, because it is expected that BiH could soon be a party in proceedings for violating the right to freedom of assembly.
- In cooperation with civil society organisations, develop a manual for best practices in organising assemblies.
- Establish a practice that respects principles such as:
- Make the rules on assembly notification transparent and publicly available on the website of the Mols / the Police.
- Designate the person / department that will be in charge of dealing with assembly notification and will collect the necessary consents of other state authorities when necessary.

- Establish a clear protocol of communication with other state authorities in case of public assemblies and facilitate them (for example, ensure the delivery of approvals and consents electronically).
- Facilitate and promote communication with assembly organisers throughout the entire assembly organisation process, in an atmosphere of cooperation, mutual respect and esteem. Establish a clear protocol for this communication and facilitate it (for example, provide for electronic notification).
- Create a system of continuous control of the work of employees in relation to the practice regarding the right to freedom of assembly.
- When determining the time, place and manner of assembly, respect the decision of the organiser, except in exceptional circumstances. In any case, find an amicable solution through dialogue.
- Abandon the practice that assembly organisers must be familiar with all the people attending.
- Abandon the practice of restricting and prohibiting peaceful assembly, unless a thorough analysis of all possible and significant consequences indicates that the assembly will pose a real and immediate threat to the health and safety of people and property, or when another, milder, measure is not possible.
- Abandon the practice of persecuting activists for participating in peaceful assemblies.
- Keep complete records of public assemblies.

| 6.4. Recommendations to Local Authorities

- At the local level, initiate and conduct regular consultations with civil society organisations regarding the right to freedom of assembly, in order to identify problems in practice and find common solutions regarding the use of public spaces and traffic diversion. Create a dialogue on the right to freedom of assembly between civil society organisations and local authorities in the spirit of democracy and good relations in the local community.
- Designate one person / department as a focal point whom civil society organisations can contact to solve problems related to the right to freedom of assembly.

| 6.5. Recommendations to Civil Society

- Initiate consultations on amendments to the law / adoption of a new law on the right to freedom of assembly at all levels.
- On the basis of consultations, draft a law that eliminates the existing inconsistencies of positive legislation with international standards.
- In cooperation with the Mols / the Police, develop a manual for best practices in organising assemblies.
- Regularly monitor practices and regulations pertaining to the right to freedom of public assembly and regularly inform the domestic and foreign public thereon, including the UN bodies.

- Organise public gatherings and public forums with local government representatives, where problems with the practice will be presented.
- Initiate proceedings for violations of the right to freedom of assembly.

7

ANNEXES

| 7.1. Questionnaire for Assembly Organisers

1. Briefly describe your experience with organising public assemblies in the past three years (1 January 2017 to 31 December 2019) and state their number and type.
2. What problems / challenges did you face with the institutions when organising public assemblies? What do you consider the biggest obstacle in that regard, starting from 1 (most important) to 5 (least important)?
3. Are the legally prescribed obligations of assembly organisers appropriate and proportional to the right of public assembly? Please explain.
4. What is your experience regarding public assembly notifications in the period from 1 January 2017 to 31 December 2019?
5. How many times in the period from 1 January 2017 to 31 December 2019 was the organisation of public assemblies banned or interrupted? Briefly describe the experience (reasons for the ban / interruption, possible use of legal remedies and their outcome, and the reasons for your specific reaction).
6. What are your suggestions with respect to amending the current legislation on notifications, prohibition and holding of public assemblies in BiH?
7. Do you have any additional recommendations regarding the practice of the competent institutions regarding the regulation of public assemblies in BiH?

| 7.2. Questionnaire for the Competent Authorities

1. How many public and spontaneous assemblies have you been notified of in the past three years (1 January 2017 to 31 December 2019) in the territory under your jurisdiction?
2. What are the problems / challenges you encountered during public assemblies?
3. In how many cases in the period from 1 January 2017 to 31 December 2019 have you interrupted public assemblies and why?
4. How many times in the period from 1 January 2017 to 31 December 2019 have you banned the organisation of a public assembly? Briefly describe the experience (reasons for the assembly ban, in how many such cases a remedy was used and what was the outcome)?
5. What are your suggestions regarding your institution for amendments of the current legislation applicable to freedom of assembly in BiH?
6. Do you have any additional recommendations relating to the regulation of public assemblies in BiH and in connection to your institution's practice?
7. What is your position on public assemblies in general, do they have their purpose and how necessary are they in a democratic society? Please explain.

ABOUT SARAJEVO OPEN CENTRE

Sarajevo Open Center (SOC) advocates the full respect of human rights and social inclusion of LGBTI persons and women. Sarajevo Open Centre is an independent, feminist civil society organization that strives to empower LGBTI (lesbian, gay, bisexual, trans* and intersex) persons and women by strengthening the community and building the activist movement. SOC also publicly promotes human rights of LGBTI persons and women, and it advocates the improvement of legislation and public policies in Bosnia and Herzegovina at the state, European and international level.

You can find out more about our work at: www.soc.ba.

EDITOR

Mariña Barreiro Mariño (1985, Noia, Spain) holds a MSc. in Political Sciences by the University of Santiago de Compostela and an MA in International Relations and Diplomacy by the Diplomatic School of the Ministry of Foreign Affairs of the Kingdom of Spain. After years of studying abroad mainly in France in Ireland in 2010 she moved to Sarajevo to work as a Political Officer at the Embassy of Spain to BiH. From 2011 she worked as a Programme Manager at Sarajevo Open Centre, focusing mainly on advancing LGBTI human rights and women's rights. In 2014 she joined the Organization of Security and Cooperation for Europe, where she was the Head of the Human Rights Section, coordinating the work of the International Organization on that area throughout BiH. She is the author of several reports on human rights, with a special focus on LGBTI, women's rights, migrant's rights, fundamental freedoms, especially freedom of assembly and media and anti-discrimination. She speaks English, French, Bosnian/Serbian/Croatian, and Galician and Spanish are her mother tongues.

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She has twelve years of research and teaching experience in international and public law. She has written and published one book (Imunitet države od suđenja i izvršenja, University Press, Sarajevo, 2018) and several academic papers in, inter alia, the USA, Great Britain, Germany, South Korea, Spain, Macedonia, Belgium, Austria, Azerbaijan, Turkey, Slovenia, Serbia and Croatia.

The Institute for the Danube Region and Central Europe and the Austrian Federal Ministry of Science, Research and Economy nominated her as the best young scientist in BiH in 2017, awarding her the Danubius Young Scientist Award. In the same year, she was awarded a United Nations International Law Fellowship, making her the first person from the former Yugoslavia to be honoured in this way.

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¹ Included are the acts of: the European Commission, the Organisation for Security and Cooperation in Europe (hereinafter: OSCE), the European Commission for Democracy through Law (hereinafter: the Venice Commission), the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association of the United Nations (hereinafter: UN) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; European Convention on Human Rights (hereinafter: ECHR), International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, American Convention on Human Rights, Convention on the Rights of the Child, International Convention on the Elimination of All forms of Racial Discrimination, Universal Declaration of Human Rights and the Charter of Fundamental Rights of the European Union.

² See: The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). Guidelines on Freedom of Peaceful Assembly. Second Edition. Pgs. 41-47.

³ Gillan and Quinton v. the United Kingdom, European Court of Human Rights (hereinafter: ECHR), Application no. 4158/05, 12 January 2010, para. 85; Lashmankin and Others v. Russia, ECHR, Application no. 57818/09 and 14 others, 7 February 2017, para. 429.

⁴ For example, the ECHR found that the general ban on holding public events in the vicinity of court buildings is incompatible with Convention Article 11 § 2 as its absolute provision provides a wide discretion to local executive authorities to determine what is considered to be "in the immediate vicinity". (Kablis v. Russia, ECHR, Applications no. 48310/16 and 59663/17, 30 April 2019, para. 52).

⁵ UN experts have warned that even a pandemic like Covid-19 should not halt freedom of assembly. In this regard, they published guidelines that governments and law enforcement agencies must follow to avoid human rights violations during a state of emergency. In short, any restriction of rights imposed must respect the principles of legality, necessity and proportionality. The guidelines are available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>.

⁶ See: Ashughyan v. Armenia, ECHR, Application no. 33268/03, 17 July 2008, para. 89; Coster v. the United Kingdom, ECHR, Application no. 24876/94, para. 104; S. and Marper v. the United Kingdom, ECHR, Applications no. 30562/04 and 30566/04, 4 December 2008, para. 101.

⁷ Michael Hamilton (2019). Towards General Comment 37 on Article 21 ICCPR: The Right of Peaceful Assembly, the European Center for Not-for-Profit Law and the University of East Anglia. Pg. 10.

⁸ The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). Guidelines on Freedom of Peaceful Assembly. Second Edition. Pg. 17.

⁹ *Ibid.*, Pg. 18.

See also the Decision of the Constitutional Court of Georgia declaring unconstitutional the condition of obtaining a permit to organise an assembly and annulling the part of the law that granted the local authority the possibility to refuse assembly notifications. (*Ibid.*, Pg. 148.)

See also: African Commission on Human and Peoples' Rights (2017). Guidelines on Freedom of Association and Assembly in Africa. 60th Ordinary Session held in Niamey, Niger, para. 71; Kudrevičius and Others v. Lithuania, ECHR, Application no. 37553/05, 26 November 2013, para. 80.

¹⁰ Human Rights Ombudsman Institution of BiH (2020). Specijalni izvještaj o pravu na slobodu mirnog okupljanja [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 14.

¹¹ The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). Guidelines on Freedom of Peaceful Assembly. Second Edition. Pg. 67.

However, see the practice in Montenegro, where in 2017 alone, 87 spontaneous assemblies were declared unlawful by the police because they were not notified. There was no violence, no use of force or misdemeanour charges against citizens. (Aleksandra Vavić (2018). Monitoring javnih okupljanja: Crna Gora 2017-2018. [Public Assembly Monitoring: Montenegro 2017-2018] European Center for Not-for-Profit Law and Institute Alternative. Pg. 16.)

¹² For example, in France, about 20% of assemblies in 2012 were spontaneous. (Anne Peters and Isabelle Ley (2014). Comparative Study on National Legislation on Freedom of Peaceful Assembly. Max Planck Institute for Comparative Public and International Law. CDL-AD(2014)024, endorsed by the Venice Commission at its 99th plenary session. Pg. 140.)

¹³ The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). Guidelines on Freedom of Peaceful Assembly. Second Edition. Pg. 18.

See also: Éva Molnár v. Hungary, ECHR, Application no. 10346/05, 7 October 2008, paras 37-38; Bukta and Others v. Hungary, ECHR, Application no. 25691/04, 17 October 2007, paras 34-36.

¹⁴ Sáska v. Hungary, ECHR, Application no. 58050/08, 27 November 2012, para. 21; Süleyman Çelebi and Others v. Turkey, ECHR, Application no. 37273/10 and 17 others, 14 May 2016., para. 109; Lashmankin and Others v.

Russia, ECHR, Application no. 57818/09 and 14 others, 7 February 2017, paras 406-408; the Venice Commission (2014). *Compilation of Venice Commission Opinions Concerning Freedom of Assembly*. Revised in July 2014. CDL-PI(2014)0003 Or.Eng. Pgs. 19-25.

¹⁵ The interests of private owners must be taken into account, but may be limited if the participants of the gathering do not have other reasonable ways to convey their message to the target audience. (United Nations Human Rights Committee (2019). Revised Draft General Comment No. 37 on Article 21 (Right of Peaceful Assembly) of the International Covenant on Civil and Political Rights. Draft prepared by rapporteur Christof Heyns. Para. 67; Appleby and Others v. The United Kingdom, ECHR, Application no. 44306/98, 6 May 2003, para. 47; The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). *Guidelines on Freedom of Peaceful Assembly*. Second Edition. Pg. 32.)

Where public spaces are privatised, it is important to protect the right to freedom of assembly at locations that are open to the public and generally accessible to everyone (for example, shopping centres). (Michael Hamilton (2019). *Towards General Comment 37 on Article 21 ICCPR: The Right of Peaceful Assembly*. The European Center for Not-for-Profit Law and the University of East Anglia. Pg. 17.; African Commission on Human and Peoples' Rights (2017). *Guidelines on Freedom of Association and Assembly in Africa*. 60th Ordinary Session held in Niamey, Niger. Para. 69.)

¹⁶ See: Michael Hamilton (2019). *Towards General Comment 37 on Article 21 ICCPR: The Right of Peaceful Assembly*. The European Center for Not-for-Profit Law and the University of East Anglia. Pg. 28.

¹⁷ With respect to counter-demonstrations, the emphasis should be placed on the state's duty to protect and facilitate both assemblies. (The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). *Guidelines on Freedom of Peaceful Assembly*. Second Edition. Pg. 18.)

See: Lashmankin and Others v. Russia, ECHR, Application no. 57818/09 and 14 others, 7 February 2017, para. 442; the Venice Commission (2014). *Compilation of Venice Commission Opinions Concerning Freedom of Assembly*. Revised in July 2014. CDL-PI(2014)0003 Or.Eng. Pgs. 8-9.

See the complaint by SOC submitted to the Ombudsman on 11 May 2017 (Ž-SA-06-458/17; case explanation available at: <https://soc.ba/iz-rozog-izvjestaja-2017-sloboda-okupljanja-i-udruzivanja/>). In this case, the Ombudsman neglected the fact that international standards do not allow a ban on an assembly for the reason of another assembly taking place in the same place and at the same time.

¹⁸ The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). *Guidelines on Freedom of Peaceful Assembly*. Second Edition. Pg. 17.

¹⁹ See ECHR Article 11 paragraph 2.

²⁰ Human Rights Ombudsman Institution of BiH (2020). *Specijalni izvještaj o pravu na slobodu mirnog okupljanja* [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 17.

An overview of national acts on freedom of assembly available at: <https://www.rightofassembly.info>.

²¹ Human Rights Ombudsman Institution of BiH (2020). *Specijalni izvještaj o pravu na slobodu mirnog okupljanja* [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 17.

See also Lashmankin and Others v. Russia, ECHR, Application no. 57818/09 and 14 others, 7 February 2017, para. 440.

²² United Nations Human Rights Committee (2019). Revised Draft General Comment No. 37 on Article 21 (Right of Peaceful Assembly) of the International Covenant on Civil and Political Rights. Draft prepared by rapporteur Christof Heyns. Para. 60; The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). *Guidelines on Freedom of Peaceful Assembly*. Second Edition. Pg. 58; Fáber v. Hungary, ECHR, Application no. 40721/08, 24 July 2012, paras 56-58.

²³ The Venice Commission and OSCE Office for Democratic Institutions and Human Rights (2019). Joint Opinion on the legal framework of peaceful assembly in Bosnia and Herzegovina, in its two entities and in Brčko District. CDL-AD(2019)026, Opinion no. 951/2019, ODIHR Opinion no: FoA-BiH/360/2019. Pg. 22.

²⁴ The Venice Commission and OSCE Office for Democratic Institutions and Human Rights (2019). Joint Opinion on the legal framework of peaceful assembly in Bosnia and Herzegovina, in its two entities and in Brčko District. CDL-AD(2019)026, Opinion no. 951/2019, ODIHR Opinion no: FoA-BiH/360/2019. Pg. 21.

²⁵ Anne Peters and Isabelle Ley (2014). *Comparative Study on National Legislation on Freedom of Peaceful Assembly*. Max Planck Institute for Comparative Public and International Law. CDL-AD(2014)024, endorsed by the Venice Commission at its 99th plenary session. Pg. 143.

²⁶ Institute Alternative (2017). *Institut alternativa odgovorio Ministarstvu unutrašnjih poslova: Dokažite da Zakon mora da se mijenja* [Institute Alternative Responds to the Ministry of the Interior: Prove that the Law Must be Amended]. Available at: <https://institut-alternativa.org/institut-alternativa-odgovorio-ministarstvu-unutrasnjih-poslova-dokazite-da-zakon-mora-da-se-mijenja/>.

²⁷ Constitutional Court of the Republic of Croatia, Number: U-I-295/2006, U-I-4516/2007, Zagreb, 6. 7. 2011., para. 24. The Decision available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2011_07_82_1767.html.

²⁸ An overview of restrictions of the right to freedom of assembly during a time of Covid-19 pandemic in different countries available at: <https://ecnl.org/wp-content/uploads/2020/04/Protest-in-a-Time-of-Pandemic.pdf>.

²⁹ Amnesty International (2020). *Kyrgyzstan: Amnesty International welcomes the lifting of a ban on peaceful assemblies but calls for investigation and redress*. Public Statement, AI Index Number: EUR 58/1965/2020. Available at: <https://>

www.amnesty.org/download/Documents/EUR5819652020ENGLISH.pdf.

³⁰ The verdict is available at: <https://ulii.org/ug/judgment/constitutional-court-uganda/2020/6>.

³¹ Human Rights Ombudsman Institution of BiH (2020). Specijalni izvještaj o pravu na slobodu mirnog okupljanja [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 23.

In December 2019, the Secretariat of the Venice Commission prepared a comparative analysis of the Laws on the Right to Freedom of Assembly in BiH: https://www.venice.coe.int/Files/2019_951_BIH_freedom_of_assembly.xls.

³² Preliminary draft available at: <http://www.fimol.gov.ba/v2/propisi.php?idkat=1>.

³³ See, for example, the Law on Public Assembly of Sarajevo Canton (Official Gazette of Sarajevo Canton, 32/09, 11/11), which stipulates: if the assembly covers the road surface and if the traffic will be suspended or obstructed, the organiser shall be obliged to enclose the approval of the competent authority in accordance with the Law on Basics of Road Traffic Safety in BiH.

See also Article 8 and Articles 162-170 of the Law on Basics of Road Traffic Safety in BiH (Official Gazette of BiH, 6/06, 75/06, 44/07, 84/09, 48/10, 18/13, 8/17). Particularly indicative is Article 165 which stipulates that a request to perform activities on the road will be rejected if the organiser of the activity, according to the body competent for internal affairs, is unable to implement measures to provide security to both the traffic participants and activity participants. It is clear from this provision that there is room for arbitrariness of assessment by the competent authority. Furthermore, in paragraph 2, this article stipulates that the application for an approval may be rejected if, due to road activities, traffic on major traffic routes should be suspended, or if the activities would significantly endanger or hinder road traffic.

Finally, see Article 39 of the Decision on Traffic Safety and Organisation (Official Gazette of Sarajevo Canton, 14/97) stipulating that activities on public road, street and pedestrian zone may not be held without a permit issued by the Mol of Sarajevo Canton, but with the consent of the Ministry of Transport of Sarajevo Canton. The Decision available at: https://propisi.ks.gov.ba/sites/propisi.ks.gov.ba/files/odluka_o_sigur_i_organis_prometa.pdf.

³⁴ In this regard, see the Law on the Temporary Use of Public Areas in Sarajevo Canton (Official Gazette of Sarajevo Canton, 20/04, 26/12, 32/12, 24/15) which in fact transfers the competence to decide on the approval of the venue for an assembly from the Ministry of the Interior to the municipal body.

³⁵ See Article 7 (2) of the BD Law on Public Assembly (Official Gazette of BD, 28/12) and Article 3 (3) of the Law on Public Assembly of the West Herzegovina Canton (Official Gazette of the RS, 118/08).

³⁶ Human Rights Ombudsman Institution of BiH (2020). Specijalni izvještaj o pravu na slobodu mirnog okupljanja [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 27.

³⁷ The Law on Public Assembly of the Central Bosnia Canton does not require a large amount of information in the notification: only the time, place, purpose of the public assembly and the measures to be taken to maintain order must be indicated [Article 3 of the Law on Public Assembly of the Central Bosnia Canton (Official Gazette of the Central Bosnia Canton, 15/00, 4/05)].

³⁸ Human Rights Ombudsman Institution of BiH (2020). Specijalni izvještaj o pravu na slobodu mirnog okupljanja [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 26-27.

³⁹ For example, reasons for holding an assembly, data on stewards or the foreseen number of participants. (Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai (2014). Report to the United Nations General Assembly. A/HRC/23/39, 23rd session, agenda item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Pg. 15.)

⁴⁰ In this respect, the OSCE Office for Democratic Institutions and Human Rights and the Venice Commission underline that, although it is reasonable to ask certain questions about stewards (for example, whether they will wear a form of identification), stewards should not be a substitute for police officers and this additional information is unnecessary and should be abolished. (The Venice Commission and OSCE Office for Democratic Institutions and Human Rights (2019). Joint Opinion on the legal framework of peaceful assembly in Bosnia and Herzegovina, in its two entities and in Brčko District. CDL-AD(2019)026, Opinion no. 951/2019, ODIHR Opinion no: FoA-BiH/360/2019. Pg. 13.)

In this context, Article 11 of the Law on Preventing Disorders at Sporting Events of the Republic of Croatia (Official Gazette, 117/03, 71/06, 43/09, 34/11) imposes an additional obligations on the organisers of sporting events: "(1) The organiser of a sports competition may employ or use as stewards only persons who are physically and mentally fit to perform the duties of stewards, who have at least a secondary education, who have not been convicted of misdemeanours against public order or of crimes committed out of self-interest or dishonourable motives or for which they are being prosecuted ex officio. (2) Stewards who are not employees of a sports competition organiser or employees of a company performing private security activities must undergo training that acquaints them with their obligations and powers and assesses the degree of their physical and mental readiness and suitability to perform steward work. (...)"

⁴¹ In this regard, the ECHR has found that all types of assemblies that do not incite violence or reject democratic principles should be allowed - no matter how shocking or unacceptable the views promoted by the organisers of the assembly. (Sergey Kuznetsov v. Russia, ECHR, Application no. 10877/04, 23 October 2008, para. 45).

⁴² For example, the Mayor of Prijedor stated in his letter to the civic initiative Jer me se tiče [Because It Concerns Us]: "As far as your gathering is concerned, we express a reservation because rallies that take us back to the past and can provoke divided opinions of citizens do not contribute to further development of the city." (Letter by Prijedor Mayor Marko Pavić number: 02-sl/13 of 24 May 2013)

⁴³ See the case of the Association of Citizens Oštra nula from Banja Luka, which did not obtain the for International Human Rights Day assembly in 2014 because of the internal decision of the city authorities of Banja Luka not to give anyone permission to organise a public gathering on the Krajiina Square in the period from early December to mid-January because of the Zimzograd [Winter City] event. (Dragana Stanković and Miodrag Dakić (2017). *Javni prostori i građanski aktivizam na području grada Banjaluka* [Public Space and Civic Activism in the city of Banja Luka]. Association of Citizens Oštra nula. Pgs. 36.)

⁴⁴ In this sense, the actions of the RS Minister of the Interior on 31 December 2018 were also contrary to international standards. He then announced a complete ban on gatherings in connection with the Justice for David group because, allegedly, they lead to frequent disturbances of order and peace. [N1 BiH (2018). *Mol RS-a će zabraniti nove proteste grupe Justice for David* [RS Mol to Ban New Protests of Justice for David Group]. Available at: <http://ba.n1info.com/Vijesti/a306829/Mol-RS-zabranio-nove-proteste-grupe-Pravda-za-Davida.html> (accessed on: 15. May 2020)]

In this respect, the Conclusion of the Stari Grad Municipal Council is contrary to international standards, as it instructed the mayor not to lease the public space on Fra Grgo Martić Square (in front of the Sacred Heart Cathedral) for any events. As a justification, they stated: "(...) in order to respect public order and peace and not to violate the dignity and sanctity of the Cathedral, and the citizens and residents of neighbouring buildings, as well as (...) catering facilities". (Conclusion of the Stari Grad Municipal Council, no. 02-49-170/17 of 30 March 2017)

⁴⁶ For example, when SOC was asked to obtain permission from the Sarajevo National Theatre to hold its assembly in the square in front of the Theatre, the then director of the Theatre replied that their building was a national monument and could not approve assemblies requiring special protection measures. This response is contrary to international standards, as peaceful assembly does not pose a risk of damage to or destruction of the Theatre building. Moreover, the then director of the Theatre said in a telephone conversation with the SOC team that she considered it inappropriate to organise assemblies in front of the National Theatre to promote the rights of LGBTI people, because "banners carried at such rallies send a negative connotation." (Ena Bavčić (2019). *Monitoring the Right to Free Assembly*. European Center for Not-for-Profit Law and Civil Rights Defenders in BiH. Pg. 42.)

Also, when on 8 May 2017, SOC contacted the Ministry of Transport of Sarajevo Canton to obtain a permit to organise an assembly of LGBTI people, a representative of the Ministry told the SOC Executive Director that he believes that the gathering of LGBTI people is actually "a desire to terrorise citizens" rather than a peaceful gathering against violence towards LGBTI people. [Civil Rights Defenders (2017). *Administrative Silence Violates LGBT Persons Right to Assembly*. Available at: <https://crd.org/2017/05/12/administrative-silence-violates-lgbt-persons-right-to-assembly/> (accessed on: 14 May 2020)]

⁴⁷ See the publication of the Association of Citizens Oštra nula, which points out that the competent city services in Banja Luka refused to issue permits for the use of public spaces for the purpose of gathering citizens exclusively to groups that the authorities see as opponents. (Dragana Stanković and Miodrag Dakić (2017). *Javni prostori i građanski aktivizam na području grada Banjaluka* [Public Space and Civic Activism in the city of Banja Luka]. Association of Citizens Oštra nula. Pgs. 9, 21).

⁴⁸ The court also confirmed that the authorities had failed to conduct a thorough investigation and sanction the perpetrators of violence, thus violating the prohibition of torture or inhuman or degrading treatment, and allowing homophobic and transphobic violence to occur at the Festival. The Decision is available at: <http://www.ustavnisud.ba/dokumenti/AP-4319-16-1169789.pdf>.

See also the commentary to the verdict: Boris Topić (2015). *Predmet Queer Festival: Sloboda okupljanja i zabrana diskriminacije* [The Case of the Queer Festival: Freedom of Assembly and Prohibition of Discrimination]. *Analitika – Centre for Social Research*.

⁴⁹ According to Civil Rights Defenders, local gatherings of women in small local communities or villages were organised in FBiH in 2017 (for example, gatherings – mostly of women – against the illegal construction of a mini hydropower plant on the Kruščica River, or gatherings of Fortuna footwear factory workers); and in the RS, there were rallies to mark war crimes and protests by war veterans. However, the trend changed in 2018, when large-scale protests of the Justice for David group emerged in the RS. The same practice continued in 2019. (Ena Bavčić (2019). *Monitoring the Right to Free Assembly*. European Center for Not-for-Profit Law and Civil Rights Defenders in BiH. Pg. 8.)

⁵⁰ See, for example, media articles on Željezara Zenica (steel mill) workers' protests (<https://www.klix.ba/vijesti/bih/radnici-zeljezare-zenica-se-nagurali-s-policijom-ima-povrijeđenih/180125029#1>) or war veterans' protest in Doboj (<https://www.klix.ba/vijesti/bih/borci-pripremaju-blokadu-magistralnog-puta-na-dvije-lokacije-u-doboju-na-silu-ce-mo-uzvratiti-silom/180303044>).

⁵¹ In 2017, the Ombudsman received two complaints regarding the right to freedom of peaceful assembly, in 2018 four and in 2019 11 complaints of violations of the right to freedom of assembly. (Human Rights Ombudsman Institution of BiH (2020). *Specijalni izvještaj o pravu na slobodu mirnog okupljanja* [Special Report on the Right to Freedom of Peaceful Assembly]. Pg. 32.)

In 2018 and 2019, the Ombudsman received several individual complaints from the citizens of Banja Luka and members of the Justice for David group due to, inter alia, violations of the right to assembly. See complaints Ž-BL-05-12/19, Ž-BL-05-1032/18, Ž-BL-05-1034/18, Ž-BL-05-7/19, Ž-BL-05-17/19, Ž-BL-05-19/19, Ž-BL-05-20/19, Ž-BL-05-21/19, Ž-BL-05-32/19, Ž-BL-05-59/19, Ž-BL-05-70/19, Ž-BL-05-146/19, Ž-BL-05-1012/18, Ž-BL-05-461/19

i Ž-BL-05-655/19.

⁵² These are: Association for Democratic Initiatives; Banja Luka Centre for Human Rights; RS Veterans Organisation; Mountain-Bike Club Daj Krug, Bihać; Youth Centre Kvar, Prijedor; Centre for Environment in Banja Luka; Social Centre, Rudo; Ecological Society Bistro from Kruščica; CURE Foundation; Izvor Foundation in Sarajevu; Citizens Initiative Jer nas se tiče; Group of Citizens Justice for David; Group of Citizens Justice for Dženan; Helsinki Committee for Human Rights in Bijeljina; Youth Initiative for Human Rights in BiH; Civil Rights Defenders in BiH; Organisers of the First BiH Pride March; Citizens' Association ToPeeR (Overcoming Differences Through Tolerance); MP Draško Stanivuković; RS Federation of Trade Unions; Tuzla Canton Solidarity Union; SOC; Tuzla Open Centre; Youth Association Agape in Ljubuški; Citizens' Association 15 May, Tuzla; Citizens' Association Beba više, Brčko; Citizens' Association Eko forum, Zenica; Citizens' Association Oštra nula; Association ReStart Srpska; Association to Help Children and Youth with Special Needs Tračak nade, Foča; Association of Roma Women Bolja budućnost, Tuzla; and Women's Association Seka, Goražde.

The responses were received from: Banja Luka Centre for Human Rights; Youth Centre Kvar, Prijedor; Centre for Environment in Banja Luka; Ecological Society Bistro from Kruščica; CURE Foundation; Group of Citizens Justice for David; Helsinki Committee for Human Rights in Bijeljina; Youth Initiative for Human Rights in BiH; Civil Rights Defenders in BiH; Citizens' Association ToPeeR (Overcoming Differences Through Tolerance); Organisers of the First BiH Pride March; Tuzla Canton Solidarity Union; SOC; Citizens' Association Oštra nula; Association ReStart Srpska; and Association of Roma Women Bolja budućnost, Tuzla.

The responses will be cited throughout the report in the following manner: responses to the questionnaire by Banja Luka Centre for Human Rights of 10 May 2020 (hereinafter: Banja Luka Centre for Human Rights responses), responses by Youth Centre Kvar, Prijedor, of 4 May 2020 (hereinafter: Kvar responses), responses by Centre for Environment in Banja Luka of 28 April 2020 (hereinafter: Centre for Environment responses), responses by Ecological Society Bistro from Kruščica of 4 May 2020, with email additions on the same day (hereinafter: Bistro responses), responses by CURE Foundation of 6 May 2020 (hereinafter: CURE Foundation responses), responses by Gerechtigkeit für David und alle Kinder von Bosnien und Herzegowina/Justice for David and All the Children of 4 May 2020, with email additions on the same day (hereinafter: Justice for David responses), responses by Helsinki Committee for Human Rights in Bijeljina of 6 May 2020 (hereinafter: Helsinki Committee for Human Rights responses), responses by Youth Initiative for Human Rights in BiH of 22 April 2020 (hereinafter: Youth Initiative for Human Rights responses), responses by Civil Rights Defenders u BiH of 5 May 2020 (hereinafter: Civil Rights Defenders responses), responses by Citizens' Association ToPeeR (Overcoming Differences Through Tolerance) of 27 April 2020 (hereinafter: ToPeeR responses), responses by Organisers of the First BiH Pride March of 20 July 2020 (hereinafter: Pride March responses), responses by Tuzla Canton Solidarity Union of 8 May 2020 (hereinafter: TC Solidarity Union responses), responses by SOC of 5 May 2020 (hereinafter: SOC responses), responses by Citizens' Association Oštra nula of 20 April 2020 (hereinafter: Oštra nula responses), responses by Association ReStart Srpska of 25 April 2020 (hereinafter: Association Restart Srpska responses) and responses by Association of Roma Women Bolja budućnost, Tuzla of 24 April 2020 (hereinafter: Association Bolja budućnost responses).

⁵³ The only Mol that failed to submit responses was the Mol of the Herzegovina-Neretva Canton.

These are the responses by the competent authorities: questionnaire responses by Mol RS, no. SM-1-053 of 26 May 2020 (hereinafter: RS responses), questionnaire responses by BD Police of 8 May 2020 (hereinafter: BD responses), questionnaire responses by Bosnian Podrinje Canton, no. 07/I-04-2678/20 of 23 April 2020 (hereinafter: BPC responses), questionnaire responses by Mol of Canton 10, Police Administration Livno, no. 02-03/3-03/20 of 7 May 2020, supplemented by email on 7 May 2020 (hereinafter: C10 responses), questionnaire responses by Mol of Sarajevo Canton, Police Administration Sarajevo, no. 02/1-2-94/20 of 30 April 2020, supplemented by email on 14 May 2020. (hereinafter: SC responses), questionnaire responses by Posavina Canton of 30 April 2020 (hereinafter: PC responses), questionnaire responses by Central Bosnia Canton of 5 May 2020 (hereinafter: CBC responses), questionnaire responses by Tuzla Canton of 5 May 2020, supplemented by email on the same day (hereinafter: TC responses), questionnaire responses by Una-Sana Canton, no. 05-04/04-1-110/20/PJ of 15 May 2020 (hereinafter: USC responses), questionnaire responses by Mol of West Herzegovina Canton, Police Administration Ljubuški, no. 02-2-329/20 of 27 April 2020, supplemented by a telephone conversation with Mr. Damir Čutura on 28 April 2020 (hereinafter: WHC responses) and questionnaire responses by Zenica-Doboj Canton, no. 08-02-02/1-03-1-1779-1/20 of 5 May 2020 (hereinafter: ZDC responses).

⁵⁴ For example, 458 assemblies were organised in BD in 2017, 577 assemblies in 2018, and a total of 547 assemblies in 2019. During that time, 1,759 assemblies were organised in the RS (not counting sports events) in 2017, a total of 2,311 assemblies in 2018 and 1960 assemblies in 2019 (BD and RS responses).

⁵⁵ See, for example, Bistro responses.

⁵⁶ See Table 1.

⁵⁷ The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). Guidelines on Freedom of Peaceful Assembly. Second Edition. Pg. 18.

⁵⁸ Banja Luka Centre for Human Rights, CURE foundation and Association Restart Srpska responses.

⁵⁹ Civil Rights Defenders, SOC, ToPeeR, Pride March, TC Solidarity Union and Oštra nula responses.

Thus, SOC states in their responses that the additional requirements, such as the organiser's obligation to ensure the

presence of firefighters, ambulances, security agencies, and in some cases the existence of an iron fence and concrete barrier, represent a great financial burden for civil society organisations. This burden leads to the following - if the organiser does not have the financial means, they are not able to fulfil the additional measures imposed by the competent authorities, which leads to the impossibility of public assembly. As SOC points out, "simply put, the citizens cannot enjoy their constitutionally and legally guaranteed basic rights."

⁶⁰ For example, Citizens' Association Oštra nula stated in their responses that the police, after the interruption of one of their gatherings, and during the police interrogation, told the organiser that she must know every person who attends the assembly and that only members of organisations organising the assembly can take part in it. This imposes an additional obligation on assembly organisers, which is not legally stipulated.

⁶¹ Kvat, Oštra nula and Association Restart Srpska responses.

As Restart Srpska states, "The law is made in such a way that there is almost no chance for it to not be violated during the protest" and adds that "the responsibility of the organiser (...) is huge and goes to the extent that the organiser is punished for some protester crossing the street improperly."

⁶² The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission (2010). Guidelines on Freedom of Peaceful Assembly. Second Edition. Pg. 36-37.

⁶³ This challenge was reported by almost all respondents: Banja Luka Centre for Human Rights, Kvat, Civil Rights Defenders, Bistro, CURE Foundation, Justice for David, Helsinki Committee for Human Rights, Youth Initiative for Human Rights, ToPeeR, Pride March, SOC, Oštra nula and Restart Srpska.

⁶⁴ Youth Initiative for Human Rights, SOC and ToPeeR responses.

⁶⁵ CURE Foundation responses. See also Pride March responses, which point out that the notification process is not conducive to informal groups of citizens that usually do not have an office or a fax, therefore, it has happened that the competent authorities (who often do not use e-mail but outdated methods of communication) did not know where and to whom to send a written answer relating to assembly notification.

⁶⁶ Kvat responses.

⁶⁷ See, for example, Kvat, ToPeeR or SOC responses.

CURE Foundation states that the procedure in different cantons is so different that organisations from other cantons could not cope with the many regulations and procedures in Sarajevo Canton, and members of CURE Foundation assisted them in notifying of assemblies in Sarajevo Canton.

⁶⁸ Banja Luka Centre for Human Rights, CURE Foundation and Association ReStart Srpska responses.

⁶⁹ Banja Luka Centre for Human Rights, Centre for Environment, ToPeeR-a and Oštra nula responses.

⁷⁰ Helsinki Committee for Human Rights responses, stating that the only problem they face with assembly notification is a long wait for the institution's response as to whether or not they have been approved to organise an assembly.

⁷¹ This challenge was reported by: Banja Luka Centre for Human Rights, Kvat, Centre for Environment, Civil Rights Defenders, Bistro, CURE Foundation, Pride March, SOC, Oštra nula and ReStart Srpska.

⁷² For example, the organisers of the Pride March underline that the Government of Sarajevo Canton and local institutions did not help cover the huge financial costs of additional measures required for the organisation of the March. However, if the organisers had not been able to cover these costs, they would have allowed the police to claim that not all the legal requirements for the assembly had been met, which would have de facto meant a ban on holding the March.

⁷³ This challenge was reported by: Banja Luka Centre for Human Rights, Centre for Environment, Bistro, CURE Foundation, Justice for David and ReStart Srpska.

⁷⁴ The findings of this report indicate that this is not perceived but actual discrimination.

⁷⁵ It is noteworthy that SOC has been conducting various types of trainings for the police in Sarajevo Canton since 2015, which probably influenced the greater sensitivity of police officers and this ultimately leads to the conclusion that training and greater cooperation in general can be important also for the right to freedom of assembly.

⁷⁶ For example, Association Bolja budućnost, Youth Initiative for Human Rights ili TC Solidarity Union.

TC Solidarity Union even states in its responses that the police always asked them, as a rule, to provide a fire truck and an ambulance with a doctor at the assembly, but that they always replied that they did not have the funds to do so and that they would organise protests without fulfilling these requirements, which the police allowed.

⁷⁷ See, for example, SOC responses.

⁷⁸ SOC responses.

⁷⁹ This challenge was reported by: Banja Luka Centre for Human Rights, Youth Initiative for Human Rights, ToPeeR i Restart Srpska.

⁸⁰ This challenge was reported by Kvat, Oštra nula i Restart Srpska.

⁸¹ Youth Initiative for Human Rights, ToPeeR and Pride March responses.

⁸² Similar claims were made by Banja Luka Centre for Human Rights, Centre for Environment, ToPeeR and Pride March.

⁸³ Thus, Banja Luka Centre for Human Rights claims that it happens that the police officers are aware of international standards but they ultimately respect the orders of their superiors – despite them being contrary to legal and international norms.

⁸⁴ C10, CBC, TC, USC and ZDC responses.

⁸⁵ CS, PC, USC and ZDC responses.

⁸⁶ C10 and USC responses.

⁸⁷ TC and ZDC responses.

⁸⁸ CBC, TC and USC responses.

⁸⁹ Again, considering the international standards that clearly confirm that the job of the state is to facilitate and provide security at the assembly, this challenge should be eliminated by introducing legal provisions that would establish that the security aspect of assembly is in fact the task of the police.

⁹⁰ Mol of Zenica-Doboj Canton underlines that the failure to submit an assembly notification is one of the main challenges they face. Given international standards that make it clear that notification should not be required for most assemblies, this should not be a problem at all.

⁹¹ C10 responses.

⁹² CBC responses.

⁹³ USC responses.

⁹⁴ USC responses.

⁹⁵ ZDC responses.

⁹⁶ BD and C10 responses.

⁹⁷ They stated in their response that there will be a public debate on this topic.

⁹⁸ BD responses.

⁹⁹ At their extraordinary session held on 24 June 2020, the DB Government adopted the Draft. [N1 BiH (2020). Vlada Brčko distrikta usvojila Nacrt zakona o mirnom okupljanju (Brčko District Government Adopts the Draft Law on Peaceful Assembly). Available at: <http://ba.n1info.com/Vijesti/a443189/Vlada-Brcko-distrikta-usvojila-Nacrt-zakona-o-mirnom-okupljanju.html> (accessed on: 13 July 2020)]

¹⁰⁰ The response of the Mol of the West Herzegovina Canton is interesting: "(...) Democracy and anarchy should not be confused. Freedom of public assembly YES, the right to non-violent protests YES, the right to express political opinion contrary to the opinion of the ruling majority YES, but traffic blockages and paralysis of the canton NO." They also added that: "we as the police cannot and will not allow gross violations of the law, such as traffic blockages, paralysis of economic life, etc."

¹⁰¹ In that sense, the Mol of Sarajevo Canton answered the question "What is your position on public assemblies in general, do they have their purpose and how necessary are they in a democratic society? Please explain." responded in one sentence: "The Police Administration of the Ministry of the Interior of Sarajevo Canton acts in accordance with applicable legislation, including the Law on Public Assemblies in force in Sarajevo Canton, and the organisers use public assemblies to express their political and social interests and other beliefs."

¹⁰² WHC responses.

Una-Sana Canton gave contradictory answers in this respect. Namely, when asked how many assemblies were interrupted in the indicated period, they answered that there were no interruptions of the announced assemblies. However, when asked how many public assemblies there were in the observed period in the territory under their jurisdiction, they stated that two assemblies were interrupted, which leads to the conclusion that the interrupted assemblies have been unannounced.

¹⁰³ CBC, ZDC and WHC responses.

¹⁰⁴ With the exception of Tuzla Canton (because these were mostly interruptions of football matches).

¹⁰⁵ These refer to gatherings organised in Gorica, Municipality Grude (one) and in Ljubuški (eight) organised by the Association Forgotten War Veteran.

¹⁰⁶ WHC responses.

¹⁰⁷ RS responses.

In addition, Association ReStart Srpska states that one of their assemblies was interrupted because the participants came closer than 50 metres to the RS Government building, which is prohibited.

¹⁰⁸ Youth Centre Kvar, Prijedor; Centre for Environment in Banja Luka and Citizens' Association Oštra nula.

In its response to the question on interruptions, the Centre for Environment stated that there have been no interruptions of their assemblies in the observed period, but in their response to another question they claimed that their traditional 8 March event in 2019 was interrupted precisely because of the presence of members of the Justice for David group.

¹⁰⁹ It is interesting that the answers of the Mol of Sarajevo Canton do not match the answers we received from assembly organisers in Sarajevo Canton. Namely, Mol stated in its answers that in the observed period (2017-2019) only one gathering was banned, while the answers of the organisers indicate that there were several bans in the specified period.

¹¹⁰ According to the RS responses, 15 gatherings were banned in the RS in the observed period (four in 2017, two in 2018 and nine in 2019) due to untimely notifications, incomplete notifications or the existence of an actual danger for the security of people and property. In Sarajevo Canton, according to their answers, only one gathering was banned in the mentioned period, due to untimely and incomplete notification. In Tuzla Canton, on the other hand, all nine prohibited gatherings were banned due to late submission of notifications. Finally, in Una-Sana Canton, all bans on assemblies are justified by "irregular and unlawful" notifications.

Among assembly organisers to whom the questionnaire was submitted, the Youth Initiative for Human Rights in BiH stated in its responses that they were banned from gathering several times in the observed period due to late notification.

¹¹¹ WHC, CURE Foundation and SOC responses (in two cases they failed to obtain approvals from private property owners).

¹¹² ZDC responses.

¹¹³ SOC responses.

¹¹⁴ ToPeeR responses.

¹¹⁵ In the period from 26 March 2018 to 25 December 2018, the Justice for David group applied for and received approval to organise five large assemblies. Other gatherings were smaller and unannounced. However, after 25 December 2018, they unsuccessfully submitted a dozen notifications.

¹¹⁶ See Kwart, Centre for Environment and Oštra nula responses.

¹¹⁷ It is indicative that the ban on assemblies of this group of citizens followed after the RS government was constituted. [“We note that the protest rallies Justice for David took place in the election year, in 2018 the General Elections were held. On 17 December 2018 the government in the RS was constituted.” (Justice for David) responses].

¹¹⁸ There was no direct ban on assembly in this case, but the administrative silence of Sarajevo Canton Ministry of Transport de facto led to an assembly ban. Namely, SOC notified the Mol of Sarajevo Canton of a protest march to mark the International Day against Homophobia and Transphobia (13 May) and asked for the consent of the Ministry of Transport of Sarajevo Canton (as the march was planned also on a traffic street). The consent of the Ministry of Transport was requested more than a month before the planned march, although the legal deadline is 15 days before the assembly. However, the decision of the Ministry arrived only on 11 May 2017 at 16:08, which was too late to take further steps to hold the march. (The Law on Basics of Road Traffic Safety in BiH obliges the organiser of a public assembly to inform the public about the change in the traffic regime through the media, no later than 48 hours before the assembly.)

¹¹⁹ Banja Luka Centre for Human Rights, Civil Rights Defenders and ToPeeRa responses.

¹²⁰ Banja Luka Centre for Human Rights, Kwart, CURE Foundation, Helsinki Committee for Human Rights, Civil Rights Defenders, ToPeeRa, TC Solidarity Union and SOC responses.

Youth Initiative for Human Rights in BiH emphasises that it is necessary to prohibit assemblies of neo-fascist organisations.

¹²¹ Banja Luka Centre for Human Rights, ToPeeRa, SOC and Oštra nula responses.

¹²² Civil Rights Defenders and Pride March responses.

¹²³ Civil Rights Defenders responses.

¹²⁴ Civil Rights Defenders, Youth Initiative for Human Rights, ToPeeRa and SOC responses.

¹²⁵ Banja Luka Centre for Human Rights, Bistro Society, Civil Rights Defenders, SOC, TC Solidarity Union, Oštra nula and Association Restart Srpska responses.

According to Bistro, “(...) if you protest to point out the irregularities of the Ministry of Water Management, Agriculture and Forestry, then this requires a protest, a peaceful assembly in front of that institution, and not far away on the other side of town”.

¹²⁶ Banja Luka Centre for Human Rights, Centre for Environment, Civil Rights Defenders, Pride March, SOC, TC Solidarity Union, Oštra nula and Association ReStart Srpska responses.

¹²⁷ SOC, CURE Foundation, ToPeeRa and Pride March responses.

¹²⁸ Banja Luka Centre for Human Rights, Centre for Environment, Civil Rights Defenders, ToPeeRa and SOC responses, and similar conclusions can be drawn from responses of Bistro and Justice for David. The latter stated that they submitted notifications of peaceful assemblies several times after 25 December 2018 that were all rejected without an explanation.

Civil Rights Defenders in BiH underline that the Ombudsman should get actively involved in the oversight over the right to public assembly and handling complaints thereon.

¹²⁹ Centre for Environment, Helsinki Committee for Human Rights and Pride March responses.

¹³⁰ In this respect, we welcome the trainings organised by the OSCE and the Venice Commission [OSCE (2018). *Sloboda okupljanja u fokusu obuka u organizaciji Misije OSCE-a u BiH i ODIHR-a* (Freedom of assembly focus of training courses supported by OSCE Mission to BiH and ODIHR). Available at: <https://www.osce.org/bs/mission-to-bosnia-and-herzegovina/377824> (accessed on: 31. 5. 2020.)]