

Interview with

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1. How do you view the information related to the election theft in Mostar, why are there requests for recount of votes in that city?

Prior to the municipal elections, the OSCE Mission to BiH, together with local counterparts, invested efforts to promote an election campaign based on the principles of honesty, fairness, and respect for other candidates and voters. Our analysis shows that, overall, these efforts contributed to a fairer election campaign across the country, including in Mostar, when compared to previous election cycles. However, there were still many allegations of electoral fraud reported around the country. We continue to follow the situation closely in that regard.

Let me reiterate that the Mission has full confidence in the technical abilities of the BiH Central Election Commission (CEC) to carry out its responsibilities. Despite the complicated and unfortunately politicized environment, as well as the additional challenges posed by the pandemic, the CEC and its technical staff have shown they are capable of executing the institution's mandate in a fair and transparent manner.

We believe the CEC has demonstrated a commitment to addressing all reported alleged irregularities and attempts of election fraud in order to ensure a transparent and fair election process. Earlier this week, the BiH Court rejected a request to order a full recount of the Mostar election. Following this decision, the Mostar election results have now been confirmed by the CEC. This does not mean that allegations of election fraud cannot be investigated and prosecuted. On the contrary, the CEC, law enforcement agencies and the judiciary must proactively exchange information in order to swiftly investigate any and all election fraud allegations, along with possible irregularities in the work of polling station committees.

We continue to urge the Central Election Commission, law enforcement agencies and the judiciary to investigate all credible reports of electoral fraud in Mostar and elsewhere and, when warranted, to prosecute possible violations. This is a necessary step to restore trust in election processes in BiH and it is what the citizens deserve.

The situation in Mostar provides yet another example of the urgent need for broader electoral reform to improve BiH legislative and institutional framework and ensure that all future elections in BiH are in line with relevant international standards. This endeavour should focus on implementing OSCE/ODIHR, Venice Commission and Council of Europe's Group of States against Corruption (GRECO) recommendations as well as implementing the European Court of Human Rights (ECtHR) and decisions of the Constitutional Court of BiH. In this respect, I believe it is essential to re-establish the Inter-agency Working Group so that the issues related to electoral processes in BiH can be addressed as a matter of urgency. We call on all political leaders to re-engage and establish a transparent and inclusive process to tackle all electoral shortcomings and prevent situations similar to the one we are observing in Mostar from ever happening again.

2. We have all witnessed that in 2009, after a flow of as much as 440 days, the last Mayor of Mostar was elected. It is now evident that the parties that have number of mandates in the City Council will condition that election. Do we have to fear that similar episodes will repeat, like those in 2008/2009 when the people of Mostar and the entire public could only silently observe the political mutilation in the election of the Mayor and the city administration?

I sincerely hope that this will not be the case. After 12 years of being deprived of their democratic right to vote, Mostar residents have waited for far too long for elected and accountable city administration.

New city authorities have a challenging mandate ahead of them, as problems and issues requiring urgent solutions have piled up over the past years. Politicians should be responsible and refrain from political games that cause instability, tension and further stalemate.

3. Do you have the impression and even concrete feedback from key protagonists in the judiciary that things are getting better after the publication of the third OSCE public report on the judiciary's response to corruption, which presented quite devastating results for BiH and Sarajevo Canton prosecutors? Or is the opposite the case?

BiH continues to struggle to ensure the effectiveness and independence of its justice sector. This impedes the proper administration of justice. The judiciary suffers from a lack of accountability and transparency, as was highlighted in the Mission's Third Annual Report on Judicial Response to Corruption, "The Impunity Syndrome." Based on systematic monitoring and analysis of corruption cases tried before all levels of courts in BiH, the report points to an ethical crisis within the judiciary, particularly the HJPC. The report also noted the impact of inconsistent appointment procedures, including the prioritization of personal and political connections, and the exchange of favours, over merit-based appointments. This hinders the efficiency of the judicial system and further erodes public trust in institutions.

Given that the report was issued in November 2020, it is still too early to determine if there has been progress in implementing its recommendations. That said, as the third in a series of reports, this most recent version does highlight a failure to implement the recommendations contained within the two earlier reports. This stagnation, and even regression, justifiably frustrates BiH citizens. Despite some efforts to effect change, little headway can be made without strong political will. Direct attacks and other, more subtle, forms of interference damage the independence of the judiciary. A fragmented legal framework, inconsistent application of legislation, insufficient witness and victim protections and support, and inadequate capacity for efficiently investigating and prosecuting complex crimes all hamper legal certainty and the equality of citizens before the law. This results in widespread public scepticism about the transparency and impartiality of the judiciary.

While individual resignations of senior officials may be entirely appropriate, this alone will not result in the systemic and cultural change necessary to establish trust in the judiciary. This will require sustained efforts at the institutional level. The adoption of a revised Law on the HJPC, which would hopefully strengthen judicial integrity and disciplinary processes and allow for the introduction of an effective system for the verification of asset declarations of judicial office-holders, is a necessary precondition for the systematic and cultural reform of the BiH judiciary.

Everyone has a role to play in ensuring the fairness and objectivity of the judicial system. The Mission would like to highlight the important role of an independent and impartial media in reporting on the judiciary and rule of law issues, and we are encouraged by recent increases in such reporting. Similarly, citizens should report all suspected crimes, irregularities, and corruption, and they should hold their elected representatives accountable for ensuring a safe and democratic country, free of these criminal acts. Finally, judicial officials should demonstrate and embody the highest ethical and professional standards, and judicial institutions must ensure the highest levels of professionalism, transparency and accountability.

In line with its mandate, the Mission will carefully monitor and report on upcoming developments and will continue to assist and support BiH judicial institutions.

4. What can you say about the statistics when it comes to hate incidents caused last year. What kind of trend is this, and what kind of incident?

Through its field monitoring, the Mission maps trends in location, nature, and frequency of potential bias-motivated incidents and hate crimes (BMI/HC) and publishes this information each month in an online Hate Monitor infographic, available on our website at <https://www.osce.org/bs/node/221111>.

We continue to see inadequate institutional responses to BMI/HC, especially regarding effective investigations and prosecutions, but also official reporting and recording. Some

deficiencies in 2020 may be attributed to extraordinary circumstances caused by the COVID-19 pandemic that stretched the already limited resources of justice sector institutions and prevented institutions from operating in full capacity.

According to our data, in 2020 there were 119 potential reports of BMI/HC. This is 7% less than in 2019. However, these numbers should be interpreted with caution given an assumed high rate of underreporting that could have been further enhanced by the circumstances caused by the COVID-19 pandemic. Instances of physical violence and verbal assaults have decreased which could be directly linked to the imposed social distancing measures. On the other hand, the Mission recorded 51 cases of property damage and desecration of religious facilities, recording a sharp increase compared to the previous year. The most targeted protected characteristic continued to be related to ethnicity/religion, which constitutes 90% of BMI/HC cases recorded by the Mission. Communities with a larger presence of ethnic minorities and more violent war legacies were more prone to such reports. There were two incidents recorded in which sexual minorities were targeted; both incidents occurred on online networks. However we can assume that these kind of incidents go largely unreported.

5. The important question is how society and the public reacted to this and more importantly how the prosecutors' offices and courts reacted. Did they prosecute them?

The Mission also monitors how authorities and civil society react to those incidents. In particular, we keep track of public condemnations of BMI/HC issued by public officials, religious leaders and civil society. In 2020, the number of condemnations increased by almost 100% in comparison to a year before, a positive trend. The total number of incidents that were followed by condemnations was 29; however, several incidents attracted a lot of attention and a number of different individual condemnations. The most public condemnations by far were issued by officials, which quadrupled in comparison to 2019. Public condemnations by religious leaders doubled while public condemnations by civil society reduced by half in comparison to 2019.

The Mission supports the work of a number of "Coalitions against Hate" in BiH that work to foster social cohesion, including by speaking out against hate-based cases in their communities. In the past year, these Coalitions reacted to several hate-motivated incidents, for example by condemning destruction or defacing of religious monuments or by removing graffiti containing hate speech. This work is critically important and it requires courage and commitment.

As for the justice sector response, police and prosecutors rarely treat potential bias offenses as hate crimes, despite a clear legal obligation to investigate all indications of potential bias. In 2020, only one case of making serious verbal threats was charged under this qualification, leading to a suspended imprisonment sentence. One more case involving a bias charge is currently in trial phase. Two cases were prosecuted under a charge of incitement to hatred in

2020, the same number as in 2019. Overall, this indicates a lack of progress in prosecuting such cases in comparison to 2019.

The Mission's monitoring also suggests a possible high rate of underreporting, and a definite high rate of impunity, considering that 88% of reported incidents remained in the pre-investigative phase. Overall, the imposed sanctions tended towards the legal minimum. The Mission's monitoring data suggests that bias motives continue to be poorly investigated or not investigated at all, and judicial decisions lack sufficient reasoning on all elements of offences.

The Mission urges justice sector officials to improve their work in this area and show zero tolerance towards BMI/HC through their work and decisions. This legal obligation must be reflected in practice. BMI/HC can be devastating, not only for the victims but also for their communities and society in general.

6. How do you assess the new case of discrimination in the schools of returnee children, specifically in the elementary school Petar Kočić where the student was punished for marking the Statehood Day of BiH? At the same time, is this again some tip of the iceberg when it comes to this issue?

The Mission is familiar with this case and we are closely monitoring the situation. The Mission sees education one of its priorities and we work with students, teachers, parents and education authorities to support them in ensuring quality and inclusive education for all children in BiH.

We believe that available administrative and judicial procedures can be a catalyst for change in resolving this issue and protecting the children's rights in the future.

7. What is your assessment of media freedoms in our country, the intensity of political pressure on the media, and even attacks on journalists?

We believe that media freedom is under threat in BiH. Journalists face harassment, intimidation and have even faced physical attack. While many journalists are doing excellent reporting under challenging conditions, BiH institutions have not done enough to protect the critical space in which journalists operate.

Recently, the Mission analysed verdicts for defamation handed down from 2016-2019. Our research confirmed that in 80% of the cases, the plaintiffs were public officials or politicians, individuals whose positions require that they be open to public scrutiny. This raises concerns on our part that these lawsuits are being used to harass journalists and to discourage them from asking the tough questions of public officials.

It is important to look at these lawsuits in the context of other threats and intimidation of journalists. Our research showed that 30 percent of these defamation cases take more than 5 years to resolve, which means that journalists facing such accusations can be left under a cloud of legal difficulty for a long period of time, interfering with their work.

We note that female journalists are particularly targeted by verbal attacks, online insults, and threats. Such behaviour must not be tolerated. We call on authorities to promptly investigate all threats and attacks against journalists. The Mission takes this situation very seriously and condemns the continuous attacks and undue pressure on the media in BiH.
