

# Combating Discrimination



The Mission works to strengthen human rights-based practices and to combat discrimination by partnering with national legislative and governmental institutions, the judiciary, the Institution of Human Rights Ombudsman, national minority representatives, and civil society organizations.

BiH is signatory to the European Convention on Human Rights and Fundamental Freedoms (the European Convention) and other international treaties for the protection of human rights and prohibition of discrimination.

In BiH's complex constitutional system, the provisions of the European Convention and its Protocols have priority over all domestic laws. Furthermore, international standards have direct application in the BiH legal system. BiH has

BiH has ratified Protocol No. 12 to the European Convention, expanding the State's obligation to prohibit discrimination in the enjoyment of any right, including through domestic legislation.

BiH subsequently became the first country which the European Court of Human Rights (ECtHR) found to be in violation of this Protocol, in the case of *Sejdić and Finci v. BiH*.

In its ruling in favour of *Sejdić and Finci*, the ECtHR reproached the constitutional ineligibility of the applicants to stand for election to the BiH House of Peoples or the BiH Presidency because of the fact that they did not belong to any of the constituent peoples of BiH.

Additionally, the obligation of authorities and citizens to respect human rights and non-discrimination is engrained in the commitments contained within the BiH Constitution, the

entity constitutions, the Statute of Brčko District BiH (Brčko District), constitutions of the Federation of BiH's (FBiH) ten Cantons, and the Law on the Prohibition of Discrimination.

## Discrimination in BiH

There are many instances of social discrimination that provide serious cause for concern in BiH. For example, ethnic segregation is present in the education system. The "two schools under one roof" practice physically separates children based on ethnicity and each group is taught under a separate curricula. Roma are victim to rampant social exclusion and discrimination, particularly visible in employment, education, housing and access to health services.

The Roma community is frequently subject to discriminatory incidents via hate speech and other hate crimes, including verbal or physical assaults, the use of derogatory terms or insults, and negative stereotypes. Furthermore, Roma women and children are victim of multiple forms of discrimination and, as a result, Roma children have a low enrolment rate in secondary schools and universities coupled with a high dropout rate.

Women in BiH face constant marginalization, including in politics where they are underrepresented for a plenitude reasons, including gender stereotypes. Women are also faced with unequal access to the labour market, healthcare, and social protection. Additionally, women are much more often subjected to violence and exploitation than men.

The returnee population continues to face difficulties accessing rights related to the labour market, social benefits and health care. Discrimination on the basis of sexual orientation or identity is a serious problem, including within employment, education, housing and health care, which

often leads to hate speech and even violence. The prosecution of hate crimes as well as hate speech remains insufficient, as reported attacks on the basis of the victims' sexual orientation or identity are more often than not insufficiently investigated.

Persons with disabilities face discrimination in accessing education, employment, social protection and health care. The failure to implement relevant regulations contributes to the exclusion of children and young people with disabilities from the educational system. Most public buildings and institutions, as well as public transport infrastructure, are considered by BiH civil society organizations to be inaccessible to those with disabilities.

The Law on Prohibition of Discrimination<sup>1</sup> (LPD) was adopted by the BiH Parliamentary Assembly in 2009 and amended in 2016. It aims to strengthen BiH mechanisms designed to fight discrimination, particularly against persons of vulnerable social categories.

However, despite the existence of this solid

legislative framework and the efforts exerted by many stakeholders to enhance the capacities of these mechanisms, discrimination remains persistent in BiH.

## Support to Institutional Mechanisms

The Mission supports BiH institutions relevant in the fight against discrimination, namely the BiH Ministry for Human Rights and Refugees, the Institution of Human Rights Ombudsman of BiH and the judiciary, with an additional focus on civil society organizations, universities and the general public.

In co-operation with the BiH High Judicial and Prosecutorial Council and BiH judiciary, the Mission analyses BiH anti-discrimination jurisprudence and produces reports such as the "Analysis of Judicial Response to Discrimination Challenges in Bosnia and Herzegovina"<sup>2</sup>.

Together with BiH Entity Judicial and Prosecutorial Training Centres, the Mission increases the capacities of the judiciary and legal professionals through conferences<sup>3</sup>, trainings

and peer-to-peer workshops aimed at analysing BiH anti-discrimination jurisprudence.

The Mission aims to increase the visibility of anti-discrimination topics in BiH universities by organizing moot court competitions and providing support to summer schools and student debates on human rights topics.

The Mission also provides stereotypes/discrimination sensitisation trainings and awareness-raising campaigns for public officials and the general public on the needs of people in situations of vulnerability, such as Roma, including through designing, printing and distributing promotional materials, including the "Roma on the Margins"<sup>4</sup> multimedia project, and conducting social media campaigns.

The Mission's work in this area is based to a large extent on the recommendations from the Mission's public report "Assessment of the Work of Bosnia and Herzegovina Institutions in Combating Discrimination"<sup>5</sup>, and the results of the Mission's survey "Discrimination in Bosnia and Herzegovina - Public Perceptions, Attitudes, and Experiences"<sup>6</sup>.

1 Available at <https://www.osce.org/bs/mission-to-bosnia-and-herzegovina/378835?download=true>.

2 Available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/400544>.

3 See <https://www.osce.org/mission-to-bosnia-and-herzegovina/420146>.

4 See <https://www.osce.org/mission-to-bosnia-and-herzegovina/406001>.

5 Available at <https://www.osce.org/bs/mission-to-bosnia-and-herzegovina/414674>.

6 Available at <https://www.osce.org/bs/mission-to-bosnia-and-herzegovina/448855>.

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