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**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Visita a Bosnia y Herzegovina

Informe del Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación, Clément Nyaletsossi Voule*

Resumen

El Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación, Clément Nyaletsossi Voule, visitó Bosnia y Herzegovina en abril de 2024, de conformidad con las resoluciones del Consejo de Derechos Humanos 15/21 y 50/17.

Treinta años después del conflicto armado que discurrió entre 1992 y 1995 y sembró la división étnica, marcado por graves crímenes internacionales, como el genocidio, los crímenes de guerra y los crímenes de lesa humanidad, el Relator Especial expresa su preocupación por la persistencia de políticas basadas en la identidad, por la creciente polarización de los últimos años y por la retórica separatista de algunos dirigentes políticos, en particular el discurso de odio y el revisionismo.

Para superar la actual crisis política, el Relator Especial insta a todas las autoridades a que levanten las restricciones impuestas a las libertades fundamentales y permitan que la sociedad civil participe de manera efectiva en los asuntos públicos. Pide que las instituciones sean más eficaces y que los políticos y los partidos políticos sean más representativos. Las instituciones y los funcionarios gubernamentales deben asumir una mayor responsabilidad para velar por que todos los habitantes de Bosnia y Herzegovina puedan contribuir a su futuro común.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó.



Anexo

Informe del Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación, Clément Nyaletsossi Voule, acerca de su visita a Bosnia y Herzegovina

I. Introduction

1. The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, visited Bosnia and Herzegovina from 14 to 22 April 2024. On 30 April 2024, Mr Voule ended his tenure as mandate holder after six years in the role.

2. The Special Rapporteur expresses his appreciation to the Government of Bosnia and Herzegovina for agreeing to his visit and to the authorities that met with him in Sarajevo and Banja Luka. He met with State authorities, including advisers to the three members of the Presidency and representatives of the Ministry of Foreign Affairs, the Ministry of Human Rights and Refugees, the Ministry of Justice and the Joint Committee on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina. The Special Rapporteur also met with representatives of both entities, including of the Ministry of Internal Affairs and the Ministry of Justice of the Federation of Bosnia and Herzegovina and of the Ministry of Internal Affairs, the Ministry of Justice and of the Committee for Political System, Judiciary and Administration of the National Assembly of Republika Srpska. The Special Rapporteur also met with local authorities, including of the Ministry of Internal Affairs of the Canton of Sarajevo and the Chief District Prosecutor of Banja Luka.

3. The Special Rapporteur also thanks the Constitutional Court of Bosnia and Herzegovina; the Bosnia and Herzegovina Human Rights Ombudspersons; the Principal Deputy High Representative; international organizations; and representatives of embassies, who took the time to meet with him. He expresses his sincere appreciation to the United Nations country team, in particular the Senior Human Rights Adviser and her team for the excellent support provided.

4. The Special Rapporteur is grateful to the civil society representatives, including lawyers, trade unionists, journalists, human rights defenders, activists and representatives of victims' organizations who met with him, including members of the of the group, Mothers of Srebrenica and Žepa Enclaves.

5. The Special Rapporteur presents his findings and recommendations, based on his interviews and observations, in a spirit of cooperation and with a view to supporting the authorities in the country to meet their obligations regarding the promotion and protection of human rights and to ensure the ability of all citizens to participate in public affairs.

II. Post-conflict State

A. Armed conflict 1992–1995

6. Thirty years after the end of the conflict of 1992–1995, the country is still grappling with the legacy of war crimes, crimes against humanity, genocide and other serious human rights violations.

7. During the armed conflict, over 100,000 people were killed, over 30,000 people went missing, over 40,000 people were detained in camps, thousands were systematically raped and over 2 million were displaced.¹ Sarajevo came under siege from artillery shelling and

¹ See [A/HRC/51/34/Add.2](#) and [war demographics](#) issued by the International Criminal Tribunal for the former Yugoslavia.

sniper attacks. In July 1995, Bosnian Serb forces attacked the town of Srebrenica, an area declared safe by the United Nations, and executed between 7,000 and 8,000 Bosniak men and boys, and forcibly displaced approximately 25,000 women and children. Those crimes, as established by the International Tribunal for the former Yugoslavia and the International Court of Justice, constituted acts of genocide against Bosnian Muslims.² International courts have convicted several former senior Bosnian Serb army officials and leaders for commissioning the crime of genocide in Srebrenica, as well as crimes against humanity and war crimes in the area.³

B. Power-sharing governance

8. The 1995 Dayton Peace Agreement established a complex, ethnically based power-sharing system in Bosnia and Herzegovina. The country is divided into two entities: the Federation of Bosnia and Herzegovina (51 per cent of the territory, with a Bosniak and Croat majority) and Republika Srpska (49 per cent of the territory, with a Serb majority). In addition, there is the self-governing Brčko District, which has been under international administration since the end of the war. The Constitution divides responsibilities between the State of Bosnia and Herzegovina and its two entities, delegating many tasks, such as law enforcement, justice and economic and social affairs, to the entities.

9. The Presidency of Bosnia and Herzegovina has three members: one Bosniak and one Croat elected from the Federation, and one Serb from Republika Srpska. The House of Peoples (the upper house) of the Parliamentary Assembly is also based on ethnicity, comprised of two thirds from the Federation (five Croats and five Bosniaks) and one third from Republika Srpska (five Serbs).

10. While these arrangements arguably helped to end the war, the Special Rapporteur is concerned about the ongoing discriminatory system it has entrenched, which restricts key elected positions, such as the Presidency and the House of Peoples, to individuals identifying as one of the three “Constituent Peoples”, namely Bosniak, Croat or Serb. In addition, voting for the Presidency is limited based on residence: voters in the Federation can only choose a Bosniak or a Croat, while those in Republika Srpska can only vote for a Serb.

11. That post-conflict power-sharing system, based on ethnicity, has entrenched ethnic divisions and discrimination, particularly in access to elected positions, and decision-making at the State level is often stalled by political divisions and blockages, hindering progress toward a fully functional democracy.

12. United Nations human rights mechanisms have highlighted the discriminatory nature of the system.⁴ Furthermore, in 2009, the European Court of Human Rights ruled that the Constitution and election laws violated equal voting rights and requested the country to revise them to ensure that all citizens could run for office and vote, regardless of ethnicity or residence.⁵ The country has yet to implement several of the decisions made by the European Court of Human Rights. In a recent case, the Court ruled that restricting citizens from voting for their preferred candidates in legislative and presidential elections constituted discrimination on the grounds of ethnicity and place of residence, and that excluding certain citizens from the House of Peoples based on ethnicity amplified ethnic divisions and

² See International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Appeal Judgment, IT-98-33-A (19 April 2004); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Yugoslavia*), *I.C.J. Reports 1996*, p. 595; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), Judgment, *I.C.J. Reports 2007*, p. 43.

³ See *Prosecutor v. Radislav Krstić*; International Residual Mechanism for Criminal Tribunals, *Prosecutor v. Ratko Mladić*, Appeal Judgment, MICT-13-56-A (8 June 2021) and *Prosecutor v. Radovan Karadžić*, Appeal Judgment, MICT-13-55-A (20 March 2019).

⁴ See, for example, CERD/C/BIH/CO/9-11, para. 5.

⁵ European Court of Human Rights, *Sejdić and Finci v. Bosnia and Herzegovina*, Applications No. 27996/06 and No. 34836/06, Judgment, 22 December 2009.

undermined democracy.⁶ The Court is currently considering an appeal against this decision by the Council of Ministers of Bosnia and Herzegovina.

13. The Dayton Peace Agreement established the position of High Representative to support civilian implementation.⁷ In 1997, the so-called Bonn Powers allowed the High Representative to enact laws when domestic bodies failed. Those powers were used to amend the election law ahead of the municipal elections in October 2024, banning individuals convicted of genocide, crimes against humanity and war crimes from running for office. The leadership of Republika Srpska has contested the legitimacy of the current High Representative and rejected his decisions.

C. Transitional justice and reconciliation deficit

14. The International Tribunal for the former Yugoslavia and domestic proceedings have provided some accountability for wartime atrocities, but justice remains incomplete. The reluctance of ethno-nationalist politicians to confront the past has hindered truth, reparation and reconciliation efforts, enabling revisionism, including genocide denial and the glorification of convicted war criminals. While on 20 May 2024, the General Assembly adopted a resolution designating 11 July as the International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica,⁸ the legislative body in Republika Srpska denied the genocide and its leadership has repeatedly threatened secession. Those actions undermine progress, retraumatize victims and their families, and create a hostile environment for those pursuing memorialization and justice.

D. Accession to the European Union

15. Following its application for membership of the European Union in 2016, Bosnia and Herzegovina must fulfil 14 key priorities, including creating an enabling environment for civil society and upholding European standards on freedom of association and of assembly.⁹ The European Commission, along with many others (see below), has criticized the draft law on foreign agents of Republika Srpska, which was initially withdrawn and has since been adopted, as a significant setback. The Special Rapporteur also highlights the need to implement the ruling of the European Court of Human Rights on the discriminatory electoral system as a key requirement for accession to the European Union.

III. International and constitutional human rights protections

16. In Bosnia and Herzegovina, the rights to freedom of peaceful assembly and of association are guaranteed in the Constitutions of the State, the entities and Brčko District.

17. At the State level, the country is a party to the International Covenant on Civil and Political Rights, which protects the right to freedom of peaceful assembly (art. 21) and of association (art. 22). The Constitution also provides that the rights and freedoms in the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and its Protocols shall apply directly in Bosnia and Herzegovina and take priority over all other laws. Article 11 of the European Convention on Human Rights protects freedom of assembly and of association.

18. Article 2 of the Constitution of the Federation guarantees freedom of assembly and of association, including the right to form and join trade unions.

19. Article 30 of the Constitution of Republika Srpska grants citizens the right to peaceful assembly and public protest, with potential limitations for “the safety of persons or property”.

⁶ European Court of Human Rights, *Kovačević v. Bosnia and Herzegovina*, Application No. 43651/22, Judgment, 29 August 2023.

⁷ Annex 10: Agreement on Civilian Implementation, art. I.

⁸ Resolution 78/282.

⁹ European Commission 2023 *Communication on EU Enlargement Policy*.

20. Articles 13 and 14 of the Brčko District Statute guarantee rights under the European Convention, including freedom of assembly and of association, and the right to form political, social and other organizations.

21. Legislation on freedom of assembly and of association in the country is fragmented and often inconsistent with constitutional protections and international human rights standards. The Special Rapporteur noted the overall failure of the State authorities to effectively ensure compliance with international obligations, as they claimed that these freedoms were not within their remit. The Special Rapporteur reminds State institutions that they are responsible for ensuring the implementation of international commitments, including those under the International Covenant on Civil and Political Rights.

IV. Freedom of association

22. Civil society associations in Bosnia and Herzegovina are vital in areas such as women's rights, combating corruption, legal aid, transitional justice, minority rights, freedom of expression, environmental protection, election monitoring and support for migrants and refugees. They also provide essential services, such as shelters for survivors of domestic violence.

23. There are registries for associations at the State level, in both entities, in the cantons of the Federation and in Brčko District. Registration is generally straightforward, allowing organizations to operate countrywide. Associations can set their own goals, with restrictions on inciting hatred or dismantling the constitutional order. Associations are also prohibited from engaging in election campaigns, fundraising for candidates, or financing candidates or political parties. If registration is denied, the decision can be appealed. The Special Rapporteur stresses that associations should be free to participate in public life, including in political and democratic processes and elections. Associations should be free to voluntarily support a particular candidate or a party in an election (and may be motivated by how a political party plans to advance rights and freedoms) and should be transparent in declaring their motivations.¹⁰

24. A draft law on the financing of civil society in the Federation, published in August 2023, raises no major concerns but could be improved by allowing unregistered associations to access funding and enhancing transparency in government allocations.

25. Despite these relatively benign registration processes, civic space, especially in Republika Srpska, is eroding. Issues include judicial harassment, smear campaigns (often led by political actors), recriminalization of defamation and the adoption of a law on foreign agents that threatens freedom of association and has led to increased self-censorship across civil society.

A. Foreign agent law of Republika Srpska

26. In October 2023, the Special Rapporteur and other United Nations independent experts raised concerns about the draft law in Republika Srpska on the special registry and publicity of the work of non-profit organizations, affecting those receiving foreign support.¹¹ Bosnia and Herzegovina did not formally respond, but during the visit, the Ministry of Justice of Republika Srpska provided the Special Rapporteur with a written response, dated 3 November 2023. The Special Rapporteur notes that the response failed to justify the draft law, which restricts fundamental human rights, especially freedom of association.

27. Under the law, civil society associations receiving any foreign support, including non-financial forms of cooperation and support from international organizations, are labelled as "agents of foreign influence". They must register in a distinct registry, exposing them to stigmatization, additional reporting requirements and restrictions on their activities, including political activities. The definition of political activities remains broad and subject to arbitrary

¹⁰ A/68/299, para. 46.

¹¹ BIH 3/2023.

interpretation that could lead to associations being terminated. The Special Rapporteur is also concerned about vague prohibitions on activities deemed to be against the Constitution or the interests of Republika Srpska, which are open to abuse.

28. The law allows the Ministry of Justice to propose deregistration to the judiciary and the Special Rapporteur is concerned about the lack of criteria on which the Ministry can make such proposals. Also, the vague, intrusive provision allowing the Ministry to “monitor” the nationwide activities of civil society associations registered in Republika Srpska is deeply concerning.

29. The announcement of the draft law, accompanied by hostile political rhetoric, had a chilling effect on civil society actors, who have been feeling increasingly insecure, in particular following the recriminalization of defamation. The draft law was introduced in an environment that is increasingly hostile to civil society and in which political rhetoric is used against rights and freedoms, criticism and dissent, and civic participation more broadly. Civil society associations have expressed the fear that stigmatizing narratives by some politicians and the media may lead communities to view them as “foreign agents”, traitors or enemies of the entity. Some have reported difficulties recruiting staff, due to fears of being labelled and stigmatized under the new law. Civil society representatives in Republika Srpska told the Special Rapporteur that if the law had been enacted, they could not be sitting with him.

30. While the authorities must counter money-laundering and terrorism, they must not unduly restrict freedom of association. The Special Rapporteur asked the Minister of Justice and other authorities to explain the risks and legislative gaps the law addresses but received no adequate explanation. Existing laws in Republika Srpska already include reporting obligations for civil society associations. The draft law does not comply with recommendation 8 of the Financial Action Task Force and its 2023 amendments, as it is not risk-based, focused or proportionate, nor does it fully comply with the standards of international human rights law.¹² Furthermore, it was prepared without meaningful or inclusive consultation with associations, contrary to Task Force guidelines.¹³ Any legal changes affecting civil society should involve genuine consultation with all affected stakeholders, in particular civil society associations.

31. During his press conference presenting the preliminary findings of the visit, the Special Rapporteur called for the withdrawal of the draft law. On 28 May 2024, the draft law was withdrawn from the parliamentary procedure. However, on 27 February 2025, the National Assembly of Republika Srpska adopted what is effectively the same law. On 7 March 2025, the Constitutional Court of Bosnia and Herzegovina issued an interim measure temporarily suspending the law. The Court decided that there was a realistic risk of irreparable damage as the law might “result in the decrease of activities of civil society organizations, their shutdown or withdrawal of donors, which jeopardizes initiated projects, including the right to freedom of association and the right to freedom of expression”.¹⁴ The Special Rapporteur urges Republika Srpska to immediately repeal the law.

B. Recriminalization of defamation in Republika Srpska

32. The recriminalization of defamation in Republika Srpska in August 2023, is another serious threat to human rights, reversing previous progress in decriminalizing defamation. There have been calls from civil society and international experts, including a letter in March 2023 from United Nations independent experts, including the Special Rapporteur, to abandon the amendment because it undermines free speech and media freedom.¹⁵ According to the Ministry of Justice of Republika Srpska, the criminal law is needed to protect the honour and reputation of citizens as civil legal protection is not sufficient. While the Ministry of Justice has advised that no one has yet been indicted under this criminal offence, the Special

¹² See *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. The FATF Recommendations* (2012–2025).

¹³ See, for example, [A/HRC/55/48/Add.1](#).

¹⁴ See <https://www.ustavnisud.ba/en/extraordinary-plenary-session-2549>.

¹⁵ BIH 1/2023.

Rapporteur highlights its chilling effect on the exercise of freedom of expression and opinion and again recommends its repeal.

33. While the Constitutional Court of Bosnia and Herzegovina struck down an amendment criminalizing disparagement of the symbols of Republika Srpska, it upheld the constitutionality of the general criminalization of defamation. Similarly, on 27 March 2024, the Constitutional Court of Republika Srpska found the defamation laws constitutional.

34. The Special Rapporteur also notes with concern the draft law on misdemeanours against public peace and order of the Canton of Sarajevo, which seeks to criminalize “false news”. Criticized for vague definitions, large fines and police discretion as to what constitutes disinformation, it is perceived as a tool to silence online criticism. The Special Rapporteur notes that the draft is on hold and urges the authorities to abandon it, in order to protect the rights to peaceful assembly and to freedom of opinion and expression online.

35. The Special Rapporteur also heard concerns about fines introduced by Bihać and Cazin city councils in Una-Sana Canton for threats, insults, belittling and other forms of harassment through SMS, emails, public portals and social media. These vaguely defined offences are prone to misinterpretation, with reports of journalists fined for criticizing local politicians online. Such measures violate the rights to peaceful assembly and to freedom of opinion and expression.

C. Women and lesbian, gay, bisexual, transgender and intersex associations

36. Women human rights defenders and lesbian, gay, bisexual, transgender and intersex activists face an increasing level of attacks, harassment, threats, discrimination and violence, amid the rise of anti-gender movements and hate speech, including cyberviolence.¹⁶ Women journalists and lesbian, gay, bisexual, transgender and intersex activists are especially targeted by politicians through hate speech and such cases remain largely undocumented and uninvestigated.¹⁷

37. The Special Rapporteur echoes the call from United Nations agencies for strategic and long-term joint action by civil society organizations, international organizations and public institutions at all levels of governance to prevent and eliminate all forms of violence and provide protection and support to civil society organizations and women human rights defenders.¹⁸ The judiciary must ensure access to effective remedies and responses to violence, and law enforcement and the judiciary must be held accountable for failure to fulfil their obligations.

38. Women are underrepresented in legislative and executive positions at all levels of governance in Bosnia and Herzegovina, not least because of the violence women are exposed to in the public sphere. While women make up 40 per cent of political candidates in elections (owing to electoral quotas), the percentage of women elected is much lower.¹⁹ While there are women in some senior roles, including the Serb member of the Presidency of Bosnia and Herzegovina, after the 2022 general election women represented only 25 per cent of elected officials in the country.²⁰ The Special Rapporteur supports calls to introduce a minimal representation quota for women in executive government and ministerial positions.²¹

¹⁶ United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and United Nations Bosnia and Herzegovina, “Resistance is what we trust, security and support is what we need: Situation on women human rights defenders in Bosnia and Herzegovina and the way forward”, p. 3.

¹⁷ Ibid., pp. 3 and 4.

¹⁸ Ibid., p. 6.

¹⁹ Human Rights Ombudsman of Bosnia and Herzegovina, “Universal periodic review of the human rights situation in Bosnia and Herzegovina, cycle IV”, p. 2.

²⁰ Agency for Statistics of Bosnia and Herzegovina, *Women and Men in Bosnia and Herzegovina* (2024), available from <https://bhas.gov.ba/Calendar/Category/32>.

²¹ A/HRC/43/17, para. 120.163.

D. War victims' associations and transitional justice activists

39. The Special Rapporteur met with the Mothers of Srebrenica and Žepa Enclaves, who discussed the role of their association in pursuing justice, truth and memorialization regarding the Srebrenica genocide and war crimes. Their work, along with other victims' associations, is critical to advancing and maintaining a peaceful transition.

40. The ongoing denial of the Srebrenica genocide and other atrocities and the glorification of convicted war criminals is hindering civil society's efforts to promote truth, justice, reparation, memorialization and guarantees of non-recurrence and reconciliation.

41. The Special Rapporteur is concerned that some victims' associations are allegedly being denied permission to mark the sites of atrocities and hold peaceful commemorations, sometimes being forced to change marches to static gatherings.

42. Other major barriers to transitional justice are the discrepancies in how the history of the armed conflict of 1992–1995 is being taught in schools across the country, including the deliberate omission of the Srebrenica genocide in schools in Republika Srpska. A study carried out by the Organization for Security and Cooperation in Europe (OSCE) found that textbooks and teaching materials were ethnocentric and had developed three mutually exclusive narratives; had contributed to the politicization and instrumentalization of the past rather than to mutual understanding and reconciliation; had prompted empathy only toward "one's own people" and portrayed the "other side" almost exclusively as perpetrators.²² Several civil society associations have been trying to address this situation by teaching judicially established facts about the war. However, due to the multiple different authorities responsible for schools in different jurisdictions, it is difficult for civil society to work across jurisdictions. The Special Rapporteur is concerned that civil society associations can no longer deliver such programmes in schools in Republika Srpska.

43. All jurisdictions should harmonize the education system to promote truth, non-discrimination, the prevention of violence and non-recurrence. Civil society must be allowed to continue the essential work of educating, promoting and participating in transitional justice initiatives.

E. Minority associations

44. The participation of national minorities in political and public life remains low.²³ Minorities are barred from running for the Presidency and the House of Peoples, but are somewhat represented in local government, where minorities constituting at least 3 per cent of the population can delegate representatives. There has been a worrying drop in candidates from minorities for the October 2024 local elections, partly due to a more complicated application process. The prevalence of anti-Roma stereotypes and discrimination also hinders Roma inclusion in public affairs.²⁴

45. Existing councils of national minorities are intended to be advisory bodies through which national minorities can provide advice to the parliaments of the State, the Federation and Republika Srpska. However, according to the information received, representatives on such councils have never been consulted.

46. While events relating to the folklore and customs of national minorities are often supported by local and entity authorities, those events advocating for equal public participation of minorities, including protests at the discriminatory provisions of the Constitution, reportedly do not receive such support.

²² OSCE, *History Teaching Materials on 1992-1995 in Bosnia and Herzegovina: Building Trust or Deepening Divides?* (2022).

²³ See Human Rights Ombudsman, "Universal periodic review of the human rights situation in Bosnia and Herzegovina", p. 7.

²⁴ See European Commission, 2023 *Communication on EU Enlargement Policy*.

47. The authorities should ensure and encourage the participation of all minorities in public policy- and decision-making, and remove the constitutional and institutional barriers to their participation.

F. Religious associations

48. The Constitutions of Bosnia and Herzegovina and its entities protect religious freedom, prohibit discrimination and allow registered religious organizations to operate freely. The Interreligious Council, established in 1997, aims to build trust among religious and ethnic groups. However, discrimination, harassment and attacks based on religious persuasion persist. That is especially the case where victims are situated in an area in which they are from a minority religion, including returnees who were displaced during the war. The Special Rapporteur received reports that the authorities had failed to properly investigate and prosecute such attacks, or provide protection against them, and that there had been a noticeable increase in online hate speech and threats.

49. The authorities should ensure that everyone can freely form and join associations and safely practise their religious freedoms, regardless of where they live. They should also ensure accountability for any attacks that take place.

G. Disability rights associations

50. The Federation law on organizations and representative organizations of persons with disabilities and civilian victims of war requires associations to be formed and classified according to types of disabilities, which restricts the freedom of individuals choosing with whom to associate, as well as the effective functioning of many disability associations. Also concerning are the discriminatory and burdensome requirements placed on disability associations, to which other civil society associations are not subject.²⁵

51. The Federation and other authorities in the country should remove such barriers and enable people with disabilities to freely exercise their right to freedom of association, without discrimination.

H. Youth organizations

52. The Special Rapporteur has identified two key issues affecting youth associations in the Federation. First, the requirement for youth councils to be founded by at least three associations can be challenging in smaller municipalities. Second, these councils may lack independence due to heavy reliance on government funding and premises. In addition, some political leaders are allegedly discouraging youth from engaging in civil society, suggesting they should join political parties instead.

53. In well-functioning democracies, youth associations should be able to influence and contribute to public policymaking. The Special Rapporteur expresses concern that this is not occurring in Bosnia and Herzegovina and he encourages the authorities to enable the existence and meaningful public participation of independent youth organizations.

I. Trade unions

54. Effective and independent trade unions are vital to ensuring that all workers can collectively demand fair wages and conditions, thereby promoting decent working conditions and combating poverty and inequality. The Special Rapporteur has noted the important work of the leading confederation of trade unions in the Federation (the SSS BiH) in advocating for an increase in the minimum wage and building the capacity of young unionists, and the

²⁵ Federation of Bosnia and Herzegovina, Rulebook of minimum technical and human resources for acquiring the status of organization of persons with disabilities and civilian victims of war, arts. 2 and 4 (in the languages of the Federation only).

important work of the leading coalition for independent unions in Republika Srpska (the SSRS) in advocating for improvements in occupational health and safety, for standardizing labour conditions through a general collective agreement and for an increase in the minimum wage.

55. However, there are significant barriers to forming and joining trade unions in Bosnia and Herzegovina. For example, there are concerns that most employers do not permit union membership and often create their own unions to undermine genuine representation. In addition, the complex political framework and inconsistent laws hinder any unified advocacy efforts trade unions might attempt. A high level of unemployment, economic instability and limited industrial growth further complicate their work. The Special Rapporteur emphasizes the obligation of the State to respect and ensure workers' rights, including those in the informal economy, to ensure that they have freedom of association and the right to join and form unions, to engage in collective bargaining, and to freely express their concerns regarding working conditions.

J. Media associations

56. Journalists across the country face significant threats, including political pressure, smear campaigns, verbal attacks and physical violence, often with impunity. Politicians are often the source of these attacks, with a notable increase in threats and violence against journalists over the past five years, including a reported 40 per cent rise in political and institutional violence and a 137 per cent increase in death threats and hate speech.²⁶

57. The Special Rapporteur is also concerned about a reported rise in strategic lawsuits against public participation to silence independent journalists and activists, especially environmental activists. He has also learnt of a proposal to introduce a new media law in Republika Srpska. While the text is not available, there are concerns that this could include further restrictions to silence dissent and voices critical of the authorities. The process of drafting the law should be transparent, ensuring adequate consultation with civil society.

58. All the authorities in the country must ensure media freedom and the right to freedom of association of media associations. Political leaders should pursue accountability for attacks on journalists and not encourage vitriol against the media and journalists, which entrenches impunity, exacerbates threats and encourages censorship. The Special Rapporteur echoes the recommendations of the Office of the United Nations High Commissioner for Human Rights and the United Nations office in Bosnia and Herzegovina to promote the safety of journalists and ensure effective access to information, including by facilitating the work of journalists' associations and trade unions; banning strategic lawsuits against public participation; and ensuring accountability for attacks against journalists.²⁷

V. Freedom of peaceful assembly

A. Twelve separate laws on peaceful assembly

59. The ability to exercise the right to peaceful assembly varies across the country due to inconsistent legislation. There are 12 separate laws governing assemblies: one for Republika Srpska, one for each of the ten cantons in the Federation and one for Brčko District. In addition, a draft bill is being considered at the Federation level. Most public assemblies occur in Sarajevo or Banja Luka, each governed by local laws. There have been some recent positive developments, with some jurisdictions introducing improved legislation.

²⁶ See BH Novinari, "Attacks on journalists are becoming more frequent", 27 July 2023, and Jamie Wiseman, "Backsliding in Bosnia and Herzegovina as media freedom faces myriad challenges", International Press Institute, 31 October 2023.

²⁷ OHCHR and the United Nations office in Bosnia and Herzegovina, "[The right to freedom of opinion and expression. The safety of journalists and access to information in Bosnia and Herzegovina](#)" (2022).

60. The right to freedom of peaceful assembly includes the obligation on States to respect and ensure its exercise without discrimination, to ensure assemblies take place without unwarranted interference, to facilitate the exercise of the right and to protect participants.²⁸ However, many of the laws concerning peaceful assemblies in Bosnia and Herzegovina impose a regulatory and often restrictive framework.

61. The Special Rapporteur reiterates calls for the revision of current laws on public assemblies to remove blanket bans on certain venues and criminal penalties for organizers who fail to fulfil administrative procedures.²⁹ The Special Rapporteur is also concerned about the excessive burden imposed on organizers, including that of providing security and arranging medical assistance, which are incompatible with the obligation on States to facilitate peaceful assemblies and protect participants.³⁰ Some laws also require organizers to obtain permission from the relevant traffic authorities, which is the responsibility of the law enforcement authorities as part of their duty to facilitate peaceful assemblies.

62. The Special Rapporteur is also concerned about restrictions on assembly locations, often placing them in less visible or accessible areas, violating the principle that assemblies should be within sight and sound of their target audience.³¹ In addition, many laws lack guarantees for timely court decisions on appeals against rejections of the holding of peaceful assemblies, with decisions often issued after the scheduled date of the assembly.

63. On several occasions, the Institution of the Human Rights Ombudsperson of Bosnia and Herzegovina has issued recommendations to law enforcement agencies to conduct training on how to facilitate assemblies appropriately. The Special Rapporteur supports those calls and encourages the implementation of the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, which he developed in collaboration with the United Nations Office on Drugs and Crime and OHCHR, as requested by the Human Rights Council in resolution 50/21.

64. There is no legislation at the State or Federation level covering peaceful assemblies. The Special Rapporteur strongly believes State-level framework legislation is necessary to ensure consistent human rights protections and equal enjoyment of the right to peaceful assembly. Such a law should be drafted, following broad, inclusive consultations, including with civil society, to harmonize laws across the country and align with international human rights standards.

65. A State-level framework law should recognize the right to peaceful assembly and, in accordance with international standards, state clearly the duties and responsibilities of the relevant public officials. It should not require the organizers to obtain prior authorization; notification should only be required if necessary and feasible (and not be applicable to spontaneous assemblies).³²

66. The law must be publicly accessible and the State should ensure public awareness of the law, the relevant regulations and procedures, the responsible authorities and the remedies available.³³ Any restrictions on the right to peaceful assembly in a democratic society must be necessary and proportionate to the legitimate aims of national security, public safety, public order, the protection of public health, morals, or the protection of others' rights and freedoms, in line with international human rights law.

67. State authorities should also develop publicly available guidance and protocols in line with the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests. The mandate holder remains available to provide technical assistance.

68. In Republika Srpska, the following restrictions imposed on the regulatory framework are concerning: (a) a blanket ban on assemblies outside the main square and nearby park;

²⁸ Human Rights Committee, general comment No. 37 (2020), para. 8.

²⁹ See, for example, [A/HRC/43/17](#), para. 120.102.

³⁰ Human Rights Committee, general comment No. 37 (2020), para. 64.

³¹ *Ibid.*, para. 22.

³² *Ibid.*, para. 72.

³³ *Ibid.*, para. 28.

(b) excessive obligations on organizers, including extensive documentation and provision of protection services; and (c) delays in court appeals against decisions disallowing peaceful assemblies.

69. The Special Rapporteur received reports of discriminatory enforcement of regulations based on the objectives of protests, with organizers treated differently depending on the assembly's topic, their relationship with the authorities or political affiliations. For instance, on 18 March 2023, the authorities in Banja Luka banned the screening of a movie by the organizers of the Pride march and others, citing safety concerns, but allowed other large gatherings to go ahead that day. There have also been directions from authorities to organizers, including opposition political parties, to relocate assemblies to isolated areas, in violation of the principle that peaceful assemblies should not be relegated to remote areas where they cannot effectively capture the attention of those who are being addressed or the general public.³⁴ In contrast, rallies by the ruling political party have occurred in central locations without restrictions. That appears to contradict the country's international human rights law obligations, which require the authorities to apply regulations neutrally, regardless of the participants' identity or their relationship with the authorities.³⁵

70. The Special Rapporteur received a copy of the draft bill on public assemblies of the Federation. He is pleased that the proposed draft allows for both announced and spontaneous gatherings and there is no requirement for pre-approval from the authorities. Organizers of assemblies must send a notice to the relevant cantonal ministry no later than 72 hours (or 48 hours in exceptional circumstances) before the scheduled assembly. The draft provides limited grounds on which cantonal ministries can prohibit an assembly (articles 25 and 26), however it includes broad terms that need to be made consistent with the legitimate grounds for prohibition under international law. The peacefulness of the assembly should be presumed and decisions for restricting an assembly must be justified by the authorities through an evidence-based risk assessment, including a differentiated assessment of the conduct of the participants.³⁶

71. The Special Rapporteur welcomes the express inclusion of the role of the police in protecting participants and ensuring that an assembly is realized without hindrance. However, the obligations imposed on organizers to maintain peace and order, ensure that participants are not armed, protect participants and the property located where the gathering is held and obtain traffic authority approval for assemblies that may affect traffic flows are incompatible with the international standards under article 21 of the International Covenant on Civil and Political Rights and must be revised. Organizers may only be held accountable for their own unlawful conduct. Obligations related to ensuring the protection of protesters and the public, and making other appropriate arrangements, including traffic arrangements, should be explicitly included in the obligations of the law enforcement authorities.

72. Furthermore, the proposed law prohibits assemblies organized by political entities, which is inconsistent with the rights to peaceful assembly and to freedom of expression. As emphasized by the Human Rights Committee: "Given that peaceful assemblies often have expressive functions, and that political speech enjoys particular protection as a form of expression, it follows that assemblies with a political message should enjoy a heightened level of accommodation and protection".³⁷

73. The broad wording in article 25 of the draft law related to restrictions on assemblies in various public spaces is worrying as it would unduly restrict the right to freedom of assembly. For example, it prohibits public gatherings near schools or kindergartens when children are present, but the term "near" should be clearly defined to avoid overly broad interpretations and undue restrictions on the right, ensuring that the principle of assemblies

³⁴ Ibid., para. 55.

³⁵ Ibid., para. 22.

³⁶ Ibid., paras. 36–38.

³⁷ Ibid., para. 32.

being within sight and sound of their target audience is fulfilled. Children and education personnel should not be restricted from exercising their right to peaceful assembly.³⁸

74. In July 2020, a law on public assembly that generally follows international best practice was adopted in Brčko District. The law allows organizers to notify the authorities of an assembly electronically, it does not contain blanket bans on certain venues and does not impose obligations on organizers to arrange and pay for security and emergency services.

75. At the canton level, following the adoption of the Brčko District law on public assembly, similar legislation was adopted in Zenica-Doboj (December 2023), Una-Sana (January 2024), Canton 10 (April 2024), West Herzegovina (July 2024), Central Bosnia (July 2024) and Posavina (October 2024). The Special Rapporteur is encouraged by these positive developments and urges all jurisdictions in Bosnia and Herzegovina to harmonize their laws with international human rights obligations. The legislation in some cantons remains problematic for the reasons discussed above, notably restrictions on locations; burdens on organizers, including the requirement to submit a security plan, appoint leaders, provide lists of stewards with all personal data and provide emergency services, including ambulance, fire and security services; and the lack of appeal options.

76. In Sarajevo Canton, the Special Rapporteur is concerned about the blanket ban on assemblies imposed by the authorities for certain locations and the onerous burden imposed on organizers to provide security, medical and emergency fire services, as well as clean-up services. They must also obtain permission from the traffic authorities if the peaceful assembly might require changes to traffic flows. The Special Rapporteur is also concerned about the lack of timely appeal options. He reminds the authorities and law enforcement officials of the Sarajevo Canton of their responsibility to facilitate peaceful assemblies and provide protection to participants. Placing such burdens and responsibilities on the organizers and failing to facilitate peaceful assemblies constitutes a violation of the right to peaceful assembly for organizers and participants. For example, in 2017, the Sarajevo Open Centre tried to organize a protest march and requested changes to traffic flows to allow the march to take place on a public road. However, the Ministry of Transport of Sarajevo Canton did not respond in a timely manner, thus preventing the march from going ahead.³⁹

B. Responses to peaceful assemblies

77. The country witnessed unprecedented, widespread protests in 2014 after the Government approved plans for the privatization of some of the largest State-owned enterprises. Citizen-led protests, dubbed by media outlets as the Bosnian Spring, focused primarily on long-festering economic and social problems, but the participants also called on government officials to resign amid accusations of widespread corruption and indifference. There was violence and police repression of the protests. Since then, the only mass protests that have taken place were in 2018 and 2019 when citizens demanded justice and truth regarding the death of two young men, David Dragicevic in Banja Luka and Dzenan Memić in Sarajevo. In Republika Srpska, these protests were met with repression. Both cases remain unresolved.

C. Justice for David movement

78. The Justice for David movement was formed in 2018 in Banja Luka following the death of a student, David Dragicevic, with David's parents and other citizens holding regular peaceful assemblies in the main square in Banja Luka, demanding truth and justice. The assemblies were initially tolerated by the authorities. However, on 5 October 2018, when the largest gathering of protesters, bringing together around 40,000 people, took place on the eve

³⁸ See United Nations Children's Fund (UNICEF), *Free and Safe to Protest: Policing Assemblies Involving Children* (2023).

³⁹ OSCE, "The enjoyment of freedom of peaceful assembly in BiH: monitoring observations of the OSCE Mission to Bosnia and Herzegovina", p. 14.

of the general election, police blocked some parts of the city, stopping buses and private cars, in order to prevent people from participating.

79. The Justice for David movement and its supporters continued to hold large protests until the end of December 2018 but from that time, the police started issuing reports to members of the movement, citing misdemeanours for their participation in the protests. Also, in December 2018, the police removed an improvised memorial dedicated to David at the main square where gatherings were held. As citizens sought to protect the memorial, on 25 December 2018 and in the following days, the police used excessive force against the peaceful protesters, including batons and special units, to systematically disperse all peaceful gatherings. They also arrested some prominent members of the movement and opposition politicians who expressed support for the movement. On 31 December 2018, the Minister of the Interior of Republika Srpska publicly stated that all gatherings of the Justice for David movement would be prevented or restricted, arguing that there had been frequent violations of public order and peace, the commission of criminal acts, violations of the normal flow of traffic and non-compliance with the law on public gatherings.

80. In early 2019, the Justice for David movement held peaceful gatherings with small groups holding candles in the garden of the central Orthodox Church in Banja Luka. In June 2019, several members of the movement filed a request to the District Court of Banja Luka for the protection of their fundamental rights, including their rights to freedom of peaceful assembly and freedom of movement. After the District Court rejected these requests, one of the members appealed to the Constitutional Court of Bosnia and Herzegovina; his appeal has been pending since August 2021. In October 2021, over 160 reports for misdemeanours were filed by the police against persons involved in gatherings, mostly for alleged violations of the public peace and order. In most of the subsequent proceedings, initiated by the activists who received reports for misdemeanours, the courts have not determined that there have been any violations and have rejected the cases.

D. Lesbian, gay, bisexual, transgender and intersex activities

81. Notable restrictions to the right to peaceful assembly have also occurred in relation to the activities of lesbian, gay, bisexual, transgender and intersex activists in both Sarajevo and Banja Luka. For example, the Constitutional Court of Bosnia and Herzegovina found that Sarajevo Canton had violated the right to freedom of peaceful assembly of such persons by not ensuring the safety of the participants at the 2024 Merlinka film festival.

82. While Pride parades have been successfully held in Sarajevo since 2019, disproportionate obligations have been imposed on the organizers to provide security and emergency services, as noted above, and the authorities have failed to protect participants.

83. On 18 March 2023, in Banja Luka, the authorities banned the screening of a movie proposed by the Bosnia and Herzegovina Pride March organizers and other civil society actors, claiming that the police would be unable to ensure the safety of participants. As a result, the organizers decided to hold a private meeting at the premises of a non-governmental organization, Transparency International Bosnia and Herzegovina, later that day. A police officer subsequently came to the Transparency International premises, warning participants to leave as they would be imminently attacked. Shortly afterwards, several activists were physically attacked and assaulted in front of those premises by a group of people described as “hooligans”. Almost two years later, the perpetrators of this attack have not yet been identified or brought to justice, nor has there been any investigation into or accountability for the apparent failure of the police to prevent the attack and protect the victims, despite the police being aware of the imminent threat.⁴⁰ The relevant officials with command functions should be made accountable for their acts and omissions to ensure that all feasible measures were put in place to prevent the attack on the peaceful assembly of lesbian, gay, bisexual, transgender and intersex persons and protect the participants, given their knowledge of the serious and imminent risk of violence. It is especially worrying that the attack was preceded and followed by publicly expressed hate speech and homophobic comments, including by

⁴⁰ Human Rights Committee, general comment No. 37(2020), para. 27.

some political leaders and on social media. Such discourses may have led to creating the hostile environment that contributed to facilitating or inciting the violent attack and has further hampered access to justice for victims.

84. States have an obligation to protect participants from all forms of discriminatory abuse and attacks, including from possible abuse by non-State actors, such as interference or violence by other members of the public or counterdemonstrators.⁴¹ The potential for a peaceful assembly to provoke negative or violent reactions from members of the public is not a sufficient reason to prohibit or restrict such an assembly. States have an obligation to take all reasonable measures to protect all participants and ensure such assemblies can occur without interruption. An unspecified risk of violence or the mere possibility that the authorities might lack the capacity to prevent or neutralize violence emanating from those opposing an assembly is insufficient. The State must demonstrate, based on a concrete risk assessment, that it would be unable to manage the situation, even with the deployment of significant law enforcement resources.⁴²

VI. Effective remedies and oversight bodies

85. Independent institutions, when free from political pressures and adequately resourced, play a vital role in holding Governments to account and fostering public trust.

A. Constitutional Court

86. The Constitutional Court of Bosnia and Herzegovina is the ultimate judicial authority in safeguarding constitutional rights, including the human rights of all individuals in the country. Its role is crucial in interpreting and ensuring implementation of the obligations that are incumbent on the State and all its constituent parts under the European Convention on Human Rights and other international human rights treaties. The Constitutional Court also possesses appellate jurisdiction over constitutional issues emanating from judgments rendered by any court within the country. Consequently, it functions as the *de facto* supreme court, or final instance court, in disputes related to the protection of human rights guaranteed under the Constitution.⁴³ The Constitutional Court receives approximately 5,000 complaints each year from citizens and legal persons seeking protection of their human rights.

87. The Constitution of Bosnia and Herzegovina mandates that the Constitutional Court shall have nine members, four members selected by the House of the Representatives of the Federation, two members by the Assembly of Republika Srpska and the remaining three members by the President of the European Court of Human Rights after consultation with the Presidency – those three members must not be citizens of Bosnia and Herzegovina or of any neighbouring State.

88. In August 2023, the Special Rapporteur on the independence of judges and lawyers wrote to the Government regarding the pressure being brought to bear on the Constitutional Court by the leadership of Republika Srpska, which he stated might amount to interference with the independence and functioning of the Court.⁴⁴ The National Assembly of Republika Srpska had not appointed a new judge after the retirement, in November 2022, of one of the two judges appointed by Republika Srpska to the Court, had pressured the remaining judge to resign (several years before the end of his term), which led to his retirement in December 2023, and is now refusing to appoint the two judges required under the Constitution.

89. On 19 June 2023, the Constitutional Court issued a press release denouncing the political pressure from the leadership of Republika Srpska on one of its judges, describing the situation as the “biggest crisis” faced by the institution since its establishment. The Court revised its procedures to ensure it would be able to issue decisions in case of the repeated absence of a judge. The leadership of Republika Srpska viewed these changes as a threat and

⁴¹ Ibid., paras. 24 and 25.

⁴² Ibid., para. 52.

⁴³ See BIH 2/2023.

⁴⁴ Ibid.

called for their withdrawal, as well as for reform of the Court, including the removal of international judges. In June 2023, Republika Srpska adopted two laws, one providing that the rulings of the Court would no longer apply in the entity until the Court was reformed and the other annulling the obligation of the Official Gazette to publish the decisions of the High Representative.

90. On 1 July 2023, the High Representative declared the two new laws adopted by Republika Srpska null and void, and amended the Criminal Code of Bosnia and Herzegovina to introduce a criminal offence, punishable by up to five years' imprisonment, for non-implementation of the decisions of the High Representative. He also defined more precisely, in order to make them more enforceable, the existing criminal offences for not implementing the rulings of the Constitutional Court, the Court of Bosnia and Herzegovina, the Human Rights Chamber for Bosnia and Herzegovina (no longer in existence) and the European Court of Human Rights.

91. The Special Rapporteur is very worried that the Constitutional Court is being obstructed from functioning effectively, while approximately 8,600 cases are awaiting a decision. The right to access a timely and effective remedy, including with regards to violations of the rights to freedom of peaceful assembly and association, is being obstructed. Previously, the Grand Chamber of the Constitutional Court, which is composed of local judges only, deliberated on appellant cases. However, due to the vacancies at the Court created by Republika Srpska, all cases must currently be considered by the Court at a plenary session, which includes the international judges. That means everything must be translated, significantly slowing down the process and rendering the Court unable to process cases in a timely manner.

92. The remaining members of the Constitutional Court, whom the Special Rapporteur met, highlighted the extensive efforts the Court is making to ameliorate the impact of the vacancies and shared their deep concern that the situation was eroding citizens' rights to appeal.

93. The effective functioning of the Constitutional Court is vital to ensuring that the rights of citizens, including the rights to freedom of peaceful assembly and of association, are guaranteed and protected, and that victims have access to effective remedy. The fact that the appeal by the Justice for David movement of August 2021 (para. 80 above) is still pending is a good example of the problems it is currently facing. The Pride organizing committee and other lesbian, gay, bisexual, transgender and intersex activists are also still waiting on a decision from the Constitutional Court regarding a case that they filed, in which they claimed that the authorities had incited violence against them in Banja Luka in March 2023 and that the police had failed to prevent them being attacked. As such decisions remain pending, victims are prevented from accessing other means of human rights protections, such as appealing to the European Court of Human Rights. It remains to be seen whether the latter would admit an application without a decision of the Constitutional Court, as the delays are effectively preventing the right to obtaining an effective remedy.

B. Institution of the Human Rights Ombudsperson of Bosnia and Herzegovina

94. The Institution of the Human Rights Ombudsperson of Bosnia and Herzegovina is led by three Ombudspersons, a Bosniak, a Croat and a Serb. This tripartite power sharing and consensual decision-making often hampers the effective functioning of the Institution, including its ability to provide effective remedies. There have also been calls for its independence to be strengthened and for it to be more proactive.⁴⁵ There is a low rate of implementation of its recommendations.

95. The Special Rapporteur urges Bosnia and Herzegovina to respect, protect and ensure the independence and effective functioning of the Institution of the Human Rights Ombudsperson so it can perform its key role, including protecting the rights to freedom of peaceful assembly and of association, free from political pressure. National human rights

⁴⁵ European Commission, 2023 *Communication on EU Enlargement Policy*.

institutions should also “Interact with human rights defenders and civil society in a regular manner and include them in the planning and implementation of, as well as follow-up on, the NHRI’s activities, in a gender and disability-sensitive manner”.⁴⁶ The Special Rapporteur encourages the Institution to work towards building an enabling and inclusive civic space, where civil society can contribute to progress on civil, political, social and economic rights for all, in line with its pledge in the context of the seventy-fifth anniversary of the Universal Declaration of Human Rights.

C. Criminal prosecutions

96. Under international human rights law, States are responsible for respecting, protecting and fulfilling the rights of those within their jurisdiction and for providing effective remedies when human rights are violated. They are obliged to investigate alleged violations promptly, thoroughly and effectively through independent and impartial bodies, to bring those responsible for serious crimes to justice and to provide reparations, including taking effective measures to prevent repetition of abuses.⁴⁷ Failure to do so constitutes a violation of the human rights obligations of States. Impunity for human rights violations related to the exercise of fundamental freedoms has a wide and chilling effect, and contributes to the closing of civic space.

97. Each entity has its own prosecutor’s office and judicial bodies. The Prosecutor’s Office of Bosnia and Herzegovina has special jurisdiction over certain crimes, including war crimes, and most serious crimes related to organized crime and corruption, among others. In the Federation, each canton has its own prosecutor’s office, while in Republika Srpska, there are six district prosecutors’ offices, which follow the territorial jurisdiction of the district courts.

98. Although prosecutors’ offices are defined by law as autonomous bodies, both they and the judiciary at all levels have been subjected to varying degrees of political pressure. The Special Rapporteur heard consistent concerns expressed, including from the authorities, about the lack of prosecutions of perpetrators of attacks on civil society and journalists, and the lack of accountability. These included the lack of progress in the case of the attacks in Banja Luka on 18 March 2023, the unsolved murders of David Dragicevic and Dzenan Memic, and the lack of accountability for physical and other forms of attacks on journalists, protesters and activists.

99. Bosnia and Herzegovina should urgently increase the capacity, efficiency and accountability of the criminal justice system in all jurisdictions across the country. That is critical to regaining the trust of the people in the system, particularly in a highly polarized environment.

100. Since the Special Rapporteur’s visit, there have been developments affecting criminal justice, including the Republika Srpska law on non-application of the laws and ban on the operation of extraconstitutional institutions of Bosnia and Herzegovina and the law amending the Criminal Code of Republika Srpska. The Constitutional Court of Bosnia and Herzegovina temporarily suspended both those laws on 7 March 2025, assessing that they would “call into question the principle of proper administration of justice” and might contribute to impunity for persons accused of various criminal acts.⁴⁸ The Constitutional Court also suspended the law on the High Judicial and Prosecutorial Council of Republika Srpska, assessing that it “poses a serious threat to the already established judicial system”.⁴⁹

⁴⁶ Global Alliance of National Human Rights Institutions, “[Marrakesh Declaration on the role of national human rights institutions in expanding civil space and promoting and protecting human rights defenders](#)” (October 2018).

⁴⁷ [A/HRC/53/38](#), para. 6.

⁴⁸ See <https://www.ustavnisud.ba/en/extraordinary-plenary-session-2549>.

⁴⁹ *Ibid.*

VII. Public participation deficit

101. Although Bosnia and Herzegovina has multiple institutional levels of representation, there is a significant lack of effective and meaningful representation and of the democratic participation of citizens in political and electoral processes and decision-making. The persistent failure of the authorities to implement the rulings of the European Court of Human Rights on guaranteeing equal rights to vote and to be elected disenfranchises many people in the country and violates the fundamental principles of equality and non-discrimination that are the foundation of any democratic society.

102. There is also a lack of systematic, effective, inclusive and broad consultation with civil society and communities, including persons with disabilities, minorities and victims' groups, so as to ensure that laws and decisions uphold human rights and civic freedoms. There is also a lack of transparency in legislative, policy and accountability processes. The legislative initiatives seeking to unduly restrict fundamental freedoms (as described above), the absence of a unified legislative framework for the effective facilitation of peaceful assemblies in line with international standards, and the persistent use of hate speech and political rhetoric denigrating human rights, hinder inclusive dialogue and political and public participation.

103. That public participation deficit seems to be a contributor to the high rate of emigration, particularly of young people. There are concerns that emigration is not just about economic circumstances, but about loss of hope and eroded trust in the governance of the country, as people feel excluded from decision-making that affects their lives and futures.

VIII. Conclusions

104. **The rights to freedom of peaceful assembly and of association are key foundations for a healthy democracy and to ensure sustainable peacebuilding, reconciliation and democratic transition. They enable the right to public participation and ensure transparent, inclusive and accountable institutions and processes. In post-conflict societies, they support inclusive, victim-centred transitional justice. As emphasized by the Institution of the Human Rights Ombudsperson, the right to freedom of peaceful assembly is of key importance for the creation of a tolerant and pluralistic society in which groups with different beliefs, practices and policies can live together.⁵⁰**

105. **However, the Special Rapporteur's assessment is that these rights are not sufficiently protected in legislation or in practice in Bosnia and Herzegovina and are under attack in some areas. Despite some progressive legislation, many laws remain inconsistent with international human rights obligations related to the rights to freedom of peaceful assembly and of association. Especially concerning are restrictive laws and bills in Republika Srpska and in some cantons of the Federation that restrict the rights to freedom of peaceful assembly and of association and to freedom of opinion and expression. The preponderance of hate speech and hostile political rhetoric towards some civil society actors and opposition political parties, and the promotion of ethno-nationalist, anti-gender and homophobic narratives, or more broadly the stigmatization of those seen as critical or expressing dissent, generate a widespread chilling effect on civil society. Civil society organizations, human rights defenders, journalists and environmental activists are all affected, limiting their ability to operate freely and safely, and perform their legitimate work, including delivering essential services to communities and vulnerable individuals.**

106. **The glorification of convicted war criminals and the denial of atrocity crimes, including the Srebrenica genocide, creates a hostile environment for survivors, returnees and victims' associations and civil society actors promoting transitional justice and peacebuilding and supporting war victims. Such narratives retraumatize**

⁵⁰ Human Rights Ombudsperson of Bosnia and Herzegovina, *Specijalni Izveštaj o Pravu na Slobodu Mirnog Okupljanja*, (2020), p. 6.

communities and threaten the fragile trust-building achieved. Banning victims' associations from marking atrocity sites or holding peaceful commemorative marches undermines the collective historical memory and weakens the resilience and cohesion necessary for building a democratic and peaceful society.

107. The need for harmonization of various and often contradictory laws between the two entities and between cantons is evident and urgent, in order to ensure equal access to and protection of rights for everyone in the country, irrespective of their ethnicity and residence. The inability of institutions to provide accountability is evident and requires urgent attention, particularly in terms of providing justice for the unlawful use of force by the police or their failure to protect the rights of participants in peaceful assemblies.

IX. Recommendations

108. To protect the ability of everyone in Bosnia and Herzegovina to exercise their rights to freedom of peaceful assembly and of association and in order to strengthen compliance with international human rights law and standards, and overcome the political crisis in the country, the Special Rapporteur urges all the authorities in Bosnia and Herzegovina:

(a) To stop stigmatization: political leaders and public officials should refrain from generating stigmatization, harmful rhetoric and hate speech targeting groups based on their ethnic background, religion, gender, sexual orientation and other grounds, as well as civil society actors exercising their legitimate activities, expressing criticism of authorities or holding differing views;

(b) To stop the denial of the Srebrenica genocide and of the war crimes and crimes against humanity perpetrated across Bosnia and Herzegovina, and ensure an enabling environment for all war victims' associations, activists and organizations engaged in peacebuilding. Political leaders and authorities must refrain from the denial of atrocity crimes, including the Srebrenica genocide, and from the glorification of individuals convicted of such crimes, and ensure a supportive and enabling environment for victims' associations and other associations and actors to continue promoting transitional justice, memorialization and non-repetition;

(c) To introduce a common and fact-based educational curriculum. In order to reverse hateful narratives and practices and overcome deep societal and ethnic divisions and prevent recurrence of violence, the authorities should revise and harmonize the education system, ensuring that it includes facts about past atrocities established by the courts and promotes truth and non-discrimination among all;

(d) To end impunity and ensure accountability for all incidents of harassment and attacks on civil society actors, activists and peaceful protesters, including by taking urgent action to increase the capacity and accountability of the justice system across the country;

(e) To repeal and refrain from adopting laws pertaining to "foreign agents" or "foreign influence". Republika Srpska should repeal the Law on the Special Registry and Publicity of the Work of Non-Profit Organizations;

(f) To repeal the criminalization of defamation in Republika Srpska, which should repeal the amendments to the Criminal Code that criminalize defamation;

(g) To guarantee meaningful inclusion and ensure a safe and free environment conducive to dialogue and to the participation of all citizens, so that everyone, without discrimination based on ethnicity, religion, gender, sexual orientation, geographical location or any other ground, can have a say in their common future;

(h) Following meaningful consultation with civil society, to develop and adopt State-level framework legislation to enable and protect the rights to freedom of peaceful assembly and of association in line with international human rights standards;

(i) To strengthen institutions, implement the judgments and recommendations of the Constitutional Court, the Institution of the Human Rights Ombudsperson and regional and international human rights bodies. The entities concerned must ensure the proper and effective functioning of the Constitutional Court, including the prompt appointment of judges based on merit, to guarantee the Court's independence and integrity;

(j) To implement thorough and effective reform of the law enforcement and justice systems and ensure the effective oversight and accountability of those institutions. Ensure accountability for enforcement of the law and the conduct of officials in the chain of command, including for the Justice for David Movement and the attack on human rights defenders and lesbian, gay, bisexual, transgender and intersex activists in Banja Luka in March 2023;

(k) To remove discriminatory constitutional provisions and ensure equal electoral rights. Hold a multi-stakeholder dialogue to ensure the long overdue implementation of the decisions of the European Court of Human Rights, including the jurisprudence in the case of *Sejdić and Finci v. Bosnia and Herzegovina*, which is essential to eliminating long-standing discrimination in relation to the right to vote and to be elected.

109. The Special Rapporteur also calls for increased human and financial resources for the United Nations human rights component in Bosnia and Herzegovina as essential to supporting efforts to address the critical issues raised in his report, including transitional justice and addressing discrimination. Enhanced human rights-focused international coordination is essential to support the country at this crucial moment.

110. The international community, including the European Union and the United Nations, is encouraged to prioritize the implementation of the recommendations of the present report, to improve the civic space in Bosnia and Herzegovina as a key enabler for sustainable peace and for preserving the democratic achievements of the country.
