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Desk Research

for a Freedom of Expression Toolkit

Promoting a comprehensive, human rights-based concept of freedom of expression in BiH - **Freedom of Expression HUB**

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INTRODUCTION

1) BACKGROUND

The Action "Freedom of Expression Hub" promotes a comprehensive, human rights- based understanding of freedom of expression that creates trust in democratic institutions and empowers civil society and youth in particular to understand and promote the right to freedom of expression, including its limitations, through partnership with media professionals and representatives of the judiciary/ institutions. It also capacitates media professionals to address misinformation, hate speech, misogyny, and defamation. The right to freedom of expression (henceforth FoE) is declared in Article 19 of the Universal Declaration of Human Rights and enshrined in several international and regional human rights instruments.[1] It is a fundamental pillar of any democratic society and plays a crucial role in safeguarding individual rights, promoting social progress, and ensuring the healthy functioning of democratic institutions.

FoE empowers individuals, fosters accountability and transparency. However, freedom of expression must not be abused or exploited in ways that cause harm, spread misinformation, incite violence, or infringe upon the rights of others. The abuse of FoE has significant negative consequences for individuals, communities, and society. States shall, according to international human rights law, restrict the right to FoE under very limited circumstances.[2] Criminalising defamation and blasphemy laws may in many cases be unlawful restrictions to freedom of expression.[3]

Despite the existence of an adequate legislative framework in Bosnia and Herzegovina (BiH), the implementation of the relevant international standards on FoE remains a challenge.[4] The 2022 VIBE study finds that there is still a significant amount of misinformation and hate speech, particularly online; media outlets struggle financially and are rarely independent, and journalists and citizens face problems in obtaining information. The media literacy skills of citizens are low, and there is a growing trend of distrust in institutions. The polarised political climate and constant verbal attacks have created a hostile environment for media professionals but also for the public, thereby causing a lack of trust in institutions.

Politicians continued their public attacks and disparaging remarks against journalists, CSOs, analysts, and media workers, particularly against women. Unfortunately, media publishes and broadcasts these contents and judiciary rarely penalise these attacks.[5] In its 2022 Report on Bosnia and Herzegovina, the European Commission noted that the country made no progress

[1] Most notably International Covenant on Civil and Political Rights (ICCPR) (article 19); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (article 5): Convention on the Elimination of All Forms of Discrimination against Women (article 7), European Convention on Human Rights (article 10), Charta of Fundamental Rights of the European Union (article 11), Bishkek Declaration. Organization for Security and Co-operation in Europe (OSCE)

[2] For lawful restrictions see for example Human Rights Council Resolution A/HRC/RES/12/16, Promotion And Protection Of All Human Rights, Civil, Political, Economic, Social And Cultural Rights, Including The Right To Development, 12 October 2009, available at https://www.right-docs.org/doc/a-hrc-res-12-16/ .

[3] OHCHR Fact Sheet Freedom of Opinion and Expression, available at https://www.ohchr.org/sites/default/files/Documents/Issues/Expression/Factsheet_1.pdf

[4] Council of Europe Commissioner for Human Rights, Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Bosnia and Herzegovina from 12 to 16 June 2017, CommDH(2017)28, 7 November 2017, p. 1, available at https://rm.coe.int/09000016807642b1.

[5] USAID and IREX, Vibrant Information Barometer Bosnia and Herzegovina 2022, p.3, available at https://www.irex.org/VIBE_2022_Bosnia_Herzegovina

in addressing key priority 12 to guarantee freedom of expression and of the media and the protection of journalists[6] and should ensure a safe and enabling environment for civil society.[7]

The Council of Europe noted that continuing support to further enhance the capacities of the judiciary in BiH as the guardian authority to preserve FoE in line with European standards, as well as the capacities of media professionals, is paramount.[8] The awareness and capacities of policy makers, media actors and citizens of a rights-based approach to freedom of expression, media literacy and active citizenship skills has to be enhanced through cooperation, dialogue and exchange.

The OSCE Mission to BiH observes that hate speech is still part of everyday life in BiH and that incidents occur frequently in the political discourse. Hate speech is usually based on ethnic or religious identities. A recent study on media habits of adults in BiH indicated that 35% of respondents have been exposed to potentially harmful content in the media, including hate speech (48%) and discriminatory content (32%).[9] The use of such rhetoric further deepens the already entrenched enmity and mistrust between the ethnic groups.[10]

Furthermore, (online) hate speech in BiH disproportionately affects women. Sexist or misogynist hate speech may also prevent women from expressing opinions and push them out of the public sphere, thus reinforcing the gendered democratic deficit.[11] There is continued concern that legal or administrative provisions in BiH are abused to restrict the rights to FoE and peaceful assembly.[12]

Municipal regulations on public order that threaten administrative fines for online comments further shrink the space for freedom of expression.[13] One recent concern regarding FoE are legislative decisions to re-criminalize defamation in the Republika Srpska (RS) entity. The National Assembly of RS has passed amendments to the Criminal Code of RS on 20 July 2023, by which defamatory speech is criminalised. The amendments are vague and can be interpreted in excessively broad ways to greatly limit the freedom of expression and association of human rights defenders, media, journalists, activists, NGOs and all other citizens.[14] International human rights standards on FoE and freedom of association, as well as the international obligations of BiH were not considered in the preparation and discussion

[6] European Commission, Bosnia and Herzegovina 2022 Report, 12 October 2022, , p. 30, available at https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Bosnia%20and%20Herzegovina%20Report%202022.pdf

[7] Press statement following the 5th meeting of the EU-Bosnia and Herzegovina Stabilisation and Association Council, 23 July 2023, available at https://www.consilium.europa.eu/en/press/press-releases/2023/07/20/press-statement-following-the-5th-meeting-of-the-eu-bosnia-and-herzegovina-stabilisation-and-association-council/

[8] Council of Europe Action Plan for Bosnia and Herzegovina 2022 – 2025, 2021, p. 16, available at https://rm.coe.int/action-plan-bosnia-and-herzegovina-2022-2025-eng/1680a54231

[9] Hasanagić, Snježana et al, Research on Media Habits of Adults in Bosnia and Herzegovina, Council of Europe and Communications Regulatory Agency, 2021.

[10] European Commission against Racism and Intolerance (ECRI) Report on Bosnia and Herzegovina 2017, p. 13, available at https://rm.coe.int/third-report-on-bosnia-and-herzegovina/16808b5602 .

[11] Council of Europe, Violence against Women in Bosnia and Herzegovina, 2019, p. 21, available at https://rm.coe.int/violence-against-women-in-politics-in-bosnia-and-herzegovina/16809fa90f

[12] Council of Europe's Sexual Orientation and Gender Identity Unit Country factsheet, available at https://rm.coe.int/bosnia-and-herzegovina/168097ac7f

[13] European Commission, Bosnia and Herzegovina 2022 Report, p. 31.

[14] International Federation for Human Rights (FIDH), Bosnia and Herzegovina: New laws in Republika Srpska threaten freedom of expression and association, Open Letter, 9 May 2023, available at https://www.fidh.org/en/region/europe-central-asia/bosnia-herzegovina/bosnia-and-herzegovina-new-laws-in-republika-srpska-threaten-freedom-of-expression-and-association

regarding these laws. EU,[15] UN[16] and local experts[17] voice grave concerns that changes in the laws of RS risk to adversely impact FoE in BiH and contribute to a climate of shrinking civic space and have a potential chilling effect across Bosnia and Herzegovina. They constitute a legislative attack on civil society, media, and the open expression of any kind of criticism or dissent. Moreover, the reintroduction of criminal penalties for defamation in RS represents a step backwards in the process of European integration, as the commitment to guarantee freedom of the press and of expression and to protect journalists is one of the fourteen key priorities that BiH must meet to be able to start EU accession negotiations.[18]

Enhanced human rights-based understanding of FoE and Freedom of Information and enhanced capacities amongst civil society, youth, and media professionals is critical for the progress of the Rule of Law in Bosnia and Herzegovina. As FoE is one of the essential foundations of a democratic society, it is essential for the fulfilment and enjoyment of a wide range of other human rights. Efforts to protect and promote FoE, freedom of assembly, and other human rights and freedoms should involve various stakeholders, including civil society organizations, media outlets, legal experts, and concerned citizens. Promoting a human rights-based understanding of FoE will furthermore benefit and empower vulnerable and marginalised groups.

2) OBJECTIVES OF THE TOOLKIT

Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute a corner stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions. Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.[19] Limitations to the right to freedom of expression are possible only under specific circumstances.

In the ever-evolving landscape of information and communication technologies, the fundamental right to freedom of expression stands as a cornerstone of democratic societies. This right, enshrined in international human rights instruments[20], empowers individuals to

[15] Press statement following the 5th meeting of the EU-Bosnia and Herzegovina Stabilisation and Association Council, 23 July 2023, available at https://www.consilium.europa.eu/en/press/press-releases/2023/07/20/press-statement-following-the-5th-meeting-of-the-eu-bosnia-and-herzegovina-stabilisation-and-association-council/

[16] Irene Khan, Special Rapporteur on the freedom of opinion and expression; Clément Nyaletsossi Voulé, Special Rapporteur on freedom of peaceful assembly and of association; Mary Lawlor, Special Rapporteur on human rights defenders, Bosnia and Herzegovina - UN experts alarmed by re-criminalisation of defamation in the Republika Srpska entity, Press Release, 25 July 2023, available at https://www.ohchr.org/en/press-releases/2023/07/bosnia-and-herzegovina-un-experts-alarmed-re-criminalisation-defamation

[17] Lučka, D. (2023, May 2). Brief explanation and analysis: Amendments to the Criminal code of Republika Srpska. Banjaluka Centre for Human Rights. Available at https://www.etrafika.net/drustvo/88573/brief-explanation-and-analysis-amendments-to-the-criminal-code-of-republika-srpska/

[18] Press statement following the 5th meeting of the EU-Bosnia and Herzegovina Stabilisation and Association Council

[19] UN Human Rights Committee. (2011). General comment No. 34 on Article 19: Freedoms of opinion and expression (CCPR/C/GC/34). Available at https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf.

[20] See in particular: Universal Declaration of Human Rights (UDHR), Article 19; International Covenant on Civil and Political Rights (ICCPR), Article 19; European Convention on Human Rights (ECHR), Article 10; Charter of Fundamental Rights of the European Union (CFREU), Article 11; Framework Convention for the Protection of National Minorities (FCNM), Article 9.

express their thoughts, opinions, and ideas without fear of censorship or reprisal. Furthermore, states are required to ensure that the right to freedom of expression is given effect to in the domestic law of the state.[21] However, the digital age has also brought new challenges to the exercise of this right, as the rapid spread of information through various channels has created opportunities for misinformation, hate speech, and other forms of harmful communication.

To address these challenges and foster a more responsible and informed environment, the Freedom of Expression Toolkit (FoE Toolkit) has been developed. This educational resource aims to empower young people and media professionals with a deeper understanding of freedom of expression, its limitations, and the ethical considerations surrounding its exercise. By equipping individuals with knowledge and practical skills, the toolkit seeks to promote responsible communication, combat harmful speech, and uphold the principles of democratic discourse.

The primary objectives of the FoE Toolkit are as follows:

- To provide a comprehensive overview of freedom of expression and its role in democratic societies.
- To define key terms related to freedom of expression, including misinformation, hate speech, misogyny, and defamation.
- To explore the limitations related to the right of freedom of expression, including the balance between individual rights and the protection of others.
- To equip young people and media professionals with the skills to identify and challenge harmful speech, misinformation, and online harassment.
- To promote responsible communication practices that foster open, inclusive, and respectful dialogue.

3) IMPORTANCE OF FREEDOM OF EXPRESSION

The right to freedom of expression is vital for exercising other rights and for fully realizing our humanity. It serves as the foundation of every free and democratic society. What does this right entail? It includes the ability to:

- Express ideas and opinions, and share information of all kinds;
- Access, seek, and receive information; and
- Communicate information and ideas across borders and through any medium.

Why is this right so essential?

- It is crucial for the full realization of our humanity. Without it, our most fundamental liberties—the right to think and share our views with others—would be denied.
- It is a necessary condition for democracy. A democratic system cannot function without the active and effective participation of citizens in a free and diverse society. To participate, we must have access to self-expression and the information needed to make informed decisions about the society we wish to live in.
- It is indispensable for exercising other key rights. Without the right to freedom of expression, other rights, such as the right to freedom of association and participation

[21] UN Human Rights Committee. (2011). General comment No. 34 on Article 19

in public affairs cannot be fully realized. Denial of this right would also hinder the exercise of the rights to education and to health.

4) KEY DEFINITIONS

To ensure a shared understanding of the concepts discussed throughout the toolkit, it is essential to define key terms related to freedom of expression and its associated issues:

Freedom of expression protects your right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud (for example through public protest and demonstrations) or through:

- published articles, books or leaflets
- television or radio broadcasting
- works of art
- the internet and social media

Freedom of expression also protects your freedom to receive information from other people by, for example, being part of an audience or reading a magazine.

Although you have freedom of expression, you also have a duty to behave responsibly and to respect other people's rights.

Public authorities may hence restrict FoE if they can show that their action is lawful, necessary and proportionate in order to:

- protect national security, territorial integrity (the borders of the state) or public safety
- prevent disorder or crime
- protect health or morals
- protect the rights and reputations of other people
- prevent the disclosure of information received in confidence
- maintain the authority and impartiality of judges

An authority may be allowed to restrict your freedom of expression if, for example, you express views that encourage racial or religious hatred.

However, the relevant public authority must show that the restriction is 'proportionate', in other words that it is appropriate and no more than necessary to address the issue concerned.

Misinformation: Unintentionally false or inaccurate information that is shared without malicious intent. ***Disinformation***, by contrast, is deliberately false or misleading information that is created and spread with the intention to deceive.

Defamation: The communication of false and defamatory statements about an individual or organization that damages their reputation.

Hate speech: can be understood as any form of communication that involves discriminative approaches or hostility directed towards particular social groups and/or their members on the grounds such as race or ethnicity (racism, xenophobia, antisemitism, etc.), gender (sexism,

misogyny), sexual orientation (homo transphobia), age (ageism), disability (ableism), etc. However, there is no universally accepted definition of hate speech.[22]

Misogyny: Hostility or contempt towards women.

[22] See also Council of Europe, *Online Course: Hate Speech (2020, available also in Bosnian language);* Amnesty International, Video: Understanding the Limits on Freedom of Expression

RESEARCH AND ANALYSIS

1) LEGAL PROVISIONS

a. Identification of Reliable Sources

To ensure the accuracy and credibility of the information gathered, the research team carefully identified and selected authoritative sources for the study. These sources included:

- *International human rights treaties and conventions*, such as the Universal Declaration of Human Rights (UDHR, Article 19); International Covenant on Civil and Political Rights (ICCPR, Article 19); European Convention on Human Rights (ECHR, Article 10); Charter of Fundamental Rights of the European Union (CFREU, Article 11). These treaties and conventions provide the international legal framework for freedom of expression.
- *Regulatory and institutional frameworks on freedom of expression from countries outside of Bosnia and Herzegovina that can serve as good practice examples.*
- *Legal decisions and case law related to freedom of expression*. These sources provide insights into how courts have interpreted and applied freedom of expression provisions in specific cases.
- *Publications and reports from relevant organizations*, such as the United Nations Human Rights Committee (UN HRC), the Council of Europe (CoE) including the Commissioner for Human Rights, the European Union (EU), the Organisation for Security and Cooperation in Europe (OSCE) and Amnesty International, Article 19 or Human Rights Watch. These organizations provide regular reports on freedom of expression issues around the world.
- *Academic research papers and articles on freedom of expression*. These sources provide in-depth analysis of the academic literature on freedom of expression.

b. Legal Frameworks on Freedom of Expression

Freedom of expression is a fundamental human right enshrined in Article 19 of the Universal Declaration on Human Rights (UDHR) and numerous international conventions and national constitutions. Bosnia and Herzegovina is committed to various international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). Article 19 of this Covenant ensures that everyone has the right to freedom of opinion and expression. This right encompasses the freedom to seek, receive, and share information and ideas of all kinds, across any borders, and through any medium, whether spoken, written, in print, as art, or via any other media. Both, the UDHR and the ICCPR, also emphasize the importance of freedom of expression for the functioning of democratic societies and for the realization of other human rights.

The international framework: **Article 19. The Universal Declaration of Human Rights (1948)**

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

http://www.un.org/en/universal-declaration-human-rights/

Article 19. International Covenant on Civil and Political Rights (1966)

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

a) For respect of the rights or reputations of others;

b) For the protection of national security or of public order (ordre public), or of public health or morals."

https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf

In Bosnia and Herzegovina, freedom of expression is enshrined in the constitutions of the state and its entities, as well as the Statute of the Brčko District.

Article II (Human Rights and Fundamental Freedoms) of the Constitution of Bosnia and Herzegovina determines BiH and both Entities ensure the highest level of internationally recognized human rights and fundamental freedoms. The catalogue of rights enumerates freedom of expression. Freedom of expression provisions are also included in the Constitution of the Federation of Bosnia and Herzegovina (Article II/A) and the Constitution of the Republika Srpska (Articles 32 and 34)

The right is further safeguarded by the European Convention on Human Rights (ECHR) and its protocols, which take precedence over local laws according to the Constitution of Bosnia and Herzegovina. Article 10 ECHR provides that everyone has the right to freedom of expression, including the freedom to hold opinions without interference, and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The protection of freedom of expression also extends to radio and television broadcasters.

Article 10. European Convention on Human Rights (1950)

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

https://70.coe.int/pdf/convention_eng.pdf

The BiH Law on Communication stipulates that broadcasting regulations must uphold freedom of expression and diversity of opinion while adhering to standards of conduct such as non-discrimination, fairness, accuracy, and impartiality. [23]

Within the Federation of Bosnia and Herzegovina, cantonal laws also protect freedom of expression and the press. For example, the Law on Information of the Tuzla Canton[24] states that freedom of public information includes the right to express oneself, gather, research, publish, and disseminate information. It also covers the freedom to print and distribute media, produce and broadcast programs, receive ideas and information, and establish legal entities for information dissemination.

Limitations

While freedom of expression is a fundamental right, it is not absolute and may be subject to limitations. These limitations are typically based on public order, morals or the protection of the rights of others. For example, laws on hate speech and defamation typically limit freedom of expression, as such expression can incite violence or harm individuals. Such limitations must meet some standards according to human rights law:

While the ICCPR acknowledges that the right to freedom of expression carries special duties and responsibilities, it allows for certain restrictions. Any limitations must be necessary, proportionate, have a legitimate purpose, and be clearly defined by law. These restrictions may be in place to respect the rights or reputations of others, or to protect national security, public order, public health, or morals.[25] The United Nations Human Rights Committee, through General Comment No. 34 on freedoms of opinion and expression, emphasizes that any restrictions imposed by a state must not endanger the right itself. The Committee stresses the need for effective measures to protect individuals from attacks aimed at silencing their expression. It also notes that moral limitations must be based on broad principles, not solely on one tradition.[26]

[23] Zakon o komunikacijama, available at http://legalist.ba/wp content/uploads/2014/02/Zakon-o-komunikacijama-BiH-nesluzbeni precisceni-tekst.pdf.

[24] Zakon o javnom informisanju, available at www.tk.kim.ba/Vlada/Dokumenti/Zakoni/2008/zakon_o_javnom_informisanju.pdf.

[25] International Covenant on Civil and Political Rights, Article 19.3.a and b. Moreover, Article 20 provides that any propaganda of war as well as any advocacy national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, shall be prohibited by law.

[26] *UN Human Rights Committee. (2011). General comment No. 34 on Article 19*

According to the European Court of Human Rights (ECtHR)[27], the right to freedom of expression can be restricted only if the restriction:

- is prescribed by law
- pursues one or more of the legitimate aims provided in Article 10 (2) ECHR: These are interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
- is necessary in a democratic society, or in other words: there are relevant and sufficient reasons for the restriction and the restriction is
- proportionate to the legitimate aim pursued.

Procedures for balancing freedom of expression with other rights

Freedom of expression is not an absolute right, and it must be balanced with other fundamental rights, such as privacy and reputation, when these collide with FoE. A common approach to balancing these competing interests is to use a process of proportionality. This involves weighing the importance of the expression against the harm it may cause to others. This process requires a careful assessment of the specific circumstances of each case. For example, when media outlets report on matters of public interest, the right to privacy of the persons concerned must be weighed against the right to freedom of expression and information. In other words, one must ask whether the public's interest in the matters reported outweighs the privacy rights of the people concerned, or the other way around.

Enforcement mechanisms for ensuring compliance with freedom of expression laws

States have a responsibility to ensure that their laws on freedom of expression are enforced effectively. Effective enforcement is crucial for ensuring the protection of freedom of expression. Key enforcement mechanisms, include:

- **Establishing independent and impartial courts**: Independent and impartial courts play a vital role in upholding freedom of expression by ensuring that laws and regulations are applied fairly and consistently.
- **Providing access to remedies**: Individuals whose freedom of expression has been violated should have access to effective remedies, such as legal challenges and damages.
- **Educating the public:** Public education about freedom of expression is essential to raising awareness of the right and promoting responsible exercise.
- **Promoting media freedom and access to information**: Media freedom and access to information are essential for the exercise of freedom of expression. States should protect media freedom and ensure that citizens have access to a wide range of information sources.

Findings highlight the importance of a robust and comprehensive legal framework for protecting freedom of expression. This framework should strike a balance between protecting freedom of expression and safeguarding other fundamental rights. Effective enforcement

[27] *European Court of Human Rights. (2022). Guide on Article 10 of the European Convention on Human Rights. Available at* https://www.echr.coe.int/documents/d/echr/Guide_Art_10_ENG.

mechanisms are also crucial for ensuring that the law is upheld and that individuals can exercise their right to freedom of expression without fear of censorship or reprisal.

c. Conclusions

There is a broad consensus on the definition of freedom of expression, which encompasses the right to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers. This right is enshrined in numerous international human rights treaties and conventions, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Despite this consensus on the definition of freedom of expression, there are some variations in how this right is interpreted and applied in different jurisdictions. For instance, some countries have more restrictive laws on hate speech and defamation, while others place greater emphasis on the protection of privacy and reputation. These variations reflect the different cultural and political contexts in which freedom of expression is exercised.

Limitations on freedom of expression are typically based on public order, morality, and the protection of the rights of others. In particular, hate speech and defamation laws are widely considered to be lawful limitations on freedom of expression, as such expression can incite violence or harm individuals. Limitations of freedom of expression must be narrowly tailored and subject to strict scrutiny to ensure that they do not unduly restrict the exercise of freedom of expression.

d. Freedom of Expression and Freedom of Assembly: Mutually Reinforcing Relationship

Freedom of expression and freedom of assembly are the cornerstones of a democratic society. The former empowers individuals to voice their opinions and ideas without censorship, fostering public discourse and holding those in power accountable. The latter allows people to come together collectively, expressing themselves through protests, marches, or demonstrations. These rights are not isolated concepts; they are tightly linked, forming a foundation for social change and progress.

Instead of a tapestry, freedom of expression and assembly are to be considered as two sides of the same coin. Freedom of expression provides the individual ideas and viewpoints. Freedom of assembly then allows these individual voices to be combined, creating a much stronger collective message than any single voice could achieve on its own.

Strength in Numbers: How Assembly Boosts Expression

- **Collective Voice***:* Freedom of assembly allows individuals to amplify their message. A lone voice expressing dissent might be easily ignored, but a large, collective demonstration can capture public attention and spark dialogue.
- **Visibility and Impact***:* Public protests and marches can draw media attention, raising awareness about an issue and putting pressure on authorities to address it. Think of the Yellow Vest movement in France (2018), where sustained assemblies played a key role in bringing economic inequality to the forefront of national discourse and pressuring the government for reforms.

- **Solidarity and Community***:* Freedom of assembly fosters a sense of solidarity among those who share a common cause. Protesting together creates a feeling of community and empowers individuals to act.

Balancing Act: When Assembly and Expression Collide

While freedom of expression and assembly are deeply intertwined, there can be situations where they need to be balanced with other important rights:

- **Public Order***:* The right to peaceful assembly does not extend to disrupting public order or inciting violence. Proportionality is key. A noisy protest might be permissible, but one that blocks emergency vehicles or turns violent could likely be restricted in accordance with human rights law.
- **Safety and Security***:* Large gatherings have the potential to pose safety and security risks. Authorities might need to impose reasonable restrictions on the time, location, and manner of assemblies to ensure public safety. For example, a protest planned near a sensitive government building might require a specific route to minimize security concerns.

Beyond Proportionality: Additional Considerations

- **Prior Restraint**: Preventing expression or assembly before it happens (e.g., government bans) is generally disfavored. Restrictions should only be imposed after the event if it causes demonstrable harm.
- **Marginalized Voices**: The ability to assemble and express dissent is particularly crucial for marginalized groups. Measures to restrict assembly should not disproportionately silence these voices.
- **Chilling Effect**: Overly restrictive laws or enforcement can create a chilling effect, deterring people from exercising their rights to expression and assembly.

Conclusion

Both freedom of expression and freedom of assembly are fundamental pillars of a healthy democracy. By allowing individuals to speak their minds and come together collectively, these rights create a space for public discourse, social change, and the pursuit of a just society.

2) REVIEW AND ANALYSIS OF RELEVANT CASE LAW

Case law is vital for the development and protection of freedom of expression. It provides a framework for interpreting and applying legal principles, ensures context-specific judgments, protects against arbitrary restrictions, and guides lawmakers and individuals. Through the continuous evolution of case law, courts can adapt to new challenges, promote democracy, and uphold human rights, ensuring that freedom of expression remains a robust and dynamic right in society.

The ECtHR attaches particular importance to political expression and debate on matters of public importance.

In its case law, the ECtHR has elaborated the scope and limitations of freedom of expression:

Scope of Article 10:

- **Broad:** Covers spoken, written, artistic, and even commercial expressions.
- **Not absolute:** Subject to restrictions for legitimate aims like protecting national security, public order, morality, reputation, or rights of others.

Legality of Restrictions under Article 10:

- **Necessity in a democratic society***:* State interference must be "prescribed by law", have a "legitimate aim", and be "necessary in a democratic society" to achieve that aim.
- **Margin of appreciation***:* States have some discretion in implementing restrictions. As they are closest to their populations, they have the most direct knowledge of local needs, history and practices. E.g., the ban of denial of the Shoah may be necessary in some states, while it is viewed as unnecessary in others. If such laws are introduced, the ECtHR reviews their proportionality and justification in cases brought before it.

Key Categories of Expression:

- **Political speech***:* High protection due to its role in democratic discourse. Criticism of authorities is generally allowed.
- **Hate speech***:* Can be restricted to protect vulnerable groups, but limitations must be precise and avoid stifling legitimate debate.
- **Artistic expression***:* Wide margin of appreciation, but restrictions related to public morality must be proportionate and respect artistic intent.
- **Commercial speech***:* Less protection, but restrictions must not unduly hinder access to information and fair competition.

a. Landmark Cases of the European Court of Human Rights (ECtHR)

Landmark cases from the European Court of Human Rights (ECtHR) played a pivotal role in shaping the international legal framework for freedom of expression.[28] These cases have addressed a broad spectrum of issues, including:

[28] Given the interest and background of the target group for this toolkit (being young people and media professionals, but not legal professionals), this section only highlights some of the landmark cases. In case you are interested in more-in depth information on the ECtHR's case law on freedom of expression, please visit the ECtHR caselaw database under: https://hudoc.echr.coe.int/ or check out Voorhoof, D., & McGonagle, T. (Eds.). (2022). Freedom of expression, the media and

The meaning of FoE and its balancing with other rights: In the seminal case of **Handyside v. United Kingdom** (1976), the ECtHR affirmed that Article 10 ECHR is "applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population." (Handyside v. UK, §49) It also noted the importance of striking a balance between freedom of expression and other fundamental rights, such as privacy and reputation. The court held that restrictions on freedom of expression must be narrowly tailored and meet a strict proportionality test, ensuring that they are necessary and proportionate to achieve a legitimate aim.

The definition of hate speech: In the landmark case of **Jersild v. Denmark** (1994), the ECtHR established a clear distinction between permissible and impermissible forms of hate speech. The court held that hate speech is protected by freedom of expression, but that it may be restricted if it incites to violence or hatred against a protected group.

The protection of journalists: In the influential case of **Özgür Gündem v. Turkey** (2000), the ECtHR recognized the crucial role of journalists in upholding democracy and protecting freedom of expression. The court held that journalists must be protected from arbitrary interference with their work, even in cases where the published material is deemed to be offensive or controversial.

Liability of online intermediaries for hate speech: In the case of **Delfi AS v. Estonia** (2015), the ECtHR considered the legality of civil liability of Delfi AS as the operator of a news website for user comments in its online forum. The Court held that the damages awarded to the victim of obvious hate speech in the Delfi-case did not violate the freedom of expression of Delfi as an intermediary.

The regulation of hate speech online: In the case of **Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary** (2016), the ECtHR addressed the issue of online intermediaries' liability for hosting hate speech content again. The Court reiterated that intermediaries have a responsibility to remove illegal content from their platforms, but that this responsibility must be balanced with the protection of freedom of expression. As the intermediary removed the content in question as soon as it was notified thereof, its liability found by national courts was a violation of the company's FoE rights. The Court stressed that an overall liability for all content – and with it an active duty to search for illegal content – could have detrimental impacts on platforms altogether, as they could then decide to close their forums altogether. This would hence indeed exert a chilling effect.

Intermediaries, algorithms and echo chambers

A significant part of our communication takes places online, especially on social media. Online spaces are governed by private companies, and their **algorithms (recommender systems) effectively decide what we see, read and hear** there. They function based on monetization of screen time by selling advertisement space online. In other words: What keeps us on the website for longer makes more profit for the company running the online space. In the past, these systems have sometimes shown a preference for hateful content, as such pieces of writing, pictures or videos trigger a lot of reactions. This has led to **hateful content having enormous online reach**. As well, **personal preferences are**

journalists: Case-law of the European Court of Human Rights. IRIS Themes, European Audiovisual Observatory, Strasbourg. Available at https://rm.coe.int/iris-themes-vol-iii-7th-edition-april-2022-final-/1680a65f50 which summarizes the ECtHR's case law on freedom of expression.

recorded and then used to show users similar content that they will most likely also appreciate, leading to echo chambers in which we only see what we already know – or think to know. In the most extreme cases, this can lead to social media feeds filled with hate speech.

Given these observations, it is of utmost importance that recommender systems are transparent and that intermediaries can be held accountable. This issue is not easy to resolve, as algorithms are in fact valuable business secrets. Companies have hence not cooperated sufficiently with governments. New EU legislation, most importantly the Digital Services Act (DSA), seeks to effectively regulate how corporations handle their recommender systems and how they moderate hate speech.

b. Cases regarding freedom of expression in Bosnia and Herzegovina

The case law from the Constitutional Court of Bosnia and Herzegovina (CCBH) and the European Court of Human Rights (ECtHR) covers several key legal issues related to freedom of expression:

Defamation and Media Liability

NPC International d.o.o. Banjaluka and Others (CCBH, 2017) and **S.D. v. D.R.** emphasized that liability for defamatory statements rests with those who publish them, especially if they fail to verify the truthfulness of their claims. **R. Š. v. RTVBN d.o.o. (CCBH 2018)** showed that the courts protect journalistic value judgments, especially when criticizing public figures, reaffirming the higher tolerance for public criticism.

Freedom of Assembly and Protection of Participants

Udruženje Q za promociju i zaštitu kulture, identiteta i ljudskih prava queer osoba (CCBH 2014) highlighted the state's responsibility to protect participants in peaceful assemblies, such as queer festivals, from threats and attacks. Failure to do so violates the right to assembly under Article 11 of the ECHR.

Judicial Integrity and Free Speech

Simić v. Bosnia and Herzegovina (ECtHR 2016) and **The Case of Milan Blagojević (CCBH 2021)** addressed the balance between a judge's right to free expression and the need to maintain judicial authority and impartiality. **Simić v. Bosnia and Herzegovina (ECtHR 2022 – note: unrelated to the 2016 Simić case!)** emphasizes that freedom of expression includes critical and sarcastic comments, also in front of the court. It also underscores the importance of courts thoroughly examining the context and content of such expressions before imposing penalties.

Political Expression

The Case of Ujedinjena Srpska (CCBH 2021) showed that restrictions on political campaigning can be justified if they fulfil the criteria of legality, achieving a legitimate aim, and necessity.

Veracity and Harm in Private Communications

Medžlis Islamske Zajednice Brčko v. Bosnia and Herzegovina (ECtHR 2017) underscored the obligation of entities similar to the press, to verify the veracity of their allegations in private communications to avoid causing harm. The court upheld that the interference with freedom of expression was necessary and proportionate.

More detailed information on specific cases of the ECtHR regarding the implementation of Art. 10 ECHR in Bosnia and Herzegovina and key themes evolving around these cases can be also found in **Annex 1**.

Conclusion

Case law is of utmost importance in the development of international, regional, and national law on freedom of expression. Case law provides valuable insights into how courts have interpreted and applied freedom of expression provisions in specific cases. This information can be used to inform the development of new laws and policies on freedom of expression.

The review of the relevant case law from European courts revealed a consistent approach to protecting freedom of expression. These courts have consistently recognized the importance of freedom of expression as a fundamental right and have adopted a nuanced approach to balancing this right with other competing interests. The findings of this research provide valuable insights into the development of European standards on freedom of expression and can inform the development of national laws and policies in this area, including:

- Freedom of expression is a fundamental right that is essential for the functioning of democratic societies.
- Freedom of expression is not absolute and may be subject to limitations, but these limitations must be narrowly tailored and subject to strict scrutiny.
- The balance between freedom of expression and other rights, such as privacy and reputation, is complex and must be assessed on a case-by-case basis.
- Journalists have a special role to play in a democracy and their freedom of expression should be protected.

c. Achieving Freedom of Expression – Promising Practices

Understanding how freedom of expression is valued in countries around the world can help us to draw conclusions on what creates favorable environment for freedom of expression. Two important tools for measuring this are the World **Press Freedom Index by Reporters Without Borders** (RSF) and the **Freedom in the World Report** by Freedom House. The World Press Freedom Index ranks countries based on how well they protect journalists and media freedom, while the Freedom in the World Report assesses political rights and civil liberties, including freedom of speech. By comparing the top-ranked countries in these reports, we can discover key factors that support and enhance freedom of expression globally and to uncover what fosters a healthy environment for free speech and vibrant democratic discourse.

For more detailed information on the status of freedom of expression in different countries and regions of the world, please see:

Reporters Without Borders (RSF): https://rsf.org/en

Freedom House: https://freedomhouse.org/report/freedom-world

In a nutshell, the following "key ingredients" for the successful realization of the right of freedom of expression can be drawn from comparing the top-ranked countries:

Legal Frameworks

- Constitutional Guarantees: Top-ranked countries have strong constitutional guarantees for freedom of expression, providing a solid foundation for legal protection.
- Comprehensive Protection: Laws cover various aspects of expression, including freedom of speech, information, and media.
- Narrow Restrictions: Restrictions on free expression, like laws against defamation or incitement to violence, are narrowly interpreted to minimize limitations on free speech.

Independent Media

- Well-established public service broadcasters, funded through public contributions, ensure diverse and independent news coverage.
- Vibrant private media landscape with various outlets expressing different viewpoints fosters healthy competition of ideas and information.

Commitment in Practice

- Minimal instances of government censorship or journalist intimidation.

Openness to Critique

- Societies known for their openness to critique: Government policies and institutions are regularly subjected to healthy and open criticism.

The findings of the comparison yield several best practices in the protection of freedom of expression:

- **Clearly defined and widely recognized scope of freedom of expression**: Countries should have clear and widely recognized definitions of freedom of expression. These definitions should be consistent with international human rights standards.
- **Reasonable and narrowly tailored limitations on freedom of expression**: Countries should only restrict freedom of expression in accordance with strict legal standards. Limitations should be necessary and proportionate to achieve a legitimate aim.
- **Strong and independent enforcement mechanisms**: Countries should have strong and independent enforcement mechanisms to protect freedom of expression. These mechanisms should include independent courts, regulatory bodies, and civil society organizations.
- **Promoting media freedom and access to information**: Countries should promote media freedom and access to information. These are essential for the effective exercise of freedom of expression.
- **Public education and awareness**: Countries should engage in public education and awareness campaigns to promote understanding and respect for freedom of expression.

d. Analysis of topical EU-funded Projects

An analysis of relevant EU-funded projects related to freedom of expression, freedom of media, and combating hate speech was conducted. The focus was on identifying best practices and emerging trends in this area.

The CORDIS (Community Research and Development Information Service) (https://cordis.europa.eu/projects) database was utilized to identify relevant EU-funded projects addressing freedom of expression, freedom of media, and combating hate speech.

- EUvsDisinfo (European Union vs Disinformation Project): https://euvsdisinfo.eu/
- CODEX (Combating Online Disinformation and Extremism): https://www.e-codex.eu/
- EU Media Pluralism Monitor: https://cmpf.eui.eu/media-pluralism-monitor/
- Protecting Journalists and Media Workers: https://digital-strategy.ec.europa.eu/en/library/recommendation-protection-safety-and-empowerment-journalists
- Hate Speech in the EU: A Challenge to Fundamental Rights: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combatting-discrimination/racism-and-xenophobia/combating-hate-speech-and-hate-crime_en

Key Findings

- EU institutions increasingly acknowledge the importance of freedom of expression, freedom of media, and combating hate speech.
- EU-funded projects significantly contribute to addressing these issues and promoting media freedom and pluralism in Europe.
- Further research and collaboration are crucial to develop effective strategies for combating hate speech and fostering an inclusive and democratic online environment.

Projects focus on areas such as:

- Strengthening independent media and supporting investigative journalism
- Promoting media literacy and digital platform education
- Developing tools and methods for detecting and countering hate speech
- Enhancing cooperation between law enforcement and civil society organizations
- Promoting dialogue and intercultural understanding

Conclusion

EU-funded projects play a valuable role in protecting freedom of expression, freedom of media, and combating hate speech in Europe. Sharing best practices and fostering collaboration among stakeholders are crucial for creating a more inclusive and democratic online environment. Continued EU support for projects addressing these areas will be highly beneficial and may cover themes such as emerging challenges like misinformation and online extremism or collaboration with international partners to promote global freedom of expression and media freedom.

e. Current Challenges to Freedom of Expression in Bosnia and Herzegovina

Freedom House, an international NGO dedicated to political advocacy surrounding issues of democracy and political freedoms states "Freedom of expression [in Bosnia and Herzegovina] is legally guaranteed but limited in practice."[29] Bosnia and Herzegovina ranked 64th out of 180 countries in the World Press Freedom Index, compiled by the international NGO Reporters Without Borders (*RSF*)[30]. In the 2023 country fact sheet on Bosnia and Herzegovina, RSF observes that the media in Bosnia and Herzegovina operate in a relatively favorable legal environment, but in an extremely unfavorable political and economic milieu. Journalists do not feel protected while doing their work. There are large differences in media freedom and the quality of journalism across the country.[31]

Although the legal framework for the operation of the media is largely in line with international standards, the policymaking process has stalled in recent years despite a need to amend existing laws and enact new ones. Journalists largely work in an environment free of censorship, but many factors encourage self-censorship. Journalists are subject to verbal threats and attacks as well as occasional physical assault. Journalists generally do not feel sufficiently protected while doing their job and do not trust the police for their protection.[32]

The European Commission in their 2023 report on Bosnia and Herzegovina observes only some level of preparation on freedom of expression in view of the envisaged accession of the country to the European Union. The commission observed threats and violence against journalists and lack of the appropriate judicial follow-up and political influence over public broadcasters and their lack of financial stability. Furthermore, the commission worried about a package of restrictive laws that could be abused to restrict freedom of expression and underlines that any such laws must fully respect freedom of expression standards.[33]

Current challenges in Bosnia and Herzegovina include:

Recriminalization of defamation in Republika Srpska: On July 20, 2023, the National Assembly in Republika Srpska (RS) passed changes to the Criminal Code.[34] These changes added a new section called "Criminal acts against honour and reputation." This includes new crimes like general defamation, specific cases of defamation, revealing personal or family details, and mocking someone based on race, religion, or nationality.

Besides fines, the Criminal Code states that if any of these crimes are committed using public platforms, the court can publish the offender's sentence (Article 208d). If the fine isn't paid

[29] Freedom House. (2023). *Bosnia and Herzegovina: Freedom in the World 2023 Country Report*. Available at https://freedomhouse.org/country/bosnia-and-herzegovina/freedom-world/2023

[30] Reporters Without Borders. (n.d.). *Bosnia and Herzegovina*. Available at https://rsf.org/en/country/bosnia-herzegovina

[31] Reporters Without Borders. (n.d.). *Bosnia and Herzegovina*

[32] Reporters Without Borders. (n.d.). *Bosnia and Herzegovina*

[33] European Commission, Bosnia and Herzegovina 2023 Report, 8 November 2023. Available at https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf

[34] Criminal law (Criminal Code) and civil law are two different sets of rules that govern our behavior and resolve disputes in society. The **Criminal Code** deals with serious offenses that are considered harmful to society as a whole. It includes crimes like theft, assault, and murder. On the other hand, **civil law** focuses more on resolving disagreements between people or organizations. It covers things like contracts, property disputes, family law issues etc.) In civil law cases, the goal is usually to compensate someone for harm they've suffered or to resolve a dispute fairly between parties. So, in short, the criminal law deals with crimes against society, while civil law deals with disputes between individuals or organizations. Both are important parts of our legal system, each serving different purposes to keep things fair and orderly in our communities.

within a year, the court may replace it with a prison term of up to two years (Article 50, Criminal Code of RS).

Bosnia and Herzegovina has agreed to international laws protecting free speech and peaceful assembly. These laws are the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR).

Freedom of Expression and Assembly can, as already emphasized above, be limited, but only if:

- The restrictions are clearly written in the law.
- The restrictions serve a legitimate purpose, like protecting others' rights or reputations.
- The restrictions are necessary and reasonable in a democratic society.

Defamation laws aim to protect people's reputations. However, using criminal penalties (like fines or jail time) for defamation can be seen as too harsh and not necessary in a democratic society.

Consequences of such a law can include:

- *Impact of Criminal Penalties:* Even if the penalty is just a fine, it becomes part of the person's criminal record. The process also includes publicizing the sentence, which can be damaging.
- *Investigation Process:* While the crime is being investigated, the accused might face multiple home or workplace searches, have their property seized (like phones or laptops), and be repeatedly questioned. This can scare them away from participating in public discussions or protests.
- *Employment Consequences*: In RS, to get a job, you need to prove you're not under criminal investigation. Once you're charged with defamation, you can't get this certificate until the case is fully resolved, making it hard to find work.

While it's important to protect people's reputations, criminalizing defamation in Republika Srpska can have severe and often unfair consequences. The legal process can be lengthy and invasive, deterring free speech and impacting the accused person's ability to find a job. Therefore, many argue that civil penalties (like monetary compensation) would be more appropriate than criminal ones.

It's important to note that RS also addresses the protection of honour and reputation in civil law through the Law on Protection from Defamation. This law previously removed criminal consequences for defamation. The new criminal rules provide different standards for protecting freedom of speech compared to civil law.[35]

Foreign Agents Law: In Republika Srpska, the Draft Law on the Special Registry and Transparency of the Work of Nonprofit Organisations published by the Ministry of Justice on April 3, 2024.[36] If ultimately adopted, the legislation will create a special register of non-profits that receive funding from foreign entities. In practice, such organisations will have to submit semi-annual and annual financial reports detailing how much money they receive and from

[35] European Centre for Non-for-Profit Law (2024). *Analysis of the Amendments to the Criminal Code of Republika Srpska on Defamation*. Available at: https://ecnl.org/sites/default/files/2024-02/ECNL%20Analysis%20RS%20Defemation%20Feb%202024_final.pdf.

[36] Приједлог Закона о посебном регистру и јавности рада непрофитних организација.pdf (vladars.rs)

whom. Such organisations will be prohibited from engaging in ill-defined political "activity" and the draft law gives the government discretion to declare them "agents of foreign influence".[37] Such laws, as seen for example in Hungary[38] and the Russian Federation,[39] can have negative impacts on the functioning of NGOs and media outlets, making it effectively impossible for them to fulfil their tasks.

Safety of journalists: Bosnia and Herzegovina does not have any specific political, legal and institutional frameworks for the protection of journalists. In 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) conducted an in-depth assessment[40] that provides a situation analysis on the right to freedom of opinion and expression in the country with a focus on access to information and the safety of journalists. The investigation revealed that Journalists in Bosnia and Herzegovina face significant challenges to their freedom of expression, including political and economic pressure, verbal attacks, threats, online harassment, and restricted access to information. These issues are often underreported due to distrust in police and judicial institutions, leading to incomplete statistics. Key obstacles identified by journalists and media organizations include political interference in editorial matters, financial instability, and limited access to information. Those working for government-funded media face particular restrictions and cannot cover all public interest topics. Defamation lawsuits are frequently used to intimidate and financially burden media, discouraging critical investigations and reporting.

Harmful Content Online:[41] A recent study on harmful online content in Bosnia and Herzegovina[42] evaluates the scope of harmful online content in the country as "worrying": "The internet and social networks are used by diverse actors for spreading hate speech, denials of war crimes and glorification of war criminals, disinformation, politically and ethno-nationally biased media reporting and smear campaigns against individuals for diverse motives that can undermine freedom of expression and democratic processes."[43] The study also elaborates that there are no strategic efforts to combat disinformation. Disinformation is wrong information that is distributed with the intent to mislead and thereby to achieve a certain purpose. Efforts aimed at combating disinformation are mainly restricted to self-regulatory frameworks, individual media outlets, media watchdog platforms, the fact-checking platform and social networks. In addition to disinformation and hate speech on the internet, hidden political advertisements, algorithmic bias, the use of bots and trolls for manipulative

[37] European Center for Not-for-Profit Law (2024), Analysis, Republika Srpska: Draft Law on the Special Registry and Transparency of the Work of the Nonprofit Organisations (March 2024 Version), available at https://ecnl.org/sites/default/files/2024-04/ECNL%20ICNL%20Analysis%20RS%20Draft%20Law%20Special%20Registry%20and%20Transparency%20of%20NPOs%20April%202024_2.pdf

[38] Hungarian Civil Liberties Union (n.d.). Hungary's Anti-NGO Law still in Effect. Available at https://hclu.hu/en/articles/hungarys-anti-ngo-law-still-in-effect-3-key-recommendations-to-the-european-commission

[39] Human Rights Watch (2022, December 1). Russia: New Restrictions for 'Foreign Agents'. Available at https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents

[40] OHCHR/United Nations in Bosnia and Herzegovina. (2022). *The safety of journalists and access to information in Bosnia and Herzegovina*. Available at https://bosniaherzegovina.un.org/en/download/115594/198198

[41] Council of Europe (2023): Towards coregulation of harmful content online in Bosnia and Herzegovina: A study of European standards and co-regulatory practices for combating harmful content online, available at https://rm.coe.int/hf38-coregulation-harmful-content-online-study-eng/1680adee89

[42] Sokol, A., & Ćalović, M. (2022). *Regulation of harmful content online in Bosnia and Herzegovina: Between freedom of expression and harms to democracy*. Mediacentar Sarajevo. Available at https://media.ba/sites/default/files/eng_regulacija_stetnog_sadrzaja_na_internetu_-_web_pages_1.pdf

[43] Sokol, A., & Ćalović, M. (2022). p.11.

purposes, harmful content, and non-transparent and non-legitimate content removal on social networks are issues that also pose threats to freedom of expression.[44] Different types of (potentially) harmful expression on- and offline, such as fake news, mis- and disinformation, must be – if at all – carefully regulated to avoid undue collateral damage to freedom of expression. One issue in such a regulatory process is the lack of a common understanding of these terms that are sometimes used interchangeably by media and lawmakers.

In May 2023, the government of the Sarajevo Canton in the Federation of Bosnia and Herzegovina introduced a draft regulation 'on Public Order and Peace' that would empower police and courts to punish purveyors of what they would consider 'fake news', including online, with substantial fines for individuals and media alike.[45] Despite backlash from civil society and the international community, this draft remains under consideration. Similar laws in other regions allow sanctions for spreading 'false information,' posing significant risks of abuse and censorship. If Sarajevo Canton adopts this regulation, it could trigger a broader trend across the country.

International human rights law does not support banning or punishing speech based on perceived falsehood. Restrictions must have a legitimate aim, such as protecting rights, national security, public order, health, or morals, and be interpreted narrowly. Penalties should be proportionate to actual harm and the least intrusive means to achieve the aim.

If implemented, the 'fake news' proposal would give police excessive power to judge the truthfulness of expressions, including media reports. This could lead to self-censorship among journalists and stifle public debate.[46]

[44] Deidre, K. & Asja Roska-Zubcevic, Council of Europe Experts (2023): *Towards Coregulation of Harmful Content online in Bosnia and Herzegovina, A Study of European standards and co-regulatory practices for combating harmful content online*. Available at https://rm.coe.int/hf38-coregulation-harmful-content-online-study-eng/1680adee89

[45] Council of Europe Platform to Promote the Safety of Journalists and Access to Information in Bosnia and Herzegovina. (2023). *Draft law to fine purveyors of 'fake news' in Sarajevo Canton* (No. 139/2023). Available at https://fom.coe.int/en/alerte/detail/107639309

[46] International Press Institute IPI, European Federation of Journalists EFJ, European Centre for Press and Media Freedom ECPMF (2024). Bosnia and Herzegovina, Media Freedom in Survival Mode. Available at https://www.mfrr.eu/wp-content/uploads/2024/01/bosnia-and-herzegovina-media-freedom-in-survival-mode-1.pdf

3) ONLINE SURVEY WITH YOUTH AND JOURNALISTS

An online survey was conducted to gather insights from youth and young journalists in Bosnia and Herzegovina (BiH) about the challenges to freedom of expression, hate speech, misogyny, and their intersection. The survey was conducted through the MS forms survey tool and distributed through social media platforms and online communities frequented by both groups. The survey, conducted in May and June, yielded 20 responses.

Participants were asked to complete the survey anonymously. The survey questionnaire can be found in Annex 2.

a. What does freedom of expression mean and what does it entail?

Main Finding: Respondents commonly defined freedom of expression as the ability to express opinions freely without fear of retaliation, considering it a fundamental human right necessary for a democratic society. They for example expressed:

"Freedom of expression is the ability to express one's opinions and ideas without fear of retaliation."

"It's a fundamental human right that allows people to voice their thoughts and feelings openly."

"It includes the right to speak, write, and share information freely."

Insight: While there is a basic understanding of freedom of expression, it appears that the respondents may not fully grasp its legal aspects or the full range of protections it offers.

Action Step: The toolkit provides clear definitions, legal frameworks, and real-life examples. It explains the legal protections for freedom of expression and illustrate its importance in a democratic society.

b. What are the biggest challenges to freedom of expression in Bosnia and Herzegovina?

Main Finding: The primary challenges identified were self-censorship due to fear of repercussions, political influence over media, and the prevalence of hate speech. Respondents for example identified the following challanges:

"Self-censorship for fear of consequences."

"Political influence and control of the media."

"Hate speech, especially online, is a big problem."

"People are afraid to speak out because of potential backlash from political figures or peers."

Insight: These responses highlight significant external and internal pressures on freedom of expression. Self-censorship indicates a fear-driven atmosphere, while political control of media suggests structural barriers.

Action Step: The toolkit addresses these challenges by providing strategies to overcome self-censorship, understanding media biases, and combating hate speech. This includes sections on digital literacy, critical thinking, and legal recourse for harassment and threats.

c. Have you personally experienced or witnessed examples of hate speech, misogyny, or other restrictions on freedom of speech in BiH?

Main Finding: A significant number of respondents reported witnessing or experiencing hate speech, especially online. Instances of misogyny and discrimination based on nationality and sexual orientation were frequently mentioned.

Examples given included:

"Yes, in the comments on social networks, insults based on nationality and sexual orientation are common."

"I've seen misogynistic comments and threats in online forums."

"There is a lot of hate speech in the media targeting certain ethnic groups."

Insight: The prevalence of hate speech and online abuse is a critical issue that affects young people's willingness to express themselves freely. This hostile environment can lead to self-censorship and a silencing effect.

Action Step: The toolkit includes resources for recognizing, reporting, and dealing with hate speech and online abuse. This involves practical advice on how to protect oneself online, steps to take if targeted, and information on legal protections against hate speech.

d. How would you use a toolkit for education on freedom of expression?

Main Finding: Respondents expressed a desire to use the toolkit to raise awareness, recognize violations of freedom of expression, and advocate for their rights. There was also an interest in using the toolkit for personal education and to inform others.

Insight: There is a clear interest in both education and advocacy. Young people want to understand their rights better and use this knowledge to protect themselves and others.

Action Step: The toolkit includes educational materials, case studies, and advocacy tools. It should empower young people to not only understand their rights but also to actively promote and defend freedom of expression within their communities.

e. Which features would be practical and useful on a web digital platform for interactive education?

Main Finding: Respondents favored practical features such as lists of useful contacts, expert interviews, forums for discussion, case studies, and quizzes. These features were seen as essential for making the learning process engaging and interactive.

Insight: Interactive and practical features are highly valued, indicating a preference for engaging, user-friendly content that facilitates active learning and participation.

Action Step: Ensure the digital platform includes these features to facilitate effective learning and engagement. The platform should be designed to be user-friendly and interactive, providing various ways for users to engage with the content and each other.

f. Suggestions for an educational web digital platform and toolkit guide

Main Finding: Some respondents suggested promoting positive use of freedom of expression and incorporating interactive learning methods. There was also a call for more resources on handling online hate speech and misinformation. People responded for example:

"As I have already stated, to promote with interactive content that engages young people."

"More resources on how to handle online hate speech and misinformation."

"Interactive content that is engaging and easy to understand."

Insight: Engagement and interactivity are key to effective education on freedom of expression. Young people are looking for resources that are not only informative but also engaging and practical.

Action Step: Incorporate interactive elements and user-friendly design in both the toolkit and digital platform. Provide comprehensive resources on handling online hate speech and misinformation, ensuring the content is accessible and engaging for young people.

g. Summary

The survey findings highlight significant challenges to freedom of expression faced by young people in Bosnia and Herzegovina, including self-censorship, political influence, and hate speech. There is a strong desire for educational and advocacy tools that are engaging and interactive. The toolkit should focus on providing clear information, practical strategies, and interactive features to empower young people to navigate and overcome these challenges effectively.

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ANNEX 1: CASE LAW CONCERNING FREEDOM OF EXPRESSION IN BOSNIA AND HERZEGOVINA

a. European Court of Human Rights (ECtHR)

Simić v. Bosnia and Herzegovina (ECtHR 2016)

What Happened? A constitutional judge in Bosnia and Herzegovina wrote a letter to the prime minister saying he was available to assist him. This letter was published in the media, and it was found that the judge had close ties with the government. He also gave interviews and held a press conference without the Constitutional Court's permission.

The Issue: The Constitutional Court decided to remove the judge from his position, saying he violated the Court's rules. The judge argued that this removal violated his right to freedom of expression.

The Court's Decision: The European Court of Human Rights ruled that the Constitutional Court did not violate the judge's freedom of expression. The Court explained that judges need to be careful with their public statements to maintain the authority and impartiality of the judiciary. The decision to remove him was based on his inability to remain impartial and the damage to the Court's reputation, not just because of his public statements.

What It Means: This case highlights the balance between a judge's freedom of expression and the need to maintain judicial impartiality and authority. Judges must exercise restraint in their public communications to uphold the judiciary's integrity.

Link to the Judgement:
https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22simi%C4%87%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22,%22DECISIONS%22],%22itemid%22:[%22001-169737%22]}

Medžlis Islamske Zajednice Brčko v. Bosnia and Herzegovina (ECtHR, 2017)

What Happened? Four non-governmental organizations (NGOs) in Bosnia and Herzegovina sent a letter with serious accusations about Ms. M.S., who was applying for a director job at a public radio station. The letter was sent to local government officials without checking if the claims were true. Ms. M.S. said that this hurt her reputation, and as a result, the NGOs were fined and told to retract the letter.

The Issue: The NGOs argued that the fine and retraction order violated their right to freedom of expression.

The Court's Decision: The European Court of Human Rights decided that the national courts in Bosnia and Herzegovina did not violate the NGOs' freedom of expression. The Court noted that:

- Even though the letter was initially sent to a small group, it could still cause harm if it was shared further.

- The NGOs, like journalists, needed to check if their claims were accurate before sending them out.
- The fines and the order to retract the letter were reasonable and not too severe.

What It Means: This case highlights that organizations must verify their information before making serious accusations, even in private communications. It also shows that consequences for spreading unverified claims can be fair and necessary to protect individuals' reputations.

Link to the Judgement: http://www.bailii.org/eu/cases/ECHR/2017/608.html

Smajić v. Bosnia and Herzegovina (ECtHR 2018)

What Happened? A Bosnian lawyer, Mr. Smajić, was convicted and sentenced to a year in prison by domestic courts for inciting national, racial, and religious hatred online. He had posted on a website about potential actions that Bosniacs might need to take in the event of a war and the secession of Republika Srpska.

The Issue: Mr. Smajić argued that his prison sentence violated his right to freedom of expression.

The Court's Decision: The European Court of Human Rights ruled that the domestic courts did not violate Mr. Smajić's freedom of expression. The Court stated that:

- The prison sentence was a proportionate response to the incitement of hatred and intolerance.
- The restriction on freedom of expression was justified and met the criteria set out in Article 10, paragraph 2 of the European Convention on Human Rights.

What It Means: This case demonstrates that while freedom of expression is protected, it has limits when it comes to inciting hatred or violence. The Court found that the punishment in this case was fair and in line with European standards for restricting speech that promotes intolerance.

Link to the Judgement: https://hudoc.echr.coe.int/eng#{

Simić v. Bosnia and Herzegovina (ECtHR, 2022)

What Happened? A lawyer in Bosnia and Herzegovina was fined by domestic courts for insulting an appellate court. He did this by telling an old joke about a professor and a student and comparing the lower court to that professor.

The Issue: The lawyer argued that this fine violated his right to freedom of expression.

The Court's Decision: The European Court of Human Rights found that the domestic courts violated the lawyer's freedom of expression. The Court stated that even sarcastic or harsh language is protected under Article 10 of the European Convention on Human Rights. Additionally, the comments were made in a legal appeal, not publicly, and criticized the court's conduct, not the judges personally. The domestic courts did not properly consider these points and failed to provide strong enough reasons for the fine.

What It Means: This case emphasizes that freedom of expression includes critical and sarcastic comments, especially in legal contexts. It also underscores the importance of courts thoroughly examining the context and content of such expressions before imposing penalties

Link to the Judgement: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-217256%22]}

b. Constitutional Court of Bosnia and Herzegovina

Udruženje Q za promociju i zaštitu kulture, identiteta i ljudskih prava queer osoba (CCBH 2014)

What Happened? A group called "Udruženje Q" organized Bosnia and Herzegovina's first queer festival to celebrate and share the lives of LGBTIQ members through art and discussions. Before the festival, the organizers received threats and cyberattacks, which they reported to the police.

The Issue: Despite the warnings, the police didn't take action until physical attacks happened on the first day of the festival. This lack of response showed that the authorities didn't do enough to prevent these attacks and protect the participants.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina found that the state failed to fulfill its responsibilities. This failure violated Article 11 of the European Convention on Human Rights, which protects the right to freedom of assembly and association.

What It Means: This case shows the importance of the state's role in protecting the right to gather and express oneself, especially for marginalized groups. It highlights that authorities must act proactively to prevent harm and support freedom of expression and assembly.

Link to the Judgement: https://www.ustavnisud.ba/uploads/odluke/_bs/AP-1020-11-691933.pdf

NPC International d.o.o. Banjaluka and Others (CCBH, 2017)

What Happened? Three people— a journalist, an editor, and the owner of a media company in Bosnia and Herzegovina—were found guilty of defamation by lower courts. They had made certain statements, and the courts decided they were liable because they hadn't proven that everything they said was true. The appellants believed the lower courts didn't consider the whole context of their statements.

The Issue: The appellants argued that the judgments against them violated their right to freedom of expression because the courts focused only on whether their statements were factually true, without looking at the broader context.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina agreed with the appellants. It found that the lower courts' decisions violated their freedom of expression. The Constitutional Court said:

- The lower courts didn't consider the whole context of the statements, which is important when evaluating freedom of expression.
- The decisions of the lower courts did not meet European standards for protecting free speech.
- The interference with the appellants' rights was not necessary for a democratic society.

What It Means: This case shows that when evaluating freedom of expression, courts need to consider the full context of what was said, not just whether individual statements are true. It also highlights that protecting free speech requires adhering to high standards set by European law.

Link to the Judgement: http://www.ustavnisud.ba/dokumenti/_bs/AP-2501-15-1104430.pdf

R. Š. v. RTVBN d.o.o. (CCBH 2018)

What Happened? A former minister sued the media company RTVBN d.o.o. for defamation over an article published on their website. The Banjaluka District Court found that the lawsuit was not valid. The case was then reviewed by the Constitutional Court of Bosnia and Herzegovina.

The Issue: The Constitutional Court had to decide whether the media company's right to freedom of expression or the former minister's right to privacy and protection of reputation should be prioritized.

The Court's Decision: The Constitutional Court decided in favor of RTVBN d.o.o. The Court reasoned that:

- The article in question was expressing an opinion or value judgment, not presenting a statement of fact.
- Public figures, like the former minister, must tolerate more criticism compared to private individuals.
- The right to freedom of expression outweighed the former minister's right to protect his reputation in this case.

What It Means: This case shows that when public figures are criticized, there is more leeway for such criticism under freedom of expression. It emphasizes that opinions and value judgments are protected, and public figures need to accept a higher level of scrutiny and criticism.

Link to the Judgement: https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2021/05/AP-618-19-1266389.pdf

The Case of Midhat Velagić (CCBH, 2018)

What Happened?: Midhat Velagić was found guilty by lower courts of inciting national, racial, or religious hatred because of a Facebook post. In support of the national soccer team's World Cup bid, he posted an image of the famous Christ the Redeemer statue with

two dragons flying towards it and the Bosnia and Herzegovina (BH) flag in the background, along with the comment “Let’s go, tear it up.” The lower courts believed this post mocked the religious symbol and stirred up religious hatred against Roman Catholics in BH.

The Issue: Velagić argued that the lower courts did not consider the full context of his post and that the judgment unfairly treated his Facebook post as a serious crime without explaining why it was considered an incitement to hatred.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina agreed with Velagić. The Court found that:

- The lower courts had not looked at the full context of the post.
- There was no evidence that the post was meant to incite hatred towards Roman Catholics specifically. The Christ the Redeemer statue is a symbol of Rio de Janeiro and Brazil, not just a Christian symbol.
- The post was more about supporting the national team rather than provoking religious discord.

What It Means: This case highlights that freedom of expression must be protected and that courts need to carefully consider the context before concluding that a statement incites hatred. It also shows that symbols with broader cultural meanings should not be interpreted solely in a religious context without evidence of intent to provoke hatred.

Link to the Judgement: http://www.ustavnisud.ba/dokumenti/_bs/AP-3430-16-1166129.pdf

The Case of RTVBN d.o.o. (CCBH 2020)

What Happened? A prosecutor was given a public warning and disciplinary sanction for using strong language against a judge during a court proceeding in his personal capacity. The prosecutor had criticized the judge’s decision as unfair, illegal, and confusing. The High Judicial and Prosecutorial Council (HJPC) believed this breached the rules protecting the judiciary’s dignity.

The Issue: The prosecutor argued that the disciplinary action violated his right to freedom of expression.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina found that the disciplinary action violated the prosecutor’s freedom of expression. The Court reasoned that:

- The prosecutor was speaking in his personal capacity and not as a representative of the judiciary.
- The comments, while harsh, were not offensive towards the judge or the judiciary as a whole.
- The public warning was not necessary in a democratic society for protecting judicial dignity in this context.

What It Means: This case shows that freedom of expression includes the right to criticize judicial decisions, especially when done in a personal capacity. Disciplinary actions must be carefully considered to avoid unjustly limiting free speech.

Link to the Judgement: http://www.ustavnisud.ba/dokumenti/AP-770-19-1254129.pdf

The Case of Ujedinjena Srpska (CCBH 2021)

What Happened? The political party "Ujedinjena Srpska" was fined by the Central Election Commission of Bosnia and Herzegovina (CEC) for illegally running a paid electoral campaign during a restricted period. The Bosnia and Herzegovina Court (BHC) agreed with the CEC's decision to fine the party. Ujedinjena Srpska challenged this decision, claiming it violated their freedom of expression.

The Issue: The party argued that the fine imposed on them for illegal campaigning violated their right to freedom of expression.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina found that the fine did not violate the party's freedom of expression. The Court determined that:

- The fine was imposed in accordance with the law.
- The restriction on their campaign aimed to maintain fair election practices, which is a legitimate goal.
- The measure was necessary and proportionate to achieve this goal.

What It Means: This case illustrates that limitations on political campaigning can be justified and do not necessarily breach freedom of expression, provided they are legal, serve a legitimate purpose, and are necessary. The Court upheld that regulating election activities is important for fair elections and is compatible with protecting democratic processes.

Link to the Judgement : https://www.ustavnisud.ba/uploads/odluke/AP-4647-20-1273476.pdf

The Case of Milan Blagojević (CCBH 2021)

What Happened? A judge in Bosnia and Herzegovina, Milan Blagojević, faced a disciplinary sanction for publicly sharing his dissenting opinion on a criminal law case. Local rules allowed judges to have dissenting opinions but required them to keep these opinions confidential and not share them with the parties involved or the public.

The Issue: Blagojević argued that the disciplinary action against him violated his right to freedom of expression.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina decided that there was no violation of Blagojević's freedom of expression. The Court noted that:

- While judges do have freedom of expression, this right can be limited to protect the authority and impartiality of the judiciary.
- Local rules required dissenting opinions to remain confidential to preserve judicial independence and fairness.

What It Means: This case shows that while judges have freedom of expression, there are limits to ensure the judiciary's authority and impartiality are maintained. Sharing dissenting opinions publicly is restricted to protect the legal process and the reputation of the judiciary.

Link to the Judgement: https://www.ustavnisud.ba/uploads/odluke/AP-4351-20-1299514.pdf

The Case of BB (CCBH, 2022)

What Happened? A prosecutor was given a public warning and faced disciplinary sanctions for using strong language against a judge during a court proceeding. The prosecutor had criticized the judge's decision as unfair, illegal, and confusing in an appeal about a court fee. The High Judicial and Prosecutorial Council (HJPC) felt these comments violated the rules protecting the judiciary's dignity and imposed the warning.

The Issue: The prosecutor argued that this disciplinary action violated his right to freedom of expression.

The Court's Decision: The Constitutional Court of Bosnia and Herzegovina agreed with the prosecutor. It found that:

- The disciplinary sanction was not necessary because the prosecutor was speaking in his own capacity and not as a representative of the judiciary.
- The comments, while critical, were not offensive towards the judge or the judiciary as a whole.
- The sanction imposed did not align with the principles of freedom of expression in a democratic society.

What It Means: This case highlights that freedom of expression includes the right to criticize judicial decisions, especially when done in a personal capacity. It emphasizes that sanctions for such criticism must be carefully justified to avoid unfairly restricting free speech.

Link to the Judgement: https://www.ustavnisud.ba/uploads/odluke/AP-2080-22-1339630.pdf

ANNEX 2: QUESTIONNAIRE ONLINE SURVEY FOR YOUNG PEOPLE

The survey was conducted in Bosnian language using MS forms. Below are the translations of explicatory text and questions used.

The EuropeAID project Promoting a comprehensive, human rights-based concept of freedom of expression in BiH- Freedom of Expression Hub aims to contribute to a comprehensive, human- rights based understanding of freedom of expression that creates trust in democratic institutions. We aim to integrate as many perspectives as possible throughout the project and would be very grateful for your views and insights.

The completion of this survey will take only a couple of minutes. Thank you in advance for your time.

Q1: What, in your view, means freedom of expression? What does it encompass?

[short answer free text box]

Q2. What are, in your view, the main challenges to freedom of expression in Bosnia and Herzegovina (BiH)? [tick-off boxes, multiple choice]

- Self-censorship due to fear of reprisal
- Lack of media diversity and plurality
- Government interference and control over media
- Hate speech (i.e. any expression of discriminatory hate towards people based on a particular aspect of their identity such as race, sex, sexual orientation, religious belief, etc.)
- Defamation (i.e. statements that cause harm to another person's reputation or character)
- Misogyny (i.e. hostility and contempt towards women)
- Limitations to express views through public protest and demonstration
- Other (please elaborate) [short answer free text box]

Q3. Have you personally experienced or witnessed instances of hate speech, misogyny, or limitations on freedom of expression in BiH – both online or in "real life"? [tick-off boxes single choice]

- No
- Yes
- If yes, please explain briefly [short answer free text box]

The Freedom of Expression Toolkit

This project aims to develop a Freedom of Expression Toolkit (FoE Toolkit), a comprehensive educational resource that empowers young people with knowledge and practical skills on freedom of expression, misinformation, hate speech, misogyny, and defamation. The FoE Toolkit shall include education modules and tools for a digital platform for interactive and experiential learning process.

Q4: Which of the modules of the planned toolkit are you particularly interested in and would like to learn more about? [tick-off boxes multiple choice]

- Understanding Freedom of Expression
- Combating Misinformation
- Addressing Hate Speech
- Combating Misogyny
- Defamation and Freedom of Expression

Q5. What are, in your view, the key messages that should be conveyed in the Toolkit? [short answer free text box]

Q6. How would you use a toolkit on freedom of expression? [tick-off boxes multiple choice]

- As a learning resource to better understand freedom of expression
- As a tool to advocate for freedom of expression in my own environment
- As guidance for my communication behavior
- As a tool to identify violations of freedom of expression

- Other [short answer free text box]

Q7. What do you consider suitable and useful features that should be included in a digital learning platform for freedom of expression? [tick-off boxes multiple choice]

- Videos conveying key content
- Interviews with experts
- Quizzes
- Checklists
- Sources for further reading
- Knowledge checks
- List of useful addresses and points of contact
- Case studies
- Scenario-based exercises
- Forums for exchange with other users
- Summaries of key facts and issues
- Other (please elaborate)

Q8. Would you like to share any other recommendations and suggestions for the digital platform and toolkit for freedom of expression? [short answer free text box]

ANNEX 3: GUIDING QUESTIONS FOR KEY INFORMANT INTERVIEWS

Overall Objective of the Interview

- To gain insights into journalistic practices, ethical considerations, and the challenges faced in navigating issues such as hate speech and misogyny.
- To receive input on suitable modes of delivery, applications, and the practical application of the learnings in real-world scenarios.

Guiding Questions

Freedom of Expression in BiH

Q1. What are, in your view, the main challenges to freedom of expression in Bosnia and Herzegovina (BiH)? (e.g. Self-censorship due to fear of reprisal, lack of media diversity and plurality, government interference and control over media, other challenges)

Q2. Do those challenges impact your daily work as a journalist? Please state examples.

Q3. Have you personally experienced or witnessed instances of hate speech, misogyny, or limitations on freedom of expression in BiH?

Q4. How do you perceive the impact of hate speech, misogyny, and limitations on freedom of expression on society in BiH?

Freedom of Expression Toolkit for Media Professionals and Young People

Q5. What are, in your view, the key messages that should be conveyed in the Toolkit?

Q6. What would make the Toolkit relevant and useful for the target audience?

Q7. What areas/modules of the Freedom of Expression Toolkit do you consider particularly important and why? From your experience, which specific topics do you recommend covering in the Toolkit?

Q8. Do you have and specific recommendations on suitable modes of delivery and the practical application of the learnings in real-world scenarios?

ANNEX 4: LIST OF KEY INFORMANT INTERVIEWS CONDUCTED

Name	Affiliation	Date	Mode
Leila Bičakčić	Executive director and one of the founders of the Center for Investigative Journalism (CIN)	21. March 2024	Online via Zoom
Prof. Dr. Lejla Turčilo	Associate professor at the Department of Journalism, Faculty of Political Sciences, University of Sarajevo	13. April 2024	Online via Zoom
Denis Džidić	Executive Director and Editor of the Balkan Investigative Reporting Network in Bosnia and Herzegovina (BIRN BiH).	19. March 2024	Online via Zoom

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