

Combating Discrimination



The OSCE Mission to Bosnia and Herzegovina (Mission) works to strengthen human rights-based practices and standards to combat discrimination by collaborating with legislative, judicial and governmental institutions at all levels of governance, as well with as the Bosnia and Herzegovina (BiH) Institution of Human Rights Ombudsman, civil society organizations, and human rights defenders.

Overall framework

The obligations driving this work are enshrined in the Constitution of BiH, which refers directly to the European Convention on Human Rights and Fundamental Freedoms (ECHR) and other international treaties for the protection of human rights and prohibition of discrimination.

Given this, in BiH's complex constitutional system, the provisions of the ECHR and its Protocols have primacy over all other laws and are directly applicable in BiH. In 2003, BiH ratified Protocol No. 12 to ECHR, expanding BiH's obligation to prohibit discrimination in the enjoyment of any right set forth by law, not just those protected by the ECHR.

In 2009, in its decision in the case of *Sejdić and Finci v. BiH*, the European Court of Human Rights (ECtHR) found BiH to be in violation of Protocol No. 12. In ruling in favour of *Sejdić and Finci*, the ECtHR held that there was no "objective and reasonable" justification for rendering them ineligible for election to the BiH House of Peoples or the BiH Presidency.¹

The obligation of authorities and citizens to respect human rights and non-discrimination is further elaborated by the BiH Law on Prohibition of Discrimination, adopted by the BiH Parliamentary Assembly in 2009 and amended in 2016. This Law aims to strengthen BiH mechanisms designed to

fight discrimination, particularly against persons in vulnerable social categories.

However, despite the existence of this solid legislative framework and the efforts exerted by many stakeholders to enhance the capacities of these mechanisms, discrimination remains persistent in BiH. Ten years after the adoption of the Law, the Mission prepared an analysis of the work of three key institutional actors with the mandate and competencies to combat discrimination assessing progress achieved and offering concrete recommendations for how to overcome challenges identified.

¹ *Sejdić & Finci v. Bosnia & Herzegovina*, App. Nos. 27996/06 & 34836/06, 2009 Eur. Ct. H.R. 1910 (Grand Chamber).

Discrimination in BiH

Discrimination in BiH remains widespread, according to 87 per cent of respondents to the survey carried out by the Mission in 2019 to measure understanding of discrimination, instances of discrimination, and social distance as a driver of prejudices and stereotypes. While collected several years ago, the Mission believes this data remains relevant and reflective of the current context. The data show around a quarter of respondents felt they had witnessed discrimination in the previous 12 months on at least one of the following grounds: political affiliation or belief, disability, gender or ethnicity, and every third person reported being exposed to unfair and unequal treatment.

Mission data indicate the prevalence of certain forms of discrimination and negative stereotypes, including against Roma and individuals and groups who are numerical ethnic minorities in their communities, such as returnees, religious minorities, and migrants, as well as discrimination based on one's sexual orientation or identity.

Roma face systematic social exclusion and discrimination, particularly visible in employment, education, housing and access to social protection and healthcare services. The Roma community is frequently subject to discriminatory incidents, manifesting as hate speech and hate crimes, including verbal assaults; the use of derogatory terms or insults; and references to negative stereotypes. Furthermore, Roma women and children are victims of multiple and often overlapping forms of discrimination and, as a result, Roma children have a low enrolment rate in secondary schools and universities coupled with a high dropout rate.

On a more positive note, the Mission has seen a shift towards inclusivity in terms of persons with disabilities, with over 80 per cent of respondents to the 2019 survey that schools should be inclusive of children with disabilities and that public institutions should have sufficient resources to be made physically accessible.

Social discrimination remains a concern in BiH, a major example of which is ethnic

segregation in education. The "two schools under one roof" practice physically separates children based on ethnicity, with each group taught under separate curricula. This contrasts with the survey results, where almost 80 per cent of respondents noted not supporting such segregation.

More generally, the Mission has noted that younger generations perceive less discrimination than older generations, and the higher the education level of a given respondent, the more widespread they saw discrimination to be.

Support to institutional mechanisms

The Mission supports BiH institutions mandated to address discrimination, inter alia, the Ministry for Human Rights and Refugees of BiH, the BiH Institution of Human Rights Ombudsman and the judiciary, with an additional focus on civil society organizations, universities and the general public.

In co-operation with the High Judicial and Prosecutorial Council of BiH and the wider judiciary, the Mission analysed anti-discrimination jurisprudence and produced

reports on judicial processing of discrimination cases, most recently in 2018 and 2023.

Together with respective entity-level judicial and prosecutorial training centres, the Mission implements training, conferences, and peer-to-peer workshops to strengthen the capacities of the judiciary and legal professionals to interpret and apply relevant domestic legislation, including the BiH Law on Prohibition of Discrimination, and to increase understanding of international and domestic standards on equality and non-discrimination.

The Mission also makes efforts to raise awareness and increase sensitivity around stereotypes through targeted training and social media engagement, often focusing on the needs of people in situations of vulnerability. An example of such effort is the Roma on the Margins multimedia project. Similarly, by organizing moot court competitions and providing support to summer schools and student debates on human rights topics, the Mission aims to increase the visibility of anti-discrimination topics in BiH universities.

For more information,
scan the QR code.



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