

2017

Annual report of the Advocacy and Legal Advice Centre 2017

Summary

The Advocacy and Legal Advice Centre of Transparency International in Bosnia and Herzegovina was established in late 2003 and is aimed at providing free legal aid to those who report corruption.

The aim of the Centre is to provide practical and useful legal advice to all persons who report corruption (victims, witnesses, whistleblowers...) and provide them with effective legal protection, but also to monitor the work of relevant institutions, particularly in cases related to corruption. In this way public will have a chance to learn about alternative ways of fighting against corruption, as well as all legal remedies they can use.

In 2017 citizens **made 1533 calls to the toll-free line 0800 55555 reporting corruption**, seeking legal advice or reporting cases of corruption and other irregularities. Upon the received reports, the Advocacy and Legal Advice Centre acted in **275 new cases**, which the citizens filed by post or email, or personally in the premises of the Centre. Along with the new cases, the Centre continued its actions in cases initiated previously. During this period, the Centre submitted 387 letters to the relevant institutions, provided 143 letters-legal advices to its clients, and **initiated a total of 19 administrative disputes before competent courts, 15 on behalf of TI BiH and 4 on behalf of its clients.**

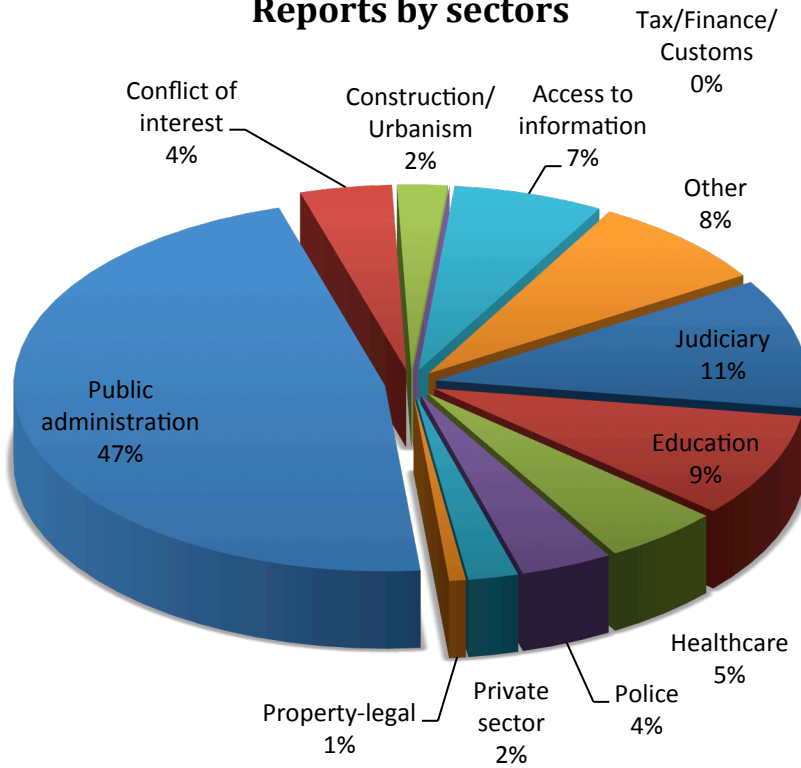
As it used to be in the previous years, the highest number of reported cases, 46,9% of them, refers to the public administration sector, followed by the reports considering the work of judicial institutions with 11,2%, while the percentage of 9,9% refers to the reports related to the work of educational institutions.

The vast majority of reported case, just like in previous years, is related to the public administration sector. This includes all complaints against the institutions of BiH at all levels of government, state, entity, local, as well as reports related to the public enterprises and institutions. The largest number of reports refers to the irregularities in the employment process, i.e. "previously arranged" recruitment procedures for the reception of civil servants at all levels of government, including the recruitment of employees in public enterprises and institutions.

Statistical indicators

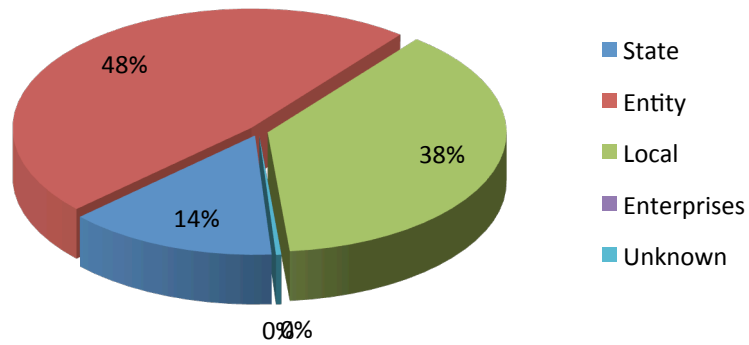
Reports by sectors	
Judiciary	31
Education	25
Healthcare	14
Police	11
Private sector	6
Property-legal	2
Public administration	129
Conflict of interest	11
Construction/urbanism	6
Tax/finance/customs	0
Access to information	18
Other	22
Total	275

Reports by sectors



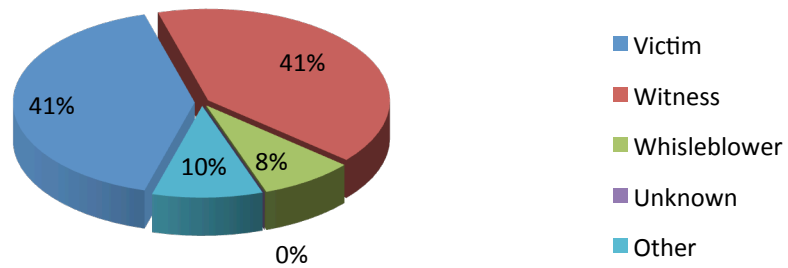
Reports divided by jurisdiction level	
State	39
Entity	131
Local	104
Enterprises	0
Unknown	1
Total	275

Reports by jurisdiction level



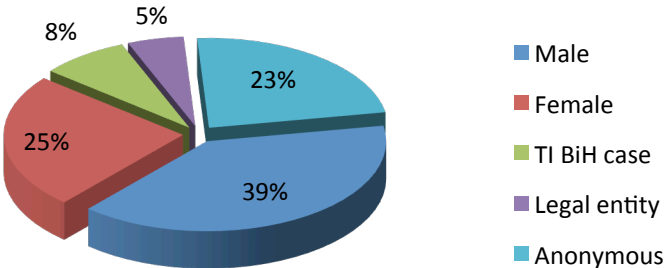
Connection of complainant to the case	
Victim	113
Witness	112
Whistleblower	23
Unknown	0
Other	27
Total	275

Connection of complainant to the case



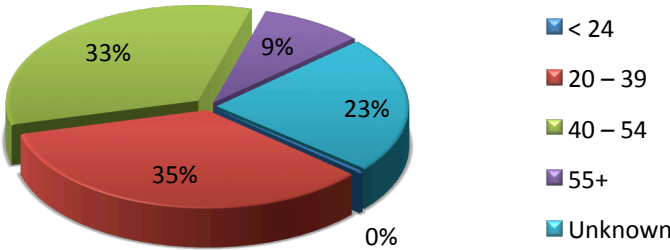
Gender of complainants	
Male	108
Female	67
TI BiH case	22
Legal entity	14
Anonymous	64
Total	275

Gender of complainant

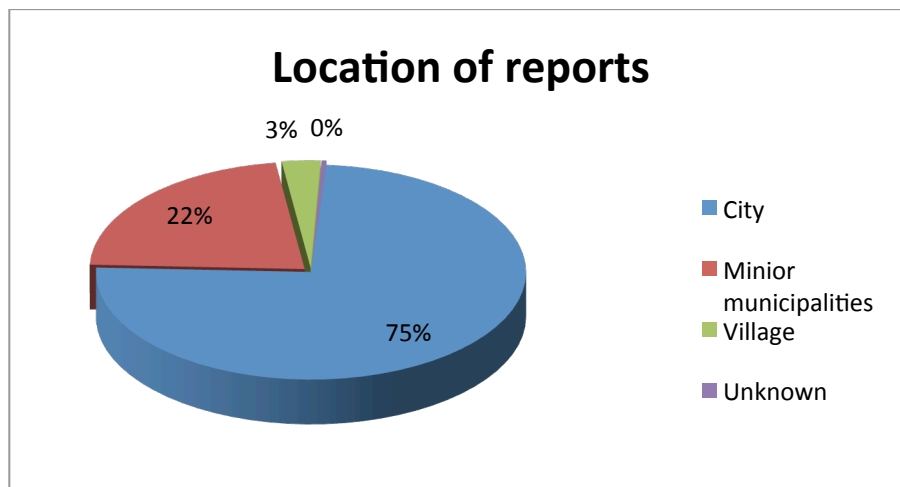


Age of complainant	
< 24	1
20 – 39	95
40 – 54	92
+ 55	24
Unknown	63
Total	275

Age of complainant

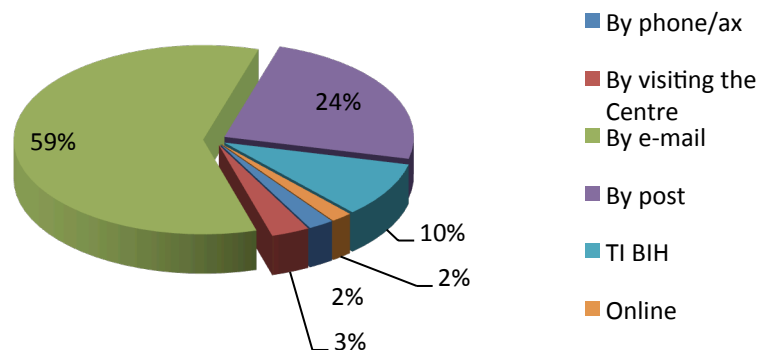


Location of reports	
City	205
Minor municipalities	61
Village	8
Unknown	1
Total	275



Method of collecting reports	
By phone/fax	6
By visiting the Centre	9
By e-mail (centar@ti-bih.org)	163
By post	66
TI BIH	26
Online (via web stranica ti-bih.org and prijavikorupciju.org)	5
Total	275

Method of collecting reports



REPORTS BY SECTORS

JUDICIAL INSTITUTIONS (31 case in 2017 or 11,2%)

COURTS (20 cases in 2017 or 7,2%)

In 2017 TI BiH received **20** cases referring to the complaints against the work of basic/municipal and cantonal/district courts. The reports mostly concerned the duration of proceedings before court, failure of courts to act upon the request of a party, discontent of parties with the decisions issued by courts. In those cases TI BiH advised parties on the manner in which they could invoke legal remedy, explained the way the cases are resolved and the way in which parties can address the court and urge the action. In 2017, TI BiH also received 5 reports related to the irregularities of employment procedures in case of recruiting administrative and professional staff to the positions in District courts in Banjaluka and Istocno Sarajevo, within the project Grant IPA 213 – resolution of war crime cases.

The report referring to the public competition conducted in the District Court Banjaluka contained names of the candidates that should be appointed to the positions in the court, and both of them were related to the holders of judicial functions. After completion of the competition procedure, TI BiH addressed the District court in Banjaluka and requested the submission of the data on the candidates that won. After receiving the requested data, it was clear that the assumptions from the report were true; the position of the psychologist was assigned to the candidate who was indicated by the report to be elected for this position, while part of the competition for the position of senior expert associate was annulled so the candidate for whom the report claimed to be elected for this position was not elected in the end. The District court in Banjaluka explained that the part of the competition was annulled due to the failure of 6 candidates, out of 9 applied, to submit complete documentation, which resulted in rejection of their applications. The remaining three candidates were able to meet general and specific competition requirements, and pass the exam and interview, but did not satisfy the criteria for the position of senior expert associate. The candidate for whom it was claimed to be elected for this position, was not among the three candidates that filed complete documentation and passed testing, so we can assume that his/her application for the position was not complete.

The District court in Istocno Sarajevo also announced public competition for the positions within the project Grant IPA 2013 – resolution of war crime cases, and TI BiH received a report submitted by a person who was one of the top three ranked candidates for the position of a psychologist. Although this candidate had more than a minimum one year of work experience as prescribed by the competition requirements, including the experience of working with the victims of war crimes, the competition was won by a candidate who did not have any experience with the victims of war and had only a year of work experience. In the explanation of the selection committee of the District court in Istocno Sarajevo it was said that the elected candidate had offered the most appropriate answers to their questions and had been best in dealing with real situations; as an example they explained how this candidate was the only one who after being asked how would he/she calm down a witness 15 minutes prior to the start of trial, answered he/she would apply the breathing exercises, which, in the opinion of the committee, showed that he possesses necessary knowledge but also to be specific and proactive person.

PROSECUTOR'S OFFICES (11 cases in 2017 or 4,0%)

In 2017 TI BiH received **11** reports concerning the work of Prosecutor's Offices. These were mostly reports of the citizens who were not satisfied with how fast the Prosecutor's Offices acted upon their reports or were discontent with the decisions of the Prosecutor's Offices on the failure to conduct investigation. In such cases TI BiH addressed relevant Prosecutor's Offices and requested information about particular cases.

Also, in mid-2017 the indictment against Orlandic Ratko, former Director of the public institution Employment Service of Zenica-Doboj Canton, due to the existence of grounded suspicion to have committed criminal offense of "Abuse of position or authorization", was confirmed. In regard to this case, in 2015 TI BiH provided legal aid to an employee of PI Employment Service of Zenica-Doboj Canton who filed criminal charges against the Director, and although it was first rejected by the Cantonal Prosecutor's Office of Zenica-Doboj Canton, after filing complaints, this case was continued to be processed.

TI BiH filed a report to the Office of the Disciplinary Counsel of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in order to examine disciplinary responsibility of the Acting Chief Prosecutor of Bosnia and Herzegovina Gordana Tadic, due to the allegations from the media that the Acting Chief Prosecutor, Gordana Tadic, requested from the Cantonal Prosecutor's Office of Sarajevo Canton to dismiss the case against Josip Simic Djindjic against whom this cantonal Prosecutor's Office initiated an investigation for the existence of the grounded suspicion that he committed criminal offense of "Counterfeiting of Identification Document" as stipulated by Article 373 of the Criminal Code of the Federation of BiH. On 28th August, Josip Simic filed to the Prosecutors Office a complaint against chief staff of SIPA and BiH Minister of Security Dragan Mektic, accusing them of illegally intercepting conversations between Chief State Prosecutor Gordana Tadic and Vice-President of the High Judicial and Prosecutorial Council of BiH Ruzica Jukic. Along with the report, Simic also submitted an alleged SIPA document by which it was ordered to monitor Tadic and Jukic, for which the Sarajevo Cantonal Prosecutor's Office suspected to be counterfeited and initiated investigation therefore.

EDUCATION (25 cases in 2017 or 9,9%)

25 cases in 2017 concerned education, i.e. corruptive activities in pre-school institutions, elementary and high schools and universities. The received reports referred to the irregularities in procedures for election to the scientific-educational titles in universities, the lack of transparency and incompatibility of public calls related to the election of distinguished experts at universities, irregularities in the conduct of public competitions for the selection of teachers in elementary and high schools, as well as unlawfully conducted competitions for the appointment of professional staff in pre-school institutions and non-compliance of staff appointment procedures with higher legal regulations.

It is significant to mention that at the end of 2017 the District Court of Banja Luka adopted a lawsuit submitted by a party that challenged the Decision brought by the Senate of the University of Banja Luka based on which a candidate was unlawfully elected to the scientific-educational title of assistant professor at the Faculty of Medicine in Banja Luka. In this case the Court found that the commission illegally conducted procedure of election to the scientific-educational title, and it ordered to the University of Banja Luka to issue another Decision following the court's legal understanding of the given proceeding. Acting upon the judgment, and instead of following the court's legal understanding the

University decided to completely cancel the controversial competition, after which the party, with the assistance of TI BiH, initiated the administrative dispute again.

In mid-2017 TI BiH received a petition filed by a participant in the competition procedure organized by PI "Centre for Pre-School Education" Banja Luka that announced competition for the appointment of educators and expert associates. The candidates had to meet the following requirements: to have one-year of work experience in their field of expertise, to have passed the professional exam, to have good computer skills. However, the procedure was not conducted in accordance with the Law on Pre-School Education of RS, which prescribes the following criteria as the necessary elements for the appointment to the positions in pre-school institutions: the average grade during the study, time spent in the records of unemployed persons run by the Employment Service of RS and the results achieved in the interview. Since the provisions of the Law were not followed in this case, TI BiH addressed the competent educational inspection, which annulled the controversial competition. PI "Centre for Pre-School Education" Banja Luka filed an appeal against the decision of education inspector, and the same was adopted by the Ministry of Education and Culture of RS, with the explanation that the Centre could not conduct the competition procedure in accordance with the Rulebook on the admission procedure to the work and the scoring method of educators (teachers), expert associates, secretaries and accountants in pre-school institutions because the same has not been adopted. This Ministry was obliged to adopt the Rulebook on the admission procedure to the work and the scoring method of educators (teachers), expert associates, secretaries and accountants in pre-school institutions no later than 9 months from the date of entry into force of the Law. However, the Ministry did not do it, and the reception of the staff to the pre-school institutions was left to the managers of public institutions to have it regulated. In this case TI BiH addressed the Institution of Human Rights Ombudsman of BiH and this institution issued a Recommendation that ordered to the PI Centre for Pre-School Education Banja Luka to annul the controversial competition and announce a new one in accordance with the positive legal regulations governing this area, and to the Ministry of Education and Culture of RS to urgently adopt the Rulebook on the admission procedure to the work and the scoring method of educators (teachers), expert associates, secretaries and accountants in pre-school institutions and thus eliminate existing irregularities in this area.

HEALTHCARE (14 cases in 2015 or 5,0%)

In 2017 TI BiH received 14 reports referring to the healthcare sector. The reports were mostly related to the complaints about the length of waiting for hospital treatments, non-transparent employment in healthcare institutions, shortcomings in procedures for the award of specialization, and disputable appointments of the directors of health centres.

TI BiH filed an objection against the Decision issued by the Municipal Assembly of Samac on the appointment of director of Public Healthcare Institution Health Centre Samac, who was sentenced by the International Criminal Tribunal for the former Yugoslavia (ICTY) to 15 years in prison for the most severe war crimes as the highest ranked civilian officer in municipality of Bosanski Samac during the war in Bosnia and Herzegovina. One of the general conditions of the Public competition for the election and appointment of the PHI Health Centre Samac was that candidates have not been sentenced to at least six months imprisonment for a criminal offense or an offense that would make them unsuitable for performing the duties of the vacant position. According to the opinion of TI BiH the type of criminal offense the appointed director was convicted of makes this person inappropriate for the function of a director of a healthcare institution that should offer healthcare protection to all citizens of Samac municipality, including the persons that have been expelled and persecuted during the war. It is also significant to mention that the Municipal Assembly of Samac appointed this person after the controversial appointment had already been annulled by the District Court in Doboj, and that the court in the reasoning of the judgment, among other things, emphasized that the reasons decisive for decision-making were lacking, i.e. that the Commission for election and appointment did not prepare valid explanation nor clarified the reasons based on which it

made its decision. TI BiH believes, as it was pointed out in the objection, that the repeated procedure failed to provide detailed and reasonable explanation, but only general rating of the candidates which did not meet the principle of quality as one of the most significant principles of the public competition procedure.

TI BiH received a petition submitted by a doctor, in which she expressed her doubts about the regularity of the competition in the Public institutions General hospital „Prim. dr Abdulah Nakas“, related to the award of specialization. The report noted that competition for the election of candidates to be awarded basic specialization did not indicate all necessary documentation, needed as the evidence based on which the Commission would have a direct insight into all the criteria for establishing the order of candidates, as prescribed by the Rulebook on the criteria for the admission of specialists. Also, candidates were subsequently requested documents, and given points for the papers and scientific activity, for which there were no relevant evidence. Although the Rulebook stipulates that the Commission must be composed of minimum three members, and that each member after the conversation with a candidate evaluates him/her with maximum three points, the party stated that only two members were present, and it remains unclear how the third member made the evaluation and assigned the points. TI BiH provided its opinion and the draft objection to the client, who then submitted the same to the Managing Board of the public institution General Hospital „Prim. dr Abdulah Nakas“. The Managing Board decided to annul the competition for the election of candidates for the award of basic specialization.

POLICE (11 cases in 2017 or 4,0%)

In 2017 TI BiH acted upon 11 reports submitted against the work of police authorities. Citizens mostly reported traffic police officers for reckless work or inappropriate behavior. In such cases, if the reports contained enough information TI BiH addressed Ministry of Internal Affairs – Internal Control Departments and requested verification of the citizens' allegations, as well as initiation of investigation.

As an indicative case we can mention the case of malfunctioning of police officers at Bihac Police Station, who inadequately acted in case of expelling from the rented apartment a foreign national to whom the landlord changed the lock on the door while she was out on a business trip and thus restricted the access to her own things. After finding out that the door lock had been changed, the foreign citizen reported the case to the police expecting the police to take certain actions in order to allow her enter the apartment she rented and for which she was paying all her duties and had an agreement concluded with the owner. However, the police officers ignored her requests and convinced her that she had no rights compared to the landlord, and only after the intervention of the foreign embassy they allowed foreign citizen to enter the apartment and check her belongings, without submitting report of the committed criminal offense to the competent Prosecutor's Office. TI BiH provided legal aid to the party and she won in the court the decision to return to the apartment since the landlord illegally tried to exile her. Also, the Cantonal Prosecutor's Office of Una-Sana Canton took a statement from the foreign citizen in regard to the circumstances under which the existence of the criminal offence was investigated.

PRIVATE SECTOR (6 cases in 2017 or 2,1%)

In 2017 TI BiH dealt with 6 cases related to the private sector, and they mostly referred to the labour law in private companies and violation of labour rights by the employers. The employees mainly reported suspicion about the existence of mobbing, and other harassment practices, and in one case the employee reported she had not been granted the right to have the salary increase on the basis of overtime which lasted for more than two months. In such cases TI BiH legally assisted parties by providing them with legal advice and draft letters/notes that were submitted to the competent authorities.

PROPERTY-LEGAL AFFAIRS (2 cases in 2017 or 0,7%)

In 2017 there were only two reports referring to the property-legal issues of the citizens. Although such cases are not part of the activities our organization deals with, the citizens were instructed whom they may address in regard to property-legal disputes.

PUBLIC ADMINISTRATION (129 cases in 2017 or 46,9%)

As in the previous years, the largest number of reported cases in 2017, **129** of them was related to the public administration sector. This includes all complaints against the work of institutions of BiH at all levels of government, state, entity, local, and the reports concerning public enterprises and public institutions. Most of reports referred to the irregularities in the employment process of civil servants at all levels of government, but also the admission process of employees to public enterprises and institutions.

As an example of illegal conduct we can mention the case of issuing a certificate on work experience by the Republic of Srpska Republic Administration for Geodetic and Property Affairs (RUGIP) to the persons that were engaged in RUGIP on the basis of temporary service contract, although this is contrary to the Labour Law of RS. The controversial certificates were issued for different purposes, including the participation in job competitions within other administrative bodies. The fact that reported persons, due to the illegal certificates on work experience, met the requirements for taking the professional exam for work in administration is also disputable. Upon report made by our organization, the Republic Administration for Inspection Activities issued a Decision ordering RUGIP to abolish the decision on recruitment of five reported persons who, contrary to the existing regulation, were issued a certificate on work experience based on previously concluded temporary service contracts.

In 2017 there was an obvious increase in the number of reports by the employees of public enterprises and institutions, the so-called whistleblowers, who reported irregularities in the work. In one of such reports TI BiH was provided with the copy of temporary service contract that public institution Republic of Srpska Roads, concluded with the person who is a traffic engineer. The contract notes that the subject of the contract is provision of intellectual service of business consultancy in the technical field, without specifying what kind of service it exactly refers to. The contractor is obliged to perform the consultancy service within 30 days from the day of concluding the contract, while the service ordering party is obliged to pay BAM 9,000 for the service within 15 days from the date of signing the contract. Based on the above mentioned, it can be concluded that PI Republic of Srpska Roads is obliged to pay the entire agreed fee to the service provider before the expiry of the deadline for execution of contracted services, which is a very rare situation in contractual relations. Beside the mentioned, there arises also the issue of legality of concluding this type of contracts since it refers to the provision of service of business consultancy in technical field which represent one of the activities of the Republic of Srpska Roads and has been regulated by the Statute of this company. The RS Labour Law prescribes that the employer may conclude a temporary service contract with a specific person only for performing activities which are outside the scope of activities of the employer. Also, Article 30 of the Rulebook on internal organization and job classification in PI Republic of Srpska Roads prescribes the existence of the Department for Traffic Safety with 5 persons working within it, 3 of who must be traffic engineers whose job description corresponds to the services required by the controversial contract. TI BIH addressed PI Republic of Srpska Roads on several occasions and requested

information related to the conclusion of the disputable contract, but were only informed that this contract had been terminated and that it had not produced and legal effect.

Upon the anonymous report of the citizens, TI BiH determined controversial practice of appointments to positions within Development Bank of FBiH. Namely, Mersiha Slipicevic resigned from her position in the Supervisory Board of the Development Bank of FBiH to be appointed to the position of the Acting Executive Director of this bank the same day, presenting this appointment as the condition to resign from the Board. According to the opinion of TI BiH, Slipicevic was in conflict of interest in this way, not only for having the opportunity to influence her own appointment, but also for being able to influence the working conditions such as salary and other rights related to her new position, since the material rights of the executive directors are negotiated with prior consent of the Supervisory Board. Besides, the Development Bank of FBiH was operating without Executive Director for more than two years, and it had annulled public competitions for this position twice so far, in order to perform urgent appointment of Acting Executive Director contrary to the Provision on the exercise of powers in enterprises that contain state capital, which stipulates that the Acting Executive Director may be appointed until the public competition procedure is completed in **exclusive** cases only. The given appointment presented a huge risk for the operations of this bank since the competencies and powers of the supervisory body and the managerial body overlapped under suspicious circumstances and in controversial way in one person. TI BiH requested from the Banking Agency of FBiH to use its supervisory powers over the operations of the Development Bank and to issue an order to eliminate determined irregularities, but it also informed the Board of Economic and Financial Policy of the Parliament of FBiH about the described practice. Financial police and the Banking Agency are also conducting investigations about the operations of this institution, specifically in the part related to the appointment of the Acting Executive Director, as well as disputable loan placements.

TI BiH acted upon the petition filed by an employee of the Republic of Srpska Republic Administration for Geodetic and Property Affairs, who pointed out the illegal assignment to another position within the same institution, and violation of the Law on Civil Servants. Specifically, the party has been temporarily assigned several times to other positions which is contrary to the Law on Civil Servants of RS which clearly prescribes in Article 46, Paragraph 1, that civil servant may be temporarily assigned to the same republic administrative body, to the positions corresponding to his/her qualifications, without his/her consent, due to the the job requirements or increased workload, **no longer than six months in a period of two years.** The party managed to annul the controversial Decisions issued by RUGIP by getting the confirmation of his/her statement from the State Appeals Board, but RUGIP ignored the attitude of the second-instance body and continued to assign the employee to other positions. TI BiH stayed in contact with the party during the entire proceeding, in order to provide legal assistance and timely actions, and it reported the RUGIP actions to the relevant inspections. After some time, the party informed TI BiH that RUGIP annulled controversial decisions, and that she was returned to her position of the Head of the regional unit.

CONFLICT OF INTEREST (11 cases in 2017 or 4,0%)

In 2017 TI BiH received 11 reports concerning the potential existence of conflict of interest referring to the persons holding different functions. In most cases citizens asked the organization for the opinion if certain situation was conflict of interest and legal advisers of the organization provided the answers. In addition to these cases, it is important to mention two cases reported by the citizens and resolved by the Republic Commission for Determining Conflict of Interest, whose actions were followed by our organization since the citizens requested so.

In first case the RS Appeals Commission annulled the decision made by the Republic Commission which has not primarily determined the existence of conflict of interest in case of a member of the Municipal Assembly of Srbac who voted when his daughter and son-in-law were appointed to managerial positions in public institutions. After the Appeals Commission annulled this decision, the Republic Commission determined the existence of conflict of interest for this member of assembly, but it did not initiate a

procedure to apply sanctions for the violation of the Law on Prevention of Conflict of Interest in RS Authorities. TI BiH addressed both Commissions and requested information why the procedure for application of sanction has not been initiated, and was provided answer that the Appeals Commission was not competent to initiate it while the Republic Commission requested the Central Election Commission to give its opinion about the implementation of sanctions, since the member of assembly initiated and administrative dispute against the decision of the Commission.

The second case refers to the conflict of interest of the Minister of Agriculture, Forestry and Water of RS who was holding a position of a member of the Managing Board of the Fund for Environmental Protection of RS at the same time, which employed his daughter during his mandate. TI BiH monitored the actions of the Republic Commission in this case and legally assisted the party who initiated proceeding before the Commission. It is concerning knowing that the first-instance Commission made a decision that the Minister was not in conflict of interest without previously investigating the business relations between the Director of the Fund who decided to employ the Minister's daughter and the Minister as a member of the Managing Board to whom the Director must submit reports on their work and operations. This is very important because the examination of this subordinate connection may result in finding out if there existed some private interest that included the employment advantage of the Minister's daughter.

ACCESS TO INFORMATION (18 cases in 2017 or 6,5%)

TI BiH dealt with **18** cases related to the implementation of the Law on Free Access to Information. In most cases citizens reported to be prevented from free access to information by the public authority due to the inappropriate understanding of the provisions of the Law, or that authorities simply never answered their requests or answered after the expiry of legally prescribed deadlines. Our organization addressed public authorities after receiving those reports, and asked information on behalf of our parties calling upon the Law on Free Access to Information. After receiving the information, we sent them to our clients. T BiH also prepared different letters, requests for free access to information, complaints about the silence of administration, appeals against decisions to refuse access to information, and lawsuits filed to initiate the administrative disputes.

For the needs of its clients, organization prepared 4 lawsuits, which the parties submitted personally, while the organization in its own name, filed 15 lawsuits in 2017 due to the violation of the Law on Free Access to Information against the following institutions:

1. Ministry of Communications and Transport of BiH
2. Ministry of Foreign Trade and Economic Relations of BiH
3. Ministry of Education and Culture of the Republic of Srpska
4. Ministry of Education and Culture of the Republic of Srpska
5. Banking Agency of the Federation of BiH
6. City of Trebinje
7. Municipality of Capljina
8. Municipality of Capljina
9. Municipality of Capljina
10. Faculty of Law Sarajevo
11. Public enterprise Gas-Res
12. Elektrodistribucija Pale
13. Hrvatske telekomunikacije Mostar
14. Public utility services Tomislavgrad
15. High School – technical vocation Gradiska

In 2017 the **overall of 32 court decisions were made in administrative disputes** initiated by the organization during the previous years. In 15 disputes the claim submitted by Transparency International was adopted, while in 10 disputes it was not accepted, and in one dispute it was rejected. In two cases the courts accepted the requests of the organization for additional re-consideration of the courts' decisions, in

one case it was dismissed, in one rejected, and in one case the court decided to adopt the request for additional examination of the court decision filed by the defendant.

Institutions and public enterprises that TI BiH won the disputes against:

1. Prosecutor's Office of Bosnia and Herzegovina
2. Parliamentary Assembly of Bosnia and Herzegovina
3. Republic of Srpska Ministry of Interior
4. Republic of Srpska Republic Administration for Inspection Activities
5. Radio and Television of the Republic of Srpska
6. Public enterprise „Republic of Srpska Roads“
7. Public enterprise „Republic of Srpska Airports“
8. Public institutions „Republic of Srpska Commodity Reserves“
9. Municipality of Stolac
10. ZP Elektrokrajina Banja Luka
11. Industrijske plantaze a.d. Banja Luka
12. High school – technical vocation Gradiska
13. Elementary school Dositej Obradovic Knezevo
14. PI Water supply and sewerage Sanski Most
15. PI Water supply and sewerage Zenica
16. AD Zvornik Stan
17. Buducnost a.d. Laktasi
18. MH ERS ZP Elektrohercegovina a.d. Trebinje

In 2017 the Centre lost the first-instance disputes against the following institutions:

1. Public enterprise Gas-Res
2. Public enterprise Gas-Res
3. Banking Agency of the Republic of Srpska
4. Municipality of Ilidza
5. Elementary school Aleksa Santic Banja Luka
6. Ljubija iron ore mine
7. Elektrodistribucija Pale
8. Public utility service Water supply Celinac
9. Public enterprise Komunalac Kozarska Dubica
10. Public enterprise Directorate for construction and development of the city

In 2017 the Constitutional Court of Bosnia and Herzegovina dismissed the appeal filed by Transparency International BiH against the decision brought by the District Court of Banja Luka, as inadmissible. In specific case the main issue was delivery of information – copy of the Privatization Agreement of the Shopping Mall Boska, in which case the Court decided in favour of Transparency International BiH and ruled that the competent Ministry of Trade and Tourism of the Republic of Srpska must issue a decision, but the Ministry did not act as the verdict requested referring thus to the circumstances that the requested Agreement was alienated from the Ministry in the meantime. Transparency International BiH requested from the District Court Banja Luka to initiate the proceeding against the Ministry for failing to comply with the verdict, but the Court refused the organization's request and accepted the allegations of the Ministry that the Agreement had been alienated. After all the proceedings before the District Court Banja Luka and the Constitutional Court of Bosnia and Herzegovina, **Transparency International BiH filed an application to the European Court of Human Rights in Strasbourg on 15th November 2017**, in which it indicated that the right of access to the court would be illusory if the state allowed the final and binding court decision to remain unfulfilled at the expense of one of the parties involved in the proceeding.

CONSTRUCTION - URBANISM (6 cases in 2017 or 2,1%)

The reports in this category refer to the irregularities in the work of municipal services related to issuing documentation in the field of spatial planning, including tolerating of illegal construction despite the reports of damaged citizens or deliberate ignoring of municipal services for spatial planning to act upon the

decisions issued by second-instance bodies or verdicts of the courts. In 2017 TI BiH received 6 cases in this category, which is less than in the previous years.

In one of the cases from this category it has been determined that an employee in the Service for Spatial Planning, Geodetic and Property-Legal Affairs of the Municipality of Gracanica has violated the Law on Administrative Procedure of FBiH. TI BiH received from the party documentation from which it is obvious that the Service for Spatial Planning invited the party on 27th June 2017 to come to the premises of the Centre for Permits within 8 days in order to give the statement related to the case of issuing urban permit for the extension and re-construction of the roof on a residential-business building owned by his neighbour. But, the following day, on 28th June 2017, the Service issued a Decision on Urban Permit without hearing the party before that, and thus violated Law on Administrative Procedure of FBiH. The party urgently appealed to the Ministry of Spatial Planning and Environment Protection of Tuzla Canton, which accepted the appeal and annulled the disputable Decision of the Service for Spatial Planning, Geodetic and Property-Legal Affairs.

OTHER (22 cases in 2017 or 8,0%)

There were 22 cases received in 2017 concerning different inquiries and suggestions of the citizens, which cannot be classified to any of the above listed categories. They mainly refer to the payment of utility services, management of condominium owners' committee, establishment of NGOs, suggestions for the amendments to the laws, various initiatives of citizens to resolve different issues in the society, etc. In most of those cases TI BiH replied to the citizens by providing them with a legal advice or by directing them to the relevant institutions.

STATISTICS

In 2017, **387** notes were submitted to the relevant institutions and parties were legally advised **143** times.

In 2017 the Institution of the Human Rights Ombudsman of BiH acted upon the notes filed by TI BiH and provided three recommendations:

1. It provided recommendation referring to the obligation of the Ministry of Education and Culture of the Republic of Srpska to make a decision in regard to the complaint filed by Transparency International BiH, and to follow the procedure prescribed by the Law on Free Access to Information. In this specific case, the Ministry refused to decide on complaint our organization submitted against the Decision of the Ministry, believing that the body which is in charge of second-instance decision-making in cases related to the free access to information is the Institution of the Ombudsman of BiH.
2. Recommendation related to the obligation of the Ministry of Labour and Veterans of the Republic of Srpska to consider the possibility of proposing new legal solution that would allow persons that used to work less than six hours a day to have the right to unemployment compensation in the period of his/her unemployment, proportional to the time spent working for an employer. In the particular case, a party came to the Centre since the Employment Service of RS refused his claim for exercising the right to financial compensation because he was employed part-time, and during the calculation of the length of service the length of his insurance was reduced which is why he failed to meet all the requirements for the exercise of the right.
3. Recommendation related to the obligation of the public institution Centre for Pre-School Education Banja Luka to annul the competition announced on 11th January 2017, and to organize a new one in accordance with the positive legal regulations governing this field, as well as the obligation of the Ministry of Education

and Culture of the Republic of Srpska to urgently adopt the Rulebook on the procedure for admission to the job and method of evaluation of teachers, expert associates, secretaries and accountants in pre-school institutions and thus eliminate the irregularities in this field.

It is also important to provide summary of several successful stories that marked the work of TI BiH in 2017.

1. Upon the report received through the Advocacy and Legal Advice Centre Transparency International in BiH determined there had been some abuses during the employment in the Republic Administration for Geodetic and Property-Legal Affairs (RUGIP). This institution issued certificates on work experience to several persons based on the temporary service contracts they had concluded with RUGIP, although this was contrary to the Labour Law. The controversial certificates were issued for different purposes, including the participation at the competition for the position within another administrative bodies. It is also disputable the fact that the reported persons acquired the requirements to take the professional exam for work in administration on the basis of illegal certificates on work experience. Acting upon the report, the Centre requested the opinion from the Civil Service Agency, Ministry of Public Administration and Local Self-Government and Ministry of Labour and Veterans, and all three institutions confirmed that, having in mind the provisions of the Labour Law the engagement based on the temporary service contract “cannot be used as ground for acquiring the work experience in republic administration bodies”. The Centre then submitted to the Republic Administration for Inspection Activities a request to perform an inspection, after which it determined violation of several regulations, including the Decree on Professional Examination for Work in the Republic of Srpska Civil Service. The inspectors brought a decision by which they ordered RUGIP to annul the decisions on employment of five reported persons who were issued certificates on work experience based on previously concluded temporary service contracts, although it was contrary to the existing regulations.

2. The second story started in 2014, and the final outcome was in 2017. The story is related to the appointment of a person to the position of Director in an institution of culture established by the Municipality of Velika Kladusa. This person was employed although he had been found guilty of committing a criminal offense that made him inappropriate for the position of director. The reason for such situation is to be found in the fact that the candidate submitted a certificate of being non-convicted not older than three months, which is in accordance with the current regulation. He was convicted just prior to the start of competition procedure but he had submitted a certificate from the period in which he had not been convicted yet. The ill-intentioned nature of this candidate made him obtain the certificate of being non-convicted on the same day the verdict based on which he was found guilty was pronounced, i.e. at the moment when legally speaking the legal proceeding against him was completed. The candidate won the position he applied for and was appointed to the position of director. However, his opponent addressed the Centre for help, and the Centre’s lawyers provided legal assistance to him by preparing submissions for the competent courts. In 2016 the Municipal Court of Velika Kladusa decide to approve the complaint filed by the client of our Centre and to annul the decision based on which the candidate for this position was elected. Then the elected candidate appealed against the first-instance verdict, and the Centre prepared a response to the appeal submitted by his opponent. In the meantime, in early 2017 the Municipality of Velika Kladusa which established this institutions of culture dismissed the controversially elected director and the entire Management Board of the institution, and appointed his opponent – our client to the position of the Acting Director. By the end of 2017 the Cantonal Court of Bihac rejected the appeal of the first elected director and confirmed the first-instance verdict, which made this case final.