



2020.

Advocacy and Legal Advice Center

Transparency International Bosnia and Hercegovina

STATISTICS AND NARRATIVE REVIEW
2020.



Summary

The Advocacy and Legal Advice Centre of Transparency International in Bosnia and Herzegovina (ALAC) was established in late 2003 and is aimed at providing free legal aid to citizens and legal entities.

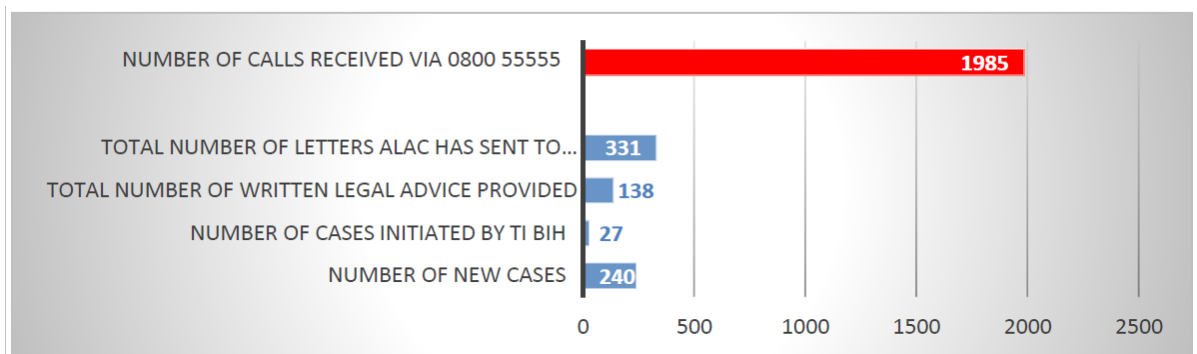
ALAC's goal is to provide practical and useful legal advice to all persons who approach TI BiH for assistance, as well as monitor the work and performance of competent institutions, in particular insofar as these concern cases of corruption. In this way, citizens are provided with alternative avenues for fighting corruption as well as all means of legal redress available to them. Active monitoring of the work of the acting authorities prevents any illegal and self-willed behaviour from going unnoticed.

ALAC is also seeking to identify appropriate institutional reforms and better legislative solutions in the field of anti-corruption policy working in collaboration with government authorities, but primarily having in mind the objections and suggestions regarding the work of institutions it receives from citizens on a daily basis.

Provision of legal aid empowers victims of corruption to exercise and protect their rights that have been infringed as a result of corruption.

In 2020, ALAC acted in **240** new cases, of which **27** were initiated by ALAC itself and **213** were cases where ALAC acted on the basis of reports/complaints received from citizens.

The toll-free telephone line 0800 55555 received a total of **1985** calls from citizens asking about the possibilities of receiving legal aid and reporting various corrupt practices. Also, over a hundred court rulings from all jurisdictions in the country regarding free access to information were published on the official website www.ti-bih.org.



In the context of administrative litigation, in 2020 ALAC brought **19** lawsuits for violation of the provisions of the Freedom of Access to Information Law, **16** suits were won by ALAC, and in **2** suits ALAC's claim was rejected, after which further legal remedies were pursued.

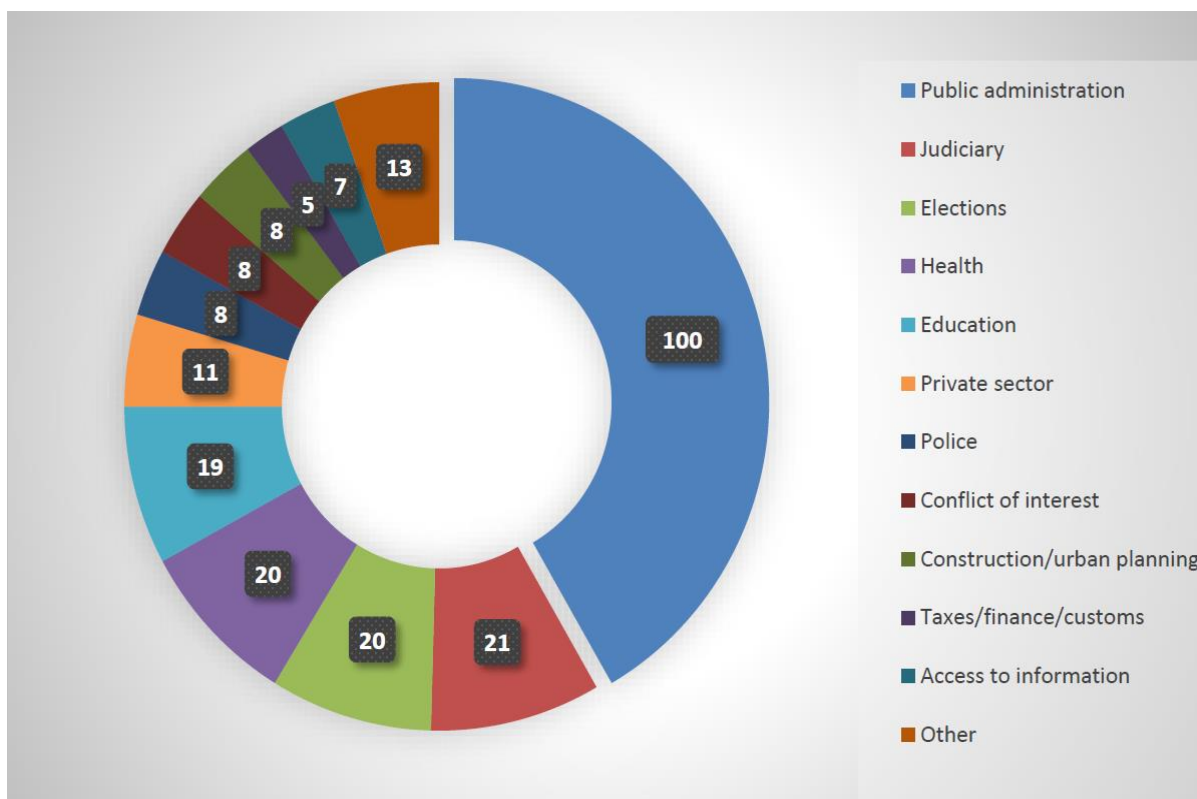
Thanks to these lawsuits, BiH citizens gained access to a broad range of information that was previously withheld from them.

Increased number of cases in 2020 can be partly accounted for by the pandemic, which affected all spheres of life, including trends in corruption reporting.

Citizens were more likely to seek legal protection for infringement of their labour and employment rights, and a large number of enquiries concerned citizens' suspicions that they were prevented from enjoying fundamental human rights and freedoms under the pretext of a state of emergency and/or circumstances brought about by the pandemic.

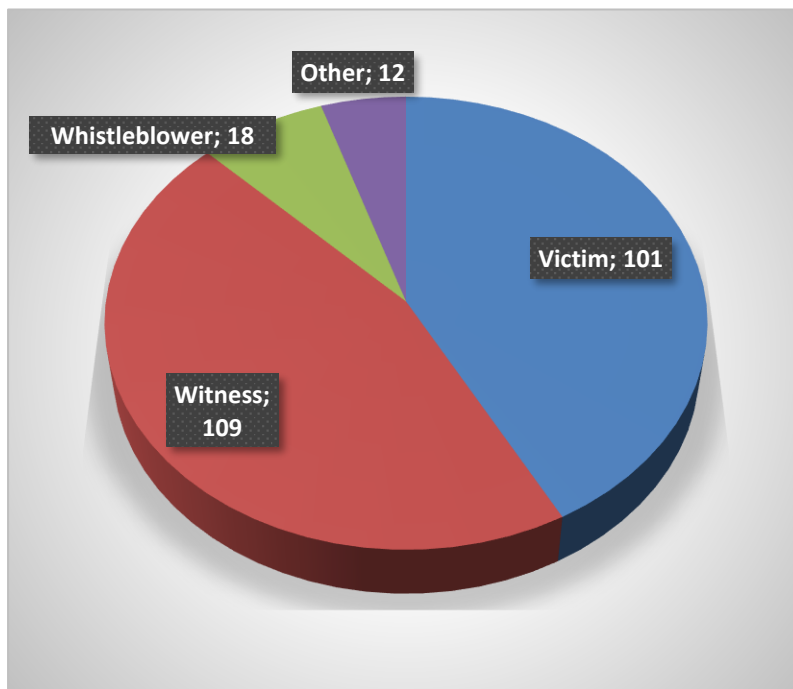
Despite the fact that 2020 was marked by an unprecedented health crisis, citizens were still ready to report corruption in their immediate environment.

Indeed, some of the reports received concerned corruption that was facilitated by pandemic circumstances.



Structure of corruption reports by sectors

As in previous years, the largest number of reports in 2020, a total of **100**, concerned the public administration sector. This includes complaints against all institutions in BiH at all levels of government (state, entity, local) and those relating to public enterprises and public institutions.



Structure of reporters of corruption

A large number of reports concerned irregularities in the recruitment of civil servants at all levels of government, recruitments in public enterprises and public institutions, failure of inspection authorities to act on citizens' complaints, violation of personal data protection regulations, etc.

In terms of the structure of persons who reported corruption, 7.5% were classified as whistleblowers, showing roughly the same trend as in the previous year.

It is important to note here that in recognising whistleblowers, TI BiH uses the international definition of whistleblowers proposed by the Transparency International global movement.

Corruption is still most likely to be reported by victims or witnesses of corruption. The largest number of reporters of corruption have secondary education and are of middle or active age (24–54 years).

Reporters of corruption, by sex	
Male	105
Female	45
TI BiH's own cases	27
Legal entities	9
Anonymous	54
In total	240

Reporters of corruption, by age	
<24	2
24-39	57
40-54	70
+55	38
Unknown	73
Total	240

Reporters of corruption, by type of settlement	
Urban	159
Suburban	75
Rural	4
Unknown	2
Total	240

Corruption reports, by method of receipt	
Phone/Fax	1
Personal visit to the Centre	6
E-mail	59
Post	67
TI BiH's own cases	27
Online form	80
Total	240

Corruption reports, by level of jurisdiction	
State	58
Entity	126
Local	52
Brčko District	4
Unknown	
Total	240

Reporters of corruption, by level of awareness	
High	79
Medium	146
Basic	15
Undefined	
Total	240

Summary of cases by sectors

JUDICIARY (21 CASES IN 2020)

COURTS (12 cases)

In 2020, TI BiH received 12 complaints relating to the work of basic/municipal and cantonal/district courts. The complaints mainly concerned the length of court proceedings, the failure of the courts to act on the parties' requests, and the parties' dissatisfaction with the court decisions. In those cases, TI BiH provided advice to the parties on how to pursue legal remedies, and explained how the cases were being resolved and how the parties can approach the courts and press them to act.

TI BiH lodged disciplinary complaints with the Office of the Disciplinary Counsel (ODC) against the judges of the District Court in Banja Luka because it took them more than six months to render a decision in an urgent case initiated based on the petition for protection of constitutionally guaranteed rights, which was filed by activists of the group "Pravda za Davida" (Justice for David) due to police repression and a ban on movement in the city centre. The judges rejected the activist's petition but submitted the written decision a month after it was drafted. Furthermore, one of the activists was not allowed to inspect the case file within the statutory deadline left for preparing a petition for extraordinary review of the court decision by the RS Supreme Court. The Law on Administrative Litigation stipulates that the court shall act upon a request for protection of constitutionally guaranteed rights urgently and in a manner that, in keeping with the basic principles of the procedure, ensures effective protection of the rights and interests of citizens. Furthermore, in the case in question the judges violated other procedural provisions and procedural principles (the principle of adversarial proceedings or mutual hearing of the parties), stalling the proceedings and denying the petitioner access to the case file. In its complaint, TI BiH pointed out that there was a suspicion that in acting so the judges had committed disciplinary offences such as, *inter alia*, obvious violation of the obligation to behave properly towards the parties in the proceedings, making decisions that are in clear violation of the law, persistent and unjustified violation of the rules of procedure, and unjustified delays in drafting decisions or in other actions related to the performance of the duties of a judge. The ODC is still examining the allegations from the complaint. The Law on the High Judicial and Prosecutorial Council stipulates that the ODC is, as a rule, obliged to resolve a complaint within two years from the day of receipt.

PROSECUTOR'S OFFICES (9 cases)

TI BiH received 9 reports related to the work of prosecutor's offices. These were mostly reports from citizens who were dissatisfied with the offices' failure to act on their reports, the speed with which the offices handled cases, or the offices' decisions not to conduct investigations. There is also a noticeable trend where citizens, along with the report they file, inform the prosecutor's office that they forwarded a copy of their report to our organisation, expecting TI BiH to monitor the office's handling of their report. In those cases, TI BiH approached the competent prosecutor's offices requesting access to information on the action taken in specific cases.

In 2020 the Chief Prosecutor of the Tuzla Canton Prosecutor's Office, Tomislav Ljubić, was issued a public reprimand because he had rented out office space to lawyers who defended the accused in criminal proceedings instituted by his prosecutor's office, thus "tarnishing the reputation of the prosecutor's office". The public reprimand was issued following a complaint lodged by TI BiH with the Office of the Disciplinary Counsel. Also, data show that in at least 13 proceedings the Prosecutor's Office concluded plea agreements with the accused represented by the controversial lawyers to whom the Chief Prosecutor was renting office space.

TI BiH filed criminal charges with the Prosecutor's Office of Bosnia and Herzegovina against the member of the Presidency of Bosnia and Herzegovina Milorad Dodik because there were grounds for suspicion that he had, in his official capacity, committed the criminal offence of Unlawful Wiretapping and Audio or Video Recording. At the 13th special sitting of the National Assembly of the Republika Srpska, Dodik said from the rostrum that he was listening in on the phone conversations of opposition politicians and that there was no government that didn't wiretap the opposition, and then recounted the content of telephone conversations of opposition members. He further indicated that all the wiretaps were submitted to him by the Republika Srpska Interior Minister Dragan Lukač, asking him to confirm what he had said.

The Cantonal Prosecutor's Office of the Central Bosnia Canton accepted TI BiH's complaint in the previously filed criminal charges against the director of the public enterprise JKP VITKOM doo Vitez (Vitkom) for certification of false content. Investigation into TI BiH's complaint was ultimately ordered even though the Prosecutor's Office initially refused to do so. TI BiH filed a complaint with the Cantonal Prosecutor's Office of the Central Bosnia Canton against the director of Vitkom, Jasna Babić, members of the Supervisory Board of Vitkom and other employees in this public enterprise. TI BiH is in possession of evidence suggesting that the director was elected and appointed even though at the time of election she did not resolve the conflict of interest as a municipal council member, which she was bound by law to do.

EDUCATION (19 CASES IN 2020)

Nineteen cases concerned reports of corruption and human rights violations in education. The reports referred to all segments of the education sector, ranging from preschool institutions, to primary and secondary schools, to universities. Citizens reported problems in the allocation of funds under the Regulation on the Prevention of the Consequences of the COVID-19 Pandemic Crisis, abuse of children for purposes of pre-election campaigns, illegalities in the implementation of competitions for recruitment in primary and secondary schools, etc.

It is important to look back at the Recommendation of the Republika Srpska Ombudsman for Children No. 850-50-7-PŽ/20 dated 23 December 2020, which the Ombudsman issued to the Republika Srpska Ministry of Education and Culture following a report filed by our organisation in connection with the fact that in early September 2020 political officeholders (Srđan Amidžić in Banja Luka and Boris Jerinić in Doboј) included children in activities aimed at achieving political goals of adult persons. Furthermore, those activities were carried out in a school, which is prohibited under the RS Law on Primary Education. The Recommendation to the RS Ministry of Education and Culture stated that, in its implementation of the RS Law on Primary Education and the application of epidemiological measures, the Ministry had failed to conduct control, i.e. administrative supervision, in educational institutions. The Recommendation further instructed the Ministry to conduct the supervision procedure and inform the Ombudsman for Children thereof.

A group of students of the American University in Bosnia and Herzegovina (AUBiH) approached TI BiH asking for legal assistance because the University administration required them to sign an annex to the study contract which provides for additional study costs. According to the University administration, the new expenses were incurred as a result of the COVID-19 pandemic crisis and cover the costs of the University's international accreditation. According to the students, AUBiH pressured them to agree to the new costs, pointing out that the certification of the semester and the completion of their education would depend on it. The students especially pointed out that the AUBiH administration was threatening to review their studies (validation of passed exams) if they did not agree to pay the new expenses. TI BiH gained access to and reviewed the study contracts and concluded that nowhere did they envisage that the University had the right to make the fulfilment of its obligations conditional upon payment of additional costs that were not included in the contract. TI BiH sought an opinion from the Agency for the Development of Higher Education and Quality Assurance of BiH, which confirmed that it believed that it was not an example of good practice to revise contracts to the detriment of students. Following the report submitted by TI BiH to the inspection bodies, the inspectors issued a decision ordering the University to remedy the deficiencies and issue a certificate of completed education to the students. Failure to issue these certificates was one of the ways in which AUBiH pressured students to pay additional costs. AUBiH claimed that it had executed the ordered administrative measure, but the inspectors could not check the records, as TI BiH insisted, because the University administration refused to cooperate. The inspectorate notified the whole situation to the Tuzla Canton Ministry of Education and the police authorities. In the meantime, the Cantonal Prosecutor's Office of Tuzla Canton launched an investigation in the case against the President of the American University and investigations are currently underway, and a number of witnesses have been heard. TI BiH continues to follow the course, and students have repeatedly expressed their gratitude for the assistance provided, as well as for the fact that TI BiH has involved a number of institutions in solving problems. The Cantonal Prosecutor's Office of Tuzla Canton has opened an investigation in this case against the President of the American University and investigative actions are currently underway, with a number of witnesses being examined. TI BiH continues to follow the case, and the students have repeatedly expressed their gratitude for the assistance provided, as well as for the fact that TI BiH has involved a number of institutions in resolving their problem.

One of the cases that attracted much public attention was the discrimination of private preschools in the City of Banja Luka by the Republika Srpska Ministry of Education and Culture in allocating funds

under the Decree with legal force on tax measures to mitigate the economic consequences of COVID-19. The RS Ministry of Education and Culture considered that private preschools in the City of Banja Luka (children clubs, kindergartens, etc.) were not banned from working, so they were not included on the List of Legal Entities and Entrepreneurs Banned from Working in March 2020. By searching the List, which was published on the Ministry's official website, our organisation noticed that it included 42 preschools classified under the activity code 85.10 and 85.11, of which 35 were private and 7 were public preschools from different cities and municipalities. TI BiH asked the Ministry why the preschools operating in the territory of the City of Banja Luka were not on the List of Legal Entities and Entrepreneurs Banned from Working in March 2020, and the Ministry replied that "Private preschool in the territory of the City of Banja Luka were not eligible for financial assistance because their work was not banned by virtue of a written document constituting an order or conclusion of the Crisis Management Committee". Considering that the Ministry interprets the provisions of the Decree restrictively and to the detriment of private preschools, our organisation reported the discriminatory treatment to the Institution of the Human Rights Ombudsman of BiH. In this particular case, the Ministry did not stop at preventing private preschools in the territory of the City of Banja Luka from exercising the right to assistance from the Republika Srpska Government, but took a step further, ordering others to discriminate and inciting discrimination, as evidenced by the letter which the Ministry sent to the City Administration of the City of Banja Luka, requesting that it remove, as soon as possible, preschools (activity code 85.10) from the list of lines of business which were banned from working in March and April 2020 due to the pandemic, on account that they were not prohibited from working in the said period by the competent institutions. The Ombudsman's Recommendation No. Ž-BL-06-698/20 dated 22 January 2021 instructed the Republika Srpska Government and the relevant line ministries to enable the access to the right to assistance to private preschools in the territory of the City of Banja Luka proportionate to the extent of damage suffered due to the pandemic.

TI BiH was also approached by a group of parents of children in a primary school in Bijeljina who suspected party-sponsored employment, expressing their dissatisfaction with the frequent changes of teachers. The parents pointed out that their children had already changed three teachers, and that the last change was made only to allow for party-sponsored employment. They especially pointed out that all that was being done during the pandemic, when it was very difficult for children to overcome the challenges of online learning with a new teacher. They tried to convince the school director to extend the fixed-term contract of the former teacher, but were dismissed and told that they could not have a say in the recruitment of teaching staff. They also suspected that the job competition had been rigged, and TI BiH helped them to file a report with the relevant inspection authorities and the Ombudsman for Children. Inspectors found no irregularities in the implementation of the job competition, but the case pointed to widespread suspicions of party-sponsored employment and corruption in education, which is why parents are increasingly voicing their dissatisfaction believing that their children are victims of poor-quality education. The children did not even attend classes for a while due to the parents' protest. A similar case took place in Banja Luka at the Branko Radičević Primary School, where there was also a suspicion of party-sponsored employment.

HEALTH (20 CASES IN 2020)

In 2020 there were 20 cases initiated on the basis of reports of corruption in the health-care sector. The most commonly reported irregularities concerned recruitments in health-care facilities, violations of health-care rights due to the COVID-19 pandemic, and opaque procurement of medical equipment.

Our organisation was approached by several participants in job competitions who were on the list of successful candidates and were supposed to take up employment at the Tuzla University Clinical Centre. They complained that, based on the decision of the interim director of the Tuzla UCC, a part of the job competition advertisement placed on 19 December 2019 referring to the recruitment of nurses had been annulled and the candidates were not informed about the reasons for the annulment or given the option to seek legal redress. The complaints state that the candidates found out from the media reports that the ad had been annulled because one of the successful candidates had been convicted of committing a crime and was, at the time, being tried for another crime. In their complaints, all of the candidates pointed out that they felt discriminated against and had been brought into an unenviable position, which is why they turned to our organisation for legal aid. TI BiH sued the Tuzla University Clinical Centre for "administrative silence", i.e. failure to grant access to information related to the annulment of a part of the job competition advertisement placed on 19 December 2019 relating to the recruitment of nurses, and plans to continue pursuing justice in this case.

In the midst of the outbreak of the COVID-19 pandemic, the wholesaler of medicines Krajinagroup doo Banja Luka expressed readiness to lease to the Republika Srpska Government, free of charge, its

storage facilities and professional staff for the purposes of receiving, storing and distributing donated medicines and medical devices. The Republika Srpska Crisis Management Committee authorised, in its Conclusion No. 08-2/20 of 24 March 2020, the Republika Srpska Health Insurance Fund to procure hygiene products, medical devices and protective equipment for the needs of the Republika Srpska health-care system for as long as the Decision declaring a state of emergency was in force. On 1 April 2020 the Fund concluded a contract on the use of storage facilities with the company Krajinagroup doo Banja Luka for the purposes of storing hygiene products, medical devices and protective equipment which will be procured by the Fund as per the Committee's Conclusion. The contract provided that Krajinagroup's storage facility with surface area of 2000 sq. metres, located in Novakovići bb Banja Luka, was leased to the Fund **free of charge**, and that the contract was concluded for the period while the Decision declaring a state of emergency in Republika Srpska stayed in effect. At the same time, the Conclusion of the Republika Srpska Crisis Management Committee No. 09-2/20 of 26 March 2020, put the RS Ministry of Health and Social Welfare in charge of signing a contract with Krajinagroup doo Banja Luka, and the Conclusion of the Committee No. 12-1/20 of 31 March 2020 authorised the RS Minister of Health and Social Welfare to conclude a contract with the wholesaler. On 2 April 2020, the RS Minister of Health and Social Welfare and Krajinagroup doo Banja Luka concluded the Contract on storage of medicines, medical and other devices for protection of public health, and hygiene products. The Contract provided that the storage space was leased to the Ministry **free of charge**, and that the Contract would be valid for as long as the state of emergency stayed in force, unless the contracting parties agreed otherwise. Only a month after the conclusion of the Contract, the RS Crisis Management Committee passed the Conclusion No. 31-3/20 of 5 May 2020, instructing the director of the Health Insurance Fund to ensure, for as long as required, the payment of a monthly fee of BAM 21,500.00 KM excluding VAT to the wholesaler of medicines Krajinagroup doo for the use of storage space. Annexes to the original contracts provided for the payment of storage space from the moment of concluding the contract. So, legally speaking, Krajinagroup d.o.o. did not give anything free of charge to the RS Crisis Management Committee, but, instead, has collected over the last 11 months a total of BAM 236,500.00 excluding VAT for the lease of its warehouse.

POLICE (8 CASES IN 2020)

In 2020 TI BiH acted on 8 reports concerning the work of law enforcement agencies. Several cases relate to illegalities within police administrations reported to us by employees who wished to remain anonymous. Citizens' complaints were mainly related to the police's failure to act on their reports. One of them referred to the failure of the Banja Luka police to act on several reports of illegal gatherings of citizens outside city churches during the Easter holiday. TI BiH submitted all videos posted by citizens on social media along with the accompanying report to the competent Ministry of the Interior for the purpose of conducting internal control. On the other hand, around the same time, police officers of the Banja Luka Police Department, acting at the request of the Administrative Service of the City of Banja Luka, reacted promptly and confiscated a video projector and a laptop from an individual who was playing projections on the wall of a residential building in Sime Matavulja neighbourhood. The media reported that the projector had been removed at the request of the City Administrative Service because the person in question did not have the consent of the competent authorities to install it, and that another reason for the removal was that the projector was used to broadcast political messages. TI BiH contacted the City Administration of the City of Banja Luka to ask about the specific regulation under which the person in question was required to obtain the consent of the competent city department to own a video projector and broadcast projections on the façade of a building, but has so far received no response.

PRIVATE SECTOR (11 CASES IN 2020)

In 2020 TI BiH handled 11 cases related to the private sector, mainly concerning labour and employment relations in private companies and violations of workers' rights by the employer, especially under the pretext of the circumstances occasioned by the COVID-19 pandemic. In those cases, TI BiH provided legal aid to the aggrieved parties by providing them with legal advice and drafting various submissions to the competent authorities.

A group of workers from a processing company turned to our organisation for assistance. They said that they had been sent on paid leave (so-called "wait") due to the outbreak of the epidemic, and that during that time they had been paid a reduced salary, adding that those who were sent to paid leave were mostly workers who had previously decided to unionise. The Labour Law stipulates that the

employer, in consultation with the union, may send an employee on paid leave (waiting) in the event of unplanned temporary reduction in the volume of work, as well as for economic-financial or technical-technological reasons. During the leave, workers are entitled to salary compensation to the tune of at least 50% of the average salary earned in the previous three months. Method of sending workers to leave, length of “wait”, mutual rights and obligations of workers and other issues related to the regulation of this leave are regulated in more detail by the collective agreement. The current special collective agreement for employees in the respective industry did not regulate this issue in detail, which means that the issue is regulated only by the Labour Law and/or the general internal regulation of the employer. TI BiH prepared the workers for the meeting with the employer and explained to them the institute of paid leave, the rights available to them, the protection mechanisms and the obligations that the employer must fulfil towards them in case of termination of the employment contract. The case showed that many companies used the circumstances brought about by the pandemic to further weaken the already weak position of workers, and that many important issues, such as paid leave and/or protection at work, were not adequately addressed, if at all, in collective agreements.

Also, TI BiH reported the Banja Luka-based footwear factory Bema to the Labour Inspectorate after videos of organised transportation of workers appeared online, showing the management’s failure to comply with anti-epidemic measures and take preventive and other measures to protect workers’ health. Inspectors were sent to conduct inspection, but were unable to carry it out because they were told that there was no one in the factory. TI BiH demanded that an *ad hoc* inspection be carried out at a weekend due to the information that the factory worked on that day contrary to epidemiological instructions. This case showed the lack of interest on the part of the inspection bodies to take coercive and all necessary measures in order to look into the allegations and protect the health of the workers in the context of the COVID-19 pandemic.

PUBLIC ADMINISTRATION (100 CASES IN 2020)

As in previous years, the largest number of applications in 2020, a total of 100, concerned the public administration sector. This includes complaints against all institutions in BiH at all levels of government (state, entity, local) as well as those related to public enterprises and public institutions. A large number of reports concerned irregularities in the recruitment of civil servants at all levels of government, recruitments in public enterprises and public institutions, failure of inspection authorities to act on citizens’ complaints, violation of regulations on personal data protection, etc.

In 2020 TI BiH provided ongoing legal support to an individual who was granted protected whistleblower status under the Law on Whistleblower Protection in the Institutions of BiH. This individual turned to TI BiH for help because, despite the fact that the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) had granted him protected whistleblower status, no measures had been taken to protect him against detrimental actions by his employer. Namely, two disciplinary actions were taken against the whistleblower for disciplinary violations, one of which concerned his coming forward in the public about corruption. Both disciplinary actions were taken after the person reported the corruption, but that was not enough for the APIK to conclude that it was a detrimental action related to the reporting of corruption, because of which they must take protective measures in order to eliminate detrimental actions. TI BiH requested on several occasions that the APIK reconsider its actions in the case, and initiated a procedure before the Human Rights Ombudsman, believing that the APIK, as a specialised agency tasked with providing whistleblower protection, refused to provide the special form of protection against detrimental actions. The procedure is still ongoing. The Law on Whistleblower Protection in the Institutions of BiH stipulates in Article 8, paragraph 2, that if the APIK establishes that any detrimental action has been taken against the whistleblower in connection with the reported case of corruption, the APIK shall issue an instruction to the director of the institution to remove the consequences of the detrimental action suffered by the whistleblower.

The BiH Agency for Personal Data Protection (Agency), acting upon the report filed by our organisation, forbade the RS Ministry of Education and Culture from compiling lists of employees in the education sector who gave up part of their personal income in favour of the Solidarity Fund finding the practice to be illegal. TI BiH reported to the Agency that those lists were compiled without a legal basis and could serve as a means of pressure and discrimination against workers who did not agree to give up part of their personal income. After reviewing the case, the Agency ordered the lists to be destroyed. The Ministry continued to insist that the Law on Personal Data Protection had not been violated.

TI BiH received a report claiming that Mihajlo Vujović was appointed municipal manager in the Bileća Municipal Administration. However, the current regulations relating to local self-government stipulate that a city manager can be appointed only in city administrations, i.e. cities, without giving this authority/option to municipalities, i.e. municipal mayors. In this particular case, it turned out that the municipal mayor envisaged the position of municipal manager in the Bileća Municipal Administration's staffing plan although the law allows only city mayors to envisage such positions, meaning that the Bileća mayor overstepped the boundaries set by law in determining the structure and internal organisation of the municipal administration. It was only after TI BiH filed the report that the administrative inspector conducted an inspection and ordered the mayor of Bileća to terminate the contract of employment with the municipal manager and align the provisions of the Rules on Internal Organisation and Staffing with the RS Law on Local Self-Government. Shortly afterwards, Bileća municipal manager Mihajlo Vujović announced to the public that he was resigning.

CONFLICT OF INTEREST (8 CASES IN 2020)

In 2020 TI BiH received 8 reports related to the possible existence of a conflict of interest for persons who held various offices. In the majority of cases, citizens sought legal opinion from our organisation as to whether a particular situation constituted a conflict of interest, and the organisation's legal advisors provided opinions. Acting on an anonymous report, TI BiH contacted the public enterprise JP "Elektroprivreda BiH" and presented information about the conflict of interest of candidates in the public job competition advertised by JP "Elektroprivreda BiH". Specifically, Mr Salem Dedić applied for the position of director of the enterprise's branch Hydroelectric Power Plant on the Neretva Jablanica and submitted a statement that there were no obstacles in terms of conflict of interest in BiH government institutions. However, at the time of submitting the application he was the mayor of Jablanica, which is an obstacle in terms of the Law on Conflict of Interest in Government Institutions of BiH and the Law on Conflict of Interest in Government Bodies of FBiH as well as Article 252 of the Law on Companies. For that reason, Mr Dedić's application was rejected by the competition commission.

It is important to point out that in 2020 TI BiH approached the competent authorities to request that they verify whether certain officials perform incompatible functions, but the authorities mostly declined jurisdiction or avoided to act. The competent authorities were asked to make checks for the following officials:

Mr Dražen Vrhovec, who simultaneously sits on the Management Board of the Investment and Development Bank (Director) and holds an executive function in a party, whereas the Law on Investment and Development Bank clearly stipulates that members of the Management Board may not perform duties in a political party and participate in political activities, or be members of the legislature, the executive and the judiciary.

Mr Nedeljko Čorić, who serves as executive director for economic and financial affairs in the Subsidiary Power Distribution Company "Elektro-Bijeljina" and, under the RS Law on Public Enterprises and internal regulations, makes up the management of this public enterprise, and at the same time is president of the City Board of the Alliance of Independent Social Democrats (SNSD) in Bijeljina and a member of the Main Board of SNSD, which is an executive function in a political party, which is contrary to the RS Law on Public Enterprises and the internal regulations of the public enterprise.

Mr Milutin Tasovac, executive director for electricity production and development in the Subsidiary "Mine and Thermal Power Plant Ugljevik", who also serves as president of the Municipal Board of the Alliance of Independent Social Democrats (SNSD) in Ugljevik, president of the Executive Committee of SNSD in Ugljevik and member of the Main Board of SNSD, all of which represent executive functions in a political party.

CONSTRUCTION/URBAN PLANNING (8 CASES IN 2020)

In 2020 there were eight cases related to construction/urban planning. Those were citizens' complaints about procedures taken before urban planning and construction inspections in various local communities. The complaints mainly concerned dissatisfaction with illegal construction of buildings bordering the complainants' plots, further compounded by excessive delays in administrative procedures conducted by urban and construction inspectors and poorly designed regulations in this

area. In all of the cases one can notice a well-established pattern of how inspectors act upon receiving a report of illegal construction: inspectors do not go to the field immediately after receiving a report; when they decide to conduct an inspection, the complainant waits for an extended period of time for the inspector's decision; "oversights" to the detriment of the complainants are quite common, effectively barring them from participating in the procedure even though they are interested parties according to the valid regulations. The reported person (illegal builder) appeals against the inspector's decision to second-instance body (relevant line ministry), and after his appeal is rejected, he brings an administrative suit before the court. During all that time, which can sometimes take as long as several years, the illegally constructed building remains in place and may not be pulled down. When the illegal builder loses the lawsuit in court, he then applies for legalisation of the building under the Law on Legalisation of Illegally Constructed Buildings, and the building cannot be demolished until the legalisation procedure has been completed, which can also take several years.

TAXES/FINANCE/CUSTOMS (5 CASES IN 2020)

Five cases in 2020 concerned the area of taxes/finance and customs, and in nearly all of the cases citizens approached our organisation asking for help in interpreting regulations and demanding that checks be made of whether public authorities had acted in accordance with their mandate relating to oversight of private business entities.

ACCESS TO INFORMATION (7 CASES IN 2020)

TI BiH had seven cases related to the application of the Freedom of Access to Information Law. In most of the cases aggrieved citizens complained that they had been denied access to information by a public authority due to misinterpretation of the provisions of the Law, or that public authorities had not responded to their requests at all, or responded after the expiry of statutory deadlines. Regarding these reports, our organisation approached the public authorities in question and, invoking the relevant provisions of the Freedom of Access to Information Law, requested access to information on behalf of the aggrieved citizens. Once obtained, the information was forwarded to the citizens. Also, TI BiH drafted on behalf of the aggrieved citizens various submissions, requests for access to information, appeals due to administrative silence, appeals against decisions denying access to information, and applications for initiation of administrative lawsuits.

In 2020 TI BiH filed 19 administrative lawsuits for violations of the Freedom of Access to Information Law against the following institutions:

1. Elektroprenos BiH
2. RS Ministry of Agriculture, Forestry and Water Management
3. RS Ministry of Education and Culture
4. RS Ministry of Administration and Local Self-Government
5. Republic Administration for Geodetic and Property Legal Affairs of RS
6. Republic Administration for Geodetic and Property-Legal Affairs of RS
7. Canton 10 Ministry of the Interior
8. Herzegovina-Neretva Canton Ministry of Education, Science, Culture and Sports
9. Herzegovina-Neretva Health Insurance Fund
10. Sarajevo Canton Institute for Health Expertise
11. Public Health Facility RS University Clinical Centre
12. Elektroprivreda RS Matično preduzeće ad Trebinje
13. Gas-res
14. Elektroprivreda HZHB
15. City of Banja Luka
16. Public Institution Primary School Aleksa Šantić Banja Luka
17. Social Welfare Centre Tuzla
18. Public Institution Alija Izetbegović Museum
19. Public Institution Student's Dormitory Dobo

Two administrative disputes were brought against the **Republic Administration for Geodetic and Property-Legal Affairs of Republika Srpska (RUGIP)** for failure to grant access to information on lawyers and other persons hired by the RUGIP and the amounts paid to them in 2020, information on whether the RUGIP has an internal regulation governing the procedure for the selection of lawyers for temporary representation, and information on the legal basis used by the RUGIP to hire persons who

are not lawyers. In the cases in question, instead of deciding whether to grant access to the requested information, RUGIP decided on a completely different type of information that was not requested at all, which is an unprecedented and as yet unheard-of form of abuse of the principles of administrative procedure.

A total of 18 administrative lawsuits brought by our organisation in previous years were concluded in 2020, of which 16 were won by TI BiH, and in two cases TI BiH's claim was rejected, after which further legal remedies were pursued.

Institutions against which TI BiH won administrative lawsuits:

1. Elektroprenos Bosne i Hercegovine
2. Prosecutor's Office of Bosnia and Herzegovina
3. Banking Agency of the Federation of BiH
4. RS Ministry of Education and Culture
5. RS Ministry of Agriculture, Forestry and Water Management
6. RS Ministry of Agriculture, Forestry and Water Management
7. Canton 10 Ministry of the Interior
8. Sarajevo Canton Ministry of Housing
9. City of Banja Luka
10. Banja Luka District Commercial Court
11. Municipality of Čapljina
12. Municipality of Čapljina
13. Municipality of Čapljina
14. University Clinical Hospital Mostar
15. MH Elektroprivreda Republike Srpske Matično preduzeće ad Trebinje
16. MH Elektroprivreda Republike Srpske Matično preduzeće ad Trebinje

It is worth mentioning the lawsuit that our organisation won against the **Prosecutor's Office of Bosnia and Herzegovina**, concerning access to information on the number of cases reassigned by the Chief Prosecutor of the Prosecutor's Office of BiH, or a person authorised by her, in 2018 and the first half of 2019. The Prosecutor's Office of BiH initially refused to provide that information, and in its response claimed that it did not keep statistics on reassignments, but only records of reassignments in individual cases. In its ruling made in the TI BiH lawsuit, the Court of BiH concluded that the requested information on the number of reassigned cases did not constitute statistical data, that the Prosecutor's Office of BiH indisputably possessed it, and that access to such information should be granted, in particular to a civil society organisation whose goals include the fight against corruption, support for the development of good governance, and accountability and transparency of public institutions. TI BiH finds it worrying that the Prosecutor's Office of BiH is hiding information about reassignments, which pose a corruption risk precisely because they leave room for chief prosecutors to potentially appoint in important cases prosecutors of their own preference. The Prosecutor's Office of BiH ultimately provided information on the number of reassigned cases after more than a year from the submission of the request for access to information. The statutory deadline for providing access to information is 15 days. According to the information provided, in 2018 and the first half of 2019 the Prosecutor's Office of BiH reassigned 766 cases. Almost half of the reassignments were made due to prosecutors moving to positions in other courts and prosecutor's offices, and due to temporary suspensions.

TI BiH's claims were not accepted in lawsuits brought against the following institutions:

1. Republika Srpska Ministry of the Interior
2. Gas Res doo Banja Luka

ELECTIONS (20 CASES IN 2020)

Seeing that 2020 was the election year, it is not surprising that ALAC received an increased number of reports and complaints from citizens related to the conduct of the election process. The largest number of reports in this area concerned misuse of personal data of citizens who voted abroad.

OTHER (13 CASES IN 2020)

Thirteen cases in 2020 include various citizens' enquiries and suggestions which cannot be classified into any of the above categories. These included enquiries related to the payment of utility bills, management of condominium owners' committees, and establishment of NGOs, proposals for amendments to legislation, as well as citizens' initiatives aimed at solving various problems in society and the like. In most of the cases, TI BiH sent answers to the citizens, either in the form of legal advice or by referring them to the competent institutions.

One of the successful examples is our organisation's handling of the case of a pensioner who filed a complaint with the Republic Administration for Inspection Affairs against a company in Bijeljina that sold unlicensed massagers to senior citizens without technical documentation and without issuing invoices. Consumers complained that the massager was ineffective and that its sale amounted to false advertising and consumer deception. At TI BiH's request, an *ad hoc* inspection was carried out by health and market inspectors. The health inspectors found that the registered company performed health activities that it was not allowed to perform (performing medical tests and measuring various parameters for health indicators at promotional product presentations) and issued a decision banning the company from performing health activities. The RS Ministry of Health and Social Welfare annulled the decision and upheld the company's appeal. The market inspectors found that the company was deceiving customers and that *"it is evident from how they are reaching their customers that they target the elderly population – retirees who are in poor health and as such are more vulnerable to manipulation and persuasion to buy the product, which constitutes an unfair business practice and is contrary to the Law on Consumer Protection"*. The customer-pensioner who approached TI BiH was compensated during the inspection and had his money returned.