

ADVOCACY AND LEGAL ADVICE CENTRE TRANSPARENCY INTERNATIONAL IN BOSNIA AND HERZEGOVINA

2021 ANNUAL REPORT

Banja Luka, 2022



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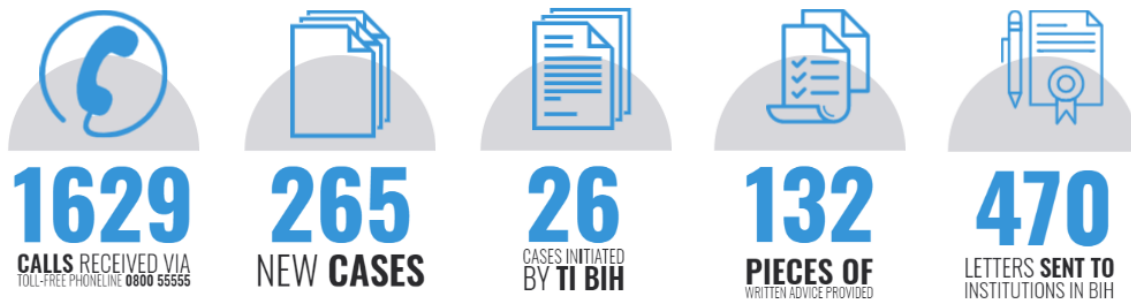
EXECUTIVE SUMMARY

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

ALAC aims to provide practical and useful legal advice to all persons who approach TI BiH for assistance, as well as monitor the work and

that have been endangered as a result of corruption.

In 2021, ALAC handled a total of 265 new cases, of which 26 were initiated by ALAC itself and the remaining 239 were cases where ALAC acted on the basis of reports/complaints received from citizens.



performance of competent institutions, in particular insofar as these concern cases related to corruption.

In this way, citizens are provided with alternative avenues for fighting corruption and access to all means of legal redress available to them. Active monitoring of the work of the acting authorities prevents any unlawful 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 representatives, 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

The toll-free telephone line **0800 55555** received a total of 1629 calls from citizens enquiring about the possibilities of receiving legal aid and reporting various corrupt practices.

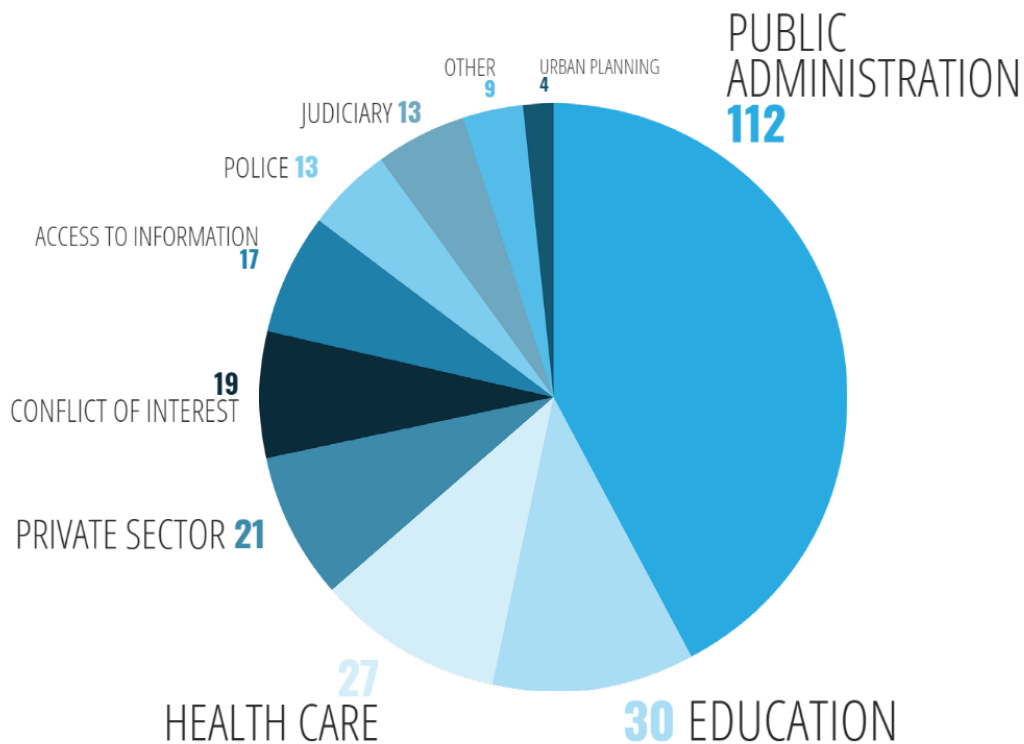
Also, court rulings from all jurisdictions in the country regarding access to information were continuously published on the official website www.ti-bih.org.



Reporters of corruption, by
age

In the context of administrative litigation, in 2021 ALAC brought 17 administrative lawsuits for violations of the Freedom of Access to Information Law – eight lawsuits initiated in recent years were won by ALAC, and in two suits requests for extraordinary review of court decisions were rejected by the RS Supreme Court, after which further legal remedies were pursued. Thanks to those lawsuits, BiH citizens and investigative journalists gained access to a broad range of information that was previously withheld from them.

As in previous years, the largest number of reports in 2021, a total of 112, concerned the **public administration sector**, mainly with regard to irregularities in the recruitment of civil servants at all levels of government, recruitments in public enterprises and public institutions, failure of inspection authorities to follow up on citizens' complaints, and an increasing trend of annulments of job competition procedures in public enterprises



Corruption reports, by sector

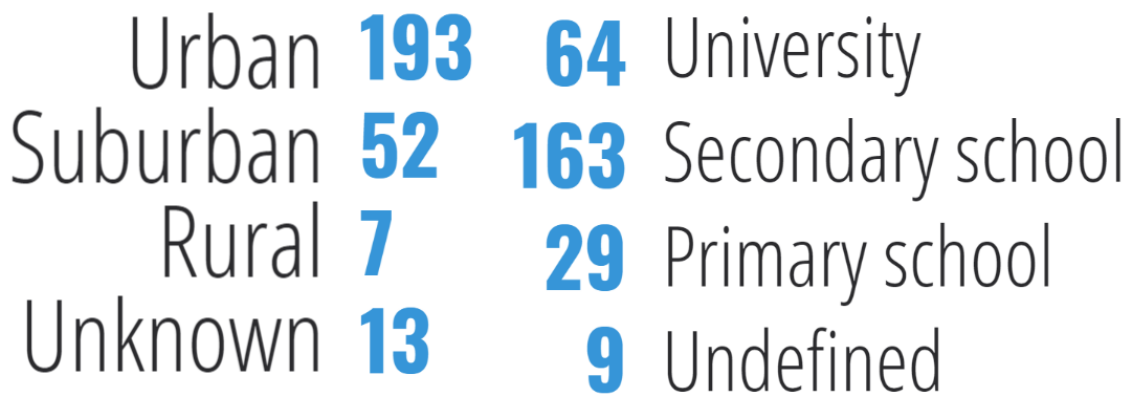
and public institutions, aimed at preventing top-ranked candidates from being selected.

Also, importantly, in 2021 TI BiH received 19 reports of potential conflicts of interest and incompatibilities, of which 14 were passed on to the competent authorities for further verification.

In terms of the distribution of persons reporting corruption, 12 percent were classified as **whistleblowers**, a 4.5-percent increase on 2020.



Reporters of corruption,
by sex



Reporters of corruption, by type
of settlement

Reporters of corruption, by level of
education



Corruption reports, by level of jurisdiction

Reporters of corruption, by status

The highest proportion of corruption reports comes from major cities – as much as 72.8 percent. As concerns the method of receipt, electronic submission of reports prevails with 60.3 percent. Acting on ALAC’s petitions regarding human rights violations, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina issued two recommendations. The first recommendation instructed the Republika

Srpska Government and relevant line ministries to allow the use of the right to financial assistance to privately-owned preschools in the City of Banja Luka, proportionate to the damages they suffered as a result of the COVID-19 pandemic. The other recommendation concerns the procedure for accessing information held by the Municipality of Kotor Varoš.



Corruption reports, by method of receipt

SUMMARY OF CASES BY SECTORS

JUDUCUARY

In 2021 TI BiH acted on 13 complaints/reports relating to the work of judicial institutions and the actions of judicial officeholders. The complaints mainly concerned the length of court proceedings, failure to deliver court decisions to injured parties in misdemeanour and criminal proceedings, and unequal treatment of parties by judges.

Also, citizens complained about the proceedings before the prosecutor's offices, especially with regard to the issuance of orders not to pursue investigation for certain criminal offences by some prosecutor's offices, for which other prosecutor's offices conduct investigations resulting in confirmed indictments and prosecution of perpetrators.

TI BiH was a witness to one such proceeding, when in 2013 it reported to the Banja Luka District Public Prosecutor's Office the criminal offence of accepting bribes committed by K.N., a **Border Police officer** at the Gradiška border crossing. Acting on the report, the Banja Luka DPPO conducted an investigation, and in 2014 issued an order to terminate investigation, arguing that there was insufficient evidence that a criminal offence had been committed, and did not examine at all the individuals who had given the bribe to the reported officer.

The BiH Prosecutor's Office managed to complete an investigation against the same Border Police officer for the same criminal offence, but committed to the detriment of other

persons, and in 2021 the officer was sentenced to six months in prison by a final court decision.

Acting on a criminal report submitted by TI BiH in 2015, in a retrial, the Zenica Municipal Court found the former **Dean of the Faculty of Mechanical Engineering in Zenica** guilty of the criminal offence of lack of commitment in office and sentenced him to imprisonment for a term of 18 months. The former dean appealed the verdict and sentencing judgement, and the appeal was partially upheld, so he was ultimately sentenced to an 18-month suspended prison sentence, meaning that the punishment would not be carried out unless he committed another criminal offence during a period of three years.

Year 2021 also saw a continuation of the trend where citizens, along with filing a report, inform the prosecutor's office that they also forwarded a copy of their report to our organisation,



JUDICIARY
13 CASES

expecting TI BiH to monitor the office's handling of their report.

In those cases, TI BiH approached the competent prosecutor's offices seeking access to information on the action taken in specific cases. In 2021 TI BiH also received whistleblower complaints related to recruitments in judicial institutions and appointments of notaries public. In their complaints the whistleblowers named the person who would be recruited in a judicial institution or elected to office even before the public call for the job competition was announced.

Thus, our organization received a complaint stating that a Mladen Orelj was recruited as officer in the Prijedor District Public Prosecutor's

Office **without a public competition procedure**, and also claiming that at the public competition that was announced on 17 November 2021 Željka Gnjatović, daughter of Prijedor-based lawyer Željko Gnjatović, and Marjan Ponorac would be recruited as officers. In order to investigate the allegations, TI BiH approached the Prijedor DPPO and the DPPO confirmed that the said persons were indeed employed in this judicial institution.

Another affair that attracted much public attention was the public competition for the selection of notaries in Banja Luka. A few months prior to the announcement of the selected candidates TI BiH received an anonymous report listing the names and surnames of the candidates who were later selected.

EDUCATION

Compared to the preceding year, in 2021 there was a noticeable increase in the number of cases related to the education sector. That was certainly the result of the campaign against corruption in education called "Politicians, get out of class".

The campaign was preceded by the revelation of cases where in some schools classes were suspended due to high teacher turnover, dissatisfaction of parents and children, as well as suspicions of nepotism and party-sponsored recruitments.

In this regard it is important to point out that the procedures for selecting and appointing school principals in Republika Srpska are centralized, that the RS Government has the final word on who gets appointed as principal based on the proposal by the RS Minister of Education and

Culture, and that there are corruption risks present not only in the regulations, but also in practice.



**EDUCATION
30 CASES**

This is best evidenced by the story of one candidate for the position of school principal who has participated in the public competition for the selection and appointment of school principal four times in the past two years. Even though the candidate, along with several other candidates, met the required criteria each time, the RS Government would eventually appoint an acting principal, resulting in interim appointments at this school for two years. In this regard it is important to note that the Law on Primary Education stipulates that, based on the proposal of the Minister of Education and Culture, **the Government appoints as school principal** one of the candidates who meets the competition criteria.

If the Minister does not propose any candidate from the submitted list, this is notified to the school board, which then issues a decision announcing a new competition. In that case, the Government appoints the acting director to serve until the end of the competition procedure, for a maximum of 90 days.

The controversial competition and the procedure for appointing the principal in this school have been going on for two years, since the first half of 2020, and all this time the RS Government has appointed acting principals, and the Minister refuses to nominate candidates even though there are candidates who meet the criteria for appointment as school principals.

Campaign “**Politicians, get out of class**” was run in social media, as well as by way of numerous TV and radio guest appearances by TI BiH representatives. The campaign was supported by a lot of parents, teachers, as well as the human rights ombudsmen who participated in a promotional video sending a message that there was no place for corruption in school. As part of

the campaign, TI BiH sent an initiative to the RS Ministry of Education and Culture to amend the existing laws on primary and secondary education in order to reduce political influence on the selection process and the work of school governing bodies.

In 2021 TI BiH also undertook activities in the case of illegal annulment of the public competition for the recruitment of 13 preschool teachers in the Public Institution “Preschool Education Centre” in Banja Luka. The competition was announced in early March 2021, immediately after the change of government in the Banja Luka City Administration, which is the founder of this public institution.

When he assumed office, the Banja Luka Mayor removed the former director of the Centre, and appointed an acting director, who for the first time since the adoption of the RS Law on Preschool Education (2015) announced a public competition for 13 preschool teachers. Over a hundred people applied, who passed the selection and scoring process, and the selection commission proposed 13 top-ranked candidates.

The competition procedure coincided with the procedure for selection and appointment of the director of the Centre, to which, among others, the former director of the Centre and the acting director applied. The former director of the Centre was reappointed to the position and the first decision taken by the Centre’s management board after the appointment of the old/new director was to annul the Public Competition. TI BiH approached the RS Inspectorate – Education Inspection and Labour Inspection, and pointed out that the RS Law on Preschool Education did not provide for the possibility of annulling a

public competition, nor was that possibility provided for in any other regulation.

The Education Inspection issued a decision annulling the decision of the Centre's management board arguing that the board was

not competent to issue a decision annulling the public competition.

HEALTH CARE

In 2021 there were 27 complaints related to corrupt practices in the health sector. The complaints mostly concerned irregularities in health-care staff recruitments, violations of health-care rights due to the COVID-19 pandemic, and opaque procedures for the procurement of medical equipment.

Unlawful procurement of medical equipment, which ultimately resulted in the arrest of the director of the RS Institute of Public Health and owners of the companies "Procontrol2" and "Travel4Fun", was reported by TI BiH to the prosecutor's office as far back as 2020. In the criminal report, TI BiH documented the instances of malfeasance that led to the unlawful conclusion of multimillion contracts with these companies.

Earlier, TI BiH also warned and reported to the authorities that public health-care facilities were being supplied with oxygen by unauthorized distributors. Acting on TI BiH's reports, the inspectors found that that constituted **a threat to the health of the population**.

TI BiH received an official confirmation from the Agency for Medicines and Medical Devices that five of the six companies that in the past had concluded public procurement contracts with public health-care facilities did not have a license

to trade in medicines, namely: TGT Tehnogas, Istrabenz Plini d.o.o. Breza, Kras d.o.o. Laktaši, Tehnogas Kakmuž and Milojević Gilje Gas. The only authorized company was Messer.

Those companies supplied oxygen to a number of health-care facilities without having a proper licence to trade in medicines. According to the



HEALTH CARE 27 CASES

data available to TI BiH, they supplied oxygen to the RS Clinical Centre, hospitals in Gradiška, Nevesinje, Sanski Most, Doboje, Bijeljina, Trebinje, Prijedor, and multiple institutes and health-care centres.

FBIH inspectors, in cooperation with their cantonal counterparts, swiftly conducted

inspection in all reported public health-care facilities, and where they found irregularities, they prohibited further procurement of oxygen from suppliers who did not have the necessary certificates and permits, while the RS Inspectorate declared itself as not having competence in the matter, stating that the competence rested with the Agency for Medicines and Medical Devices, which also declared itself as lacking competence. The conflict of competence has not yet been resolved and no inspection of public health-care facilities has been conducted to date.

After the public learned of the so-called “Oxygen Scandal”, TI BiH received multiple complaints from citizens relating to issues of safety and quality of health-care services provided to COVID-19 patients in health-care facilities throughout Bosnia and Herzegovina.

This prompted TI BiH to contact all secondary and tertiary health-care facilities seeking information on whether they had protocols in place for the use of mechanical ventilation in the treatment of COVID-19 patients, information on accreditation of the devices measuring peripheral saturation, and statistics on the number of patients who were hospitalized, who underwent mechanical ventilation (invasive and non-invasive), who recovered, who died, as well as those who died from septicemia. Out of a total of 25 health-care facilities, 17 responded to the request and provided the information. Based

on the information provided, it follows that the protocols were in place, the devices were accredited, and there were no deaths from the consequences of septicemia.

It is important to point out that out of the three major clinical centres (Sarajevo University Clinical Centre, Tuzla University Clinical Centre, RS University Clinical Centre), two provided all the requested information, while the **RS University Clinical Centre (RS UCC) did not provide the requested information** in writing, but insisted on a face-to-face meeting between the Centre’s management and TI BiH. During the same period, citizens whose closest relatives were treated for COVID-19 at the RS UCC could not get basic information about the condition of patients, or get in touch with medical staff.

Based on an anonymous report alleging that the director of the Sarajevo Canton Emergency Medical Service, Adem Zalihić, unlawfully increased the salaries of certain employees, TI BiH approached the competent inspection authorities seeking clarification. The inspection confirmed that that constituted a violation of the Labour Law and found disparities in salaries of employees performing the same kind of work.

TI BiH approached the Sarajevo Cantonal Prosecutor’s Office to enquire about the case and was informed that the case was pending verification of the allegations from the anonymous report.

POLICE

In 2021 TI BiH acted on 13 reports concerning the work of law enforcement agencies. Unlawful promotions in police administrations were mostly reported by employees who wished to

remain anonymous, while citizens’ complaints concerned the police’s failure to follow up on their reports and the unprofessional conduct of police officers.

Year 2021 was also important in terms of the activities undertaken towards implementation of the MoU with the Police Administration of the Zenica-Doboj Canton Ministry of Interior, the subject of which was monitoring the implementation of the public competition for recruitment of police officers and junior inspectors in the Police Administration, with a view to ensuring and achieving maximum transparency in the implementation of the public competition, preventing corruption and nepotism, and eliminating bias by members of the selection commission. This was the first MoU of its kind in the Federation of Bosnia and Herzegovina, aimed at ensuring transparency and impartiality in recruitment of new police officers.

This was followed by a series of activities related to the monitoring of physical fitness tests, including the assessment of the morphological status of candidates. TI BiH representatives observed the testing of the physical fitness of candidates for junior inspectors and police officers, as well as written exams and oral interviews.

After the completion of the selection process, TI BiH received eight complaints from the candidates in the competition procedure. The complaints mainly concerned treatment of candidates by the commission members during the physical fitness test, claiming that the video recordings of the test showed alleged wrongdoing on the part of the commission members.

TI BiH approached the Police Board, which was responsible for handling complaints, in writing, enquiring whether the allegations by the disgruntled candidates had been verified by reviewing the recordings of the implemented

test. The Police Board replied that they had received a total of 18 complaints, which were rejected as unfounded after reviewing the video recordings.

TI BiH repeatedly approached the Police Administration in respect of the complaint filed by one of the participants in the competition procedure, who, after successfully passing the selection process, was disqualified in the further health fitness assessment procedure because he had a tattoo, even though he had been found to be fit.

TI BiH provided advisory legal assistance to the candidate, who filed a lawsuit against the decision of the Police Board before the competent court. Also, TI BiH approached the Institution of the Human Rights Ombudsman of BiH, which confirmed the receipt of the petition.

The RS Supreme Court rejected the request for extraordinary review of the ruling by the Banja Luka District Court rejecting TI BiH's lawsuit against the decision of the RS Ministry of the Interior not to grant access to reports on the use of force by police officers against members and



POLICE 13 CASES

activists of the "Justice for David" activist group.

The RS Supreme Court concluded, without providing relevant arguments, that such information as reports on the use of force by police officers was the exclusive competence of the police and could only be used by the police for the purposes of internal control.

However, the court did not take account of the fact that the disputed events shook the public, undermined trust in the police, and that the murder of David Dragičević and subsequent police actions became the subject of

international attention, and that it was in the democratic public's interest to pursue a debate on all the circumstances surrounding the murder.

Above all, about how the police treat protesters and citizens during mass protests against them, i.e. during the exercise of one of the basic rights and freedoms – the right to freedom of peaceful assembly. TI BiH lodged an [appeal with the BiH Constitutional Court](#) against the decision of the RS Supreme Court Srpska.

PRIVATE SECTOR

In 2021 TI BiH handled **21 cases** related to the private sector, mainly concerning problems encountered by businesses and farmers in the allocation of incentives, conditions for obtaining various permits from public authorities, the inability to connect to public water supply networks and the like.



PRIVATE SECTOR
21 CASES

PUBLIC ADMINISTRATION

As in previous years, the largest number of applications in 2021, a total of 112, 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.

Most of the 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, violations of regulations on personal data protection, etc.

In this regard, it is important to look at irregularities during **a public competition procedure to recruit** an officer in the Department for General and Personnel Affairs of the BH Telecom Goražde Directorate. Once the job competition procedure was completed and the candidate selected, it was decided that the procedure should be annulled.

Furthermore, following the annulment, BH Telecom amended its Instruction on the Recruitment Procedure by providing for the possibility whereby the managing director of the company may, in certain cases and following the proposal of the Executive Directorate for Legal Affairs, give consent for annulment, or annulment and re-announcement of a public call for job competition.

The amended Instruction thus came at variance with the Regulation on the Recruitment Procedure in the Public Sector in FBiH, with which it must be aligned. A participant in the job competition procedure approached the FBiH Labour Inspectorate, which carried out inspection and took the position that in annulling the public competition, BH Telecom was not in breach of the relevant regulations. As the Inspectorate did not look into the issue of harmonization of the Instruction on the Recruitment Procedure in the Joint Stock Company BH Telecom Sarajevo and the Regulation on the Recruitment Procedure in the Public Sector in FBiH, TI BiH filed a complaint demanding that inspection be carried out again.

The FBiH Administrative Inspectorate decided that there were no grounds for bringing misdemeanour charges or instituting other measures, whereupon TI BiH addressed the BiH Institution of Human Rights Ombudsman, emphasizing that the annulment of the public

competition by BH Telecom dd Sarajevo posed a high corruption risk.

In 2021 TI BiH continued to provide **ongoing legal support to** Mr Emir Mešić, an employee of the BiH Indirect Taxation Authority with a protected whistleblower status. Mr Mešić reported corruption and suspicion of malfeasance in connection with revenues from customs terminals, after which disciplinary action was taken against him.

After reporting corruption and speaking publicly about it, Mr Mešić faced reprisal, was professionally degraded and suspended from work, and ITA took as many as three disciplinary actions against him. One of the actions was taken only because he spoke publicly about corruption and in doing so, according to ITA's interpretation,



PUBLIC ADMINISTRATION **112 CASES**

overstepped the limits of his official powers. Even though Mr Mešić had the protected whistleblower status the entire time, the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) did not take any measures to protect him from the detrimental actions by his employer (suspension, disciplinary action, etc.).

All disciplinary actions were taken subsequent to Mr Mešić's reporting of corruption as a whistleblower. With TI BiH's support, Mr Mešić succeeded in having the decision on termination in one of the three disciplinary actions annulled and having the case referred back for reconsideration because he was denied the right to defence and hearing. With TI BiH's legal support and assistance, Mr Mešić brought several court proceedings in order to protect his rights due to the disciplinary persecution he was subjected to.

One of the proceedings concerned protection against discrimination that Mr Mešić suffered only because he had reported corruption. In that proceeding, the Court of BiH approved TI BiH's participation as an intervener on Mr Mešić's side, a preliminary hearing was held, and the main hearing at which evidence will be presented and witnesses will be heard is scheduled for mid-2022.

When it comes to public enterprises and public institutions, in 2021 ALAC on a daily basis received information about rigged job competitions or recruitments of individuals who already worked in the company conducting the job competition. TI BiH's legal advisors approached the public enterprise "Elektroprenos BiH" seeking clarification in respect of one such

complaint, and received information that the individuals selected in the competition were already employed in the enterprise.

Having analyzed the Rules on Staffing in the public enterprise Radio Television of Republika Srpska that were in force from 2011 to 2019, TI BiH's legal advisers found that in the eight-year period the Rules were revised and amended as many as 64 times.

Amendments mainly concerned changes in the number of staff, restructuring and formation of editorial divisions and other departments, introduction of new positions and changes in criteria regarding professional qualifications and work experience of workers. This public enterprise also saw personnel changes, where upon the adoption of amendments to the Rules on Staffing, individuals with higher professional qualifications and longer work experience were removed from certain job positions to be replaced by persons with lower qualifications and shorter work experience.

In those situations, amendments to the Rules on Staffing would immediately precede personnel changes, which further suggests that the Rules were tailored in such a way as to suit the needs of employees in the enterprise, rather than adjusting human resources to the needs of the enterprise.

CONFLICT OF INTEREST

In 2021 TI BiH handled 19 cases related to the possible existence of a conflict of interest for **persons who held various offices**. Some of the complaints were submitted on the basis of information collected through the TI BiH registers on public officeholders, public

enterprises and public institutions. Also, citizens contacted ALAC to seek legal opinion on whether a particular situation constituted a conflict of interest or incompatibility, and ALAC's legal advisers made proper checks and provided opinions.

In 2021 a total of 14 reports of potential conflicts of interest were sent to the competent authorities for verification. Some of the reports concerned the following persons:

1. Drago Gužvić – acting director of the public enterprise Komunalac Šekovići and councillor in the Municipal Assembly of Šekovići
2. Momir Bojat – acting director of the public enterprise Water Supply and Sewerage Izvor Foča and councillor in the Municipal Assembly of Foča
3. Dragoljub Tepić – acting executive director in Elektrokrajina and president of the local board of a political party
4. Petar Rankić – head of the Department for Spatial Planning, Housing and Communal Affairs in the Municipality of Bratunac, while his wife is the owner of the company “Auto-moto trade” which performs works on the construction of residential buildings in the Municipality of Bratunac. The Municipality of Bratunac replied that Mr Rankić had transferred the authority he holds over matters related to his wife to another person, and that he had not participated in decision making related to the construction of buildings.
5. Eldin Delić – executive director of the enterprise Šume SBK (member of the enterprise’s management board), who also holds a political position
6. Vlado Đajić – director of the RS UCC and president of the SNSD City Board in Banja Luka
7. Željko Vučurević – in the 2016–2020 period he concurrently served as councillor in the City Assembly of Trebinje and director of the company “PD ZEVS” which did business with the



CONFLICT OF INTEREST **19 CASES**

City of Trebinje and Hydropower Plants on the Trebišnjica river, where the value of concluded contracts exceeded the allowed amount

8. Bogoljub Saničanin – in the period 2016–2020 he concurrently served as councillor in the Municipality of Prnjavor and president of the Prnjavor Municipality Veteran’s Association, which received funding from the Municipality in excess of BAM 100,000.
9. Stevan Sandić – concurrently serves as president of the SNSD Municipal Board and executive director of Elektro Bijeljina

TI BiH sent to the BiH Central Election Commission for verification the allegations that Aladin Ćerimović concurrently served as councillor in the Municipal Council of Velika Kladaša, which is a directly elected public office, and advisor to the Prime Minister of Una-Sana Canton, which is an executive office – the two offices being incompatible under the BiH Election Law. Acting on the report, the Central Election Commission issued **decision terminating Mr Ćerimović’ term of office.**

TI BiH filed a report with the RS Commission for Conflicts of Interest in the RS Authorities stating that Mr Mladen Šicar, concurrently served as councillor in the Municipal Assembly of Novi Grad and acting director of the public enterprise Vodovod Novi Grad. However, the Commission refused to act upon the report. TI BiH appealed with the second-instance body – the Appeals Commission, which upheld the appeal and ordered that the procedure be conducted.

In the repeated procedure, the RS Commission found that Mr Šicar was not in a conflict-of-interest situation because he did not serve as director, but acting director. The Commission took identical positions in three more cases, which suggests that they discovered yet another innovative way to avoid proper enforcement of the already vague and flawed Law.

The Law stipulates that elected officials, executive officeholders and advisors may not be serve on the supervisory board or as directors of public enterprises while performing public office and three months after the termination of public office. However, the RS Commission is of the opinion that this provision does not apply to acting directors and acting members of supervisory boards.

CONSTRUCTION / URBAN PLANNING

In 2021 there were four cases related to the construction/urban planning sector. Those included citizens' complaints about procedures taken before urban planning and construction inspections in various local communities, but also about unlawfully conducted land expropriation procedures for the purposes of construction of motorways in Republika Srpska.

The Banja Luka District Court twice upheld the appeals of a dissatisfied party in the expropriation procedure (D.O.) and annulled the Decisions of the RS Government that were issued in the period after the outbreak of the COVID-19 pandemic in 2020, allowing the taking of possession of the real property expropriated for the purposes of construction of a motorway section on the Corridor Vc.

The RS Government did not follow up on the court rulings within the given time periods, forcing the dissatisfied party to turn to the court



URBAN PLANNING
4 CASES

again to protect its rights and request intervention by the administrative inspection.

The complaints mainly concerned citizens' 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 one such case, an informal group of citizens from Tuzla filed a complaint against Dževad Avdibegović, inspector in the Tuzla Canton Inspection Service, for failing to act on reports of illegal construction, and allegedly receiving bribes in order not to act. The City of Tuzla issued a Decision initiating disciplinary action against the appointed official, but the citizens were

sceptical and demanded that TI BiH monitor the disciplinary action.

The disciplinary action took as much as nine months. However, it ultimately resulted in the issuance of a decision finding a **serious breach of official duty** on the part of the inspector and violation of the Tuzla Canton Law on Civil Service.

ACCESS TO INFORMATION

In 2021 ALAC handled 17 cases related to access to information, which resulted in a total of 17 administrative lawsuits. Nine lawsuits were initiated by TI BiH, six lawsuits were filed by investigative journalists, with TI BiH providing support in preparation of lawsuits, and two lawsuits were filed on behalf of citizens who needed legal advice in this area.

Analysis of the administrative lawsuits initiated by TI BiH for violation of the provisions of the Freedom of Access to Information Law with regard to the length of court proceedings shows that this kind of lawsuits are mostly resolved within 1–2 years from the date of filing. The most expeditious in resolving lawsuits for the violation of the right to access information in 2021 was the Zenica Cantonal Court, which, in a lawsuit filed by a journalist from the Centre for Investigative

Journalism, rendered the decision in just three months, while **the least expeditious was the Sarajevo Cantonal Court**, which may take as much as four years to render a decision.



ACCESS TO INFORMATION
17 CASES

TI BiH brought nine administrative lawsuits for violations of the Freedom of Access to Information Law against the following institutions:

1. Centre for Social Work Banja Luka
2. City of Doboj
3. Tuzla University Clinical Centre
4. FBiH Board of Appeals
5. BiH Civil Service Board of Appeals
6. RS Ministry of Agriculture, Forestry and Water Management
7. Republic Administration for Geodetic and Property Legal Affairs of RS
8. Republic Administration for Geodetic and Property-Legal Affairs of RS
9. FBiH Banking Agency

Two lawsuits brought in 2020 by TI BiH against the Republic Administration for Geodetic and Property-Legal Affairs of RS (RUGIP) for abuse of procedural powers in the procedure for access to information on lawyers and other persons hired by the RUGIP and the amounts paid to them in 2020 were tellingly won by TI BiH. However, despite the court's decisions, the RUGIP continued to flout the Law failing to grant access to the requested information, prompting TI BiH to bring two more administrative lawsuits against this institution in 2021.

A total of ten administrative lawsuits brought by our organization in previous years were concluded in 2021, of which eight were won by TI BiH, and in two cases TI BiH's request for extraordinary review of the court decision was rejected, after which further legal remedies were pursued.

Institutions against which TI BiH won administrative lawsuits are:

1. RS Ministry of Education and Culture
2. Republic Administration for Geodetic and Property-Legal Affairs of RS
3. Republic Administration for Geodetic and Property-Legal Affairs of RS
4. City of Banja Luka
5. Primary School "Aleksa Šantić" Banja Luka
6. Banja Luka Centre for Social Work
7. Gas project company Gas-Res Banja Luka
8. Tuzla University Clinical Centre

In 2021 the RS Supreme Court handed down two rulings rejecting the request for extraordinary review of court decisions that was filed by TI BiH against the court decisions rejecting the lawsuit against the decisions of the RS Ministry of the Interior and Gas Res d.o.o. Banja Luka.

In the first quarter of 2021 TI BiH, along with several other CSOs, submitted comments on the Preliminary Draft Law on Freedom of Access to Information of Bosnia and Herzegovina, which was published on 16 February 2021 by the BiH Ministry of Justice on the portal ekonsultacije.gov.ba. The CSOs called on the Ministry to withdraw and revise the Preliminary Draft, emphasizing that it was not in line with international standards and best practices, and that in some parts it threatened the acquired rights and achievements of the existing Law.

The Preliminary Draft pays most attention to the section related to restrictions on the right to access information. It provides for over 20 restrictions and their duration, including limited access to information concerning all preliminary criminal proceedings conducted by competent

authorities; limited access to information if the disclosure of such information would prevent efficient, independent and impartial conduct of judicial, administrative or other legally regulated proceedings, execution of a court decision or

sentence; limited access if the disclosure would prevent the work of the authority that performs administrative supervision, inspection, or supervision of the legality of work and acts, etc.

OTHER

Nine cases in 2021 included various citizens' enquiries and suggestions which cannot be classified into any of the above categories. 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.

Some of the items in this category indicated **the existence of corruption risks in areas where they would be least expected**. Thus, acting on the complaint filed by a mother of a minor child to whose request the Banja Luka Centre for Social Work did not respond for ten months, and, when it finally did, it declared itself lacking competence in the matter, TI BiH undertook a number of activities, taking the position that the best interests of the child must be a primary consideration.

Due to the failure of the Banja Luka Centre for Social Work to take action, TI BiH approached this institution seeking access to the information related to the procedure. The Centre partially accommodated the request and provided only part of the requested information. Due to the Centre's failure to provide the remaining information, TI BiH brought an administrative lawsuit before the competent court, which resulted in a court decision in TI BiH's favour.

In parallel with the court proceedings, TI BiH also approached the RS Ombudsman for Children and the RS Ministry of Health and Social Welfare,

arguing that the Centre was obliged to immediately check and investigate allegations related to violations of the child's rights and to immediately declare itself as lacking competence in the matter, instead of failing to act in the case for a full 10 months.

The RS Ministry of Health and Social Welfare conducted internal supervision of the Banja Luka Centre for Social Work and found that the case had called for a more effective protection of the best interests of the minor child.

In 2021 TI BiH continued to provide advisory legal assistance to activists and journalists in cases of reporting corruption and human rights violations by helping draft submissions, communicating with institutions, promoting and publicizing successfully resolved cases, etc.



**OTHER
9 CASES**

Also, ALAC's legal advisers drafted several appeals in procedures for access to information for journalists and activists, and responded to enquiries and dilemmas related to the interpretation of certain regulations by public authorities in proceedings initiated by investigative journalists and activists.

