

PERCEPTION STUDY



**Journalists' experience and
views on judicial transparency
in Bosnia and Herzegovina**

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Disclaimer

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Introduction

This study presents the findings of a survey conducted among journalists from various media outlets in Bosnia and Herzegovina. All of these journalists report - to a certain extent - on the work of judicial institutions or have some experience with judicial institutions.

The main goal is to gain insight into the complex issues of the relationship between journalism and the judiciary and to make recommendations on how to strengthen dialog and cooperation between journalists and the judiciary. Also, this study seeks to identify priority areas and activities for the transformation of the existing antagonistic relationship into a partnership between journalists and judicial institutions in the best interest of the public.

To achieve this goal, the research design envisaged the following specific goals:

- Examine the journalists' understanding, perception, and experience of the work and level of transparency of the judiciary, as well as of their ways of communicating with journalists and the general public.
- Investigate the journalists' attitudes and perceptions of the role of the judiciary in protecting media freedoms.
- Identify gaps in the knowledge of journalists regarding the basic principles and standards of reporting on court proceedings and the judiciary in general, in relation to provisions stemming from international documents and professional codes of ethics.
- Detect priority issues and areas for action to improve the relationship between journalists and the judiciary.

This research is part of a regional project commissioned by the Dutch organization *Free Press Unlimited* (FPU), coordinated by the *Research Institute for Social Development* (RESIS) from Skopje in three Western Balkan countries: Bosnia and Herzegovina, Northern Macedonia, and Serbia. Local partners in this project are Udruženje BH Novinari [the Association of BH Journalists], Nezavisna unija novinara Srbije [the Independent Union of Journalists of Serbia], and Udruženje novinara Sjeverne Makedonije [the Association of Journalists of Northern Macedonia]. Each local partner, under the guidance of the RESIS, hired independent national experts to collect data, interpret research findings, and write national studies.

The study was created as part of a multi-year regional project *Strengthening media freedoms in Bosnia and Herzegovina, Northern Macedonia, and Serbia*, which is funded through the *MATRA Rule of Law Program* of the Dutch Ministry of Foreign Affairs and is implemented by a consortium of partners including the Dutch Helsinki Committee (NHC) and the FPU in cooperation with regional partners in the Western Balkans

1. Methodological framework

The research strategy for primary data collection in this study included three consecutive phases: (1) qualitative, (2) quantitative, (3) qualitative. In all these phases, special attention was paid to research ethics to protect the anonymity of the respondents and the confidentiality of the collected personal data of the journalists taking part in the research.

- **Qualitative (semi-structured) interviews**

In the first phase, preliminary in-depth interviews were conducted with five journalists experienced in reporting on the judiciary. The main purpose of collecting this data was to gain a deeper insight into the topic and obtain the data necessary for conducting the next, quantitative phase of research.

- **Online survey**

Based on the findings of the first phase of the research, a structured questionnaire for online surveys was developed. Research agency Valicon from BiH was hired to conduct a survey in all three countries (BiH, Northern Macedonia, Serbia).

A purposive quota sample for online surveys was made through the following steps: (1) a list of media outlets with news departments was generated against several defined criteria (type, coverage, relevance, editorial preference, etc.) to represent the media image in the country; (2) Having communicated with selected journalists, two categories have been identified: those that primarily cover the judiciary and those who report on other issues (political and economic controversies, corruption, etc.) and occasionally report on the work of the judiciary; (3) The journalists' association created lists of journalists sued for defamation, as well as those who were victims of assault or violence; (4) The research agency sent e-mails to all journalists identified through the previous phases and invited them to complete an online survey; (5) Several reminder letters were sent to the media and journalists to increase the response rate.

In BiH, a total of 172 journalists participated in the online survey: 20 from TV stations with national coverage, 37 from regional TV stations, 8 from radio stations with national coverage, 20 from regional level radio stations, 8 from newspapers with national coverage, 6 from regional level newspapers, 71 from online media and 2 freelance journalists. It should be noted that several media outlets did not respond to the invitation to participate in the research, despite several letters and phone calls from the research agency and the journalists' association. Thus, the results cannot be generally applied to media that did not take part in the research, however, conclusions can be drawn about the population of media and journalists who participated in the research.

- **Focus group discussions (FGDs)**

Based on a preliminary analysis of the results of the survey, a Guide for Focus Group Discussions was developed. The purpose of the third, qualitative phase was to collect additional qualitative data that will enrich the context and thus enable a deeper understanding and strengthen the research findings obtained through the survey. A total of four focus groups discussions were held with 19 journalists: [15 women and 4 men journalists; 13 from online media, 2 from radio, 2 from the press, 1 from TV and 1 from a news agency; 10 from Sarajevo, 4 from Banja Luka, 3 from Mostar, 1 from Tuzla and 1 from Gacko).

○ **Methodological constraints**

It should be noted that this research study has certain limitations. First, due to the Covid-19 pandemic and complexity of the task, the survey could not be organized face to face, which is the best method for obtaining maximum response and achieving representative results for the entire journalistic population. The online survey provided relevant data, but many media and journalists did not respond to invitations to participate in the survey.

Second, this research focuses exclusively on the experiences and perceptions of the journalistic community, not on how the judiciary is familiar with this topic or how they feel about it. This aspect is only partially covered in Chapter 2, which provides an overview of previous research on this topic. To this end, there is certainly a need for further examination of the attitudes and perceptions of the judiciary on these topics.

We hope that the results of this research can serve as a basis for future research in this area, which will include a closer look at the views, attitudes, and experiences of judges, prosecutors, and other representatives of the judiciary.

2. Literature review on the subject of judicial transparency in Bosnia and Herzegovina

In this part of the study, we examined what has been written so far - in a broader sense - about the relationship between journalism and the judiciary in BiH. We have expanded the search to the issue of transparency of the judiciary, which is a topic that is relevant not only for journalism but is also important because it greatly affects the work of journalists as intermediaries between the judiciary and the public.

The general conclusion is that this topic sparks an interest of the professional public, and in recent years there have been several meetings in BiH to discuss relations between journalism and the judiciary. Also, several papers have been published addressing issues important to both journalists and judges, and prosecutors.

By reviewing the available literature, we found that there are very few academic papers that touch on this topic in a certain way, and the situation is somewhat better with professional papers produced through the activities of NGOs and think-tanks. This, of course, raises the question of the methodological approaches applied in the research because different standards are being used in terms of transparency of the methodological approach.

Review of available literature

Publication *Medijsko pravo u Bosni i Hercegovini [Media law in Bosnia and Herzegovina]*¹ examines legal framework, institutions, laws, and practices governing the work of media BiH. The methodology of this book is based on the analysis of documents, primarily court decisions, laws, books, and other reports. Several chapters address the issue of the relationship between journalism, media, and the judiciary. Chapter *Sloboda izražavanja i zaštita autoriteta i nepristrasnosti sudstva [Freedom of expression and protection of the authority and impartiality of the judiciary]*² directly deals with the issue of the relationship between the media and the judiciary - on how the media monitor court proceedings and make certain assessments and comments - and the extent to which the judiciary is transparent in its activities. Through the analysis of the judgments of the European Court of Human Rights, it presents the standards of journalistic reporting and commenting on court proceedings, and restrictions on freedom of expression to protect the judicial function in society, and gives recommendations to journalists monitoring the court proceedings. Since this paper does not analyze BiH media reporting practices, the findings could be said to have normative character, that is, they prescribe how to report without going into what the actual media reporting looks like.

Several studies examined the state of the judiciary, including the openness and transparency of the judiciary towards the public and the media. In the study *Otvorenost pravosuđa u regionu i Bosni i Hercegovini [Openness of the judiciary in the region and Bosnia and Herzegovina]*, based, *inter alia*, on monitoring the websites of 18 courts in BiH, Ajanović³ states that only 3 of all examined courts publish their decisions on official websites, 39% of courts publish a register of information in their possession, while 28% have a designated person in charge of handling requests for access to information.

1 Mehmed Halilović and Amer Džihana, (editors) *Medijsko pravo u Bosni i Hercegovini* Sarajevo Internews in BiH, 2012).

2 Mladen Srđić "Sloboda izražavanja i zaštita autoriteta i nepristrasnosti sudstva" u *Medijsko pravo u Bosni i Hercegovini*, editors Mehmed Halilović and Amer Džihana (Sarajevo: Internews in BiH, 2012), pp.195-201.

3 Aida Ajanović, *Otvorenost pravosuđa u regionu i Bosni i Hercegovini [Openness of the Judiciary in BiH]* (Sarajevo. ACTIONSEE, Zašto ne?, 2017).

The policy memorandum⁴ on the transparency of the judiciary in BiH, which cites the findings of other research, including the research conducted by this organization - involving monitoring of 78 websites of judicial institutions and sending requests for access to information - states that the level of transparency is far from satisfactory, that most courts publish neither decisions nor trial minutes, and that only a few courts sporadically publish case information on the webpages. In contrast, the findings regarding reactive transparency were satisfactory and all courts provided the requested information, with several courts breaking the statutory deadline for submitting responses.

In the report *Transparentnost pravosuđa u Bosni i Hercegovini u domenu procesuiranja koruptivnih krivičnih djela* [Transparency of the judiciary in Bosnia and Herzegovina in the field of prosecuting corruption offenses]⁵, which is based on monitoring the websites of 12 judicial institutions during the three months, and interviews with editors and journalists of the three largest media outlets specializing in investigative journalism and desk research on this topic, Erna Mačkić concludes that the degree of application of the rules on the publication of indictments and verdicts, as well as their anonymization, varies. Not all courts and prosecutors' offices have the names of contact persons in charge of the media published on their websites, and during the monitoring period, very modest news content was published. "In the observed period of three months, only judicial institutions at the level of BiH published more than 15 news items, while most courts and prosecutors' offices had fewer than five such contents." (p. 25). All journalists and editors interviewed expressed skepticism about the openness and transparency of the judicial institutions.

The 2019 issue of the bulletin of the Udruženje BH novinari [Association of BH Journalists] was dedicated, in large part, to the relationship between the media and judicial institutions, observed through the lens of the right to free access to information in these institutions and the right to protection of the integrity and secrecy of judicial investigations and proceedings. The contributors were journalists and representatives of judicial institutions.

In the text *The role of responsible media in society in the context of proper reporting on criminal proceedings*,⁶ Irhad Bilić, Legal Adviser in the Office of the BiH Court President, refers to the "monitoring of media reporting on the Court of Bosnia and Herzegovina" conducted by the Court of BiH for several months and concludes that some media tend to distort information provided by the Court, thus painting a wrong picture of cases, judges and the Court in a very crude way." The text cites several examples of journalistic reporting that, according to the author, represent inappropriate reporting on the work of the Court. However, monitoring information is extremely scarce, hence it is not possible to conclude whether such reporting was sporadic or these examples illustrate the core of the media approach to this Court. According to the author, the existing system of media self-regulation is ineffective in correcting these omissions, which is why "a stronger and more precise normative regulation is required to prevent the harm to the reputation and dignity of judges or the authority and impartiality of the Court."

In the text *Are the media and the judiciary on the same side*,⁷ Vera Soldo, editor, talks about the relationship between the media and the judiciary through her own experience. According to her, authority, impartiality, and professionalism are not to be achieved through media promotion, but through impartiality and professionalism, and the BiH judiciary still has a long way to go to reach the European standards in this regard. The author believes that often any critical opinion on the work of the judiciary is qualified as an attack on the judiciary, which is not true. Her general assessment is that the cooperation with the judiciary is satisfactory, but she also cites various examples of insufficient transparency of judicial institutions.

4 Analitika, Policy memo: Transparency of the judiciary in Bosnia and Herzegovina (Sarajevo: Analitika, 2018.).

5 Erna Mačkić, *Transparentnost pravosuđa u Bosni i Hercegovini u domenu procesuiranja koruptivnih krivičnih djela* [Transparency of the Judiciary in BiH in the area of prosecution of crimes of corruption] (Sarajevo: Analitika, 2018.).

6 Irhad Bilić, *Uloga odgovornih medija u društvu u kontekstu pravilnog izvještavanja o krivičnim postupcima* [The Role of responsible media in the context of appropriate reporting on criminal proceedings], E-novinar, (VII) 60&61: 6-8 (Sarajevo: BH novinari, 2019.).

7 Vera Soldo, *Jesu li mediji i pravosuđe na istoj strani?* [Are the media and the judiciary on the same side], E-novinar, (VII) 60&61: 11-12. (Sarajevo: BH novinari, 2019).

Journalist Renata Radić-Dragić⁸ in the text titled *The Same Law and Different Practice* cites the experiences of the Center for Investigative Reporting in Sarajevo with the judiciary regarding the application of the law on freedom of access to information. While “many judicial institutions respect the law and allow journalists unhindered access to information”, she claims, there are also some that hinder or block the process. Examples of the obstacles in the application of this law provided by Radić-Dragić include arbitrary interpretation of the law, which results in the information that is partial or anonymized to the extent that makes them unusable, delayed responses to the request for access to information, administrative barriers such as insisting that requests be sent by mail or brought in person, and sometimes the costs of copying or issuing documents from the register and land books are high.

Marijana Popović⁹, Deputy Chief of Staff to the High Judicial and Prosecutorial Council, in the text *The relationship between the media and the judiciary*, starts from the thesis that there is a misunderstanding between the representatives of the media and the judiciary. According to her, the transparency of the institution she works for is huge, and she supports this claim by saying that HJPC sessions are open to the public, including disciplinary hearings, and that most of the journalists' inquiries are responded to very quickly - within the same day, and the institution proactively publishes press releases and organizes various events. She concludes by calling on journalists to have a little faith and give some space for positive stories, and on judges and prosecutors to show a full understanding of the demands of the journalistic profession.

In addition to the newsletter, this association also publishes specialized articles on journalism and justice. In the analysis published by BH novinari, journalist Zinaida Đelilović¹⁰ questions the relationship between the judiciary and the media in BiH. The author analyzes three cases that led to a heated debate between the media and the judiciary, which was published by the online magazine *Žurnal*. These were “Diploma”, “Selefije” [Salafists] and “Potkivanje” [Greasing]. In all three scandals, *Žurnal* presented evidence of possible crimes, including video footage, but the Prosecutor's Office of BiH focused on journalists instead on the parties involved in these scandals. According to the author, such a conduct of the Prosecutor's Office provoked reactions of not only the media community but also of non-governmental organizations, individual judges and lawyers, as well as of the US Embassy and the Council of Europe Commissioner for Human Rights. Based on interviews with journalists who report on the work of the judiciary, the author argues that the attitude of the judiciary towards the media is bad, with a few exceptions. The judiciary puts pressure on media freedom, she adds, through frequent defamation lawsuits filed by judges and denying information thus preventing journalists from doing their work.

Several studies and analyzes of the judiciary also address the issue of the relationship between the judiciary and the media. The report of the Open Society Fund BiH on Justice in BiH¹¹ mentions also the role of the media. It is said that there is little space for independent and objective journalism in BiH and that the media also play a significant role in attacking the judiciary. “Reporting and commenting on cases pending before the courts often undermines the credibility and independence of the court, especially if a party to the proceedings is a prominent political figure. Unprofessional comments and unprofessional legal analysis of court decisions are not only widely accepted but also popularized in the media.” (p. 94) It is further stated that the Court of BiH called on the media to report more responsibly. However, such statements on media reporting do not stem from independent monitoring of media content but are rather based on the claims of the Court of BiH.

8 Renata Radić-Dragić, *Isti zakon a različita praksa* [The same law, different practice] E-novinar, (VII) 60&61: 23-24. (Sarajevo: BH novinari, 2019).

9 Marijana Popović, *Odnos medija i pravosuđa* [Relations between media and judiciary], E-novinar, (VII) 60&61: 25-27 (Sarajevo: BH novinari, 2019).

10 Zinaida Đelilović, *Odnos između pravosuđa i medija u BiH* [Relations between media and judiciary in BiH]. (Sarajevo: BH novinari, 2019).

11 Mervan Miraščija i Srđan Cvijić (ur.) *Je li pravda u Bosni i Hercegovini zaista slijepa? Izvještaj o zarobljenom pravosuđu u Bosni i Hercegovini* [The Blindfolding justice in BiH, State Capture of BiH's judiciary] (Sarajevo: Fond Otvoreno društvo BiH, 2021.)

Melika Murtezić, judge of the Cantonal Court in Sarajevo, in her analysis titled *The impact of public perception of the judiciary on the integrity of judges*,¹² tries to contribute to the opening of a debate and further research into the question of how negative perceptions, the bad reputation of the judiciary and public distrust can affect the integrity and independence of the judiciary. In her view, media reports on the work of the judiciary in BiH tend to simplify complex legal issues and have a predilection for sensationalism. Also, journalists tend to give far more media space to those who have a negative or critical attitude towards justice. Describing journalistic reporting, Murtezić says journalists rarely ask the court for a copy of the final verdicts, even though they write about them. Journalists are present in the courtroom only at certain "key" sessions, and therefore "the key reasons for passing a certain verdict remain unknown to the public or are - in the best case - only briefly stated" (p. 3). These court decisions, she says, are then used as a means of criticizing the judiciary within the media space. The author refers to several media articles to illustrate her claims, but provides no evidence in support of the claim that "journalists rarely ask for copies of final judgments". On the other hand, she notes that the judiciary does not do enough to promote and affirm public confidence in the impartiality and integrity of the judiciary and suggests that publishing summaries of verdicts, press releases and the reasons behind the verdicts on the website would lead to a greater level of confidence of the general public.

Conclusion

Basically, we can see two basic claims about the relationship between journalists and the media and the judiciary in BiH. The first, which comes from journalistic sources, is that the judiciary is insufficiently transparent and thus, sometimes, prevents journalists from doing their work. Also, journalists claim that justified criticism of the work of the judiciary is often described by representatives of the judiciary as an attack on the independence of the judiciary. These claims are not general and it is important to note that such assessment is not true for all representatives of the judiciary and that there are exceptions. As for the validity of these claims in the presented literature, evidently, the opinions and experiences of journalists reporting on the judiciary prevail, while monitoring of websites of judicial institutions provides empirical evidence of insufficient transparency of the judiciary. Insufficient transparency of the judiciary is also largely mentioned by persons employed in judicial institutions. We deem these to be solid claims, and their strength would be even greater if corroborated by a broader systematic survey of journalists' perceptions of the judiciary.

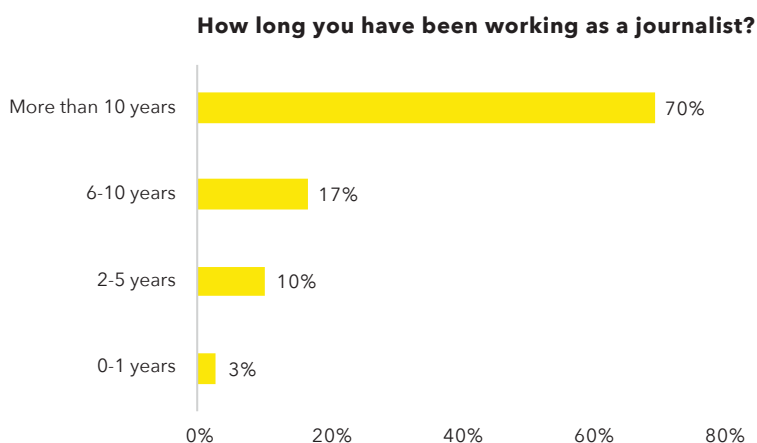
On the other hand, the judiciary claims that unprofessional and very often sensationalist media coverage of court proceedings and the judiciary, in general, undermines public confidence in the judiciary. This is a general thesis, which refers to all media, although sometimes there are nuances in the approach of different media. These claims are largely supported by certain examples of media coverage and the opinions of the judges themselves. However, the presented "research findings" cannot be used to make a reliable judgment about the nature of media coverage on the judiciary because basic data on methodology, sample, approach, etc. are missing. In short, there is no systematic analysis of media content to explain the ways of media reporting on this topic based on the relevant methodology. Also, there are no research findings based on the systematic collection of data on the opinions and perceptions of the members of the judiciary about the relationship with journalists and the media. It is mostly the authors of the texts expressing their opinions. To this end, we find the claim about unprofessional and sensationalist reporting on the judiciary poorly substantiated, hence, we suggest additional research to either strengthen or refute it.

12 Melika Murtezić, *Uticaj javne percepcije pravosuđa na integritet sudija* [Impact of public perception of judiciary on integrity of judges] (Sarajevo: Fondacija Centar za javno pravo, 2021.).

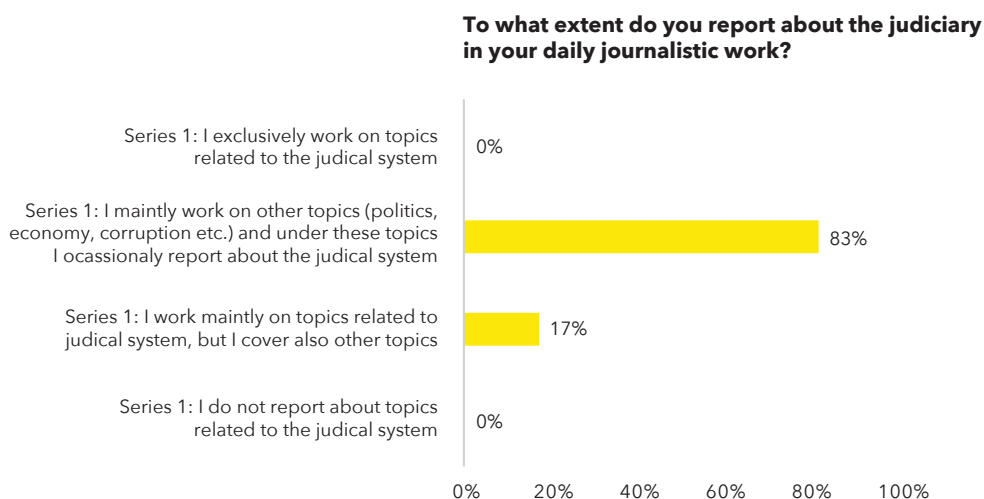
3. Research findings

3.1 Journalists' experience with the court system

3.1.1 Professional experience of respondents (journalists)



The online survey was conducted with journalists who have a long professional experience. More than two thirds of respondents are in the category of those who have worked for over 10 years (70%), 17 percent have experience between 6 and 10 years, 10 percent between 2 and 5 years, and only 3 percent are in the category of beginners with up to 1 year of experience.



The largest number of respondents (83%) are in the category of those who mainly work on other topics, such as politics, economics, corruption, etc., and through their work they occasionally report about the judiciary. Furthermore, 17 percent of respondents are in the category of those who mainly work on topics related to the judiciary, but through their work they also cover other topics. Journalists who do not report about the judiciary at all and journalists who work exclusively on it were not part of the sample, i.e. none of the respondents said that they belong to these categories.

3.1.2 Problems and difficulties with accessing court files

Problems that journalists face when trying to access court files			
	N	Mean ¹³	Std. Deviation
The procedure of obtaining court files is difficult and slow.	150	4.17	0.763
Some journalists receive exclusive information about court cases because of personal connections.	155	3.90	0.804
Judges and court clerks are mistrustful of journalists.	159	3.80	0.870
It is difficult to access indictments of prosecutor's offices.	149	3.95	0.932
Courts do not publish court rulings on their websites.	153	3.58	1.030
Spokespersons or judges responsible for communication are not available to journalists.	164	3.45	1.035

Most respondents pointed out the basic problem that the procedure of obtaining court files is difficult and slow. This is a general problem and can be understood when taking into account other issues related to accessing court files. Focus group respondents emphasized that this problem is especially pronounced among journalists who work in newsrooms that try to publish their news as soon as possible, because they need information at a certain moment, otherwise it loses importance afterwards. Various reasons are mentioned as to why this process is slow. For example, the judiciary sometimes refers to the 15-day deadlines prescribed by the Law on Freedom of Access to Information. Sometimes, courts do not want to hand over their files until the termination of proceedings, which can take years. In some cases, court clerks cannot explain why a particular file is not available, but they do not want to send it.

I asked for a first instance ruling from the court in Široki Brijeg. The judge assigned to the case refused to give it under the pretext that the proceedings were pending and that I could get it only after the proceedings were terminated. I started quoting parts from the Law on Freedom of Access to Information and then I thought - why should I explain the law to a judge? In the end, he gave me the ruling, but he anonymized it to such an extent that it was impossible to find out anything from it.¹⁴

Next in importance is the problem of accessing indictments from prosecutor's offices. The practice of prosecutor's offices is not uniform. Some institutions publish indictments, while others, mostly citing the BiH Law on Personal Data Protection, refuse to do it.

The main problem is that we do not get indictments from the BiH Prosecutor's Office. The Prosecutor's Office has dropped the practice of publishing indictments about 10 years ago. This can be partly interpreted by the entry into force of the Law on Personal Data Protection. However, most other prosecutor's offices continue to publish indictments (with protection measures), which means that these are not instructions from the Law on Personal Data Protection, but a new practice of the BiH Prosecutor's Office.¹⁵

13 The arithmetic mean in this table and all the tables below was calculated after the answers „I don't know/I can't estimate“ were excluded.

14 Participant 1, Focus group II held on 22.11.2021

15 Participant 1, In-depth interview, 16.07. 2021

The third most important problem mentioned by the respondents is that some journalists receive exclusive information about court cases because of personal connections. The following problem is that judges and court clerks are mistrustful of journalists. This mistrust seems to be mutual and it has been deepening.

Mistrust exists on both sides. But also fear, especially on the part of the judiciary. The judiciary has become more closed, judges rarely speak in public. Only two judges speak in public.¹⁶

There used to be trust, sometimes they would ask us not to publish some information so as not to jeopardize investigation and we would respect that ... Today there is a general failure on this issue. Nobody respects anyone, there is no dialogue, judges act as if they are "God-given", like "who are you to call me" and similar... Fortunately, not everyone is like that. There are still older judges who are available to the media and journalists, such as judge Peric.¹⁷

Focus group participants showed a degree of self-criticism, pointing out certain journalistic practices that contribute to the development of mistrust. Basically, these are standard journalistic flaws - insufficient knowledge about a topic and striving for sensationalism.

My experience shows that in about 60 percent of cases, there is mistrust between journalists and the judiciary. There are reasons on the part of journalists themselves. It is necessary to know the terminology. Journalists have different deadlines and sometimes there is a mismatch. When journalists are serious, when they do not resort to sensationalism, then the court's attitude is different. In the end, lots of it is individual.¹⁸

I have to be self-critical. To some extent, the mistrust that exists is understandable. Sometimes I write a text after being in court, and check all the facts before it is published, and then I read a text by a colleague who was with me at that trial and there I find descriptions that are not in line with what was said at the hearing. Abuse is possible, therefore it is important that they do not put us all into the same basket.¹⁹

Finally, respondents pointed out as the fifth most important problem that courts do not publish rulings on websites, while the sixth most important problem is that spokespersons or judges responsible for communication with the media are not available. Such practices depend on certain institutions and cannot be attributed to all judicial institutions.

We have the situation that indictments, rulings, even when anonymized, are not published. We do not know who is in which panel, whether the proceedings have ended, etc. Only after a FOIA request maybe we can get an indictment or ruling.²⁰

16 Participant 1, Focus group IV held on November 23, 2021

17 Participant 2, Focus group II held on November 22, 2021

18 Participant 3, Focus group II held on November 22, 2021

19 Participant 2, Focus group IV held on November 23, 2021

20 Participant 4, Focus group II held on November 22, 2021

3.1.3 Sources of information that journalists use when reporting about the judiciary

Based on the frequency of use, the sources of information that journalists use when reporting about the judiciary can be divided into four groups:

1. Lawyers, court websites and media articles are used always and often in more than 50 per cent of cases.
2. Public hearings, websites of prosecutor's offices and court spokespersons are used always and often in about 50 percent of cases.
3. Court files, defendants' families, independent experts and prosecutors are used always and often in 17 to 29 percent of cases.
4. Personal connections in courts, judges and court presidents are used always and often in 5 to 13 percent of cases.

How often do you use the following sources to get information about court cases?					
	BiH				
	Always and Often	Sometimes and Rarely	Never and I do not cover the judiciary	Mean	Std. Deviation
Lawyers	60%	29%	11%	3.7	0.954
Court websites	52%	35%	13%	3.57	1.097
Media articles	58%	32%	9%	3.55	0.901
Public trials	50%	31%	19%	3.46	1.213
Prosecutor's office website	49%	35%	16%	3.43	1.177
Court spokesperson	49%	34%	16%	3.41	1.184
Court files	28%	51%	20%	2.95	1.175
Defendants' families	25%	56%	20%	2.83	1.066
Independent experts	29%	44%	27%	2.8	1.187
Prosecutors	17%	62%	22%	2.65	0.997
Personal connections	13%	43%	44%	2.27	1.16
Judges	11%	54%	36%	2.26	1.062
Court presidents	5%	61%	34%	2.11	0.928

The fact that lawyers are the most available should require additional caution among journalists because lawyers primarily point out facts and interpretations in favor of their clients.

Although lawyers are a very good source for us, we must always keep in mind that they are an interested party and that over-reliance on them can distort our reporting.²¹

Lawyers are interested in attracting new clients through media appearances.²²

Spokespersons are the second group of information sources that are most frequently contacted. Their usefulness varies from institution to institution. Depending on how well they are trained, how interested in providing information and what their basic job is, whether that is their only job or whether they do other jobs also, whether they have independence within the institution or obey orders of their superiors unquestioningly.

I have different experiences. The experience with the spokesperson of the Sarajevo Canton Prosecutor's Office is desperate. She is obviously protecting this politician. In contrast, the spokesperson of the BiH State Court provides relevant information every time. It depends on the task the spokesperson is given, to hide or to give information.²³

As a positive example, I would like to point out the spokesperson of the Tuzla Canton Prosecutor's Office who is available to journalists at any time, whether for giving info, recording or ensuring that a prosecutor gives a statement.²⁴

The question is how much spokespersons are available to us. There are institutions where the job of spokesperson is given to someone in addition to other jobs. For example, a spokesperson and a FOIA clerk, and a secretary also. What we can expect from that person is very limited. The type of information that spokespersons give is different from what judges and prosecutors can give.²⁵

The behavior of spokespersons varies from institution to institution. In the BiH Prosecutor's Office we mostly get answers without comments or no answer at all. The Sarajevo Canton Prosecutor's Office generally gives us answers.²⁶

My experience is that spokespersons speak mostly when ordered by chief prosecutors or court presidents.²⁷

Prosecutors, judges and court presidents are in the last two categories. Their availability is generally poor, with prosecutors being somewhat more available than judges and court presidents. This situation is reflected in journalistic reporting. As many focus group participants pointed out, the type of information that judges and prosecutors can give differs from what spokespersons can give. Journalists often need explanations of rulings, but it is difficult to get them. Also, as with other issues, one cannot speak of a uniform situation here. There are judges and prosecutors who are available to journalists, especially if personal contact has been established, but there is also a large number of those who are not available.

21 Participant 3, Focus group IV held on November 23, 2021

22 Participant 1, Focus group III held on November 23, 2021

23 Participant 2, Focus group III held on November 23, 2021

24 Participant 1, Focus group I held on November 22, 2021

25 Participant 4, Focus group II held on November 22, 2021

26 Participant 4, Focus group IV held on November 23, 2021

27 Participant 5, Focus group IV held on November 23, 2021

Much depends on the individual. I was in situations when I communicated directly with judges and prosecutors. In one case in Zenica, the spokesperson told me not to address judges and prosecutors directly but to ask him for access to information. I communicated with judges from Livno, Bihac and Brcko. They did not refer me to spokespersons. In the BiH Prosecutor's Office, we cannot get it even through the spokesperson. We get insufficient information. I asked to speak to a prosecutor. She asked me to send her questions by e-mail. She answered and sent it to the spokesperson and he never forwarded those answers to me. Who is behind it? I do not know. But even there, if you have a good cooperation with certain prosecutors, you can get information.²⁸

In Banja Luka, judges, chief prosecutors, court presidents are not available at all, in my experience.²⁹

I am exclusively talking about the state court and the state prosecutor's office. I get the impression that they don't care about doing what they are paid to do. For example, when investigation was conducted against General Dudakovic, we had information two years earlier that Dudakovic would be arrested because it was in the prosecution's interest. However, it is never a matter of public interest, but of the narrow political interest of the people in the prosecutor's office. In that case, we receive all the necessary information, statements and similar. However, when they estimate that it is not in their interest to provide information, then we cannot get anything.³⁰

3.1.4 Reporting from public trials

How often did you face the following statements/difficulties when reporting from public trials?					
	Always and Often	Sometimes and Rarely	Never	Mean	Std. Deviation
Journalists are required to leave their equipment (laptop, camera, mobile phone) before entering courtrooms.	58%	15%	2%	4.27	1.039
Although they are present at the trial, it is difficult for journalists to get access to transcripts and other important information from the trial.	58%	14%	1%	4.01	0.795
Judges are reluctant to communicate and do not help journalists to report better about the trial.	60%	16%	1%	4.00	0.854
Courtrooms are small and not all interested journalists can enter.	37%	35%	3%	3.36	1.007
COVID-19 pandemic is used as an excuse to deny journalists access to trials.	36%	34%	6%	3.33	1.063
During trials, judges are mistrustful and disrespectful of journalists.	31%	40%	6%	3.21	1.048
Judges do not clearly state the rules of reporting before each trial.	34%	33%	6%	3.18	1.101

28 Participant 1, Focus group II held on November 22, 2021

29 Participant 5, Focus group IV held on November 23, 2021

30 Participant 2, Focus group I held on November 22, 2021

The biggest problem is that journalists are required to leave their equipment before entering courtrooms. This does not apply to all courts, but it has become a common practice in many courts. The consequences of this are significant for the manner of reporting. Journalists are often unsure whether they have heard a name or a toponym right and fear that they have not understood something well. Even if additional verifications give good results it unnecessarily prolongs the time required to produce content.

The most common explanation given by courts as to why recording equipment is not allowed is that the case is still pending and that journalists could harm the proceedings with their reporting. However, if we accept that there were indeed certain journalistic abuses during the recording of court proceedings, the question arises why all journalists are sanctioned in this way and not only those who abused the trust of judicial institutions.

Technical problems are really a big problem. I don't think we would create a problem by entering with a dictaphone. On the contrary, it would help us write a report. We need to know the name of someone or some place that is mentioned. I often stayed after trials and asked clerks what the witness's name was, what the village was called. Still, judges are hard to reach. It is difficult to get information from a judge outside the courtroom.³¹

Bringing laptops and dictaphones would make our job easier. There are sanctions for everyone. When you approve something to someone you can bind him with an obligation. They check our IDs every time we come. So it can be determined who abuses it.³²

A journalistic feeling is that they will use everything to make our job harder. Journalists are not here for fun, that's our job. It is easier for them to say that is not allowed and forbid it to everyone than to think about whether someone will abuse it.³³

Another problem is that journalists find it difficult to gain access to minutes and other important information. The issue of obtaining minutes and other important information is a complex issue. The basic dilemma of the judiciary is that the public availability of this information can undermine the presumption of innocence. Considering what kind of written documents and what time they should be available to the public, Jesenka Residovic³⁴ states that these are undoubtedly dispositions of indictments and court rulings that courts make after the main trial has begun. On the other hand, transcripts from the main trial, in her opinion, should be available after the hearing of all witnesses, and not during the trial itself. All of this applies to parts of the trial that are not excluded for the public.

The survey research shows that the fact that judges are reluctant to communicate with media is recognized by journalists as a serious problem. It seems that a number of judges believes that their job is exclusively in the courtroom and that it is not within their competence how the public will understand the work of the judiciary through the media.

Judges and prosecutors generally do not consider it their duty to talk to the media. However, it is judges and prosecutors, court presidents and chief prosecutors who are the only ones who can offer some clarifications, give certain information, etc.³⁵

31 Participant 3, Focus group IV held on November 23, 2021

32 Participant 4, Focus group II held on November 22, 2021

33 Participant 3, Focus group II held on November 22, 2021

34 Jesenka Residovic, *Transparency of the Judiciary: The Issue of Accessing Indictments and Decisions in Criminal Proceedings* (Sarajevo: BIRN, 2021).

35 Participant 4, Focus group II held on November 22, 2021

When we talk about a closed case. For example, when the prosecution has failed to prove something, we deserve to hear what was missed or what should have been done so that we can clarify it further. We do not have to talk about details, but clarifying court practice is important for the media and the public, in order to understand procedures and mistakes, as well as statistics that do not show much.³⁶

An important place among the identified problems is the fact that courtrooms are often small and not all interested journalists can enter them, as well as the fact that since the beginning of the COVID-19 pandemic it has been used as an excuse to deny journalists access to trials.

In essence, there is a violation of the publicity of proceedings. In principle, every procedure should be public and open. However, in lower courts there are situations where proceedings are conducted in judges' offices where no more than three people can physically fit in the room. In such cases, we must first go with a request to attend the hearing, which must be approved by the judge assigned to the case. He doesn't even have to do it before the proceedings, but we have to come and only then we are told whether we can attend or not. For example, if I am from Sarajevo following the proceedings in Travnik, I have to go there and see if I will be allowed to attend or not.³⁷

You should keep in mind that municipal courtrooms are usually smaller, and often hearings take place in judges' offices (usually pleadings) and suspects, lawyers and journalists often stand side by side. Considering that in most cases these are not detention cases, there are usually no court police officers present either. Therefore, when we speak about the protection of journalists, in such cases it usually absolutely does not exist. If suspects threaten journalists, judges warn them, but what does a warning mean!? Nothing.³⁸

I've been banned from attending a hearing in Sarajevo because of the coronavirus, even though I presented a negative test result and vaccination certificate. Yet, the next time the judge allowed my presence. I guess this time I wasn't a threat or what?³⁹

Finally, the smallest number of journalists complained about the judges - be it for their distrustful or disrespecting conduct or for not clearly stating the rules of reporting before each trial. Generally, judges behave appropriately. Sometimes, when we ask for some information, judges may not be happy, and they will ask if we know how to interpret it or why we need it, etc.⁴⁰

In my experience, judges to some extent perceive journalists as someone who is on the other side, but officially, we have a fair relationship. Judges usually think of themselves as being excellent in what they do, and they do not like much public criticism. Hence, the distance to journalists.⁴¹

We have very little contact with the judges. For them, we are the "public" and our communication usually comes down to judges warning us not to publish things we shouldn't (privacy, family matters, etc.).⁴²

36 Participant 4, Focus group II held on November 22, 2021

37 Participant 4, Focus group II held on November 22, 2021

38 Participant 2, In-depth interview, July 13, 2021

39 Participant 1, Focus Group II held on November 22, 2021

40 Participant 3, In-depth interview, July 16, 2021

41 Participant 4, In-depth interview, July 13, 2021

42 Participant 1, In-depth interview, July 16, 2021

3.2 Journalists' knowledge about the principles of reporting and the work of the judiciary

3.2.1 Perception of the principles of publicity and motivation of courts to communicate with the media and journalists

To what extent do you agree with the following statements about the publicity and the motivation of judicial institutions to communicate with journalists?			
	Absolutely; Partially agree (%)	Mean	Std. Deviation
Judicial institutions are not trying to improve cooperation with the media and journalists.	87%	4.34	0.812
Judicial institutions are not proactive in providing information to journalists.	88%	4.37	0.816
Judges and courts lack knowledge on how to communicate meaningfully with the media, which is why they are not transparent enough.	83%	4.24	0.858
Judges and courts lack integrity and independence from political actors, which is why they are not motivated to engage with the media.	82%	4.23	0.901
Judges and courts lack integrity and independence from business interests, which is why they are not motivated to engage with the media	76%	4.10	0.879
Judges are personally exposed to political pressures that discourage them from cooperating with the media.	76%	4.03	0.933
The courts lack communication staff, which is why they are not transparent enough	72%	3.87	1.092
Judicial institutions meet the basic requirements for open and transparent communication with the media and the public.	53%	3.31	1.201
The judiciary is much more open and transparent today than it was five years ago.	36%	2.77	1.262

Journalists' views and perceptions of the transparency of the judiciary can be divided into four groups:

1. The majority of respondents (almost nine out of 10) agree (absolutely and partially) that judicial institutions are not trying to improve cooperation with the media and journalists, and that they are not proactive in providing information to journalists.
2. More than eight out of 10 respondents believe (absolutely and partially agree) that judges and courts lack knowledge on how to communicate meaningfully with the media, as well as the integrity and independence from political actors. For these reasons, judges and courts are not motivated to engage with the media.

3. About three-quarters of respondents agree (absolutely and partially) that judges lack integrity and independence from business interests, that they are personally exposed to political pressures that discourage them from cooperating with the media, and that the courts lack communications staff and transparency.
4. About half of the respondents agree (absolutely and partially) with the statement that judicial institutions meet the basic conditions for open and transparent communication with the media and general public, and slightly more than a third agree (absolutely and partially agree) that the judiciary is much more open and transparent than five years ago. The last two statements are, in fact, the only affirmative statements offered to the respondents. So it could be said that almost half of the respondents believe that judicial institutions do not meet the basic conditions for open and transparent communication and that nearly two-thirds of them believe that the judiciary is not more open and transparent today compared to five years ago.

The extremely negative perception of the openness of the judiciary issuing from the survey results was confirmed through in-depth interviews and focus group discussions. According to participants in this research, there is mistrust towards journalists and journalistic inquiries are most often seen as a problem. Insofar as journalists cannot get valid and timely information, the general public cannot get an adequate idea of the work of the judiciary, focus group participants resonate. Hence, the negative perception of the work of the judiciary may result from the lack of sufficient and quality information.

Courts must be more transparent in order to show to the general public what they do and that they are doing it in the interests of justice. The more closed off the court about its work, the less public confidence. It is common knowledge that corruption is deep in all pores of BiH society. We can hear that the police arrested someone for corruption, that an indictment was filed, but when it comes to court, there is a kind of lull ... There is the least information there, and this is mainly because the courts are somehow the quietest. And journalists, due to the courts being so closed off, least report on the topics related to the judiciary.⁴³

People in the judiciary do not see journalists as partners who can help treat certain cases properly. They are afraid of our questions. We never had a press conference with the former State Prosecutor's Office to ask her questions. They simply do not want it. The attitude towards the media mirrors their attitude towards the entire public because we ask questions on behalf of the public. If we are prevented from doing it, then naturally, this creates a negative perception of the work of the judiciary in the public, and I think it should be even more negative.⁴⁴

The Cantonal Prosecutor's Office of the Una-Sana Canton (USK) and the Brčko District have a practice of proactively informing journalists of the measures taken, indictments, and the like. Some institutions are already proactive. Journalists can't cover everything. We often hear complaints about journalists not informing the public about an acquittal. I doubt that journalists are doing this on purpose. However, some proceedings take years and journalists lose sight of such information. Why not have courts send such information to the media and the public?⁴⁵

We know these are officially closed channels, which mostly look at journalists and their inquiries as a problem. Most people from the system institutions have a hostile view of the media unless they want the media to act as their PR channels. With all the reforms, diplomatic activities, money, the judiciary received the most attention from the international actors because they believed that strengthening the judiciary was the basis for a stronger democracy. However, it seems to me like a shot in the dark.⁴⁶

43 Participant 2, Focus Group II held on November 22, 2021

44 Participant 2, Focus Group I held on November 22, 2021

45 Participant 1, Focus Group II held on November 22, 2021

46 Participants 6, Focus Group IV held November 23, 2021

Focus group participants believe that the reasons for the insufficient transparency of the judiciary are many. According to them, there is a lack of knowledge about how the media works - what kind and format of information to offer to different media (print, online, radio, TV); there is often a lack of willingness to communicate with the public; in some cases, the judiciary does not want to disclose certain things and they find ways to keep such things away from the public. The latter is especially pronounced when it comes to the link between justice and politics. At the same time, a significant number of focus group participants recognize objective problems such as lack of staff.

I think it is a mix of many things. Both ignorance and lack of staff. I did workshops for the HJPC. I've realized that some things were not very clear to them. E.g. that TV needs a statement, that investigative journalists need a document, that they can send an email to the press. It is not clear to them why we mention their names. There is, therefore, a lack of knowledge about how the media works.⁴⁷

Some people in charge of communicating with the media in certain courts really lack knowledge. In a municipal court, a media officer who was on sick leave was replaced by a colleague, who, in most cases, did not even bother to check journalistic inquiries. For nearly half a year, she kept saying "*I do not know, I'll see, I'm replacing a colleague....*". First of all, all courts must be willing to communicate with journalists and must be more transparent. It all starts from there. The first step is willingness and readiness, and the second step is about training people who will be communicating with the media.⁴⁸

It is not just about ignorance, poor organization, or lack of staff. We must not overlook the fact that there are proceedings that they do not want the public to know about. They show open animosity towards journalists. It is a way to cover for non-transparent decisions or decisions rendered as per instruction.⁴⁹

If someone keeps the case file in a drawer for five years, it is not about incompetence, but about corruption. A large number of judges and prosecutors have been appointed to these positions, although they had neither knowledge nor experience.⁵⁰

There is a lot of egotism in the judiciary. They allow themselves too much, They look down on journalists and arbitrarily determine what information to give and what to withhold. Millions have been spent on training on how to communicate with the public, how to use new technologies. What about the results of those training programs?⁵¹

It is not so much about their knowledge, staff, or resources as much as it is about them demonstrating their independence by refusing to communicate with the public. The judiciary is under the tutelage of politics, and that is one of the reasons. After all, there were so many training programs with representatives of the judiciary, lawyers, journalists, and nothing has changed.⁵²

47 Participant 1, Focus Group II held on November 22, 2021

48 Participant 2, Focus Group II held on November 22, 2021

49 Participants 3, Focus Group II held November 22, 2021

50 Participant 2, Focus Group III held on November 23, 2021

51 Participant 1, Focus Group III held on November 23, 2021

52 Participants 5, Focus Group IV held November 23, 2021

3.2.2 Perception of the communicators

How would you rate the representatives of the following judicial institutions in terms of their openness and responsiveness in communication with journalists?						
	BiH				Mean	Std. Deviation
	Always and Often	Sometimes and Rarely	Never	I do not know		
Spokespersons	50%	42%	0%	8%	3.48	0.818
Judges	1%	67%	15%	17%	2.18	0.730
Prosecutors	11%	57%	15%	17%	2.50	0.978
Court presidents	5%	59%	16%	20%	2.28	0.912
Members of HJPC	8%	56%	9%	27%	2.50	0.886

As expected, the spokespersons were best rated in terms of openness and responsiveness in communication with journalists. Half of the respondents say that spokespersons are always and often available and open. All other categories of communicators scored significantly lower. As many as 56% of respondents find members of the High Judicial and Prosecutorial Council to be sometimes and rarely available, while only 8% find them available “always and often”. Prosecutors are at the same level. Only 11% percent of the respondents find that the prosecutors are always and often available and open, as opposed to 57% who find them to be available sometimes and rarely. The court presidents follow. Nearly one in six respondents think they are available sometimes and rarely, and 5% think they are always and often available. Judges scored the lowest. Two-thirds of respondents find them available sometimes and rarely, 15 % never, and only 1% find them always and often available.

As already explained in the section on the experiences of journalists with the judiciary, there is a significant difference in the type of information that spokespersons can offer as opposed to judges, prosecutors, etc. Journalists need explanations. As a positive example, participants of a focus group discussion offered the case of county courts in Croatia, where judges are appointed as spokespersons.

We have really good spokespersons, but no spokesperson can replace the court president or the judge. I do not mean to offend anyone by saying this, because I appreciate the fellow spokespersons and sometimes their statement is enough, but in most cases, it is not. As a journalist, I need, in most cases, a court president or a presiding judge. There is a big difference in the text to have a statement provided by a spokesperson, and the statement given by the court president or a judge. Court presidents and judges need to be more accessible to journalists. I’m not saying that they should be giving statements all the time, but certain topics require their statements, not those of their spokespersons.⁵³

Having judges or prosecutors as spokespersons is an advantage. A good example is the Zagreb County Court.⁵⁴

53 Participant 2, Focus Group II held on November 22, 2021

54 Participant 7, Focus Group IV held November 23, 2021

3.2.3 Perception of communication services offered by judicial institutions

In your opinion, how often do judicial institutions provide the following communication services and tools?						
	Always and Often	Sometimes and Rarely	Never	I do not know	Mean	Std. Deviation
They publish press releases	46%	50%	0%	4%	3.41.	0.756
They publish information on court decisions on the website	32%	59%	3%	6%	3.07.	0.888
They maintain e-mail communication	26%	54%	9%	11%	2.89.	1.007
They allow direct communication with spokespersons and judges by telephone	22%	58%	9%	11%	2.81.	1.005
They publish summaries of court decisions	19%	63%	7%	11%	2.71.	0.938
They hold press conferences	2%	75%	16%	7%	2.23.	0.771
They publish information about court decisions on social networks	6%	43%	37%	14%	1.88.	0.954
They communicate via applications (Skype, Zoom, Viber, WhatsApp, etc.)	3%	39%	38%	20%	1.80.	0.889
They organize direct (face-to-face) conversations with judges, court presidents, prosecutors	0%	48%	35%	17%	1.70.	0.674
They organize briefings with journalists	1%	44%	40%	15%	1.69.	0.757

Most journalists identified press releases as a basic communication service offered by the judiciary. As many as 46% suggest that the judiciary publishes press releases always and often, and half said they do so sometimes and rarely.

Publishing court decisions comes second. About a third of respondents believe that this information is published always and often, and nearly one in six respondents say that the judiciary publishes this information sometimes and rarely.

Maintaining e-mail communication, direct telephone communication with spokespersons and judges, and publishing summaries of court judgments could be classified in the same group. One in four respondents believes that the judiciary maintains e-mail communication always and often, and 22% of them believe that judicial institutions always and often allow direct telephone communication with spokespersons and judges. Nearly every fifth respondent believes that the judiciary publishes summaries of court decisions always and often.

Press conferences are rare. As many as three-quarters of respondents believe that the judiciary holds press conferences sometimes and rarely.

Posting information about court decisions on social media and communicating via online communication tools are even less common. Eight out of 10 respondents believe that information about court decisions is posted on social networks sometimes, rarely, or never, and three-quarters of respondents have the same opinion about using online applications such as Skype, Zoom, Viber, WhatsApp, etc.

Arranging direct talks with representatives of the judiciary, as well as organizing briefings with journalists, according to the perceptions of respondents, are the least frequent activities. More than a third of respondents believe that direct interviews with representatives of the judiciary are never organized, and one in four believe that briefings are never organized.

How would you rate the following communication services and tools provided by judicial institutions in terms of their quality/usefulness?						
	Excellent	Good and Solid	Weak and Very Weak	I do not know	Mean	Std. Deviation
Press releases	3%	54%	37%	6%	2.82.	0.925
E-mail communication	2%	47%	28%	23%	2.79.	0.844
Information on court decisions published on the website	3%	47%	38%	12%	2.66.	0.901
Direct communication with spokespersons and judges by telephone	5%	35%	37%	23%	2.65.	0.993
Summaries of court decisions	3%	29%	48%	20%	2.41.	0.982
Press conferences	2%	24%	48%	26%	2.27.	0.992

When it comes to the quality and usefulness of communication services available to journalists, press releases were rated the best. More than half of journalists think that press releases are solid, good, or excellent (57%).

Email communication is the second-best ranked. Almost half of the respondents think that this service is solid, good, or excellent.

The third best in terms of quality and usefulness is the information on court decisions on the website. Although half of the respondents think that this way of communication is solid, good, or excellent, as many as 38% of them find this type of communication to be weak and very weak.

Then comes direct telephone communication with spokespersons and judges. Four out of 10 respondents think that this way of communication is solid, good, or excellent, and almost the same number (37%) find it to be poor and very poor.

According to the perception of respondents, at the very bottom in terms of usefulness and quality are the summaries of court decisions. Nearly half of respondents think they are very weak or weak, and the same percentage feels that press conferences are rare, but even when organized, they are of poor quality and not so useful.

Focus group participants share this rather negative perception of the basic communication channels and services offered by the judiciary. According to them, the summaries of the verdicts did not offer anything new compared to what they already knew, websites do not offer timely information, and almost all communication was put on the spokesperson's shoulders. This is certainly insufficient to meet the needs of the media or the public.

The summary of the verdict does not do much for journalists. It is published hours after the verdict is pronounced, and this is something that we already knew. Even when a verdict comes in summarized, often anonymized form, we can hardly use it. And it is not only personal data that is anonymized.⁵⁵ I miss live interviews, especially when I'm doing video footage.⁵⁶

Generally, their websites are the problem, because they are not updated and they do not offer updated information.⁵⁷

Not all communication should be on the back of a spokesperson. There are no press conferences. All we get is scanty information that we obtained using different channels. What to do with the information "the investigation is ongoing". We knew that even before we made a call. There should be a press conference or invitation extended to journalists covering the stories about the work of the judiciary more intensively.⁵⁸

When it comes to the openness of the courts, the experiences of journalists with individual courts significantly vary, depending on the jurisdiction of the courts. Judging by the ratings (I do not know) of press services of court institutions, journalists appear to have the most contact with municipal and cantonal/district courts and the Court of BiH.

How would you rate the press services of the following judicial institutions in terms of their openness and responsiveness in communication with journalists? How open and responsive are they in communication?								
	Never	Rarely	Sometimes	Often	Always	I do not know	Mean	Std. Deviation
Court of Appeals of Brčko District of BiH	0%	3%	13%	6%	1%	77%	3.21.	0.695
Cantonal/District courts	2%	15%	36%	25%	1%	20%	3.09.	0.821
Municipal/Basic courts	3%	14%	40%	23%	1%	19%	3.06.	0.796
Constitutional Court of BiH	3%	12%	23%	15%	3%	44%	3.04.	0.951
Court of BiH	3%	16%	27%	14%	5%	34%	3.02.	0.995
RS Supreme Court	2%	9%	16%	8%	1%	63%	2.94.	0.896
RS Constitutional Court	2%	11%	16%	7%	1%	63%	2.79.	0.883
FBiH Constitutional Court	2%	13%	19%	7%	0%	58%	2.74.	0.805
FBiH Supreme Court	3%	15%	20%	6%	0%	56%	2.66.	0.825

55 Participant 2, Focus Group IV held on November 23, 2021
 56 Participant 3, Focus Group II held on November 22, 2021
 57 Participant 1, Focus Group I held on November 22, 2021
 58 Participant 3, Focus Group I held on November 22, 2021

Looking at the answers of those who did not answer "I do not know", the best rated were the Court of Appeals of the Brčko District of BiH, the cantonal/district courts, municipal courts, the Constitutional Court of BiH, and then the Court of BiH. The last category includes the RS Supreme Court, the RS Constitutional Court, the FBiH Constitutional Court, and finally, the FBiH Supreme Court.

The situation is similar with the prosecutor's offices. It seems that most of the respondents have contacts with the cantonal and district prosecutor's offices, and with the Prosecutor's Office of BiH. The best-rated press service is the one of the Prosecutor's Office of the Brčko District of BiH, followed by the press offices of the cantonal and district prosecutor's offices. The next best-ranked are the RS Prosecutor's Office and the FBiH Prosecutor's Office. The BiH Prosecutor's Office is at the very bottom. One-third of the respondents believe that the press service of this institution is never or rarely open to communication with journalists.

How would you rate the press services of the following judicial institutions in terms of their openness and responsiveness in communication with journalists? How open and responsive are they in communication?								
	Never	Rarely	Sometimes	Often	Always	I do not know	Mean	Std. Deviation
Prosecutor's Office of the Brčko District of BiH	0%	6%	13%	9%	5%	66%	3.41.	0.956
Cantonal/District Prosecution	2%	11%	35%	24%	8%	20%	3.33.	0.914
RS Prosecutor's Office	2%	11%	20%	10%	2%	56%	2.97.	0.894
Prosecutor's Office of FBiH	5%	12%	24%	9%	2%	48%	2.80.	0.950
Prosecutor's Office of BiH	16%	17%	23%	14%	4%	27%	2.64.	1.176

3.3 Journalists' knowledge about the principles of reporting and the work of the judiciary

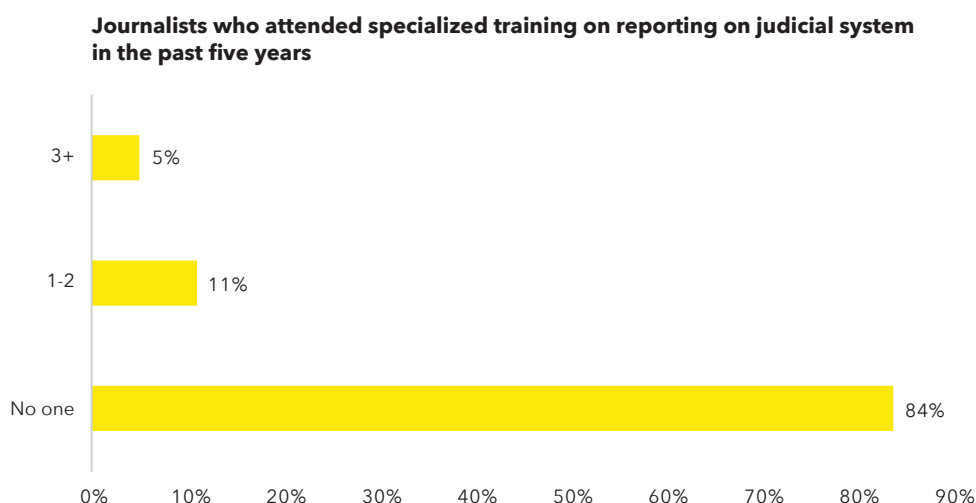
3.3.1 Journalistic assessments of their current level of knowledge

How would you rate your level of knowledge on reporting on the work of the judiciary or more specifically on court proceedings?						
	Excellent and Good	Satisfactory	Weak and Very weak	I do not know	Mean	Std. Deviation
Ethical principles of reporting on court proceedings	54%	36%	4%	6%	3.77.	0.928
Protection of human rights during criminal proceedings	53%	33%	8%	6%	3.68.	0.957
Levels, hierarchy, and functions of the domestic judicial system	56%	28%	12%	5%	3.66.	1.027
Legal rules and restrictions on reporting on court proceedings	46%	35%	11%	8%	3.60.	1.038
Legal terminology and jargon used in courts	43%	38%	13%	5%	3.44.	0.982
Due process in criminal proceedings	37%	42%	14%	6%	3.37.	0.967

According to survey participants, they are the strongest on the ethical principles of reporting on court proceedings. More than half of the respondents think that their knowledge in this segment is excellent or good. The knowledge of the protection of human rights during criminal proceedings, as well as knowledge about the levels, hierarchy, and functions of the judicial system, scored very high. In both cases, more than half of the journalists think they have excellent or good knowledge in these areas. It is followed by the knowledge of the legal rules and restrictions regarding reporting from court proceedings, and the legal terminology and jargon used in the courtroom. Knowledge about the basic legal procedure in criminal cases scored the lowest. Just over a third of respondents think they have excellent or good knowledge in this area.

3.3.2 Training attended by journalists

Only a handful of respondents received some kind of training for reporting on the justice system in the past five years. Only 16% received some form of training, while 84% received no special training in this area.



These training programs were mostly organized by the non-governmental sector and international organizations. More than half of all training falls into these two categories. This is followed by training organized by media houses for their employees, followed by training arranged by higher education institutions. The least training for journalists was organized by judicial institutions.

These educations were most often organized by the non-governmental sector and international organizations. More than half of all training falls into these two categories. This is followed by training organized by media companies for their employees, and training organized by higher education institutions. The lowest number of trainings for journalists was organized by judicial institutions.

If you have attended at least 1, please indicate for each of the following training courses which institution/organization was the organizer:	
The training was organized by the media outlet I work for	14
The training was organized by a non-governmental organization	31
The training was organized by an international organization	23
The training was organized by a judicial institution	6
The training was organized by a higher education institution	10
TOTAL	84

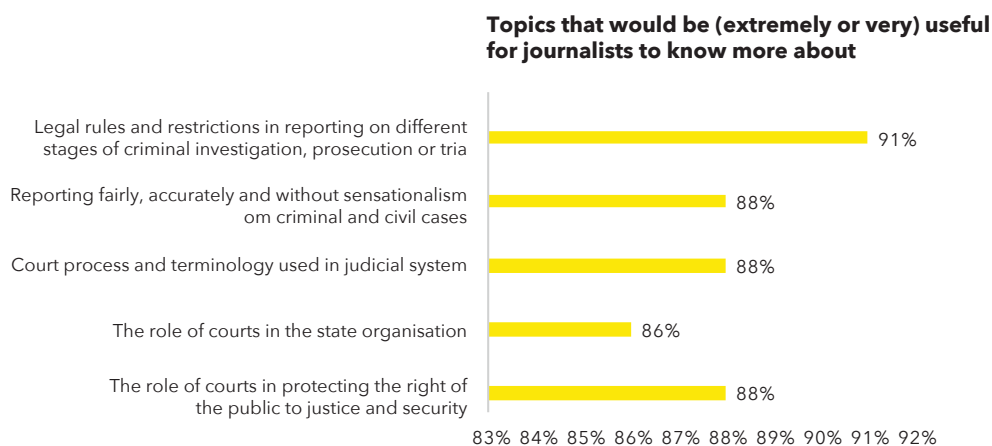
Most attended training on reporting on criminal and civil cases. Nearly every third respondent who attended the training course participated in this type of training. Only 17% participated in training related to court proceedings and terminology used in the judicial system, and a slightly lower percentage of participants attended training on the role of courts in protecting the public's right to justice and safety, the case-law of the European Court of Human Rights, and legal rules and restrictions regarding trial coverage. Only a handful participated in training related to the application of new laws in practice and the role of courts in the state system.

What topics were covered in the training courses you attended?	
The role of courts in protecting the right of the public to justice and safety	19
The role of courts in the state system	8
Judicial processes and terminology used in the judicial system	26
Fair and accurate reporting on criminal and civil proceedings, without sensationalism.	44
Legal rules and restrictions in reporting on various stages of criminal investigation, prosecution, and trial.	23
Implementation of new domestic laws in practice	13
Case law of the European Court of Human Rights	20

3.3.3 Topics on which journalists need education

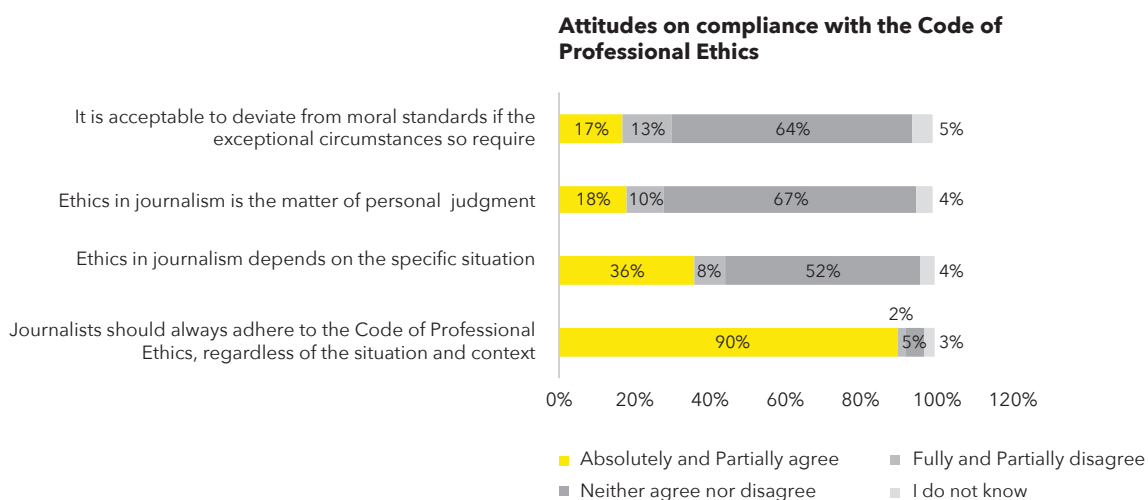
When it comes to the knowledge required, journalists appear to need education on all sorts of things in the judiciary. All offered categories received a large number of answers, indicating the knowledge the journalists feel would be extremely useful or very useful to know. Respondents expressed the greatest interest in legal rules and restrictions in covering different stages of the process. Nine out of 10 respondents⁵⁹ feel it would be extremely or very useful for journalists to gain knowledge on this topic. The role of courts in the state system appears to be the least interesting topics.

Topics that would be (extremely or very) useful for journalists to know more about



59 "I don't know" answers were not included in the calculation of percentages.

3.3.4 Journalistic attitudes and knowledge of reporting ethics



Respondents show the greatest degree of agreement on compliance with the Code of Professional Ethics, regardless of the situation and context. Nine out of 10 respondents share this opinion. This shows that there is a high degree of adherence to the principles of professional journalistic ethics.

Slightly more than one-third of the respondents feel that the notion of what is ethical in journalism depends on the specific situation. However, more than half of the respondents completely or partially disagree with this statement. It is important to note that the Press and Online Media Code of the Press Council of Bosnia and Herzegovina in Article 8 titled "Misrepresentation", provides for exceptions to journalistic representation in order to obtain information that serves the public interest. The basic rule is that "it is unethical to misrepresent one's identity or intentions and to use subterfuge to obtain information for publication, except in the most extreme circumstances, and lawfully, when the publication of thus obtained information would clearly serve the public interest". In this context, it could be understood that a slightly larger number of journalists accept this view, in specific situations referred to in the Code.

As many as 17% absolutely or partially agree that in the case of extraordinary circumstances, it is acceptable to deviate from moral standards. At the same time, nearly two-thirds of respondents completely or partially disagree with this statement.

That ethics is a matter of personal judgment is the statement with which 18% of respondents agree (completely or partially), while over two-thirds of them completely or partially disagree.

When reporting on an important story, which of the following do you think might be justified from time to time, and which would you not approve of under any circumstances?						
	Unjustified in any situation	Justified in certain situations	Always justified	I do not know	Mean	Std. Deviation
Disclosing documents that are officially labeled as documents of "public interest"	13%	42%	36%	9%	2.26	0.690
Use of confidential business or government documents without authorization	32%	56%	4%	8%	1.70	0.550
Use of hidden microphones or cameras	31%	57%	2%	10%	1.68	0.519
Using reconstruction or dramatization of events with the help of actors	33%	44%	5%	18%	1.67	0.594
Disclosing confidential business or government documents without authorization	37%	51%	4%	8%	1.64	0.566
Taking employment in a company or organization to obtain insider information	37%	44%	5%	14%	1.62	0.589
Impersonation to investigate the story	38%	51%	2%	9%	1.61	0.539
Exerting pressure on sources who are reluctant to give information in order to get the story	56%	34%	1%	9%	1.39	0.516
Using personal documents such as letters and pictures without permission	62%	31%	1%	6%	1.34	0.489
Paying people for confidential information	62%	26%	1%	11%	1.31	0.477
Stealing official documents	77%	15%	3%	5%	1.22	0.482
Editing photos	75%	15%	2%	8%	1.20	0.445
Modifying source statements	88%	4%	2%	6%	1.08	0.334
Publishing stories with unverified content	90%	6%	0%	4%	1.07	0.250
Accepting money from sources	95%	1%	0%	4%	1.01	0.078

Disclosing documents that are officially characterized as documents of “public importance” is one of the practices approved by the majority of respondents. As many as 78% partially or completely agree with this statement.

About a third of respondents believe that it is unjustified to do any of the following in any situation: use or publish confidential business or government documents without authorization, use hidden microphones or cameras, use reconstructions or dramatizations of events with the help of actors, take up employment in a company or organization to gain insider information, and impersonation to investigate a story.

Exerting pressure on the sources who are reluctant to provide information in order to obtain a story, using personal documents such as letters and pictures without permission, and paying people for confidential information is unacceptable for about six out of 10 respondents.

About three-quarters of respondents do not approve of stealing official documents and editing photos in any situation.

Modifying statements of the sources of information, as well as publishing stories with unverified content, is unjustified in any situation for about nine out of 10 respondents.

On the one hand, the Press and Online Media Code of the Press Council does not contain any provisions on the verification of information, but rather generally speaks of the accuracy of reporting. The same is true for the Code on Audiovisual Media Services and Radio Media Services of the Communications Regulatory Agency, which mentions only routine accuracy checks. Only in the document *Editorial principles of the Public Broadcasting System in BiH* talks in more detail about the concept of journalistic accuracy. Accuracy implies a detailed investigation of the facts of the events, and it is recommended that information should be collected first-hand as much as possible. In cases where journalists cannot make their report but take the news from the other side, “the news should not be broadcast unless confirmed by at least two sources”.⁶⁰ But in other professional codes that address this issue, there is no exception in terms of information verification. To this end, it could be concluded that indeed most journalists consider this an important rule. On the other hand, if we were to judge only based on journalists' perceptions, we could conclude that the practice of publishing unverified information is almost non-existent in BiH journalism. However, several cases of defamation against journalists point to the widespread practice of publishing unverified information.

Finally, accepting money from sources is considered the greatest ethical offense. As many as 95% of respondents disapprove of this practice in any circumstances. The Code of the Press Council also recognizes it as one of the most serious moral offenses.

Plagiarism, falsification, deliberate suppression of facts, and acceptance of bribes or favors which could influence the work of a reporter or editor are this profession's gravest moral offenses.⁶¹

Focus group participants note the presence of sensationalism in BiH journalism. However, it is not the same kind of sensationalism prevailing in neighboring Serbia. However, there are media, and especially online media, which do not have a transparent ownership and management structure. Such media are focused on pandering to the audience, not on the truthfulness and prudence needed when covering judicial topics. According to some respondents, journalists resort to sensationalism because the judiciary is too closed off. In the absence of information from relevant sources, journalists turn to other sources who then provide them with half-information or information that leads to sensationalism.

60 Editorial Principles of the Public Broadcasting System in BiH, Article 2.3

61 Press and Online Media Code, Article 2

We have a kind of *light* sensationalism, especially compared to countries in the region. However, the fact is that the texts are shaped to please the audience. The rights of the victims are being ignored. Photos of children are published. For example, the media report that a girl was abused by her father and then they write down the name of the father. Such things should be punished. Or, they post a photo of a doctor being attacked by a man. Instead of posting a photo of the attacker, they post a photo of the victim.⁶²

Sensationalism is a consequence of journalistic activity, but it is not caused by it but by other factors that affect journalism itself. Speaking of crime blotter, I know that many journalists would paint their stories to win the clicks of the audience.⁶³

There are a lot of sensationalist-oriented media, especially online portals because they are not subject to legal restrictions. Journalists working for such media are sensationalists and do not distinguish between basic concepts. In Tuzla, we had information about a taxi driver who attacked a girl. Soon, a photo of him was published and he was marked as a rapist. And all that happened before the police and prosecutor came out with their statements. The same applies to the protection of victims, minors, and the like. But the media that try to do the job properly also suffer due to this conduct.⁶⁴

I'm afraid that most journalists are unaware of sensationalism. They indulge the market interests, owner, and political demands.⁶⁵

Anonymous portals are the trouble. Why suicide news is being published? Don't they know that such reports encourage others to do the same?⁶⁶

The problem is that some judicial institutions are completely closed to the media. In such cases, journalists are "compelled" to ask for information from unofficial sources, who sometimes give them half-true and unverified information, and thus we come to sensationalism. If a journalist is given enough information, he or she will not "wander" around. One only needs to find a balance, and this can be done by people who are educated in communication and who know how to do it. Yet, some knowingly violate codes of ethics, but whether they do so under pressure from their newsrooms is an open question.⁶⁷

The problem is in the lack of experience and training of journalists. The presumption of innocence is often violated. This, however, can be mitigated if the representatives of the judiciary explained some of their actions. For example, if someone is out on bail, it would be good to explain the reasons e.g., that is because the law in that article says this and that. It would make it more clear for journalists. Sometimes journalists who are not conversant with the law get scanty information, and this leads to a growing misunderstanding. Hence, the mistakes are made out of ignorance and negligence, rather than because of premeditated sensationalism. Also, commercial media work under pressure. There is a requirement for the story to be special relative to other stories on the subject. The more the text differs from the classic reporting, the more likely it is to get a click.⁶⁸

On the other hand, focus group participants also recall the transformation of journalism. Modern online newsrooms mostly employ a small number of journalists and in such conditions, they have little opportunities to specialize in any field, including the judiciary. Most FGD participants recommended specialization as the solution to the problem of journalistic lack of knowledge about the judiciary and judicial topics. Some newsrooms already have specialized reporters on the judiciary, but these are specialized online media. The problem of other media, which are mostly daily news media, obviously cannot be so easily resolved.

62 Participant 1, Focus Group III held on November 23, 2021

63 Participants 6, Focus Group IV held November 23, 2021

64 Participant 1, Focus Group I held on November 22, 2021

65 Participant 7, Focus Group IV held November 23, 2021

66 Participant 2, Focus Group I held on November 22, 2021

67 Participant 2, Focus Group II held on November 22, 2021

68 Participant 1, Focus Group II held on November 22, 2021

We have small newsrooms where there is no specialization. I remember that Oslobođenje had a person who had justice in his back pocket.⁶⁹

Journalists have to specialize. It is unrealistic to expect judicial representatives to explain the point of each verdict or accusation.⁷⁰

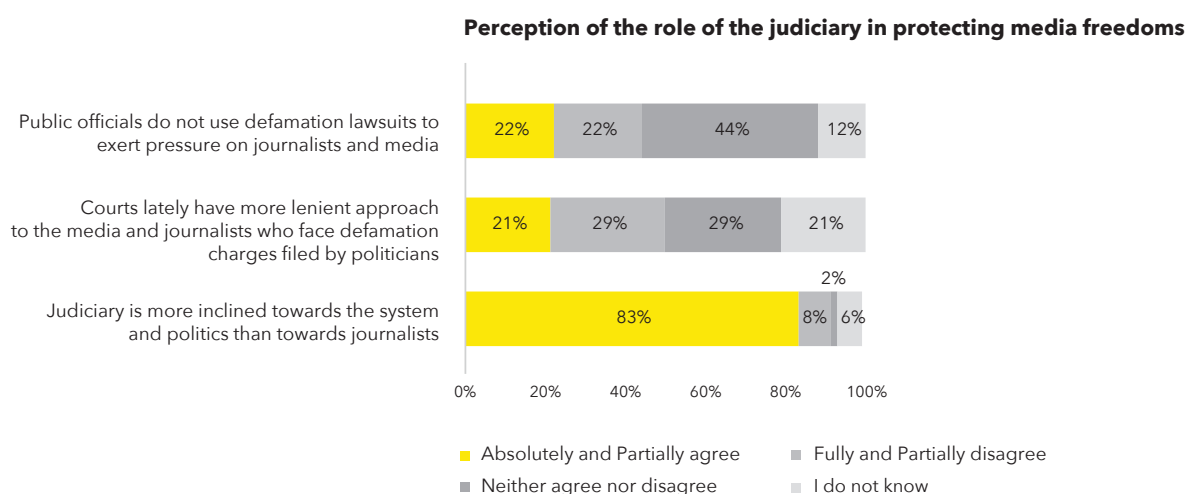
The problem is that newsrooms have no specialties. Journalists are not profiled by area, hence, there are no journalists who are conversant with the judiciary.⁷¹

It is also necessary for journalists to specialize to be able to follow court proceedings. Currently, many of them report on the outdoor market, theater, and court issues on the same day. That's not how it works.⁷²

We are seeing the journalists chasing clicks. These are neither BIRN nor CIN journalists. Specialized journalists and training for journalists - for the media that can afford it - seem to be a reasonable solution for those media that seek to engage in serious journalism.⁷³

3.4 Journalists' perception of the role of the judiciary in protecting media freedom and the safety of journalists

3.4.1 Perception of the role of the judiciary in protecting media freedoms



The statement that the judiciary is more on the side of the system and politics than on the side of journalists scored the highest degree of agreement among the respondents. More than 8 out of 10 respondents absolutely and partially agree with this statement. The so phrased statement is somewhat confusing because it assumes that the judiciary should take sides, which is contrary to the core idea of the judicial system. But based on it, one can understand that journalists perceive the judiciary to be mostly on the side of politics.

69 Participant 2, Focus Group III held on November 23, 2021
 70 Participant 7, Focus Group IV held November 23, 2021
 71 Participants 4, Focus Group IV held November 23, 2021
 72 Participants 5, Focus Group IV held November 23, 2021
 73 Participant 3, Focus Group II held November 22, 2021

When it comes to the statement that the courts have recently taken a more lenient approach to the media and journalists who have faced defamation lawsuits by politicians, the respondents who disagree (fully or partially) with it prevail. Nearly three in 10 respondents disagree with this statement, and one-fifth of respondents agree.

Public officials do not use defamation as a tool to put pressure on journalists and the media is a statement that 44 percent of respondents strongly or partially disagree with. In contrast, 22% agree (in whole or part) that this is the case. From this answer, we understand that a significant part of the respondents feel that the laws on protection against defamation are being abused to the detriment of the media and journalists.

Participants of FGDs and in-depth interviews seem to recognize certain standards of justice related to defamation cases, but also indicate that there are deviations from that practice. Again, they mention inconsistent case law, and some significant compensation claims awarded to journalists, which, they believe, can have a negative effect on the entire media and journalistic community.

There is also the problem of case law in defamation cases. The proceedings take a long time. Some judgments are debatable. Also, in some cases, the judgments were not in line with the case law, but instead, each new case establishes the new case law. Journalists, therefore, do not have adequate protection.⁷⁴

The role of the judiciary is very important in this segment because in this way the basic patterns of access to information are checked and established. It is nice that we have laws on freedom of access to information, but unless this is confirmed in practice, we do not benefit much from those laws. I think that in the last ten years we have made some progress in this regard, although we still have court rulings that are contrary to the basic intentions of the law. So, there are verdicts that seek to establish a system of control and punishment.⁷⁵

Several recent decisions raise a concern. One such decision banned Dnevni Avaz from writing about the President of the Court of BiH. To me, this looks like censorship. Two defamation verdicts involved large sums of compensation (200,000 BAM against Dnevni Avaz, and about 100,000 BAM against the Journal). These amounts threaten the survival of these media outlets.⁷⁶

It depends from court to court. I hope that the role of the judiciary in this regard will strengthen. Court actions are often used to intimidate the media. That's where transparency comes into play. The feel in the public and media space depends on the courts.⁷⁷

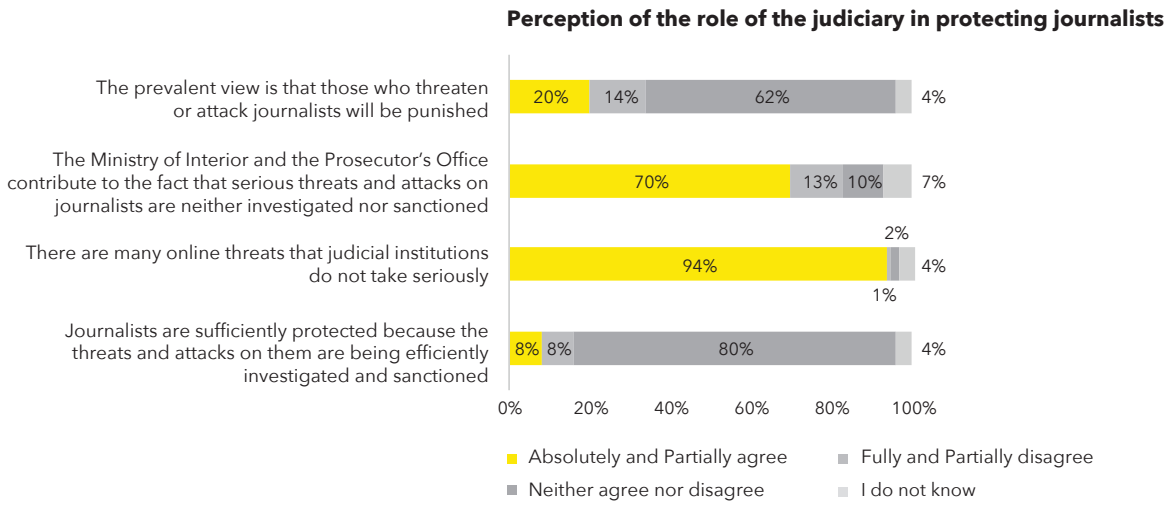
74 Participant 4, Focus Group II held November 22, 2021

75 Participant 5, In-depth interview, July 13, 2021

76 Participant 3, In-depth interview, July 16, 2021

77 Participant 4, In-depth interview, July 13, 2021

3.4.2 Perception of the role of the judiciary in protecting journalists' safety



The majority of respondents agree with the statement that many threats to journalists on the Internet are not taken seriously by judicial institutions. As many as 94% of respondents absolutely and partially agree with this statement.

Another statement about which the majority agrees is that the Ministry of the Interior and the Prosecutor's Office contribute to the fact that serious threats and attacks on journalists are neither investigated nor sanctioned. Seven out of 10 respondents absolutely or partially agree with this statement.

On the other hand, there is a high degree of disagreement with the other two statements tested in this study. Eight out of 10 respondents completely or partially disagree with the statement that journalists are sufficiently protected because threats and attacks on them are effectively investigated and sanctioned. Similarly, more than six out of 10 respondents disagree with the statement that the prevailing opinion and feeling is that perpetrators who threaten or attack journalists will be punished. Yet, one-fifth of respondents agree with this statement absolutely or partially.

Focus group participants confirmed the low level of security and confidence among journalists when it comes to the role of the judiciary in protecting journalists on their duty. Several examples are given to illustrate the complicated reporting procedures, and flippant approach of competent authorities to the threats directed at journalists, who often deny them information about the proceedings. As in previous cases, there are exceptions to this attitude of the judiciary towards journalists.

It depends on the judicial institution in question. Over the years, I have encountered various pressures, attacks, and the like. I reported it properly. Eight years ago the city was plastered with my photos and some statements that were put into my mouth. Shortly after, an orchestrated campaign was launched against me. The prosecution asked me what they should do, what crime was that about. Although I provided everything I had, I never received feedback from the Cantonal Prosecutor's Office on what happened with the case. This approach discouraged me and led to a loss of confidence. So, I decided not to report some incidents. Last year, I received threats and reported them. The police assessment was that I should be granted police protection, but the Cantonal Prosecutor's Office never bothered calling me. After a year and a few months, I received notification that the investigation would not be conducted, without any explanation. I had a somewhat better experience with the Prosecutor's Office of BiH. I've talked to them.⁷⁸

I had some trouble with the man I was writing about. He was a convict. I reported the assault. We ended up before a misdemeanor court. This confrontation before the court left quite an impression on me. The defendant was very aggressive, and being in a tiny room with him was quite traumatic for me. I felt so unprotected.⁷⁹

They do not do their job and are not protecting journalists. After I received threats and pressure, the police commissioner in Vitez told me to stop writing and the problems will be gone. My friends found out who the person threatening me was before SIPA did. After a year and a half, I found out who the person was. But I was already leaving BiH. Basically, I don't think they're protecting us. I think we are on completely opposite sides. There are, of course, in these structures people who are fair, but generally, they are neither ready nor able to protect us.⁸⁰

I don't feel protected. In my case, after reporting the threats of beheading, the prosecution decided not to investigate because, as they said, it was an expression of personal attitude and dissatisfaction and not a security threat. Subsequently, it was confirmed in the second instance. As the person continued to call me, the Ministry of Interior filed a criminal report for persecution, which has been sitting in the prosecutor's office for almost a year. I call occasionally, and they tell me that the case is being processed and that they will let me know when my turn comes. I doubt very much that they will ever call me.⁸¹

Someone once faked my e-mail address and sent a letter to the minister posing as me and asking some offensive questions. I reported it to the police, called five times to ask if they found out who it was. Nothing. The lesson I learned is that I have no one to turn to, so I don't. But it seems to me that it is best to go public in cases like this. It's the only thing that could work.⁸²

In the case of the attack on Vladimir Kovačević, the two attackers were sentenced to 4 years each for attempted murder, but after a great struggle. We, the journalists have been writing about this case for 2 years. In the end, they do time in a semi-closed establishment, not even a real prison.⁸³

I think that the procedure is too complicated, from the report to the court proceedings. What we consider a threat, officials often do not see as a threat, unless there is physical assault involved. Thus, their knowledge varies too, from officer to officer.⁸⁴

I personally needed no protection. Reported attacks on our journalists, seizing their cameras and the like, usually do not go beyond the police. We've never got any verdicts.⁸⁵

Frankly, I don't feel safe, nor do I think the judiciary would ever protect me in any way. Judges and prosecutors, in my opinion, see us, the journalists, as their enemies.⁸⁶

If the courts would be just a tenth as efficient as they are when the journalists are sued for defamation, we could say that the judiciary is ready to protect us.⁸⁷

79 Participant 3, Focus Group II held November 22, 2021

80 Participant 2, Focus Group I held on November 22, 2021

81 Participant 3, Focus Group II held on November 22, 2021

82 Participant 1, Focus Group III held on November 23, 2021

83 Participant 3, Focus Group II held on November 22, 2021

84 Participant 4, Focus Group II held November 22, 2021

85 Participant 1, Focus Group I held on November 22, 2021

86 Participant 2, Focus Group II held on November 22, 2021

87 Participants 5, Focus Group IV held November 23, 2021

4. Conclusions

Journalists' experiences with the judiciary point to a variety of problems and difficulties faced almost daily. The process of obtaining court files is complicated and slow, which particularly affects the journalists who produce daily news. Access to public indictments is difficult, and judges and court clerks often distrust journalists. No relevant information can be found on the websites. The thing in common with all these problems is that they are selective. This statement cannot generally apply to all judicial institutions because there are always examples of good practice. However, many journalists had negative experiences when reporting on the judiciary.

Journalists in their reporting rely on different sources and have difficulties in getting to the sources that can offer the most relevant information about the work of the judiciary. Prosecutors, judges, and particularly court presidents are hardly available to journalists. Instead, journalists turn for comments to lawyers, who usually have a biased perspective, and spokespersons who, if qualified and willing, provide information that is not overly important to journalists. In addition, journalists rely on websites, which are often not updated, and public hearings.

Reporting from public hearings is difficult because journalists are generally unable to bring in technical recording equipment, so they must take notes and rely on their memory. Access to court hearing minutes and other important information is also limited. While there are good reasons for the courts to be particularly concerned about the type of information that goes public, it is hard not to assume that the current strategy of the courts is actually about making it difficult for journalists. Instead of finding a way to sanction those who break the rules and violate the presumption of innocence, rules are imposed to drastically restrict the work of all journalists, including those whose work significantly contributes to a better understanding of the role of the judiciary in public.

Respondents' perceptions of the transparency and communication of the judiciary are extremely negative. Most journalists believe that the judiciary is not trying to improve cooperation with the media. Also, they feel that there is a lack of knowledge on how to communicate meaningfully with the media and that the judiciary lacks integrity and independence from political actors. The judiciary sometimes does not want certain information to go public, especially when it comes to cases involving politics. As a result, there is mutual mistrust between journalists and judicial representatives, leading to the general public being deprived of adequate information about the judiciary.

The judiciary relies on press releases as the basic communication service, and a significant share of respondents is satisfied with the quality of these releases. Publishing information about decisions on websites is also quite common, and the way this is done is generally satisfactory. Still, there is a great lack of communication in the true sense of the word - talks, interviews, press conferences, etc. Also, the respondents largely feel that the judiciary lags far behind when it comes to the use of new communication technologies and platforms.

Respondents reported quite modest knowledge of reporting principles and the work of the judiciary. Journalists rarely admit to not knowing enough about certain topics, rules, and issues, but they do not pretend to be well versed in the topic either. Respondents believe that they know the most about the ethical principles of reporting and the least about the process in criminal cases. Only a handful of respondents attended some kind of training on reporting on the judicial system in the past five years. The training they attended dedicated minimum attention to the application of new laws in practice and the role of courts in the state organization. In general, respondents feel that some kind of training on the judiciary is needed, and the greatest interest is shown in training on legal rules and limitations when it comes to reporting on different stages of the judicial process.

Regarding the attitudes and knowledge of the respondents about the ethics of reporting, it is difficult to make judgments based on this research. Simply, the answers obtained can be interpreted in different ways and it is necessary to do additional research in order to be able to draw meaningful conclusions. In principle, the respondents can be said to be committed to the principles of professional ethics and most journalists condemn various ethical offenses in the process of collecting processing, and publishing news.

It is important to note that journalists are aware of sensationalism tendencies in reporting on the judiciary. They primarily blame it on the commercial media logic that affects the existing media system. Also, they point to the need to adopt certain rules for online journalism to improve the transparency of these media, and thus their accountability. Also, greater openness of the judiciary would help combat sensationalism, as some journalists turn to other sources of information believing they cannot obtain timely information from the judiciary.

Respondents' perception of the role of the judiciary in the protection of media freedoms is not particularly positive. According to respondents, the judiciary often favors politicians in defamation lawsuits. However, there seem to be certain judicial standards applicable to defamation, although there are some examples of judgments deviating from that standard.

Respondents' perception of the role of the judiciary in the protection of journalists' safety is extremely negative. The judiciary does not take online threats against journalists seriously, and the police and prosecutors do not adequately investigate attacks and threats against journalists. Journalists do not feel protected while doing their job, and the competent authorities appear to be careless of them as victims of attacks.

5. Recommendations

- It is necessary to harmonize communication practice in judicial institutions. The rules on access to files, communication with journalists, access to hearings, bringing in technical equipment, etc., should be the same in all judicial institutions. This can be achieved in cooperation with the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.
- The judiciary should make available to journalists the files for which there is no justified ground for denial. These include indictments and operative parts of court decisions rendered following the beginning of the main trial, as well as transcripts from the main trial after the hearing of all witnesses.
- Discussion should be initiated between representatives of the judiciary and journalists on the existing policy that bans filming of court hearings and using of other technical equipment that journalists need for their work. The aim is to determine the circumstances in which the use of technical equipment should be restricted.
- The High Judicial and Prosecutorial Council of BiH should set the rules and obligations of judges and prosecutors when it comes to their interaction with journalists and the general public. Informing the public is an obligation, not the goodwill of key actors in the judiciary. Such a document should impose an obligation on judges and prosecutors to be available to journalists under certain conditions for comment or explanation on a particular case.
- A dialog should be initiated between the judiciary and the journalistic community in order to reduce the existing mistrust and deepen the understanding of the specifics of both professions, which is ultimately the way to better inform the public about the work of the judiciary. Regular joint seminars (annual, semi-annual) would be a good opportunity for both groups. Also, professional associations - of judges, prosecutors, and journalists - could jointly monitor and improve the practice of reporting on the work of judicial institutions.
- There is a need to continuously train journalists of the judiciary, as well as in publishing professional publications that explain the key concepts to those who report on court proceedings.
- Lack of journalistic professionalism and sensationalism cannot be solved through additional training. There is a need for appropriate policy solutions aimed at combating non-transparency and irresponsibility of the media.
- The attitude of the judiciary, and especially the prosecutor's office, towards attacks and threats against journalists needs to change radically. Journalists feel unprotected and they have no one to turn to when attacked. As the first step, prosecutors and courts could treat cases of attacks and threats against journalists as a priority.

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