

# **Free Media Help Line Annual Report**

**(February 2002 - December 2002)**

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## **1. What is FMHL?**

The Free Media Help Line has been established with the aim of fostering the protection of journalists' rights and promoting freedom of expression. It is an organization that deals with and responds to problems of journalists and media outlets BiH-wide.

The Free Media Help Line is a telephone line especially created for journalists who have been subject to threats, intimidation, and other types of harassment exercised by government or public officials, police, media outlet officials and other sources of violation, during their work in the media.

The Line consists of:

Ø **National Legal Advisor** - responsible for all legal matters connected to FMHL cases. National Legal Advisor provides legal advice where appropriate and takes part in investigation/follow-up. A further key function is to pursue the harmonisation of media-related legislation.

Ø **FMHL Project Specialist** - the first point of contact. The Project Specialist is particularly responsible for running the Free Media Help Line, including database management, cases input, cases assessment, initial research and follow-up. Together with the National Legal Advisor, the FMHL Project Specialist identifies available responses. Also responsible for FMHL PR campaign.

Ø **FMHL Information Officer** - Information Officer works with Legal Advisor on follow-up the review of domestic media-related legislation, as well as follow-up to adoption and implementation of media-related Laws. Also responsible for PR campaign of FMHL.

Ø **FMHL Media Officer** - is responsible for identifying, monitoring, translating and following up on country-wide journalists' rights issues and other Media Development issues from media and other sources. Also responsible for FMHL PR campaign.

The line not only documents all instances of threats to journalists, but also responds to every case, making it unique and different from any other database in Bosnia and Herzegovina.

The reported cases documented in the database do not represent the actual media situation in BiH, as the Line registers and responds to only those cases that have been reported via phone, fax or email by journalists or media outlets in question. The Line responds to cases only at the request and permission of the complaining party.

## 2. Statistics

In the time period 1999-2002, the total number of 329 cases has been registered and responded to:

Reported Cases before 01 Jan. 2000	Reported Cases between 01 Jan. – 31 Dec. 2000	Reported Cases between 01 Jan. – 31 Dec. 2001	Reported Cases between 01 Jan. – 15 Dec. 2002
45	104	106	74
Total Number of Incidents: 329			

### **Violation per Media Type**

Print Media	40	54 %
Radio	13	18 %
Television	10	14 %
RTV	7	9 %
N/A	4	5 %

### **Source of Violation**

Government/Public Officials	29	39 %
Media Outlet Official	13	18 %
Police	9	12 %
Natural Person	8	11 %
IC	2	3 %
Anonymous	10	13 %
N/A	3	4 %

## **Case Categories**

Implicit Threat	An expression of intention to inflict harm, injury, loss or damage either to a person, property, or to others associated with a person, especially one that might diminish a person's freedom to act voluntarily; can be oral or written. An explicit threat contains specific indication of the nature of harm; an implicit threat suggests but does not specify the nature of the intended harm.	11	15 %
Explicit Threat	See Implicit Threat	9	12 %
Intimidation	Systematic or specific acts intended to aggravate, to induce fear or a sense of powerlessness, in order to impede the work of a journalist(s). Can be repeated and/or persistent. Not including the infliction of physical harm to persons or places.	14	19 %
Defamation Suits	Where journalists are the subject of the Act on Protection Against Defamation lawsuits, and where cases of defamation proceedings are suspected of abuse of legal process and/or political pressures on judiciary.	4	5 %
Misuse of Journalist Identity	Where a person falsely uses the identity of a journalist in order to publish an article, participate in press conferences or gain access to certain locations.	3	4 %

Physical Attack	Physical assault with intention to cause death or bodily harm.	2	3 %
Interf. w/ Editorial Policy	Particularly relevant for public media outlets. Any exercise of power by relevant authorities intended to determine the editorial policy of a media outlet. Specifically, pressure that goes beyond criticism and requiring a particular position or response.	3	4 %
Labor Dispute	Any dispute between the employer and the employee pertaining to violation of rights and obligations pursuant to the employer-employee relationship previously regulated by the law.	8	11 %
Damage to Property	Attack on property of journalist or media outlet with intent to cause damage or interfere with the work of a journalist or media outlet.	2	3 %
Denial of Rights under Law	An obstruction or denial of a journalist's exercise of his or her legal rights, according to national or international law.	7	9 %
Denial of Services	Any systematic denial of contracted service(s) by government-owned or -controlled businesses (eg. water supply company, electricity, gas and so on) or by businesses indirectly controlled by government or political authorities, which are meant to influence the process of obtaining and/or reporting information.	3	4 %
Interf. w/ Working Condit.	The terms or conditions of individual or collective employment are violated with the underlying intention of infringing on the right to freedom of expression or affecting editorial policy.	2	3 %
Missapp/Man. Of Law	An active exercise of power by political or governmental authorities using legal or regulatory means, with the intention to silence and/or determine a specific or general editorial policy of media.	/	/
Not Determined		6	8 %

When compared with previous years' statistical breakdown, this year it can be noted that intimidation and implicit threat are more numerous than explicit threat (e.g. in 2000 the most numerous category with 38% of cases were explicit threats, followed by 13% of cases of harassment, and in 2001 explicit threats led with 20% followed by implicit threat with 17%).

The statistics also indicate that this years' most jeopardized category is print media. The print media were not only exposed to various threats, but were also used in the media war during the pre-election campaign, as well as after the elections.

Besides the reported cases, the FMHL has also registered an increased number of incidents that were not reported to the Help Line. The majority of the non-reported cases included attempts of manipulation of a political party and/or individual over a media outlet, in order for this political party and/or individual to promote its political affiliations and objections.

### **3. Description of Cases**

#### ***Sources of Violation and Description of Non-Confidential Cases***

With the end of the war in Bosnia and Herzegovina and the establishment of the new political environment, the media in the country have become extremely important correctors of the overall situation and a controller of work of the highest government bodies.

This post-war period has created new conditions for journalists and media outlets in Bosnia and Herzegovina. Many organizations have been formed with an aim of promoting freedom of the opinion and freedom of the expression.

In order to establish high professional standards of journalism, Press Council and CRA have been founded to regulate and influence behavior of print and electronic media respectively.

Simultaneously, the Ombudsmen of Federation BiH appointed the Media Assistant to monitor the general media situation in the Federation, as well as assist in resolving of the particular cases reported to this institution. In addition, the Media Assistant gives recommendations on how to protect journalists' rights.

Besides the Ombudsman, a several journalists associations have been established to point out at and report on violation of journalists' rights and media freedoms throughout the country.

The period is also marked with adoption of two important pieces of legislation.

**The Freedom of Access to Information Act** was adopted to ensure open and free access to information held by government and other public bodies by every member of the society.

**The Law on Protection against Defamation** upholds freedom of expression by narrowly restricting liability for defamation.

Despite these advances, the public authorities continue to try to maintain control over the media in order to shore up their powers (in this regard, the public authorities include the following: legal authorities, executive authorities, court and administrative authorities). The most common pressures exercised by this case category (some of them are described below) are: intimidation, explicit and implicit threats, blackmails and even physical attacks.

The following represent some illustrative cases reported to the Help Line during the first 11 months of the year 2002. Only non-confidential cases are detailed here: the Free Media Help Line respects journalists' wishes for confidentiality and will only publish names and case details upon explicit permission from the journalist or when the details of the case were already made public in the media.

Throughout the overall work of the Free Media Help Line, the Government and Public Officials have consistently stayed as the source of the highest number of reported incidents.

#### **Ø Pressure by Government/Public Officials**

In 2002, the Free Media Help Line registered 74 cases, of which 29 cases or 39 % directly implicated politicians and public officials:

- **A journalist investigated** corruption involving the President of the Municipal Council in a municipality of the Federation. Having written an article about selling of diplomas, the journalist had received threats by the bodyguard of the President in question. One of the threats occurred when the journalist and a cameraman were followed by a car with the President of Municipal Council and his bodyguards. They passed them by and the President waved with his hands indicating that they should pull over. However, the journalist escaped and went to the police to report the incident. A court case is ongoing at the Municipal Minor Offences Court. However, the journalist claims that the judge is under pressure as the judge is elected by the Municipal Court. He/she also said that the judge is afraid to be fired. The FMHL monitored the court proceedings.
- **The Zenica-Doboj Canton Minister** of Traffic and Communications stated for Nezavisne novine that the corruption case about him was politically orchestrated "with the assistance of local journalist" for whom the Minister claimed, "is publishing whatever text you like for 50 marks". This article followed the article by journalist in question that claims criminal investigation has been launched by the Ministry of Interior against the Minister in question, quoting an undisclosed source from the Ministry of Interior. This incident follows an earlier incident when the said Minister explicitly threatened journalist saying in front of three witnesses: "texts you are preparing and your investigative journalism could lead you to lose your head". The case was reported only for the record.
- **A Director of a local private TV station** reported that one of his cameramen was threatened by the bodyguard of Municipal Council President on two occasions. In the first instance, the bodyguard threatened the cameraman saying he would kill him. The cameraman did not report

this to the police, as he allegedly feared graver consequences. On the second occasion, the bodyguard attempted to hit cameraman but did not actually hit him. He also expressed some verbal threats. The case ended up in court.

- A **daily from Herzegovina was threatened** by a local official, because of a published interview. The interviewed party criticized the politicians in power. The politician in question later resigned.
- An **Oslobodjenje journalist, Senka Kurtovic**, was insulted and defamed by a BOSS Party Member, Mirnes Ajanovic. The FMHL has issued a Press Release condemning the behavior of a Parliamentary member, calling the Federation Parliament to consider better regulating of immunity of the Parliamentary members. The Federation Parliament later announced an initiative to draft the Rule Book on Parliamentary conduct.
- **Zenica-Doboj Canton Minister of Interior** came to a journalist as he/she was walking with his/her 4-year-old son and said to him/her: "What are you writing about? Did you know that I can use a number of things against you, I expected that you would stop writing that article"? The journalist was writing about internal investigation within this Ministry. The journalist fears that he/she would have problems in performing his/her job, as he/she maintains a regular contacts with the LP. The case was widely publicized and the Federation Ministry of Interior was notified. The journalist reported no further problems with the police.
- **FMHL received a call** from a daily newspaper indicating that they had received a bomb threat. Threats to their newspaper started after they started publishing articles on situation in this municipality, esp. in relation to the Ministry of Interior and inappropriate actions following the introduction of the provisional administration in Hercegovacka Bank. The police properly reacted only after an intervention coordinated by the FMHL staff.
- A **Vecernji list correspondent from FBiH** called FMHL to report that he/she had received two phone calls from a Municipal Council representative from Drvar, who threatened the journalist with physical attack, accusing him/her of publishing lies referring to the interview with other local official. The journalist was called by the same person on another occasion, when that person threatened with "slapping you if the case proved to be false, i.e. that you made up that sentence in the interview". After the newspaper published an article about threats to their journalist, the official called the journalist again and requested him/her to publicly deny everything that was said, even that he/she was threatened. If not, the official would initiate a court proceeding against the journalist, and would request for financial compensation. On 17 December 2002 the FMHL contacted the journalist and learned that the journalist had not contacted the FMHL for a several months now, as he/she has not heard from the perpetrator for quite a while. Since there have been no new developments, the case is considered closed. It is important to mention that the journalist has reported the threats to the IPTF and the LP but never heard from them, too.
- **After series of articles** published about a former high official, a journalist received a few threatening calls indicating implicit threats. The threat were as follows: "You can be easily found". The journalist said that he/she was in possession of all the documents, on the bases of which he/she published the article. The journalist kept his/her source of information for himself/herself. The journalist called Deputy Minister of Federation Ministry of Interior, and informed him about these threats. He advised the journalist to call them should threats continue. As there have been no threats, FMHL closed the case.
- A **journalist asked a Head of Municipality** in the Federation to provide him/her with the information on changes of the salary of the Head of Municipality and what would be the net income of the official in question. The Head said that he would provide the journalist with the information requested provided that he gets the letter in an original form, stamped with a media outlet stamp and signed by an authorized person. A media outlet refused to send such a letter and alarmed Federal Ombudsman who issued a letter requesting from the Municipality to reveal the information in accordance with the Freedom of Access to Information Act.

#### Ø **Pressure by Media Outlet Official**

- **Three complaints** have been filed against the RS-based magazine PRST. For months now, this magazine has been using other journalists' names to sign articles containing inflammatory language and expressing hatred. Milos Aprilski from Vecernje novosti and Nihada Jablic and Faruk Vele from Nezavisne novine contacted FMHL asking for protection against such a practice exercised by this magazine. The Free Media Help Line advised the journalists to address the Press Council. As a result of this, the Press Council issued a press release condemning such an unprofessional behaviour and called upon all relevant institutions to try and sanction this trend.

For full public announcement on the adjudication for "PRST" Magazine, please visit:  
<http://www.vzs.ba/eng/index-eng.htm>

#### Ø **Pressure by Police**

- A **Nezavisne novine** photo reporter claims that he/she has been attacked by the Sarajevo Canton Local Police. The police confiscated his/her camera and film, while he/she was trying to take photographs of the fight between the supporters of the two teams, after the football match BiH – Yugoslavia. Almir Dzuvo, the Cantonal Minister of Interior, says he has no information about the attack on the photo reporter. According to Dzuvo, if the allegations about violent behaviour of a policeman were true, the sanctions against him would be undertaken. Zeljko Kopanja, the manager and owner of Nezavisne novine, says that this example illustrates the attitude the authorities have towards media.

#### Ø **Natural Person**

- **Unsko-sanske novine** journalist wrote an article published in Jutarnje novine about the privatization process and Ciprus Company from Slovenia in relation to strikes happening in the Una Sana Canton. According to the journalist, the Manager of Ciprus called and threatened to beat the journalist up. The call repeated several times. The case reported only for the record.

#### Ø **International Community**

- **NTV Hayat** complained about the UN Mission to BiH for not allowing this media outlet to shoot a ceremony with Kofi Annan in Sarajevo National theatre offering no explanation whatsoever. The television was interested in why they were denied access to the Theatre Hall. FMHL called the UN mission and learned that no media outlet except FTV and Reuters was to shoot the event due to security reasons. Moreover, FTV, as being the state media with suitable equipment, was offered coverage of the event, and as such was given priority over other outlets in BiH. For the rest of the outlets, a special pool was formed, which provided the rest of the media outlets with information and pictures.

#### Ø **Anonymous**

- **FMHL filed a complaint** by a journalist, who received a threatening phone call after writing about Croats and Bosniaks in Bugojno. A male voice warned the journalist to be careful.

### ***Case Categories and Description of Non-Confidential Cases***

Free Media Help Line distinguishes several case categories. It should be noted, however, that these case categories are subject to change, as each case should be treated individually. For the moment, the current case categories are listed in the table, page 3.

Definitions of case categories are self-explanatory and will not be discussed in detail in this report. Only Defamation Suits will be elaborated in this report, as they deserve special attention because of the Law on Protection against Defamation, which has recently been imposed by the high Representative.

## Ø Defamation Suits

With an aim of further democratization and freedom of information the imprisonment penalty for the criminal acts against honor and reputation was abolished by the Decision of the High Representative from 30 July 1999. At that time, defamation was an integral part of that group of criminal offenses. Considering it necessary to transform the responsibility for these offenses, which substantially represented a verbal offense, into liability defined by civil law in accordance with the highest international standards of freedom of opinion and expression, OSCE and OHR had initiated the adoption of appropriate laws.

For that reason, a working group comprised of national and international expert was formed to draft the Act on Protection against Defamation. The Draft having been published, a number of public discussions were held and national lawyers in practice, journalists, judges, prosecutors and barristers participated in discussions.

In further procedure the Draft law was regularly adopted in Republika Srpska, whereas in the Federation, this Law was imposed by the High Representative.

At the same time, provisions of the Criminal Codes that regulated criminal acts against honor and reputation were repealed by special laws on amendments to the Criminal Codes of Republika Srpska and Federation of BiH, which entered into force at the same time as Act on Protection against Defamation.

In this way, civil liability was exclusively established for harms to honor and reputation.

Four cases involving defamation were reported to the FMHL before the Law was imposed. At that time, those cases were processed in accordance with the Criminal Law, as explained above.

Those cases are now dismissed, as the Law on Protection against Defamation stipulates that all of the proceedings initiated before the Law entered into force, are dismissed in accordance with the Article 16<sup>2</sup> of this Law.

- **A journalist is sued for defamation** for publicizing a text about Sarajevo Canton Deputy Minister of Health damaging the budget for half a billion KM. The case is dismissed.
- **Criminal proceedings were launched** against a photographer accusing him/her of deliberately taking photographs of two citizens. The plaintiffs asked for 34.800 KM of non-material damage. The photo of the two plaintiffs appear to have characteristics of "mujahedins" (both have long beards), was published in a daily paper. They claimed that they suffered mental anguish and fear, as they were presented in the article as Croat haters. The pictures were taken during a protest of invalids and families of fallen soldiers (shehids). The charge was dismissed by the judge. However, upon request of the claimants, the proceeding has been reactivated and the FMHL will monitor the next hearing, scheduled for the end of December 2002.
- **A former Oslobođenje correspondent Azemina Mulahuseinovic** is being sued for defamation regarding articles that were published in the same newspaper in the year 2000. FMHL monitored the trial that took place at the Municipal Court II in Sarajevo. Tesanj-based company Oaza filed a private suit against the journalist in question for publishing false statements about this company. The company asks for a compensation of 15,000 KM for causing material damage and 15,000 KM for causing personal distress to the director Salko Bedak. The case is dismissed.
- The fourth case involves a journalist writing about criminal actions conducted by Senad Šarganović whilst he was an SDA official. The journalist was sued for defamation and the trial took place at the Municipal Court II in Sarajevo. The situation has changed after the Act on Protection against Defamation has been imposed, so that the case is addressed to the Cantonal Court in Sarajevo, with a possibility for the parties to initiate a civil procedure, in accordance with this Law.

## **4. Free Media Help Line Responses**

The tools available to the Help Line Team are varied and must be considered on a case-by-case basis. Below are listed some of the available FMHL responses:

- a) Contact third parties/relevant authorities to check facts;
- b) Encourage complainant to address local police;
- c) Accompaniment to police station to file report; if necessary;
- d) Contact IPTF to ensure appropriate conduct by the local police;
- e) Direct mediation between parties to an incident;
- f) Letter writing to alert international human rights and journalists' rights organisations of journalists' rights violations in BiH;
- g) Trial monitoring;
- h) Referring complaint to appropriate organisation and continue to track the response;
- i) Public response;
- j) Release of joint press statement with co-operating agencies;
- k) Senior Media Development or OHR staff can address the head of a political party to point out patterns of behaviour among his/her party members.
- l) Direct correspondence from an appropriate level in OHR.

### **Below are some of the FMHL responses:**

- Monitored several court proceedings, the four of those involving defamation and one involving a journalist who investigated corruption involving the President of the Municipal Council in a Municipality of the Federation.
- Issued a press release condemning behaviour of a BOSS party member. As a result of this, Oslobodjenje on 12 June 2002, page 8, reported that the adoption of the new Book of Rules and Regulations of the FBiH Parliament members was planned for 25 June at the extraordinary session of the FBiH Parliament. The book should finally regulate the immunity of the parliamentarians who should become aware of their words and actions before the microphone. One of the sanctions could be removal from the session.
- FMHL alerted local police in a case involving a daily newspaper indicating that they had received a bomb threat. Threats to their newspaper started after they started publishing articles on situation in this municipality, esp. in relation to the Ministry of Interior and inappropriate actions following the introduction of the provisional administration in Hercegovacka Bank. The police properly reacted only after an intervention coordinated by the FMHL staff.
- FMHL maintained regular contacts with complainants and coordinated an appropriate follow up by the co-operating agencies, such as CRA, Press Council, Federation Ombudsmen...
- In several instances FMHL cooperated with the Independent Judicial Commission when cases involved non-adherence of the hearings at the BiH courts, as well as when court files are not being activated for a longer period.



## 5. FMHL PR Campaign

The FMHL staff facilitated the public campaigns during two periods: May 2002 (initial info campaign on FMHL re-establishment within the OHR) and September 2002 (pre-election campaign). All media outlets (both print and electronic) in BiH received FMHL promotional material that included information sheet, posters cards and stickers. As the public awareness of the FMHL's continued presence increased after both campaigns, the number of registered cases multiplied. The increase in number of cases was particularly significant during the election campaign when FMHL received 9 cases of violations in only one week.

For the purpose of its public campaign, the FMHL produced:

- Promotional material (posters, cards, stickers)
- Audio spot (distributed to various radio stations countrywide)

The motto of this campaign is to remind journalists of the importance of freedom of expression as an ultimate right of a free man in a democratic society.

### Additional Activities - Press Preview

FMHL staff conducts an everyday activity of daily print media monitoring. Every morning a press preview that focuses on media freedoms, protection of journalists' rights and media development issues is prepared and sent to various recipients. Besides the dailies *Dnevni avaz*, *Oslobodjenje*, *Nezavisne novine* and *Jutarnje novine*, FMHL also prepares summaries of weeklies *Slobodna Bosna*, *Ljiljan*, *Dani* and other print outlets that report on topics that reflect media issues in BiH. This monitoring provides an early warning system for potential cases and emerging trends.

## 6. Work Plan

### • Continued implementation of the core activities

The Free Media Help Line will continue with its activities of monitoring, responding to and reporting on the status of journalists' rights cases as the only such facility available to journalists in Bosnia and Herzegovina. It will also maintain its position as a valuable source of information for international organisations dealing with protection of journalists. At the same time, the Free Media Help Line will continue to advocate against the political interference in media with the aim of contributing to a more pluralistic and open BiH society.

### • Promotional campaign designed to further the knowledge and understanding of the FMHL activities

In 2003 FMHL plans to conduct a survey among the media outlets on the needs of journalists and on the general feeling of security and freedom to report without fear of threats and pressures. This survey will also help the FMHL staff to find out how much journalists actually know of the Help Line and the protection mechanisms it offers.

FMHL plans to continue with the distribution of its promotional materials, as well as with development and maintenance of contacts with the main agencies for protection of journalists both within BiH and abroad. The promotional campaign in the next year will also include advertising in the most prominent BiH print media.

### • Finding the permanent home

Discussions are ongoing with domestic institutions that could provide a permanent home for Free Media Help Line advocacy and action capacities, once the EC Contract expires in October 2003. The Coordination of the Associations of Journalists is such a BiH-wide organisation that would be able to increase public awareness of the importance of the protection of journalists' rights and notify and work with local authorities to resolve cases.

### • Development of overall mechanisms for protection of journalistic freedoms

FMHL plans to work on adoption and implementation of both Freedom of Access to Information Act and Act on

Protection against Defamation in Brcko District. FMHL will continue its activities aimed at furthering the overall understanding of media related legislation, and at its implementation.

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## \* Transitional Provisions

### Article 16

1. Any criminal proceedings commenced under Chapter XX, Criminal Offences Against Honour and Reputation (Articles 213 through 220) of the Criminal Code of the Federation of Bosnia and Herzegovina prior to the entry into force of this Law shall be dismissed.
2. Upon the entry into force of this Law, any criminal sanction for legally valid verdicts issued pursuant to the above referenced articles of the Criminal Code of the Federation of Bosnia and Herzegovina shall not be executed.
3. An allegedly injured person shall have a right to, within three (3) months from the day of the dismissal of the criminal proceedings referred to in paragraph 1 of this Article or from the day of the dismissal of the execution of the sanctions referred to in paragraph 2 of this Article, file a request for compensation of harm under this Law, if such a request satisfies the requirements prescribed by this Law.
4. Civil procedure that relates to the matter regulated by this Law that has been commenced and not disposed in a legally valid manner upon the date of the entry into force of this Law shall be continued in accordance with the law that was in force at the time when the proceeding was commenced if it is not detrimental to defendant.