QUESTION 1.

The BiH Constitution stipulates that all rights and freedoms enshrined in the European Convention on Human Rights (ECHR) and its protocols are directly applicable in Bosnia and Herzegovina and that these international acts and standards have priority over all other laws in BiH.

Enjoyment of these rights and freedoms, including, inter alia, the right to freedom of expression, and freedom of peaceful assembly and association is provided to all persons in BiH, with no discrimination on any grounds such as gender, race, color, language, religion, political and other affiliation, national or social origin, association with an ethnic minority, property, birth or other status, which includes judges and prosecutors in BiH.

The legislative framework in BiH is the Law on the High Judicial and Prosecutorial Council of BiH, which, as an independent and autonomous institution is tasked with providing an independent, impartial and professional judiciary in BiH and it is in charge of deciding on the matters of compatibility with other duties or a conduct that might harm the reputation of judicial or prosecutorial function. In accordance with this authorization, the High Judicial and Prosecutorial Council of BiH passed the Code of Judicial and Prosecutorial Ethics that define the general standards and elaborate certain aspects of ethical conduct of judges and prosecutors, but which do not regulate the matter of the right to use social networks and other digital technologies as a separate issue.

QUESTION 2. Cases of Disciplinary proceedings against holders of judicial function

Date of the final decision: 27 April 2006

Outcome: Written reprimand not publicly announced (Settlement reached)

Factual description:

In the case of disciplinary proceedings against a judge which was underway, the Respondent sent a joint letter to Association of the Federation of BiH judges, on behalf of the Sarajevo Municipal Court judges, citing in the letter that the judges of the Municipal and the Cantonal Court in Sarajevo cannot accept the fact that - due to a violation of the procedure (CPC) - there may be a disciplinary accountability and the most severe disciplinary measure might be imposed, and that this was a pressure on their work, directly affecting independence of the courts, as one of the basic precepts of judicial authority and its aims, asking the Association to consider the methods of protecting its members for the sake of the utmost protection of the dignity of judicial function.

**2.**

Date of the final decision: 1 December 2006

Outcome: Disciplinary action rejected

Factual description:

In the case of disciplinary proceedings against a judge which was underway, the Respondent signed a letter addressed to Association of the Federation of BiH judges, citing in the letter that the judges of the Municipal and the Cantonal Court in Sarajevo cannot accept the fact that due to a violation of the procedure (CPC), there may be a disciplinary accountability and the most severe disciplinary measure might be imposed, and that this was a pressure on their work, directly affecting independence of the courts, as one of the basic precepts of judicial authority and its aims, asking the Association to consider the methods of protecting its members for the sake of the utmost protection of the dignity of judicial function. The Respondent signed the foregoing letter on behalf of the Sarajevo Cantonal Court judges, as a member of the collegium and member of the Association of Judges of the Federation BiH, in accordance with the conclusions of the collegium of judges dated 25 March 2005.

**3.**

Date of the final decision: 6 March 2013

Outcome: Public reprimand

Factual description:

Among the lawsuit arguments, the Respondent, in the public and in the media repeatedly gave statements and comments in cases where proceedings were still ongoing, whereby the Respondent presented his personal position and a negative opinion of on the work of the Prosecutor’s Office and the Brčko District Police and expressed suspicion in the legality of official actions that have been undertaken.

**4.**

Date of the final decision: 27 October 2016

Outcome: Public reprimand

Factual description:

From his official address, the Respondent sent to all judges and prosecutors an e-mail, with an attachment in which, after his unsuccessful application to vacancy for the President of Municipal Court, he presented unfounded allegations of irregularities in the process of appointing the holders of judicial function, which he learned based on a hear-say and he publicly presented prejudice regarding a President of the FBiH Supreme Court and the former President of the Council over his ethnicity and the place of residence, giving unfounded allegations that he was discriminating against the Bosniaks and Croats who applied for vacant positions in the judiciary in the RS.

**5.**

Date of the final decision: 4 October 2017

Outcome: Disciplinary action rejected

Factual description:

In a press article, the Respondent commented on the work of a Prosecutor of the Prosecutor’s Office of BiH in a case that was pending before the BiH Prosecutor’s Office, while in another newspaper article he presented comments indicating a political dependence and a lack of integrity of prosecutors in the Prosecutor’s Office of BiH, regarding the war crimes cases of members of the BiH Army.

The respondent, while being a guest on a TV show, publicly commented on 2 court cases in which he was involved and which were still ongoing in the court.

Additionaly, please be advised that there were no reported cases of attacks against the holders of judicial functions, based on freedom of expression, association and peaceful assembly of judges and prosecutors.

QUESTION 3.

The rights of holders of judicial office explaines in the answer to question no. 1 are covered by the Codes of Judicial or Prosecutorial Ethics. These acts do not include the issue of exercising rights through the use of social networks and other digital technologies.

QUESTION 4.

The Law on the HJPC of BiH in Article 82 prescribes as follows:

(1) A judge or prosecutor shall not engage in any function that is incompatible with or could be seen to interfere with the fair and impartial execution of judicial or prosecutorial function or that would affect the independence or dignity of judicial or prosecutorial office, cast doubt upon his or her ability to act impartially, or demean judicial or prosecutorial office.

(2) A judge or prosecutor shall not be a member of or perform any duties in political party organs, or associations or foundations connected to political parties, and shall refrain from participating in political party activities of a public nature.

(3) A judge or prosecutor shall not be a member of and, upon gaining knowledge, must immediately resign from any organisation that practices invidious discrimination on the basis of race, colour, sex, sexual orientation, religion, or ethnic, or national origin, nor arrange to use the facilities of such an organisation.

The basic objective of these provisions is to ensure the independence and impartiality of judges and prosecutors as well as of judicial institutions.

There is no specially prescribed prohibition on exercising these rights through the use of digital technologies, but this is implied in practice and applied accordingly.

QUESTION 5.

The restriction of the foregoing rights under the legal provisions has an imperative character and it generally applies to all judges and prosecutors regardless of their position.

Violation of the above provisions cannot be related to performance of official duties by judges or prosecutors. When considering a possible violation of the above provisions, all circumstances under which such violation occurred are considered, including the location and the general conditions under which such possible violation may have occurred.

All circumstances shall be taken into account.