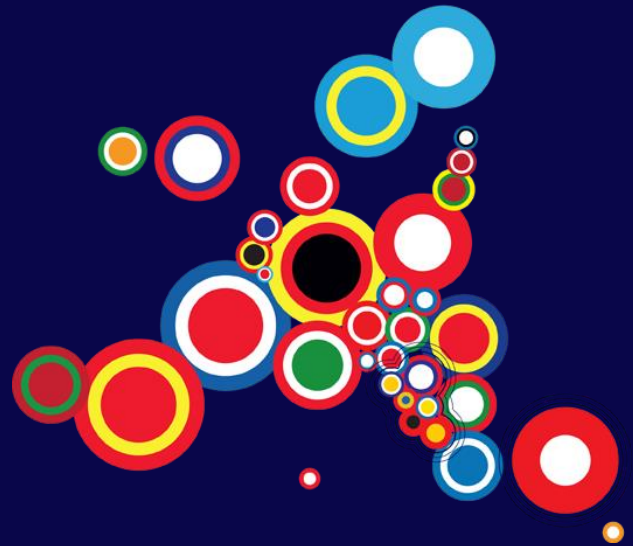




INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

BOSNIA AND HERZEGOVINA

EU support to effective
justice



Action summary

This action will contribute to strengthened rule of law in Bosnia and Herzegovina through support to enhancing the effectiveness and integrity of judiciary and law enforcement agencies in general. The target areas will be improving institutional and human capacities for guaranteeing better effectiveness, integrity and professionalism of institutions ensuring the rule of law, including access to justice, and prevention of and fight against corruption.

The assistance will build prosecution capacities, advance cooperation among the judiciary and the law enforcement agents in processing organised crime, corruption, economic crime and other types of serious criminal offences, while contributing to better coordination in the justice sub-sector. The assistance will combine application of the ICT solutions, target training of judges and prosecutors, expert assistance to courts and prosecutors' offices and introduction of effectiveness standards, further improving access to justice by promoting the use of Alternative Dispute Resolution (ADR). Capacities of courts and prosecutors' offices will be strengthened to ensure legal certainty at all levels of jurisdiction in BiH, while the action will further increase the confidence of BiH citizens in the justice system.

Action Identification	
Action Programme Title	Annual Action Programme on Bosnia and Herzegovina for the year 2017
Action Title	EU support to effective justice
Action ID	2017/040-524.04
Sector Information	
IPA II Sector	Rule of Law and Fundamental Rights
DAC Sector	15130 Legal and judicial development
Budget	
Total cost	EUR 14 350 000
EU contribution	EUR 14 350 000
Budget line(s)	22.020101
Management and Implementation	
Management mode	Direct management
<i>Direct management:</i> EU Delegation	EU Delegation to Bosnia and Herzegovina
Implementation responsibilities	EU Delegation to Bosnia and Herzegovina
Location	
Zone benefiting from the action	Bosnia and Herzegovina
Specific implementation area(s)	Bosnia and Herzegovina
Timeline	
Final date for concluding Financing Agreement(s) with IPA II beneficiary	At the latest by 31 December 2018
Final date for concluding delegation agreements under indirect management	N/A
Final date for concluding procurement and grant contracts	3 years following the date of conclusion of the Financing Agreement, with the exception of cases listed under Article 189(2) of the Financial Regulation
Final date for operational implementation	6 years following the conclusion of the Financing Agreement
Final date for implementing the Financing Agreement (date by which this programme should be de-	12 years following the conclusion of the Financing Agreement

committed and closed)			
Policy objectives / Markers (DAC form)			
General policy objective	Not targeted	Significant objective	Main objective
Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Aid to environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gender equality (including Women In Development)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trade Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reproductive, Maternal, New born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RIO Convention markers	Not targeted	Significant objective	Main objective
Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change mitigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change adaptation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. RATIONALE

PROBLEM AND STAKEHOLDER ANALYSIS

The rule of law is at the heart of the enlargement process. Bosnia and Herzegovina (BiH) has reached some level of preparation towards meeting the EU *acquis*, but shortcomings in the areas of quality, independence, efficiency and integrity of judiciary persist and represent a threat to the rule of law in BiH. Organised crime, corruption, economic crime and other types of serious criminal offences burden the economy and the investment climate. Therefore weaknesses in the rule of law hamper economic growth, international trade, foreign direct investment and in general trust among individuals in a society – trust being an essential component of social capital and cohesion. The lack of a satisfactory strengthening of the rule of law has resulted in a number of anomalies with regard to the public's trust in the rule of law, entrepreneurship and markets, as well as overall trust in public institutions among people in general.

While striking the right balance between judicial independence and accountability should remain a priority, challenges related to making all integrative parts of the reformed justice sector more effective is likely to dominate the agenda of the justice sector policy makers over the coming years, as all these components are essential for advancing towards EU integration and meeting the Copenhagen criteria.

Prosecution and investigation of organised crime, corruption, economic crime and other serious criminal offences is inadequate, resulting in a rather low conviction rate. The existing cooperation between police and prosecutors' offices is inadequate in terms of achieving effective investigation of corruption cases. One of the most important tools for further improving judicial effectiveness, transparency and accountability is provided by the Case Management System (CMS/TCMS) which allows the High Judicial and Prosecutorial Council (HJPC) to monitor the reduction of backlogs in all types of cases directly and instantly. Although the Judicial Information System is rather advanced, the needs of the judiciary are increasing, especially when faced with complex cases with heaps of evidence. The full potential of the video-conferencing in the judiciary is yet to be achieved in dealing with organised crime, corruption and other criminal offences by establishing communication among the judiciary and other relevant institutions. The Court Police agencies in BiH, in particular those at the entity level, continually lack the resources necessary for fulfilling their key role of supporting the judiciary, thus directly hampering its effectiveness and security and affecting the public trust.

As a result of transition economy, courts are facing a backlog of commercial cases (especially bankruptcy and liquidation cases). In addition to sheer amount of these cases, their complexity and the shortcomings of judges and other actors in the process add up to the girth of this problem. As a result, courts are not able to react to the pressure created and struggle to keep up with the growing number of these cases. Ineffective processing of commercial cases may result in prolonged blockage of bankrupting / liquidating companies' funds, emerging of large numbers of claimants (including employees) and creditors and overall, the negative impact on the local economy.

Even though notable results of assistance for effective processing of war crime cases have been achieved, a large number of these cases continues to burden the society. Therefore, further intensive efforts are required, notably by revising the National War Crime Strategy (NWCS) and reinforcing the role of the Supervisory Body.

The harmonisation of the case law in the country is posing a challenge, as the entity supreme courts, as well as the Brčko District Appellate Court, lack capacity for collecting, analysing and publishing the case-law. In order to increase the consistency of jurisprudence across the country, the three joint panels of the highest-level courts in BiH held seven meetings. This has helped to achieve better harmonisation of case-law in civil and administrative matters, but not yet for criminal law.. There is a need to improve this mechanism as well as access to court decisions and modernisation of judges and prosecutors' training.

Although the overall strategic framework for the justice sector in BiH provides clear guidance for all sector institutions including courts, the absence of individual strategic documents at the level of each court is directly related to the lack of ownership for the results of the courts and its responsibility to contribute to the overall judicial strategic framework. While each court has an annual plan for the

reduction of 'old cases' backlog, planning and policy making capacity among the managerial staff in the judiciary need to be improved.

A contributing factor to the perceived ineffectiveness of the justice sector are inadequate and dysfunctional old physical premises of judicial institutions which suffer from a general lack of office space, insufficient number of courtrooms, overcrowded and dysfunctional archives, inadequate accessibility features (for persons with physical, hearing and visual disabilities), rundown and out-dated infrastructure, lack of adequate facilities for witnesses, lawyers, media and court police and inadequate security conditions.

Staffing needs of the courts and prosecutors' offices should be continuously monitored and analysed, so that the number of judges, prosecutors, expert associates and administrative-technical staff are at an appropriate ratio to the case flow. Although the establishment of a robust integrity framework for the judiciary is underway, fortifying judicial integrity by increasing individual accountability of judges and prosecutors in parallel with capacity building of the Office of Disciplinary Counsel (ODC) is necessary. The functions of the ODC are supported by several software solutions and their simultaneous use causes the ODC to function less than effectively in their investigations and presenting the disciplinary cases. Consequently, these solutions need to be consolidated and modernised to support all ODC's works processes and reporting requirements. The legal status of certain categories of employees in the courts and prosecutors' offices is not sufficiently regulated in an harmonised manner at all institutional levels. Their role, unlike other categories of employees strictly related to the judicial system, should be settled by the courts and law on Prosecutors (managerial staff, professional staff, legal advisors and bailiffs). In contrast, the status of other employees (non-managerial) should be arranged regulating the status of civil servants and employees.

All surveys measuring the public trust in the BiH judiciary show unsatisfactory results despite efforts made towards strengthening the effectiveness, integrity and accountability of judiciary. Due to the continuous misinformation by political representatives on the work of the judiciary, the public perception of the judicial system in BiH does not return high trust on the competence and independence of the judiciary, despite the efforts made by the HJPC to remedy this phenomenon. Therefore, further steps need to be taken towards enhancing trust of the public in the country's justice, especially in relation to processing corruption and organised crime cases, and fighting anomalies inside the judicial system.

One of the major struggles of the BiH judiciary in providing equal access to justice is timely delivery of justice for everyone, including the enforcement of judgments. Poverty primarily causes this problem, as a large percentage of population cannot afford any available options for dispute resolution due to high court fees, litigation costs and mediation costs. The second contributing factor is the significant backlog regarding unpaid utility bills cases. ADR methods are not used to their full potential, which is reflected through few cases being sent for mediation, few arbitration proceedings, the fact that the courts could have a more active approach in proposing court settlements and regarding the parties insistence for court decisions. The matter of party confidence in ADR and how informed they are of the advantages of such dispute resolution methods should be a focus of the action, considering the positive influence this has on case inflow and the capacities of the courts. As regards unpaid utility bills cases, there is a need to amending enforcement procedures and relevant legislation to make the debt collection more effective.

BiH is facing fiscal problems and is unable to cope with the long priority list for infrastructure investments to the extent necessary to modernise the justice sector in accordance with European standards. The quality of most penal institutions in the country is still poor, inadequate and often cannot meet European and international standards and requirements. One of the main problems as far as the prison system is concerned is the lack of adequate prison capacities. Namely, due to the lack of adequate prison capacities and trends of prison population, a number of inmates are waiting to serve the sentence. Positive results have been achieved with regards to reconstruction of entity institutes for execution of criminal sanctions and the problem with accommodating prisoners was significantly reduced, but still persists. Also, the application of international standards is being monitored as far as the prisoners with special needs are concerned and a framework plan of activities for improving the health care of prison population has been developed. Additionally, as a part of the monitoring system a prison inspection at all levels of government has been established, but the implementation is progressing slowly.

The beneficiaries of the proposed action are the HJPC including ODC, courts, prosecutors' offices, BiH Ministry of Justice (MoJ), Republika Srpska MoJ, Federation BiH and ten cantonal MoJs, Judicial

Commission of Brčko District (JCBD), Judicial and Prosecutorial Training Centres of Federation BiH and RS (JPTCs), chambers of commerce and their respective arbitration courts and the BiH Association of Mediators. Final beneficiaries of the action are the BiH citizens. Other stakeholders are bar associations, media and civil society organisations.

OUTLINE OF IPA II ASSISTANCE

Coordinated activities will be undertaken to enhance the effectiveness of BiH judiciary. Strengthened capacity of the judiciary and custom developed IT solutions will enable effective investigations and processing of corruption, organised crime, economic and other complex types of cases. Legal certainty and predictability will be increased by intensifying case law harmonisation efforts and putting in place procedures for improving the quality of court decisions. Also, a capacity building of court police agencies in BiH and modernisation and reconstruction of judicial institutions' buildings is foreseen.

Strengthening capacities of the ODC, combined with preceding training and reform of disciplinary sanctions, will contribute to more effective disciplinary proceedings and higher accountability of judicial office holders. Establishing technical preconditions for introducing new communication channels and on-line services will aim to improve the communication between the judiciary and the public, which should contribute to building a more positive public image of the BiH judiciary.

Strengthening the use of ADR will have an impact on reducing the influx of court cases and backlog in courts. The capacities of all stakeholders (i.e. judges, the Association of Mediators and the chambers of commerce) will be strengthened and their roles in ADR promoted.

Enhanced capacities for the execution of criminal sanctions, including modernisation of inadequate and often dysfunctional penal facilities will enable effective policy development in the area of criminal sanctions.

RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES

The BiH Indicative Strategy Paper 2014-2017 (ISP) places strong emphasis on the justice sector especially in the area of effectiveness, accountability and integrity, justice for citizens, justice for growth, fight against organised crime and corruption.

The 2016 Bosnia and Herzegovina Report recognizes that justice system has reached some level of preparation. The Report indicates advancements and improvements in backlog of pending court cases and the average length of court proceedings. The implementation of the national war crimes strategy objectives continued. The slow reduction of the utility-cases backlog in the courts and inadequate procedures for execution of court decisions continued to hamper the justice sector. On ADR methods, the use of in-court and out-of-court mediation requires qualitative improvement. The aim is to bring the mediation system in BiH into line with European standards and best practices. The report outlines the need to strengthen accountability and integrity mechanisms, particularly through a more deterrent disciplinary system and through improvement of legislative framework for declaration of assets of judges and prosecutors. Furthermore, modernisation of training and access to court decisions are identified as areas requiring improvement. On fighting organised crime, the report recognizes some level of preparation, however, financial investigations remained underused. Fighting organised crime remains fundamental to countering criminal infiltration of the political, legal and economic system of the country.

The Stabilisation and Association Agreement (SAA) calls for strengthening of democracy and the rule of law with specific emphasis to the reinforcement of institutions at all levels in the areas of administration in general and the administration of justice in particular and improvements for an effective judicial system, anti-corruption policy and human and minority rights.

The EU Justice Agenda for 2020 - Strengthening Trust, Mobility and Growth within the Union sets key issues as political priorities to be pursued in order to make further progress towards a fully functioning common European area of justice oriented towards trust, mobility and growth by 2020.

South East Europe 2020 defines following key strategy issues: Improve efficiency and competence, Improve judicial cooperation in free access to information, cross-border enforcement and cross-border proceedings and take-over and mergers and support ADR.

EU-BiH Structured Dialogue on Justice (SDJ) assists BiH to consolidate an effective judicial system. Relevant areas of improvement for achieving judicial effectiveness: “Continuation of initiatives to increase efficiency through proposals for legislative changes, monitoring of backlog reduction through the available IT management tools, management training, changes of the internal working procedures at courts, as well as renovation and modernisation of buildings”. In regards to mediation, the SDJ recommended the introduction of a functional system for in court and out-of-court mediation throughout BiH. In line with this recommendation, the HJPC is addressing the issue concerning the effective use of all ADR mechanisms. Concerning war crimes processing, the National War Crimes Strategy needs to be updated and the role of the Supervisory Body needs to be reinforced. Finally, the Structured Dialogue on Justice insists on increasing effectiveness and stability of the rule of law-institutions in order to guarantee the necessary level of functionality of the judicial system.

The Justice Reform Sector Strategy 2014 – 2018 (JSRS) aims to “Further strengthen and maintain independence, accountability, efficiency, professionalism and harmonisation of the judicial system to ensure the rule of law in BiH”, “Develop more harmonized system of criminal sanctions in BiH which, by respecting European standards, ensures humane and legal treatment and effective re-socialisation in BiH prisons” and “Coordinate and make roles and responsibilities of key justice sector institutions more efficient, with the aim of achieving more effective, transparent and accountable justice system in BiH” as two of the main long-term goals for the sector. Better cooperation and communication of the rule of law bodies via Information and Communication Technology (ICT) tools is essential in enhancing effectiveness of the justice sector, as recognized by the current and previous JSRS and carefully planned and implemented by the HJPC. Strategic programmes (SP) related to the effectiveness of courts and prosecutors' offices address capacity building (IT, infrastructure), reduction of backlogs and efficiency boosting measures, strengthening the framework and use of ADR, strengthening the framework for the system of planning, coordination and communication. In addition, the JSRS foresees measures to strengthen accountability of judiciary and application of IT towards improving communication with the public.

The Reform Agenda 2015 – 2018 requires adoption of the JSRS and its corresponding Action Plan and calls for effective prevention of corruption and conflict of interest within the judiciary, enhancing professionalism and integrity by means of prescribing objective criteria for appointments of members of the judiciary; adoption of integrity measures throughout the judiciary in BiH; reinforcing disciplinary accountability for members of the judiciary by adopting new rules for disciplinary proceedings and introducing new disciplinary measures. On combating corruption, more effective investigations are required: enhancement of the flow of information between police and prosecutors by increasing data accessibility and exchange.

LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE

The judicial reform in BiH during the past 15 years was powered mostly through donor support. Donor coordination in the justice sector in BiH is strong and has been further enhanced by the Structured Dialogue on Justice. The lessons learnt refer to: participation and ownership invested in the projects by the beneficiary institutions and end users from the programming to the evaluation; avoiding overlapping and double funding of the same or similar actions; continuation with the activities and providing national funding after the projects end; building upon the results of preceding actions and sequencing assistance; synergy effect and spill-over effect of the actions. The past assistance was mostly designed and implemented in a way which ensured utilisation of results achieved by the previous actions. This action embeds the same principle.

In relation to Result 1, the IPA II action¹ will build the technical capacity of Law Enforcement Agencies (LEAs), which is a prerequisite for establishing effective electronic exchange of documents between judiciary and LEAs. The action takes forward the recommendation of the Council of Europe (CoE) Norwegian funded project to strengthen court practice departments and case-law database. The action also builds upon IPA 2012 to further strengthen technical capacities of the Court Police Agencies in BiH, while minimum judicial buildings' security standards are created through IPA reconstruction

¹ IPA 2015 “Support to Law Enforcement Agencies (LEAs) in BiH”

actions. The action also takes forward capacity strengthening of courts and prosecutors' offices of Norwegian, Swiss and Sweden funded multi-annual support projects whilst building upon the results in informatisation of judiciary achieved through previous and IPA 2012/2013 programmes.

Another IPA II action² will provide recommendations for improvement of disciplinary proceedings, supporting IT solutions and improving criteria for appointment and performance appraisal of judicial office holders. The SIDA project introducing the System for submission, recording, processing and monitoring of financial statements of judges and prosecutors will connect to outputs under Result 2 of this action.

Finally, in relation to Result 4, the need for extensive analysis and professional assessments of infrastructural works has proven to be very demanding. It is essential that the relevant ministries of justice agree to propose only mature or 'ready to go' actions. This action should take forward the CoE recommendation and identified needs as well as to build upon the results of IPA 2015 actions.

² IPA 2015 "Reinforced integrity, human performance management and accountability of justice sector institutions"

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (*)	SOURCES OF VERIFICATION	
To strengthen the rule of law in Bosnia and Herzegovina	Progress made towards meeting accession criteria assessed by the Commission (Judicial System) Composite indicator (combines the average of Access to Justice (World Justice Project) and Judicial Independence (World Economic Forum))	EC reports on BiH World Justice Project for Access to Justice and World Economic Forum for Judicial Independence	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (*)	SOURCES OF VERIFICATION	ASSUMPTIONS
To enhance the overall effectiveness of the BiH judiciary and increase public trust in the country's justice system	1. Clearance rate of bankruptcy, liquidation and war crime cases 2. Percentage of interviewed court users that are satisfied with court services	HJPC Annual reports Judicial Business Intelligence System Implementation Reports Courts and prosecutors offices' Annual Reports JDC database and web site Survey	Continued commitment of the relevant authorities in BiH for a harmonized and coordinated approach to implementing the reforms in the justice sector.
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS (*)	SOURCES OF VERIFICATION	ASSUMPTIONS
<p>Result 1: Capacity of judiciary institutions in BiH (staff, procedures, equipment and facilities) for dealing with cases of organised crime, corruption, war crimes, commercial crimes and other type of cases is increased</p> <p>Result 2: Technical capacity of the Office of Disciplinary Council, and communication between judiciary institutions and public/media are strengthened</p> <p>Result 3: Implementation of Alternative Dispute Resolution methods in the judiciary is enhanced</p> <p>Result 4: Facilities for execution of criminal sanctions throughout BiH are improved</p>	<p>1.1 Number of harmonised legal stances among all jurisdictions in BiH</p> <p>1.2 Number of confirmed indictments in cases of organised crime (KTO), corruption (KTK) and economic crime</p> <p>2.1 Percentage of ODC cases older than one year</p> <p>2.2 Number of PR/articles/info issued by HJPC and published by HJPC and Media, no. of tracked press online clippings related to project activities as well number of entrances to all web sites encompassed by Pravosudje.ba domain (courts, prosecutors' offices and HJPC included) per year</p> <p>3.1 Strategy and general proposal of action plan for ADR drafted</p> <p>3.2 Number of court settlements</p> <p>4.1 Number of buildings for the executions of criminal sanctions (re)constructed</p>	<p>HJPC Annual reports Action reports</p> <p>Ministries of Justice in BiH Annual reports</p> <p>Judicial Commission of Brčko District (JCBD) Annual reports</p> <p>Legal chronicle (AIRE Centre and HJPC BiH)</p> <p>ODC Annual reports</p> <p>Association of Mediators in BiH Annual reports</p> <p>(Re) construction supervision reports</p>	<p>LEAs have strengthened their ICT capacities.</p> <p>Ministries of justice, HJPC, courts and prosecutors' offices make optimum use of available tools in the decision-making processes.</p> <p>Robust integrity framework of the BiH judiciary (consisted of integrity plans of individual institutions) is in place.</p> <p>Commitment of all relevant authorities in BiH to participate in promoting ADR and drafting a Strategy and general proposal of action plan for ADR</p>

DESCRIPTION OF ACTIVITIES

Result 1: Capacity of judiciary institutions in BiH (staff, procedures, equipment and facilities) for dealing with cases of organised crime, corruption, war crimes, commercial crimes and other type of cases are increased

1.1 Introduce Prosecutorial Investigation Management and Analytics Support (PIMAS) System for Organised Crime and Corruption Cases

- Design, develop and implement PIMAS system (using Big Data System infrastructure).

PIMAS will help the prosecutors to sift through roomfuls of documents and unstructured data in seeking of incriminating evidence, allowing them to effectively investigate the most complex cases (commercial crimes, organised crimes and corruption - OC&C). It will incorporate tools and techniques for investigation management and analysis of OC&C cases, including advanced analysis of structured and unstructured data.

- Develop Module for digitalisation and indexation of case evidence (to serve as input mechanism of hardcopy documents into PIMAS system);
- Introduce technical pre-requisites from the judiciary side for secure (data, voice and video) channels for exchange of sensitive documents among prosecutors and LEAs in the investigation phase;
- Provide in-house financial expertise to prosecutors' offices and design and develop the PIMAS system.

Prosecutors will be assisted and trained in investigative techniques, finding and securing evidence for the purposes of tracking sources, as well as transformation, transfers, mixing and exchanging of illegally acquired funds. To provide concrete inputs for further processing of OC&C cases, "track record" methodology based on analytical examinations will be introduced.

- Introduce the new telephony system for Court of BiH, PO and HJPC and integrate it in the existing video-conferencing system.

1.2 Further develop the Case Management System (CMS) and Human Resource Management Information System (HRMIS)

- Upgrade CMS (Case Management System)/TCMS (Prosecutors' Case Management System) to incorporate the new tools for courts and prosecutors' offices.

The new CMS /TCMS functionalities will provide for automatic attribution of cases, allow improved time management in administration of justice, better overview in processing war crimes, data exchange in running security clearances and keeping track of use of Free Legal Aid (FLA) countrywide.

- The case management system for courts and the case management system for prosecution services will be enhanced. The electronic case management system will provide for automatic attribution of cases to individual judges and/ or prosecutors within a given jurisdiction.
- Further develop HRMIS to improve objectivity, transparency and effectiveness of the appointment and appraisal procedures for judicial office holders.

1.3 Strengthen the technical capacities of the Court Police Agencies in Bosnia and Herzegovina

- Create functional specification of the Court Police Information Support System;

This software solution once developed will ensure effective daily collaboration of the courts and POs with the Court Police throughout the country and automation of the key operational and administrative processes within the Court Police Agencies.

- Introduce centralised access control and video surveillance system of selected courts and prosecutors' offices buildings.

This will improve overall security and will partly remediate staffing issue in court police agencies. Priorities and recommendations for minimal standard requirements related to conditions of safeguarding of judicial proceedings will be determined through an assessment, which will be implemented in cooperation with HJPC's Work Group Responsible for Security of Judicial Institutions and Judicial Office Holders in BiH.

1.4. Build capacities of courts for processing commercial cases with the focus on bankruptcy cases and liquidation cases

- Analyse processing of the most complex commercial cases

The Project will engage economic experts to analyse the processing of the most complex commercial cases with a special focus on bankruptcy and litigation cases, which is to result in identification of particular economic/financial issues faced by judges in dealing with these cases. Experts will identify issues caused by the lack of specific economic/financial expertise among the judges resulting in slow processing of bankruptcy and liquidation cases. As a direct contribution to the implementation of the Reform Agenda, the action will build upon the recommendations of the Feasibility Study "Improving Commercial Case Management in the Federation of Bosnia and Herzegovina" delivered by the World Bank in December 2016.

- Produce specialised training module and provide training for judges on effective processing of financial and economic cases.

Based on the analysis, identified most common problems and recognised shortcomings in judges' practice and knowledge, the experts will develop training curriculum and materials (module) for effective processing of the most complex commercial cases in courts. The curriculum will be developed in coordination with HJPC's Standing Committee for Courts Efficiency while the training of the trainers will be organised and performed by project experts in cooperation with the entity training centres (JPTCs). The trainers will conduct training for the judges working with commercial/bankruptcy cases in cooperation with JPTCs.

1.5. Continually process and monitor war crimes cases in courts and prosecutors' offices, and notably upgrade existing plans for solving war crime cases³

This activity represents the continuation of IPA 2012/2013 support to courts and prosecutors' offices for processing of war crime cases and it will contribute to transitional justice:

- 1.5.1 Provide support to continued processing of war crime cases (WCC) in courts and prosecutors' offices by ensuring the financial assistance for funding judges, prosecutors and other positions essential for war crimes processing;
- 1.5.2. Monitor solving of WCC and provide support to Supervisory Body for NWCS implementation to oversee the implementation of the NWCS;
- 1.5.3. Provide assistance to relevant courts and prosecutors' offices in drafting and updating WCC solving action documents (plans, reviews, etc);
- 1.5.4 Organise thematic workshops and trainings for judges, prosecutors, support staff who are working on war crime cases in courts and prosecutors' offices and defence attorneys addressing specific issues relevant for WCC processing⁴.

1.6. Establish efficiency standards for courts and improve organisational skills of judges

- Establish court's excellence benchmark consisted of the main set of criteria unequivocally measuring efficiency.

This will entail implementing the Global Measures of Performance Court (GMPC), the actionable and focused performance enhancing measures, consisting of a number of measures of which some are already implemented by the HJPC, such as the quota system and court user satisfaction. Additional measures will be introduced as a part of a standardized set of criteria for evaluation of courts countrywide and policy making. This will include CEPEJ criteria and best EU MS practice. Following courts' analysis against these criteria, courts which require target and additional support will be identified.

³As the third tranche of IPA 2012 budgetary support in amount of 1.4 million EUR was not released to BiH due to the delayed fulfilment of conditions and suspension of budgetary support, these funds are dedicated to the same purpose under IPA 2017 programme.

⁴Sub-activities 1.5.3 and 1.5.4 will be implemented in coordination and under both foreseen grants. Grant to MoFT will cover for assistance to beneficiary institutions under this grant, while the other grant will provide expert support to all relevant courts. Same pattern will be followed in organisation of workshops.

1.7. Increase the legal certainty / level of harmonisation of case law and improve the quality of courts and court decisions

- Strengthen case law databases in all jurisdictions in BiH with the aim to finally have a full functioning data base with an effective research tool in place, which includes most of the well-reasoned judicial decisions.
- Establish and strengthen Case Law Departments (CLDs) at the highest instance courts.

Although most courts would benefit from establishing these departments, CLDs at the highest court instances in BiH are essential for overall quality of judiciary. CLDs will be formed by engagement of experienced legal advisors to both entity supreme courts, the Appellate court of Brčko District, Court of BiH and the HJPC's Judicial Documentation Centre (JDC). While aiming at enhancing legal certainty and quality of justice, the role of the CLDs must not prejudice the independence of individual judges, even in case of decisions contradicting well-established case law in a well-reasoned judgment.⁵

- Analyse trickledown effect of court practice harmonisation on all court instances in BiH.

Three vertically linked courts in both F BiH and RS will be targeted to investigate the effects of court practice harmonisation by monitoring individual judges' work performance (by relevant department heads) and its contribution to improving the quality of courts. This process will be conducted by fully safeguarding the independence of individual judges. Information collected in the process will be used as inputs for capacity building of judges, contributing to formulating needs-based training curricula for judicial office holders.

1.8. Strengthen planning capacity of courts to formulate individual strategy documents at court level

- Transfer HJPC's knowledge and experience in drafting strategic documents to courts.

Courts will assume an active role in the strategic planning process, taking their part of the responsibility for meeting the strategic objectives. This activity will entail workshops with court presidents, vice-presidents and court secretaries and drafting guidelines for drafting strategy documents, their monitoring and evaluation.

- Prepare courts for drafting of individual strategy documents.

1.9 Modernisation and reconstruction of buildings of judicial institutions

- Reconstruction/construction activities on selected sites;
- Supervision of works.

Based on the indicators from the needs assessment prepared by the HJPC for judicial institutions in BiH in 2016, it is proposed to invest in infrastructure projects including a number of priority judicial institutions⁶. The required works will enable the expansion of the existing capacities, improved functional organisation, improved general conditions of work for both employees and the citizens of BiH who use their services. Furthermore, the required works will improve the energy efficiency of the buildings, security of the institutions, and ensure adequate access for people with disabilities.

According to the needs assessment the proposed priority in the RS is a construction of the new building of the District Prosecutor's Office in Bijeljina and reconstruction and upgrade of four judicial institutions (Basic Courts in Derventa, Prnjavor, Mrkonjić Grad and Zvornik). The estimated cost of investment in infrastructure projects in the RS, including estimated cost of supervision, is 2.2 million Euros. The proposed priority in the F BiH exceeds the available funds from IPA 2017 programme. Therefore, F BiH proposed an alternative solution - to prioritise several institutions for this activity⁷. It is proposed the reconstruction and upgrade of three judicial institutions, namely Municipal Courts in Živinice, in Žepče and in Cazin, or alternatively upgrade and partial reconstruction of one institution.

⁵Conclusions of the Council of Europe's international and national forum for harmonization of case law (June 2016), as well as the conference of court presidents (May 2015)

⁶ A table of priority judicial institutions is represented in the annex of these document.

⁷ During the project programming for IPA 2012 and 2013 reserve locations were selected in the same way, taking into account the number of preconditions required at a certain location for successful implementation of infrastructure projects' activities

The estimated cost of investment in infrastructure projects in FBiH, including estimated costs of supervision, is 1.3 million Euros.

For all the proposed institutions it will be necessary to develop project documentation (HJPC will advocate to ensure funding for this purpose from donor funds). Following that, it will be possible to start the process of obtaining necessary permits. For all the potential locations, except for the proposed new building⁸, the situation in terms of ownership rights on land and buildings has been clarified.

Tables showing the mentioned priority judicial institutions in the entities, identified by the said HJPC's needs analysis are available. These tables contain data on the institutions: name, number of judicial office holders, the number of resolved and pending cases, ownership status, rough cost estimates, assessment of the overall condition of the buildings, the indication of need to expand the capacity and the need for reconstruction.

Result 2: Technical capacity of the Office of Disciplinary Council and communication between judiciary institutions and public/ media are strengthened

2.1 Modernise Disciplinary Case Management System (DCMS) (and provide adequate support to disciplinary processing)

- Develop the new version of the Disciplinary Case Management System (DCMS).

Development of the new DCMS will be based on recommendations of the IPA 2015 action implemented by the EU MS and the design of the technical solution for improving electronic processing of cases at the ODC. DCMS will be based on the second generation of CMS/TCMS developed through IPA 2012 and IPA 2013 Actions and it will be developed to address the needs of the ODC. The new DCMS will grant ODC with adequate support in disciplinary processing and enable communication with other relevant systems (HRMIS and System for processing and monitoring judicial office holders' financial reports).

2.2 Develop the functional specification for new judicial web portal featuring new services including on-line denunciation of corruption

- Develop functional specification of the new version of judicial web portal and judicial and prosecutorial web sites.

The new web portal once developed and implemented will feature improved design, relevant security, content and integration standards. New judicial web sites will allow reaching out to the citizens who prefer social media over classic web browsing. CSO will be asked for advice as regards citizen's needs when designing the web portal and social media tools.

- Develop functional specification of the new on-line services (including corruption denunciation).

Functional specification for e-Judiciary services including submission of electronic requests for issuance of criminal or minor offence certificates and on-line Corruption Denunciation System for the judiciary will be developed, aiming to improve HJPC's capacity to monitor and prevent corruption in the judiciary.

2.3. Improve relationships of judiciary with media to ensure better service for court users

- Provide specialized trainings on public relations to courts and promote the role of spokespersons in courts.

Courts' capacity for adapting their information for simple use and comprehension by citizens will also be addressed to strengthen courts to effectively promote their activities, present basic information on citizens' rights, administrative procedures, prices of services, simplified regulations and easy-to-follow procedures. Also, HJPC's knowledge in public relations and outreach⁹ will be transferred to courts.

- Foster dialogue between judiciary and media and develop guidelines for reporting on judicial proceedings.

⁸ It will be necessary to work with the Municipal Authorities to identify the appropriate location for the construction of the new building.

⁹ HJPC's capacity will be increased via the IJEP II project before the start of the IPA 2017 Action Document.

Media organisations and civil society will be consulted when developing the court media guidelines.

Result 3: Implementation of ADR methods in the judiciary is enhanced

3.1 Develop a draft ADR Strategy

The HJPC BiH will initiate the development of a draft ADR Strategy to be worked on by an interagency working group consisting of representatives of various stakeholders and with the assistance of EU experts. The HJPC will also support the drafting of general proposal of action plan for ADR, which should be adopted on the various levels of government. When drafting the strategic documents, we should consult with EU members states that have experience with well-developed ADR mechanisms and therefore, two study trips would be organised within the scope of the project – to two EU member states as identified, where one system uses in-court mediation and the other uses court annexed mediation, and both with well-developed arbitration systems.

3.2 Continued promotion of court settlement as a peaceful and efficient case resolution method of the courts

Within the framework of the Project and with the assistance of a professional agency, a detailed plan would be developed and a far-reaching information campaign would be carried out promoting court settlement as a peaceful and efficient case resolution method of the courts, which would look to familiarise citizens with all of the advantages of the concept. Court settlement would be a topic of a number of professional events (conferences and roundtables) organised for judges and other stakeholders of the professional community (attorneys, government attorneys' offices, business entities with large numbers of cases in the courts, etc.). The objective is also to contribute to the development of case law in applying court settlements through the drafting of relevant publications that deal with actual cases as well as professional papers.

3.3 Establishing dialogue between the judiciary and business entities in order to increase the application of ADR methods

The HJPC BiH will organise a number of professional events with the representatives of the judiciary, business entities and organisations, including attorneys, that provide ADR services (mediation and arbitration), so that ADR methods are utilised as much as possible in processing commercial disputes. The promotion of services offered by the Association of BiH Mediators and the arbitration courts set up within the arbitration chambers will be a focus of the project and its activities, as will strengthening the capacities of these organisations.

Result 4: Improved facilities for execution of criminal sanctions

4.1. Construction of new capacity for the execution of criminal sanctions

- Construction, renovation and/or reparation of execution of criminal sanctions facilities for prioritised locations in line with EU standards pertaining to prison/detention units and security;
- Supervision of works.

There is a strong need in FBiH to improve the prison conditions. In fact, new prison and temporary detention units need to be built, including the extension of the existing capacities. Due to general conditions of the current Penal and Correctional Facility Miljacka in Sarajevo, the poor conditions for accommodation of pre-trial detainees and prisoners, and the limited possibilities to modernise the existing space, the recommendation is to relocate the prison from its current building to the building owned by the Federation Ministry of Justice in Blažuj near Sarajevo.

Given that the existing facility in Blažuj does not have capacity to accommodate 90 detainees/prisoners from Penal and Correctional Facility Miljacka in Sarajevo, it would be necessary to upgrade the premise in Blažuj by constructing an annex building, in order to provide accommodation for additional 90 detainees/prisoners in line with the EU standards. This action would allow for the relocation of the Miljacka Prison from the building it now shares with judicial institutions, which would consequently allow for expanding the capacities of judicial institutions sharing the same building in Sarajevo, primarily the Sarajevo Cantonal Court.

This activity would require the funds in the amount of 1.5 million EUR, including the funds for supervision. All the necessary property-related and legal prerequisites have been met. Conceptual design of the building has already been prepared. The Federation Justice Ministry will ensure Project Documentation, and all necessary permits before the start of the activity.

RISKS

The main assumption for the successful implementation of this action is that the relevant stakeholders in BiH will maintain their commitment to take a coordinated and harmonised approach to implementing reforms in the justice sector and that BiH as a whole will be able to meet the conditions for the EU accession process. The extensive policy dialogue between the EU and BiH in the rule of law sector, such as the SAA Sub-Committee Justice, Freedom and Security and the Structured Dialogue on Justice, will contribute to mitigate the possible associated risks.

In relation to the activities 1.1, 1.4 and 1.7, the following mitigation measure will be taken to avoid the risk related to the availability of relevant financial and legal experts: the selection process will entail tests of required professional skills and focus on securing engagement of the most experienced experts with a fresh perspective in order to guarantee the sustainability of results, whereas specialised training and clear instructions related to task at hand would be provided to selected candidates following the selection process.

In relation to the infrastructure and equipment activities, the EU Delegation will closely liaise with the beneficiary institutions to ensure that the pre-conditions are met (see also the below section "Conditions for implementation").

CONDITIONS FOR IMPLEMENTATION

For all infrastructure activities under this action, any property and legal activities shall be completed by the beneficiary institutions before the start of the tendering procedures. For all equipment activities under this action, the beneficiary institutions shall be responsible for ensuring maintenance and upgrades, as well as training of their staff on the new equipment, with their own financial means.

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

The HJPC is the key institution administering the judiciary throughout the country. It enjoys institutional independence and out of its 15 members, 11 are appointed among fellow judges and prosecutors. While being an autonomous body, the ODC is functionally dependent on the HJPC. The two-instance disciplinary procedure guaranteed by the law is also subject to final scrutiny by the HJPC, which has the right to revoke the disciplinary penalty imposed at second instance. As a consequence of the reform process, the role of prosecutors widened especially as far as the investigations are concerned, while court procedures are based on party equality in proceedings. The very role of a prosecutor in criminal procedure has become twofold, since he acts as a state authority tasked with the discovery and prosecution of criminal offenders which includes exclusive authority for ordering and conducting investigations, as well as issuing and representing indictments, while at the same time he is also a party to the proceedings.

Ministries of Justice (MoJ) at state, entities (2) and in the FBiH Cantons (10), the HJPC and the Brčko District Judicial Commission (BDJC) are key justice sector institutions from the executive point of view.

The HJPC is responsible for undertaking the actions in respect of results 1, 2 and 3 while ministries of justice would be responsible for Result 4 as well as for the activity 1.9 under Result 1.

These institutions share a common vision and objectives set in the Justice Sector Reform Strategy (2014-2018) for which each institution alone is responsible for implementation in accordance with its constitutional competence. In accordance with strategic framework set and current constitutional arrangement, the MoJ BiH is a key coordinating institution for the facilitation of the process of drafting, adopting, monitoring and evaluating of the sector strategy and its corresponding action plan. Each institution alone is responsible for development and implementation of its strategic and annual plan, midterm budgetary framework and annual budget.

IMPLEMENTATION METHOD(S) AND TYPE(S) OF FINANCING

The implementation of the action will be carried out by the EU Delegation to BiH in direct management through 2 service contracts, 1 supply contract, 2 works contracts, and 2 direct grants.

The expected contracting arrangements through these Action Document actions will be as follows:

Results 1-2

Direct Grant to HJPC: Activities 1.1-1.4, 1.5 (partially¹⁰), 1.6 - 1.8, 2.1 - 2.3

Direct Grant to Ministry of Finance and Treasury BiH: Activity 1.5

Supply Contract: Activities 1.1 – 1.3, 2.1, 2.2

Works contract, Service (supervision) contract: Activity 1.9.

A direct grant agreement will be signed between the EU and the HJPC for implementation of Results 1 and 2. Supply Contract for purchase of ICT equipment for data centres and the judiciary (multi-lot tender) will be awarded by the EUD. On behalf of the beneficiaries, the HJPC will prepare technical specification for procurement. To complement the IPA financing, the HJPC will seek BiH State co-financing for implementation of activities encompassed by the grant to the HJPC and the supply contract for purchase of ICT equipment for data centres and the judiciary.

Activity 1.9 with corresponding sub-operations will be implemented through works contract(s) and service (supervision) contract, both awarded following tender(s) published by the EUD. In the preparatory and implementation process, the HJPC will provide the support to the contracting authority (EUD).

Main partners in implementing the envisioned operations to achieve Results 1 and 2 are courts and prosecutors' offices in BiH, Court Police Agencies, LEAs throughout BiH, relevant ministries of justice, Agency for Prevention of Corruption and Coordination of Fight against Corruption (APIK), media outlets, implementing agencies for IPA 2015 actions in justice and home affairs sectors.

For implementation of Activity 1.5 (support to processing of war crime cases) a direct grant will be awarded to the Ministry of Finance and Treasury BiH. The Ministry will distribute funds to final beneficiaries – courts, prosecutors' offices and other beneficiaries to enhance war crime cases processing in BiH judiciary.

Result 3

Direct Grant to the HJPC: Activities 3.1-3.3.

In respect of its competencies, the HJPC would have an implementing and coordinating role among all partners/stakeholders in measures to achieve Result 3.

Result 4

Works contract, service (supervision) contract: Activity 4.1

4. PERFORMANCE MEASUREMENT

METHODOLOGY FOR MONITORING (AND EVALUATION)

The European Commission may carry out a mid-term, a final or an ex-post evaluation for this action or its components via independent consultants, through a joint mission or via an implementing partner. In case a mid-term or final evaluation is not foreseen, the European Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner. The evaluations will be carried out as prescribed by the DG NEAR guidelines on linking planning/programming, monitoring and evaluation¹¹. In addition, the action might be subject to external monitoring in line with the European Commission rules and procedures set in the Financing Agreement.

¹⁰ Sub-activities 1.5.3 and 1.5.4 will be co-implemented by projects funded by grants to HJPC and MoFT.

¹¹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/phare/evaluation/2016/20160831-dg-near-guidelines-on-linking-planning-programming-vol-1-v0.4.pdf

A Sector Steering Committee will be established to monitor implementation of the action document and will be composed of the main beneficiaries and relevant reform institutions: Ministries of Justice in BiH, Judicial Commission of Brčko District, HJPC, PARCO BiH, DEI, the European Union and its experts.

To ensure adequate monitoring and evaluation of the implementation of the action 1 (to achieve Results 1 and 2), two mid-term and one final assessment of the action results will be carried out. Each of the mid-term analyses will be carried out following the first and the second year of action's implementation, appraised against mid-term goals (milestones) which are to be determined during the design of the action. The final assessment will be based upon the targets defined for year 2020 in the Indicator Measurement section below. Results of these appraisals will be presented to the Programme Manager at the EU Delegation and to the Sector Steering Committee upon the approval of the EU Delegation.

INDICATOR MEASUREMENT

Indicator	Baseline (2015) (2)	Target 2020 (3)	Final Target (2021) (4)	Source of information
Indicators for the Overall objective				
Progress made towards meeting accession criteria assessed by the Commission (Judicial System)	Some level of preparation (2016)	Moderately prepared	Moderately prepared	EC reports on BiH
Composite indicator (combines the average of Access to Justice (World Justice Project) and Judicial Independence (World Economic Forum): average of Access to Justice and Judicial independence	46,7	49,1	49,8	World Justice Project for Access to Justice and World Economic Forum for Judicial Independence
Indicators for Specific Objective				
1. Clearance rate (CR) of bankruptcy*, liquidation** and war crimes*** cases	94%,* 111%** , 89%***	112%* 112%** , 109%***	114%* , 114%** , 111%***	Courts Annual Reports HJPC Annual Reports Judicial Business Intelligence System Implementation reports
2. Percentage of interviewed court users are satisfied with court services	Not available	4 %	5%	Interview report (HJPC survey)
Results indicators				
1.1 Number of harmonised legal stances among all jurisdictions in BiH	9 (cumulative: 2014-2016)	27 (cumulative)	32 (cumulative)	Legal chronicle (AIRE Centre and HJPC BiH) HJPC Annual report
1.2 Number of confirmed indictments in cases of organised crime (KTO)*, corruption (KTK)** and economic crime***	641 disaggregated (18*, 204**, 419***) ¹²	705 (20*, 224**, 460***)	737 (21*, 235**, 481***)	POs' and HJPC Annual reports Judicial Business Intelligence System Implementation reports
2.1 Percentage of ODC cases older than one year ¹³	27,5%	20%	20%	HJPC Annual reports ODC Annual reports Action Implementation reports
2.2 Number of PR/articles/info issued by HJPC and published by HJPC and Media,	10 PR and 15 articles and info related to	12 PR and 25 articles and info issued and published and	15 PR and 30 articles and info issued and published and	HJPC Annual reports Courts' Annual Reports

¹² Baseline data was extracted from the Business Intelligence System in 2015. For providing a clear picture, the structure of cases was disaggregated, although the overall number should be followed up for the purpose of M&E of the action.

¹³ Submitted complaints have to be resolved within 2 years of the submission date.

no. of tracked press online clippings related to project activities as well number of entrances to all web sites encompassed by Pravosudje.ba domain (courts, prosecutors' offices and HJPC included)	project activity issued and published and 1.381.125 entrances ¹⁴	1.657.350 entrances	1.700.000 entrances	Action Implementation reports Google Analytics
3.1 Strategy and general proposal of action plan for ADR drafted	No ADR strategy or action plan (s)	ADR Strategy drafted	General proposal of Action plan(s) drafted and submitted to relevant authorities for their action	BiH Country reports HJPC Annual reports Courts' Annual Reports Implementation reports Annual reports of BiH Association of Mediators
3.2 Number of court settlements	5,568	30% increase	35% increase	Annual reports of BiH Association of Mediators
4.1 Number of buildings for the executions of criminal sanctions (re)constructed	0 (2016)	1	1	(Re)construction implementation supervision reports

(1) This is the related indicator as included in the Indicative Strategy Paper (for reference only)

(2) The agreed baseline year is 2010 (to be inserted in brackets in the top row). If for the chosen indicator, there are no available data for 2010, it is advisable to refer to the following years – 2011, 2012. The year of reference may not be the same either for all indicators selected due to a lack of data availability; in this case, the year should then be inserted in each cell in brackets. The baseline value may be "0" (i.e. no reference values are available as the action represents a novelty for the beneficiary) but cannot be left empty or include references such as "N/A" or "will be determined later".

(3) The target year CANNOT be modified.

(4) This will be a useful reference to continue measuring the outcome of IPA II support beyond the 2014-2020 multi-annual financial period. If the action is completed before 2020 (year for the performance reward), this value and that in the 2020 target column must be the same.

¹⁴ Baseline for no of PR, articles and info was extracted from IPA 2013 project activities

5. SECTOR APPROACH ASSESSMENT

The Justice sub-sector policies are supported by the strategic framework in line with the EU accession requirements. In general, the process of developing sub-sector policies tends to involve a number of different sub-sector actors (including CSOs - Civil Society Organisations). Overall, policy objectives are in line with the accession agenda and are supported by the majority of stakeholders involved in the drafting process including: ministries of justice at the State, entity and cantonal levels, HJPC BiH, JCBD, associations of judges and prosecutors; bar, notary and mediators' associations and other.

Following the expiry of the Justice Sector Reform Strategy (JSRS) 2008-2012¹⁵, the new JSRS 2014-2018 was prepared by the MoJ BiH in consultation with the main stakeholders during 2013 and 2014. After a prolonged standstill, the JSRS was adopted by the BiH Council of Ministers (CoM) in September 2015. Although the adopted JSRS shall encompass an Action plan, BiH CoM tasked the BiH MoJ to prepare a harmonised Action plan together with the entity MoJs and to submit it to CoM for adoption within a 90 days deadline¹⁶. BiH MoJ submitted the harmonised version of the Action plan to BiH CoM in December 2015¹⁷ and after conducting process of obtaining opinions on the Conclusion of the BiH CoM, it has been sent for adoption in December to the BiH CoM.¹⁸ As the first Ministerial Conference for implementation of the JSRS (March 2016) did not result in the adoption of the Rules of Procedures, the structures needed to coordinate and monitor the implementation of the JSRS are yet to be established. However, as all institutions within the justice sector are requested to incorporate relevant JSRS strategic programmes into their own strategic documents, the implementation of the JSRS priorities has already commenced. The drivers for judicial reform in the new JSRS are: fight against corruption, access to justice for citizens and their equality before the law, ensuring budgetary responsibility, support to economic growth and incentive for EU integration.

The National Strategy for Processing War Crimes, adopted in December 2008, aims at finding a systematic approach to the problem of dealing with a large number of unresolved war crime cases. The strategy focuses primarily on the judicial aspects of solving war crime cases. Although the 7-year NWCS deadline for processing the most complex war crime cases expired, the Supervisory Body for implementation of the NWCS emphasized processing of war crime cases in BiH as a priority underpinning it by a set of recommendations for making the processing of the most complex cases more effective¹⁹. It has also entered extensive consultations about the need to amend the NWCS and planning for respecting the deadline of the less complex cases by 2023.

The BiH Anti-Corruption Strategy (2015–2019) and its action plan embody the continuity of fighting the corruption since 2009 and include measures of prevention, detection, processing, coordination, repression, improving legal framework and institutional capacity, training and raising the public support.

The objectives of the Strategic Plan of the HJPC BiH 2014-2018 are mostly directed towards strengthening the position of the judiciary, improving its effectiveness, integrity and access to information, and are in line with the JSRS priorities.

The institutional setting is complex and multi-layered due to the decentralisation characterising BiH, but all levels of jurisdiction (State, entities, Brčko district and cantons) rely on a certain institutional coherence. Institutions coordinating the sub-sector reforms are well-recognised and there are suitable institutional arrangements, allowing a satisfactory degree of communication and cooperation within the sector. While both key sector institutions (HJPC and MoJ BiH) in the justice sub-sector have the capacities to undertake the reform process, the comprehensive functional sub-sector analysis is still to be undertaken in order to identify and adequately address the most pressing needs of the sub-sector institutions. However, the quality of sector coordination should benefit from the re-establishment of Functional Working Groups within the JSRS implementation framework²⁰. Donor coordination in the

¹⁵ Action plan covered the period 2009-2013.

¹⁶ <http://www.mpr.gov.ba/aktuelnosti/vijesti/default.aspx?id=4679&langTag=bs-BA>

¹⁷ Minutes from the First Justice Ministerial Conference held March 8, 2016 (item 4)

¹⁸ BiH CoM adopted the Action plan in March 2017.

¹⁹ Report of the Supervisory Body for implementation of NWCS for the period January 2009 – January 2015, Recommendations regarding implementation of the Strategic objective I (Prosecute the most complex and top priority war crimes cases within 7 years and other war crimes cases within 15 years from the adoption of the Strategy)

²⁰ Re-establishment of the FWGs for implementation of the JSRS will follow the adoption of the JSRS AP and Ministerial Conference Rules of Proceedings.

justice sector in BiH is particularly strong, and has been further enhanced by the Structured Dialogue on Justice. Cooperation with the CSOs is maintained.

The sub-sector budgets are easily traceable in the State and Entities' budgets. Three-year mid-term planning was introduced by the state-level institutions, which is as of 2016, linked with the budget planning process, allocating the necessary funds to the strategic objectives and underlying programmes and projects.

6. CROSS-CUTTING ISSUES

GENDER MAINSTREAMING

In BiH, persisting inequalities between women and men, gender bias, and stereotypes result in unequal access of women and men to justice. Although gender equality represents one of the most complex issues in any society, requiring long run strategies and commitments, BiH is making steps forward by applying the logic of mainstreaming²¹ in the consistent and comprehensive way, involving growing number of stakeholders and institutions, while at the same time increasing public awareness on the issues. The Law on Gender Equality and the Law on the Prohibition of Discrimination represent the core of legal framework for gender mainstreaming, by which all justice sector institutions abide in the process of planning and implementation of reform activities.

In the post-war BiH society, gender issue is often a ground for discrimination and marginalisation of women in the public sphere. Deteriorated position of women in BiH results in a number of gender-based vulnerabilities ranging from a low employment rate (35%) to the extreme situation of women victims of war crimes. On the other hand, the situation in the BiH judiciary is more positive, with women representing 60% of all judicial office holders in BiH, although their representation at managerial positions in judiciary is notably lower (41%).

In the post-war context, the judiciary faces the challenge to provide safe environment for victims of war crimes (most often women) throughout their participation in court proceedings, in particular in providing testimonies. Application of ICT systems in the judicial video-conferencing system allowed overcoming of numerous constraints guaranteeing safe environment to witnesses during trials. The action will build upon the existing benefits and functionalities of the judicial video-conferencing system to provide adequate conditions for the provision of testimonies by women victims, avoiding secondary victimisation effects and breaches of privacy which might result in further traumas and disincentives to access the justice system. In addition to this, continued support to processing war crime cases should encompass provision of support services to war crimes victims and witnesses.

Overall, in implementation of this action, gender mainstreaming will be focused on enacting non-discriminatory legal frameworks and encouraging women's participation in establishing an effective, accountable and impartial judiciary.

EQUAL OPPORTUNITIES

The justice sector institutions strictly apply the principle of non-discrimination stipulated in Article 6 of the Labour Law for Institutions of BiH which forbids discrimination against on the basis of race, colour, sex, language, religion, political or other opinion, ethnic or social background, sexual orientation, financial situation, birth or any other circumstance. The same principle is integrated and will be maintained throughout the proposed action. In line with this, the accessibility options for persons with physical disabilities are integrated in reconstruction projects for the judicial institutions targeted by the action.

Improving the use of ADR methods will contribute to realising the right to a fair trial within a reasonable period of time as stipulated with Art. 6 of the European Convention on Human Rights and Fundamental Freedoms. The effects from the greater use of arbitration and mediation, in particular for commercial disputes, will undoubtedly reflect on case inflows in the courts while court settlement allows for quick, economical court procedures that do not lead to protracted appellate procedures and that are focused on

²¹ Institution-wise, the Gender Equality Agency of BiH and the entity Gender Centres are the main drivers of the initiatives as well as key implementers of gender mainstreaming activities in BiH.

the mutual satisfaction of both parties in the outcome of the dispute. In addition to this, a large number of people in BiH are ‘trapped’ by their nearly-bankrupt employers and quickly find themselves on the brink of poverty (unpaid salaries, health insurance, retirement dues etc.). Courts throughout the country are swamped by a large number of bankruptcy and liquidation cases due to lack of capacity and expertise necessary for their effective processing. Accelerated processing of bankruptcy cases will allow for large amounts of ‘frozen’ funds to be disbursed to former companies’ employees allowing them to regulate their work/retirement/health protection statuses.

MINORITIES AND VULNERABLE GROUPS

When it comes to fundamental rights in BiH, effective implementation of anti-discrimination policy was defined as a priority area in IPA II under the rule of law and fundamental rights sector. Nevertheless, this action includes a number of activities which should improve the position of vulnerable groups including adjustment of judicial buildings’ physical features by applying inclusive design approach, in parallel with expanding the use of information-communication technologies to better services to vulnerable witnesses.

The principles upon which the BiH judiciary functions focus on guaranteeing equal access to all citizens, including members of the vulnerable groups. This action will include capacity building of the BiH judiciary in the areas where the most prominent needs are identified, including processing of commercial cases by courts, where a large number of claimants (e.g. employees of bankrupting companies) are affected by the length of the court proceedings. Activities encompassed by the action, as well as all ongoing and planned capacity building activities in the judiciary aim for guaranteeing the equal access to justice for all.

Participation in the activities of the action will be guaranteed on the basis of equal access regardless of racial or ethnic origin, religion or belief, disability, sex or sexual orientation.

ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER NON-STATE STAKEHOLDERS)

The 2007 Memorandum of Understanding between the Government of BiH and the CSOs set out the objectives, principles and forms of the cooperation with civil society. Furthermore, involvement of the CSOs in the activities of the BiH justice sector was embodied through the Memorandum on establishment of mechanisms for monitoring and evaluating of the JSRS 2008-2012 implementation signed by the Ministry of Justice of BiH in 2010, which established the responsibility of five civil society organisations to regularly monitor and evaluate the reform measures and activities encompassed in the JSRS Action plan. The monitoring mechanism for implementation of the JSRS 2014-2018 is yet to be established.

In implementing their activities, the justice sector institutions seek opportunities to collaborate with the CSOs and to ensure the transparency of the entire sector. In particular, these partnerships are formed through implementation of projects between the justice sector institutions, international organisations and CSOs. As IPA 2017 justice sector programming was conducted among the major sector institutions in a relatively short timeframe, the options for involving CSOs in the programming process were limited. However, CSO’s inputs obtained via the explained cooperation were used in formulation of the activities encompassed by the action. CSOs engaged with reforms in the justice sector have gathered up in the form of a network called “Mreža pravde” (Justice Network). This is an informal network supported by USAID that is active in the area of the rule of law and human rights protection in order to support the efficiency, independence and accountability of the judicial system of Bosnia and Herzegovina and through partnership, dialogue and cooperation operates on informing, educating and advocating towards female and male citizens in the justice sector.

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

The BiH Judicial Information System (JIS) is developed with the aim to: enhance the managerial capacity in the judiciary, improve its accountability, professionalism and transparency, while also aiming to assure services for the provision of ‘Justice for Growth’ and ‘Justice for Citizens’.

The vision of JIS is to allow parties in proceedings and to submit documents to the judiciary electronically, to enable electronic delivery of court documents to parties in proceedings, to enable

exchange of digital documents with relevant stakeholders from different levels of authority (State, entity, cantonal, etc.) and eventually, to replace paper documents by electronic ones. Development of transformation of JIS to e-Judiciary will alleviate a significant burden on natural resources which is traditionally posed by any conventional justice system in the world. In terms of minimising adverse environmental impact, JIS is continually optimised to reduce energy and resource consumption.

Additionally, reconstruction of judicial buildings will include installation of thermal insulation facades and roofs, as well as energy-efficient doors and windows, while opting for renewable energy sources in heating systems (wood pellet boilers, solar heating systems and heat pumps). This will have a positive effect on reduction of CO₂ emissions, while directly impacting reduction of environmental pollution and reducing maintenance and heating costs.

7. SUSTAINABILITY

The financial sustainability of the IT-related component of the action will further be supported by the national funding. Since 2008, several State-funded projects supporting informatisation of the BiH judiciary worth over 5 MEUR were implemented. Core maintenance of JIS is also supported by the State-budget on an annual basis, while maintenance of ICT equipment owned by judicial institutions pertains to their scope of responsibility. Greater assurances for ICT investments are required from cantonal and entity budgets for the maintenance of such equipment in the future. In the meantime, assurance of JIS maintenance services and State-budget capital investments helps courts and prosecutors' offices in maintaining their independence, notwithstanding varying and inconsistent financing for the ICT from the local budgets. Moreover, HJPC's ICT Department and judicial institutions' ICT officers form a robust human infrastructure enabling effective JIS maintenance.

In the longer term perspective, increased judicial effectiveness and accountability, decreased backlogs and improved quality of services for citizens should significantly contribute to the increase of judicial institutions' funding by the relevant authorities.

Development of strategic planning documents will be carried out in full respect of all procedures applied in the country, especially those related to (fiscal/ regulatory) impact assessments, public consultations, inter-ministerial coordination. The action shall start by providing support to the beneficiaries with 'options analysis', regulatory impact assessments, concept papers, etc. prior to supporting them with drafting of legislation/amendments/policy documents. All relevant stakeholders shall be enabled to participate in the process.

Capacity building activities encompassed by the action will become sustainable as products of the action, whereas dissemination of knowledge and skills will be featured in all components of the action. To achieve long term sustainability after the action's ending, the HJPC will advocate for securing sufficient funding from national budgets for permanent placement of expert staff to courts and prosecutors' offices where they are most needed and best used. The domestic financing of the salaries of judges and prosecutors working on war crimes cases with IPA funding should also be ensured after the end of the action.

Building capacities of the beneficiary courts, prosecutors' offices, ministries of justice and other organisations will guarantee the sustainability of the action and the achieved results beyond the end of action's implementation. It is expected that improved public perception, increased number of resolved cases, efficient and high quality services to the public will significantly contribute to the increase in judicial institutions' funding provided by the local authorities. Therefore, communication activities encompassed by the action will also contribute to achieving long lasting partnerships among the stakeholders and sustainability of the action's results.

Once the infrastructural projects are implemented, relevant ministries are expected to provide funds for regular annual maintenance of the infrastructure of judicial buildings. Energy saving features of the judicial buildings should free additional funds for these purposes.

Any ICT development should respect the existing standards or needs for interoperability of IT systems. The necessary technical specifications shall be consulted with the relevant authorities and ensured before the launch of the tender.

Finally, trainings that involve a large number of representatives of different public administration institutions should preferably be organised in close cooperation with the relevant training institutions for the public administration.

8. COMMUNICATION AND VISIBILITY

Communication and visibility will be given high importance during the implementation of the action. The implementation of the communication activities shall be funded from the amounts allocated to the action, particular attention will be given to effective dissemination of action-related information, best practices, and exchange of information in order to increase the impact of its results. Appropriate messages and communication tools adapted to the targeted audience, i.e. courts and prosecutor's offices, judicial office holders, the general public, court users, media representatives, etc. will be developed.

More specifically, promotion of effects of infrastructure works will include announcement or kick-off visibility events, high-visibility works-completion events with official opening of reconstructed/renovated premises, press releases and stories published on beneficiaries' web sites. All physical interventions will be marked by placing appropriate plaques on buildings/inside institutions' premises.

For contracts including a number of coordinated activities (Results 1, 2, 3) visibility plan encompasses a high-visibility kick-off and final conferences, thematic round tables, training events, visibility events presenting interim results of the action (e.g. information systems), periodic press releases, stories published on beneficiaries' web sites and producing of training and promotion materials in line with EU visibility guides for external actions. All equipment procured will be appropriately branded in accordance with EU External Actions Visibility Guidelines. All necessary measures will be taken to publicise the fact that the action has received funding from the EU in line with the Communication and Visibility Manual for EU External actions. Additional Visibility Guidelines developed by the European Commission (DG NEAR) will be followed. Contractors, beneficiaries and implementing partners will display the EU flag and acknowledge the support received under the relevant EU programmes in all communication and promotional materials. Action results, which prove to be of the greatest interest for the public, as determined during the action implementation phase, will be made publicly visible.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process, as well as to demonstrate the benefits of the action for the general public. Actions shall be aimed at strengthening general public awareness and support of interventions financed and the objectives pursued. The actions shall aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions and will promote transparency and accountability on the use of funds.

Increased public confidence in the judicial institutions will be achieved through a graduate reduction in the backlog and provision of cutting-edge and reliable services to citizens. Access to information about ongoing activities as well as about the results achieved to general public will be made an important aspect of enhancing the image of the judiciary.

Along with an increasing number of internet users in BiH, the need for new services and more comprehensive information available on-line is becoming a prerequisite for further developing and keeping up a modern judiciary fit for the country aspiring to become an EU member. As far as the electronic/virtual communication is concerned, activities will be directed towards improving the form of materials, texts and the design of the websites of judicial institutions towards enhanced interaction with the citizens, civil society organisations etc.

Communication and visibility activities carried out throughout the implementation of the action will be documented and adequately described in the action reports.