

IPA National Programme 2011 – Bosnia and Herzegovina

1. Identification

Project Title	Support to the Justice Sector Reform
CRIS Decision number	
Project no.	3
MIPD Sector Code	2. Justice and Home Affairs
ELARG Statistical code	01.23 Political criteria / Judiciary and Fundamental rights
DAC Sector code	15130 Legal and judicial development
Total cost (VAT excluded) ¹	EUR 5 600 000
EU contribution	EUR 5 200 000
Management mode	Component I: centralised Component II: Council of Europe through joint management with the European Commission
EU Delegation in charge	Delegation of the European Union to Bosnia and Herzegovina
Implementation management	Delegation of the European Union to Bosnia and Herzegovina
Implementing modality	Stand alone project
Project implementation type	C01
Zone benefiting from the action(s)	Bosnia and Herzegovina

2. Overall Objective and Project Purpose

2.1 Overall Objective

To ensure that Bosnia and Herzegovina's Justice System is in line with European standards.

2.2 Project purpose

¹ The total project cost should be net of VAT and/or of other taxes. Should this not be the case, clearly indicate the amount of VAT and the reasons why it is considered eligible.

To upgrade the ICT systems in the Judiciary as well as to align the Penitentiary system with European Standards.

2.3 Link with AP/NPAA / EP/ SAA

Over the past decade, the transformation of the judiciary in Bosnia and Herzegovina (BiH) have been undertaken in accordance with the principles outlined in Article 78 of the Stabilisation and Association Agreement (SAA) between the European Union and its Member States, of the one part, and BiH; to strengthen the institutions and rule of law in the area of justice.

Considering the former judicial system, transitional justice issues resulting from the war, the administrative legacy and antiquated and war-damaged facilities, the aim has been to not only create, but also consolidate a more efficient, effective, independent and transparent judiciary for the citizens of BiH. A major reform of the judiciary commenced in 2001, whereby the number of the courts, prosecutor offices, judges and prosecutors were reduced. In an attempt to improve the independence of the judiciary an increased and harmonised salary system was introduced for judges and prosecutors in 2004. The simplification of the procedures in processing minor offences has been another significant step. In creating and further developing an e-judiciary, a significant amount of ICT investment was made to bring electronic communication, and information management systems to all judicial institutions in BiH, the culmination of which has been a country-wide case management system for the courts and prosecutors offices. The system includes over 6,400 users. In addition, a judicial documentation centre was established for the judicial actors who now have online access to over 3,600 court decisions and many legal opinions. Most courts can boast their own website facilitating access of the public to court-case related information. In 2002, the entity judicial and prosecutorial training centres were established, and have provided thousands of days of training to judicial staff. In 2005, the court of BiH and the Prosecutor's office of BiH were established to specifically deal with the most complex cases of war crimes, crimes against humanity and organised crimes and corruption. In parallel, some courts and prosecutor offices have seen renovations and refurbishment to update the facilities for the types and number of cases under their jurisdiction, and adjust to the specificities of processing war crimes. Following a merger of 3 former judicial councils, since its establishment in 2004 the High Judicial and Prosecutorial Council of BiH has led many of the above-mentioned reforms.

In June 2008, the Justice Sector Reform Strategy (JSRS) was adopted by all 13 ministers of justice, the president of the High Judicial and Prosecutorial Council, and the Head of the Judicial Commission of Brčko District. The JSRS incorporates many requirements to modernise not only the judiciary, but the broader justice sector to bring it close to European standards, hence, the reference in the European Partnership requiring its implementation. Of the 5 pillars of the JSRS, the first pillar 'judiciary' has seen the most progress.

However, not much attention has been paid to the prison reform which is still considered the weakest link in the criminal justice system. Sustainable reform of the police and the judiciary can only be achieved if there is also a reform of prison systems and execution of criminal sanctions as a whole.

Despite the above mentioned reforms, and considering the level at which the reforms began, as noted in the European Commission's 2010 Progress Report judicial reform is considered to be at an early stage. The report states that significant efforts are needed to ensure implementation of the JSRS. The report also stated that the prison conditions have improved but that the

overcrowding in prisons, especially in the Federation is a serious concern, that alternative sanctions even though they have started to be introduced are not widely applied and that the segregation of vulnerable groups remained insufficient. A comprehensive reform of the prison system has not started.

The assistance outlined under component one, therefore, is aimed at updating the near outdated ICT systems, and compliment support foreseen under earlier IPA programmes. The assistance foreseen under component three aims at reducing the overcrowding and ill treatment of vulnerable groups in the prisons.

In June 2011, the European Commission initiated the Structured Dialogue on Justice which has created political and technical momentum in supporting reforms in the justice sector. Amongst the positive outcomes of the semi-annual dialogue, are the technical recommendations, which provide benchmarks for reform in many sub areas of the justice sector.

2.4 Link with MIPD

Multi-Annual Indicative Planning Document (MIPD) 2011-2013

The MIPD foresees the achievement of an independent, efficient, effective and transparent judiciary, and to improve the situation of vulnerable groups in the penitentiary, ensure proper treatment of all prisoners in accordance with EU standards and to reduce overcrowding in prisons. This project will support all of these objectives.

2.5 Link with National Development Plan

BiH has prepared a country development strategy (CDS) and a social inclusion strategy which will serve as basis for the national development plan. Both strategies and the related action plans are yet to be adopted by the Council of Ministers.

2.6 Link with national/ sectoral investment plans

This project fiche follows the objectives and priorities of the Justice Sector Reform Strategy (JSRS) of BiH (2009-2013) and the HJPC Strategic plan. Here-below are the areas most relevant for this project fiche.

Within the BiH Justice Sector Reform Strategy 2009 – 2013:

Under Pillar 1- Judicial System; Strategic objective: To further strengthen and maintain independence, accountability, efficiency, professionalism and harmonisation of the judicial system which ensures the rule of law in BiH. Strategic Area 1.2 – Efficiency and Effectiveness; Strategic Programme 1.2.5 “Implement in full the measures relating to the computerisation of the judiciary as foreseen by the HJPC Strategic plan”. Activity 1.2.5.7 of the JSRS Action plan: “Renew the ICT equipment”.

Under Pillar 2 - Execution of the criminal sanctions programmes 2.2.1 Develop conditional release system, 2.2.2 Achieve recognition for execution of alternative sentences and implement the "community service "institute and 2.3.4 Develop and implement a coherent system of education and training for prison staff in BiH.

3. Description of project

3.1 Background and justification

Component I: Upgrading the ICT in the judiciary

The successful introduction of ICT in the judiciary has fundamentally changed the way courts and prosecutor's offices in BiH operate, exchange information and communicate. These achievements were marked in the European Commission's BiH 2010 Progress Report as contribution to facilitating distribution, management and monitoring of cases.

The implementation of the IPA 2009 Component 2 (Automation of Courts and Prosecutor Offices) activities will further contribute to this progress.

All these achievements in the field of the ICT have made BiH judiciary more advanced in its capacity to deliver justice. However, this also puts judicial information systems at the centre of importance in terms of requiring adequate hardware and software that ensures a continuous availability, security and quality of the systems.

This information system, from the hardware point of view, consists of data centres in Sarajevo, Banja Luka, Tuzla and Mostar with servers and storage systems, and of wide area network connecting all judicial institutions, local area networks in all courts and prosecutors' offices as well as computers, printers, scanners etc. The software component of the information system includes database and application software, e-mail and server licenses, Windows and Office licenses, antivirus and other system management software licenses, as well as custom developed software applications such as Case Management System for courts and prosecutors' offices, Registry of Fines, Judicial Documentation Centre and Judicial Web Portal.

In order to achieve compatibility of the judicial information system, in terms of system and application software used on servers and workstations, with the current standard software versions, it will be necessary to continuously upgrade hardware, software for all users and services. In addition, the introduction of new services and upgrade of hardware and software technologies will put additional requirements for network bandwidth and performance of network equipment.

The HJPC has initiated a process of renewing certain hardware components like workstations, printers and servers that were procured through EC funds in 2005 and 2006. For these purposes funds were ensured through the state budget (EUR 750.000 in 2009 and EUR 200.000 in 2010) and through IPA 2008 funds. However, these funds will not be sufficient to replace all necessary hardware and software.

If hardware replacement and software upgrade is not performed, the judiciary would face numerous difficulties in overall functioning of the information system:

- The Judiciary would not be able to serve the citizens up to already achieved standards;
- The equipment running the system would fail due to its obsolescence,
- Hardware and network equipment would not have performance capacity to support normal work of the internal users of the information system and public usage of e-justice services accessible over internet,
- The system would not be secured due to inability to receive regular updates from software vendors,
- The judicial information system would not be compatible for data exchange and integration with external systems such as police, government registers, tax, business

etc, which are of utmost importance in the fight against organised crime and anticorruption.

The HJPC, as the institution that manages judicial information system, has undertaken a thorough analysis of the information system needs in terms of hardware, software and network equipment in close co-operation with all courts and prosecutors' offices.

Renewing will encompass the following components of the information systems:

- Software licences: In order to overcome security holes in currently installed software and keep judicial information system updated with newest technology trends, it will be necessary to upgrade database, application servers, identity management, e-mail, antivirus and other software components of the judicial information system .
- Servers, storage and backup equipment: In order to provide sufficient processing and storage capacities for introduction of new CMS functionalities and to maintain operability of the current system, it is necessary to continuously upgrade those resources.
- LAN/WAN equipment: Reliability and capacity of such equipment is of utmost importance for overall functioning of applications used in the judiciary. Upgrade of LAN equipment will provide additional capacity to the local network that will be needed for undisturbed functioning of new video streaming technologies in the court and prosecutor office operations. WAN equipment in the data centres, courts and prosecutor offices will also be renewed in accordance with the re-design of the network that is currently conducted by the HJPC.
- Computers, computer equipment (printers, scanners etc.) and audio/video recording equipment: Upgrade of software licenses from Windows XP to Windows 7 requires more powerful hardware resources (memory, processors, hard drives). Also, in order to ensure the sustainability of the judicial information system, computers currently used in the judiciary will need to be replaced, as they will soon become outdated. This is also the case with audio recording equipment purchased in 2004.

Having in mind the number of users (more than 5 000) and diverse services supported, the judicial information system represents one of the biggest information systems in BiH. All segments of this system must function smoothly so that users in the courts and prosecutors' offices can properly perform their daily tasks. This can not be achieved without further investments in the new ICT technologies and solutions. ICT must be the main tool which will assist judiciary to enhance efficiency and effectiveness and improve the accountability of its work.

Component 2: Penitentiary

In BiH there are four systems of execution of criminal sanctions, which are regulated by the following laws:

- Law on Execution of Criminal Sanctions, Detention and Other Measures of Bosnia and Herzegovina
- Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina
- Law on Execution of Criminal Sanctions of Republika Srpska
- Law on Execution of Criminal Sanctions of Brcko District.

De facto, there are only two prison systems, because all persons convicted by the courts on the territory of BiH serve their sentences in prisons of Federation of BiH and Republika Srpska. The possibility of transfer of sentenced persons between the two jurisdictions is not currently possible and is limited to the possibility of transfer of persons convicted by the Court of BiH with the decision of the Ministry of Justice BiH. The current laws are not always consistent with each other, which in practice has the effect that large differences occur in the conditions and standards of sentences (even within the same prison walls).

Through the implementation of the pillar 2 (Execution of Criminal Sanctions) of Justice Sector Reform Strategy in BiH, efforts are made to make prison conditions and standards more compatible and harmonized with the European Prison Rules. This project will focus on: 2.1 alternative criminal sanctions, 2.2 Probation Service, 2.3 Training of the Prison Staff and 2.4 Treatment Programme.

2.1 Alternative Sanctions (Conditional release, Community service and Conditional sentence)

Conditional release

Along with the execution of other alternative criminal sanctions which include community measures, conditional release represents a measure not only for effective rehabilitation of convicts in the community, but also reduces overcrowding in prisons. Conditional release at the state, entity and Brcko district level is applied in a manner that prisoners are released earlier due to their good behaviour, but without relevant supervision. As such, conditional release, does not contribute to effective rehabilitation of convicts and their integration into society neither it contributes to the community safety and reduction of crime. Furthermore, conditional release does not contribute to relieving the capacity of the institution. Therefore it is necessary to establish effective supervision of released prisoners through establishment of probation services.

Community service

The concept of community service is relatively new in BiH. It was defined in detail in 2003 under the criminal justice reform. The Criminal Code of BiH, "Official Gazette BiH" no. 03/03, Criminal Code of the FBiH, "Official Gazette of FBiH", no. 36/03 and the Criminal Code of RS, "Official Gazette of RS", no. 49/03 covered this matter in their regulations. A by-law in the form of the *Rulebook on the type and conditions of the execution of criminal sanctions through community service* was adopted at state level. Republika Srpska did not yet adopt such a Rulebook. In FBiH the following cantons have adopted this Rulebook: Tuzla Canton, Sarajevo Canton, Hercegovina-Neretva Canton and Una- Sana Canton.

Currently, this type of alternative sanction is not widely used and their use would greatly contribute to solving the problem of prison overcrowding in BiH. The main goal of community service is to enable individuals to stay in the community which contributes to better and faster rehabilitation and acceptance of offenders. The community service should take place in organizations of public interest. Recommendations that emerged from a joint project of the European Union and the Council of Europe, "*Efficient management of prisons in Bosnia and Herzegovina*", strongly indicated a need for greater use of alternative sanctions compared to imprisonment.

Specific recommendations from the Council of Europe applicable for this project fiche:

- It is necessary to amend the Criminal Code of RS, in order to harmonize the provisions in the entity and state laws and by-laws in this area
- It is necessary to define more clearly the alternative sanction of community service through the regulations or by passing a special law
- It is necessary to prescribe and define the execution of supervision of implementation of sanctions on community service
- It is necessary to create a list of types of legal entities engaged in activities of public interest where this measure would be enforced

It is necessary to act in accordance with recommendations and analyses that have been made so far in this area. It is necessary, through establishment of working groups, pilot projects, changes and amendments to the law and bylaws, to create positive climate for the introduction of more serious attitude of the society and judiciary towards this type of alternative sanction. More serious attitude would be expressed through introduction of the probation system and through greater use of the work for common good.

Conditional sentence

The criminal justice system legislation in BiH has a warning sanction or measures of warning, a conditional sentence and judicial admonition. According to laws in BiH, with a conditional sentence, the court determines a punishment and at the same time determines that it will not be executed if a convicted person, in a time period determined by the court which may not be less than one year nor more than five years (probation period), does not commit a new criminal offense. However, these laws do not prescribe conditional sentence with supervision. In this sense, amendments of the Criminal codes and the Laws on Execution of Criminal Sanctions (LECS) BiH and entities legislation as well as harmonization of solutions in the regulations, and the establishment of a probation system should be undertaken, and thus comply with the recommendations of the Council of Europe. LECS BiH and entities govern specific details on this measure, but it is necessary to make further amendments in accordance with European standards, and amend the provisions relating to the person or institution that issues, revokes, or decides on complaints against the decision. As an example, supervision can be defined as it is done in LECS RS amendments, where a convicted person sentenced to probation has an obligation to report to a police station and a custody body.

2.2 Probation Service

In order to enable a successful application of alternative criminal sanctions it is necessary to establish probation services in BiH. Currently in the legislation of BiH there are no provisions about the probation service. Based on the recommendations of the project "Efficient management of prisons in Bosnia and Herzegovina" it is necessary to put additional efforts in order to develop and implement comprehensive strategies for establishing BH probation services taking into account local conditions.

2.3 Training of Prison staff

The most positive trend recorded in the systems of execution of criminal sanctions in BiH in the last couple of years is the budgetary increases, necessary to improve prison infrastructure, and enhance prison staff capacities.

This marked the beginning of efforts by governments to commit to substantive reforms of this system. However ministries of justice don't have a strong role in ensuring a standardized structure of the key functions of institutions, such as insurance, treatment, work engagement

and health care. It has turned out that prison staff, in their direct and daily contact with persons under their supervision, very often even unconsciously violates their human rights. In this sense, the training of prison staff on international standards relating to respect for human rights should contribute to improving conditions in penal institutions. It is necessary to put additional efforts on training of prison staff in order to find constructive and long-term solutions to mitigate and gradually eradicate violations of human rights of persons who are under their supervision.

2.4 Treatment programme

Vulnerable groups of prisoners are a special group of sentenced persons with special needs which the prison system should address with an appropriate treatment that meets those needs.

Prisons in BiH have no programmes specifically designed for all vulnerable groups of prisoners. Within the previous joint project of the European Union and the Council of Europe, "*Efficient management of prisons in Bosnia and Herzegovina*", a treatment programme was developed for certain vulnerable groups, such as: imprisoned women, sex offenders, drug users and high-risk prisoners, and with the process of their admission to serve sentence. In order to enable a comprehensive approach and adequate treatment of all vulnerable groups in accordance with international standards, it is necessary to conduct an analysis based on which a treatment programme should be developed for the following vulnerable groups: Minors, persons under security i.e. under obligatory treatment, elderly population in prisons and persons with disabilities.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

Component 1: Upgrading the ICT in the judiciary

Renewing of the ICT equipment and upgrade of the software platforms used in the BiH judiciary will keep judicial information system in line with the new hardware and software technology standards. This will in turn create an adequate and sustainable ICT environment for the normal functioning of the existing e-justice services and introduction of the new ones.

This will have a positive impact on the work process efficiency and transparency of the judicial institutions. Furthermore, the upgraded information system will also enable smooth exchange of information between judicial electronic registers and similar registers maintained by other state authorities, especially in the field of law enforcement, tax, finances etc. This is of utmost importance having in mind that e-justice services cannot function and be maintained as an isolated island. They will need to inter-connect with other e-government services to produce right impact for functioning of the state authorities and for the benefit of citizens in BiH providing them with easier access to court services. This would increase public confidence in the judiciary and other state authorities.

Upgraded information system will also provide judiciary with proper tool that will enable easy and reliable access to information stored in electronic registers over the internet, guaranteeing for the greater integrity, security and confidentiality of the information.

All activities related to renewing of the ICT equipment and upgrading software platforms used in the judiciary of BiH are lead and coordinated by the HJPC. This significantly contributes to the institutionalisation of the overall support and sustainability of the judicial information system. The sustainability of this project will be improved by the gradually increasing national funding.

Component 2: Penitentiary

Greater use of alternative forms of criminal sanctions ultimately has a positive effect on the prison overcrowding problem. These measures contribute to a better reintegration of offenders stimulating and enhancing a sense of responsibility and social skills through the confrontation with the consequences of his criminal behaviour, and demanding to carry out activities that contribute to its rehabilitation.

The participation of the community in the implementation of alternative criminal sanctions is invaluable. Sanctions and measures in the community may take place only within an infrastructure oriented to the community and can be executed if there is an appropriate organization for its implementation, which is usually the Probation Service. In that light establishing of probation services will enable greater and above all successful application of alternative criminal sanctions.

This project will also contribute to motivation, professionalism and knowledge of the staff working with prisoners, and above all to respect human rights and implement EU standards.

Vulnerable groups face an increased risk as a result of their imprisonment and their detention should be carried out with special caution and care in order to ensure protection of their human rights. The programme for treatment of specific categories of prison population together with training of prison staff will contribute to improving the status of all vulnerable groups.

3.3 Results and measurable indicators

Component 1

Result 1: Judicial information system in BH in line with new hardware and software technology standards.

Measurable indicator 1: At least 2000 computers, 200 printers, 30 scanners, 100 servers, 6 storage/backup devices, 400 switches, 80 routers, 5 wireless point-to-point, 15 point-to-multipoint links, 20 audio video recording sets, 2000 client office licenses, 100 server licenses, 150 system management licenses and Oracle licenses for 2 data centres, delivered, installed and in use in judicial institutions in BiH².

Component 2

² Please note that the estimation of ICT equipment and software licenses was made to the best knowledge and information available at this time, but will mainly depend on:

- Dollar/euro ratio at the time of project implementation, as it will have a significant impact on the prices of the equipment.
- Market prices of the equipment at the time of project implementation. The information and communication technology is rapidly changing so at this point in time it is not possible to give precise information about prices of equipment which will be available on the market at the time of project implementation.

Result 2.1: Laws and by-laws, harmonised with Council of Europe recommendations, on the use of alternative criminal sanctions (community service, conditional release and conditional sentence) proposed

Result 2.2 Strategy and Action plan for the introduction of a BiH probation service prepared.

Result 2.3 Sustainable professional training and education programme to international standards for all penitentiary staff prepared.

Result 2.4 Programme for treatment of specific categories of prison population developed.

Measurable indicator 2.1: Six (6) Laws and Six (6) by-laws proposed

Measurable indicator 2.2: Plan for establishing BiH probation service completed

Measurable indicator 2.3: Professional training programme prepared and minimum 300 staff trained

Measurable indicator 2.4: Plan for treatment of specific categories (minors serving sentence, persons under security i.e. under obligatory treatment, elderly population in prisons and persons with disability) completed by the end of a project.

3.4 Activities

Component 1: Upgrading the ICT in the judiciary (HJPC, Contract 1 Supply contract)

Activity 1.1 - Assess the needs and prepare the technical specifications of ICT equipment and software licences (HJPC)

Activity 1.2 - Delivery of necessary equipment and software licenses (Contract 1 Supply contract)

Activity 1.3 - Installation and deployment of the ICT equipment and software licences (Contract 1 Supply Contract and HJPC)

Activity 1.4 - Supervise all activities related to renewing of ICT equipment and software licences (HJPC)

Component 2: Penitentiary (Contribution agreement with the Council of Europe)

Activity 2.1 related to results 2.1 -2.4- Agree on scope and methodology of cooperation with working group (composed of professionals from state, entity, cantonal and Brcko District levels of government) which will be involved in oversee and implementation of following project activities:

- a. Proposing laws and by-laws on alternative criminal sanctions
- b. Establishing BiH Probation service
- c. Developing training and education programmes for penitentiary staff
- d. Development of the treatment programme for specific categories

Activity 2.2 related to result 2.1- Propose and draft laws and by-laws to amend BiH laws in the use of alternative criminal sanctions.

Activity 2.3 related to result 2.1- Organise and implement pilot project(s) at entity and cantonal level, related to alternative criminal sanctions, using proposed laws and recommendations.

Activity 2.4 related to result 2.1- Organise public awareness campaign on the advantages of alternative criminal sanctions.

Activity 2.5 related to result 2.2 - Analyse alternative options, develop and propose a plan, including a legal framework and staffing plan for the introduction of a BiH probation service comparable with existing models in EU Member States.

Activity 2.6 related to result 2.2 - Organise study tours to identify best practices in EC Member States' probation services for transposition into proposals for BiH probation services

Activity 2.7 related to result 2.3 - Design and implement a comprehensive, sustainable professional training and education programme for penitentiary staff in accordance with EU and international best practices.

Activity 2.8 related to result 2.4 - Conduct analyses and develop treatment programme of following specific categories:

- a. Minors serving the sentence
- b. Persons under security i.e. under obligatory treatment
- c. Elderly population in prisons
- d. Persons with disability

This component will be implemented in joint management with the Council of Europe in accordance with Article 53d (1)(c) of the Financial Regulation. The Council of Europe has unique expertise and experience in this area. This project will use the results of the previous joint project of the European Union and the Council of Europe "Efficient management of prisons".

3.5 Conditionality and sequencing

Component 1: Upgrading the ICT in the judiciary

To be able to successfully complete the project, courts and prosecutors' offices need to fully cooperate in the assessment and implementation phase of the project. This will require the HJPC to obtain the commitment of the court presidents and chief prosecutors before the project starts.

Also, all relevant institutions, such as ministries of justice, should assist and support the sustained use of equipment at the courts and prosecutors' offices under their jurisdiction, by providing proper funding through annual budgets for ICT support, staffing and maintenance of the delivered equipment and software licenses. The HJPC will, in accordance with its authority, continuously advocate for adequate funds for the maintenance of the equipment delivered.

Activities 1.1, 1.2 and 1.3 of component 1 need to be implemented in a sequencing order. Activity 1.4 should be implemented along with activities 1.2 and 1.3.

Component 2: Penitentiary

Activities listed in this project fiche are developed on the basis of priorities that were identified by the functional working group 2 for monitoring of implementation pillar 2 (Execution of Criminal Sanctions Justice Sector Reform Strategy). At the fifth Conference of Ministries of Justice these priorities were adopted. However, in order to be able to successfully complete the project the State Ministry of Justice, Entity Ministries of Justice, Cantonal Ministries of Justice and Judicial Commission of Brčko District need to fully cooperate in implementing the project. The state and entity ministries of justice will, in accordance with their authority, continuously advocate for the adoption of the proposed amendments and the bylaws.

Activities 2.1, 2.2, 2.3, 2.5, and 2.6 of component 2 need to be implemented in sequencing order. Activity 2.3 should be implemented along with activities 2.4, 2.7 and 2.8.

3.6 Linked activities

Various EU and non EU countries have supported the judicial reform in BiH over the past several years. Donor support should also be noted in light of BiH's own initiatives in the area.

Component 1

Bosnia and Herzegovina: In March 2004 a strategy was developed for the introduction of ICT into courts and prosecutors' offices in BiH. The strategy was later adopted and implemented as the ICT/CMS Project by the HJPC and supported by different international donors.

The National authorities of BiH provided funds for the human resources needed to successfully implement a computerised environment in the courts, prosecutors' offices and at the HJPC and through the purchasing of some of the necessary equipment. In addition, as of 2008, the HJPC's Annual State Budget covers capital investments related to implementation-related activities of case management system in courts and prosecutors' offices. It also covers maintenance of the hardware, software and network used for the uninterrupted work of the judicial information system. The judicial information system relies on the existing countrywide telecommunications system used by the police, security related institutions and the judiciary. Maintenance of this system is provided through the state budget of the Agency for Identification Documents, Registers and Data Exchange of BiH (now IDDEEA formerly CIPS).

EU/EC: The HJPC has been implementing information technologies at the courts and prosecutors' offices in BiH since 2004, with the support of the EU (CARDS 2004, 2005, 2006, and IPA 2007 and 2008). Since 2008, the ICT/Case Management System (CMS) project has also been supported by the Joint Financing Agreement between the HJPC and the donor group as outlined here-below. Furthermore, the EC through CARDS 2004 provided assistance for "Court Administration and Management Assistance", and through CARDS 2005 "Judicial Training Project". The ongoing IPA 2009 grant support to the High Judicial and Prosecutorial Council complements the Norway/Sida Judicial Efficiency project. IPA 2010 also foresees the support to the automation of the courts and prosecutors' offices as well as further development of E-justice in BiH.

Sweden and the Netherlands: In 2008 a phase II of ICT/CMS Project was approved by the Swedish International Development Agency (SIDA) and the Netherlands. This project was aimed at further developing and implementing IT in courts and prosecutors' offices. The Netherlands have also funded a project "Jump start to Management" that started in 2005 with an aim to enhance managerial capacities of judges and prosecutors.

Spain: Establishment of the court decisions database was a project mainly funded by the Spanish Agency for International Development Cooperation. It was implemented by the

Documentation Centre of the HJPC and provides an overview of selected case law, as well as allowing access to all decisions taken in one case and enables holders of judicial functions and the broader legal community to easily access the reliable legal information needed in their daily work.

Norway: Norway financed a project entitled “War Crimes Data Base” which commenced in 2007 and is aimed at developing a database of all war crime cases to be processed at the Prosecutor's Office of BiH.

Norway/Sida: For several years Norway and Sida have supported the Judicial Efficiency project of the HJPC, as led by the HJPC, which complements the ongoing IPA 2009 mentioned above.

UK: UK funded a three month project aimed at developing a new TCMS module which will enable prosecutors to access data contained in War Crimes Database through TCMS.

Component 2

This project will use the results of the previous projects "Efficient management of prisons", a joint project of the European Union and the Council of Europe and a project implemented by Lucid links "Support to the system of criminal sanctions", funded by the UK Government.

The results of these projects and the efforts of local government institutions made progress in this area in terms of legislation: both entities have amended their laws on enforcement of criminal sanctions in order to reduce overcrowding in prisons. The European Commission Progress report for BiH also pointed out that "the scope of application of alternative sanctions expanded, especially in the Republic of Srpska, but these sanctions still in large part do not apply". The project of the European Union and the Council of Europe have dealt with the problem and managed to make some positive changes.

Support to the prison system was also provided through the project: *Assistance in reforming the prison system in Bosnia and Herzegovina*, funded by CIDA. This project was focused on five areas: training, risk assessment and needs, complaints procedures, independent inspections, work with prison directors and legal reform. CIDA has also funded the project "Professionalization and harmonization of the prison system in Bosnia and Herzegovina. The main success of this project was the "organizational development initiative", which was able to gather, for the first time, all three ministries of justice, to the informal meeting where they discussed the main disadvantages of the various prison systems.

Furthermore, assistance to the prison sector in BiH was provided by a joint project of the Council of Europe and European Commission funded from the CARDS Regional programme "*Developing a reliable and functioning prison system respecting fundamental human rights and standards, and improving regional cooperation in the Western Balkans*". This project created some valuable results.

3.7 Lessons learned

Component 1: The establishment of an electronic judiciary in a war-torn transition economy such as BIH has produced many learned lessons. The initial challenge was to find finances for the procurement of ICT equipment from computers to servers and wide area network equipment for what today includes 5,000 judicial staff spread throughout all courts and prosecutor offices in BiH. Whilst significant financing was provided by several donors, and also from the 14 budgetary authorities in BiH, the issue of replacement of equipment after a 4-

5 year period was not always accepted by the budgetary authorities. The current financial hardships faced by the authorities in BiH have not improved matters, and whilst capacity building and strategic planning efforts will continue to encourage better budgetary planning, capital investments are often the first area to be excluded in times of hardship.

The Case Management Systems in courts and prosecutor offices has seen more than one version, resulting in more than one need for user training. Whilst there have been some negative responses in its incremental introduction and reintroduction due to its new and sometimes additional work processes, overall it is considered a very effective tool to increase efficiency and internal transparency of work processes within both types of institutions. It also presents an endless amount of possibilities for the extraction of statistics and for policy making, amongst other areas. Notwithstanding, as with all institutional software, it is hoped that it will not lead to an over-bureaucratisation of simple processes.

The introduction of a judicial web portal for websites for all courts and prosecutor offices in BiH has greatly increased the external transparency of the judiciary to the BiH public. In mid June 2011, BiH boasted over 74 standardised webpage's, with many more planned. The online judicial documentation centre includes over 7,500 court decisions, legal interpretations and general legal opinions of the entity Supreme courts greatly facilitating access not only for judicial actors, but also academics and law students.

Irrespective of the fact that the e-judiciary of BiH is considered by many as the most advanced in the Western Balkans, if it is remain so, additional financial resources will be required not just of hardware, software and maintenance, but also for financing additional services related to a growing system.

Component 2: The experience of previous projects has shown that the methodology, which included the implementation of projects through working groups, composed of representatives of the entities and state levels combined with study visits and workshops was very effective. However, even if strategies, manuals and legal amendments are produced through such working groups, it does not provide assurances of their eventual adoption by the BiH authorities which brings into question not only the authorities' level of interest but also ownership of the process.

Equally, former experience has shown that greater political involvement of both the CoE and the EU will be required for future assistance, particularly when related to legal amendments.

In this component the aforementioned experiences will be utilized to strengthen the sense of local ownership. In addition, the result of previous projects such as the joint project of the European Union and the Council of Europe, "Efficient management of prisons" and Lucid Links project "Support to the efficient and effective system of criminal sanctions in BiH" funded by the UK Government are the starting point for this component.

4. Indicative Budget (amounts in EUR)

			SOURCES OF FUNDING									
			TOTAL EXP.RE	IPA EU CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(c)+(d)	EUR (b)	%(2)	Total EUR (c)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (d)	%(2)
Activities (1.1) ₃ , (1.3), (1.4) ₃	X		400 000			400 000	100	400 000				
	X		400 000			400 000	100	400 000				
Activities 1.2, 1.3		X	4 000 000	4 000 000	100							
Contract 1 (Supply)		X	4 000 000	4 000 000	100							
Activities (2.1)- (2.8)	X		1 200 000	1 200 000	100							
Contract 2 (Contribution Agreement)	X		1 200 000	1 200 000	100							
TOTAL IB			1 600 000	1 200 000	75	400 000	25	400 000				
TOTAL INV			4 000 000	4 000 000	100							
TOTAL PROJECT			5 600 000	5 200 000	92,86	400 000	7.14	400 000				

³ HJPC implemented activities are financed from the national budget.

5. Indicative Implementation Schedule

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1 - Supply	Q2 2012	Q4 2012	Q2 2013
Contract 2 - Contribution Agreement	N.A.	Q2/2012	Q4/2014

6. Cross cutting issues

6.1 Equal Opportunity

Women in BiH are represented in greater numbers in the judiciary than in any other branches of governance. According to available data of early 2011, the gender breakdown among judges and prosecutors in judicial institutions in BiH was 59% female and 41% male; female judges comprising 63% and male judges 37%, while among the prosecutors' 47% were female and 53% male prosecutors. Despite this, there is a gap between the total number of women in the judiciary, and the number of women at higher level positions in judicial bodies or in courts of higher instance.

6.2 Environment

The assistance is not anticipated to have negative effects on the environment within the prevailing laws.

6.3 Minorities

One of the purposes of this project is to acquaint the staff with penal institutions, standards from international instruments and mechanisms related to the concept of human rights of persons deprived of liberty. Better understanding and application of basic principles of human rights will be reflected on the status of minority populations in prisons.

ANNEXES

- I Log frame in Standard Format
- II Amounts contracted and Disbursed per Quarter over the full duration of Programme
- III Description of Institutional Framework
- IV Reference to laws, regulations and strategic documents
- V Details per EU funded contract

ANNEX I Logical framework matrix

LOGFRAME PLANNING MATRIX	IPA National Programme 2011– Bosnia and Herzegovina;		
	Fiche 1 "Justice" "Support to Justice Sector Reform"		
	Contracting period expires: Three years following the date of the conclusion of the Financing Agreement		Disbursement period expires: One year following the end date for the execution of contracts
CRIS Number:	Total budget : EUR 5 600 000	IPA budget: EUR 5 200 000	
Overall objective	Objectively verifiable indicators	Sources of Verification	
To ensure that Bosnia and Herzegovina's Justice system is in line with European standards.	Progress made in meeting EU standards in areas covered by the project	EC Annual Progress Reports; JSRS Annual, Semi-annual and Quarterly Progress Reports; HJPC Annual, Semi-annual and Quarterly Reports on strategic plan implementation and on efficiency of courts and prosecutor offices; Courts and prosecutor offices annual reports; MoJs Annual Progress Report; Council of Europe Reports	
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
To upgrade the ICT systems in the judiciary as well as to align the penitentiary system with European standards.	1.1 100 % of courts and prosecutor offices in BiH have adequate ICT equipment and automated work processes. 2 2.1 BiH penitentiary staff	1.1. HJPC annual, semi-annual and quarterly reports which include statistical data on the efficiency of courts and prosecutor offices.	1.1 Continuation of commitment of the relevant governments in BiH to implement the reforms in judicial sector. 2.1 Human resources available at courts and prosecutor offices are sufficient and optimally assigned.

	<p>(minimum 300 Staff) has attended ministries of justice approved training and education programmes by 2014.</p> <p>2.2 Institutional framework for establishing BiH probation service proposed to Ministries for adoption by the end of a project.</p>	<p>2.1 MoJ reports on trainings</p> <p>2.2 Project Final report</p>	
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<p>1. Judicial information system in BH in line with new hardware and software technology standards</p> <p>2.1 Laws and by-laws harmonised with</p>	<p>At least 2000 computers, 200 printers, 30 scanners, 100 servers, 6 storage/backup devices, 400 switches, 80 routers, 5 wireless point-to-point, 15 point-to-multipoint links, 20 audio video recording sets, 2000 client office licenses, 100 server licenses, 150 system management licenses and Oracle licenses for 2 data centres, delivered, installed and in use in judicial institutions in Bosnia and Herzegovina.</p> <p>2.1 Laws and by-laws proposed. 2.2 Plans for establishing BiH probation services completed.</p> <p>2.3 Professional training programme prepared and minimum</p>	<p>1.1 Project reports;</p> <p>1.2. HJPC Annual reports;</p> <p>1.3 Provision Acceptance Certificates (PAC) for delivered equipment.</p> <p>2.1 Project report</p>	<p><u>Assumptions relevant to component 1:</u></p> <p>1.1 Adequate funding through annual budgets, including HJPC budget, for the sustained ICT support, staffing and maintenance of the ICT in judiciary provided.</p> <p>1.2 Public uses ICT technology.</p> <p>1.3 Judges, prosecutors and other staff make optimum use of their newly acquired equipment, skills and resources.</p>

<p>Council of Europe recommendations, on the use of alternative criminal sanctions (community service, conditional release and conditional sentence) proposed.</p> <p>2.2 Strategy and Action plan for the introduction of a BiH probation service prepared.</p> <p>2.3 Sustainable professional training and education programme to international standards for all penitentiary staff prepared.</p> <p>2.4 Programme for treatment of specific categories of prison population developed.</p>	<p>300 staff trained.</p> <p>2.4 Plan for treatment of specific categories completed by the end of project.</p>	<p>2.2 Project report</p> <p>2.3 MoJ input into project report</p>	
<p>Activities</p>	<p>Means</p>	<p>Costs</p>	<p>Assumptions</p>
<p>1.1 Assess the needs and prepare the technical specifications of ICT equipment and software licenses</p> <p>1.2 Delivery of necessary equipment and software licenses.</p> <p>1.3 Installation and deployment of the ICT equipment and software licenses</p> <p>1.4 Supervise all activities related to renewing of ICT equipment and software licences</p> <p>2.1 Agree on scope and methodology of cooperation with working group (composed of professionals from state, entity, cantonal and Brcko District levels of government) which will be</p>	<p>HJPC</p> <p>Contract 1 Supply</p> <p>HJPC and Contract 1 Supply</p> <p>HJPC</p>	<p>EUR 4 000 000</p>	<p>All courts and prosecutor offices cooperate in the assessment and implementation phase of the project.</p> <p>Activities listed in this logframe are</p>

<p>involved in oversee and implementation of following project activities:</p> <ul style="list-style-type: none"> a. Proposing laws and by-laws on alternative criminal sanctions b. Establishing BiH Probation service c. Developing training and education programmes for penitentiary staff d. Development of the treatment programme for specific categories <p>2.2 Propose and draft laws and by-laws to amend BiH laws in the use of alternative criminal sanctions.</p> <p>2.3 Organise and implement pilot project(s) at entity and cantonal level, related to alternative criminal sanctions, using proposed laws and recommendations.</p> <p>2.4 Organise public awareness campaign on the advantages of alternative criminal sanctions.</p> <p>A2.5 Analyse alternative options, develop and propose a plan, including a legal framework and staffing plan for the introduction of a BiH probation service comparable with existing models in EU Member States.</p> <p>2.6 Organise study tours to identify best practices in EU Member States' probation services for transposition into proposals for BiH probation services.</p> <p>2.7 Design and implement a comprehensive, sustainable professional training and education programme for penitentiary staff in accordance with EU</p>	<p>Contribution agreement with Joint management with CoE with 4 components:</p> <ul style="list-style-type: none"> a. Legal drafting b. Establishing Probation service c. Training and education programmes for penitentiary staff d. Developing treatment programme for specific categories 	<p>EUR 1 200 000</p>	<p>developed on the basis of priorities that identified by functional working group 2 for monitoring of implementation pillar 2 (Execution of Criminal Sanctions Justice Sector Reform Strategy). At the fifth Conference of Ministries of Justice these priorities were adopted.</p>
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<p>and international best practices.</p> <p>2.8 Conduct analyses and develop treatment programme of following specific categories:</p> <ul style="list-style-type: none">a. Minors serving the sentence;b. Persons under security i.e. under obligatory treatment;c. Elderly population in prisons;d. Persons with disability.			
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ANNEX II Amounts (in EUR) Contracted and disbursed by quarter for the project

Contracted	Q2/2012	Q3/2012	Q4/2012	Q1/2013	Q2/2013	Q3/2013	Q4/2013	Q1/2014	Q2/2014
Contract 1(Supply)			4 000 000						
Contract . 2.	1 200 000								
Cumulated	1 200 000	1 200 000	5 200 000						
Disbursed									
Contract 1 (Supply)			2 400 000		1 600 000				
Contract 2.	570 000						510 000		120 000
Cumulated	570 000	570 000	2 970 000	2 970 000	4 570 000	4.570.000	5 080 000	5 080 000	5 200 000

ANNEX III Description of Institutional Framework

Component 1

Article 17 (Competence) of the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina prescribes the HJPC authority relevant to this proposal as follows:

Paragraph (24) “Initiating, coordinating and supervising the use of information technology by courts and prosecutors’ offices in order to achieve and maintain uniformity in this area between and among courts and prosecutors’ offices throughout the country. No court or prosecutors’ office shall adopt an automated case-tracking registration, tracking or related system, including backup and storage systems, without obtaining the prior approval of the Council”

Component 2

Ministry of Justice of Bosnia and Herzegovina

Ministry of Justice of Bosnia and Herzegovina was formed in 2003, in accordance to the Law on Ministries and Other Bodies of Administration of BiH (Official gazette BiH, number 5/2003), and is responsible for administrative functions pertaining to:

- Judicial institutions at the state level;
- International and inter-entity judicial cooperation (mutual legal assistance and contacts with international tribunals);
- Drafting of relevant legislation to address the issues referred to in sub-paragraphs 1 and 2 of this article;
- Ensuring that legislation and implementation by BiH at all levels is in compliance with the obligations of BiH deriving from international agreements;
- Cooperating both with Ministry of Foreign Affairs and with the Entities in the drafting of International Bilateral and Multilateral Agreements;
- Providing guidelines and monitoring legal education to ensure inter-Entity harmonization and compliance with best practice;
- Generally acting as central coordinating body for ensuring inter-Entity legislative and justice system harmony and best practice, whether by providing good conditions for discussion or coordinating initiatives;
- Extradition;
- Tasks of administrative inspection of legislation governing civil servants and employees of the bodies of administration, of administrative proceedings and special administrative proceedings, as well as of office operations in the bodies of administration;
- Issues of associations of citizens and keeping of registers of associations of citizens and NGOs operating in BiH;

- Other tasks and duties which are not within the competence of other Ministries of BiH and which are related to the tasks and duties of this Ministry.

Ministry of Justice Republic of Srpska

Ministry of Justice carries out administrative and other tasks related to the competencies of the Republic of Srpska in the area:

- judicial institutions and administrative supervision of the administration of justice and penal institutions;
- execution of criminal sanction;
- inspection activities related to the execution of criminal sanctions;
- providing uniform and legal enforcement of criminal sanctions;
- organization and operation of penal institutions;
- monitoring and control of services;
- keeps the records for the purpose of analysis and observing the system of execution of criminal sanctions and suggest measures for improvement;
- Conditional release
- preparation of analysis, information and reports related to amnesty;
- assist in the education of judges and prosecutors
- actively participate in the preparation of drafting and adopting legislative projects under its jurisdiction;
- provides expertise on legal projects at the request of the other ministries;
- pass by-laws necessary for law enforcement;

Federal Ministry of Justice

Federal Ministry of Justice carries out administrative, professional and other tasks related to the achievement of the competence of the Federation of BiH, and especially its judicial institutions and administration. Also in the competence of the ministry is the administrative supervision of the judicial administration and federal administrative bodies, as well as providing assistance in training judges and prosecutors, mergers in political organizations, civil associations and the establishment of micro-credit foundations, and supervision over the enforcement of criminal sanctions in the Federation of BiH. Federal Ministry of Justice also carries out administrative tasks that do not fall within the scope of another administrative authority.

Within the jurisdiction of the Government, the Ministry participates in the preparation of drafts of regulations and other general acts of the Federation of BiH. To achieve the competences of the Ministry the following sectors and departments are identified: Cabinet of the Minister, Judicial Sector, Administration Sector, Sector for Strategic Planning, European Integrations and Human Resources Management, Sector for Execution of Criminal Sanctions, Administrative Inspectorate, Department for General and Common Affairs and Department for Finances and Accounting. In the Federal Ministry of Justice is also the Department for Public Administration as well as the Project Implementation Unit of the World Bank for the Land Registry Administration.

ANNEX IV Reference to laws, regulations and strategic documents

Reference list of relevant laws and regulations

Components 1 The Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, no: 25/04, 93/05, 48/07, 15/08);

- *The Law on the Policy of Foreign Direct Investment in BiH* (Official Gazette of Bosnia and Herzegovina, no: 4/98, 17/98 and 13/03);
- The Law on Foreign Investment in Federation of BiH (Official Gazette of Federation of *FBiH*, no: 61/01, 50/03);
- Law on Foreign Investment in Republic of Srpska (Official Gazette of Republic of Srpska, no: 25/02 and 241/04)

Component 2

- Bosnia and Herzegovina Law on Execution of Criminal Sanctions, Detention and Other Measures of Bosnia and Herzegovina (Official Gazette of BiH No. 13/05, 53/07, 97/07, 37/09, 12/10)
- Criminal Code of BiH (Official Gazette of BiH No. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10)
- Federation of Bosnia and Herzegovina Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina (Official Gazette of F BiH No. 44/98, 42/99, 12/09)
- Criminal Code of FBIH (Official Gazette of F BiH No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10)
- Law on Execution of Criminal Sanctions of Republic of Srpska (Official Gazette of RS No. 12/10)
- Criminal Code of RS (Official Gazette of RS No. 49/03, 108/04, 37/06, 70/06, 73/10) Brčko District of BiH
- Criminal Code of Brcko District (Official Gazette of BD No. 10/03, 6/05, 21/10)
- Law on Execution of Criminal Sanctions of Brcko District (Official Gazette of BD No. 08/00, 1/01, 19/07, 36/07)

Reference to AP /NPAA / EP / SAA

- Council Decision 2008/211/EC of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC (EP)⁴ and The Action Plan for implementation of the EP priorities (AP EP)⁵;

4 OJ L 80 of 19.03.2008.

5 AP EP of 6.10.2008., Council of Ministers of Bosnia and Herzegovina.

- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part (SAA)⁶, Action Plan on implementation of SAA (AP SSA)⁷ and Developed Action Plan on SAA⁸;

-EC Progress Report 2010

-Political criteria/ Democracy and the rule of law/ judicial system; Section 2, Subsection 2.1 and 2.2

-Reference to draft MIPD 2011 – 2013

Section 3 Main sectors for EU support for 2011-2013” subsection 3.3.Private Sector Development

Section 3.1.3. Sector Objectives for EU support over next three year for Justice and Home Affairs Sector

Section 3.3.3. Sector Objectives for EU support over next three years

-Reference to national / sectorial investment plans

- Justice Sector Reform Strategy for the period 2009 – 2013 (JSRS)⁹

- HJPC Strategic Plan for the period 2010-2013

6 Official Gazette of Bosnia and Herzegovina – International Agreements no: 5/08

7 AP SAA of 29.7.2008, Council of Ministers of Bosnia and Herzegovina.

8 Developed AP SAA of 5.3.2009, Council of Ministers of Bosnia and Herzegovina.

9 Adopted by the Council of Ministers of Bosnia and Herzegovina on 23.6.2008

ANNEX V Detail per EU funded contracts

Contract 1 Supply

Within component 1: Upgrading the ICT in the judiciary it will be necessary to award supply contracts for the following activities:

1.2. Delivery of necessary equipment and software licenses.

1.3. Installation and deployment of the ICT equipment and software licences

Contract 2 Contribution Agreement

A Contribution Agreement with Joint Management will be concluded with the Council of Europe for the implementation of activities 2.1-2.8