

Project Fiche – IPA Annual Action Programme 2007 for Bosnia and Herzegovina
Support to Strategy Planning, Aid Co-ordination and European Integration (EI)
Capacities in the Ministries of Justice in BiH

1. Basic information

1.1 CRIS Number:

1.2 Title: Support to strategy planning, aid co-ordination and European integration (EI) capacities in the Ministries of Justice in BiH

1.3 ELARG Statistical code: 01.24 – Justice, Freedom and Security

1.4 Location: Sarajevo, Bosnia and Herzegovina (BiH)

Implementing arrangements:

1.5 Contracting Authority (EC): Delegation of the European Commission to Bosnia and Herzegovina

1.6 Implementing Agency:

Delegation of the European Commission to Bosnia and Herzegovina

Task Manager:

Contact:

1.7 Beneficiary (including details of project manager):

- Institution: The Ministries of Justice in BiH and, in particular, the BiH Ministry of Justice.
Senior Program Officer (SPO)
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Secondary beneficiaries :
 - The BiH High Judicial and Prosecutorial Council (HJPC) will also indirectly benefit from the technical assistance.

Financing:

1.8 Overall cost: 800,000 EUR

1.9 EU contribution: 800,000 EUR (100%)

1.10 Final date for contracting: N+2

1.11 Final date for execution of contracts: N +4

1.12 Final date for disbursements: N + 5

2. Overall Objective and Project Purpose

2.1 Overall Objective:

The overall objective of the project is to strengthen the Justice Sector in BiH and its European Integration (EI) process.

2.2 Project purpose:

The purpose of the project is to assist the State and Entities' Ministries of Justice and more specifically their capacities responsible for strategic planning, aid co-ordination and EI in:

- Devising and monitoring the implementation of a Justice Sector Strategy for BiH European integration;

- Coordinating the deployment of multilateral and bilateral aid in support of the BiH Justice Strategy;
- Implementing the SAA and the Acquis Communautaire for the Justice Sector in close coordination with the BiH Directorate for European Integration (DEI) and its counterparts in the Entities.

2.3 Link with AP/NPAA / EP/ SAA

The European Partnership (EP), I Political Situation:

4. Further strengthen the judicial system” and in particular:

4a. Ensure equal standards of appointment, promotion, discipline and training for judicial and prosecutorial staff throughout BiH;

4b. Ensure full BiH responsibility for the BiH State Court, the Prosecutor Office and HJPC in terms of finance, administration and personnel.

The first NPAA, which is due for the end of 2007, will provide for concrete actions in meeting the obligations under the SAA in the Justice Sector to which this project will provide assistance.

Finally the SAA would require the consolidation of the rule of law and reinforcement of the institutions on one hand and the adoption of further measures in the field of the fight against drug trafficking, organized crime and terrorism, for which effective policy-making capacities are essential (see in particular Art. 79 to 86).

2.4 Link with MIPD

Under Section 1.2 “Objectives of pre-accession assistance”, the following is stated:

Priority will be given to assistance with the aim at strengthening administrative capacity (...) ensuring that BiH becomes a more democratic, sustainable and functional state.

Community assistance will support BiH to cope with the requirement to approximate to the European acquis in the area of justice.

Section 2.2.1.1 entitled “Political Requirements – Main Areas of Intervention, Priorities and Objectives” provides, as follows:

Support to Reform of the Judicial System with the overall strategic objective of an independent, reliable and efficient functioning judiciary that guarantees the rule of law and equal access of all citizens to justice(...)

Outlining the importance of the overall chain of justice and consequently the need for a global approach, the following results are also expected under Section 2.2.1.2:

The justice sector institutions at all levels of the BiH institutional system are proper functioning and co-operation between police, prosecution, courts and the penitentiary system will be improved.

Finally, Section 2.2.1.3 provides for the programmes to be implemented in pursuit of these objectives:

Institution and capacity building will be provided to the State Ministry of Justice.

2.5 Link with National Development Plan:

N/A

2.6 Link with national/ sectoral investment plans

The BiH Ministry of Justice is preparing a national strategy on the justice sector.

3. Description of project

3.1 Background and justification:

This is a capacity building project which will run for 18 months. Its success will be primarily measured by the degree to which it has imparted capacity to the Ministries of Justice and staff of these Ministries and other BiH/Entity institutions relevant to EI in the Justice Sector.

The project's deployment stems from a twofold assessment:

- The Ministries of Justice in BiH do not sufficiently focus their work on the EI process;
- The Justice Sector's efficiency is not only undermined by the multitude of Ministries of Justice but also by their lack of institutionalised and regular cooperation.

In this context, the decision of the BiH Ministry of Justice to develop a country-wide Justice Strategy and to establish a Sector for Strategic Planning, Aid Co-ordination and European integration are welcome developments. These measures will however have only limited effect if the Ministries of Justice do not effectively work together and coordinate their daily activities having in mind their obligations under the SAA, the European Partnership and ultimately the Acquis Communautaire as their core work programme.

The establishment of the HJPC has freed the Ministries of Justice from the burden of the day-to-day management of Courts and Prosecutors Offices. They have now to assert their role in defining policies for the Justice Sector in close collaboration with their respective counterparts in the other levels of Government. The real challenge ahead for the Ministries of Justice rests more in the coordination of their work and the continuous development of harmonious legislation rather than in the re-definition of their relations to the HJPC.

The implementation of both the SAA and the Acquis Communautaire will be a proving ground for the Ministries of Justice's ability to work together and more generally for BiH to maintain a coherent legal framework.

In other words, the EI process will be the driving force behind an improved functioning and coordination of the Ministries of Justice. The tool to achieve such aim is an institutional coordination mechanism, as a structure for the transposition of the Acquis (see Action Plan II of the PAR Strategy). Ultimately the setting-up of such mechanism will have a spill-over effect and will allow, if not compel, the Ministries of Justice to devise jointly any strategic issues and maintain a harmonised legal framework in all areas of the Justice Sector.

The present project description will follow the outline of the expected results:

1. Strategic Planning:

At present only the BiH Ministry of Justice has a dedicated Sector for Strategic Planning, the staffing of which is on-going. The establishment of this Sector was a clear acknowledgement by the Ministry and the BiH Council of Ministers of the importance of this matter.

The establishment of parallel dedicated units or, at least, the appointment of corresponding staff in the Entities and in the Brčko District is a prerequisite to ensure the follow-up of the Justice Strategy for these levels of Government. The RS Ministry of Justice is already envisaging the recruitment of two persons responsible for EI under the Sector responsible for judicial bodies. This approach presents as well related issues as discussed above. Finally representatives of the BiH Federation Ministry of Justice have also acknowledged the need to reinforce their EI capacities while stressing their critical shortage of staff.

As previously indicated, the EI process is the driving force behind the Justice Strategy and the reform of the Ministries of Justice. Focusing on EI capacities in a line ministry not only at

State level but also in the Entities marks a turning point and acknowledges that the progress made in the EI process will have to be matched by increased administrative capacities in the line ministries.

Bearing in mind that the EI process will constitute the core strategy for the Justice Sector and that the bulk of the assistance to the Justice Sector will come from Community and EU Member States assistance, the heading for these units dealing strategic planning, aid co-ordination and EI becomes a question of semantic since in reality these units are EI units with strategic planning and aid co-ordination as core components. An initial draft decision prepared by BiH DEI and providing for the establishment of EI units in line ministries was rejected by the BiH Council of Ministers for budgetary considerations. The rejection by the BiH Council of Ministers of a draft decision for the structure of these units in all line Ministries does however not affect the project since the BiH MoJ's budget allows for the staffing of its dedicated unit.

In this context, the signature of SAA will signal an intensification of the EI process. The SAA foresees substantial obligations for the Justice Sector and the Ministries of Justice in particular. Besides the consolidation of the rule of law and reinforcement of the Justice institutions, legislation will have to be adopted, inter alia, in the areas of money laundering, terrorism financing, preventing and combating organised crime and other illegal activities.

2. Aid-Coordination:

At present the co-ordination of assistance within the Justice Sector rests upon informal ad hoc mechanisms between donors. Most donors find their champions in either the Ministries of Justice or in the HJPC for the deployment of their specific assistance without global overview by the BiH Ministry of Justice itself. HJPC Secretariat's previous experience with IJC has allowed though for a more coordinated approach for certain aspects of the assistance to the Judiciary.

Little information is shared during the programming phase and most projects have to find their own "niche" during their inception phase. Ad hoc arrangements between donors and their implementing partners allow though in most cases to avoid excessive overlaps in the assistance delivered.

The BiH Ministry of Justice has yet to establish a consistent approach to donors' requests. The strengthening of the aid co-ordination capacities in the Ministries of Justice will have to take place against the background of the to-be established system of decentralised activities for the EU assistance programming and implementation.

3. European Integration:

The expertise in a given area of law lies within the sectors traditionally responsible for these matters. The assistance to EI in the Ministries of Justice as foreseen under this project will therefore logically not limit itself to the aforementioned units but reach out to the various legal specialists in the sectors and in particular in those involved in international legal cooperation.

Against this background, the assistance under this project shall take into account upcoming developments by the BiH DEI and in particular the development of a NPAA, the first version of which, due by the end of 2007, will focus on the obligations originating from the SAA implementation.

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

The project will be critical for further reforms in the Justice Sector. At present, most policy decisions were left to the international community while the Ministries of Justice's contribution was often limited to mere legislative drafting. This approach has soon become unsustainable and infringes upon the country's sovereignty. From efficient policy-making

capacities will also stem the country's ability to become an effective partner in the European integration process.

The sustainability is ensured by the development of administrative capacities within the current civil service in accordance with the, albeit limited, possibilities offered by State', Entities' and Brčko District's budgets.

Cross border impact is not applicable. International legal cooperation will however improve (see below).

3.3 Results and measurable indicators:

1. Strategic Planning:

1.1. The State and the Entities' Ministries of Justice have applied a concrete work plan for the setting-up and functioning of effective strategic planning, aid co-ordination and EI units or staff responsible for these tasks, with a horizontal mandate;

1.2. Arrangements for an institutional coordination mechanism between the Ministries of Justice as an essential tool for the EI process and, more generally, for any strategic planning were put into force;

1.3. The strategic planning, aid co-ordination and EI units have applied their new competence and working plans to monitor and update the Justice Sector Strategy for the BiH EI and to be effective counterparts to the BiH DEI and the EC.

2. Aid-Coordination:

2.1. The BiH Ministry of Justice aid co-ordination capacity have applied the necessary instruments and tools to lead the programming and monitoring of all assistance to the Justice Sector, in close cooperation with the HJPC, whenever appropriate;

2.2. A multi-annual plan for sector-wide assistance on the basis of the Justice Sector Strategy and a donor database for the Justice Sector were developed and applied consistently with the donors' database developed by central government organs;

2.3. A Memorandum of Understanding for a sector-wide assistance was signed and has been applied by all participants;

3. European Integration:

3.1. A comprehensive screening of the obligations under the Acquis Communautaire for the Justice Sector was conducted and BiH legislation to be amended identified with an Action Plan for the implementation of the National Programme for the Adoption of the Acquis Communautaire (NPAA);

3.2. The Ministries of Justice have applied a comprehensive and operational work plan for the consolidation of budgeting and financing of Courts and Prosecutors Offices in BiH. Alternatively, an intermediate work plan provided for the consolidation of budgeting and financing of Courts and Prosecutors Offices in BiH Federation at the Federal level;

3.3. State and Entities Ministries of Justice and the HJPC have improved judicial accountability of Courts and Prosecutors Offices' administration.

3.4. A country-wide data collection system of consistent statistics in the Justice Sector has been applied by the Ministries of Justice;

3.5. Judges, Prosecutors, Police Officers and civil servants involved in international legal cooperation have applied their new competence. Recommendations for the implementation of relevant international conventions and draft amendments to BiH legislation, whenever appropriate, were provided.

3.4 Activities:

The full range and depth of activities required to be performed in order to achieve the project objective will not be provided. Instead, only the key activities for each expected result will be mentioned.

The service contract:

1. Strategic Planning:

- Recommendations with precise descriptions for the location, structure and the size of these capacities (including the issue of cross-cutting horizontal mandate);
- Recommendations with regards to the internal communications/procedures within each Ministry of Justice between the to-be established unit and the other components/sectors of the Ministry;
- Consistent and regular reporting of the progress under the Justice Sector Strategy's implementation as well as relevant sections of the other strategic documents such as the EU integration strategy, the PAR strategy, the European Partnership and the BiH Ministry of Justice Medium-Term Strategic Plan 2006-2008 and effective updating of these documents, whenever appropriate;

2. Aid-Coordination:

- Mapping of multilateral and bilateral (regional) assistance for BiH Justice Sector;
- Development of mechanism for assistance coordination;
- Dissemination of information on funds available to candidate countries from the EU but also from other donors;
- Development of an assistance database.

3. European Integration:

- Preparation of a concrete Action Plan and a joint legislative programme for the approximation of BiH legislation in accordance with the NPAA;
- Development of an operational work plan for the consolidation of the financing and the closure of the Cantonal Ministries of Justice;
- On the basis of an assessment of current statistical data available in the Justice Sector at all levels of government, recommendations for the development of consistent and comprehensive statistics for the whole sector in compliance with international obligations, in particular with Council of Europe's requirements;
- Training and on-the-job counselling pertaining of practical issues arising from the handling of cases on international legal cooperation;

3.5 Conditionality and sequencing:

The implementation of the activities related to the consolidation of the financing of the Judiciary raises substantial political issues. This activity will start with an initial assessment, an in-depth involvement will however be conditioned to the prior enactment of constitutional amendments.

3.6 Linked activities

The technical assistance under this project fiche will be at the crossroads between Justice reform and Public Administration Reform. Projects aiming at strengthening the HJPC or reforming the penitentiary on one hand or the civil service and the centres of government on the other hand are therefore closely linked. This project will also derive a lot of its activities from the overall development of EI activities under the guidance of the BiH Directorate for European Integration and the dedicated technical assistance.

3.7 Lessons learned

The deployment of activities will have to stretch over several years in order to ensure an effective reform within and between the Ministries of Justice. Furthermore the political nature of certain reforms might prevent certain results to be achieved.

4. Indicative Budget (amounts in €)

Activities	TOTAL COST	SOURCES OF FUNDING										
		EU CONTRIBUTION				NATIONAL PUBLIC CONTRIBUTION					PRIVATE	
		Total	% *	IB	INV	Total	% *	Central	Regional	IFIs	Total	% *
Twinning												
TOTAL	800,000.00	800,000.00	100	800.000.00		0	0					

* expressed in % of the Total Cost

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1	Q1/2008	Q3/2008	Q3/2010

All projects should in principle be ready for tendering in the 1ST Quarter following the signature of the FA

6. Cross cutting issues

6.1 Equal Opportunity:

During the capacity training of the staff involved in strategy planning, aid co-ordination and European integration, reference will be made to cross-cutting concepts applicable to any policy-making such as indeed equal opportunity but also equality before the law or the rights of Minorities.

6.2 Environment:

N/A

6.3 Minorities:

See above.

ANNEX I: Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR Project Fiche	Programme name and number: Support to strategy planning, aid co-ordination and European integration (EI) capacities in the Ministries of Justice in BiH	
	Contracting period expires	Disbursement period expires
	Total budget : 800,000 EUR	IPA budget: 800,000 EUR

Overall objective	Objectively verifiable indicators	Sources of Verification	
The overall objective of the project is to strengthen the Justice Sector in BiH and its EI process.	Reports by the European Commission, international organisations, the media and the civil society in BiH over the justice sector's performance.	The information will be provided in the relevant publications.	
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
<p>The purpose of the project is to assist the State and Entities' Ministries of Justice and more specifically their capacities responsible for strategic planning, aid co-ordination and EI in:</p> <ul style="list-style-type: none"> • Devising and monitoring the implementation of a Justice Sector Strategy for BiH European integration; • Coordinating the deployment of multilateral and bilateral aid in support of the BiH Justice Strategy; • Implementing the SAA and the Acquis Communautaire for the Justice Sector in close coordination with the BiH Directorate for European Integration (DEI) and its counterparts in the Entities. 	<p>Reports by the European Commission, international organisations, the media and the civil society in BiH over the justice sector's performance.</p> <p>Coordinated enactment of legislative amendments.</p>	The information will be provided in the relevant publications.	
Results	Objectively verifiable indicators	Sources of Verification	Assumptions

<p><u>1. Strategic Planning:</u></p> <p>1.1. The State and the Entities' Ministries of Justice have applied a concrete work plan for the setting-up and functioning of effective strategic planning, aid co-ordination and EI units or staff responsible for these tasks, with a horizontal mandate;</p> <p>1.2. Arrangements for an institutional coordination mechanism between the Ministries of Justice as an essential tool for the EI process and, more generally, for any strategic planning were implemented by these Ministries;</p> <p>1.3. The strategic planning, aid co-ordination and EI units have applied their new competence and working plans to monitor and update the Justice Sector Strategy for the BiH EI and to be effective counterparts to the BiH DEI and the EC.</p> <p><u>2. Aid-Coordination:</u></p> <p>2.1. The BiH Ministry of Justice aid co-ordination capacity have applied the necessary instruments and tools to lead the programming and monitoring of all assistance to the Justice Sector, in close cooperation with the HJPC, whenever appropriate;</p> <p>2.2. A multi-annual plan for assistance on the basis of the Justice Sector Strategy and a donor database for the Justice Sector were developed and applied consistently with the donors' database developed by central government organs;</p> <p>2.3. A Strategy for a sector wide assistance to Justice was developed and a Memorandum of Understanding was</p>	<p>Rule Books of Ministries of Justice amended to allow for dedicated units for strategic planning, aid co-ordination and EI and staff appointed with adequate terms of reference;</p> <p>Progress reports on the implementation of the Justice Sector Strategy issued and Justice Sector wide database of donor assistance developed;</p> <p>The BiH Ministry of Justice produces adequate project synopsis for IPA 2009 reflecting an improved aid co-ordination;</p> <p>Progress reports over the implementation of the SAA demonstrate a coordinated approach in the Justice Sector and an increased compliance with the obligations under the treaty;</p> <p>BiH budget covers the financing of all Courts and Prosecutors Offices in BiH or provisionally Courts and Prosecutors Offices in BiH Federation are financed out of the BiH Federation budget;</p> <p>Entry of force of relevant legislative amendments;</p> <p>Yearly country-wide statistics for the Justice Sector are published by the BiH Ministry of Justice;</p> <p>Reports on the process of requests for international legal assistance show an improved handling of cases.</p>	<p>Publications and websites of the BiH Ministry of Justice, the European Commission and other relevant donors.</p> <p>BiH and Entities Official Gazettes.</p>	<p>Signature of the SAA and issuance of the Justice Sector Strategy in 2007;</p> <p>Willingness of the political authorities to pursue the reform of the Justice Sector;</p> <p>Recognition by all political authorities of the need to increase EI capacities in all sectors.</p>
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<p>signed and applied by all participants; <u>3. European Integration:</u> 3.1. A comprehensive screening of the obligations under the Acquis Communautaire for the Justice Sector was conducted and BiH legislation to be amended identified with an Action Plan for the implementation of the National Programme for the Adoption of the Acquis Communautaire (NPAA); 3.2. The Ministries of Justice have applied a comprehensive and operational work plan for the consolidation of budgeting and financing of Courts and Prosecutors Offices in BiH; 3.3. State and Entities Ministries of Justice and the HJPC have improved judicial accountability of Courts and Prosecutors Offices' administration. 3.4. A country-wide data collection system of consistent statistics in the Justice Sector were available for the Ministries of Justice; 3.5. Judges, Prosecutors, Police Officers and civil servants involved in international legal cooperation have applied their new competence. Recommendations for the implementation of relevant international conventions and draft amendments to BiH legislation, whenever appropriate, were provided.</p>			
Activities	Means	Costs	Assumptions
<p>Only the key activities will be mentioned (full text in the core of the fiche). <u>1. Strategic Planning:</u></p>	<p>Staffing for a unit responsible for strategic planning, aid co-ordination and EI at State level is on-going. Adequate and furnished premises</p>	<p>800,000€</p>	

<ul style="list-style-type: none"> • Recommendations with precise descriptions for the location, structure and the size of these capacities (including the issue of cross-cutting horizontal mandate); • Recommendations with regards to the internal communications/procedures within each Ministry of Justice between the to-be established unit and the other components/sectors of the Ministry; • Consistent and regular reporting of the progress under the Justice Sector Strategy's implementation as well as relevant sections of the other strategic documents such as the EU integration strategy, the PAR strategy, the European Partnership and the BiH Ministry of Justice Medium-Term Strategic Plan 2006-2008 and effective updating of these documents, whenever appropriate; <p><u>2. Aid-Coordination:</u></p> <ul style="list-style-type: none"> • Mapping of multilateral and bilateral (regional) assistance for BiH Justice Sector; • Development of mechanism for assistance coordination; <p><u>3. European Integration:</u></p> <ul style="list-style-type: none"> • Preparation of a concrete Action Plan and a joint legislative programme for the approximation of BiH legislation in accordance with the NPAA; 	<p>should be provided to this unit.</p>		
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- Development of an operational work plan for the consolidation of the financing of the Judiciary;
- Training and on-the-job counselling pertaining of practical issues arising from the handling of cases on international legal cooperation

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Pre conditions

ANNEX II: amounts (in €) Contracted and disbursed by quarter for the project

Contracted	Q1/2008	Q2/2008	Q3/2008	Q4/2008	Q1/2009	Q2/2009	Q3/2009	Q4/2009	Q1/2010	Q2/2010	Q3/2010	Q4/2010	Q1/2011	Q2/2011	Q3/2011
Contract 1			800,000												
Cumulated			800,000												
Disbursed															
Contract 1			240,000		160,000		160,000		160,000		80,000				
Cumulated			240,000		400,000		560,000		720,000		800,000				

ANNEX III Reference to laws, regulations and strategic documents:

Sector (according to MIPD 2007-09)

Under Section 1.2 “Objectives of pre-accession assistance – Key priorities and Political Requirements”, the following is stated:

“The full responsibility of Bosnia and Herzegovina in terms of finance, administration and proper functioning of the judicial system remains to be accomplished. (...) the efficiency of the judiciary remains a critical issue.....”

Section 2.2.1.1 entitled “Political Requirements – Main Areas of Intervention, Priorities and Objectives” provides, as follows:

“Support to Reform of the Judicial System with the overall strategic objective of an independent, reliable and efficient functioning judiciary that guarantees the rule of law and equal access of all citizens to justice(...)

Support domestic BiH efforts on constitutional reform aimed at ensuring BiH is a functioning State.”

Outlining the importance of the overall chain of justice and consequently the need for a global approach, the following results are also expected under Section 2.2.1.2:

“The justice sector institutions at all levels of the BiH institutional system are proper functioning and co-operation between police, prosecution, courts and the penitentiary system will be improved.”

Finally, Section 2.2.1.3 provides for the programmes to be implemented in pursuit of these objectives:

“Institution and capacity building will be provided to the State Ministry of Justice.”

ANNEX IV Details per EU funded contract:

Besides providing appropriate backstopping services and suitable facilities for the experts’ team, the contractor will provide:

- A long term expert – Team Leader – European Integration focusing primarily on strategic planning and aid coordination;
- A long term expert – Legal Approximation focusing primarily on such issue;
- A short-term – International Legal Cooperation focusing primarily on such issue;
- Other short-term experts as required to complete the activities under the project.

The contractor is expected to provide adequate:

- On-the-site advice, technical assistance and training;
- EU awareness and dissemination activities;
- Study tours.