

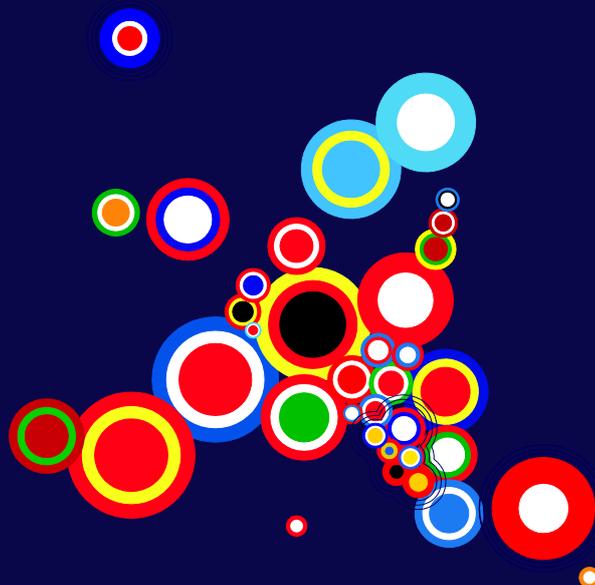


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## INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

### BOSNIA AND HERZEGOVINA

#### Enhanced Justice Sector and cooperation in Rule of Law



#### **Action Summary**

As a pivotal part of the European integration process, the rule of law will continue to be supported through the Instrument for Pre-Accession Assistance. Key target areas will be the further enhancement of efficiency, effectiveness, professionalism and accountability of judicial and prosecutorial institutions, as well as their inter-connectivity with other rule of law agencies.

More precisely, the assistance will be directed to institutional and structural improvements through providing adequate physical infrastructure for judicial/prosecutorial institutions such as courts, prosecutor's offices and prison facilities.

In tandem, with the view to strengthening the efficiency and effectiveness of the rule of law institutions and agencies, the assistance will focus on further strengthening of the institutional capacities of the courts, prosecutor offices staff, prosecutors and other law enforcement agencies. It will enhance the cooperation between prosecution and law enforcement agencies to improve the efficiency of the investigation and prosecution of organised crime and corruption cases.

The Action will also increase capacities regarding human resources and performance management as well as disciplinary frameworks and procedures. The Action should increase the confidence of BiH citizens in the judicial system.

<b>Action Identification</b>	
<b>Action Programme Title</b>	Country Action Programme on Bosnia and Herzegovina for the year 2015
<b>Action Title</b>	Enhanced Justice Sector and cooperation in Rule of Law
<b>Action ID</b>	IPA 2015/037-888.5/Bosnia and Herzegovina/ Enhanced Justice Sector and cooperation in Rule of Law
<b>Sector Information</b>	
<b>IPA II Sector</b>	Rule of Law and Fundamental Rights
<b>DAC Sector</b>	15130 Legal and judicial development
<b>Budget</b>	
<b>Total cost (VAT excluded)<sup>1</sup></b>	EUR 16,500,000
<b>EU contribution</b>	EUR 16,500,000
<b>Management and Implementation</b>	
<b>Method of implementation</b>	Direct management
	EU Delegation to Bosnia and Herzegovina
<b>Location</b>	
<b>Zone benefiting from the action</b>	Bosnia and Herzegovina
<b>Specific implementation area(s)</b>	NA
<b>Timeline</b>	
<b>Deadline for conclusion of the Financing Agreement</b>	31 December 2016
<b>Contracting deadline</b>	3 years following the date of conclusion of the Financing Agreement, with the exception of the cases listed under Article 189(2) Financial Regulation
<b>End of operational implementation period</b>	6 years following the date of conclusion of the Financing Agreement

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<sup>1</sup> The total action cost is net of VAT and/or of other taxes.

## 1. RATIONALE

As a fundamental requirement of any democratic country, the rule of law (RoL) underpins all aspects of a state. A proper RoL system presupposes a functioning justice sector encompassing the judiciary and prosecutorial services, the prison and related services and free legal aid, amongst other areas. In tandem, without proper law enforcement, stability, security and functioning of the state can fail.

In the absence of the RoL a country is prevented from ensuring a functioning market economy. Furthermore, its society is negated from the most basic fundamental rights, based on political stability, equal rights, legal protection and opportunities for all.

Recent fiscal, economic, security and demographic changes within and beyond the European Union (EU) have illustrated the importance of not only upholding the many strands of the RoL but the need to reinforce their inter-connectivity to ensure a proper functioning RoL system both within a country and transnationally. Hence all facets of the RoL should be mutually reinforcing.

The EU enlargement context has borne evidence that for any aspiring country to align itself to EU's standards in the area of freedom, security and justice, significant and sustained reforms and investments are required to meet the benchmarks.

Bosnia and Herzegovina is no exception to such evidence. In spite of transitioning through several judicial and prosecutorial reform phases, from the initial focus on the vertical issues of independence and accountability to the subsequent enhancing of effectiveness and efficiency, the country needs continued reforms and investments on the aforementioned vertical pillars of the justice sector. Equally, reform of the law enforcement systems across the country has borne many noteworthy results, but their cooperation with the prosecution services still requires sustained efforts and support.

Hence the purpose of the EU support presented here below is to reinforce the various vertical pillars of the justice sector *per se*, whilst also strengthening their horizontal strands across the rule of law.

### PROBLEM AND STAKEHOLDER ANALYSIS

- *Insufficient efficiency, effectiveness, transparency and accountability of the judicial / prosecutorial institutions, including their mutual-cooperation with law enforcement agencies*

To be considered efficient, effective, transparent and accountable in line with European standards the reform of post-socialist courts and prosecutor offices is a long term process. Although significant reforms have been undertaken across the 4 jurisdictions in BiH in this regard, further support is required. Structural solutions are necessary<sup>2</sup>, as due to limited human and financial resources the number of **pending cases** remains high<sup>3</sup> at all levels of judicial authority.

Throughout BiH the capacities of the **human resources** (see Annex 2, Table 1) vary, but in general there is a lack of systematic and continuous workload and/or functional analyses. The importance of strengthening case management skills of the judges and prosecutors and **capacities and skills** of managerial staff in BiH judicial institutions<sup>4</sup> is crucial, including for strategic and budget multiannual planning.<sup>5</sup>

As an efficiency measure, **quotas for judges and prosecutors** (number of cases per judge) have been introduced<sup>6</sup>. Still, a systematic performance appraisal is missing. Complementary to this, performance

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<sup>2</sup> EC Progress Report 2014

<sup>3</sup> The number of unresolved non-utility cases decreased by 10% in 2014 compared to 2013 (472.112 cases resolved while 428.756 cases received in 2014), the productivity of judges and legal associates in 2014 increased by 7% compared to 2013, and through backlog reduction plans, 85.941 cases were resolved, (an increase by 16 % of the number of solved cases from the plan compared to 2013).

<sup>4</sup> Report of the Functional WGs on implementation of the Action plan of justice Sector Reform Strategy in BiH for period 2009 – 2013, p. 9

<sup>5</sup> Report of the Functional WGs on implementation of the Action plan of justice Sector Reform Strategy in BiH for period 2009 – 2013, p. 9

<sup>6</sup> The HJPC BiH “Determines the number of judges, prosecutors and/or Deputy Chief Prosecutors of each court or prosecutor’s office within the Council’s competence, after consultation with the relevant Court President or Chief Prosecutor, relevant budgetary authority, and the relevant Ministry of Justice” (Art.17, item 25, Law on the HJPC of BiH), in May 2008 the HJPC BiH established a WG to analyse the systematisations for judicial office, draft criteria and recommendations on the number of judicial office holders (draft an analysis of the performance of the POs and establish criteria for the determination of the number of judicial office holders in the POs and to give a recommendation to the HJPC BiH regarding the number of prosecutors for each prosecutors office). This proposal has been adopted by the HJPC BiH in December 2010.

assessment of the judicial (and prosecutorial) staff is not in place, as well as a system of motivation among judges, and other court employees<sup>7</sup>.

The personal financial statements of judges and prosecutors are regularly collected by the HJPC, available to the **Office of the Disciplinary Council** (ODC), but recording and monitoring of data needs to be improved<sup>8</sup>. As a preventive measure, annual integrity plans should be introduced per institution, and their monitoring should be systematically performed.

The number of complaints submitted regarding judicial/prosecutorial office holders increased in the last two years at the ODC, particularly for prosecutors (see Annex 2, Table 2), but there is a lack of adequate disciplinary sanctions against wrongdoing by judicial/prosecutorial office holders<sup>9</sup> (see Annex 2, Table 3).

Significant attention has been given to the **fight against organised crime and corruption** and a number of investigations have been launched, including high level crime/corruption<sup>10</sup>. However, the track record does not reflect the effectiveness (number of investigations, prosecutions and convictions of perpetrators). Strategic and operational capacities of the bodies for prevention of corruption need to be further improved in general. More specifically, the judicial institutions and law enforcement agencies seek to improve the existent legal framework related to communication, coordination and cooperation through enhancing knowledge, skills, tools and joint operations, with special attention given to capacity building and tools (ICT).

Regardless the efforts (judicial web portal introduced: web calculator for court fees, web address book of lawyers list, etc.) the **public perception** of the judicial system in BiH does not reflect high trust in the high competence and independence of the judiciary. More actions are needed to enhance accountability and trust of public authorities, at the state level as well as the entity levels respectively, especially in relation to corruption and organised crime.

Amongst other areas for development, the new Justice Sector Reform Strategy (JSRS) recognises the need for further efforts in the area of **strategic planning**, cost control, the alignment of policies with budgetary planning, quantitative performance, inter-institutional cooperation establishing connections between the judiciary, service provision, etc.<sup>11</sup>

**War crimes** cases are considered a priority in the prosecutor offices (POs) throughout BiH and the courts<sup>12</sup>. An effective and rigorous management of referred war crimes cases helps to determine the final and exact number of cases at each level of authority, so to assess the capacity of relevant jurisdictions to implement their strategic goals<sup>13</sup>.

In summary, while a continuation of the efforts to ensure and improve judicial/prosecutorial independence and accountability should remain a priority, the challenges related to making all integrative parts of the reformed justice sector more efficient and effective is likely to dominate the agenda of the justice sector policy makers over the coming years.

- *Inadequate infrastructure and equipment conditions of institutes for execution of criminal sanctions throughout BiH*

Generally, the quality of most penal institutions in the country is poor, inadequate and often cannot meet European and international standards and requirements.

A significant number of sentenced individuals are prevented from serving their sentence due to insufficient prison space (e.g. 545 persons in FBiH, March 2015).

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<sup>7</sup> Strategic plan of the Court of BiH 2014 - 2016

<sup>8</sup> This activity has been planned under HJPC Strategic Plan

<sup>9</sup> EC Progress Report 2014

<sup>10</sup> Annual Report by Court of BiH (18 verdicts and 1 vindications)

<sup>11</sup> Financial Plan for SRJC 2012

<sup>12</sup> Structured Dialogue, May 2014

<sup>13</sup> EC report; SD Plenary meeting of the "Structured Dialogue on Justice and Additional Rule of Law Matters between the EU and BiH" Sarajevo, Bosnia and Herzegovina (13-14 May 2014)

The situation in juvenile prisons is rather critical and while the legal possibility of alternative (non-custodial) sanctions does exist, it is seldom in use<sup>14</sup>.

Reconstruction of some prison facilities has been undertaken and in that sense the needs are reduced, but still existent. Although continuous monitoring has been introduced<sup>15</sup> and the prison inspection at all levels of government has been established (but its implementation<sup>16</sup> is rather slow), the wider scale of the problem remains at the state level.

Some progress has been made by the newly established prison administration in BiH<sup>17</sup> regarding re-categorisation of prisons and classification within prisons in BiH<sup>18</sup>. Conditional release is used to a limited extent at different levels of government in BiH<sup>19</sup>. Although planned in the Justice Sector Reform Strategy (JSRS), investments to support the sector were postponed due to financial constraints.

- *Inadequate infrastructure and equipment conditions of courts and prosecutor's offices throughout BiH*

Apart from the institutional, financial and operational shortcomings (including human resources capacities), the efficiency and effectiveness of the judicial and prosecutorial institutions are undermined by the inadequate infrastructure and equipment conditions of courts and prosecutors' offices (POs) and ununiformed standards throughout the country. This specifically concerns security aspects, access for disabled, services to citizens, and support to victim witnesses and media representatives.

The main problem is the general lack of available space and adequate and economical use of the available space, particularly in the larger and busier courts and POs (insufficient number of courtrooms and non-existing or insufficient space for judges and prosecutors, overcrowded and often dysfunctional archives at courts and POs) and inadequate facilities for juvenile, victim witnesses, ex officio lawyers and court police. The problem of lack of space is often accompanied by rundown and outdated infrastructure (water, sanitation, electricity etc.)<sup>20</sup>.

It is important to note that in the last decade a lot of efforts have been undertaken to address these problems<sup>21</sup> and although planned in the JSRS, the investments were postponed due to the financial constraints.

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<sup>14</sup> Report of the Functional WGs on implementation of the Action plan of Justice Sector Reform Strategy in BiH for period 2009/2013

<sup>15</sup> E.g. a Framework plan of activities for improving the health care of prison population has been developed, including for the prisoners with special needs (Report of the Functional WGs on implementation of the Action plan of justice Sector Reform Strategy in BiH for the period 2009/2013, p. 15)

<sup>16</sup> Report of the Functional WGs on implementation of the Action plan of Justice Sector Reform Strategy in BiH for period 2009/2013, p. 16

<sup>17</sup> Institutes for execution of criminal sanctions as independent legal bodies with administrative organisations within Ministries of Justice at different levels of government in BiH; Report of the Functional WGs on implementation of the Action plan of Justice Sector Reform Strategy in BiH for the period 2009/2013, p. 12 - 13

<sup>18</sup> Laws on Execution of Criminal Sanctions, Detention and other Measures in BiH regulated categorisation of correctional-penal institutes in BiH and by-laws of the entities regulated classification and manner of re-classification of the prisoners.

<sup>19</sup> Analysis of the application and effect of the conditional release institute on the systems of execution of criminal sanctions, MoJ BiH. It is worth mentioning that conditional release comprises mainly a shortening of the sentence, in the absence of a monitoring mechanism to oversee the conditionalities of the release/released persons.

<sup>20</sup> An analysis has been conducted on the status of preconditions including: ownership status, assessment of available technical designs, assessment of proposed measures, cost estimations and on site surveys on 14 buildings (9 courts and 5 prosecutor's offices). In relation to the overall goal of efficiency and effectiveness of the judiciary – the assessment of proposed measures were based on following impact criteria: capacity, work flow, security, technical infrastructure and user satisfaction. In the related report one of the conclusions was that most of the judicial institutions in BiH are located in buildings 50 and more years old with almost no infrastructure investments in the last 30 years. Assessment of judicial institutions in RS proposed for infrastructure investments under IPA 2012/2013 financed by EU (2013). Additional analysis is in IPA 2010 and HRMIS reports.

<sup>21</sup> In 2004 – 2005 an Office of High Representative (OHR) in BiH led project (financed by USAID and implemented by the Italian NGO ALISEI) focusing on emergency repair and increase of security was implemented throughout the country. USAID 'Justice Sector Development Project II' in the course of 2010 conducted an analysis on the state of play of the physical conditions of the buildings of the prosecution offices in BiH and 18 buildings were selected as the most urgent ones (11 in FBiH, 7 in RS and 1 in BD). No US financing was provided for such renovations however through EU financial assistance over 20 million euro has been provided for capital investments..

## RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES

This action is identified within the goals and priorities specified in the EU and BiH strategic documents as follows:

### BiH Indicative Strategy Paper (2014-2017)

The BiH Strategy Paper noted numerous insufficiencies in the procedures covering this sector, namely:

*“...Lengthy civil procedures, insufficient enforcement mechanisms and complex administrative laws cause legal uncertainty ...”*. (p. 3 – 4)”

The Organisational set- up has a lot of deficiencies that lead to *“... backlog of civil and criminal cases needs to be further reduced to increase judicial efficiency. Effectiveness should be enhanced by a more harmonised criminal and civil court practice...”*.

The need for *“better skills and know-how in the investigation, prosecution and adjudication of relevant cases”* is also mentioned in the report.

The findings show that insufficient cooperation and coordination between law enforcement agencies and the prosecution services significantly undermine the process of strengthening of the judiciary.

In addition, the Strategy also underlines the unsatisfactory infrastructure and staff capacities in the execution of criminal sanctions (p. 16).

### EC Progress report 2014, Bosnia and Herzegovina

The EC Progress reports elaborates on the efforts required particularly in relation to the state-level judiciary reform, human resources tackling the backlog of war crime cases, proper planning and relevant allocations of funds by domestic authorities and further reinforcement of disciplinary tools and adequate regulations of conflict of interest.

The *“limited progress”* in tackling organised crime and in the same time the *“little political will”* to move beyond rhetoric and tackle corruption, including investigations and convictions in high-profile cases, is also noted.

An urgent need for *“appropriate financing of adequate staffing levels in POs and courts”* remains an issue to be addressed to ensure timely and effective processing of the backlog and a *“large backlog”* in the execution of criminal sanctions, particularly in the FBiH, remains an issue too (p. 22).

### Stabilisation and Association Agreement (SAA)

The SAA<sup>22</sup> stresses the importance of strengthening democracy and the rule of law with specific emphasis to the improvement of independence, impartiality, professionalism and efficiency of the judicial system, anti-corruption policy and human and minority rights.

Title VII: Justice, Freedom and Security, Article 78: Reinforcement of institutions and rule of law stresses ‘In their **cooperation on justice and home affairs** the Parties shall attach particular importance to the consolidation of the rule of law, and **the reinforcement of institutions** at all levels in the area of administration in general and law enforcement and the administration of the justice in particular. Cooperation shall notably aim at strengthening the **independence of the judiciary and improving its efficiency and institutional capacity, enhancing access to justice**, developing adequate structures for the police, customs and other law enforcement bodies, providing **adequate training and fighting corruption and organised crime.**’

### South East Europe 2020

Key strategic issues are:

- i) Improve efficiency and competence: review the quality, efficiency and competence of judges and the courts,

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<sup>22</sup> The SAA - Title I, General principles, Article 2, Title VII, Justice, Freedom and Security, Article 80.

- ii) Improve judicial cooperation in free access to information, cross-border enforcement and cross-border proceedings and take-over and mergers and
- iii) Support alternative dispute resolution (ADR): Introduce or improve the legislation on ADR and enable proper legal and institutional cooperation with judiciary and the enforcement system.

### **Recommendations from the Structure Dialogue<sup>23</sup>**

As indicated in the 2014 Progress Report 'the Structured Dialogue on Justice' is recognised as an important platform to consolidate consensus on judicial reforms and has been further broadened to other rule of law-related matters'.

- on efficiency: reducing the general backlog of cases in courts and POs remains a crucial priority. The High Judicial and Prosecution Council (HJPC) to seek further systemic solutions aimed at disburdening the judiciary throughout BiH of the caseloads, including introducing legislative initiatives particularly regarding the unpaid utility bills.

- on the National Strategy for Processing War Crimes (NWCS): the obligation for POs and courts to prioritise war crimes cases already transferred, so that the process of referrals can continue to achieve the purpose of helping to decrease the backlog of cases throughout the BiH judiciary.

- on cooperation between police and prosecution: establishment of precise data on number of indictments whose confirmation was refused by the competent courts on the ground of illegally collected evidence. Quantitative overview (to be complemented, where relevant) with a targeted qualitative assessment of the key issues at stake in police/prosecutors cooperation.

- on anti-corruption/anti-discrimination: relevance of a broadened Structured Dialogue agenda, which addresses new priorities as jointly identified with representatives from relevant domestic authorities and the civil society, along the following policy areas: anti-corruption; anti-discrimination; prevention of conflict of interest; measures to strengthen integrity, accountability etc.

Findings and conclusions of the Structured Dialogue continue to guide IPA support, as well as reinforce IPA financed programmes.

### **SECTOR APPROACH ASSESSMENT**

Although with significant weaknesses, the sector is able to cope with systematic use of external assistance through sector approach.

The *strategic framework* is in line with the EU accession requirements and investment perspectives indicated in the Country Strategy Paper for BiH (2014 – 2017). In general, the process of developing sub-sector policies tends to involve a number of different sub-sector actors (including CSOs). Policy objectives are in line with the accession agenda and political support ensures necessary ownership and the sustainability of the overall reforms. Sector planning is theoretically linked to resources allocation but readjustments of financial allocations are frequent. Sub-sector policies are mapped, supported by a strategic framework that in general is in line with the EU accession requirements. Some of the significant sector strategies at the state level are: Justice Sector Reform Strategy (2014 – 2018), National Strategy for Processing War Crimes (adopted in 2008), BiH Anti-Corruption Strategy (2015 – 2019). At the entity levels and Brcko District (BD) a number of related strategies are currently in use (see Annex 2, Sector Specific documents).

The *institutional setting* is quite complex and articulated due to the decentralisation characterising BiH, but sound institutional coherence is present at both the State and entities levels. The Constitution of BiH provides standards for the mutual institutional cooperation. The coordinating institutions (MoJ BiH and HJPC) are suitably identified and institutional arrangements and capacities allow a satisfactory degree of communication and cooperation within the sector.

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<sup>23</sup> Plenary meeting of the "Structured Dialogue on Justice and Additional Rule of Law Matters between the European Union and BiH". Sarajevo, BiH (13-14 May 2014). Recommendations by the European Commission. Ref. Ares(2014)1639230 - 20/05/2014, p. 8.

*Donor coordination* is stronger than in other sectors in BiH for two main reasons: under the JSRS a donor coordination mechanism is led by the MoJ of BiH, and aims to meet at least semi-annually; in addition, an EU led (EUD & EUSR) International Justice Sector coordination group gathers quarterly and invites all EU member states, international organisations and UN implementing agencies working in the justice sector to convene to discuss policy and technical issues, whilst also sharing an overview of their respective projects.

The sub-*sector budgets* are easily traceable in the State and Entities budgets and a three year strategic planning clearly indicates the scope of the sub-sector, unlike the financial allocations. Still, the budget reflects quite fairly the sector policy and objectives. At the current stage, it is not possible to assess to which extent external assistance contributes to the sub-sectors reforms.

The *performance assessment framework* has been set up but is not operational - the monitoring system with indicators exists, but the assessment of impact of reforms is not yet developed. However, the whole sector is periodically monitored by International Organisations and meaningful indicators are available and rather reliable.

## **LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE**

In the framework of the judicial reform since 2001 a great amount of donor support has been provided. Donor Coordination in the Justice Sector in BiH is particularly strong, and has been further enhanced by the Structured Dialogue on Justice.

Donor support from the EU, CoE, and UK has focused on activities that supported the harmonisation of legislative framework on execution of criminal sanctions, implementation of alternative sanctions, staff training and improved treatment of vulnerable prisoners in accordance with European standards.

With regards judicial/ prosecutorial efficiency, experience shows that with considerable financial and human investments, an institutional and human change is possible to allow a better case management framework. This is also shown by the implementation of the direct budgetary support for the efficient processing of war crime cases in all relevant judicial institutions under the IPA 2012 programme.

The experience with previous EU assistance clearly demonstrates that successful projects are based on the beneficiaries “ownership” when they assume greater responsibilities and become the focal centres for the development and implementation of projects. Assuring continual political buy-in throughout the programming and implementation phases has proven to be pivotal for achievement of the set project goals. Projects designed around multi-stakeholder participation need to secure the pledge of all relevant stakeholders, as it directly influences the success of the projects.

In addition to this, it is necessary to maintain the motivation of the sector institutions for active participation in a project by guaranteeing direct benefits responding to individual institutional needs. This lesson was particularly meaningful in the implementation of the IPA 2012 Measure 1 - Conduct construction, renovation and reparation of courts and prosecutors’ offices project as well as of the IPA 2007 - Strengthening capacities in the MoJs in BiH for Strategic Planning, Aid Coordination and European Integration project.

Previous IPA investments in judicial infrastructure involved two significant donors to the Justice sector, Sida and Norway, both of which have complemented EU assistance. Support was addressed particularly to the case management system, court case backlog reduction, and infrastructures. Due to the shared strategic goals of all three donors regarding improving judicial infrastructure in BiH, Sida and Norway financed the preparation and design of technical documents required for the EU tendering and contracting of infrastructure works. This cooperation proved to be successful and is therefore recommended for the future.

Based on lessons learned from previous infrastructural projects, 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' projects for which the issues of land ownership or construction permits present no challenges. It is very important to secure the commitment of all parties, to ensure fast and reliable channels of cooperation and decision making, respecting the regulations and deadlines.

Also, experience has shown that the provision of necessary equipment for reconstructed judicial premises is of great significance, as solving infrastructural issues is inextricably connected to needs for a wide range of equipment.

For a list of the projects funded by the EU and other donors see Annex 2, Table 5.

## 2. INTERVENTION LOGIC

### LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS	SOURCES OF VERIFICATION	
To strengthen the efficiency, effectiveness, professionalism and independence of the justice sector in supporting the enhanced functioning of sector within the wider rule of law framework in preparation for fully enforcing European standards.	Progress made towards meeting accession criteria (Judicial Reform)  Composite indicator (average of Access to Justice and Judicial independence)	CEPEJ EC Progress Report	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS	SOURCES OF VERIFICATION	ASSUMPTIONS
To enhance the effectiveness, integrity and professionalism of the institutions in the Rule of Law sector	Percentage of convicted with postponed serving sentences due to lack of capacities to execute criminal sanctions (only for FBiH) Number of judicial institutions able to meet infrastructure requirements for efficient functioning Number of judges, prosecutors and HJPC Council members whose institutions adopted Integrity plans Time (days) required to resolve complaints against judicial officials	International organizations' reports (OSCE, UN agencies etc.) Conclusions by Structured Dialogue on Justice Meeting(s) Reports by relevant institutions at the central state level and entity levels Statistical Reports from judiciary bodies Annual Report by Office of Disciplinary Council Complaints by citizens and other parties involved against judicial officials	Professional and political commitment Commitment of the Government to the European integration process
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS	SOURCES OF VERIFICATION	ASSUMPTIONS
<b>Result 1:</b> Improved material capacity for execution of criminal sanctions throughout BiH	Number of institutes for execution of criminal sanctions refurbished and operational Number of available places (capacity) in prison system facilities	Reports by relevant MoJ Architectural and construction documentation related to construction supervision of civil works Action progress reports (monthly, quarterly, semi-annual, annual) Taking over certificate and Provisional Acceptance Certificate for the reconstructed / constructed buildings Media reports	Willingness of the relevant authorities in participating in the action Adequate technical documentation for selected projects developed by relevant authorities Ensuring financial support in further maintenance of the achieved level of infrastructural standards
<b>Result 2:</b> Improved material and operational capacity of the judicial institutions throughout BiH	Number of courts and prosecutor's offices refurbished and operational	Reports from competent institutions Architectural and construction documentation Taking over certificate and Performance Certificate for the refurbished buildings Action progress reports (monthly, quarterly,	Improved infrastructure in judicial institutions is used in optimal way for organisation of work flow Relevant authorities ensure financing for maintenance of the achieved level of

<p><b>Result 3:</b> Enhanced efficiency of the investigation and prosecution of organised crime and corruption cases (OC &amp; C) throughout BiH</p> <p><b>Result 4:</b> Reinforcement of the integrity, human and performance management, and accountability of the justice sector institutions</p>	<p>Number of legal acts/procedures/rules between LEAs (police) and POs developed and established ICT installed and functional Number of participants in specialised trainings and peer-to-peer events for judges, prosecutors and LEAs (police) in the area of OC&amp;C</p> <p>Percentage of judicial institutions that have developed and apply an integrity plan. Software for electronic recording of disciplinary complaints for ODC operational and beneficiary staff able to use and maintain the system Number of developed models for HRM throughout courts and prosecutor offices in BiH Number of prepared recommendations on performance appraisal of judges, prosecutors and other staff related to justice sector in BiH Number of participants to the trainings on performance appraisal of judges, prosecutors and other staff related to justice sector in BiH Number of visibility events organised</p>	<p>semi-annual, annual) Media reports</p> <p>Reports by POs and LEAs (police) Strategic plans of POs and LEAs (police) Gender sensitive Action progress reports (monthly, quarterly, semi-annual, annual) Training reports including gender disaggregated data</p> <p>Reports by HJPC, POs and/or relevant MoJs Gender sensitive Action progress reports (monthly, quarterly, semi-annual, annual) Training reports including gender disaggregated data Provisional Acceptance Certificates (PAC) and Certificate of Final acceptance for IT equipment</p>	<p>infrastructural standards Adequate technical documentation for selected projects developed Willingness of the police (and other LEAs staff) and prosecutors, including judges in participating in the Action Willingness of the police (and other LEAs) and prosecutors, including judges in applying acquired knowledge and skills (including IT equipment) Willingness of the key decision-makers in police (other LEAs) and in POs and courts in supporting cooperation, coordination and communication among involved stakeholders Willingness of the justice sector staff to participate in action Willingness of the judges, prosecutors and other staff in applying the acquired knowledge and skills in day-to-day work</p>
<b>ACTIVITIES</b>	<b>MEANS</b>	<b>OVERALL COST</b>	<b>ASSUMPTIONS</b>
<p><b>Activities to achieve Result 1:</b> 1.1. Conducting construction, renovation and/or reparation of execution of criminal sanctions facilities 1.2. Supervising the works during construction, renovation and reparation of selected locations of the execution of criminal sanctions facilities</p> <p><b>Activities to achieve Result 2:</b> 2.1. Conducting construction, renovation and/or reparation of courts and prosecutor's offices with the correct visibility standards applied to highlight EU participation.. 2.2. Supervising the works during construction, renovation and reparation of selected locations of the courts and Prosecutor's offices</p> <p><b>Activities to achieve Result 3<sup>1</sup>:</b></p>	<p>Works Contracts/ Supervision Contracts</p> <p>Works Contracts/ Supervision Contracts</p> <p>Grant for EU MS/</p>	<p>16,5 MEUR</p>	<p>Good design projects and sufficient and quality contractor(s) bid to enable healthy competition and optimal selection</p> <p>Relevant national/entity/local authorities fully cooperate and provide necessary support and assistance throughout the implementation</p> <p>Willingness of the justice sector and police</p>

<sup>1</sup> The foreseen equipment/software is for POs and LEAs , as well as the HJPC.

<p>3.1. Conducting analysis of the current state of play of the cooperation among different stakeholders involved in corruption, organized crime and commercial criminal cases with recommendations for improvements related to mechanisms, legal framework, tools and skills needed to be improved, amongst other areas.</p> <p>3.2. Activities related to the improvements to the legal framework allowing enhanced cooperation, communication and exchange of data related to detection, investigation and prosecution of cases related to OC&amp;C</p> <p>3.3. Purchase and installation of hardware/software allowing the exchange of data among different LEAs (police) and POs in detection, investigation and prosecution of OC &amp;C in line with data protection measures</p> <p>3.4. Preparing and conducting specialised training and peer-to-peer events, conferences and workshops for judges, prosecutors and LEAs (police) in the area of OC&amp;C</p> <p><b>Activities related to Result 4<sup>2</sup>:</b></p> <p>4.1. Conducting analysis of the current state of play regarding accountability, integrity, conflict of interest and other with recommendations for improvements of the disciplinary framework and procedures of the HJPC, the Office of the Disciplinary Council and other representatives of judicial community.</p> <p>4.2. Developing capacity building activities for the Office of the Disciplinary Council (ODC), including development, purchase and installation of software of electronic recording of disciplinary complaints for ODC and including training activities for the use of the equipment and wider. Also, developing models for enhanced participation of representatives of the judicial community in disciplinary panels etc.</p> <p>4.3. Developing models related to strengthening human resource capacities (permanent and temporary staff) and management throughout courts and prosecutor offices in BiH ensuring equal representation of women and men whenever possible</p> <p>4.4. Activities related to strengthening performance appraisal of judges, prosecutors and other staff related to justice sector in BiH including building the capacities of training centres throughout BiH</p> <p>4.5. Developing, conducting and/or disseminating printed materials (brochures and similar), different media and visibility events throughout BiH in line with the EU visibility guidelines.</p>	<p>Supply Contract (for Results 3&amp;4)</p>	<p>(LEAs) institutions to work on developing their capacities and on maintaining cooperation</p> <p>Full support, cooperation and commitment of JTCs, JCBD, relevant MoJs and other relevant institutions in undertaking the actions</p> <p>Managers and other staff of courts and POs fully cooperate with HJPC during the project implementation phase and comply with established rules, regulations and procedures</p>
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<sup>2</sup> The foreseen equipment/software is for courts, POs, MoJs, HJPC

### **3. IMPLEMENTATION ARRANGEMENTS**

#### **ROLES AND RESPONSIBILITIES**

Due to the fact that this Action has numerous beneficiaries in the justice and law enforcement sector, it is important from the very beginning that they take on strategic, operational and structural responsibility and accountability for implementing the Action. Full commitment of all ones involved (and already established during the programming phase) throughout the whole duration of the Action implementation will be indispensable for achieving the expected results.

Last but certainly not least, the strong political and operational commitment of all beneficiaries in implementing this Action is a condition sine qua non.

A Sector Steering Committee will be established to monitor the implementation of the Action and will be composed of the main stakeholders (some of them will be: MoJs at the state, entity levels and BD, Cantonal MoJs, HJPC, Prosecution's Offices at state, entity and BD level, representatives of Ministry of Finance at state, entity levels and BD, EUD, project experts etc.).

The composition of the Steering Committee will be shaped upon the equal representation of all the judiciary and law enforcement agencies bearing in mind effectiveness and efficiency of such bodies.

Several working groups will be organised per thematic areas (result and/or sub-result); in each working group there will be representatives of the relevant implementing organization(s), representative from relevant MoJ, representatives of competent institutions (observing the competences of all levels of authority in BiH), beneficiary institution (in the case of court, PO and prison facility) and Contracting Authority. The number of relevant implementing organization representatives will equal the number of competent institutions' representatives in each working group. The conclusions/decisions of the groups will work based on consensus.

#### **Result 1**

Coordination will be ensured by the relevant MoJ. In particular, entity MoJs should provide locations, necessary design documentation for works contract and other supporting documentation (e.g. permits and similar) related to works.

#### **Result 2**

Coordination will be ensured with entity MoJs. The development of the technical documentation for the design of rehabilitation works to be used for the preparation of tender documentation will be secured by HJPC. HJPC has already secured funds for the design of project documentation for some judicial institutions that are to be reconstructed. These funds will be operational until June 2016.

The selection of priority courts and POs, including the coordination of the activities of contractors with the beneficiaries (courts and prosecutors' offices), is made jointly by HJPC, relevant MoJs and the JCBD. In particular, entity MoJ in cooperation with HJPC should provide locations, HJPC will secure the necessary design documentation for works contract and other supporting documentation (e.g. permits and similar) related to works.

#### **Result 3**

The main partners in implementing the envisioned operations are HJPC, courts, POs, police sector and other LEA institutions throughout BiH.

In all relevant (and chosen) institutions in each of the jurisdictions, the training of respective judicial, non-judicial, police and other staff in LEA will be organized and/or carried out in accordance with their competences. The scope and size of training activities will depend on the needs assessment envisaged in the Action.

#### **Result 4**

The main partners in implementing the envisaged activities are courts, POs and MoJs throughout BiH and HJPC.

Capacity building of temporarily engaged staff will be organised in accordance with relevant legislation, while relevant institutions in each of the jurisdictions will organize and/or carry out the training of its non-judicial staff in accordance with their competences. Capacity building of temporarily engaged staff at the state level will be organised through the Commission for Education of Court/PO BiH. Both specialised and tailor made capacity building will be organised through the Judicial and Prosecutorial Training Centres while observing gender components whenever possible.

The main stakeholders – Institutions involved in the Action and their respective role in BiH are shortly described in Annex III.

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

The assistance will be implemented in direct management by the EU Delegation to Bosnia and Herzegovina.

The expected contracting arrangements through this Action's results will be as follows:

**The Result 1** and corresponding activities will be implemented by works contract(s) (including the supply for necessary equipment for security of institutes for execution of criminal sanctions and others) and service contract(s) (supervision).

**The Result 2** and corresponding operations will be implemented by (a) works contract(s) (including necessary supply) and through (a) service contract(s) (supervision).

**The Results 3 and 4** will be implemented through one grant to an EU Member State (complemented by separate ICT supplies/software for issues related to organised crime and corruption, amongst others).

The supply part (ICT/SW) will be procured by the EUD through a separate competitive tender.

### **4. PERFORMANCE MEASUREMENT**

#### **METHODOLOGY FOR MONITORING (AND EVALUATION)**

The beneficiary organisation will be responsible for monitoring the implementation of the Action in line with the set of indicators.

The NIPAC Office has a Monitoring Unit that performs various tasks in cooperation with the EU Delegation and beneficiary institutions related to monitoring the IPA projects.

The monitoring arrangements (including data to be collected, responsibilities, tools and frequency of monitoring activities) will be detailed in the Implementation Manual to be developed at the start of the Action which will also take into consideration a gender component.

The 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 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 for evaluations. In addition, the Action might be subject to external monitoring in line with the EC rules and procedures set in the Financing Agreement.

## INDICATOR MEASUREMENT

Indicator	Baseline (year) (2)	Milestone 2017(3)	Target 2020 (4)	Final Target (year) (5)	Source of information
<b>CSP indicators</b>					
Progress made towards meeting accession criteria (Judicial Reform)					CEPEJ Global Integrity Report
Composite indicator (average of Access to Justice and Judicial independence)	82 (2013)	84	N/A	N/A	Corruption index Transparency International
<b>Outcome indicators</b>					
Percentage of convicted with postponed serving sentences due to lack of capacities to execute criminal sanctions**	545 (2015)	N/A	No more than 300	No more than 100	International organizations' reports (OSCE, CoE CPT, USA HRR, UN agencies etc.) Reports by relevant institutions at the central state level and entity levels  Statistical Reports from judiciary bodies ODC Reports
Number of judicial institutions able to meet infrastructure requirements for efficient functioning	37 (2015)	N/A	At least 40	At least 47	
Number of judges, prosecutors and HIJP Council members whose institutions adopted Integrity plans	0	N/A	At least 1000	At least 1360	
Time (days) required to resolve complaints against judicial officials	234 (2014)	N/A	No more than 211	No more than 190	
<b>Result 1: Results indicators</b>					
Number of institutes for execution of criminal sanctions refurbished and operational	14 (2014)	N/A	17	17 (2021)	Reports by relevant MoJ Architectural and construction documentation related to construction supervision of civil works Action progress reports (monthly, quarterly, semi-
Number of available places (capacity) in prison system facilities	1844 (2013)	N/A	At least 2144	At least 2289	

Indicator	Baseline (year) (2)	Milestone 2017(3)	Target 2020 (4)	Final Target (year) (5)	Source of information
					annual, annual) Taking over certificate and Performance Provisional Acceptance Certificate for the refurbished reconstructed / constructed buildings
<b>Result 2: Results indicators</b>					
Number of courts and prosecutor's offices refurbished and operational	0	Project documentation prepared for reconstruction and equipping of 5 judicial institutions' buildings	No less than 5	No less than 5 (2024)	Ministries of Justice reports Supervisory reports HJPC Annual report
<b>Result 3: Results indicators</b>					
Number of legal acts/procedures//rules between LEAs (police) and POs developed and established	0	N/A	No less than 5	Up to 10	Annual reports by line institutions at different levels of governance
ICT installed and functional	0	N/A	At least 1	At least 2	Project progress reports HJPC Annual report
Number of participants in specialised trainings and peer-to-peer events, workshops and conferences for judges, prosecutors and LEAs (police) in the area of OC&C	0	N/A	At least 100	At least 110	Training Reports List of training courses participants Number of certificates distributed
<b>Result 4: Results indicators</b>					

<b>Indicator</b>	<b>Baseline (year) (2)</b>	<b>Milestone 2017(3)</b>	<b>Target 2020 (4)</b>	<b>Final Target (year) (5)</b>	<b>Source of information</b>
Percentage of judicial institutions that have developed and apply an integrity plan.	0	N/A	80%	100 %	Project progress reports Agency for Prevention of Corruption and Coordination of the Fight against Corruption reports HJPC Reports CEJPs in BiH Reports
Software for electronic recording of disciplinary complaints for ODC operational and beneficiary staff able to use and maintain the system	0	N/A	At least 1	At least 1	
Number of developed models for HRM throughout courts and prosecutor offices in BiH	0	N/A	No less than 2	No less than 2	
Number of prepared recommendations on performance appraisal of judges, prosecutors and other staff related to justice sector in BiH	0	N/A	At least 2	At least 2	
Number of participants to the trainings on performance appraisal of judges, prosecutors and other staff related to justice sector in BiH	0	N/A	At least 100	At least to 120	
Number of visibility events organized in line with EU Visibility Guidelines.	0	N/A	No less than 4	No less than 5	

(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 milestone year CANNOT be modified: it refers to the mid-term review of IPA II.

(4) The target year CANNOT be modified.

(5) 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.

\* As provided by DEI

\*\* Indicator relatet only for FBiH

## **5. CROSS-CUTTING ISSUES**

### **EQUAL OPPORTUNITIES AND GENDER MAINSTREAMING**

The justice sector institutions strictly apply the principle of non-discrimination deriving from Article 6 of the Labour Law for Institutions of BiH which stipulates that a person will not be discriminated 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.

In the implementation of this Action, all beneficiaries and involved institutions commit themselves to strictly follow the prescriptions of the Law and to monitor that it is applied in all possible forms.

The implementation of the Action will be in line with two key laws in BiH, such as:

- the Law on Gender Equality and
- the Law on the Prohibition of Discrimination.

More precisely, the Law on Gender Equality<sup>26</sup> prohibits discrimination on the grounds of gender and sexual orientation. Equal representation of men and women is considered attained when one sex is represented with at least 40 per cent in bodies at all levels of authority in BiH (state, entity, cantonal and municipal levels). Within the framework of the Action, the same proportion will be ensured as far as beneficiaries, targets and recipients of the activities will be concerned.

In addition, the Action will address problems and practical needs specific to men and women in order to ensure institutional capacities to deliver services in a gender-sensitive manner. Gender sensitive language will be maintained throughout the project cycle. It will be ensured that the Action management will have adequate capacities to enhance women's participation in the Action activities and work towards gender equality objectives. Collection of gender sensitive data will be upgraded ensuring i) better use of the existing data, ii) better collection of data which exists in the institutions (if any), iii) better processing and cross tabulation of data (i.e. age and sex, sex and education, etc.), iv) better accessibility and timeliness of data (on-line), v) better interpretation of statistical data, vi) organizing some additional surveys, if needed. In general, a gender perspective will be maintained ensuring that the results of the projects impact positively on gender equality as well.

### **ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)**

The Action is not expected to have any negative impact on the environment. The activities will be delivered in the most environmentally friendly way possible.

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

The 2007 Memorandum of Understanding between the Government of BiH and civil society organisations (CSOs) set out the objectives, principles and forms of the cooperation with civil society. Although the engagement of citizens in the decision-making processes at state level in BiH is regulated, it is not fully implemented yet.

Amendments to the Rules of Consultations were adopted at the state level, which is to be followed at all levels of governance in BiH to allow for developing institutional mechanisms of cooperation with civil society. The Cooperation Agreement with civil society should be revised and finally implemented.

The EU funded project “Strengthening capacities of governmental institutions for participation in policy dialogue with civil society (CBGI)”, is developing an improved mechanism for consultations. It is working at all level of governance in order to enable all citizens to be aware of regulations to be adopted and to encourage their participation in policy making.

During the implementation of the Justice Sector Reform Strategy (JSRS) 2009 – 2013, CSOs’ representatives signed the memorandum on active monitoring of implementation of the JSRS with the

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<sup>26</sup>The Law on Gender Equality in BiH has been adopted in 2003 and amended in 2009, while a consolidated text was published in 2010.

Chairman of the Ministerial Conference and presidents of the HJPC and Judicial Commission of BD. Five CSOs, such as the signatories of the memorandum, systematically monitored, evaluated and reported on the implementation of the reform measures thereby contributing to the more effective establishment of the justice system in BiH, in line with EU standards.

As a part of the USAID Justice Sector Development Project II the Justice Network in BiH was established in January 2010. It is an informal network of 64 non-governmental organizations working in the field of rule of law and protection of human rights in order to support efficiency, independence and accountability of the judicial system of Bosnia and Herzegovina, as well as quality information, education and representation of the interests of the citizens in the justice sector. Most of CSOs, which were engaged in systematic monitoring, evaluation and reporting on the implementation of the reform measures, are members of the Justice Network in BiH.

In the context of the new JSRS 2014 – 2018, the framework of cooperation with CSOs should be renewed with the adoption of the new JSRS.

IPA II programming process included consultations with Civil Society and Donor Community in BiH, through the consultation meeting and exchange of relevant information on the process and individual proposals. All relevant stakeholders from various levels of government in BiH as well as non-state stakeholders have had the opportunity to actively participate in the consultation process and to contribute to the preparation of this Action Document.

#### **MINORITIES AND VULNERABLE GROUPS**

Some of the activities envisaged in this Action are specifically related to the improvement of the conditions of some specific/vulnerable groups within the wider group of prison population, such as minors and women. Namely, with the reconstruction and suitable adaptation of penal institutions above mentioned target groups will have better conditions while serving prison sentence with adequate access to the knowledge and skills for better/faster inclusion into the ‘normal life’ after serving the sentence.

## **6. SUSTAINABILITY**

The deep involvement of stakeholders in the Action’s design and implementation will create ownership and long-term links and commitment among partners. Involvement of relevant governments as main stakeholders will help to ensure that local authorities provide sufficient funds for continuous maintenance of reconstructed buildings in order to preserve sustainability and efficiency of judicial institutions.

The sustainability of a complex IT system in the judiciary is ensured through a first level support available to the users in courts and POs (and in cooperation with police and other LEAs). Improved public perception, increased number of resolved cases, efficient and high quality services to the public should contribute to the increase of judicial institutions’ funding by the local authorities for maintenance of the established system.

The trainings and training materials developed and used under this assistance should be included in regular training programmes of relevant institutions, thereby ensuring sustainability of the capacity building for generic and specific training in relevant areas, related to building general and specific knowledge and skills.

Building capacities for strategic and budgetary planning in justice sector institutions will increase their commitment to continuous cooperation and coordination in all areas of interest for justice sector institutions. Part of the sustainability is related to the development of the management skills of the key persons in the courts, prosecutor’s offices, prison facilities etc. With specific regard to strategic guidelines, many of the EU requirements in the area of the justice will be met upon completion of the project, positively affecting the long term reform processes and subsequently bringing BiH closer to its accession to the EU.

## **7. COMMUNICATION AND VISIBILITY**

Communication and visibility will be given high importance during the implementation of the Action(s). The implementation of the communication activities shall be the responsibility of the beneficiary, and shall be funded from the amounts allocated to the Action.

All necessary measures will be taken to publicise the fact that the Action(s) have received funding from the EU in line with the Communication and Visibility Manual for EU External actions.

Additional Visibility Guidelines developed by the Commission (DG NEAR) will have to be followed.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process. 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.

It is the responsibility of the beneficiary to keep the EU Delegation and the Commission fully informed of the planning and implementation of the specific visibility and communication activities.

The beneficiary shall report on its visibility and communication actions in the report submitted to the IPA monitoring committee and the sectorial monitoring committees.

The Action will put particular emphasis on the dissemination of best-practices and exchange of information in order to increase the impact of results and bring a multiplier effect. The Action will develop communication messages and tools adapted to the targeted audience, i.e.: public sector, business sector, general public, media, etc.

## **LIST OF ANNEXES**

- 1. Sector specific document(s)**
- 2. List of main stakeholders**

## ANNEX 1

### Sector specific document(s)

<b>Justice</b>	
<b>Country-wide strategies/state level strategies</b>	Strategy on Justice Sector Reform in BiH (JSRS) 2014 - 2017
	National War Crime Strategy (2008)
	Mid-term developmental plan of the Court of BiH and BiH Prosecutor's Office 2012. – 2014
	Mid-term developmental strategic plan of the Court of Bosnia-Herzegovina 2014 – 2016
	Mid-term strategic plan of the BiH Ministry of Justice 2012-2015
	Strategic Plan of the HJPC (2014 – 2018)
	The National Anti-Corruption Strategy and Action Plan 2015 – 2019
<b>FBiH Strategies<sup>27</sup></b>	Strategy for justice sector reform 2008-2013
	FBiH State war crimes strategy 2008
	FBiH Ministry of Justice's anti-corruption programme (based on the FBiH Government's general anti-corruption plan) 2012-2014
<b>RS strategies<sup>28</sup></b>	RS Anti-Corruption Strategy 2008 – 2012
	RS Juvenile delinquency strategy 2013 – 2017
	RS Government's Anti-Corruption Strategy 2013 – 2020 – under preparation
<b>Brcko District<sup>29</sup></b>	No justice strategies
<b>Other relevant documents</b>	Plenary Meeting of the 'Structured Dialogue on Justice and Additional Rule of Law Matters between the EU and BiH . Sarajevo, BiH (May 13 – 14, 2014).
	USAID Justice Sector Development Project II (2010) – Proposal on the reconstruction/renovation needed in the light of the improvement of the working conditions in the prosecutor's offices throughout BiH
	Assessment by ALISEI of courts in BiH (2005),
	Report of the functional working groups on implementation of BiH Justice Sector Reform Strategy 2009 – 2013 (2014)
	OSNAP Architecture and Project Management Survey (Assessment of judicial institutions in RS proposed for infrastructure interventions under IPA 2012/2013) (2013),
	Strengthening the Judiciary of BiH (IPA 2010) Final Report (2014)
	Report of the Functional WGs on implementation of the Action plan of justice Sector Reform Strategy in BiH for period 2009 – 2013 (2014),
	Report on the activities of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (2013),
Annual Report by Court of the BiH (2013)	
<b>Home Affairs</b>	
<b>Country-wide strategies/state level strategies</b>	Strategy to prevent and fight terrorism (2009-2013; a revision is planned during 2013 for the period 2012-2017)
	Strategy and action plan to fight human trafficking
	Strategy and Action Plan for integrated border management (2011-2014)
	Strategy and Action Plan for the control of small arms and light weapons (2008-2012; revision for 2013-2016)
	National Strategy and Action for fighting the abuse of illicit drugs (2009-2013)
	Strategy for the fight against Cybercrime (planned)
	Strategy and Action Plan to fight Organised Crime (2009-2012) New Organized Crime Strategy is drafted 2014-2018 and sent to the Council of Ministers for approval
	Strategy to prevent and fight terrorism (2009-2013; a revision is planned during 2013 for the period 2012-2017)
<b>Complementary but general documents specific to BiH</b>	Country Strategy paper on IPA II, Bosnia and Herzegovina (2014 – 2017)
	EC Progress Report on BiH, 2014,
	Recommendations by the European Commission. Ref. Areas (2014) 1639230 – 20/05/2014,

<sup>27</sup> Overview prepared based on the list of strategies sent by FBiH to the NIPAC office in March 2013.

<sup>28</sup> Overview prepared based on the list of strategies sent by RS to the NIPAC office in March 2013

<sup>29</sup> Overview prepared based on the list of strategies sent by Brcko District to the NIPAC office in March 2013

## Additional data for Rationale:

**Table 1: Number judges and prosecutors in BiH**

Gender		MALE	FEMALE	TOTAL
Level/profile				
State	Judges	26	23	49
	Prosecutors	29	24	53
Entity: FBiH	Judges	8	24	32
	Prosecutors	6	6	12
Entity: RS	Judges	12	16	28
	Prosecutors	4	2	6
Cantonal	Judges	39	91	130
	Prosecutors	99	90	189
District	Judges	40	60	100
	Prosecutors	43	48	91
Municipal	Judges	146	270	416
Basic	Judges	76	128	204
BD	Judges	14	12	26
	Prosecutors	4	5	9
TOTAL M/F	Judges	361	624	1345
	Prosecutors	185	175	(985 judges)
	TOTAL	546	799	(360 prosecutors)

Source: HJPC

**Table 2: Disciplinary cases in BiH**

2013	2014
Number of registered complaints: 1.196	Number of registered complaints: 1.129
Number of resolved cases: 1.205	Number of resolved cases : 1.138
Number of disciplinary proceedings: 18	Number of disciplinary proceedings : 18
Completed disciplinary proceedings: 18	Completed disciplinary proceedings: 17
Number of sanctions : 17 (14 judges, 3 prosecutors)	Number of sanctions : 18 (13 judges, 4 prosecutors)

Source: HJPC

**Table 3: Cases of corruption in judicial system in BiH**

2013		2014	
Registered complaints	1391	Registered complaints	1607
Investigations initiated	453	Investigations initiated	635
Indictments	215	Indictments	222
Judgments	223	Judgments	299
Verdict	176	Verdicts	228
Dismissal	5	Dismissal	8
Acquittal	42	Acquittal	63

Source: HJPC

**Table 4: Judicial and prosecutorial training centres in BiH**

Judicial and prosecutorial training centre in Republika Srpska (2013)	Judicial and prosecutorial training centres in FBiH (2013)
<p>- 2375 days of training per participant – (judges – 361 = 1907 days of training, prosecutors – 92 = 468 days of training)</p> <p>- 107 training activities (out of which in 52 events acted as co-organiser) covering criminal law (30), civil law (27), misdemeanour law (3), commercial (3), administrative law (1), non-contentious areas (1), enforcement (1), labour law (2) and 25 trainings on other areas, induction courses (14) for new employees</p>	<p>- 105 training activities covering European Convention on HR (10), EU Law (2), criminal law ( 46); civil law (22); family law (2), non-contentious areas (1); administrative law ( 3); labour law (2); enforcement (2); commercial law (3);misdemeanour law (1); trainings for court and prosecutors management (2);ethics and professional standards (1);IT (4) Train-the-trainers ( 4), Induction courses for future judges and prosecutors (16)</p>

Source: JPTCs Annual Reports

**Table 5: Projects supported in the justice sector by EU and other donors**

<b>Infrastructural projects</b>			
<b>Funded by</b>	<b>Short description of action</b>	<b>Implementation period</b>	<b>Budget</b>
Norwegian Government in RS	Renovation East Sarajevo District Court, Department of the Sokolac Basic Court and renovation of the building of the Modrica Basic Court and Basic Court in Prijedor “Improving Judicial Efficiency”	2011-2016	3,700,000.00 €
Norwegian Government at the central level (BiH)	Construction of an additional floor on the building of complex „Ramiz Salcin“ (office space for the HJPC staff and a new conference room for the Council sessions).	2010 - 2012	1,226,308.00 €
Norwegian Government in FBiH	Renovation of the building of the Ilidza Branch of Sarajevo Municipal Court, (the development of design documentation for reconstruction of building IV - Primary School that will accommodate the Municipal Court in Mostar and “Additional floor construction and reconstruction of premises within the Judicial Institutions Compound of Bosnia and Herzegovina aimed at providing adequate office space for the Court of BiH”). Also, Municipal Court in Kakanj, Sanski Most and Zavidovići (Maglaj court branch),	2011-2016	3,700,000.00 €
EU, Norway and SIDA	Reconstruction of Sarajevo Cantonal and Municipal Courts building.	2009 -2010	3.316.000 SEK
IPA 2012	Cantonal Court and Prosecutor Office Mostar Cantonal Court Bihać, Dobojski judicial institutions, Basic and District Court in Banja Luka , Prosecutor Office in Zenica, State Prosecutor's Office.	2014 - 2017	10,250,000.00 €
<b>Building capacities for processing of war crime</b>			
<b>Funded by</b>	<b>Short description of action</b>	<b>Implementation period</b>	<b>Budget</b>
IPA 2009 - Support to the BiH Judiciary’ (2010 – 2012)	Increasing capacities of entity level judiciary to process war crime cases, including a reconstruction of courtrooms and rooms for protected witnesses (foreseen in 11 courts authorized to process war crime cases) and sophisticated equipment used in implementation of witness protection measures.	2010 -2011	178,000.00 €
UNDP - Support to the witness/victims in war crime cases	Witness Support Departments are established in 10 prosecutor offices and 6 courts.	2005 - 2008 2008 - 2011	241,287.00   969,634.00 €
UK Embassy funded three short-term projects (2011 – 2012)	Improving the system of implementation of witness protection measures and supporting judicial institutions in entities to deal with war crime cases in more efficient way.	(2004 -2009)	(4,805,000.00 €)
OSCE mission in BiH (in several years)	Series of activities in field of processing war crime cases like: educational modules in the area, support to the judicial institutions in order to deal with war crime cases in more efficient manners and contribution provided in transferring and preserving ICTY legacy	2012-2016	256,374.00 €
Initiated by the OSCE and financially supported by the Norwegian Government for four years.	Establishment of the Database of Open War Crime Cases in prosecutors’ offices in BiH (better understanding of the actual number and complexity of war crime cases).	2012 - 2016	256,374.00 €
IPA 2012	The direct budgetary support of the EC to BiH for the efficient processing of war crime cases in all relevant judicial institutions.	2014 - 2018	16,876,000.00 €
EU financed	War Crimes Case Monitoring Project – Grant contract to OSCE	2014 - 2016	500,000.00 €
<b>Security of judicial buildings and support to the court police</b>			
<b>Funded by</b>	<b>Short description of action</b>	<b>Implementation period</b>	<b>Budget</b>
ICITAP	International Criminal Investigation Assistance	2010 – 2011	17,770,536.00 €

	Program (ICITAP) developed a needs assessment in this area and provided a set of recommendations. Based on this assessment, it is clear that there is a great need for continued improvement in court police area. MTIDP of the Court and the PO BiH calls the Analysis of the work of the Court Police and assessment of security in these institutions. This activity was marked as a high priority of common interest to both the Court and the PO BiH. This activity is being implemented in cooperation with the ICITAP. It is		
<b>Judicial information system and efficiency</b>			
<b>Funded by</b>	<b>Short description of action</b>	<b>Implementation period</b>	<b>Budget</b>
CARDS 2004, 2005, 2006, and IPA 2008	IT infrastructure and basic application/services (e-mail, internet) at the courts and prosecutor offices in BiH	2003 – 2006 2009 - 2011	8,883,000.00 € 1,400,000.00 €
SIDA and the Government of the Netherlands.	Development and implementation of the Case Management System and judicial web portal has been achieved through ICT/Case Management System (CMS)	2009	1,889,128.00 BAM
IPA 2007	Contribution to the development and implementation of ICT/Case Management Systems	2008 - 2010	836,394.00 €
IPA 2009	Introduction of additional information system functionalities	2010 - 2012	4,000,000.00 €
Norwegian Government	Development of System for automatic processing of utility cases (SOKOP) – part of Support to Judicial reform project	2008-2010	4,340,863.00 BAM
Spanish Agency for International Development Cooperation	Establishment of the court decisions database	2006-2012	54,736.00 BAM
<b>Sector coordination</b>			
<b>Funded by</b>	<b>Short description of action</b>	<b>Implementation period</b>	<b>Budget</b>
USAID JSDP II project	Coordination of justice sector institutions in implementing common policies	2009-2012	4,900,000.00 \$
IPA 2007	Strengthening capacities in the MoJs in BiH for Strategic Planning, Aid Coordination and European Integration	2010-2011	799,650.00 €
IPA 2012	Measure to tackle strategic planning and coordination mechanism was foreseen yet to be implemented.		
During 2013 and 2014 PAR Fund financed form IPA ‘Development of Central Bodies of Government in BiH/CoM BiH’	This project purpose was to enable the CoM of BiH, entity governments and the government of the BD to build a system for policy making and policy management in a coherent and harmonised manner, so as to develop modern structures, capacities, and procedures of policy management in their central bodies and in their ministries in line. State level managed to adopt the legal framework on midterm and annual strategic planning in that respect.	2010-2012	1,376,904.32 BAM
<b>Execution of criminal sanctions</b>			
<b>Funded by</b>	<b>Short description of action</b>	<b>Implementation period</b>	<b>Budget</b>
Joint programme by the EU and CoE ‘Adjustment of sanction policies and practice in BiH with European standards’	This project was primarily developed as the project “Support to the Justice Sector Reform” (Component 2) to be implemented through IPA 2011 by the Council of Europe. The project encompassed: developing legal framework for the alternative criminal sanctions (community service, conditional release and conditional sentence), preparation of plan for development of the probation service, preparation of plan for treatment of specific categories of prisoners and development and introduction of training program for employees in penitentiary. This project commenced in the beginning of 2013, measures proposed to be implemented through IPA 2015, will feature continuance of these activities.	2013-2015	1,320,000.00 €

Project of the US Government and the CoE – “Enhancing procedures of employment and personnel training at the State prison of BiH”	. The project is aimed to provide support in establishing professional, efficient and effective prison with high levels of security and in accordance with European standards. The project specifically focuses on creating relevant strategic documents in connection to employment and personnel training at the State prison, and providing training for prison personnel.	2014-2016	1,100,088.00 \$.
EU/Council of Europe ‘Efficient management of prisons’	Taken as a starting point for the project Support to the Justice Sector Reform” (Component 2) to be implemented through IPA 2011 <b>Project “Support to the Justice Sector Reform”- component II of IPA 2011</b>	2012-2014	5,600,000.00 €
EU/ Council of Europe ‘Prison management in BiH, the way ahead’	The Conference was held in Sarajevo on 21.09.10. This event marked the successful implementation of the joint EU and CoE programme in reform of prison system in BiH		788,000 € (600,000 EU co-funded)
UK Government ‘Support to the efficient and effective system of criminal sanctions	Taken as a starting point for the project Support to the Justice Sector Reform” (Component 2) to be implemented through IPA 2011 <b>Project “Support to the Justice Sector Reform”- component II of IPA 2011</b>	2012-2014	5,600,000.00 €

## ANNEX 2

### List of main stakeholders

The main stakeholders – Institutions involved in the project and their respective role in BiH are shortly described as follows:

**MoJ BiH**<sup>30</sup> has the administrative functions in terms of judicial authorities at state level including development of relevant laws and regulations, ensuring that the BiH legislation and the implementation thereof at all levels be aligned with the BiH commitments stemming from international agreements, guiding and monitoring legal education in order to ensure inter-entity consolidation and action in line with the best standards in this field, generally acting as a central co-ordination authority for ensuring consolidation of legislation and judicial system standards between the Entities, through either providing forum or coordinating initiatives, extradition, administrative inspection of enforcement of laws concerning civil servants and employees of administrative bodies, administrative procedures, special administrative procedures and office management<sup>31</sup>. Apart from it MoJ BiH has competency for the execution of criminal sanctions at state level and has ‘negative’ competence which declares that any affairs which are not part of other institutions at state level but related to affairs of the ministry are integral part of work of MoJ BiH.

**HJPC BiH**<sup>32</sup> is an independent and autonomous institution of BiH, established with the Law on the HJPC BiH on June 1, 2004, with a general mandate of establishing and maintaining an independent, impartial, efficient and accountable judiciary in BiH along with equal access to justice and equality for all before the law. The law establishes the following Council competences: the appointment of judges, prosecutors and legal associates, disciplinary accountability, judicial administration and statistics, judicial institution budgets, supervision of professional training, introducing information and communication technologies (ICT) as well as taking the lead role in the implementation and coordination of reform-related activities and improving the efficiency of the judiciary of BiH<sup>33</sup>.

**Prosecutor’s Office of BiH**<sup>34</sup> is a *sui generis* institution and it is not superior to the entity POs but its jurisdiction is limited to prosecution of crimes stipulated by the afore mentioned laws (special jurisdiction for proceedings before the Court of BiH against crimes stipulated by the Law on the Court of BiH, Law on PO of BiH, Criminal Code of BiH, Criminal Procedure Code of BiH, Law on Transfer of Cases from the ICTY to the PO of BiH).

**Agency for Prevention of Corruption and Coordination of the Fight against Corruption**<sup>35</sup> (APCCFC) is a state institution responsible for institutional framework in the field of fight against corruption with preventive competences in the following fields: conflicts of interest and asset declarations of public officials, controlling the funding of, political parties and electoral campaigns, corruption prevention, whistle-blowers protection, monitoring the implementation of the BiH Anti-Corruption Strategy/action plan, monitoring compliance with international obligations, providing guidelines on integrity plans and establishing cooperation with all public and non-governmental organizations in BiH.

**The Ministry of Security of BiH** is composed of the following administrative organizations: Directorate for Coordination of Police Bodies of BiH, Border Police of BiH, State Investigation and Protection Agency, Forensic Examination and Expertise Agency, Personnel Education and Professional Development Agency, Police Support Agency, and the Service for Foreigners’ Affairs.

**The State Investigation and Protection Agency (SIPA)** is an independent institution of BiH in charge of collecting and processing of information of interest for implementation of international laws and Criminal Codes, as well as diplomatic and consular missions and government institutions of BiH.

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<sup>30</sup> Official Gazette of BiH, No. 5/03 of March 07, 2003

<sup>31</sup> <http://vijeceministara.gov.ba/>

<sup>32</sup> Law in HJPC, Official Gazette No 25/04, 93/05, 48/07, 15/08.

<sup>33</sup> <http://pravosudje.ba/vstv/faces/pdfservlet>

<sup>34</sup> <http://www.tuzilastvobih.gov.ba/?jezik=e>

<sup>35</sup> Official Gazette" No. 103 / 09 <https://www.acauthorities.org/country/ba>

**Directorate for Coordination of Police Bodies of BiH** has the status of an administrative organization within the Ministry of Security with operational autonomy. The mission is to serve the police and other relevant bodies in BiH in the efficient execution of their responsibilities with constant communication, coordination and cooperation with all partners in BiH and abroad.

**Ministry of Justice F BiH**<sup>36</sup> executes administrative, expert and other tasks as set out by the laws, falling under competence of the Federation in the areas of: judicial institutions and administration, administrative supervision of the judicial administration and federal administration bodies associating into political organizations and citizens' societies, office management administrative supervision and implementation of the penal sanctions. It carries out the administrative tasks that do not fall under scope of any other administrative body of the F BiH.

Additional, there are **10 Cantonal MoJ** within F BiH with competencies related to the area of each and every canton and the functions that are correspondent and given by the MoJ F BiH such as legal aid.

**Federal Prosecutor's Office of the F BiH**<sup>37</sup> is „supreme“ Prosecutor's Office for ten Cantonal Prosecutor's Offices from the area of the F BiH.

The **Ministry of Interior of F BiH** is responsible for administrative, expert and other tasks, such as: administrative issues related to citizenship, monitoring the implementation of laws, procurement of weapon, equipment and material-technical means, elaboration and implementation of educational programs, professional development and specialized trainings for the Ministry's personnel, organization of unified information system which is required for effective operations, collection and maintenance of statistics and operational data which are required for effective operations.

**Ten (10) Cantonal Ministries of Interior** exists within the F BiH. Inter alia, some of their tasks and duties are as follows: to secure public gatherings, to protect life and personal safety of citizens, properties, facilities and other material goods in case of general danger or major violation of public order and peace, as well as in case of terrorists' attacks and other violent activities such as armed rebellion, issuance of ID cards, social number, motor vehicles registration, keeping and carrying of weapons and ammunition. In all Cantonal Ministries of Interior, tasks and duties within the scope of public security are performed by police.

**Ministry of Justice RS**<sup>38</sup> performs administrative and other professional tasks related to the competencies of the RS with regard to: judicial institutions and administrative supervision of judicial administration and correctional facilities; execution and/or inspections of execution of some sanctions; uniformed/lawful execution of criminal sanctions; organization and functioning of penitentiaries and correctional facilities; human rights conditions of persons deprived of liberty; preparation of analysis, information and reports related to amnesty; transfer of prisoners; probation etc.

**Republic Prosecutor's Office of RS** is a „supreme“ Prosecutor's Office for District Prosecutor's Offices from the area of RS.

**The Ministry of Interior of RS** carries out police duties and is in charge of the security in RS and some of duties are to: protect life, human rights, freedom and private property; maintain public order and protect society against violent threats; prevent crime; conduct criminal investigation in cases of criminal offences of terrorism, war crimes, organised crime, illegal production and drug trafficking, trafficking in human beings, economic crime, cybercrime, money laundering, corruption, financial crime; protect certain persons and facilities.

**Brčko District Judicial Commission** – performs administrative and other professional tasks related to the competencies of the BD with regard to: judicial institutions and administrative supervision of judicial administration and correctional facilities; execution and/or inspections of execution of some sanctions; uniformed/lawful execution of criminal sanctions; organization and functioning of penitentiaries and correctional facilities; human rights conditions of persons deprived

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<sup>36</sup> <http://www.fbihvlada.gov.ba/english/ministarstva/pravda.php>

<sup>37</sup> [http://www.ohr.int/decisions/judicialrdec/default.asp?content\\_id=64](http://www.ohr.int/decisions/judicialrdec/default.asp?content_id=64)

<sup>38</sup> <http://www.vladars.net/eng/vlada/ministries/MoJ/aboutministry/Pages/default.aspx>

of liberty; preparation of analysis, information and reports related to amnesty; transfer of prisoners; probation etc.

**Public Prosecutor's Office of the BD** is competent for the area of the District.

**The Brcko District Police** duties are to: maintain public safety and order in the entire BD, ensure full freedom of movement within the BD with a special emphasis on the freedom of movement between the eastern and western part of RS and between the FBiH and the Republic of Croatia, co-operate with the various police forces of the country.

The Court of BiH is a judicial body established in year 2000 which does not have a time-limited mandate and hands down verdicts in accordance with the laws of the State of BiH, such as the BiH Criminal Code and the BiH Criminal Procedure Code. The competencies of the Court are regulated by a specific Law and are related to criminal, administrative and appellate jurisdiction.

The Supreme Court of the FBiH is the highest court of appeals in the FBiH. The Supreme Court has four divisions – Criminal Division, Civil Division, Administrative Division and Division for Registering and Monitoring of the Court Practice. Besides appeal jurisdiction that comprises deciding upon ordinary and extraordinary legal remedies against rulings of the cantonal courts, the Supreme Court has additional jurisdiction in line with the Law on Courts in the FBiH, which includes resolving conflicts of jurisdiction between cantonal and municipal courts from different cantons, deciding on transfer of territorial jurisdiction from one to another court and carrying other tasks. The Court is competent and responsible for the functioning of the court police in the Federation of BiH.

The Supreme Court of the RS is the highest court in the RS. Pursuant to the current Constitution, the Supreme Court is entrusted with ensuring unified enforcement of law. Additional jurisdiction of this Court is prescribed by the Law on Courts in the RS, and it encompasses: deciding on ordinary legal remedies against rulings of District courts, extraordinary legal remedies against final rulings of the courts, legal remedies against rulings of its own Panels, transfer of jurisdiction from to another court, resolving conflict of jurisdiction between courts, etc.. It is competent and responsible for the functioning of the court police in RS.

*Court police of Court and PO in Brcko* falls under direct competence of the Judicial Commission of BD.

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