

**High Judicial and Prosecutorial Council
of
Bosnia and Herzegovina**

Strategic Plan

March 2005 - December 2006

TABLE OF CONTENTS

INTRODUCTION	1
OVERALL STRATEGIC GOAL OF THE HJPC	3
1. STRATEGIC ISSUE NUMBER ONE APPOINTMENT OF JUDGES AND PROSECUTORS	5
2. STRATEGIC ISSUE NUMBER TWO DISCIPLINE OF JUDGES AND PROSECUTORS	9
3. STRATEGIC ISSUE NUMBER THREE TRAINING OF JUDGES AND PROSECUTORS	13
4. STRATEGIC ISSUE NUMBER FOUR JUDICIAL ADMINISTRATION AND MONITORING	17
5. STRATEGIC ISSUE NUMBER FIVE INFORMATION AND COMMUNICATION TECHNOLOGY	21
6. STRATEGIC ISSUE NUMBER SIX JUDICIAL BUDGETS	25
7. STRATEGIC ISSUE NUMBER SEVEN JUDICIAL POLICY AND LEGISLATION	29
8. STRATEGIC ISSUE NUMBER EIGHT PUBLIC TRUST IN THE JUDICIARY	33
9. STRATEGIC ISSUE NUMBER NINE COOPERATION WITH NATIONAL AUTHORITIES	37
10. STRATEGIC ISSUE NUMBER TEN COOPERATION WITH THE INTERNATIONAL COMMUNITY	41
11. STRATEGIC ISSUE NUMBER ELEVEN DEVELOPMENT OF THE RESPECTIVE ROLES OF THE COUNCIL, THE HJPC SECRETARIAT AND THE OFFICE OF THE DISCIPLINARY COUNSEL AND THEIR INTERNAL COMMUNICATION	47
ATTACHMENT 1: HIGH JUDICIAL AND PROSECUTORIAL COUNCIL ORGANISATIONAL CHART	

Introduction

The single HJPC was established by way of the Law on the single HJPC (OG of BiH 25/04) and it began to function as of June of last year. Since its establishment it has focused on finalising the reappointment process and establishing itself as a state institution. It was necessary to carry out these short-term requirements as a matter of urgency and they have, for the most part, been completed. The next challenge for the HJPC is far greater in that it will need to develop (in cooperation primarily with the Ministries of Justice but also with other participants in the process) a vision for the future of the BiH judiciary. It will also need to implement this vision in the most efficient and cost effective manner possible.

In the years to come the HJPC will continue to carry out its core tasks of appointment and discipline. However, it will also be obliged to carry out other tasks outlined in the Law on the HJPC in areas, such as, training of judges and prosecutors, judicial administration, Information Communications Technology (ICT), judicial budgets and policy making and legislative drafting in the area of the judiciary. These functions cannot be carried out in an *ad hoc* manner but need to be part of a strategic vision with the ultimate aim of ensuring that the judiciary operates in an independent, efficient, transparent and effective manner.

The single HJPC inherited many of the functions and tasks of the IJC/HJPCs and, in certain respects, the IJC/HJPCs laid the groundwork for the development of a future strategy for the courts. OHR CIPRU laid similar groundwork in the area of prosecution services. The IJC/HJPCs were involved in a range of functions and tasks including the restructuring of the court system, the carrying out of the reappointment process and the introduction of certain procedural reforms. In the course of carrying out these tasks many of the flaws and difficulties in the court system were identified and certain solutions were proposed. However, because of the limited mandate of the IJC it could not develop a “future proofed” strategy with a built-in vision for a sustainable court system into the future. Similarly OHR CIPRU could not develop such a strategy or vision.

On the basis of the foundation built upon by the IJC/HJPCs and OHR/CIPRU, the single HJPC has been able to develop a longer-term strategy for the future of the BiH judiciary. This strategy will not cure all ills. The judiciary is still adapting to the recent reforms, including court restructuring and the new procedural reforms, and to a greater extent the BiH judiciary is still in the process of reform. The role of the HJPC, in drafting this Strategy Plan, is to identify a medium term end goal for the BiH judiciary and to outline the means by which this goal can be achieved.

The difficulties and challenges in achieving goals and objectives in BiH are compounded by the fact that the funds available are extremely limited. It is, therefore, necessary for the HJPC to ensure that the importance of maintaining a strong and independent judiciary is constantly emphasised and that it is balanced correctly as against other sectors of the economy. The HJPC also needs to lobby for international funds to be allocated to the judiciary so that it

can continue with its reform process. The allocation of adequate funds to allow the judiciary to function and to allow reforms in the sector to take place is a challenge in itself.



Branko Peric
President of the HJPC



Elmira Pasagic
Director of the HJPC Secretariat

Overall Strategic Goal of the HJPC

Develop and maintain an independent, impartial and professional judiciary in Bosnia and Herzegovina that resolves disputes and administers justice for its citizens in a fair, timely and effective manner. The term judiciary includes both courts and prosecutors' offices.

The overall strategic goal has its basis in Article 3 of the Law on the High Judicial and Prosecutorial Council (“the HJPC Law”). It is self-explanatory and focuses on achieving the basic requirements for a functioning judiciary in any modern democratic state.

The *independence and impartiality* of the judiciary depends on many aspects, in particular, the manner in which judges and prosecutors are selected and disciplined.

A *professional judiciary* requires judges, prosecutors, and support staff willing to dedicate themselves to life long self-training, but it also depends on the quality of their basic legal education, access to organized training and access to legal information.

An *efficient* judiciary requires a certain level of minimum basic funding – both with respect to salaries and operational expenses. It also depends on adequately maintained buildings and work premises, modern ICT equipment, and efficient internal procedures.

According to the HJPC Law the HJPC has the following primary areas of responsibility:

- Appointment of judges and prosecutors
- Discipline of judges and prosecutors
- Training of judges and prosecutors
- Judicial administration and monitoring
- Information and Communication Technology
- Judicial budgets
- Judicial policy/legislation

The nature of the competence of the HJPC in the above areas varies. Some competences are exclusive (appointment and discipline) and some are shared with others typically with the Ministries of Justice (court administration) and the parliaments (financing). In addition, the powers of the HJPC vary depending on the specific area of responsibility. In some instances the HJPC makes formal and final decisions (appointment and discipline) and in others the HJPC formulates opinions or policy (training and budgets) leaving the implementation of these policy decisions to others. Thus the HJPC has both operational and policy making functions.

The authority to decide the structure and funding of the judiciary rests with other institutions in BiH and, therefore, the overall goal of the HJPC may only be achieved in close cooperation with these institutions. The HJPC cannot operate in a vacuum but must develop close working relationships with other national institutions.

Furthermore, the HJPC will only be able to fulfil its overall strategic goal if the majority of the members and employees of the judiciary share this goal. A good working relationship and open lines of communication between the HJPC and the leaders within the judiciary, as well as the associations representing judges and prosecutors and the general public are, therefore, also vital.

In the following chapters we have formulated eleven short and long-term **strategic issues** which should be dealt with by the HJPC over the next 2 years. For each of the strategic issues we have formulated more concrete **strategic objectives** and for each objective we have formulated **action items**. Based on an estimation of necessary and available human and financial resources, we have indicated realistic timeframes for each particular action item necessary to reach the objective.

1. Strategic Issue Number One Appointment of judges and prosecutors

Strategic Objective Number 1:

Ability to attract highly professional, well-trained and ethical jurists to become judges and prosecutors in the BiH judiciary

Strategic Objective Number 2:

Selection of judges and prosecutors according to a fair, transparent, efficient and objective process.

Strategic Objective Number 3:

Finalization of the reselection process by filling positions which remain vacant.

Strategic Objective Number 4:

Selection of judges to minor offence departments at all regular first instance courts.

Background:

The responsibility for vetting and hiring judges and prosecutors is one of the basic legislative mandates of the HJPC in accordance with Article 17, Paragraphs 1 - 3 of the HJPC Law.

The HJPC Law does not give any specific responsibility to the HJPC to work towards attracting good lawyers to apply for positions as judges and prosecutors. However, given the fact that the HJPC is responsible for the recruitment to and the functioning of the judiciary, there is a certain synergy to the undertaking by it of the task of attracting suitable candidates to work within the judiciary. In this respect many issues need to be addressed, in particular, working conditions within the judiciary, the remuneration of judges and prosecutors (and support staff), the development of career paths, etc. Some of these matters are dealt with here whilst others are dealt with in the context of other strategic issues later in this Strategic Plan.

The HJPC has gained considerable experience in vetting and interviewing applicants to judicial positions through the reappointment process. However, the internal vetting and interview procedures developed so far were designed for the enormous task of reappointing almost 1,000 judges and prosecutors. It is now time to reconsider these procedures and amend

them so that they are suitable for the appointment of a limited number of judges and prosecutors each year. In theory it should now be possible to invest more time in assessing the suitability of each candidate, but this needs to be balanced against the reduced availability of support staff in the HJPC Secretariat. In addition, the new procedures should outline the role of the HJPC Secretariat and the Council in the selection process and make sure that the delineation between their respective roles is clearly defined.

Article 94 of the HJPC Law¹ presupposes that the minor offence court structure and procedure will be reformed. The High Representative has tasked the HJPC with finalising the procedural law, which was inherited from the IJC and with implementing the reform through a project financed by the European Commission (EC) and the Italian Government. The new procedural law will require fewer judges than before and the current network of minor offence courts will be merged with the regular first instance courts. The HJPC will decide on the number of judges required and will select them in an open competition in the same manner as the reselection of regular judges.

Action Item 1.1:

Develop an Issue Paper addressing topics relevant to attracting suitable and highly qualified lawyers to the BiH judiciary as well as retaining good judges and prosecutors in the system (Human Resources Management).

Completion Date	May 2006
Responsibility for this Action Item	Council with assistance from HJPC Secretariat.
Comment	Assistance from the international community would be helpful for this activity.

Action Item 1.2:

Continue with current selection process with the objective of completing backlog appointments.

¹ This Article was added to the law in the BiH parliamentary process without much further explanation.

Completion Date	June 2005
Responsibility for this Action Item	Council with assistance from HJPC Secretariat.
Comment	Due to lack of qualified candidates with the “right” ethnicity some positions may not be filled in the short term.

Action Item 1.3:

Review and possibly change current internal appointment procedures.

Completion Date	January 2006
Responsibility for this Action Item	HJPC Secretariat to make proposal and Council to review and decide.

Action Item 1.4:

Develop competitive exams for candidates to judicial posts (see, in this regard, Article 39 of the HJPC Law).

Completion Date	August 2006
Responsibility for this Action Item	Training Centres, HJPC Secretariat and Council Panel.

Action item 1.5:

Decide on the number of judges in each minor offence department at regular first instance courts and finalise the selection of these judges.

Completion Date	Decide the required number by July 2005. Selection of judges finished by November 2005.
Responsibility for this Action Item	Council with support from HJPC Secretariat and Minor Offence Project.

2. Strategic Issue Number Two Discipline of judges and prosecutors

Strategic Objective:

The HJPC's Office of the Disciplinary Counsel (ODC) established as an independent body within the HJPC efficiently enforcing regulations on the required conduct of judges and prosecutors.

Background:

Pursuant to Article 17 (4), (5) and (6) of the HJPC Law, the HJPC is charged with responsibility for disciplining judges and prosecutors who fail to adhere to their respective professional and ethical responsibilities under Articles 56 and 57 of the HJPC Law.

Protecting the public from judges and prosecutors who fail to adhere to their professional and ethical responsibilities and maintaining the integrity of the judicial system is one of the HJPC's core functions. When a judge or prosecutor acts in a manner that is inconsistent with his professional and ethical responsibilities he must be held accountable through disciplinary action and the imposition of appropriate punitive measures. However, this must be carried out in a manner that does not discourage other judges and prosecutors in the free and independent exercise of their official duties.

The Office of the Disciplinary Counsel (ODC) is currently headed by an international but the position of Chief Disciplinary Counsel has been advertised and will shortly be filled by a national. Pursuant to Article 64 (1) and (2) of the HJPC Law, the ODC is charged with responsibility for receiving, investigating and prosecuting complaints of misconduct against judges and prosecutors and, in accordance with this mandate, ODC has the resources and means to identify and act on substantiated complaints of misconduct lodged against judges and prosecutors.

Until now the ODC has mainly reacted to complaints received from the users of the courts/prosecutors' offices and the huge number of such complaints have made it impossible to implement a more proactive strategy. This situation may change over time as the public becomes more familiar with the categories of complaints which should be forwarded to the ODC.

Action Item 2.1:

Complete and secure Council adoption of Codes of Ethics setting standards for the ethical behaviour of judges and prosecutors.

Completion Date	June 2005
Responsibility for this Action Item	Council supported by ODC and HJPC Secretariat.
Comment	JSDP is assisting with the drafting of the code.

Action Item 2.2:

Conduct a review of internal rules and regulations governing the operation of the ODC in order to strengthen efficiency and consistency.

Completion Date	Proposal from ODC March 2005 and review by Council April 2005.
Responsibility for this Action Item	Council and ODC

Action Item 2.3:

Prepare a strategy with the aim of implementing a more proactive role for the ODC. This strategy should include measures that need to be taken in order to reduce the number of frivolous complaints.

Completion Date	October 2005

Responsibility for this Action Item	ODC
-------------------------------------	-----

Action Item 2.4:

Prepare a more detailed strategy for the work of the ODC for the future. This strategy should set about improving the awareness of ethical standards amongst judges and prosecutors and should also address issues such as the education of the public on the role of the ODC. It should also deal with the issue of maintaining the independence of the ODC within the overall structure of the HJPC.

Completion Date	January 2006
Responsibility for this Action Item	ODC

Action Item 2.5:

Appoint a Bosnian national as Disciplinary Counsel.

Completion Date	April 2005
Responsibility for this Action Item	Council

3. Strategic Issue Number Three Training of judges and prosecutors

Strategic Objective Number 1:

Incoming and sitting judges and prosecutors are provided with adequate training on relevant substantive and procedural issues. Training should also be provided on management issues.

Strategic Objective Number 2:

Establish a single training centre under the authority and budget of the HJPC.

Background:

In accordance with Article 17, paragraphs 7-9 of the HJPC Law the HJPC has responsibility for overseeing the education of future and sitting judges and prosecutors.

An overall strategic plan for the training of judges and prosecutors in BiH needs to be established. This plan should cover not only training in substantive and procedural areas of the law but management training as many court presidents, court secretaries and heads of department are not familiar with the basic principles of modern management. Such a plan should also include a strategy in relation to the training of support staff at courts and prosecutors' offices. The plan should take into account the limited resources available for training and suggest ways in which these resources could be most efficiently spent. In addition, the plan should identify where training needs are most acute.

The training centres have provided the HJPC with a proposal on induction training for jurists who wish to become judges and prosecutors in the future. This proposal needs to be further evaluated and developed in parallel with an overall strategic plan for both induction and continuing legal education.

In the past quite a significant amount of training has been provided for the BiH judiciary by a variety of international organisations. Too often, however, the impact of training is not evaluated in the context of what professionals need in order to do their jobs more effectively. It is important that all training is provided in a coherent and consistent manner, that it fits within the national training plan and that it is coordinated by the training centres. The benefits and costs of *ad hoc* training programmes must be carefully considered. Accordingly, the HJPC needs to establish policies and procedures so as to ensure that a coherent training programme is implemented and that time spent in training is relevant and of a high quality.

In 2005 the training centres will, with financial support from the EC, develop appropriate curricula (training modules) in key substantive and procedural areas. The HJPC needs to be involved in this process at a strategic level.

The two existing Entity training centres were established at a time when the single HJPC did not exist. The establishment of the single HJPC at the level of BiH raises the issue of the merger of the training centres under the authority of the HJPC.

Action Item 3.1:

Develop a plan for the establishment of a single national training centre under the authority of the HJPC.

Completion Date	April 2005
Responsibility for Action Item	HJPC Secretariat with relevant Council Panel.

Action Item 3.2:

Consolidate the training centres under the single HJPC according to an agreed plan.

Completion Date	January 2006
Responsibility for Action Item	HJPC Secretariat with relevant Council Panel.

Action Item 3.3:

Develop a strategic plan for induction and continuous judicial training from 2006 to 2008. The plan should deal with training in conventional areas, such as, in substantive and procedural laws but also in the development of management techniques.

--	--

Completion Date	September 2005
Action Responsibility	Training Centres, HJPC Secretariat and Council Panel. Final approval by the Council.

Action Item 3.4:

Participate in the development of training modules for the judicial training centres.

Completion Date	Starts in March 2005 and ongoing throughout the year.
Action Responsibility	Council Panel

4. Strategic Issue Number Four Judicial administration and monitoring

Strategic Objective Number 1:

Develop, issue and maintain uniform, transparent and efficient internal administrative procedures for courts and prosecutors' offices that secure speedy handling of cases, efficient use of resources, effective delegation procedures and user friendliness.

Strategic Objective Number 2:

Establish a new system for monitoring and evaluating of the performance (production) of judges and prosecutors as well as courts and prosecutors' offices.

Strategic Objective Number 3:

Acquire an accurate picture of the current backlog of cases at all courts in BiH and initiate measures to reduce the backlogs over time.

Strategic Objective Number 4:

Secure national and international funding for the implementation of a long-term investment plan for the upgrading of judicial premises in BiH.

Background:

The HJPC Law and the Entity laws on courts give the HJPC significant authority in the area of court administration (see HJPC Law, Article 17, Paragraphs 19, 20, 22, 23 and 26).

In particular, the HJPC is responsible for issuing the Books of Rules on the operation of courts and prosecutors' offices. This makes it possible for the HJPC to standardise uniform and efficient procedures (best practice) across the country and to implement subsequent reforms at all levels through changes to the Books of Rules.

The Books of Rules for courts and prosecutors' offices should be seen as a flexible set of regulations to be used in order to administer the BiH judiciary at a national strategic level. The main purpose of the Books of Rules should be to regulate uniformly those issues that should, for various reasons, be regulated in the same manner everywhere. Other issues should be left to regulations on a lower level to be issued by the Entity Prosecutors, Chief Prosecutors and Court Presidents.

The prosecutorial authorities at various levels have developed their own Books of Rules and the Council has approved several of these in the absence of a uniform national Book of Rules as prescribed by the HJPC Law.

Article 20 of the HJPC Law obliges the Council to monitor the judiciary, to collect statistical information and to report to the parliaments in BiH. The obligation of the HJPC to set criteria so as to be able to evaluate the performance of individual judges/prosecutors as well as courts and prosecutors' offices is of particular importance.

Effective administration of the court system is essential to rendering timely and transparent justice. In BiH, it is reported that case backlogs and antiquated case and court management systems contribute to delays and an erosion of public trust in the judiciary. In order to better administer the courts, the HJPC needs to have access to better statistics, provide improved definitions for judicial performance, develop better manual systems for case and court management (through revision of the Books of Rules) and subsequently map these procedures onto a computer system.

Action Item 4.1:

Issue Books of Rules for internal court operations for both Entities.

Completion Date	May 2005
Responsibility for Action Item	HJPC Secretariat/Panel to develop the Books of Rules together with the Ministries of Justice. Council to approve and issue them.
Comment	Implementation in the Federation depends on when the new law on courts becomes effective.

Action Item 4.2:

Draft and issue Books of Rules for internal operations of prosecutors' offices.

Completion Date	January 2006
Responsibility for Action Item	HJPC Secretariat/Project to develop the Books of Rules and Council to approve them.

Action Item 4.3:

Develop and implement a monitoring and reporting system between the courts/prosecutors' offices and the HJPC that enables the HJPC to monitor the judiciary and to implement necessary corrective measures.

Completion Date	June 2005
Responsibility for Action Item	HJPC Secretariat/Panel to develop proposal and Council to decide.
Comment	JSDP is assisting the HJPC Secretariat with this task.

Action Item 4.4:

Develop a new production measurement system for judges and prosecutors and courts and prosecutors' offices.

Completion Date	January 2006
Responsibility for Action Item	HJPC Secretariat/Panel/Project to develop proposal and Council to decide.

Comment	JSDP is assisting the HJPC Secretariat with this task.
---------	--

Action Item 4.5:

Develop a format for registration of current case backlogs and collect necessary data from all courts in BiH in this regard.

Completion Date	November 2005
Action Responsibility	HJPC Secretariat and Council Panel.

Action Item 4.6:

Develop a database with detailed information on all judicial premises in BiH, including recommendations for upgrading and cost estimates.

Completion Date	September 2005
Action Responsibility	HJPC Secretariat to hire a consultant.

5. Strategic Issue Number Five Information and Communication Technology

Strategic Objective:

Through the establishment of a modern judicial information system that will serve the information and communications needs of the courts, prosecutorial offices and other sectors of the judiciary, ensure a significant improvement in the efficiency and transparency of the judiciary in BiH and thus a quality service to the public.

In accordance with Article 17, paragraph 24 of the HJPC Law, the HJPC is given the authority to oversee, in broad terms, the introduction of Information Communications Technology (ICT) in the BiH judiciary. This is an area where a common, standardised approach is essential - having different courts and prosecutors' offices implement their own strategies would inevitably lead to a waste of public funds and difficulties in relation to configuration and compatibility between systems. The ICT Project is the most significant project in which the HJPC is currently involved. Implementation of the project means coordinating with a number of international organisations, as follows:

- The European Commission, which is financing a team of 10 national experts at the HJPC and providing funding for hardware and local area networks for all courts and prosecutors' offices
- The Canadian International Development Agency (CIDA) which has seconded a Canadian ICT expert to the HJPC ICT team
- ICITAP which financed the deployment of hardware to a range of courts and prosecutors' offices. ICITAP and the EC are also involved in the development of software for prosecutors
- USAID FILE which is involved in analysing the current work processes in courts and in proposing changes to these processes in order, ultimately, to map these processes onto a computerised system. USAID FILE will also provide the HJPC with resources to develop specialised case management software to be tested in JSDP pilot courts and later to be implemented widely throughout the country
- GTZ, SIDA and ADA which are sponsoring the Land Registry Project

In the course of 2005, through the ICT Project, approximately 1800 computers will be delivered to the BiH judiciary. Printers and other equipment will also be provided and each court and prosecutor's office will have its own local area network (LAN) with a server. A network of local ICT experts and advanced users will be established at all locations. More than 1500 users will be trained in basic computer skills and more specialised users will have specialised training. A pilot case management system will also be developed and implemented at pilot courts.

Later in 2006 a wide area judicial network (WAN), linking the entire judiciary, will be established allowing for many improvements in the area of communications and also for the integration of the entire judiciary. Internal and external judicial email systems and websites (Intranet and Extranet), access to the worldwide web, centralised applications such as Case Management Systems (ISUD) are just some of the modern ICT solutions this network will permit to be implemented.

Action Item 5.1:

Approve a National ICT Strategy for the BiH judiciary.

Completion Date	April 2005
Responsibility for Action Item	HJPC ICT Project to develop a proposal and the Council to discuss and decide.

Action Item 5.2:

Deploy ICT hardware and install local area networks in all courts and prosecutors' offices in BiH.

Completion Date	August 2005
Responsibility for Action Item	HJPC ICT Project, with the EC
Comment	With support from EC Contractors and ICITAP. The EC contractor and ICITAP will deliver ICT equipment to all sites.

Action Item 5.3:

Develop a computerized case management system for the BiH judiciary and introduce it to courts (and prosecutors' offices).

Completion Date	January 2006
Action Responsibility	HJPC ICT Project with assistance from FILE.
Comment	With assistance from USAID FILE and their selected application development vendor.

Action Item 5.4:

Provide basic training to ICT users and specialised training to users of specialised software.

Completion Date	December 2005
Responsibility for Action Item	HJPC ICT Project with assistance from local companies.

Action Item 5.5:

Provide the BiH judiciary with a nation wide area network linking all users with each other, with the HJPC, the training centres and other relevant institutions.

Completion date	April 2006 – initial version. Dec. 2006 – full version.
-----------------	--

Responsibility for Action Item	HJPC ICT Project

6. Strategic Issue Number Six Judicial Budgets

Strategic Objective:

That the entire judiciary be adequately financed at the level of BiH. The HJPC should prepare a consolidated budget for the entire judiciary and the BiH Treasury should execute the budget in a transparent manner. The execution of the budget should be monitored by the HJPC.

Background:

Article 17, paragraphs 14-17 of the HJPC Law provides that the HJPC has a range of responsibilities related to development of judicial budgets. Obviously, the HJPC does not have final authority to decide judicial budgets. This authority is retained by the legislature which must balance the needs of the judiciary against those of other sectors such as health, education, pensions etc. However, the HJPC has been given a relatively strong role in the budgetary process (in the HJPC Law and the Entity laws on courts) leading up to approval of the budgets by the legislature. This role should assist in establishing and maintaining a fully functioning judiciary.

However, due to the fragmented financing structure of the judiciary in BiH, where 14 different legislatures at the State, Entity, Cantonal and Brcko level decide on judicial budgets it is almost impossible for the HJPC to follow the budgetary process in a comprehensive manner. The fragmented structure also has other negative effects, such as, unequal access to justice between the Entities and between the Cantons as a result of differences in prosperity levels across the country. This makes it impossible to implement national long-term strategies for the judiciary.

At present, no standardised cost estimates for courts and prosecutors' offices, based on projected workloads and other variables which affect the functioning of the courts, have been developed. Such projected estimates need to be produced so that the system is accountable and so that reasonably accurate budget projections can be made.

A detailed action plan needs to be developed both so that short term funding for the HJPC may be established and so that funding commitments for the entire judiciary from the various legislatures may be obtained. The HJPC needs to develop a set of policies and procedures for the courts and prosecutors' offices to guide them in the preparation of a standardized budget. Since much of the cost estimates and workload data comes from various courts and other offices in the judiciary, it will be necessary to explain and train personnel in the detailed requirements of budget preparation at several levels.

Action Item 6.1:

Develop a comprehensive implementation plan so that funding for the entire judiciary may be transferred to the level of BiH from the budget year 2007.

Completion date	November 2005
Responsibility for Action Item	HJPC Secretariat
Comment	Support from JSDP and other international institutions.

Action Item 6.2:

Develop a comprehensive Policy and Procedural Handbook or Guidelines for use by all judicial organizations under the budgetary purview of the HJPC. This handbook would set out standardised budget preparation procedures and budget reporting and execution processes and formats. It would also establish time frames with mandatory dates for completion of various phases of the budget preparation process.

Completion date	June 2006
Responsibility for Action Item	HJPC Secretariat with policy review by Council.
Comment	Assistance from JSDP is expected.

Action Item 6.3:

Identify training needs within the judiciary and the HJPC in the areas of strategic long-term budgeting, budget preparation, monitoring, and reporting. Initiate measures to provide such training as necessary.

Completion date	January 2006
Responsibility for Action Item	HJPC Secretariat

7. Strategic Issue Number Seven Judicial policy and legislation

Strategic Objective:

The HJPC plays a leading role in the development of legislation and regulations that directly affect the administration of justice in BiH.

Background:

The development by the HJPC of written comments to proposed legislation and the active participation by it in legislative reform is consistent with the provisions of the HJPC Law (see, in particular, Article 17, Paragraph 28 of the law).

The HJPC, as one of the primary government entities involved in ensuring that quality justice is provided to the citizens of BiH in a timely manner, must be actively involved in the ongoing development of BiH's legal system (in particular in relation to legislation related to the dispensing of justice).

The following key areas of legislation/regulations require close attention by the HJPC:

- The HJPC Law
- Structural legislation such as laws on courts and prosecutors' offices
- Procedural legislation such as civil, criminal, minor offence and administrative procedure
- Legislation related to judicial training centres, the bar exam and other steps which need to be taken by people in order to become part of the BiH judiciary
- Legislation related to "out of court" conflict resolution (mediation)
- Books of Rules for the operation of courts and prosecutors' offices
- Regulations related to the financing of courts and prosecutors' offices.

The extent to which the HJPC should get involved in these activities is, however, open to debate, and is likely to evolve as the HJPC consolidates its position in terms of its relationship with the government/legislature and in the eyes of the public. At the very least, however, the HJPC should seek to be involved and, if necessary, influence legislative initiatives that directly affect the delivery of justice in BiH.

A specific activity in the area of legislative drafting which was inherited by the HJPC from OHR CIPRU is to draft a new law on prosecution services. This is particularly needed for the Federation because currently there are 10 cantonal laws that need to be replaced by one

Federation law. The EC is funding a project under the sponsorship of the HJPC to carry out this task in cooperation with the Ministries of Justice.

Action Item 7.1:

Develops a tracking system for identifying issues and for priority setting for potential actions pertinent to HJPC responsibilities.

Completion Date	May 2005
Responsibility for Action Item	Council and HJPC Secretariat

Action Item 7.2:

Establish a Panel, comprised of the President of the HJPC and nominated Council Members and HJPC Secretariat staff, for the review of legislation. The purpose of the Panel would be to take an active role in representing the HJPC in the legislative process on matters of interest to the HJPC including, in particular, any legislative measures which aim to improve the functioning of the judicial system.

Completion Date	March 2005
Responsibility for Action Item	HJPC President with advice of Council and Director of HJPC Secretariat.
Comment	As a part of this activity the HJPC Secretariat should prepare legislative “position papers” for the Council Panel.

Action Item 7.3:

Finalise the new draft law on prosecutorial services.

Completion Date	October 2005
Responsibility for Action Item	HJPC Secretariat, Project and Ministries of Justice.

8. Strategic Issue Number Eight Public trust in the judiciary

Strategic Objective:

Increase public understanding, trust and confidence in the HJPC and the judicial system overall.

Background:

Even though there is every reason to believe that the judicial reforms carried out over the last few years have improved trust and confidence in the judiciary, the HJPC will work hard to further improve public understanding of and trust in the judiciary. Such trust must, of course, be earned.

The HJPC will conduct a public opinion survey (or seek to include questions in relation to the justice system in other public surveys) in order to more accurately comprehend the basis for the lack of public confidence in the judiciary. The evaluation and compilation of results from these public opinion polls will allow progress in this area to be monitored and evaluated. However, other indicators, such as a reduction in complaints submitted to ODC, would also show that there is an increase in public understanding and trust.

Action Item 8.1:

A plan on how to inform the public of progress made in the area of judicial reform is to be prepared and presented to the Council for approval. The plan will outline various means of informing the public about progress made in relation to a range of areas including the reduction of case backlog, improvements in court efficiency as well as ethical and professional performance.

Completion Date	October 2005
Responsibility for Action Item	HJPC Secretariat and Council approves.
Comment	Support from JSDP is expected.

Action Item 8.2:

The plan on how to inform the public of progress made in the area of judicial reform is implemented.

Completion Date	From November, 2005 onward
Responsibility for Action Item	Secretariat Director and HJPC President

Action Item 8.3:

A public opinion survey conducted every second year.

Completion Date	September 2006 (first survey)
Responsibility for Action Item	HJPC Secretariat with assistance from JSDP or other USAID projects.

Action Item 8.4:

Publish and widely distribute the HJPC Annual Report. The report should contain budget data, including data on ongoing operations of the courts and prosecutors' offices. It should also contain data on the cost effectiveness of specific solutions which have been introduced into the courts and prosecutors' offices. Finally, it should contain information on appointments and dismissals, case processing data, and decisions relating to ethics complaints.

Completion Date	First annual report to be published and distributed in April 2005
-----------------	---

Action Responsibility	The HJPC Secretariat and the Council approves.

9. Strategic Issue Number Nine Cooperation with national authorities

Strategic Objective Number 1:

Establish a formalised and good working relationship with the parliaments at all levels in BiH – in particular at the level of BiH.

Strategic Objective Number 2:

Establish a formalised working relationship with Ministries of Justice at BiH, Entity and cantonal level ensuring, in particular, that matters of development and implementation of judicial policy/reforms and judicial budgets are addressed and discussed.

Background:

In order to fulfil its mandate the HJPC will develop informal contacts with a range of executive and legislative bodies in BiH. Informal contact will happen in an *ad hoc* manner and often in relation to specific upcoming issues, for example in the media.

However, as a new institution at the level of BiH with a specific mandate granted to it by law, the HJPC also needs to establish mechanisms for more formal interaction between the HJPC and other national authorities. This is important for several reasons:

- In accordance with Article 20 of the HJPC Law, the HJPC is accountable to the legislative and executive authorities at all levels of BiH and must report to them annually.
- The judiciary can only function efficiently and provide services in accordance with European standards if the judiciary is adequately financed. The final authority in relation to all judicial budgets will always rest with the legislator. Many policy decisions have a financial impact and they stand a much better chance of being implemented in practice when the legislative and executive branches of government have been consulted in advance and have signed up to them before final decisions are made by the HJPC.
- Since the HJPC shares many of its responsibilities with the Ministries of Justice the fulfilment of the overall strategic goals of the HJPC will naturally depend on close interaction and cooperation with these ministries.

The submission and presentation of the annual report (“State of the Judiciary”) by the HJPC in accordance with article 20 of the HJPC Law should be the focal point of the relationship between the parliaments and the HJPC. The presentation of the HJPC annual report to the parliaments should also be used to discuss strategy for the following year and the actions that are needed from the legislature, the governments, the HJPC and the international community to implement such a strategy.

It is important that each actor in this multi-lateral dialogue respect the roles of the others and that each of them formulate clear expectations and milestones that can be realistically achieved. Through such a process a common and agreed national judicial policy should emerge.

When it comes to the working relationship with the Ministries of Justice this will have to be more substantive and consistent. Most legislative initiatives within the justice sector will start in the Ministries of Justice at Entity and BiH level and it is important that the ministries involve the HJPC at an early stage in such initiatives. Equally, it is important that the HJPC involve the ministries in all of its legislative initiatives. The HJPC and the ministries at BiH and Entity level should ensure the continued harmonization of a range of justice-related legislation which has been implemented by both Entities during the last number of years.

Action Item 9.1:

Establish an agreement with the relevant parliaments as to how the HJPC should formally interact with them.

Completion Date	Start this process with the presentation of the HJPC Annual Report for 2004
Responsibility for Action Item	HJPC President and Director of the HJPC Secretariat.

Action Item 9.2:

Establish a regular meeting schedule between the HJPC, the BiH Ministry of Justice and the Entity Ministries of Justice

Completion Date	April 2005
Responsibility for Action Item	HJPC President and Director of the HJPC Secretariat.

10. Strategic Issue Number Ten Cooperation with the international community

Strategic Objective Number 1:

Coordinate donor activities relating to justice reform through the HJPC in so far as they affect HJPC competencies and are consistent with and supportive of the HJPC Strategic Plan.

Strategic Objective Number 2:

International donors commit themselves to providing a limited amount of funds to the yearly operational budget of the HJPC over a period of 5 years.

Strategic Objective Number 3:

International funds are made available to the HJPC for carrying out projects aimed at improving the overall performance of the BiH judicial system, including funds for delivery of equipment and upgrading of premises.

Strategic Objective Number 4:

Minimum of three international experts are seconded to Secretariat of the HJPC over the next 5 years.

Strategic Objective Number 5:

The international presence within the Council is extended until June 2006 at a reduced level.

Background:

According to Article 17, Paragraph 21 of the HJPC Law the HJPC is responsible for:

- “Initiating, overseeing and coordinating projects related to improving all aspects of the administration of courts and prosecutors’ offices, including seeking national and international funding therefor;”

In order to be able to carry out this task in an efficient manner the HJPC, in accordance with Article 15, Paragraph 11 of the HJPC Law, may receive international funds for its operational budget and for judicial reform projects. The law reads, as follows:

- “The Council may receive donations from international donors to its **operational budget** and for **special judicial reform projects** outside the operational budget of the Council. Such funds shall be transferred to a special purpose account with the Central Bank of Bosnia and Herzegovina. The funds shall be spent upon the order of the Director of the HJPC Secretariat and in accordance with the conditions of the grant agreement with the donor.”

Furthermore, to facilitate international assistance to the HJPC and the BiH judiciary, Article 91, Paragraph 7 and 8 provides as follows:

- “International experts may be seconded to the Council. The privileges and immunities related to the diplomatic status of such international experts shall be regulated in an agreement between the Council of Ministers of Bosnia and Herzegovina and the Council.

International experts having a contract with or being seconded to the Council whose salary and emoluments are paid from funds provided from international donors shall be exempt from income or any other tax or contribution levied on such salary and emoluments under the laws of Bosnia and Herzegovina.”

Currently many judicial reform projects are being implemented in BiH in order to bring the judiciary up to European/international standards.

Some of these projects are implemented with active **coordination** by the HJPC, but without having funds allocated to the HJPC in accordance with Article 15, Paragraph 11. Typical examples are two major USAID projects, FILE (Fostering a Lender- Friendly Environment Project) and JSDP (Judicial Sector Development Project). Another example is the Land Registry Project implemented by GTZ, SIDA and ADA. The HJPC is also coordinating assistance by the European Commission and ICITAP regarding implementation of projects related to investment in the BiH judiciary (ICT and other equipment). The coordinating role of the HJPC entails securing that the various donors implement their projects in accordance with an overall long-term strategy for the BiH judiciary and that the projects do not unnecessarily overlap.

Other judicial reform projects are **implemented directly by the HJPC** through funds allocated by the international community to the HJPC account at the BiH Central Bank. These funds are administered through the BiH Treasury. The law gives the HJPC a unique possibility to target specific issues of concern, develop project proposals and seek international funding for these projects.

So far the European Commission – through CARDS – has been the most significant donor when it comes to projects implemented through financial support directly to the HJPC. At the moment the EC is funding the following projects:

- Information and Communication Technology Project
- The Minor Offence Court Restructuring Project
- Support to BiH Prosecutorial Service Project
- Support to Entity Training Centres Project

- Court Administration Project

The US government has funded the following projects in the same manner:

- Judicial Premises Assessment Project
- New Judicial Production Measurement System Project
- Support to the Entity Training Centres Project

Furthermore, Norway finances the *Support to the HJPC Project* and Italy is co-financing the *Minor Offence Restructuring Project* through funds allocated directly to the HJPC.

To draft proposals for judicial reform projects and to seek funding for their implementation are demanding tasks that require highly skilled staff in the HJPC Secretariat. The staff members need to be able to develop and propose long-term strategies for judicial reform which will ultimately be discussed by and decided upon by the Council. The administration of international funds also requires transparent procedures and skilled financial staff. In this respect the HJPC has developed an excellent and cooperative relationship with the BiH Treasury and all transactions are channelled through the state treasury system.

Internationally funded projects – either implemented or coordinated by the HJPC – significantly increase the possibility that the HJPC will be able to fulfil its mandate as outlined in the HJPC Law. Given the short and medium term financial situation in BiH it is clear that many of the reforms that are needed would take a very long time to realize without continued international support targeting current deficiencies in the system.

The law also allows direct international support to the operational budget of the HJPC. The HJPC believes that direct financial support to its operational budget is sustainable as long as it does not represent the largest proportion of the budget, that the support is phased out over a specifically agreed period of time and that the HJPC does not grow into an institution which will be unaffordable once the international support is withdrawn. In addition, international support to the operational budget of the HJPC must not mean a reduced allocation from national funds.

Action item 10.1:

A report reviewing all current and proposed donor funded projects will be prepared showing how and to what extent each donor project is consistent with and supportive of the HJPC Strategic Plan. The report will also identify funding gaps in the plan as a basis for developing proposals for additional donor funding in the future.

--	--

Completion Date	May 2005
Responsibility for Action Item	HJPC Secretariat prepares and submits a Report to Council for review and approval
Comment	The Ministries of Justice and the training centers need to be involved in this process

Action Item 10.2:

Policies for the realization and coordination of foreign donor support, as well as general good relations with the donor community are established to guide the HJPC and the donor community.

Completion Date	September 2005 with ongoing review and modifications
Action Responsibility	HJPC President and HJPC Secretariat Director and Council to adopt the policy

Action Item 10.3:

Signing of a 5-year MOU with key donors for yearly financial support to the operational budget of the HJPC.

Completion Date	July 2005 with ongoing review and modifications
-----------------	---

Action Responsibility	HJPC President and HJPC Secretariat Director

11. Strategic Issue Number Eleven

Development of the respective roles of the Council, the HJPC Secretariat and the Office of the Disciplinary Counsel and their internal communication

Strategic Objective Number 1:

Council established as the policy making and overall guidance institution for the management of the BiH judicial and prosecutorial systems.

Strategic Objective Number 2:

A secretariat that is professional, well organized, and responsive to the policy guidance of the Council and which executes the competencies assigned to it by law.

Strategic Objective Number 3:

An ODC that is professional, well organized, and responsive to the policy guidance of the Council. The ODC must also execute the competencies assigned to it by law while at the same time preserving its independent status as provided for in the law.

Background:

It is natural for the Council, the HJPC Secretariat and the Office of the Disciplinary Counsel to experience challenges in defining their respective roles within the new HJPC. If, however, the HJPC is to succeed in establishing itself with its external stakeholders in the government and the public, it is essential that its internal components work in a harmonious and complementary manner.

Accordingly, the HJPC should strive towards having the Council develop policy for the organization, and for the HJPC Secretariat to provide support to the Council to enable it to develop that policy, which will in turn be implemented by the HJPC Secretariat. The first step is for the Council to be able to provide meaningful and realistic (attainable) policy guidance.

The HJPC Secretariat needs to provide the best possible information and advice to the Council to help it develop policies. It also needs to ensure that the initiatives prioritised by the Council are implemented. In order to do so the HJPC Secretariat annual work plan must conform with the HJPC strategic agenda and with other policy initiatives as determined by the Council. The HJPC Secretariat must be in a position to complete tasks within an agreed time frame in a manner acceptable to the HJPC President and the Council.

The Council, on the other hand, needs to take on a new role in the development of judicial policy. This will require that each of the members of the Council take an active interest in particular areas related to the judiciary. The previous role of the Council (primarily that of taking part in the reappointment process) will no longer be relevant and the Council members will have to move from more operational tasks to more policy development functions.

Policy making also requires that a meaningful environment be developed and fostered where broader and deeper discussions can take place. The large number of members of the Council does not facilitate this process, as any real discussion with 15 (plus 3) participants is difficult. This could be alleviated by better and more formal use of “Panels” – such sub-groups of the Council may be established in accordance with Article 12 of the law. Such Panels are “empowered to make decisions and carry out tasks, as specified in the Council’s Rules of Procedure”. This means that decision making powers may be delegated to them which in turn means that they do not operate simply as another layer between the HJPC Secretariat and the Council.

Action Item 11.1:

Assess the current workload of council members and establish realistic goals and objectives both in terms of their policy development role and their operational role. Where Council members take part in labour intensive activities, such as reappointment and disciplinary proceeding, they should be given less labour intensive roles in order to counterbalance these activities. Prepare report with recommendations for policy action as needed.

Completion Date	June 2005
Responsibility Action Item	HJPC President, HJPC Secretariat Director and Council.

Action Item 11.2:

A “retreat” is organised by the Council for the purpose of establishing a clear understanding by all Council members of the policy role of the Council, as well as for clarifying procedures for Council members to meet those operational obligations imposed by law (e.g., appointments). The HJPC Secretariat Director would be part of this “retreat”.

Completion Date	June 2005
-----------------	-----------

Responsibility for Action Item	HJPC President and HJPC Secretariat Director.
Comment	Support from JSDP

Action Item 11.3:

Panels with formal (delegated) mandates to be established in accordance with Article 12 of the HJPC Law. Each Panel is assigned one HJPC Secretariat staff member who will participate in discussions and be responsible for carrying out HJPC Secretariat responsibilities. A formal mandate is prepared for each Panel.

Completion Date	March 2005
Responsibility for Action Item	HJPC President and Council

Action Item 11.4:

A HJPC Secretariat reporting system with the HJPC President and the Council is devised by which the Council will be regularly informed of HJPC Secretariat activities, results achieved and any problems encountered in carrying out its mandate (including a need for more or different staff).

Completion Date	May 2005
Responsibility for Action Item	HJPC Secretariat Director and HJPC President

HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BIH

