



Visoko sudsko i tužilačko vijeće Bosne i Hercegovine  
Visoko sudbeno i tužiteljsko vijeće Bosne i Hercegovine  
Високи судски и тужилачки савјет Босне и Херцеговине  
High Judicial and Prosecutorial Council of Bosnia and Herzegovina



## BLUEPRINT

**Project** Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH -  
Phase 3 ICEA III Project

**Component:** Improving business processes in the enforcement departments of the pilot  
courts in cooperation with the Swedish Enforcement Authority



Sweden  
Sverige



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## Contents

|   |    |
|---|----|
| <b>1. BACKGROUND</b> .....  | 3  |
| <b>2. RECOMMENDATIONS TO IMPROVE ENFORCEMENT PROCEDURES IN THE BiH COURTS</b> .....         | 4  |
| <b>Recommendation 1 Preventive measures for more efficient enforcement procedures</b> ..... | 5  |
| <b>Recommendation 2 SOKOP-Mal implementation plans in the courts</b> .....                  | 11 |
| <b>Recommendation 3 Guidelines for enforcement proceedings</b> .....                        | 13 |
| <b>Recommendation 4 The adoption of a cost list for court bailiff field trips</b> .....     | 14 |
| <b>1. STRUCTURAL PLAN FOR A DIALOGUE WITH THE EXECUTIVE AUTHORITIES</b> .....               | 16 |
| <b>2. THE NEED TO INTRODUCE TRAINING OF COURT BAILIFFS</b> .....                            | 17 |
| 2.1. Proposal of training programme for court bailiffs .....                                | 18 |
| 2.1.1. Programme content.....   | 18 |
| 2.1.2. Dynamics of training organisation .....  | 18 |
| 2.1.3. Selection of topics.....   | 18 |
| 2.1.4. Categories and selection of trainers .....   | 19 |
| 2.1.5. Materials .....  | 20 |
| <b>3. ANNEXES</b> .....   | 21 |
| <b>3.1. Information for the public/ A Guide to Enforcement Procedure</b> .....              | 21 |
| <b>3.2. Structural plan for dialogue with the executive authorities</b> .....               | 27 |
| <b>3.3. Guidelines for court bailiffs</b> .....   | 33 |
| <b>3.4. Example of a cost list for court bailiff field visits</b> .....                     | 40 |

## 1. BACKGROUND

This Blueprint document was developed with the support of the Government of the Kingdom of Sweden, as the donor for the Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH - ICEA III Project (hereinafter: ICEA III Project), implemented by the High Judicial and Prosecutorial Council of BiH (hereinafter: HJPC BiH). The document outlines the implementation of project activities undertaken by project staff in cooperation with our project partner - the Swedish Enforcement Authority (SEA), and the pilot courts.

Numerous strategic EU documents emphasise the importance of introducing changes and implementing reforms in enforcement procedures, whose recommendations the HJPC BiH looks to implement.

Considering that activities focused on the adoption of legislative amendments together with grass-roots reforms of enforcement procedures through the introduction of professional enforcement agents in BiH - proposed as one of the recommendations to improve enforcement procedure – were unsuccessful, the HJPC BiH then directed its efforts on improving the operations of the enforcement departments of the courts, and especially the work of the court bailiffs, who were the focus of the ICEA III Project.

Through the ICEA III Project, the HJPC BiH carried out activities on improving the performance of enforcement departments in cooperation with five pilot courts<sup>1</sup> and an international partner - the Swedish Enforcement Authority – SEA, which, among others, included:

1. Defining and implementing the first set of recommendations which will contribute to greater efficiency in the work of enforcement departments,
2. Creating a structural plan for dialogue with the executive authorities, and
3. Developing a proposal for a mandatory advanced training program for court bailiffs.

Project activities began by defining recommendations based on the current state of the courts, looking to reduce the number of enforcement proceedings, as well as improve enforcement procedure in the initial phase - from the filing of an enforcement motion, followed by their implementation in the pilot courts.

Therefore, in cooperation with its partners, the project team defined a series of recommendations, and the project worked on the implementation of the first set of recommendations as follows:

1. The application of preventive measures in enforcement procedures,
2. Developing guidelines for managing enforcement procedures,
3. Developing a plan for applying the SOKOP Mal system and processing utility cases, and
4. Developing and adopting a cost list for court bailiffs when working in the field.

Apart from the recommendations, a *Structural Plan for Dialogue with the Executive Authorities* was also created, aimed at identifying essential and optimal needs of the court enforcement departments, clearly defining them and properly communicating them to the executive authorities, which will ultimately contribute to more efficient enforcement procedures.

And ultimately, a mandatory advanced training program for court bailiffs has been developed, given the fact that there is no mandatory induction training or regular training for this category of court staff, even though there is a definite need for it.

Further on in the document we provide an overview of the recommendations that were implemented and how the practices of the Swedish Enforcement Authority were implemented by the courts accordingly. The structural plan for dialogue with the executive authorities was clarified, while also explaining the need for induction training and regular training for court bailiffs together with a proposal for their introduction.

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<sup>1</sup> The pilot courts within the ICEA III Project, which worked on improving enforcement procedures in BiH were: the municipal

courts in Zenica, Sarajevo and Mostar, and the basic courts in Banja Luka and Prijedor.

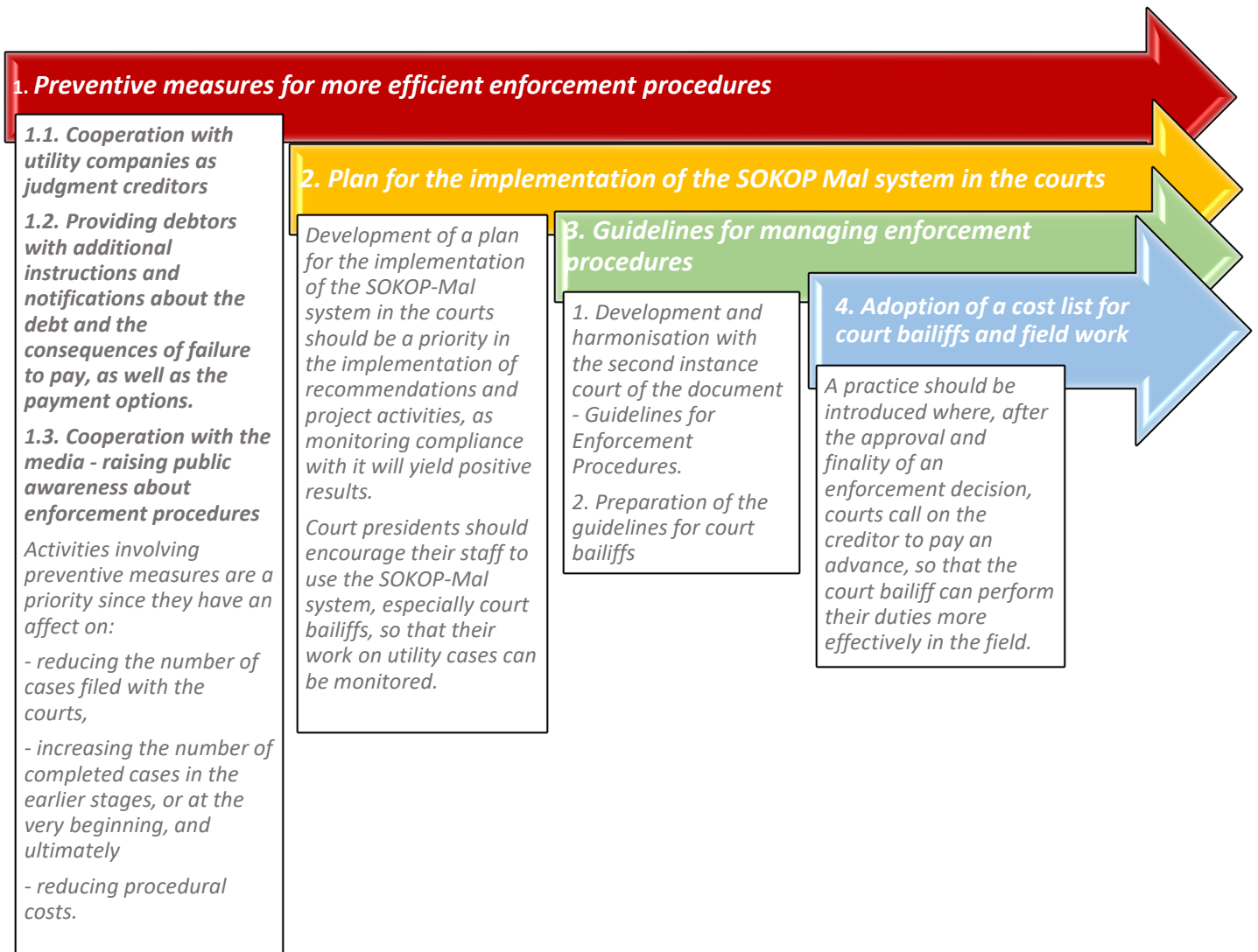
*An efficient and effective enforcement process entails that the enforcement process should be sufficiently flexible to allow the enforcement agent a reasonable measure of latitude to make arrangements with the defendant, where there is a consensus between the claimant and the defendant. CEPEJ guidelines from 2009<sup>2</sup>*

## 2. RECOMMENDATIONS TO IMPROVE ENFORCEMENT PROCEDURES IN THE BiH COURTS

After a series of meetings, an analysis of the work processes, work methodology and backlogs at the enforcement departments of the pilot courts, as well as thematic workshops with the pilot courts, the first set of recommendations to improve the operations of enforcement departments of the pilot courts was defined. Four recommendations were implemented by the ICEA III Project at the pilot courts, which were

identified as potentially contributing to more efficient enforcement processes and improved performance of the enforcement departments when applied regularly and properly.

The implementation of the recommendations should have a dynamic flow and prioritise activities as explained in the graph below.



<sup>2</sup> This of course means that the solutions are subject to controls in order to ensure the impartiality of court bailiffs and protect the interests of the parties in proceedings.

## Recommendation 1 Preventive measures for more efficient enforcement procedures

*The courts or the judgement creditors should undertake certain activities in the initial phase of the enforcement procedure. The courts should take preventive measures in order to establish more efficient enforcement procedures.*

One of the recommendations for the pilot courts as part of the ICEA III Project was to try to reduce the number of enforcement procedures initiated and to improve enforcement procedures in the initial phase when filing an enforcement motion. The recommendation is to finalise enforcement procedures in their earliest stages, i.e. that they are conducted and concluded before the court bailiff receives the judge's order to proceed with asset seizure in the field.

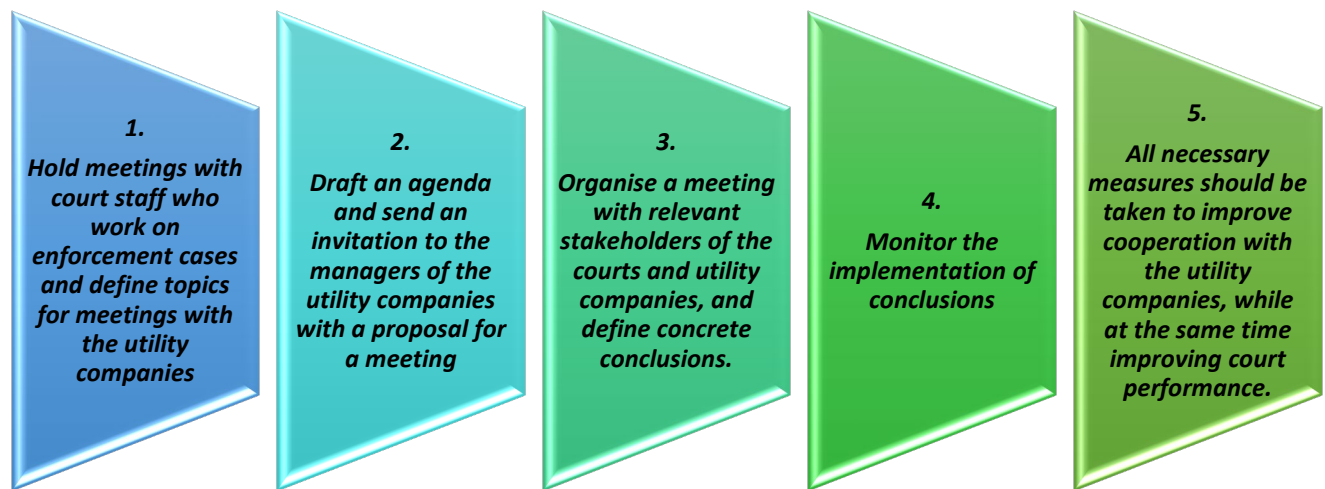
Seeing as these are preventive measures, they are directed at both potential debtors and judgment creditors seeking enforcement.

The recommendation is to apply them continuously, in consideration of annual case influxes as well as the recurring issues faced by the courts.

As for preventive measures, a number of activities have been identified such as:

### *1.1. Cooperation with utility companies as judgment creditors*

*Steps to implement the recommendation*



The graph **shows the steps** each court should take in order to implement the said recommendation. Since this involves constant court action, we recommend that the implementation of the recommendation begins at the start of the year, and afterwards, immediately prior to claims being filed by the utility company.

Public utility companies are the biggest initiators of enforcement procedures before the courts in Bosnia and Herzegovina. Given the one-year

statute of limitations period, the courts receive hundreds of thousands of new enforcement motions in proportion with the size of the area covered by the utility companies, the population, the wealth of the population etc.

In most situations, the courts are unable to promptly process such cases due to their sheer numbers as well as because enforcement motions very often contain incomplete or inaccurate information, in particular with reference to a debtor's address.

Recognising the practices of the Swedish Enforcement Authority and the advantages of their approach in applying preventive measures, the project team defined the recommendation, which was then implemented across all pilot courts under the project.

The point of the recommendation is for courts to **establish a meeting schedule** with representatives of the utility companies, clearly **outlining the agenda and any contentious issues** for discussion at the meetings.

The aim of the meetings is to highlight specific difficulties faced by the courts as well as by the judgment creditors during the initial phase (when filing an enforcement motion) and throughout the process (after an enforcement order has been issued). It is also important to emphasise the significance of the judgment creditors taking appropriate action throughout the process to allow for its swift resolution.

Some of the topics discussed during the project implementation period include - the presentation of information on the expected number of enforcement motions to be filed during the upcoming period, the status of debts for the largest debtors; updating information on debtors, on paid debts; the timely withdrawal of enforcement motions after debts have been settled, etc.

The application of this preventive measure is primarily the responsibility of the court president, but the contribution of all employees - judges and court bailiffs - is also vital, as they are best positioned to delegate topics for discussion at the meetings.

The court president, as the head of the institution, is responsible for the overall execution of tasks and duties within the jurisdiction of the court, as well as for managing the court with focus on achieving the set objectives and providing the best service to the parties throughout their proceedings.

This way, the president contributes to the more efficient functioning of the court, improved performance by judges and non-judicial staff, while also contributing to quicker case processing.

In addition to individual meetings with utility companies that submit motions with the courts, it is extremely important to organise joint meetings with all utility companies of a specific canton/region in order to exchange positive practices and experiences.

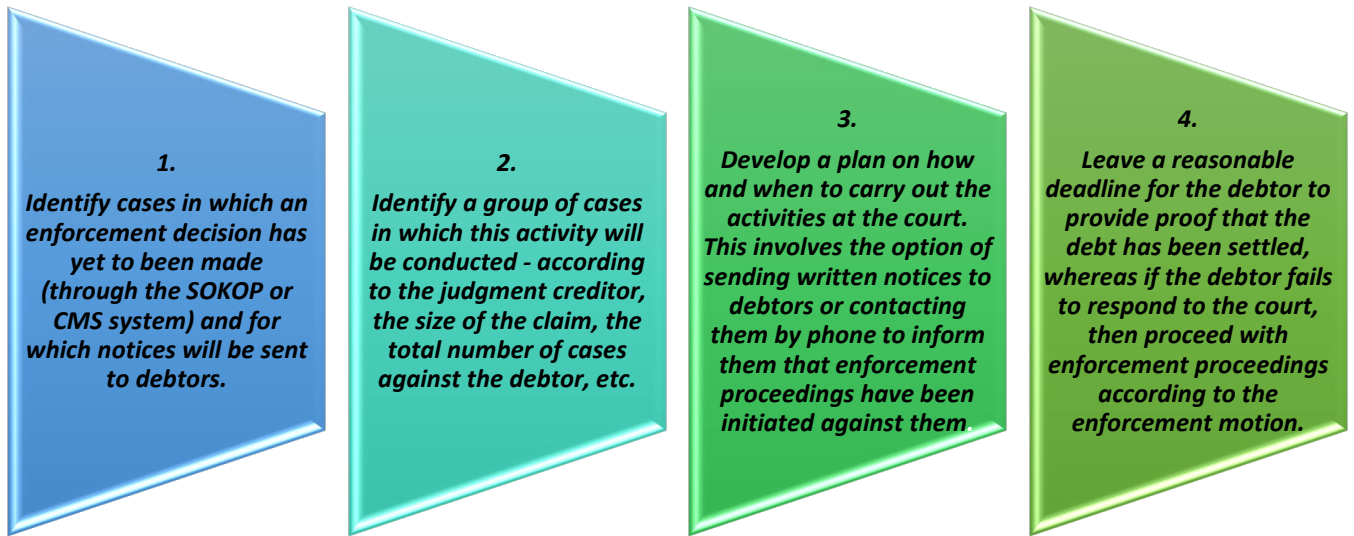
*1.2. Providing debtors with additional instructions and information about their debts, the consequences of failure to pay, as well as their payment options.*

Sending out additional notifications to debtors prior to filing enforcement motions with the court is generally the responsibility of the utility companies. After filing an enforcement motion with the court, identifying a more efficient way to process specific case types is and should be the

responsibility of the courts, in accordance with the law.

The graph shows the steps each court should take in order to implement the said recommendations.

***The steps for implementing the recommendation when sending notice to debtors prior to rendering a decision on enforcement:***



The HJPC BiH implemented various activities with certain courts where, prior to rendering a decision on enforcement, the courts sent notices to debtors informing them that enforcement proceedings had been initiated against them and instructing them to inform the court if the debt had been settled in the meantime. After the court

receives a response from the debtor, it continues the proceedings in accordance with the provisions of the Law on Enforcement Procedure.

Example notice:

Name of the court: \_\_\_\_\_

Case number: \_\_\_\_\_

Date: \_\_\_\_\_

Judgment creditor, address: \_\_\_\_\_

Debtor: \_\_\_\_\_

For the purpose of: collection of a claim

### NOTICE

You are hereby notified that the afore-named judgment creditor has filed an enforcement motion with this court on \_\_\_\_\_, against you for the collection of the principal debt in the amount of \_\_\_\_\_ and enforcement costs in the amount of \_\_\_\_\_ KM, together with relevant interest payments in accordance with the law.

For a detailed review of the financial statement regarding unpaid bills for which you are being sued, as well as if you have any questions about the potential waiver of interest payments, please contact the judgment creditor.

We request that you settle the specified claim of the judgment creditor at the payment counter of the aforementioned company within 8 days of receiving this notice, in order to minimise additional costs associated with the enforcement proceedings. If you do not pay the specified amount within the given deadline, the court shall permit the motion for enforcement, which shall result in an increase in the costs of enforcement proceedings by the additional amount of \_\_\_\_\_ KM for the enforcement decision, as well as for each field visit by the court bailiff in the amount of \_\_\_\_\_ KM.

\_\_\_\_\_  
JUDGE

The activities have shown that most debtors were unaware of the existence of their debts, while in certain courts the notices had an impact in approximately 80% of cases, where the cases were resolved in the initial phase of the process,

without having to send the case to the court bailiff to make a field visit.

This leads to savings for the courts, the judgment creditors and the debtors.

### **Implementation of the recommendation for sending notices to debtors after an enforcement decision has been rendered**

Seeing as the pilot courts use the SOKOP-Mal system, which has standard templates, additional information has been included in the text of the enforcement decision explaining the options available to the debtor upon receiving the enforcement decision.

Secretariat asking them to include the said notice on a new page of the full enforcement decision template in the SOKOP-Mal system.

Example notice:

The other courts should send a request using the Service Desk of the ICT Department of the HJPC



### **NOTICE FOR THE DEBTOR**

After receiving the decision, you should first check whether you actually owe the amount in question.

#### ***If the debt has been settled***

*YOU HAVE PROOF THAT YOU HAVE PAID THE DEBT IN QUESTION prior to the filing of the enforcement motion:*

- 1. CONTACT THE JUDGMENT CREDITOR. If the aforementioned debt involves unpaid utility bills, it would be best to visit the company office in person.*
- 2. FILE AN OBJECTION WITH THE COURT. Make sure to attach proof showing that the debt has been paid or the obligation fulfilled.*

*The procedure is the same in the event that you have proof you settled the debt in question after the filing of the enforcement motion. The procedure shall be discontinued after you have paid the appropriate court fee and - if the judgment creditor insists so - the accompanying legal interest.*

#### ***In the event that you have not settled the outstanding debt***

*YOU DO OWE THE AMOUNT IN QUESTION OR YOU HAVE FAILED TO PAY CERTAIN BILLS or failed to fulfil your obligation. Keep in mind that debts must be settled. The sooner you fulfil your obligation, the lower any additional costs incurred as a result of the court proceedings will be.*

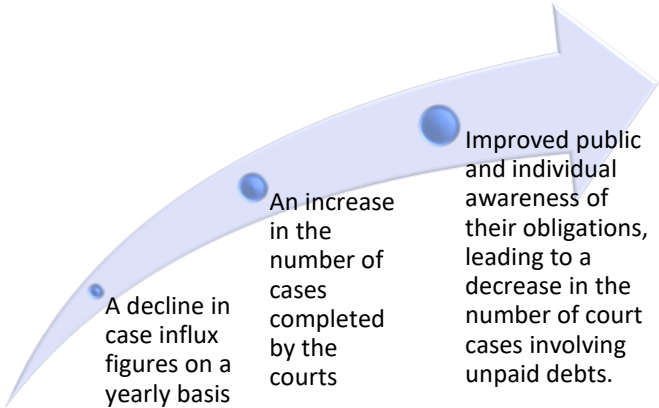
- 1. CONTACT THE JUDGMENT CREDITOR if the debt involves unpaid utility bills, while it would be best to visit the company office in person.*
- 2. NOTIFY THE COURT if you have subsequently settled the debt to the judgment creditor or fulfilled your obligation.*
- 3. FILE AN OBJECTION WITH THE COURT DUE TO STATUTE OF LIMITATIONS if you find that the enforcement motion was filed after the elapsing of the one-year period from the date indicated on the bill as the due date. Statute of limitations coming into effect does not mean that you have no debt; it simply indicates that the legally established period for enforcing the obligation has expired. Due to the fact that the enforcement of the obligation was not requested in a timely manner and as prescribed, you have the right not to fulfil your obligation, but only if one year has elapsed from the day you received a bill to the date the judgment creditor initiated proceedings against you. The debtor has to invoke the statute of limitations and provide proof accordingly. If you fulfil a time-barred obligation, you do not have the right to request the return of the amount paid, even if you were unaware that the obligation was subject to statute of limitations.*

This option can also be exercised if the court is not an active user of the SOKOP-Mal system, or if enforcement cases are processed through the CMS system.

These activities can contribute to more efficient court proceedings and quicker case completion, seeing as such a change in the way courts operate can significantly expedite case processing time.

1.3. Cooperation with the media - raising public awareness about enforcement procedures

**Expected outcomes:**



Communication resources can facilitate and expedite the enforcement process, thereby leading to fewer unresolved cases. The public must be well-informed and aware of how the courts work and any potential changes to their operations.

Communication and the dissemination of information to the public are preventive measures aimed at shifting public expectations among both current and future debtors so they understand that the consequence of non-payment will inevitably be debt collection, rather than allowing them to believe that there are no repercussions. Communication resources can be used at various stages and target different interest groups: debtors, youth, utility companies, the general public etc.

The measure was proposed because the public often lacks information on enforcement procedures and why they are initiated. This way, the project team looked to change public perception and raise awareness among citizens on the importance of fulfilling their obligations in order to avoid facing enforcement proceedings.

**Court presidents, in their regular communications with the media,** can prepare a

**concise set of information on enforcement procedure,** its potential **consequences,** and what people can do to expedite the process, or even prevent the case from reaching the court altogether.

In correlation with this recommendation is another recommendation to **develop a set of basic information on enforcement procedures for debtors, which would be available on court websites.**

A document titled "Information for the Public – A Guide to Enforcement Procedure"<sup>3</sup> was created for courts to use to better inform the public on enforcement procedures. The document uses clear, comprehensible language, so that readers can easily understand the message and fundamental aspects of enforcement procedure. It provides **information on what debtors can do** when they **receive a decision** on enforcement from the court and what steps they can take to conclude the proceedings.

The document offers objective information and no part of it can be considered as detrimental to either judgment creditors or debtors.

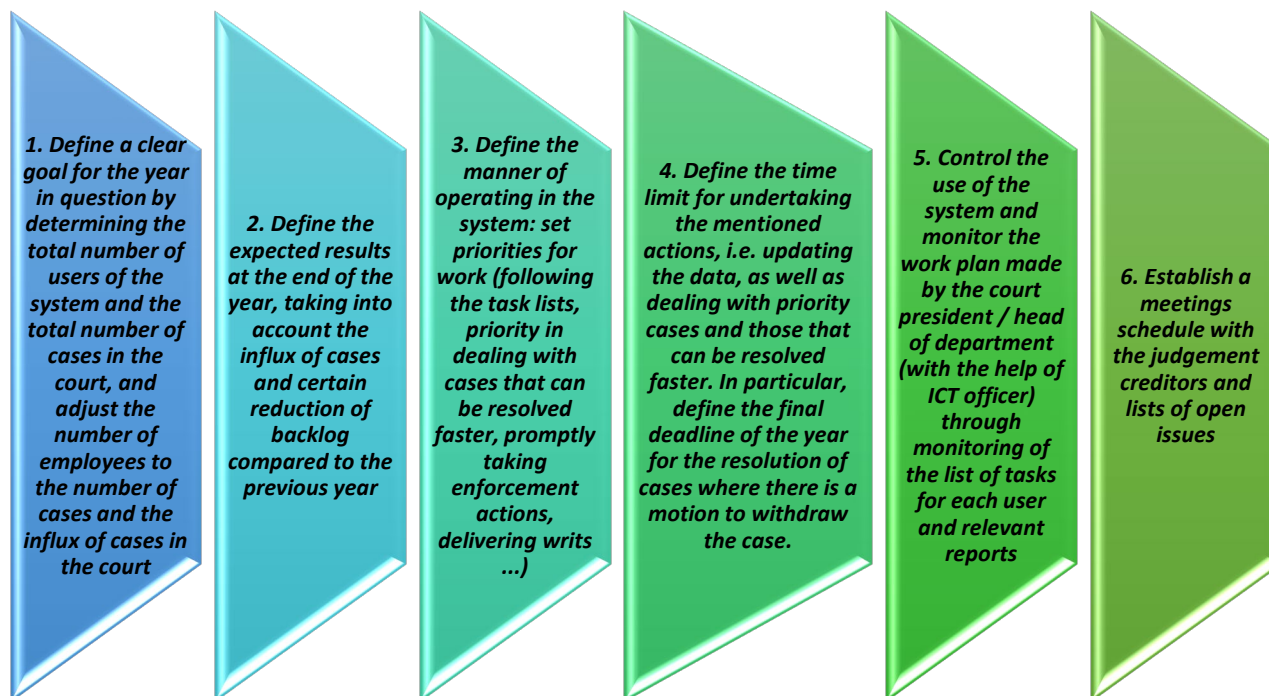
<sup>3</sup> The document is attached as an annex to the Blueprint document.

## Recommendation 2 SOKOP-Mal implementation plans<sup>4</sup> in the courts

*"We need to utilise all the advantages of the SOKOP-Mal system in order to resolve utility cases more efficiently, given that they represent the largest number of cases and are a burden for the judiciary in BiH.*

*Since the courts do not take prompt actions in the system, we need to define a clear plan for the implementation of the system and monitor the work of its users - if the goal of the court is to reduce the number of pending enforcement cases, which includes utility cases."*

### Steps to implement the recommendation



In the table above, there is an overview of all the steps that the court needs to take in order to implement the recommendation and take full advantage of the SOKOP-Mal.

The SOKOP-Mal is recognised as an excellent tool for the mass processing of utility cases, and the application of the system is included as one of the recommendations that can contribute to more efficient court proceedings. The results of the application are reflected in the reduction of utility cases in the courts, the creation of a single electronic database of cases and the introduction of a uniform method of processing utility cases in the judiciary in BiH, which will make utility

companies and courts more efficient in the long run.

Through the SOKOP-Mal, courts have the ability to deal more efficiently with utility cases and communication with judgement creditors is simplified, given that the system monitors deadlines for action, suggests the next step in accordance with the provisions of the Law on Enforcement Procedure, enables work with accurate data and makes it easier to monitor the progress of cases.

<sup>4</sup> SOKOP-Mal is a system intended for the electronic submission and processing of small value claims, the so-called utility cases in first-instance courts. It was developed in 2010 as part of the Improving Judicial Efficiency Project, funded by the Government of Sweden and the Government of Norway and partly IPA 2009. It is specific because it enables the electronic sending of the enforcement motions and complaints in small value claims, as well as the electronic processing of cases, which ensures a faster and more economical enforcement/litigation proceedings.

When it comes to dealing with utility cases, currently the courts do not have the following:

- Backlog reduction plan for utility cases, which are excluded from the regular backlog reduction plans
- System of work monitoring of all SOKOP-Mal users by the court president or by the HJPC BiH
- The practice of processing priority cases, especially when it comes to cases in which the enforcement motion has been withdrawn, nor have priority cases been determined in the courts
- Specific organisation of operations in the SOKOP-Mal

On the basis of the collected data and on the basis of the reports available in the system, it has been noticed that the courts do not use all the options offered by the system and that its application is minimal, and most judges/legal associates deal with utility cases only to meet the quota and without an appropriate plan for their processing.

**Court presidents should encourage their staff to use the SOKOP-Mal system, especially bailiffs, so that their processing of utility cases can be monitored.**

Courts where all judges and legal associates deal with this type of cases through the SOKOP-Mal system achieve better results compared to courts that deal with utility cases only to only to meet the quota, and especially compared to courts

where bailiffs do not deal with utility cases at all or do insufficiently.

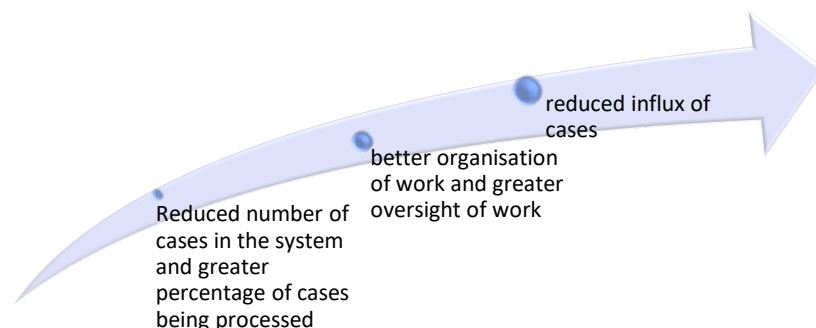
Through this recommendation, the project team tried to have the courts define a plan for dealing with utility cases in such a way that each court **defines a goal** that would be aimed at **reducing the backlog** of utility cases for the current year, then to **assign a certain number of judges / legal associates** who will continuously deal with this type of case, taking into account not only the currently pending cases, but also the average influx of cases to the court.

In order to achieve the set goal, particular efforts of the court presidents are needed, as well as monitoring of the work of all users in the system and meetings with judges and bailiffs in order to discuss the difficulties they face at work and how to overcome them.

The next step is to **define priorities in the work**, that is, to take steps in a timely manner in cases that are ready for resolution and archiving, then in cases in which the **correct address** of the judgement debtor has been submitted or there has been a **change in the case status** and the enforcement means.

It is especially important to control the application of the system and monitor the work plan made by the court president or the head of department with the help of ICT officers in the court, through monitoring the list of tasks for each user, submitting relevant reports and holding meetings with court employees.

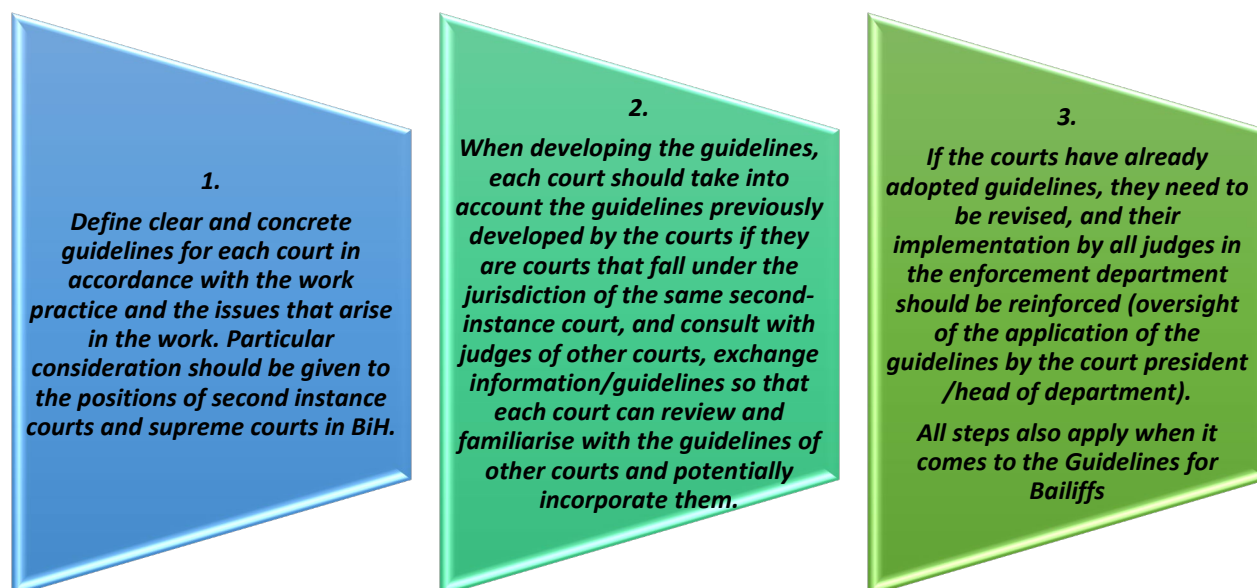
**Expected outcomes:**



## Recommendation 3 Guidelines for enforcement proceedings

*"Given that there are obvious differences in the decisions taken by individual judges of the same court in same or similar situations, we need to establish a common position at court level regarding the interpretation of certain legal situations, which frequently occur in practice in order to contribute to the harmonisation of case law and better performance by judges / legal associates. It is necessary to establish cooperation with the second-instance courts in order to define the final positions regarding certain decisions in the first-instance proceedings."*

### Steps to implement the recommendation



It is a fact that many courts face a problem regarding the application of legal provisions due to different practices of the judges of first instance and second instance courts. During the implementation of the project, it was determined that there are certain ambiguities regarding the interpretation of certain legal provisions and that there is no cooperation with the courts of higher instance. All this affects the quality of court decisions and result in different practices of the judges. This segment of the enforcement procedure needs to be improved.

In order to remedy the aforementioned deficiency, it is recommended that the pilot courts develop **guidelines for the enforcement proceedings**, which would include the **explanation of certain legal situations**, along with instructions on how the judge/legal associate should proceed, following the case law

of second-instance courts, all with the aim of rendering better decisions and strengthening legal certainty.

During the implementation of the project, the courts developed guidelines for work practices, which had to be harmonised with the second-instance courts that have appellate jurisdiction over them.

In this regard, the judges who were involved in the development of the guidelines **held meetings with the judges of the second instance courts** in order to agree and take a final position regarding certain legal ambiguities and situations they encounter in their work.

Some courts had more successful cooperation with the competent second-instance court, while

some courts still need to strengthen that cooperation in order to develop guidelines.

It should be emphasised that the guidelines are not mandatory for application, but the opinion of the majority of judges is that they should be taken into account when adjudicating. Furthermore, the guidelines are crucial for newly appointed judges since they provide a single point of reference for how to proceed in a certain situation and align with the second-instance court's case law.

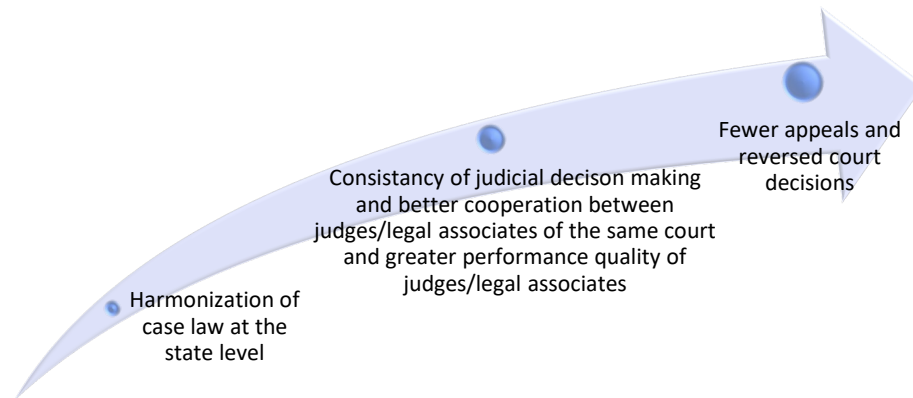
The ultimate goal is to define universal guidelines that will be applicable to all courts in BiH, taking into consideration how similar or identical the

laws governing enforcement proceedings are at all levels.

In order to improve the work of bailiffs in the enforcement proceedings and for judgement creditors to have a more efficient recovery, in cooperation with the bailiffs of pilot courts under the ICEA III Project, **Guidelines for Court Bailiffs** have been developed for enforcement against movable property. It was noted that these guidelines could be applied in other situations in the bailiff's work, such as when it comes to other means of enforcement.

The Guidelines are enclosed to this document.

**Expected outcomes:**



**Recommendation 4 The adoption of a cost list for court bailiff field trips**

*“In accordance with the provisions of the LEP, the judge may require the judgement creditor to make an advance payment for the court bailiff to make a field trip in accordance with Article 16 of the FBiH and RS LEP:*

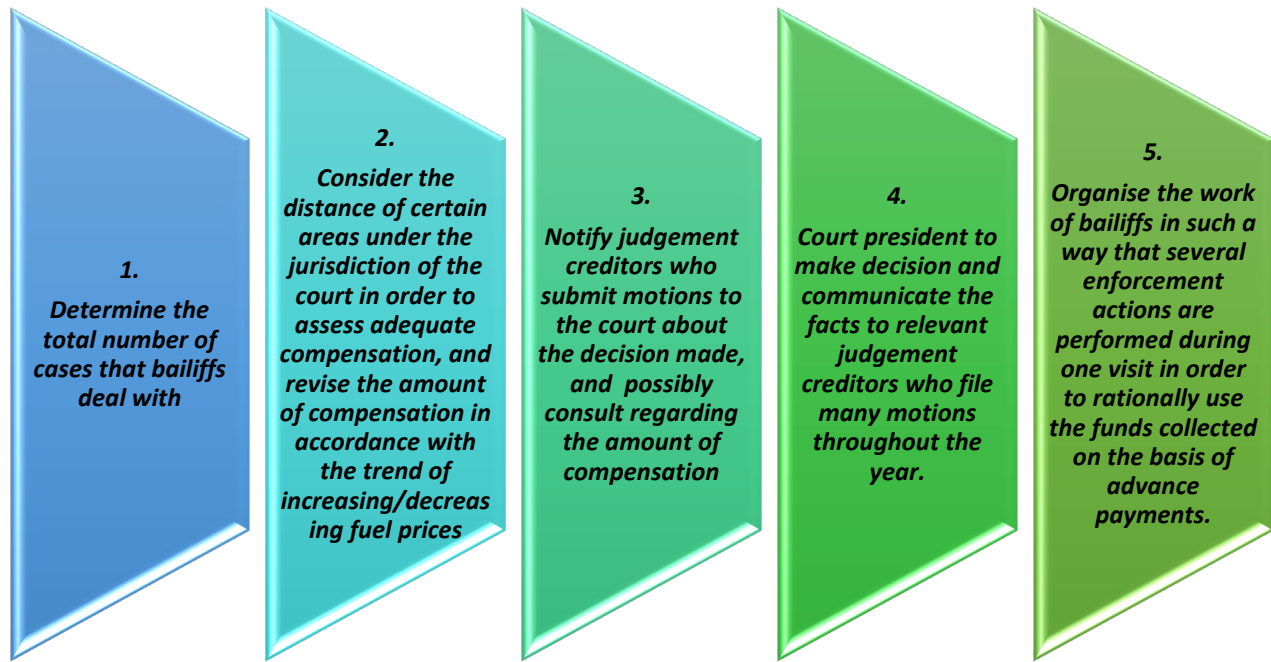
**Article 16.  
Costs of Proceedings**

*(1) A judgement creditor shall advance the estimated costs required for the enforcement proceedings.*

*(2) A judgement creditor shall pay the costs referred to in paragraph 1 in advance within a period determined by the court. The court shall dismiss the enforcement procedure if the costs, for which proceedings cannot continue, have not been paid within that period. If carrying out an enforcement act depends on the costs are required to be paid in advance before a deadline, and payment is not made before that deadline, such enforcement act shall not be carried out.”*



### Steps to implement the recommendation



Courts in BiH very often face the problem with inappropriate working conditions when it comes to the enforcement department. Given that the proceedings consists of several stages, where actions in the case are undertaken not only by judges but also by bailiffs, the work of this department requires more resources than other court departments.

The enforcement proceedings includes the court bailiff going to the field, which requires additional costs of the court that other proceedings do not have, and it is necessary to advance such costs in order to carry out the actions in the proceedings continuously and without difficulties.

The consequence of such deficiencies is reduced number of field visits, precisely because the court cannot cover the costs of the bailiff's visit to the address of judgement debtor.

Judgement creditors easily file enforcement motion against movable property and do not even try to find adequate property of the judgement debtor to enforce against. If the provisions of the LEP relating to the costs of the

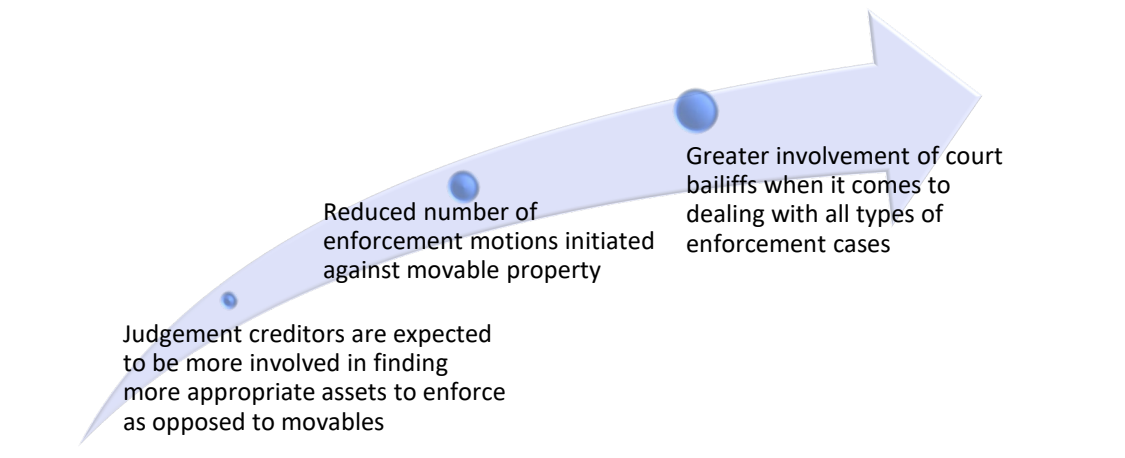
enforcement proceedings were consistently applied, judgement creditors would certainly become more active in the process and would more seriously investigate the property of the judgement debtor in order to propose more effective means of enforcement and assets that can be effectively enforced against, which is the goal of the recommendation.

In accordance with the aforementioned, one of the recommendations of the project team is the adoption of the cost list for court bailiff field trips.

A practice should be introduced where courts, after the approval and finality of an enforcement decision, call on the creditor to pay an advance, so that the court bailiff can perform their duties more effectively in the field.

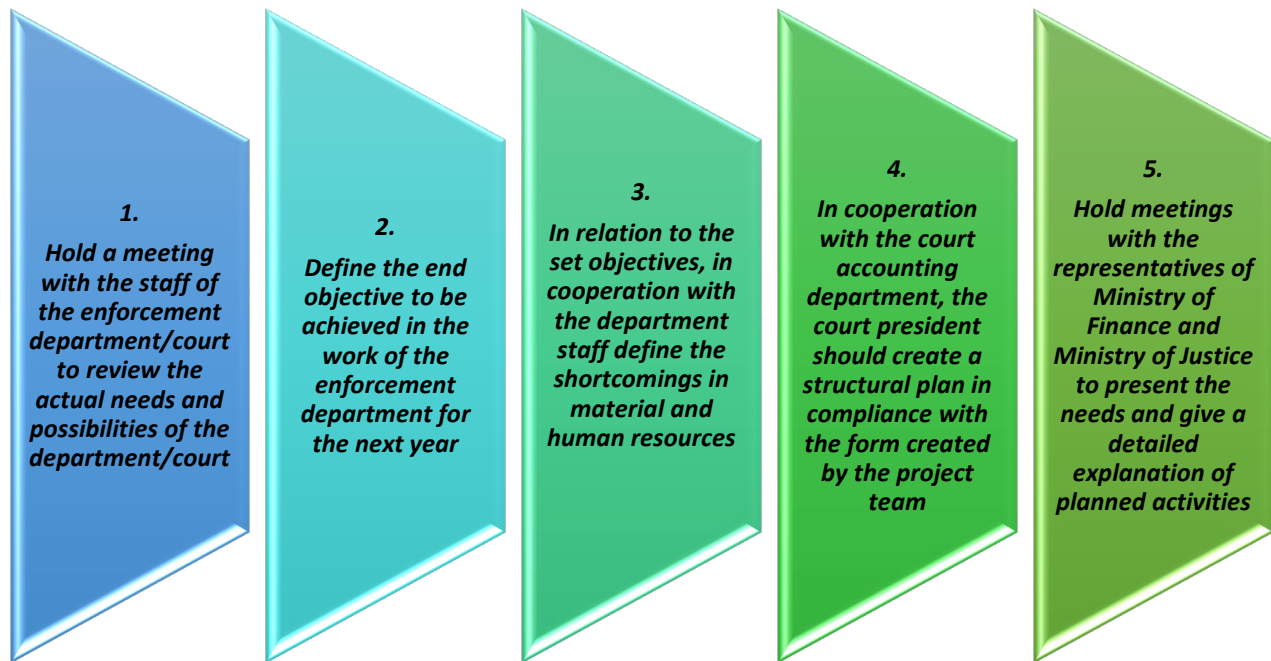
Currently, only few courts have a clearly defined cost list for bailiffs, and the amount depends on the distance from the court. Courts with a larger number of cases do not have a defined cost list for bailiffs, so the court managers need to make a decision that will regulate the above issue.

## Expected outcomes:



## 1. STRUCTURAL PLAN FOR A DIALOGUE WITH THE EXECUTIVE AUTHORITIES

### *Steps necessary for the preparation of the Structural Plan*



Many court presidents and heads of enforcement departments have pointed to the lack of material and technical conditions for the work of court staff who deal with enforcement as one of the problems pertaining to enforcement procedure,

as well as the lack of training for bailiffs who are an important link in the implementation of the enforcement procedure, and particularly, inadequate and incomplete staffing and systematization of positions is highlighted as a



problem in the court, both in terms of judicial office holders and in terms of administrative staff in the court (civil servants and employees).

Frequently the number of bailiffs in courts is inadequate to the number of judges/legal associates on one hand and the number of cases on the other, which results in bailiffs being assigned a high number of cases. The consequence is the inability of bailiffs to deal with certain cases for a longer period of time, which finally affects the turnaround time.

Apart from the aforementioned, the efficiency of enforcement departments and consequently of the procedure is affected by the lack of material and technical equipment at courts. The lack of official cars that would be used by bailiffs when taking enforcement actions outside the court premises was most often highlighted at the meetings held with the pilot courts.

All the aforementioned requires additional funds, which the court presidents should ensure in accordance with the budget planning and court needs.

With regards to that, **adequate and planned communication between court presidents and management and the competent ministry in charge of providing the budget needs to be ensured.**

## 2. THE NEED TO INTRODUCE TRAINING OF COURT BAILIFFS

The court bailiffs in Bosnia and Herzegovina are a category that has the most significant role in most of the cases in enforcement procedure, in the phase of implementation of the court decision, within which it was necessary to ensure the funds to settle the claims of judgement creditors.

The survey that the HJPC BiH carried out in first instance courts in BiH proved that both the judges and court bailiffs believe that trainings for court bailiffs needs to be introduced based on the principles, similarly as the judges and legal associates have trainings throughout their work

The intention behind this activity is to recognise certain needs of court enforcement departments as necessary and optimal, clearly define them and properly communicate to executive authorities, which will ultimately contribute to having efficient enforcement procedure.

This type of document can be an additional attachment to the existing guidelines for budget preparation, but it is extremely important that court presidents together with the court staff preparing the budget proposal hold a meeting with the relevant ministries after the budget proposal has been prepared, in order to present the needs of the court enforcement department in detail.

The structural plan is not a special recommendation as the ones cited above, but is one of the activities, which were being conducted in the courts and which has, in the courts that approached this project task seriously, resulted in funds approved in the budget being significantly higher compared to the usual practice so far.

The form for the creation of the Structural Plan is an attachment to the Blueprint, which the courts should use while planning the budgetary requirements, not just of the enforcement department, but of the overall court as well.

and that they should be conducted on the entity i.e. state level. With regards to that, it is necessary to undertake activities to organise training in this way in due course of time.

Based on the experience gained in the implementation of project activities with pilot courts and the Swedish Enforcement Authority, the analysis of results of the survey that was carried out in courts and conversation with the court bailiffs, a conclusion was drawn that it was necessary to consider the possibility of **establishing a separate training programme for court bailiffs in all courts** for the purpose of

improving the work of court bailiffs, improving enforcement procedure and in the end improving the efficiency of overall judiciary.

The introducing of the court bailiff training can be done by the court presidents as well, which is in accordance with the competencies of the presidents to manage the court and be held responsible for efficient management, as prescribed by the laws on courts of the FBiH/RS and the rulebooks on internal court operations.

## 2.1. Proposal of training programme for court bailiffs

### 2.1.1. Programme content

Professional development gives the possibility for exchange of experience, inspires case law harmonisation and facilitates expansion of knowledge related to legal solutions and practices.

The basic idea of professional development of court bailiffs is to facilitate continuous training as follows:

- **initial training** for newly appointed bailiffs,
- training aimed at **better and more efficient application of legal regulations,**
- **practical training** that includes case handling and demonstration of individual actions undertaken in field.
- trainings seeking to: **improve the relationship between court bailiffs and citizens,** as well as the development and mastering of negotiation skills and overcoming conflict situations in field.

The programme of professional development of court bailiffs contains the training dynamics, the selection of topics and criteria for trainer selection.

### 2.1.2. Dynamics of training organisation

The training should be held twice a year at minimum, at the beginning of the year in the period between February and April, and after the

completion of preparation of backlog reduction plans in courts, because at that moment, the judges know how many cases they have in the upcoming period and the court bailiffs can plan their duties in relations to the work of judges. It would be preferable to organise the second training in the period between September and November in order to include a one-year period in a court and additional experience in case handling. Should new employees be recruited in the court, they should go through training regardless of the regular training plan.

### 2.1.3. Selection of topics

**The training programme** is harmonised with professional requirements and needs of court bailiffs for training and professional development. It consists of **practical and theoretical parts**. All court bailiffs need to have this training, regardless of their work experience in a court.

**Theoretical** part contains the proposal of **topics from the law** and practice that are significant for the work of court bailiffs, so they could understand the provisions of the law and creation of records and other documents that they apply and write in their work.

**Practical** part of the training would include **work on concrete cases** and duties for acquiring knowledge to act in specific situations in field that the court bailiffs encounter and for successful resolution of problems from practice.

After completing the training, all court bailiffs will be obligated to take **the evaluation test** that will show the degree of acquired knowledge and understanding of court bailiff's job description.

The proposal of topics for training of court bailiffs is presented below. The topics may be adjusted and supplemented in accordance with the courts' needs and knowledge of court bailiffs. Each court has the possibility to adjust the topics for discussion to the situation in the court, that is to say to the issues that the court bailiffs encounter the most when it comes to the implementation of enforcement actions. As for the training

methodology, it is necessary to ensure that the court bailiffs are actively involved in them through workshops, practical tasks, questionnaires and similar. The proposal of topics contains specific issues from practice, which pose the greatest problem to the court bailiffs and concern the sale of moveable assets and evaluation of the property value.

## THEORETICAL PART

### TOPIC 1 - Improving the work of court bailiffs

The topic is broadly set and facilitates organising training from different segments of court bailiff work, which the court presidents should adjust to the needs of court bailiffs in cooperation with the enforcement department heads/judges.

Some of the subtopics that could be discussed are:

- Implementing enforcement procedure in accordance with the Law on Enforcement Procedure (general part)
- Organising work processes of court bailiffs in the court (seminar on good practices of experienced colleagues and methods of field work and office work)
- Recording cases, including the use of a software programme
- Asset evaluation, public sale and auction

### TOPIC 2 - Inventory, seizure and sale of moveable assets

Given that the sale of seized assets is one of the most significant tasks of court bailiffs, it is necessary to organise training from the said area, both for the newly appointed court bailiffs and those who have certain work experience, with the aim to exchange knowledge and experience and improve sale methods. In this context, special attention should be dedicated to training court bailiffs in assets valuable for seizure and sale in order to increase the interest of potential buyers to buy them.

## PRACTICAL PART OF TRAINING

### TOPIC 1 - Work in field

This topic is related to concrete tasks that court bailiffs perform in field. Some of the topics that could be included in this part of the training are:

- The work of court bailiffs in practice;
- Writing record of court bailiffs;
- Communication between a judge and a court bailiff in the course of enforcement actions;
- Performing tasks with court police assistance;
- Forcible opening of house/apartment/business premises;
- Use of mobile app in the work of court bailiffs;
- The problem of delivery in the work of court bailiffs;
- Sale of movable assets of great value;

## PRACTICAL WORK ON REAL CASES

This activity includes common work in field with more experienced colleagues in order to acquire experience and knowledge in concrete cases and work with the parties. This part of training includes going in field with other colleagues in a 6-month period after getting employment, after which the acquired knowledge will be evaluated.

### 2.1.4. Categories and selection of trainers

The trainer to carry out trainings in courts should be a court bailiff with long-standing work experience and pronounced affinity to convey acquired experience and knowledge. He would perform that task with the assistance of a judge/legal associate. The reason for that is the fact that court employees working in the enforcement department are best familiar with the issues that occur in the implementation of the enforcement procedure and ways to solve them.

Appropriate funds for remuneration should be planned in the court budget for the person selected as a trainer, as well as the funds required to hold a training for all court bailiffs at least twice a year.

As for a trainer/court bailiff who would implement the training in the court, it is required that he undergoes adequate training of trainers in order to get the experience in imparting knowledge to other court bailiffs. The said experience can be acquired in trainings organised by the JPTCs. With reference to that, it is necessary that the court presidents ensure

attendance of their court bailiffs in such type of training.

#### 2.1.5. Materials

The materials used for the training can be different and will be selected by the trainers. The HJPC BiH will make the Manual for Court Bailiffs, which was developed within ICEA II Project, available for all courts as one of the obligatory materials to be used in trainings of court bailiffs. Beside the aforementioned, relevant laws, existing modules for enforcement proceedings, various manuals, comments, compilations, excerpts and positions from case law and other will be used.

### 3. ANNEXES

#### 3.1. Information for the public/ A Guide to Enforcement Procedure<sup>5</sup>

## Debt enforcement— Information for debtors

**What is the enforcement procedure?  
What are your rights and obligations in the enforcement procedure?**

You failed to pay the bill for the services you used or to comply with an obligation imposed by a court, notary or an administrative authority

You want to enforce a debt or an obligation against someone or someone against you.

The enforcement procedure has been initiated before the court, the court has ordered enforcement and it is time for the court to take concrete actions.

*Are you aware of your rights and obligations in enforcement procedure?*



### What is enforcement procedure?



You have a claim against someone. File a motion for enforcement with the court

The court will process your motion; a case will be opened and then forwarded to a judge for action in order to help you resolve your claim.

<sup>5</sup> <https://vstv.pravosudje.ba/vstvfo/B/141/article/130152>

## What the enforcement procedure is about?

An enforcement procedure is a court procedure by which the court ensures the enforcement of a court decision, a notary decision, or a decision of an administrative body, as well as an obligation stemming from a signed bill of exchange or unpaid utility bills that have not been voluntarily settled, as well as based on payroll activities.

If someone owes you money or has some other obligation towards you, YOU CAN ASK FOR ITS SETTLEMENT THROUGH THE COURT.

In that case you are a **JUDGMENT CREDITOR**.

If you owe someone money, haven't settled any other debts, including invoices for certain services, or haven't fulfilled certain obligations, the COURT WILL, BASED ON AN ENFORCEMENT MOTION FROM THE JUDGMENT CREDITOR, ORDER ENFORCEMENT.

Then, you are a **DEBTOR**.

## How to initiate an enforcement procedure?

If you have a decision from the court, a notary, or an administrative body stating that someone owes you money but failed to pay their debt voluntarily, you should file a **motion for enforcement** against the other party.

When you file a motion with the court, you assume the role of **JUDGMENT CREDITOR**, and it is vital to **actively participate** from the beginning to the end of the enforcement procedure i.e. follow the conclusions and decisions the court sends you in order to settle your claim as soon as possible.

*Do you have any claims against someone?*

*In order to recover your debt as quickly as possible, you have to actively participate in the court procedure!*



Decision on enforcement

## How will you know that enforcement proceedings have been initiated against you?

If someone has filed a motion for enforcement against you, the court will send you a Decision on Enforcement.

The first thing you need to do is **sign the delivery slip** confirming that you have received the Decision on Enforcement. However, signing the delivery slip does not mean that you agree with the contents of the decision; it simply serves as proof for the judge so they can continue with their work.

If you refuse to sign the delivery slip, the courier/postman will note this on the envelope and return it to the court.

The court will, in accordance with the law, consider that you have received the document, that you are familiar with the contents of the Decision on Enforcement, and will continue with the proceedings.

If you are not at home, the postman/courier will leave you a notice indicating that you can pick up the package at the post office/court within the specified time.

If you do not pick up the package within

the specified time, the court will, in accordance with the law, consider that you have received the document and that you are familiar with the contents of the Decision on Enforcement, and will continue with the proceedings.

If you do not reside at your registered address (CIPS register) and delivery to the address is unsuccessful, the court will publish the Decision on Enforcement on the court's notice board and in daily newspapers.

Service will be considered complete upon the elapsing of 15 days from the date of publication, and the court will continue the proceedings.



## What to do when you find out that you are involved in enforcement proceedings?

When you receive a decision you should first check whether you actually owe the amount claimed from you.

You may have received a request to pay a debt that you have already settled. You may have already fulfilled the obligation from the Decision on Enforcement.



Check whether you really owe the amount claimed from you

If you find proof, such as e.g. a receipt showing that you have paid the debt, inform the judgment creditor and the court in writing!

Don't forget that you have eight days to respond to the court!

## I DO NOT OWE THIS!!!

If you have proof that you paid the debt after the enforcement motion was filed

**REACT!!! HOW??? DO THIS!**

### CONTACT THE JUDGMENT CREDITOR

If the debt involves unpaid utility bills, it would be best to visit the company office in person.

### FILE AN OBJECTION WITH THE COURT

Please make sure to attach proof showing that the debt has been paid or the obligation fulfilled.

If you have proof that you paid the debt after the enforcement motion was filed, the procedure remains the same.

In order to discontinue the proceeding, you need to pay the court fee and accompanying statutory interest.

*You must take action upon receiving a court decision! Otherwise, the procedure will continue, and you will incur additional obligations...*

## I DO OWE THIS!!!

If you find that you have missed paying a bill or fulfilling an obligation, keep in mind that **debts must be settled**.

The sooner you fulfill your obligation, the lower any additional costs will be from the court proceedings.

**REACT!!! HOW??? DO THIS!**

### CONTACT THE JUDGMENT CREDITOR

If the debt involves unpaid utility bills, it would be best to visit the company office in person.

### NOTIFY THE COURT

If you have subsequently paid the debt to the judgment creditor of fulfilled your obligation.

### INVOKE STATUTE OF LIMITATIONS

Statute of limitations coming into effect does not mean that you have no debt, only that the legal deadline for enforcing the obligation has expired. If you fulfil a time-barred obligation, you do not have the right to request the return of the amount paid, even if you were unaware that the obligation was subject to statute of limitations.

Do not forget that you are also required to pay the court fee.

## What if you do nothing?

If you do nothing upon receiving a decision on enforcement, the court will continue the procedure.

The procedure will be carried out to the end, and you will ultimately be required to pay the debt, statutory default interest, court fees, and all other costs incurred during the proceedings.

## What if you can't pay?

**REACT!!! HOW???** DO THIS!

**CONTACT THE JUDGMENT**

**CREDITOR**

In order to agree on the settlement method. If you owe money, you can settle your debt in instal-

ments, if you reach an agreement with your creditor.

**REMINDE THE JUDGMENT CREDITOR TO NOTIFY THE COURT** if you reach an agreement to pay the debt in instalments.

*The debtor needs to react immediately upon receiving the court decision!*

*This way you shorten the procedure and reduce your costs.*

## What can the court do if a debt isn't settled?

If you owe money, the court has several options in accordance with the enforcement motion:

- It can seize your house, apartment, holiday home, or other real estate and sell it,
- It can seize money from your bank account or a part of your pension or salary,

- It can send a court bailiff to your address, who has the right to seize items in your home or your car, all in order to settle the debt.

Until you settle your debt in full, you will not receive the full amount of your income.

To avoid all of this, you can contact the judgment creditor and negotiate a way to fulfil your obligation.

This way you can save time and money







## To whom can I pay the debt?

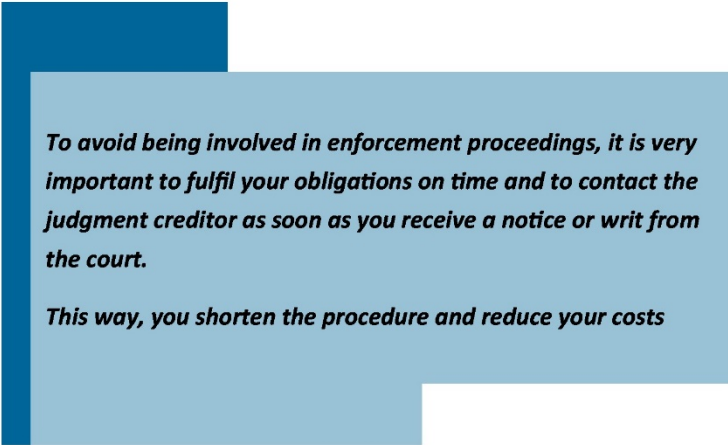
You can pay:

1. **the judgment creditor** personally or to their bank account,,
2. You can also hand over the amount of your debt to the court bailiff if they come to seize your property.

If you have paid the debt to the court bailiff, they are required to issue you a receipt confirming that you have paid the debt, as well as notify the judge so that the proceedings can be discontinued.

If you have not settled the debt in full, the proceedings cannot be discontinued until the entire amount is paid.

## YOU CAN ALWAYS PAY YOUR DEBT VOLUNTARILY!!!



*To avoid being involved in enforcement proceedings, it is very important to fulfil your obligations on time and to contact the judgment creditor as soon as you receive a notice or writ from the court.*

*This way, you shorten the procedure and reduce your costs*

**High Judicial and  
Prosecutorial Council of BiH**

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**ICEA III Project—Improving Court Efficiency and Accountability of  
Judges and Prosecutors in BiH—phase three**

*The primary objective of the Project is to improve the efficiency, quality, independence, and transparency of the judiciary, establishing a judiciary in the service of the public.*

*The activities planned with the project are focused on the sustainability of current results while pursuing new achievements, with an emphasis on enhancing the efficiency of the judiciary in Bosnia and Herzegovina, as well as ensuring equal access to justice and equality for all citizens before the law.*

*One of the activities of the Project is the improvement of enforcement procedures in the judicial systems of Bosnia and Herzegovina.*

*This component of the project focuses on improving the working processes of the enforcement departments at the pilot courts, and is implemented in cooperation with the Swedish Enforcement Authority — SEA.*

## *An efficient judiciary in the service of the citizens!*



Visoko sudsko i tužilačko vijeće Bosne i Hercegovine  
Visoko sudbeno i tužiteljsko vijeće Bosne i Hercegovine  
Високи судски и тужилачки савјет Босне и Херцеговине  
High Judicial and Prosecutorial Council of Bosnia and Herzegovina



### 3.2. Structural plan for dialogue with the executive authorities

BOSNIA AND HERZEGOVINA  
FEDERATION OF BOSNIA AND HERZEGOVINA/REPUBLIKA SRPSKA  
MUNICIPAL/BASIC COURT \_\_\_\_\_  
Number:  
Place, date

#### **STRUCTURAL PLAN FOR MORE EFFICIENT BUDGETING OF THE ENFORCEMENT DEPARTMENTS AT COURTS AND FOR MORE EFFICIENT COOPERATION WITH THE COMPETENT MINISTRIES**

##### I Introduction

Pursuant to the provisions of Article 69 of the Law on Courts of the Federation of BiH (Official Gazette of the FBiH, 38/05, 22/06 and 63/10, 72/10 (correction), 7/13, 52/14, 85/21) / Article 93 of the Law on Courts of Republika Srpska (Official Gazette of the RS, 37/12, 44/15 and 100/17), Article 8 item g of the Book of Rules on Internal Court Operations of the FBiH and BDBiH (Official Gazette of BiH, 66/12, 40/14, 54/17, 60/17 - Correction (subsequent publication of forms in connection with 54/17), 30/18) and in connection with the provisions of the Law on the Budget System of Republika Srpska (Official Gazette of the RS, 121/2012, 52/2014, 103/2015 and 15/2016), Article 8 item e of the Book of Rules on Internal Court Operations (Official Gazette of the RS, 9/14, 71/17, 67/18 and 6 /19) and acting according to the instructions of the High Judicial and Prosecutorial Council of BiH (hereinafter referred to as the HJPC BiH), the president of the court together with the staff of the enforcement department of the court developed the Structural Plan for more efficient budgeting of enforcement departments at courts, which is submitted to you as an attachment to this letter.

The purpose of developing the Structural Plan is to identify the needs of the enforcement departments, to clearly define them and to open a dialogue with the executive branch. Through the Structural Plan, the court tried to explain the needs of the enforcement departments, planned activities and goals, all of which require adequate funding. The planned activities of the courts should ultimately contribute to a more efficient enforcement procedure, i.e. achieving the purpose of the enforcement procedure, which is an increased collection of the judgement creditors' claims.

Financial resources are needed for the implementation of the planned activities, which must be provided by the ministries of justice in Bosnia and Herzegovina in accordance with their competences in terms of ensuring the conditions for the courts to operate.

The purpose of the Structural Plan that is submitted to you is to clearly identify the needs of the courts' enforcement departments and it is an integral part of the process related to the development of guidelines for budget planning.

##### II Proposition for court funding

*\* within this part of the document, it is necessary for the court to briefly summarize its budget request, to write an appropriate introduction and the total amount of requested funds, which will be subsequently explained through the text. Below is an example of such a text, which each court should adapt to its needs. It is important that at the very beginning the competent authorities are informed of the requested amount for the following year.*

*„In order to maintain a healthy balance between workload and available resources we are asking for additional funding. The influx of cases is steadily increasing. There is a risk that creditors and debtors will have to wait longer for their cases to be processed. If enforcement takes up more time and resources from the court, it could have a negative*

effect on amongst others - the efficiency of criminal proceedings. We also see an investment need in digitalization to be able to handle the increased balance and flow of cases. We are asking for a 10% increase in funding for 2024. This in consideration of the rampant inflation. (The inflation rate for consumer goods alone in Bosnia Herzegovina was 14% in 2022 according to the International Monetary Fund, World Bank and OECD Inflation CPI indicator. This specific figure mainly affects the operational costs).“

### III Statistical data

#### Overview of court systematization

\* within this part of the document, it is necessary for the court to enter data on the systematization in the court in the provided table, in accordance with the Book of Rules on internal organisation and systematisation of workplaces. Based on the data from the table below, the ratio of judicial office holders to other non-judicial staff members and the need to fill positions in the court will be shown. Also, the number of judges/legal associates who deal with enforcement cases will be presented in relation to the total number of judges/ legal associates. In the event that the court does not have a separate department for authentic instruments, it is sufficient to state in this introductory part that the judges of the enforcement department also deal with the enforcement cases based on authentic instruments.

| Municipal/basic court   | Type of Staff         | Total number | Systematized number of positions |
|---|-----------------------|--------------|----------------------------------|
| Judicial staff members  | Court president       |              |                                  |
|   | Judge                 |              |                                  |
|   | Reserve judge         |              |                                  |
|   | Legal associate       |              |                                  |
| Enforcement department for processing enforcement cases initiated on the basis of enforceable instruments | Judge                 |              |                                  |
|   | Legal associate       |              |                                  |
|   | Court bailiffs        |              |                                  |
|   | Other staff - typists |              |                                  |
| Enforcement department for processing enforcement cases initiated on the basis of authentic instruments   | Judge                 |              |                                  |
|   | Legal associate       |              |                                  |
|   | Court bailiffs        |              |                                  |
|   | Other staff - typists |              |                                  |

#### Regulations

#### FOR THE FBiH COURTS:

Pursuant to the **Book of Rules on establishing criteria for determining the number of non-judicial staff members** (Official Gazette of the FBiH, 75/09), the ratio of the number of non-judicial staff members to the number of **judges in municipal courts shall be a maximum of three per one:**

#### COURT ADMINISTRATION

##### Article 2

In municipal courts, the ratio of the number of employees to the number of judges shall be a maximum of three employees per judge, and in the cantonal courts and the FBiH Supreme Court and the FBiH Constitutional Court, a maximum of 2.5 employees per judge.

As an exception to paragraph 1, in municipal and cantonal courts that have seven or fewer judges, the ratio of the number of employees to the number of judges shall be a maximum of 3.5 employees per judge in municipal courts, or 3 employees per judge in cantonal courts.

The ratio from paragraph 1 of this Article shall include the following employees:

1. law graduates employed as legal associates except those appointed by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and trainees and
2. employees holding administrative and technical support jobs.

As an exception to the ratio of the number of employees in municipal courts prescribed by the provision from paragraph 1 of this Book of Rules, the number of employees in the Commercial Department for Business Company Registration is not included in the total number of employees, provided that the court obtains the consent of the cantonal government to provide for additional job positions.

#### Article 3

The ratio under Article 2 of this Book of Rules shall not include the secretary of the court, employees of the Land Registry Office, information and communication technology officer, employees assigned to operational, technical and support jobs, i.e.: cleaning staff, courier, janitor, receptionist, delivery person, driver and telephone switchboard operator and trainees - volunteers.

According to the aforementioned provision, the total number of employees in the Municipal Court in \_\_\_\_\_ that will be taken into account when determining the ratio of the number of employees in relation to the number of judges is xx:

$$xx/yy= zz$$

In principle, this would mean that the Municipal Court in \_\_\_\_\_ lacks another X persons for the total number of judges in order to satisfy the principle from the aforementioned Book of Rules, that is, a total of xx more people in order to satisfy the 3:1 principle.

\* The courts need to complete the information above

#### FOR THE RS COURTS:

Pursuant to the **Book of Rules on establishing criteria for determining the number of administrative, technical and support staff in the courts of Republika Srpska** (Official Gazette of the RS, 84/06), the ratio of the number of employees to the number of **judges in basic courts shall be a maximum of three employees per judge:**

#### Article 2

(1) In basic courts, the ratio of the number of employees to the number of judges shall be a maximum of three employees per judge, and in the district courts and the RS Supreme Court, a maximum of two and a half employees per judge.

(2) In the minor defence departments of basic courts, the ratio of the number of workers to the number of judges shall be a maximum of two workers per judge.

(3) The ratio established in para. 1 and 2 of this Article shall include judicial interns as well as administrative, technical and support staff.

#### Article 3

The ratio from Article 2 of this Book of Rules shall not include the secretary of the court, employees in the Land Registry Office and trainees-volunteers.

Pursuant to the Book of Rules, the total number of employees in the Basic Court in \_\_\_\_\_ that shall be taken into account when determining the ratio of the number of employees to the number of judges is XX:

$$XX/YY= ZZ$$

In principle, this would mean that there is no shortage of staff in the Basic Court in \_\_\_\_\_ pursuant to the Book of Rules.

*\* The courts need to complete the information above*

**Case flow in the enforcement department**

*\* within this part of the document, the court needs to enter data on the case flow in the court for the last three years in the provided tables. It is necessary to separately show the total number of all types of cases, the number of enforcement cases and especially the number of utility cases. The ALL TYPES OF CASES column also includes enforcement cases (cases recorded in the CMS and cases that are not recorded in the CMS). Based on the data from the table below, the ratio of the number of other cases to the enforcement cases, and especially to the utility cases, will be shown.*

| RECEIVED CASES |                    |                 |                   |
|----------------|--------------------|-----------------|-------------------|
| YEAR           | ALL TYPES OF CASES | ENFORCEMENT CMS | ENFORCEMENT SOKOP |
| 2020.          |                    |                 |                   |
| 2021.          |                    |                 |                   |
| 2022.          |                    |                 |                   |

| RESOLVED CASES |                    |                 |                   |
|----------------|--------------------|-----------------|-------------------|
| YEAR           | ALL TYPES OF CASES | ENFORCEMENT CMS | ENFORCEMENT SOKOP |
| 2020.          |                    |                 |                   |
| 2021.          |                    |                 |                   |
| 2022.          |                    |                 |                   |

| PENDING CASES |                    |                 |                   |
|---------------|--------------------|-----------------|-------------------|
| YEAR          | ALL TYPES OF CASES | ENFORCEMENT CMS | ENFORCEMENT SOKOP |
| 2020.         |                    |                 |                   |
| 2021.         |                    |                 |                   |
| 2022.         |                    |                 |                   |

The following table shows an overview of the cases that are currently being processed by bailiffs.

|                           | Not assigned | Assigned |
|---------------------------|--------------|----------|
| ENFORCEMENT CMS CASES     |              |          |
| ENFORCEMENT UTILITY CASES |              |          |

#### IV Strategic goals and priorities

In order to effectively plan and ultimately approve budget funds, it is necessary for the presidents of the courts and the presidents of the enforcement departments to define the goal they want to achieve for the next year. The goal must be concrete, achievable, it can be set in relation to the number of cases to be resolved, the number of enforcement actions carried out by the bailiff, and within a period of one year, the reduction of the number of steps taken during the enforcement procedure, to achieve an identical score.

In the following, it will be shown how to more efficiently plan the achievement of some of the stated goals, which may refer to both material and human resources in the court.

##### Strategic goals:

|              |   |
|--------------|---|
| Goal 1.      | <i>* state the goal that is planned to be achieved for the next year, and for the realisation of which certain financial resources are needed, e.g. increase in the number of resolved enforcement cases</i>  |
| Description: | <i>* give an overview of why it is important to achieve the defined goal and write how it can be realised. It is very important that the explanation be clearly defined, and on the basis of which the ministry can make a decision on the approval of the requested funds.</i> |
| Results:     | <i>* it is necessary to state what results will be achieved if the set goal is realised</i>   |

|              |   |
|--------------|---|
| Goal 2.      | <i>* state the goal that is planned to be achieved for the next year, and for the realisation of which certain financial resources are needed, e.g. increase in the number of resolved enforcement cases</i>  |
| Description: | <i>* give an overview of why it is important to achieve the defined goal and write how it can be realised. It is very important that the explanation be clearly defined, and on the basis of which the ministry can make a decision on the approval of the requested funds.</i> |
| Results:     | <i>* it is necessary to state what results will be achieved if the set goal is realised</i>   |

**\* This segment of the document will have as many goals as the court has defined in its plan for the following year and, at the end, an overview of the total amount of funds needed to achieve all goals.**

**It is also necessary to make a graphic representation of how a certain goal can be achieved in relation to e.g. inflow, resolved, pending cases in relation to e.g. existing funds and a possible increase in the budget and potential predictions in the future of what the situation will be in the court and how additional funds can contribute to more efficient work of the court.**

**E.g. with the existing number of court staff, the court managed to solve xy number of cases. If we take into account the influx and e.g. increase in the number of judges/professional associates, the court will resolve xy number of cases.**

**In the same way, the effectiveness of increasing the number of non-judicial personnel as well as other material needs of the court can be shown.**

##### Necessary human resources in the court

\* within this segment of the document, it is necessary for the court president, together with the presidents of the enforcement departments, to indicate the need for additional permanent employees of the court, who will contribute to the achievement of the defined goals. It is necessary to separate the needs for judicial staff as well as for other non-judicial staff - bailiffs, couriers, typists. It is possible that certain needs will be repeated in this part, but it is important to separate them in relation to the above tables. Also, it is important to present the results of the court that are achieved with the available human resources, with a comparison to the results that could be achieved if the

court receives additional funds for new employment. You can also show the need for human resources in a table for document clarity.

V Need for funding - detailed

**As for the budget needed for the aforementioned, it is shown in the table below:**

*\* in this part of the document, it is necessary for the court to clearly state what is needed in order to achieve the defined goals. In order to make it easier to define the needs, the table gives an example of how the needs of the court should be explained. In this part, there will be as many tables as there are defined goals, and at the end, it is necessary to create one table in which all the needs of the court will be listed, and that table will also be presented in part II, Proposal of the necessary budget funds, as a single table with an overview of all needs .*

*Each court will give its own explanation!*

| DESCRIPTION  | AMOUNT  |
|--|---|
| Planning additional funds for service by mail  | <p>The required amount will be determined in relation to the planned increase in the number of resolved cases, e.g. 20%.</p> <p>If that 20% increase equals to a total of 20,000 cases, than 20,000 writs would be served by mail, for example. Assuming that the cost of one writ is 1 KM, it is necessary to request an increase in the budget for 20,000 KM</p> <p>Conclusion: in addition to the existing amount for the needs of enforcement department, 20,000 KM will be requested for the postal services.</p>  |
| Employment of additional staff in the court who would serve writs  | <p>For additional staff, it is necessary to define a fixed amount of remuneration or to pay them certain amount depending on the service success. In both cases, it is necessary to limit the amount that can be paid to the courier.</p> <p>Each court would determine the maximum number of couriers, but 3-5 persons would be optimal.</p> <p>The monthly remuneration could be e.g. 700 KM.</p> <p>Conclusion: in addition to the existing amount for employment of additional staff for service of writs, 42,000 KM will be requested for the needs of enforcement department for 12 months.</p> |
| <p>Conclusion: in order to increase service of writs, the court may ask for an additional 20,000 KM or 42,000 KM, depending on which option it would choose.</p> |   |

VI Conclusion

\* within the conclusion, it is necessary to re-emphasize the total amount of funds needed for the enforcement departments, which will be incorporated into the final budget proposal of the court. The aforementioned document is the basis for negotiations with the competent ministries for the approval of the requested funds, and it is extremely important to explain in detail why the court needs certain resources and to avoid generally set goals as much as possible, for example, improving the efficiency of the enforcement procedure.

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Court president



### 3.3. Guidelines for court bailiffs

In order to improve the work of bailiffs in the enforcement procedure and for judgement creditors to have a more efficient collection, in cooperation with the bailiffs of the ICEA III Project pilot courts, guidelines for court bailiffs have been defined for actions against movable property items<sup>6</sup>, with a note that they can be applied in other situations in the work of court bailiffs, meaning when the court bailiffs act in enforcement against other objects/means of enforcement.

#### **GUIDELINES OF CONDUCT FOR COURT BAILIFFS IN ENFORCEMENT PROCEDURE**

##### **Article 1**

##### **Definition (Article 2 of the LEP of the FBiH/ RS LEP)**

A court bailiff denotes a court staff member who, at the court order, directly takes certain actions in the enforcement procedure. (*Article 2 of the Law on the Enforcement Procedure of the FBiH (Official Gazette of FBiH, no. 32/2003, 52/2003 - correction, 33/2006, 39/2006 – correction, 39/2009, 35/2012 and 46/2016 and Official Gazette of BiH no. 42/ 2018 - decision of the Constitutional Court of BiH; Article 2, Of the Law on Enforcement Procedure of RS Official Gazette of RS no. 59/03, 85/03, 64/05, 118/07, 29/10, 57/12, 67/13, 98/14, 66/18.)*)

##### **Article 2**

##### **Methods of Action (Article 43 – 45 of the FBiH LEP/RS LEP)**

The court bailiffs perform the duties that fall within their competencies in accordance with the law and positive legal regulations and while performing the tasks they must act professionally and impartially.

The court bailiffs are obligated to behave in a way that contributes to preserving and inspiring public trust in the integrity, impartiality and efficiency of the BiH judiciary.

While serving the decision on enforcement and taking other enforcement actions, the court bailiff is obligated to introduce himself and show an ID card to the parties and other participants in the proceedings.

##### **Article 3**

##### **Basic Provisions on the Work of Court Bailiffs (Article 119 of the FBiH LEP/RS LEP)**

When seizing and appraising movable property items, if the court has not decided to serve the decision on enforcement before the seizure inventory, before starting the seizure, the court bailiff will serve the decision on enforcement to the debtor and invite him to pay the amount for which the enforcement is ordered and inform him of the obligation to pay the statutory default interest. (Article 119)

When serving the decision and other writs, the court bailiff is obligated to inform the participants in the proceedings of the consequences of failing to act as ordered in those documents and covering the cost of the enforcement procedure and covering the potentially caused expenses as well.

Should the debtor refuse to pay, the court bailiff will start inventorying, appraising and seizing the debtor's movable property items and appropriately mark the inventoried items as seized during the inventory.

The judgement creditor shall be informed about the time and place of seizure should he request to be informed.

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<sup>6</sup> Chapter XI - Enforcement against movable property items of the Law on the Enforcement Procedure of the Federation of BiH (*Official Gazette of the Federation of BiH*, no. 32/2003, 52/2003 - correction, 33/2006, 39/2006 – correction. 39/2009, 35/2012 and 46/2016 and *Official Gazette of BiH* no. 42/ 2018 - decision of the Constitutional Court of BiH)

As a rule, the notice should contain the information on the date, time and place where the ordered enforcement action will be conducted.

The enforcement is conducted on working days, between 07:00 and 19:00 hours (with a possibility of exceptions should the judge order so, Article 24, paragraph 2).

#### **Article 4**

##### **The Inventory and Record of Movable Property Items (Article 120 – 121 of the FBiH LEP/RS LEP)**

Seizure is carried out by compiling an inventory. The items possessed by the debtor can be inventoried, as well as his items possessed by the judgement creditor. By this legal provision the legislator does not request that the inventoried items are owned by the debtor and thus, the object of the inventory and seizure can be items in possession (directly and indirectly) of judgement creditor<sup>7</sup>.

Items of third persons may be inventoried as well if they are possessed by the debtor, where the third person is obligated to inform the court about his rights over the movable items possessed by the debtor, which is an object of enforcement and prove his rights over them.

It is considered that the spouses or civil-law partners are co-owners in equal part of all movable property items that are seen in their house, apartment, business premises or other real estate.

The debtor's items possessed by the third party can be inventoried only if they consent to that.

The seizure inventory will inventory as many items as necessary to satisfy the judgement creditor's claim and enforcement costs. The items for which there is no objection about the existence of the right that would prevent the enforcement are inventoried first, as well as the items that are easiest to cash in and in doing so the statements of all the present parties and third persons about it will be taken into consideration.

The court bailiff is obligated to make a record of the seizure inventory, appraisal and seizure, taking care not to inventory items that cannot be an object of enforcement, while the debtor's items held by third persons can be inventoried only with the consent of those persons.

#### **Article 5**

##### **Safekeeping of Inventoried Objects (Article 122 of the FBiH LEP/RS LEP)**

The court bailiff will leave the inventoried items to the debtor for safekeeping unless the court, at the proposal of the judgement creditor, ordered that they be submitted to the judgement creditor or a third person for safekeeping.

He will hand over the cash, securities and valuables, as well as other items of greater value, if they are suitable for that method of safekeeping.

#### **Article 6**

##### **Value Appraisal of Movable Property Items and the Record on Inventory of Seized Objects and Appraisal (Article 126 of the FBiH LEP/RS LEP)**

The assessment is done by the court bailiff (unless the court ordered that a court evaluator or a special expert do it.) The inventoried items shall be appropriately marked that they are seized.

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<sup>7</sup> See Article 70. The Law on Basic Property Rights (the term possession). If the debtor is in actual possession of the item on behalf of another (for example, employer's vehicle), then the item is not in possession of the debtor, but the employer.

The Record of the Court Bailiff is made about the seizure inventory and appraisal, which must contain the following information:

- The full name of the inventoried movable property item, a detailed description of the movable property item, appraised value of the movable property item, as well as the ID number of the unique seizure stamp that marks the inventoried movable item.
- All inventoried movable property items are marked by a unique seizure stamp.
- Depending on the party entrusted with the safekeeping of the inventoried movable item, the Record of the Court Bailiff warns the party of the criminal consequences for damage, destruction or alienation of the movable item until the completion of the procedure or further court decisions.
- Photographs of the inventoried movable property items are enclosed with the Record of the Court Bailiff.
- The Record of the Court Bailiff should contain the signatures of all the present parties, except if they refuse to sign the Record, which must be stated.
- At the end of the Record, the court bailiff notes the potential statements of the parties and participants in the proceedings.

It is the duty of the court bailiff to clearly note in the record the statements of the parties and participants to the proceedings, all the specifications of the inventoried items, to take photos of the inventoried items and assess their value if they have the required knowledge.

The specifications of the inventoried items must be stated in the record to include the following:

- The type of the item inventoried
- Year of manufacture
- Registration number
- Brand
- Colour
- Age
- Length
- Width
- Height
- The seizure stamp number
- As well as all other information that they consider might be helpful in further work on the case

Should enforcement against the seized items be ordered after the seizure inventory for the sake of collecting another claim of the same judgement creditor or a claim of another judgement creditor, the inventory and evaluation of those movable items will not be repeated again, but the information from the subsequent decision on enforcement will be noted in the continuation of the record (**Article 128 Notice Instead of Seizure Inventory**)

#### **Article 7 Sale (Article 130 and 131 of the FBiH LEP/RS LEP)**

The sale is done through public oral competitive bids or direct agreement (according to a judge's decision - conclusion). In direct agreement, movable property items cannot be sold below one third of the appraised value.

The court bailiff (or another person designated by the court) conducts the public bidding and this type of sale is ordered in case of items of bigger value.

Sale by direct agreement is done between the buyer on one side and the court bailiff or a commission agent on the other. The court bailiff shall sell the movable property items on behalf and for the account of the judgement creditor and the agent performing the commission sale shall do it in his/her name and for the account of the debtor.

**Article 8**  
**Organisation of Sale (Article 129 of the FBIH LEP/RS LEP)**

The judgement creditor and debtor shall be informed about the place, day and hour of the sale.

In this respect, the duty of the court bailiff is the following:

- The court bailiff is obliged to make a notification for the judge/legal associate about the available date for the sale of inventoried items in accordance with the usual court practice regarding the passage of time from the conducted inventory until the sale, in order to reduce the time of court actions.
- In case of justified reasons for organising the sale as soon as possible, the court bailiff shall inform the judge/legal associate orally to schedule the first sale as soon as possible.
- The court bailiff shall note down the sale dates in the “sale diary” according to a prior agreement with the assistant/judge.
- The “sale diary” contains all the information on the scheduled sales and on the free dates to schedule and hold the new sales.

The court bailiff shall hand over the items to the buyer even if he did not pay the price, if the judgement creditor and participants, who have the right of precedence in claim satisfaction within the limits of the amount that would belong to them from the achieved price, agree to that at their own risk.

It is necessary that the court bailiff department establishes a common “sale diary” (both in written and electronic format) for every single bailiff, where all the bailiffs would enter their sale in advance.

The sale diary should be available to all the court bailiffs, so that at any moment one would have the information on when the court bailiffs are free in order to organise the sales.

Once a week, and if need be more often, the court bailiffs shall make the sale of movable property items in the courts and they are obligated to put a notice of sale on the court’s notice board and court’s website one day before the sale with a list of objects and things to be sold.

The same information need to be posted on the court’s Facebook page if the court is using this type of activity promotion.

**Article 9**  
**Prompt Conduct of Court Bailiffs**

Court bailiffs act as ordered by the court, meaning the judge or legal associate, and take the cases to work on as prioritized by the judge (judge’s annual backlog reduction plan and similar) according to urgency and work deadlines.

Before going in field, the court bailiffs need to familiarise themselves with the court case file through their CMS user account, research the available information on the debtor in conversations with their colleagues or through previous actions, as well as to familiarise themselves about the debtor’s circumstances.

Within a maximum of **45 days** of receiving the case to work on, the court bailiffs are obligated to act following the court’s conclusion and submit a court bailiff’s record on going into field to the judge with the information on conducted enforcement action that was ordered.

Within a maximum of **30 days** of receiving the case to work on, the court bailiffs are obligated to act following the court’s conclusion and submit a court bailiff’s record on going into field to the judge with the information on conducted enforcement action that was ordered for all the cases that are in the judge’s Plan, which the judge shall clearly mark in the conclusion.

**Article 10**  
**Increased Efficiency of the Court Bailiffs - Office Work**

In order to increase the efficiency of the court bailiffs, the courts may establish a so-called Call Centre within the bailiff department, so the debtors may check the status of their debt.

Wherever possible, the court bailiffs may check the debt status in cases when the debt amount is not higher than 50 BAM, by contacting the debtor or judgement creditor by phone.

Should the court bailiff receive the information that the debt has been paid, he shall invite the debtor to submit the evidence of payment to the court with reference to the court case number and shall include a note in the case, so that the judge would have the information about the bailiff's knowledge.

Should the debtor fail to submit the evidence, meaning should the judgement creditor fail to withdraw the motion for enforcement, the court bailiff shall go in field during the next action in the case and as needed, make an inventory.

A detailed method of organising the call-centre is enclosed with the Guidelines.

**Article 11**  
**Prior Case File Status Checks**

Before going in field the court bailiffs shall check whether the debtor has other cases in the enforcement implementation phase.

Should the court bailiffs establish that the debtor has other cases as well, they are obligated to act in all the cases simultaneously for the sake of efficiency and economy of work.

The court bailiffs shall act simultaneously should the debtor have cases against him based on enforceable and authentic documents.

Depending on the workload, the court bailiffs shall act in other cases as well, where the enforcement should be conducted at the address where they plan to make an inventory for that day.

**Article 12**  
**The Cost of Court Bailiffs' Field Work (Article 16 of the FBiH LEP/RS LEP)**

If the court has an adopted cost list for court bailiffs' field work, before going into field, the court bailiffs shall check whether the judgement creditor has made an advance payment for field work and if there is no evidence of advance payment, inform the head of court bailiffs about it, meaning the judge in charge or legal associate.

In accordance with the decision of the judge/legal associate, the court bailiff shall not act will (not) act on the court decision.

In situations when the advance payment has not been made, the court bailiffs may draft a decision - an invitation to the judgement creditor to make an advance payment, and submit it to the judge/legal associate to sign.

**Article 13**  
**Authorizations of Court Bailiffs**

The authorizations of the court bailiffs in performing specific enforcement actions have to be in accordance with the Law on Enforcement Procedure, but at the same time they have certain autonomy in actions due the specific nature of situations that arise on site.

The autonomy of the court bailiffs includes the authorization to:

1. Leave a notification to the debtor whom they have not met at the address to come to the court at specific time to settle his debt, meaning to leave evidence that the debt has been paid.
2. Request assistance of a police officer if they appear to be in the vicinity of the place where the inventory is being made, should the court bailiff require police assistance.
3. Request the judgement creditor to remove himself from the place of inventory and delegate another person to attend the inventory at that moment, should his presence encumber the work of a court bailiff.
4. Call another court bailiff to help him in inventorying should the case circumstances justify it.
5. Should the court bailiff find out, while going into field, that the debtor is not at that address, but at another one in the vicinity, he shall immediately make the inventory at that address, without waiting for the new court order with another address.
6. Collect the debt from the debtor at the site and inform the judgement creditor and judge about it and deposit the amount to the court's Accounting Department, so that the next steps could be taken as per the law
7. Collect the debt on the premises of the court in the event that the debtor comes to the court and is ready to pay his debt.

#### **Article 14**

#### **The Possibility of Debt Collection on the Site (Article 119 of the FBIH LEP/RS LEP)**

While going into field, the court bailiffs are obligated to take with them an issued booklet of receipts that they will be using in case the claim is collected at the site (should the judgement creditor insist on it).

The court bailiffs are obligated to inform the debtor that they are obligated to also pay the statutory default interests besides the amount of the main debt and expenses, which are listed in the decision on enforcement (at the moment of the main debt collection, the court bailiffs do not know the amount of the statutory default interest i.e. the judgement creditor has not delivered the calculation of the interest, because they have no knowledge of the main debt being collected together with all the expenses of the procedure).

The court bailiffs are obligated to fill out and issue a receipt to the debtor as evidence that the debt has been collected (the receipt contains the exact amount of the debt collected).

Immediately upon returning to the court, the court bailiffs are obligated to deposit the collected amount/cash to the court's Accounting Department, so that the funds would be transferred to the judgement creditor's account, which shall be stated for the record.

The court bailiffs are obligated to inform the judgement creditor about the collection made, with a note on the legal obligation to withdraw the motion for enforcement in full or partly.

Should the court bailiffs collect the main debt and expenses, it is necessary that they make an inventory of items if it is required to settle the amount of calculated interests, which the court bailiffs did not collect while going into field. This will contribute to the economy and efficiency of the proceedings, since the judge does not have to render a new conclusion for inventory and appraisal in case the collection of statutory default interests is claimed and court bailiffs going into the field again is prevented.

The bailiff is authorised to collect the amount of the debt in the official premises of the court if the debtor comes to the court and is ready to pay his debt.

#### **Article 15**

#### **Publicising the Inventoried Items on a Website (Article 82 in relation to Article 130 of the FBIH LEP/RS LEP)**

The court bailiffs are obligated to take all actions to publicise the debtor's items that are the subject of the inventory on the court's website and social media, should the court use them.

**Article 16**  
**Information about the Debtor (Article 127 of the FBIH LEP/RS LEP)**

The court bailiffs are obligated to record all information on the debtor that they learned in the field, which are significant for the flow of the enforcement proceedings.

Should it be established during the inventory that the debtor is employed or has other income, the court bailiffs are obligated to enter the information about it in the record of inventory and appraisal.

The court bailiffs are also obligated to enter in the record the information of the debtor's correct address should it differ from the one noted in the court's decision.

Should it be established during the inventory that the debtor has passed away, the court bailiffs are obligated to enter that information in the record, as well as the knowledge of potential inheritors.

All the information entered in the record during the inventory and appraisal, the court bailiffs are obligated to enter in the joint electronic records, which all the court bailiffs can access.

**Article 17**  
**Police Assistance (Article 44 of the FBIH LEP/RS LEP)**

Should the court bailiffs learn that problems might be expected from the debtor during the inventory and appraisal, they can request the judge/legal associate to request police assistance that will help the court bailiffs in the field, in order to preserve the peace and order and enable unhindered inventorying of the movable property items.

In this case, the court bailiffs shall leave a note to the judgement creditor to ensure his presence as well and to enable removal of the items from the debtor's possession due to the fear that he would steal, damage or prevent their transport in the later phase of the proceedings.

**Article 18**

**Supervision Over the Work of Court Bailiffs (Article 105 – 112 FBIH Book of Rules on internal court operations/RS Book of Rules on internal court operations)**

The head of the court bailiffs is obligated to supervise and correct the work of court bailiffs and in case there is no head of the court bailiffs, all the court bailiffs are obligated to act in a way that will enable the satisfaction of the judgement creditor's claim in the shortest possible time.

The court bailiffs are obligated to make records in accordance with the judge's acquirements in order to complete the proceedings as efficiently as possible and write good records that will contain all the necessary information vital to the proceedings.

**Article 19**  
**Training of Court Bailiffs**

The court bailiffs should go through the initial and continued training according to clearly defined and well-structured objectives and tasks.

The training of the court bailiffs may be organised in cooperation with the judges/legal associates within the court or several courts, that all court bailiffs should attend.

The newly appointed bailiffs in the court must have a mentor to help them master all the tasks, which include handling court cases in the field and office.

The training for bailiffs shall be conducted in two parts, theory and practical work and training.



**Article 20**

**Cooperation between the Court Bailiffs (Article 105 – 112 FBiH Book of Rules on internal court operations/RS Book of Rules on internal court operations)**

All the dilemmas that they have about performing their tasks the court bailiffs are obligated to resolve in conversations with other colleagues and then with the judges/legal associates.

**3.4. Example of a cost list for court bailiff field visits**

**COURT BAILIFF COST LIST**

In determining these costs, the following factors were primarily considered: the distance from the debtor's place of residence to the Municipal Court in \_\_\_\_\_; current fuel prices; vehicle depreciation since bailiffs use their own cars for the visits; and poor roads/connections to certain locations, especially rural areas.

**5.00 KM for the following places:**

|  |  |
|--|--|
|  |  |
|--|--|

**10.00 KM for the following places:**

|  |  |
|--|--|
|  |  |
|--|--|

**15.00 KM for the following places:**

|  |  |
|--|--|
|  |  |
|--|--|

**20.00 KM for the following places:**

|  |  |
|--|--|
|  |  |
|--|--|

**Streets for which no advance payment is required**

|  |  |
|--|--|
|  |  |
|--|--|

For streets or populated areas that are not covered by this proposal, costs should be determined based on the nearest street or place for which costs have been established. If a judge or legal associate believes that an address (street or village) is not covered in the list, they can contact the Department of Court Bailiffs, and they will expand and update the list accordingly.

Date, place

Court President

\_\_\_\_\_