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# PROACTIVE ROLE OF COURT PRESIDENTS IN COURT MANAGEMENT

February, 2014



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## REVIEWS

### **Meddžida Kreso, President, Court of Bosnia and Herzegovina**

The document before you represents a real novelty for the judicial community of the state of Bosnia and Herzegovina, original in both its concept and execution, and presenting for the first time the scope of tasks and duties of court presidents, which makes it exceptionally worthy of your attention.

Even a glance at the contents page of this educational module reveals its practical approach to the topic at hand, evident in brief and instructive chapter titles, which certainly facilitates regular use. The authors first presented the theoretical principles of modern management, highlighted strong and weak points of managers and their decisions and provided guidelines for forming a good manager. In continuation, the theoretical discussion is further developed in the central section of the document through concrete treatment of the organization of courts in Bosnia and Herzegovina, efficient planning of court activities, staff and clients' communications and the monitoring of the performance of organizational units. It is particularly valuable to pay attention to the chapters on human and material resources' management in courts, because they highlight exceptionally significant aspects of daily activities that contribute to courts' overall efficiency. Last, but not least valuable, is the discussion of the use of information technologies available for court management, which should be kept handy as a reminder of sorts of possibilities that open up when computer services are used. Overall, the composition and the contents of this manual meet the criterion of comprehensiveness and cover an exhaustive set of issues encompassed by its title 'Proactive Role of Court Presidents', so the authors and project staff unequivocally deserve praise for the success of their efforts.

This educational module constitutes a practical guide for performing the complex duty of a court manager, it is without peer in our educational circles and is without question one of its kind. It should also be viewed as a challenge to other experts and capable managers to reshape their knowledge and experiences into a comparable format for the benefit of the broader audiences and to promote best techniques in the performance of their duties and activities.

Starting with the module's very title 'Proactive Role of Court Presidents', it is evident that this study is quite current and undoubtedly constitutes a

prominent indicator of the implementation of IPA financing instruments into the reform of the judiciary and points to the proper and effective utilization of funds. This manual appears at the time when such texts are really needed, as new duties keep emerging owing to persistent increase in the complexity of the work, which makes it very useful to have all current duties of court presidents combined in one publication.

In addition to the abundance of practical examples, and a respectable breadth of the list of sources, the focus is placed in particular on the reliable use of appropriate regulations that constitute the basis for the performance of the duties of a court president. This aspect clearly received additional energy and efforts, which confirms the authors' dedication and reinforces the quality of the end product.

In addition to the exceptional idea and the content that encompasses most challenges that arise in the work of court presidents, this educational model is structured in a clear fashion, enriched with graphs and tables, precisely divided into chapters that are successfully united into a coherent whole. Every subsection provides a complete response to the corresponding question, which facilitates faster discovery of responses appropriate to a broad set of concrete problems, i.e. makes it usable without the need for detailed reading of other sections. Such an approach to the subject matter ensures that this manual will find its place on the desk of court presidents and be in their hands on the daily basis.

The chapter entitled 'A review of the current organization of courts in Bosnia and Herzegovina' provided a generic overview of the typical internal organization, leading to a less-than-fully exhaustive treatment of certain particularities of individual courts. This deficit should not be seen as either a shortcoming or an omission, as it leaves the room for expansion of this first edition in the future with the detailed description of characteristic organizational structures of the courts in Bosnia and Herzegovina and of the complex position of the presidents that lead them.

I am particularly pleased to have the opportunity to introduce the educational model entitled 'the Proactive Role of Court Presidents' and to recommend it, not just to court presidents, but also to department heads and managers of internal organization units, as well as to their associates and assistants, both for study but predominantly for everyday use in their work.

In Sarajevo, 30th June 2015

## **Radomir Aleksić, President, Bijeljina District Court**

In the overall reform of the judiciary system in Bosnia and Herzegovina, court presidents, in addition to judges, had a very prominent role, which during the implementation of reform demanded changes and improvements in the way court presidents run courts and enhancement of their organizational skills. However, this matter of management of courts, i.e. court management, has been neglected to a considerable extent during the judiciary system reform and it has not received an appropriate attention despite the fact that a successful performance of court activities depends on sound organization and planning, i.e. on application of certain fundamental management rules, i.e. on the modes and methods of court management. It is exactly for this reason that I believe that this manual, 'Proactive Role of Court Presidents in Court Management' (hereinafter: the Manual) emerged at exactly the right time and that it originated to meet the need to provide court presidents with basic directions for effective court management, particularly since there are no texts that discuss management of courts in this manner, which further adds to its importance. Also, this is a solidly developed manual that covered all management issues all aspects of management pertinent to court management in a clear and substantive manner, and I am sure that it will considerably contribute to better understanding of the modes and methods of court management and at the same time aid court presidents to improve the management of courts to a significant extent.

The Manual's concept was to strive and present all clarifications about management in general, and the management in courts, and to explain the role of information and communication technologies in court management in order to attain the goal of both further improvement and simultaneous equalization of management in all courts in Bosnia and Herzegovina, to the extent possible in view of the large size differentials between various courts in Bosnia and Herzegovina. To this end, the Manual is divided in three parts.

*Part One, 'the General Management Principles'*, defines the basic concepts of management in general, highlights the key skills that constitute the basis for successful performance of management functions, covers in detail the characteristics of bad managers and poor management, as well as good and bad management decisions, with the presentation of most frequent management errors, which would help court presidents to avoid those mistakes in their management work. Human resources' management received considerable attention, as the human resource management function's importance has grown increasingly in all systemic institutions, including



courts. In this context, certain key segments of human resources' management (such as human resources planning, job analysis, recruitment and employee selection, employee performance analysis and employee absenteeism). This section also covers the problems that are encountered in employee relations and the ways to address such issues, as well as the causes of emergence of employee relation problems. As regards the courts, court presidents are in charge of implementing measures to end and mitigate certain inappropriate forms of behavior by various categories of employees in a timely fashion and thereby prevent creation of a negative public image about the court as a whole, making the court president's management role very important, as it imparts the court's productivity to a considerable extent. In other words, this section covered in an appropriate manner the general management issues of importance for management of any organization or institution of the social system, including courts, and this knowledge about general management permits its concretization in court management, which was undertaken by the authors themselves in the second part of this Manual.

*The Part Two of the 'Proactive Role of Court Presidents...'* presents the current structure of first- and second-instance courts on the level of BiH, the entities and the Brčko District of BiH in a very straightforward and clear way, explains the basic organizational unit in a court, their scope of work and work organization, management of organizational units, managerial powers and responsibility, powers of the court president's councils, court administration councils, peers' colleges and court departments. Particular attention has been paid to the planning and definition of goals for court management, because planning permits a court to operate efficiently, pursuant to the Constitution and the laws, with the focus on developing various plans for backlog resolution, while some of the duties of court presidents have been described, including their corresponding specific legal basis, as well as the requirements, deadlines and modalities for the performance of these duties, which certainly can serve as an important reminder for court presidents in their everyday work. Most frequent mistakes in court organizations have been pointed out, including the absence of a well-defined standard of monitoring/oversight of performance of certain activities, instances of appointments of heads of court departments, although unjustified by the small number of judges and limited caseload, assigning judges to work on specific case types on the basis of their wishes and neglecting the work of court president's councils, peers' colleges and court departments. Above errors in the organization of courts represent a clear warning to all court presidents that such errors need to be eradicated.

Starting from the recognition that a court's functioning depends to a great extent on effectively established communications between court staff, this issue received considerable attention in this part of the Manual, including the discussion of the goals of communication, advantages of effective communications and of all forms of communications. In this regards, it bears mention that communication in courts contributes to very swift and efficient resolution of any problems arising in court activities, which in itself contributes to enhancement of good interpersonal relations in the court, which in turn have a direct beneficial impact on the court's work. In addition, internal communications contributes quite considerably to better management and monitoring of the implementation of goals and planned tasks in the court, and the quality of communication depends primarily on the court president, court secretary, the manager of internal organizational units and the presidents of court departments, who maintain such communication through appropriate meetings with target staff groups.

Another important issue when it comes to court work is the issue of communications and work with clients, since the quality of such communications determine the public's perception about the court's work and reputation. In this regard, all aspects of this form of communication have been covered in detail, both with clients and with the media, and the authors paid particular attention to the relationship between the judiciary and the public, as an important aspect of court management, and consequently the emphasis has been laid on the roles of the court president and information officer in communicating with the media, which will certainly contribute to improvement of this communication across all courts in the future, and particularly to an enhanced relationship between the court and the public, which is a prominent mission of court management.

The management of material and human resources is of exceptional interest as a management function in the operation of courts, and the authors treated it with the appropriate significance, aware that proper management of material and human resources in a court constitutes an exceptionally important aspect, both for successful functioning of the court and for successful court management. In essence, how we distribute and assign our staff, deploy our financial and material resources and how we monitor the performance in meeting the stated programmatic goals determines to a great extent the success of the court's activities. In this process, court presidents certainly have the greatest role, and this Manual will substantively aid them in better management of material and human resources.

***Part Three 'ICT as a management tool'*** covers the issues pertaining to use of information and communications technologies as management tools for management of courts, including the Case Management System (CMS), the System for Processing Utilities' Cases (Sistem za obradu komunalnih predmeta – SOKOP) and the Business Intelligence (BI) system. The central place in this part belongs to CMS, and the role and importance of this system in the caseload management have been described in a very straightforward and clear fashion, as well as the possibilities it offers in monitoring both the performance of each judge as well as the court as a whole. Also, the system maintains a wealth of very important data, so it is the basis for preparation of any reports, briefings and analyses, i.e. CMS data is the basis for making decisions that serve to improve court operations. The value of the Business Intelligence (BI) system is particularly highlighted for its purpose to provide, primarily, court presidents with a set of data on court activities, so that this data permits the court president to review the results of the court's work in one place and use it to certain decisions and measures that would serve to increase the court's efficiency.

While the Manual is divided in three parts, these parts are inter-related, as Part One discusses management in general and provides the basis for better understanding of the role of court presidents in court management, which is the topic of Part Two, while Part Three is predominantly devoted to CMS, whose data are of utmost significance for making of important decisions intended to enhance court management, which adds special importance to this Module. In addition, the themes of various parts are in places intertwined, as the general management discussion from Part One is successfully concretized by the authors in Part Two and applied to management in courts, while at the same time the role of information and communication technologies in court management is highlighted, revealing how the authors themselves wove the different parts of the Manual into a harmonious whole.

Performance of judicial authority implies not only dispensation of justice and resolution of disputes presented before the court, but also a governance in court institutions, i.e. an adequate system of court management, with management necessarily serving the function of more efficient court management. Therefore, the authors have covered the important and complex subject matter of this Manual in a comprehensive fashion, ensuring that this topic will become unavoidable in any future discussions about the operation of the judiciary in Bosnia and Herzegovina, so that I am certain that the issues pertaining to the management of courts will no longer be neglected.

Successful performance of tasks and duties in any public institution, including the courts, depends on sound organization and planning, i.e. on application of some fundamental rules of management. As regards the management of courts, we need to consider court management as a discipline that should aid court presidents in managing their courts, as well as judges to be more effective in their work, particularly in resolving cases, which contributes to better functioning of the entire judicial system. In addition to judges, who act as managers in court cases over which they preside and which they decide, court management crucially concerns court presidents, who may be seen as the managers of the courts, as institutions that exercise judicial authority on the level of the organization of the court system. In this regard, in the Manual the authors covered the functions of a court president and emphasized his management, but also his leadership, role, which also indirectly suggests the qualities to be desired in each court president.

With their practice and procedures, courts constitute a complicated environment, and court management is in no way an easy task. Hence being a court manager is not easy, as it requires considerable management capabilities and skills. It is exactly the purpose of this Manual to aid court presidents to enhance their role as managers in courts through application of management tools, i.e. to provide them with basic knowledge on management in courts, to help them manage courts with considerably greater efficiency and thereby contributed to increased court productivity. Another goal of this Manual is to make the complex issues of court management more accessible and understandable, primarily to court presidents, then to court secretaries and all managers of internal organizational units, but also to judges, as well as to the general public that has an interest in successful operation of courts. Adhering to these fundamental goals, the authors covered all issues pertinent to court management in the Manual, with the specific focus on the role of court presidents as court managers, ensuring that this Manual really provides court presidents with basic guidelines for successful management of courts, and therefore I find that the Manual fully met the stated goals and I believe that its future users will welcome it, especially if we bear in mind that the text of this kind are in short supply in Bosnia and Herzegovina.

I am confident that this Manual will aid court presidents considerably, primarily in strengthening their management capacities, then to enhance their management and organizational skills and lastly to make swift and sound decision in the process of running their courts, which will boost the efficiency of court operations.

In view of the Manual's contents, I hope that all court presidents, as primary beneficiaries, will find it very useful, as well as court secretaries and managers of internal organizational units in the courts. It will also be of use for judges, particularly its Part Three that discusses the role of CMS, because we must not disregard that judges are managers in case management, and CMS is the basis for case management, as it truly permits judges to manage cases successfully.

In Bijeljina, 30th June 2015



**PART ONE**  
**GENERAL MANAGEMENT**  
**PRINCIPLES**

*Erol Mujanović*





# 1. MANAGEMENT FUNDAMENTALS

*„Good management is the art of making problems so interesting and their solutions so constructive that everyone wants to get to work and deal with them.“*

Paul Hawken

From the dawn of humanity's existence, people needed to plan, organize, lead and control. Management as a discipline originated at the very beginnings of human society. History's most complex projects, such as erecting pyramids, demanded extraordinary management abilities as it took several tens of thousands of people to build a single pyramid, due to the complexity and difficulty of tasks and activities involved. However, it is of utmost importance to differentiate between management as practice and management as science. The above examples were instances of management as practice, since management as a scientific discipline emerged only in early 20th century, with the first writings of Frederick Winslow Taylor and Henry Fayol.

Few phenomena in history spread and developed as quickly as management. In less than 150 years, management altered the social and economic situation in world's developed nations. For the first time in history, it made possible to employ large numbers of specialists in various fields to cooperate on specific projects, in companies or institutions, and to perform efficiently and productively. Before this discipline emerged, no one knew how people with different kinds of skills and knowledge could jointly achieve common goals. Nowadays, we are at a stage when a single global organization or a ministry in a developed nation employs over 10,000 experts in 60 different fields. Engineers in different fields, designers, marketing experts, economists, statisticians, lawyers, psychologists, accountants – all contribute to achievement of a planned goal, and none of that would be possible without proper management.

Also, after the Second World War, we began to realize that management commenced affecting any human effort involving people with diverse knowledge and skills in a single organization, and it quickly became applicable in courtrooms, exhibiting an even faster growth than in business management. The term 'institutional management' has come to mean the group of people within an organization holding certain powers, while from

the functional perspective it means a complex of tasks needed to manage an organization, regardless of the person charged with performing those tasks.

There are numerous definitions of management, but the definition coined by Mary P. Follet in early 1930s is most widely used, and it reads as follows:

'Management is art of getting things done through people'.

*This means that management comprises a set of activities of the manager concerning his collaborators, whose activities need to be planned, organized, coordinated, guided and monitored.*

It is necessary to point your associates towards the intended result (output), i.e. to highlight for them the importance of achieving the desired goal and note what would be expected of each of them individually, and what of their team or department. To manage an organization effectively and efficiently, managers ought to possess certain knowledge, skills and abilities, which vary depending on their level in the organization's hierarchy.

Looking at the set of operational activities performed by managers, we can define the following managerial functions:

1. Strategic management with strategic planning
2. Organization
3. Human resources management
4. Operational leadership
5. Operational control.

**Strategic planning** is a part of strategic management that addresses the determination of the organization's vision, mission and goals, setting policy and strategies for achievement of the vision, mission and goals, and implementation of the strategy by means of action programs and plans. In other words, strategic management serves to formulate the purpose of the organization and the modalities of fulfillment of that purpose.

As regards the **organizational function**, it concerns the shaping of the 'frameworks' within which a business process occurs. This function involves distribution of organizational activities, delegation of management positions, division of authority and responsibilities and the scope of work. A business process 'framework' defined in this fashion should yield the fulfillment of

business plans and thereby the achievement of the previously defined business strategy.

The third managerial function is **human resources management**, a function of strategic importance as this function is the channel for devising a strategy to achieve high levels of satisfaction and motivation of employed staff. As human resources constitute the base for creation of the strategy, as well as for its implementation, we recognize that, in addition to operational significance, this function also has strategic significance in an organization.

**Operational leadership** is the function of guiding, motivating and stimulating employees to carry out their tasks. The focus of this function is on the communication of the management with employees. The results of operational leadership are concrete business results, so this function is ranked at the level of operational management.

**Operational control** is another operational management function, whose main task is to continuously monitor whether the activities within the process of operational leadership are implemented as planned. Within this function it is indispensable to set standards, measure actual results, compare them against the plan and take corrective actions if departures are detected.

In practice, management cannot be viewed as a set of separate functions, but as a set of interconnected and intertwined functions.

Management functions can be executed successfully only if managers possess certain abilities and skills. In early 20th century, Henry Fayol identified three key skills, and Robert L. Katz popularized that concept in 1974. Thus, the key skills that are fundamental for successful performance of management functions are:

- a) **technical knowledge and skills**,
- b) **working with people skills** (social competences) and
- c) **conceptualization skills**.

In addition to above skills and abilities, numerous competence catalogues have emerged recently to respond to the demands of new organizational forms. Examples include negotiation skills, improvisation, team building etc.

According to Fayol and Katz, all three skills and abilities are indispensable for managers. However, their relative importance depends on the particular manager's position in the hierarchy of the organization. Conceptualizing

skills are strongest in top managers, mid-level managers also need them, while these skills matter less to first-line managers. Working with people skills matter on all levels, although they are of greatest importance for mid-level managers, while technical knowledge and skills are most important on lower levels, i.e. for first-line managers.

Despite the comprehensive body of literature and research in management, we cannot say that everything is known about management. What was known about management 40 years ago, and is still taught in educational institutions, cannot help managers to respond to the challenges of the 21st century. Nevertheless, such knowledge may serve as a solid foundation to develop new strategies on which present-day managers may rely. Knowledge of management must be constantly upgraded, if you wish to be adequately prepared for the challenges the future is going to pose.

## 2. QUALITIES AND FEATURES OF GOOD MANAGERS AND GOOD MANAGEMENT

*„If you ever find a man who is better than you are – hire him. If necessary, pay him more than you pay yourself. “*

David Ogilvy

Above all, managers are visionaries and strategists, people who in their activities conceive, strategically formulate and establish preconditions for operational leadership of a business. In the public sector and judicial institutions, managers are, however, in a different position from managers in the private sector, since the independence of the managers in the public sector and judicial institutions is limited, while the managers in the business world enjoy a much greater freedom. In the private sector, hierarchic responsibility is much clearer, while decision-making in the public sector and judicial institutions takes more time, thereby restricting the freedom of action, exactly because it is necessary to balance different interests, obtain various consents and approvals and observe legally mandated procedures.

Regardless of his position in the public or the private sector, to be successful a manager must possess extensive knowledge, exceptional skills and personal qualities. There are many features that are of extraordinary importance for a successful managers, including:

### Energy

Since managers play the role of arbitrators in meeting expectations of all interested parties, they must possess exceptional energy, which permits them to stay persistent and aggressive, but in a constructive manner. They use their energy to persist where others would vacillate or change their views. It is very important that they can energize their associates through constant motivation and guidance at their tasks.

### Persistence

This trait is directly linked to an individual's energy. The one who can offer even one convincing argument often wins in negotiations, both in a courtroom and in management. Together with persistence, boldness is another vital trait for a manager, particularly when making tough decision, bearing in mind that, very often, not all necessary information is available.

### Decisiveness

After identifying priorities and creation of the vision that would motivate associates, than after setting clear goals and, lastly, establishing a systemic approach to passing decisions, decision-making is the next decision of a manager. As the associates have the task to implement management decisions, it is indispensable for a manager to be determined about his/her decision and to believe in its soundness.

### Enthusiasm

Enthusiasm is a trait that is sometimes questionable for the managers in the public and judicial sectors. In the business world, it has long been clear that enthusiasm is a vital link that frequently leads to better outcomes and thereby to increased profits. However, bearing in mind that enthusiasm is the channel that conveys the manager's energy to his/her associates, providing the manager with greater persistence and support of his/her associates, and ensuring stronger motivation of associates, an enthusiastic manager is an indispensable element of success in the public sector as well.

As we observe continuous global changes nearly every day, it is evident that a manager's qualities are impacted by these changes. This means that management decisions that led to success in the past constitute no guarantee of any success in the future. Here we come to **the key qualities of present-day managers**:

### Creativity

A manager may rely on his associates to propose new ideas for him to consider and choose from. His creativity is best demonstrated when he selects best new ideas and strives to implement them.

### Understanding of associates (court staff)

A manager's quality is best reflected in good understanding of the associates he works with and circumstances in which he operates. Relationships which constitute the basis of the organization must be respectful and mutually motivating, through smooth interaction. Best ideas for business strategies need not always come from top management, a breakthrough idea may come even from an intern, and it is exactly for this reason that the management should not be distant from the rest of the organization.

### Forthrightness

It is of utmost significance that a manager's associates feel that the manager is frank with them and that he constantly informs them about possible breakthroughs or issues at work. Even in situations when the information is

not best for them, forthrightness will play a key role, ensuring that they retain a sense of affiliation with the organization, as this highlights how important their understanding and support are.

### Flexibility

Great managers always know how to adapt to a specific situation they are in. This requires frequently that they adapt their management techniques to each staff member, rather than expecting each staff member to adapt to generic management. It is flexibility that permits managers to thrive in a world characterized by constant change. Stress, an integral part of managers' daily life, should not stop them from making right decisions.

### Confidence

Managers must pay attention that they make a difference between ego trips, demonstrations of courage and justified confidence.

True managers are not obsessed with fear of making mistakes, of becoming objects of ridicule, of being replaced by more capable and better qualified people who are their underlings. First of all, people who are afraid tend to avoid this type of responsibility. True confidence is based on knowledge and proven success – that own views, goals and programs are the means leading to resolution of current problems. Confidence develops gradually, until the manager has created solid foundations for implementation of a program or an undertaking.

In addition to all above traits and qualities that make a manager desirable for his associates, a key trait and a quality – leading by example, i.e. integrity – need to be particularly noted. If a manager tends to represent great views, and at the same time he is transparent, very mature and responsible, it is very likely that he will quickly win inclination of all interest groups and become a true leader. Here it is flexibility that plays a key part, particularly in relations with associates, while own talent development and lifelong learning will motivate associates to follow his example and constantly develop their own talents. If you take initiative in a difficult situation and try to make a change, your associates will value you even if your plan fails.

### 3. FEATURES OF BAD MANAGERS AND POOR MANAGEMENT

*„Bad managers tell employees what to do, good managers explain why they need to do it, but great managers involve people in decision making and improvement.“*

Mark Graban

A common trait of all bad managers is that they are not even aware that they are bad managers. Even if they start doubting their abilities, be assured that they would not admit their shortcomings to anyone, all because no one likes to believe that they are the problem. Bad managers pass up most challenging opportunities, destroy best intentions and are specialists for demotivating outstanding associates and rejecting great ideas. Below you can find some traits of this category of managers.

#### Indecisiveness

Managers can be decisive for various reasons. Some are incorrigible perfectionists who do not want to make decisions without possessing all possible information, while others are paralyzed by the sense of insecurity so they prefer status quo. Regardless of the excuse, no one can stand such managers. A bad decision can be corrected, but the consequences of indecisiveness are fatal for any organization.

How to overcome this weakness?

- ✓ The first step is to **define prior to deciding**. Instead of constant waiting and demanding a decision, the indecisive manager needs to be involved in the definition of the problem. A sure path towards resolving this problem is in asking questions. Asking questions opens an entirely novel perspective on the problem and will without a doubt help your manager to make a decision more easily.
- ✓ Another strategy is **to take the first step**. Big decisions can always be broken down to small ones, which are easier to make. When the first step is made, the very results of that decision shall imply which is the next decision to be made.
- ✓ The third strategy is **building trust**. Managers often have multiple advisors whom they consult before passing a given decision. The person who works with such a manager needs to become a person



who has the manager's trust and thereby he/she will help him to make decision faster.

- ✓ And lastly, **the talk**. You should seek to hold a joint, team, informal meeting with your manager and explain how his indecisiveness affects productivity. When they find themselves in such a situation, managers strive to make prompt decisions.

### 'Know-all'

Some leaders believe that they possess absolutely all knowledge necessary for the functioning of the organization they run, thereby degrading their own associates, disrespecting their views and discarding their ideas. They believe that the organization in which they work could not survive without them. They want to control everything and they meddle into even the smallest task of their associates, thus preventing their professional and personal development. They often exhibit arrogance to reject any ideas in which they do not perceive personal benefit. Some have a mistaken view of the notion of motivation and control their associates through fear, believing this to be an effective management method.

- ✓ One of the ways to handle such managers is to permit **the manager to discover their employees' ideas**. Know-alls will be challenged to ridicule such ideas through a discussion of strengths and weaknesses if such ideas are just 'served up' to them. However, they like to find the conclusion for great ideas themselves. Such ideas should be presented as incomplete to motivate the manager to willingly supervise and decide quickly.
- ✓ **Channel the manager's energy**, because they like to be involved in something new all the time. Once they have an idea they can dedicate themselves to, their associates will have plenty of room and time to do their jobs.
- ✓ **Permit the manager to face reality**, because know-alls, due to their excessive self-confidence, frequently impose excessive and unrealistic demands on their associates. When the manager faces a problem, he will understand the scope of work more easily and lower unrealistic expectations he created.

### Insecurity

Managers should motivate their associates, not compete with them. Yet, many managers block their talented associates and good ideas due to their own insecurity.

Many employees believe that correcting the manager's faults is not their job. In reality, associates have two choices: wait for things to improve on their own, or take the initiative to address the problem. If you make even some baby steps, you may be able to breach your manager's inertia. Below you will find some ways for associates to handle insecurity of their managers

- ✓ It is crucial to **understand the cause of the problem**. Many pressures may cause anxiety in managers. To begin with, manager's insecurity should not be reacted to aggressively, but collaboratively, as the employee and the manager can achieve better results working together.
- ✓ **Be more transparent!** Insecure managers fear the unknown and assume the unexpected. Trust, as the sole cure, is built through transparency. You ought to share as much information with them as possible, even when that requires more time and effort.
- ✓ **Value positive traits of your manager!** Insecurity is linked with the lack of self-confidence, so it is of utmost importance to pay attention to your manager's strengths. Although motivation of their associates is one of the qualities in a manager, to an extent this process needs to be reciprocal, because the ultimate goal of any organization is to ensure progress of all its members, from interns to managers.

**Poor management and bad managers are often seen as the main cause of stress in their associates.** Most associates state that they do not feel worthless because of their low salaries, poor working conditions or insufficient leave, but only because of poor management. Stress in employees leads to a decline in enthusiasm of employees, which results in poor organizational performance. A manager who does not see his employees as human beings can destabilize such a department, or even the entire organization. Such poor effects can be mitigated by praise, freedom in the performance of tasks, and with certain rewards for a job well done.

Having detailed the recommended positive reactions of associates to bad management, below we list acceptable reactions of managers when they become aware of their poor management. Managers should:

1. Ask their employees for frank opinions about their conduct and management style.
2. Cease avoiding hard challenges that they face, because they will need to be faced one day, so it is better to face such a challenge earlier.
3. Be courteous with everyone, and even if it does not feel completely naturally at the beginning, eventually it will become a habit.
4. Be frank with their associates.

5. Recognize that there are people in the organization with better ideas and encourage them in the implementation of such ideas, in realization that this approach leads to the success for the entire organization.

**The best advice is for managers to dare criticize their own abilities and traits and to develop the ability to embrace reality, as well as the will for constant learning and enhancement of their own skills.** They also ought to recognize that respect and understanding of associates is a key to success of any organization, as well as allowing associates to advance and build up their knowledge through various forms of training.

## 4. GOOD AND BAD MANAGERIAL DECISIONS

The success of the selected goal, and thereby of the team implementing it, depends to a great extent on the person in charge of formulating the goal in question, and for overseeing the implementation of operations indispensable for its achievement. That person is the manager. This chapter will show how managers can be both a key of success and the reason for failure, through their decisions, and will highlight the causes of both bad and poor managerial decisions and use examples to give managers an insight into the scope of ramifications their decisions may have. Lastly, through a conclusion we will show a way to avoid bad decisions and to adopt new practices that would lead to an increase in good decisions.

„A decision-making process is an act of choosing between two or more courses of action.“ However, it must be borne in mind that available choices do not always include the right decision. There might be a better decision that was not considered, or the right information was not available at the given time. Therefore attention needs to be paid to all important decisions and to reasons why managers madethem, so that in the future managers can use the successful decision-making process.

However, how is decision-making effectiveness of managers to be achieved? Blind adherence to intuition also leads to poor management decisions, while a structured, i.e. organized approach to decision-making may help managers to increase the success of their decisions.

Three fundamental steps the managers should apply to their decision-making process involve:

- 1) Simplification of the decision-making process.
- 2) Careful monitoring of the process on which the manager will base the decision.
- 3) Planning decisions on the basis of set deadlines.

Managers often face the need to make numerous decisions, from addressing minor issues to implementation of major strategic decisions. Even the best managers will find themselves in a situation to make a poor decision, but the managers may increase the share of good decisions by understanding some of the factors that bring managers to adopt poor decisions. It is crucial for

managers to be aware of the following tendencies that may lead to making poor decisions:

- 1) Paying exceedingly great attention to first impressions.
- 2) Justification of past decisions.
- 3) Subjectivity in making decision, i.e. the managers' tendency to see what they wish to see.
- 4) Extending the 'status quo'.
- 5) Excessive emotionality in making decisions and/or lack of emotional intelligence.
- 6) Excessive self-confidence.

#### **4.1 Poor managerial decisions**

As far as the errors that should be noticed, prevented and avoided are concerned to make a manager better, these include:

- 1) Inadequate involvement in getting to know staff as human beings: developing the connections between the superior and the subordinate is the central factor in management. This does not mean that the manager should be employees' advisor or psychologist, but a manager ought to know what goes on in the lives of his colleagues or his employees. When he knows where an employee goes on vacation or whether he/she has children, then he effectively demonstrates a healthy interest in the employee's life and thereby becomes more approachable, i.e. becomes a manager who is more responsive to the needs of employees, to their moods and life events. This will facilitate cooperation with the employees as a group and significantly contribute to the reduction of misunderstandings.
- 2) Insufficient/unclear formulation of goals.
- 3) Mistrust toward employees.
- 4) Disregards for employees' views/inputs.
- 5) Making decisions before consultations with employees.
- 6) Inequal treatment of employees.
- 7) Failure to take responsibility/blaming the employees.
- 8) Poor communication with employees.
- 9) Untimely reaction to problem, leading to their deterioration.

#### **4.2 Good managerial decisions**

A tennis-player's swing may seem as a single elegant move, but in reality it is a series of actions. Starting from gripping the racquet, taking the position, checking the opponent's serve, harmonizing the position of shoulders and

hips, moving the leg, allocating weight and keeping the front arm parallel with the surfact and holding the racquet under the exact angle, drawing the racquet backwards, stepping forward, reallocating the weight and swinging the racquet forward while holding the arm erect and the wrist firm when establishing the contact with the ball and accompanying it with a long follow-through. Managers make decisions in the same way. Each is the last step in a series of actions. What makes a difference between a manager's making a good or a poor decision is whether the manager is aware of all the steps that lead him to the specific decision.

A good manager, just as a good tennis coach, may help his employee/player to understand this process, work through every step and constantly make successful decisions. This is of critical value, because the health of an institution is directly linked with the quality of decisions that are made on the daily basis.

Good managerial decisions emerge from:

- 1) Manager's good information about the situation at the Court.
- 2) Consideration of all alternatives before a decision is made.
- 3) Implementation of the cost/benefit analysis.
- 4) Evaluation of inputs/perspectives of employees prior to making the decision.
- 5) Flexibility when making decisions: one type of decision will not suit every situation.

## 5. MOST FREQUENT MANAGERIAL MISTAKES

*„The more an institution is influential and financially stronger, more often will the management of such organizations seek protection in the form of special management insurance. Namely, their errors may be fatal, which was unfortunately proven in recent years in many institution around the world.“*

Monika Lohmuller, DW<sup>1</sup>

The authors point out that most frequent managerial mistakes occur as typical oversights. In other words, only 20% of managerial mistakes arises from wrong calculations, while the remaining 80% are based on common, nearly banal oversights. Poor management is very often a key internal cause of institutional crises.

Poor management frequently originates in managers' personal traits, independently of their management levels (operational, mid-level or top management), followed by the way they manage their staff (HRM). A manager's lack of interest for certain parts or departments of an institution inevitably leads to business inefficiencies. The management's chief task should be to develop an institution. If the manager lacks sufficient intellectual abilities, or capacity to adapt, or even change, the institution's activities in line with the occurrences in its environment, he unavoidably becomes a key initiator of the crisis... The list below presents several most significant managerial mistakes as causes for institutional crisis:

MOST FREQUENT MISTAKES	CAUSES OF MISTAKES
Errors in leadership/management (poor management)	Concentration of power and decision-making in an individual (autocratic leadership) Disregarding priorities Insufficient knowledge in certain business areas (incompetence) Lack of vision Unclear responsibilities Poor communication within management Neglect of the core activity

<sup>1</sup> Monika Lohmuller (2011), Insurance against managerial mistakes,)

MOST FREQUENT MISTAKES	CAUSES OF MISTAKES
	Inadequate number of functional management specialists Untimely adaptation of the organization Poor interpersonal relations

Key internal causes of a business crisis are mistakes such as insufficient planning, inadequate management etc., and managerial errors may occur in any managerial function (planning, organization, leadership and control).

These are a few typical managerial errors in all organizations, which may cause a crisis:

Lack of specialist, technical and personal skills in managers	Lack of knowledge about management and the market in general Lack of practical experience Poor leadership Poor personal qualities (lack of reliability, poor social contacts, excessive consumption of alcohol, drugs, gambling, overly costly lifestyle etc.)
Poor management	Lack of planning Lack of information Excessive workload and insufficient delegation Inadequate organizational structure (disorganization) Lack of adequate preparation for unforeseen situations Lack of adherence to protocols

The most frequent errors of novice managers:

1. They think they know everything
2. They want to show everyone 'who the boss is'
3. They are afraid of taking action
4. They ignore their colleagues
5. They 'lose' no time on their boss/superior
6. They do not worry about problematic colleagues or problems in general
7. They do not protect 'their people'
8. They avoid responsibility for anything.



When they think that ‘they know everything’, novice managers probably mean that they know everything about the organization’s fundamental activities; even if this is really true, they most probably do not know everything about the most important aspect of their job – managing people, so we recommend they listen to people around them, without prejudices.

When they ‘want to show everyone who the boss is’, managers make a mistake, because they ‘make a big deal’ about ‘who the new boss is’, although everyone knows that and it only needs to be actually implemented.

When they demonstrate ‘fear of taking action’, managers doubt the decision of their superiors who appointed them to the position and are afraid to make decisions, i.e. to do the job they were promoted to do.

When they ‘ignore their colleagues’, managers cease to be people, instead becoming mere *managers*, which is bad, as it leads directly to a drop in efficiency and productivity in the organization.

When we say that ‘they waste no time with their superiors’, we mean that managers avoid communication with their supervisor, which in turn means a lack of information on the overall management of the company.

When they ‘do not worry about problematic colleagues or about problems in general’ – this is a great error of managers as they try to avoid problems by hoping that they will get resolved on their own, which is wrong. In such a situation, we recommend that managers communicate with others, both their subordinates and their supervisor, to address the problems and critical situations in the organization.

When managers fail ‘to protect their own people’, this means that they do not stand for the rights of their subordinates, which impacts negatively on the subordinates’ image of the manager himself, but also on the functioning of the organization.

Lastly, when they ‘avoid taking responsibility for anything’, managers are unable to face the fact that they are responsible for everything that goes on in the division they lead. Therefore they should develop a communications network so that there are no unpleasant surprises and they should be prepared to bear the responsibility that comes with the benefits and the authority of the position they are entrusted with.

## 6. HUMAN RESOURCES MANAGEMENT

Organizations will be able to react successfully to the changes in their environment only due to the knowledge, intelligence and creative abilities of their employees. This is why the human resources management function has become increasingly important even in courts.

An organization is a group of people performing a task, where the organizational procedure and the outcome of the organizing process matter. Organizations surround us, and during their lifetimes people act within various organizations, starting from families, schools and other educational institutions to institutions in which they work. Therefore it is crucial to be able to understand people with whom one lives, learns and works and their behavior in an organization.<sup>2</sup> This is achieved with the help of human resources management, whose essential purpose is to channel the employees' total energies towards achieving the company's (organization's) strategic goals.

In the context of court operations, human resources management is interesting as a **management function** and it is one of five fundamental management functions (strategic management and planning, organization, human resources management, leadership and oversight). In this context, this concept is understood as the task of the entire court, with all employees responsible for its achievement. According to *Lee Iacocca*, management is *nothing other than motivating people*.<sup>3</sup> Basic activities within the human resources management function include:<sup>4</sup>

1. strategic directing of human resources;
2. planning of the supply and demand for human resources;
3. analysis and design of work;
4. recruitment, selection and hiring, induction into work;
5. monitoring and evaluation of job performance and employee potential;
6. employees' training and development;
7. rewarding and motivation of employees;
8. labor relations;
9. workers' protection and workplace safety;
10. various employee services (counselling, assistance, social programs...)

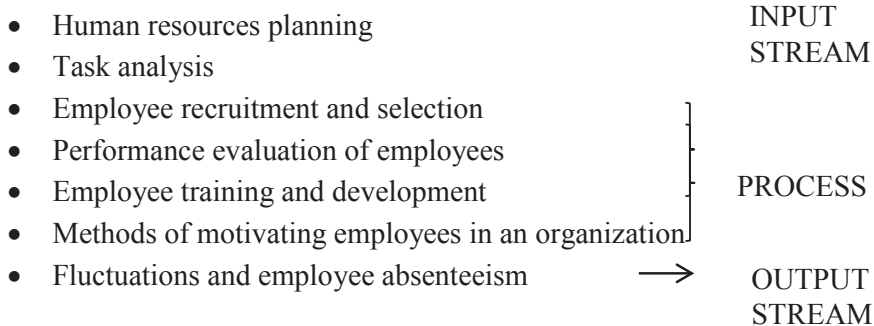
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<sup>2</sup> Senad Softić (n.d.), *Ponašanje u organizaciji (Organizational Behavior)*, Sarajevo University School of Economics, p. 7

<sup>3</sup> Zijada Rahimić (2010), *Menadžment ljudskih resursa (Human Resources Management)*, Sarajevo University School of Economics, p. 23.

<sup>4</sup> Ibid, p. 24.

The key segments of human resources management are:



## 6.1 Emergence of the concept of human resources management and future trends

Success of a court today depends on the proper selection of management cadres, on development and compensation, as well as on the proper development of staff skills. This explicitly highlights the significance of the role of human resources management, with employees required to keep learning, and HRM to keep supporting the essence of the lifelong-learning concept.

## 6.2 HRM within the organizational structure and strategic role of human resources management in an organization

To plan and understand human resources management adequately, it is important to clearly state what the concept of 'human resources' means. These include competences and employee motivation.

**Competences** are personal prerequisites enabling a person to perform assigned tasks. They may be professional (knowledge and skills), methodical (i.e. time management, project management...), social (e.g. motivational abilities), systemic (understanding of the functioning of social systems), company-specific competences (processes in the company, know-how about the modes of operation etc.) and sector competences (e.g. buyers, suppliers, competition...).

**Motivation** is a concept that covers personal prerequisites for a person to be ready and willing to perform certain tasks.<sup>5</sup> Consequently, an employee, as the basic human resource is viewed by any organization from the following aspects:

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<sup>5</sup> Zijada Rahimić (2010), *Menadžment ljudskih resursa (Human Resources Management)*, Sarajevo University School of Economics, p. 38.

When we say 'strategically oriented human resources management', as an organizational concept, human resources, their knowledge, skills and abilities are the fundamental base for strengthening the organization or institution in the present-day dynamic and uncertain environment. Therefore, as a goal of strategic HRM, we emphasize a systemic and deliberate development of human potential aimed to create and develop organizational capabilities to achieve the institution's strategic goals. To achieve this goal, HRM uses the following strategies:

- a) a well-tuned team;
- b) a perfect system;
- c) an intelligent organism and
- d) creative evolution.

Every type is intended to develop competences and motivations of employees. The '**well-tuned team**' strategy is employed in situations when the institution seeks to achieve success on the basis of personal competences and engagement of its associates (employees). Every individual is personally qualified for his tasks, requirements are very well-known, and changes are rare and may be timely discerned, while the overarching goal is to create a reliable and qualified team of permanent employees whose motivation and competences contribute to maintenance and development of the company's market position.

The '**perfect system**' strategy is based on the structures and systems of employment of workers. In this strategy, the demands of every workplace are fully defined and it requires only a short time to induct new associates into the work. This strategy's main purpose is to place each associate in a position for which he possesses optimal prerequisites.

'**Intelligent organism**' is the third human resource strategy. It seeks to build the foundations for long-term innovation processes, with the essential purpose to enable the institution, or at least one of its parts, to create long-term innovations and to preserve attained competences.

'**Creative evolution**' starts from the view that organizations are conceived as platforms for achieving short- and medium-term results which are used to construct long-term success. Its main purpose is to create a framework to orient the staff to their tasks, i.e. to quickly recruit new associates who possess required competences for any given tasks. Each of the above human resources management strategies is applied depending on the organization's strategic choices and on the company's size and organizational structure, and in turn it directly impacts the development of the leadership style and creation of interpersonal relationships in the organization.

### **6.3 Key segments of human resources management**

#### **Planning**

Planning of human resources is a process of establishing real workforce needs, new workplaces, employee development etc; at the same time, it represents the departure point for recruitment, development and further management of human resources in an organization. The overarching goal of this stage of management is to secure the necessary workforce, in terms of numbers and qualifications, for the organization, and include it efficiently into work process, by the set deadline. There are internal and external factor impacting human resources planning in a company. Internal factors are: strategic choices of the company, age structure, number of employees, employee absentee rate, fluctuation rate, working hours etc, while external factors are divided into: short-term (up to one year), medium-term (up to 5 years) and long-term (up to 10 years).

#### **Task analysis**

Task analysis is the second and, at the same time, the most important step in human resources management, as it represents the process of collecting information about the contents and character of work, as well as about trades, abilities and skills required of employees to perform certain tasks. Only when an organization collects all appropriate information about the employee and the job, it may achieve harmony between job requirements and the abilities of the person responsible for its performance. Therefore the employees in HRM departments seek two sets of information: information about jobs and information about persons that will perform them. Job information is supposed to provide responses to questions such as *what is done, how and why*, as well as *in what organizational, social and functional conditions a certain job is performed*; while information about the persons to perform a given job should provide insights into questions on their knowledge, skills and abilities. On the basis of such information, an organization defines a given job and tasks to be performed within its scope, which directly impacts all other phases of human resources management.

#### **Employee recruitment and selection**

Recruitment is the process of attracting candidates who possess certain knowledge, skills, abilities and competences for successful performance of tasks related to available jobs. Sources of recruitment may be internal and external. On the other hand, employee selection is the process of identifying the most suitable candidates for a given vacancy, through application of predetermined and standardized methods and techniques. The purpose of this procedure is to eliminate the persons who fail to meet the basic requirements

of the advertized position and, secondly, to forecast the future job performance of potential applicants. The essential difference between recruitment and selection is in their formalization and standardization of the implementation process, i.e. in hiring of new associates. Consequently, the main task of the selection process is to choose those candidates who possess the required traits for the job in question on the basis of predetermined standardized techniques and methods. The focus of the recruitment process is to attract candidates with necessary competences to perform specific jobs. There are, certainly, many methods, techniques and tests that permit successful candidate selection, including: interviews, various forms of testing etc.

### **Job performance evaluation**

At this stage of human resources management, the contribution of the employees to the achievement of the organization's goals over a given time period is assessed. In other words, whether the plan was fulfilled and what the employee's contribution was. This is one of most significant HRM phases. It may be performed by performance evaluation and by evaluation of employees' real potential, and it must meet the requirements of objectivity, relevance, reliability, practicability and comparability.

### **Motivation**

After employee performance and potential evaluation, material and non-material motivation strategies should be implemented to improve employees' engagement and their work productivity. For this HRM uses a motivational system whose goal is to attract and retain most capable staff, to stimulate achievement of business excellence, motivate creative staff members and innovative activities in the process of work, to ensure that planned goals are attained and develop participatory relations within and without the company itself. To achieve these goals, human resources management uses material and non-material motivators. Material compensations include monetary compensation, in the form of wages and other material incentives, such as bonuses and stakes in the organization's business results; on the other hand, non-material compensation forms seek to satisfy diverse needs of employees, starting from designing jobs that are more suitable for employees, changing the management style, employee participation etc. In general, it takes understanding of motivators that associates respond to to set up an effective motivation system. When it comes to the concrete case of functioning of courts in BiH, in view of the limitations of material, i.e. financial motivators, good managers will be unstinting with non-material motivators, such as praises and recognition for employee job performance, which frequently may be of considerably greater importance for a person properly performing a certain job than it is assumed.

## **Employee training and development**

This HRM activity is among the essential ones and should be implemented in continuity, particularly in the current conditions of unpredictable and dynamic environment. Employee development includes all measures of expanding existing employee potential and abilities. For an organization to be in position to influence employee training and development, it should analyze its needs in regard of employee development, which could be done by application of the human potential matrix that focuses on current and medium-term abilities of staff to perform certain tasks.

The Human Potential Matrix is one of the HRM tools that categorizes employees as follows:

- a) **'Workhorses'** are employees who currently achieve high results but their developmental potential is low. Therefore the focus of their work is on obtaining specialized competences due to changing conditions within the organization.
- b) **'Stars'** are people who achieve excellent results and possess high development potential. In other words, these are young, highly motivated experts who are the primary engines of the company's strategic development and it is indispensable to keep them within the organization.
- c) **'Logs'** is the term for the staff that exhibit no discernible development potential, nor do they achieve expected results. Still, here one should move cautiously because they may have indirect impact, i.e. they may influence social relations in the organization and their dismissal may directly affect the company's results.
- d) **'Problematic associates'** are associates whose estimated development potential is high, but the current results are low. For the organization they are unutilized spare potential.

## **Fluctuation and employee absenteeism**

The last in the series of activities of the human resources management is fluctuation, i.e. permanent departure of associates from the organization, and employees' absence from work. Regarding fluctuation, it may be avoidable and unavoidable; avoidable fluctuation is voluntary resignation from a given job position, which can be influenced, while unavoidable fluctuation means something that cannot be influenced, such as retirement, or legally imposed cessation of employment etc. It is possible to cause a reduction of employee fluctuation in alternate ways, as it is not a beneficial phenomenon, so human resources managers use internal and external alternatives to avoid fluctuation.

Internal are conducted without any reduction in employee levels (e.g. changes in worker qualifications, changes in working hours, job description etc.), while external alternatives imply a reduction in the number of employees, primarily through adherence to the provisions of the labor contracts (e.g. non-extension of fixed-term contracts, or cancellation of staff leasing contracts etc.). On the other hand, we have the term 'absenteeism', meaning justified or unjustified absence from work, affected by two variables: employees' motivation to be at work and their ability to be at work.



## **7. FACTORS THAT IMPACT THE FORMATION OF A GOOD LEADER**

There are many talented and diligent employees who encounter problems when they find themselves in managerial roles. This happens because expertise in a given field does not make one a good manager. Often certain experts become managers without any training whatsoever, and face expectations of extraordinary results, the same they used to achieve in their own field, and then very frequently they either give up their management positions or you have ineffective management.

The hardest part of the transformation process from an employee to a leader is inability to abandon the role the employee had previously performed and learning to delegate tasks to others. Even if he works in public administration, a manager ought to possess universal managerial traits. In addition, he should be capable of motivating, rewarding and disciplining a team of people.

The traditional model of public administration required minimal understanding of strategy and any serious planning was either not implemented or implemented to a quite limited extent. Strategy development was seen as a political matter or a task for politicians. It was understood that civil servants carry out instructions received from politicians, whose task was to develop policy and strategic perspectives. In effect, civil servants often operated without a sense of strategy, without any idea of the need to optimize resources for attainment of certain goals, they simply followed instruction. Traditional public institutions often had no long-term perspective and frequently forgot that there are broader and overarching goals. This way of thinking changed with emergence of new public management.

New public management is a leadership philosophy applied by government institutions since early 1980s to modernize the public sector, and it was accompanied by a wave of reforms in the public sector around the globe. It holds that the public sector has a lot to learn from the private sector when it comes to planning, strategy development, vision creation and forecasting. The basic concepts of the new public management are: promotion of the application of market-type behavior in the public sector; orientation on results and efficiency, through better management; treatment of a public sector institution as an independent element with public responsibility; empowering public sector managers and increasing the degree of their

operational freedoms and discretionary powers, with simultaneous increase in their accountability; treatment of citizens as clients (beneficiaries).

While in the private sector a manager is oriented on creation of profits, in the public sector and judicial institution he has an additional interest to remain in his post or be re-elected. The complexity of his position is further increased by his accountability to a far greater number of people and by the fact that he is exposed to various influences of those who are accountable to him. As management is geared to improve performance and cut costs, this opens the issue of judicial independence, which might be undermined by budget restrictions, while on the other hand you face a problem of excessive spending by courts. Furthermore, the issue arises about who should manage courts and to what extent judges without any additional training are good managers.

The views that courts cannot remain passive but, instead, they need to assume full responsibility for the quality and quantity of their outputs are becoming increasingly prominent. As mentioned above, even though these are managers in public administration, they still need to adhere to the basic principles of managers and management:

1. Management culture – how judges and managers believe they should perform their jobs, developing a culture oriented on provision of high-quality services.
2. Performance management – relates to the way court managers are accountable for results related to desired levels of performance and how a court develops its creative capacities for redefining and enhancing administrative practices.
3. Administrative principles – orientation on high performance and emphasis on administrative processes that both judges and managers consider important.
4. Quality circle – an iterative, dynamic process that links four procedures in a network of activities that supports continuous performance enhancement.

Along with a faster work of the courts, potential beneficial effects of these new approaches prominently include greater respect of courts for their clients, through provision of information to clients, better premises and construction of more suitable buildings, as well as through more trainings for judges and court officials.

Enhanced performance is also expected in prosecutorial services, primarily due to the shortage of funding available for these institutions. It is necessary to carry out certain restructuring measures, taking care about a possibility to contribute to increasing unemployment and the employee workload, as well as on oversight that might jeopardize the level professionalism.

Good management constitutes a transparent process in which management channels resources in appropriate ways, responsibly and efficiently, and manages organizational structures on the basis of shared values. Good management unites effectiveness and accountability. The purpose of this concept is to contribute to an enhanced management function on the foundation of clearly stated principles. Reforms intended to introduce the system of good management include: capacity development, involvement of civilian population and private sector in the decision-making process, division of tasks and responsibilities.

A good manager can be trained primarily through **additional education and training**. Even when we have top-quality experts, it must be borne in mind that they encounter this type of work for the first time and that it is certain that they cannot shine with the knowledge they had already possessed. Managerial development and training needs to be planned, with the goal of the managerial training planning to permit unimpeded professional development of managers according to their own abilities, capacities and achievements. Certainly, leadership is the central theme of managerial training and development, but such training and development should include continuous updating and upgrading of their basic professional knowledge and abilities. Effects of management training are evident in the process of evaluation of such undertakings. Therefore, managerial development should be viewed as an investment that would contribute results in the form of stronger, healthier and sustainable organization. The needed funding and time should be properly estimated to determine whether investment in this form of training and development is justified. Persons who accept the managerial roles need to be willing to accept continuous education throughout their career, to change along with the new challenges and trends, and to handle the problems they encounter in the course of their work in a businesslike and realistic manner. Managers may have access to special training and development programs, such as:

Distance learning, which assumes the presence of certain preconditions for its application in terms of attainment of expected outcomes. In the last ten years or so, distance learning has been developing quickly, owing to a fast development of information technology. The results of such an education are

increased flexibility, better retention and lower education costs for beneficiaries. Part-time business education implies the use of both hypermedia and multimedia in the process of acquisition of knowledge and skills. A modern manager can opt to attend short specialized trainings and courses, or to study copious literature with numerous tips on how to improve leadership. The best effect is, naturally, obtained by combining all above options. For those who prefer learning through modern technology, there are online courses. Advantages of online courses relative to classic learning are numerous – beneficiaries can determine the learning tempo on their own, they can select their curricula and adapt the learning system to their habits and needs, which is of great use for new managers in public administration.

Another vital, but frequently overlooked fact is that new managers need to receive sufficient feedback, both from their associates, and from certain mentors and supervisors who are higher up in the hierarchy. In essence, people have no way of knowing whether they do anything right if they are not told so. With a certain degree of feedback, they can adapt their managerial approach to the organization.

In a dynamic business environment, even the local authorities are exposed to the environmental influences, just as the enterprises operating in a market-defined environment. Inability to respond to challenges emerging from the environment blocks the development of a local community and may have a peace-time economic outmigration as a final outcome. For a community, having a public administration manager who possesses personal and managerial competences, including leadership, vision, willingness to initiate and embrace change, willingness to partake in lifelong learning and education might mean the capacity to handle the challenges from the environment, but also the ability to implement new managerial concepts in public administration and, ultimately the ability to meet their needs and demands in full. For this reason, the management method in a public administration body is a crucial element for the development of the community.

## **8. PROBLEMS WITH EMPLOYEES AND HOW TO ADDRESS THEM**

Problems with employees may arise for various reasons. Sometimes, employees themselves are the main cause of the problem, in other cases the cause is to be found in the managers and the business environment. Certainly, combinations of these two main causes are very possible. Weak morale, low productivity, poor services to clients and high rate of dismissals may be a consequence of poor relations between the manager and his employees.

In most cases, the manager is the cause of the problem if he fails to respond to the following five questions, or a response to any of the questions is negative:

1. Which is the mission/vision of the public institution?
2. Which are the values that this institution wishes to develop and how are these values actualized on the daily basis?
3. Does the manager pay attention to the advancement of the entire institution, or solely to his own position?
4. Is the oversight exercised by the manager over his employees adequate?
5. Has the manager clearly defined his expectations from the employees?

If the manager is not totally sure that he has affirmative responses to the above questions, in most cases he is the cause of problems he has with his employees. However, if the manager properly defined the expectations from employees, if he is aware of his organization's mission and vision, and treats employees in a correct manner, i.e. pays attention to their advancement and maintains the communications on a suitable level, the cause of problems should be sought in employees.

Sometimes, an employee is a cause of the problems due to disregarding of the consequences of his action for the entire team or the organization. Another cause is a destructive, counterproductive behavior of the employee as a result of deliberate actions taken for specific poorly thought-through reasons, which are simply inappropriate for a working environment.

The following section of this chapter includes examples of problems with employees to highlight the errors that cause such problems, whether they are made by managers, employees, or both.

A most frequent example of a problem with employees is a situation when employees fail to perform their tasks in a satisfactory manner, regardless of whether the cause is that they do not wish to perform that particular task, that they want to perform another task instead, or that they are dissatisfied with their manager and colleagues. This type of passive-aggressive behavior is frequently a consequence of the fact that the employee would not or cannot face the problem directly. In most cases, the problem grows and begins to affect the operation of the entire team, because the employee does not want to express his dissatisfaction through communication with the manager and his colleagues, but vents his frustration through poor work. The problem grows because, after the manager observes that the employee fails to perform simple tasks, he is not likely to entrust him with larger, more challenging tasks.

This problem may be addressed through better communication between the manager and the employee. The following segment of this chapter on addressing the problems with employees will look into ways to enhance this communication.

Other examples of the problem mentioned in this section relate to: 1) emotional competence; 2) discrepancies in expectations of the employee and the manager; 3) poor attitude of the employee towards his job (frequent absences from work, long breaks and private phone calls); 4) Lack of employee competences and poor distribution of roles, i.e. tasks between employees etc.

A successful manager must have an effective way to overcome the problems with his employees. A great manager should be conscious of the following nine aspects he needs to implement to ensure that all conflicts with employees are resolved in a simplest and most effective manner and to prevent inefficiencies and frustration on the part of both employees and the manager.

1. Communication – the manager should not forget to listen to his employees in any situation.
2. Clear feedback to employees.
3. Collecting records of problems with employees.
4. Consistency.
5. Announcement of clear consequences if the situation is not amended.

6. Enhancement of the processes in the organization.
7. Resolving problems directly with employees.
8. Composure in discussions and when making key decisions.
9. Courage to make tough decisions.

In the case of courts, court presidents as the leaders in their organizations must take steps to discontinue in a timely fashion certain inappropriate behavior by various categories of staff, otherwise the entire institution receives a poor image and message. Employees also must observe all adopted decisions, otherwise they themselves contribute to the deterioration of the mood and interpersonal relations in their working environment.

## **9. A REVIEW OF THE CURENT ORGANIZATION IN THE COURTS IN BiH**

The organization in courts is prescribed by the Book of Rules on Internal Court Operations ('BiH Official Gazette' no. 66/12 and 40/14) and is mandatory. Within such organization, or arrangements, it is desirable to strive for the operations within the organization to be adapted for application of information technologies, to speed them up and to reduce manual operations. Starting from court presidents on to all other positions, contemporary technologies need to be applied more broadly both in the work of every employee and in the court management, because both their survival in the labor market and the survival of the entire institution will depend on these skills as well. A number of court presidents are very conscious of this business need and feature of their operational environment, and they have successfully implemented ICTs, leading their colleagues by example.

Unlike in companies, a court president does not have the same powers as a CEO or even a public sector manager, and he is only a 'first among equals', so therefore he is not the judges' 'boss' and cannot order judges to do anything when it comes to processing of cases, so their powers are different, somewhat more limited, while the responsibility is similar, since a court president is to a great extent responsible for the mood and motivation in the workplace, for results and performance and, shall we say, for overall proper functioning of the organization.

Every judge is independent in his/her work, and court presidents must show judges respect, but also lead by example. Court presidents have a particularly demanding task of forecasting the future flow of cases to anticipate and adequately distribute the workload. Another good management practice is that court presidents should not meet judges' preferences when assigning judges to work on specific case types, but the assignments need to be explained and founded in practice.

In order to ensure good management, and as a valuable communication and coordination instrument, a court has a Peers' College (General Session), which is a court body that meets quarterly, while in larger courts there are also sessions of court departments, called mini Peers' College (Judges' Department Session), that deal with the matters of importance to specific departments. The experience has shown that a combination of actions by court presidents and court departments yields good effects in larger courts



and it should be made use of to the maximum extent in the court's organization.

In the discussions and consultations with several court presidents it was noted that the segments related to accountability and oversight/monitoring of performance of particular functions and activities may be the most significant aspects of court operations' management. At present, oversight and monitoring of performance are not standardized practices and processes in the courts. It would be useful to address these aspects on the systemic level.

Out of other domains where improvements in court management are possible, which will be covered in greater detail in other chapters, the highlights include: management of old cases, practice of appointing court department presidents solely to provide them with higher salaries, possibly assigning judges to specific case types only to satisfy judges' personal preferences and wishes, and the indispensable quality of functioning of the relation: Court President – General Judges' Session – Judges' Department Sessions.

All in all, despite the fact that a considerable number of courts' organizational elements have been already prescribed and defined in binding regulations, in terms of court and team management, court presidents still have ample room for action. With their conduct, appearance, energy, attitude towards the work and the employees, court presidents can considerably shape the daily routine and productivity of their courts. Certainly, it is hard to be a court manager, it demands great discipline and commitment, as well as an exceedingly strong communications and negotiation skills, since the very mission of the court must be properly communicated and embraced by all staff.



**PART TWO**  
**PROACTIVE ROLE OF**  
**COURT PRESIDENTS**

*Bojan Stević i Marin Zadić*



# 1. CURRENT COURT STRUCTURE

Court structure certainly depends on the size of the court, defined by the number of judges and legal associates in the given court. There are certain particular differences between first-instance courts in the Federation of Bosnia and Herzegovina<sup>6</sup> and Republika Srpska<sup>7</sup>.

In the Federation of Bosnia and Herzegovina, legal associates are empowered to make certain court decisions, while this is not the case in Republika Srpska. In Republika Srpska there are distinct commercial courts, while this particular segment is dealt with within municipal courts in the Federation of BiH. Also, in FBiH the courts have a land registry office, which do not exist in the courts in Republika Srpska. These variations certainly contribute materially to the specific internal structures and organization of court operations.

## 1.1 First-instance courts

Analysis of the number of judges/associates in first-instance courts in BiH:

- Data collected as of 31st December 2014 from the HJPC's Appointment Department.
- The analysis covers only first-instance courts in BiH

*Table 1 – Tabular presentation of the number of first-instance courts and judges/associates*

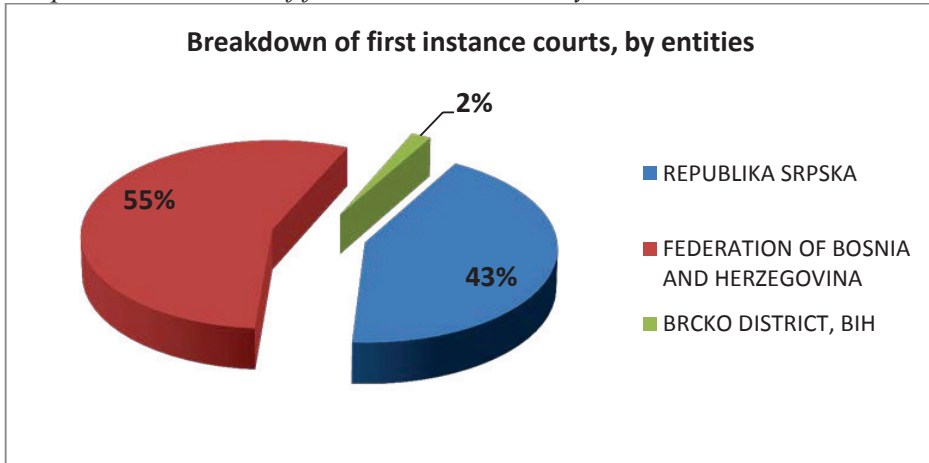
	Number of first-instance courts	Number of judges/associates
BiH	56	852
RS	24	260*
FBiH	31	570
Brčko District	1	22

*\* NOTE: in RS, legal associates do not have the power to adjudicate cases independently, but only under the mentorship of judges, and for this reason they have not been included in the total number of judges/associates.*

<sup>6</sup> Law on Courts in FBiH, FBiH Official Gazette, no. 38/05, 22/06, 63/10, 72/10 and 7/13.

<sup>7</sup> Law on Courts in RS, RS Official Gazette, no. 37/12.

*Graph 1 – breakdown of first-instance courts, by entities*



After a general analysis, the courts were categorized as follows:

- A (1-6 judges/associates, including the President)
- B (7-13 judges/associates, including the President)
- C (14 - 20 judges/associates, including the President)
- D (21 or more judges/associates, including the President)

The classification was conducted pursuant to Article 14 of the Book of Rules on Orientational Measurements for the Work of Judges and Judicial Associates in Courts in BiH, noting that, in addition to this classification, the Basic Court Banja Luka and the Municipal Court in Sarajevo have been treated as a category unto themselves. The classification excluded the Basic Court in the Brcko District, BiH, because there is only one first-instance court in the Brcko District, so it cannot be compared with the courts in the two entities. Note that this classification was developed for the purposes of this Module and does not constitute an official classification

Graph 2 – Overview of courts, by category

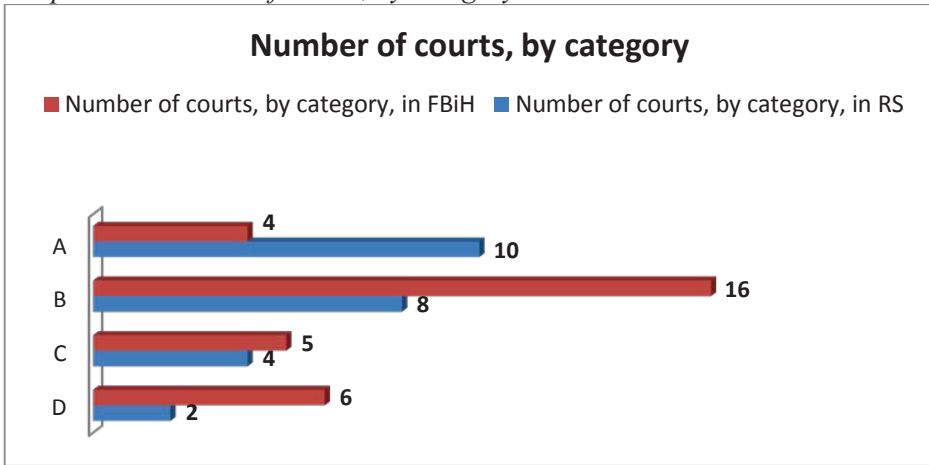


Table 2 – Basic Court Banja Luka and Municipal Court Sarajevo

	Number of judges/associates
Basic Court Banja Luka	56
Municipal Court Sarajevo	128

Graph 3 – Graphic presentation of the number of judges/associates in two first-instance courts

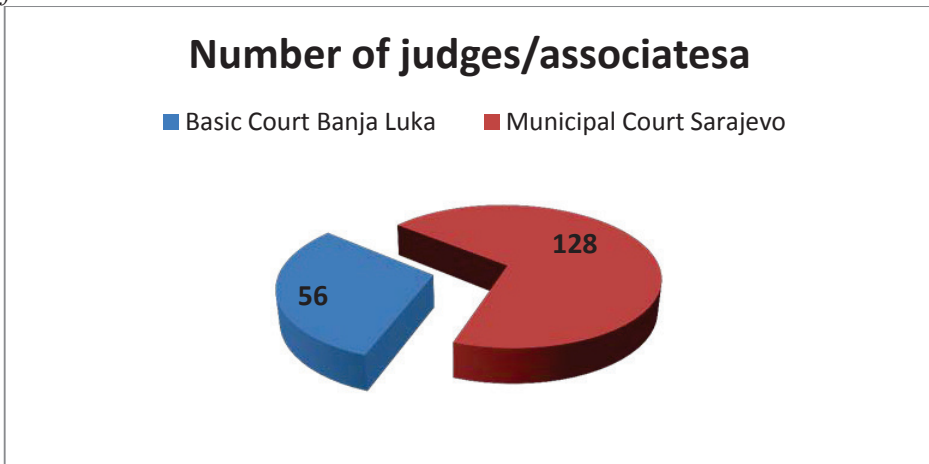


Table 3 – First-instance courts in Republika Srpska

Categories	Number of courts in Republika Srpska, by category
A (1-6 judges, including the President)	10
B (7-13 judges, including the President)	8
C (14 - 20 judges, including the President)	4
D (21 or more judges, including the President)	2

Graph 4 – Graphic presentation of the number of courts in Republika Srpska, by categories

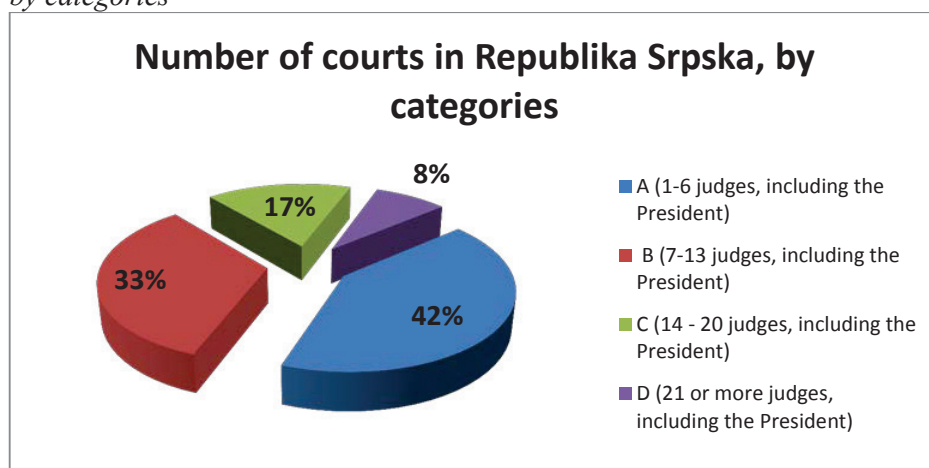
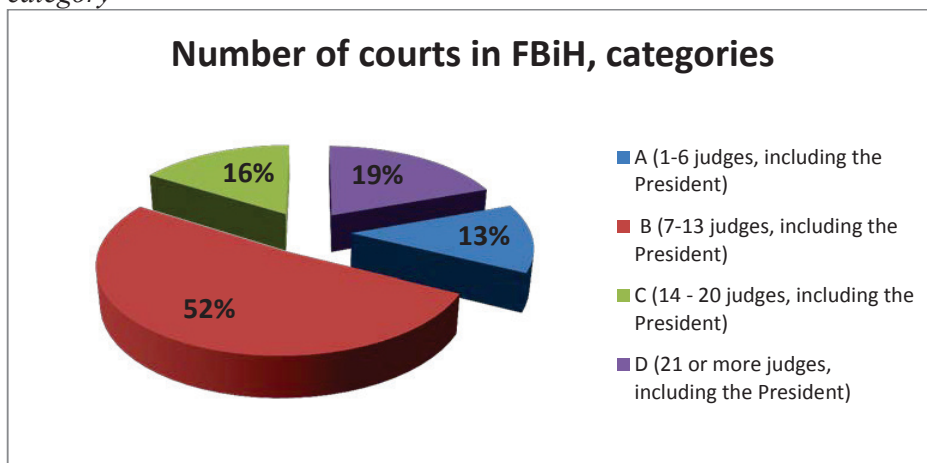


Table 4 – First-instance courts in FBiH

Categories	Number of courts in FBiH, by categories
A (1-6 judges, including the President)	4
B (7-13 judges, including the President)	16
C (14 - 20 judges, including the President)	5
D (21 or more judges, including the President)	6



Graph 5 – Graphic presentation of the number of courts in FBiH, by category



## 1.2 Second-instance courts

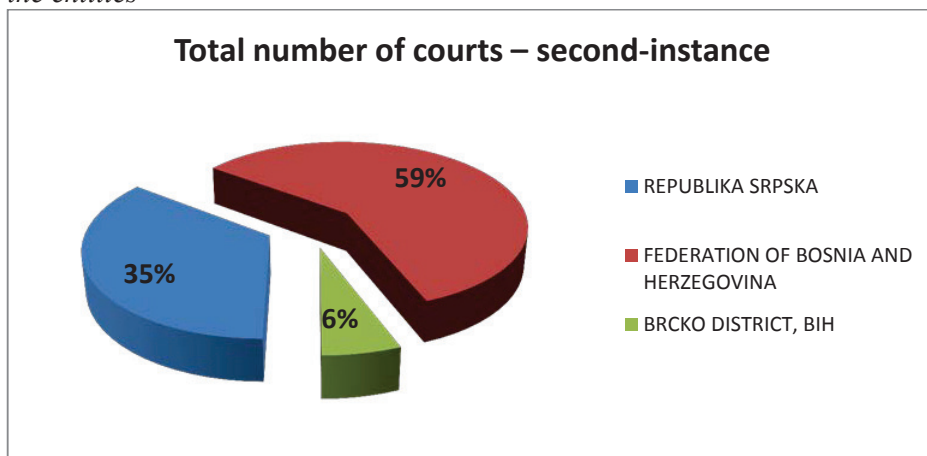
Analysis of the number of judges in second-instance courts in BiH:

- Data collected as of 31st December 2014 from HJPC's Appointment Department.
- The analysis covers only second-instance courts in BiH (cantonal and district courts, the Appellate Court of the Brcko District, BiH and the Higher Commercial Court in Banja Luka).

Table 5 – Overview of the number of second-instance courts and judges

	Number of second-instance courts	Number of judges
BiH	17	247
district courts	5	80
cantonal courts	10	152
Brcko District	1	8
Banja Luka Higher Commercial Court	1	7

*Graph 6 – Graphic presentation of the number of second-instance courts in the entities*



Following a general analysis, the second-instance courts were classified as follows:

- A (1-6 judges, including the President)
- B (7-13 judges, including the President)
- C (14 - 20 judges, including the President)
- D (21 or more judges, including the President)

The classification was conducted pursuant to Article 14 of the Book of Rules on Orientation Measurements for the Work of Judges and Judicial Associates in Courts in BiH<sup>8</sup>. The classification excluded the Appellate Court of the Brcko District, BiH because there is only one second-instance court in the Brcko District, and it cannot be compared with the courts in the two entities. Please also note that this classification was developed for the needs of this Module and does not constitute an official classification.

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<sup>8</sup> Consolidated text – BiH Official Gazette no. 2/14, of 13<sup>th</sup> January 2014.

Graph 7 – Graphical presentation of courts, by category

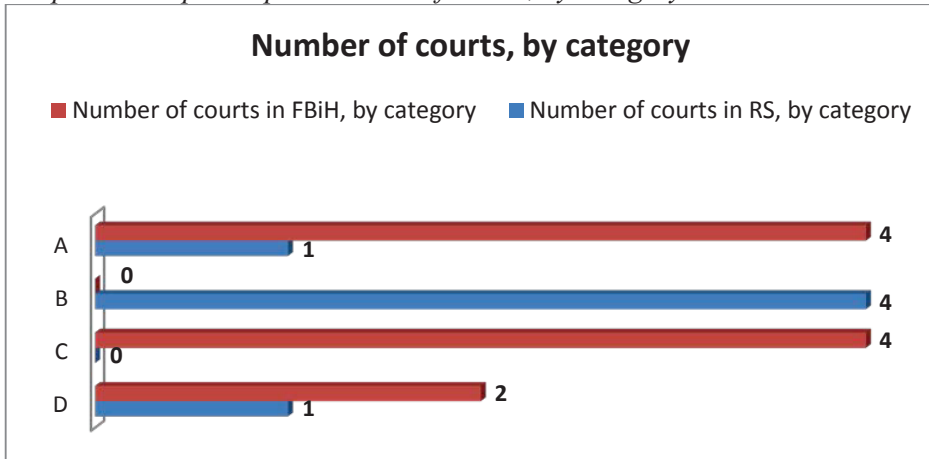


Table 6 – Second-instance courts in Republika Srpska (including the Banja Luka Higher Commercial Court)

Categories	Number of courts in Republika Srpska, by category
A (1-6 judges, including the President)	1
B (7-13 judges, including the President)	4
C (14 - 20 judges, including the President)	0
D (21 or more judges, including the President)	1

Graph 8 – Number of courts by classification (including the Banja Luka Higher Commercial Court)

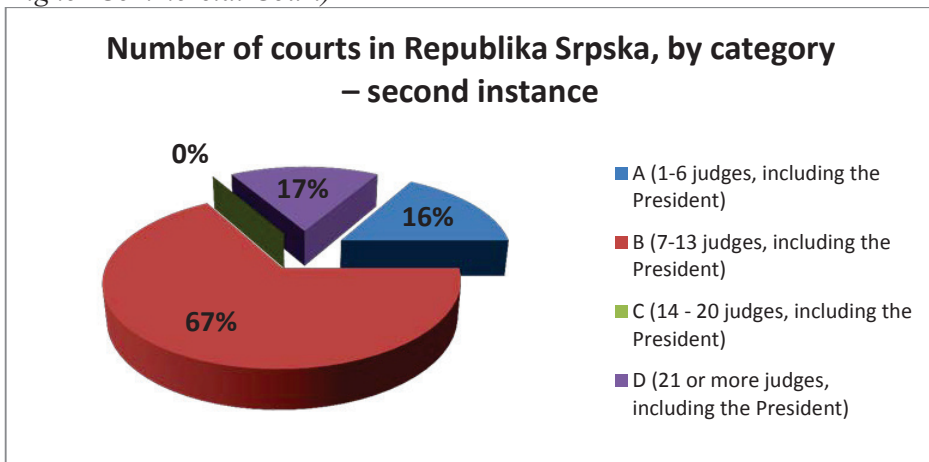
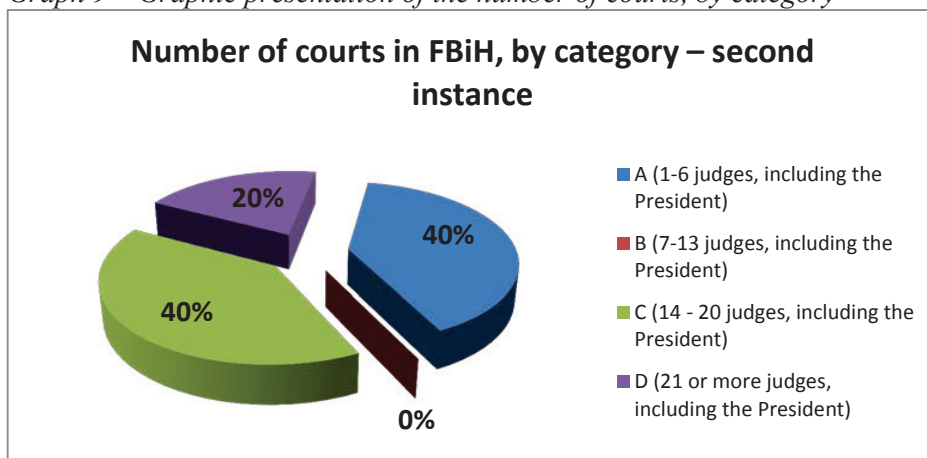


Table 7 – Second-instance courts in FBiH

Categories	Number of courts in FBiH, by category
A (1-6 judges, including the President)	4
B (7-13 judges, including the President)	0
C (14 - 20 judges, including the President)	4
D (21 or more judges, including the President)	2

Graph 9 – Graphic presentation of the number of courts, by category



Internal organization of courts – their structure and operations are regulated by the BiH HJPC Book of Rules on Internal Court Operations (BiH Official Gazette, no. 66/12 and 40/14), and by the RS Ministry of Justice's Book of Rules on Internal Court Operations (RS Official Gazette, no. 9/14). These rulebooks regulate the following:

- court administration
- court administration bodies
- court departments
- internal structure of courts
- processing incoming files
- procedure with case files
- processing case files
- registers and auxiliary books
- document storage and monitoring of file movement
- merging, splitting and renewal of files

- operational reports
- archives
- seals and stamps
- extra-budgetary material and financial operations

The book of rules on internal organization of each court, among other things, further develops and regulates in detail:

- a) basic and internal organizational units of the court, their scope of work and work organization,
- b) management of the court and of its organizational units,
- c) management powers and accountability for performance,
- d) powers of the Court President's Council, i.e. of the General Judges' Session
- e) programming and planning of court activities.

In general terms, a court's internal organization needs to be rational, which implies creation of an efficient organizational structure required for effective performance of tasks and management, with lowest possible costs. It must be functional, meaning: the court needs to be organized in such a way that all operations within its scope of work are grouped and assigned to specific organizational unit in accordance with their nature and mode of operation; that the grouping of the tasks is conducted based on how interlinked and related they are, their type and volume, degree of complexity and on other conditions pertinent for their performance; achievement of full employment and ensuring that the number of employees is set to correspond to the type, volume and complexity of the tasks within the court's scope of work. Lastly, internal organization of tasks in a court must respect the needs of clients to the greatest possible extent.

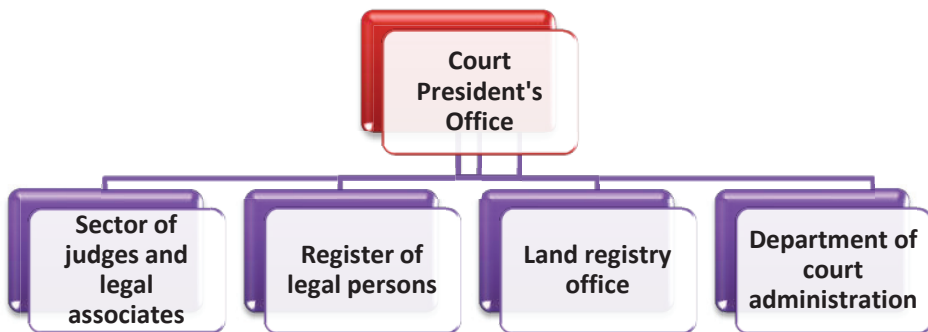
Based on the above principles, the internal organization in the court is set up in a way to ensure, in particular:

- independent, objective, lawful, accountable, efficient and top-notch performance,
- full employment of employees and maximum utilization of their professional knowledge and other working abilities,
- timely exercise of rights and legal interests, enforcement of obligations of physical and legal persons,
- personal accountability for performance,

- effective leadership, as well as coordination and monitoring of performance,
- communicating information about the court's work to the public,
- application of modern work methods and enabling clients to exercise the rights they enjoy on the basis of substantive legislation, or fulfill their obligations, in a prompt and economical manner.

Various basic and internal organizational units are formed within a court.

Basic organizational units are:



Certainly, there will be no land registry office or register of legal persons in basic courts in Republika Srpska. In Republika Srpska, registers of legal persons will operate within first-instance commercial courts.

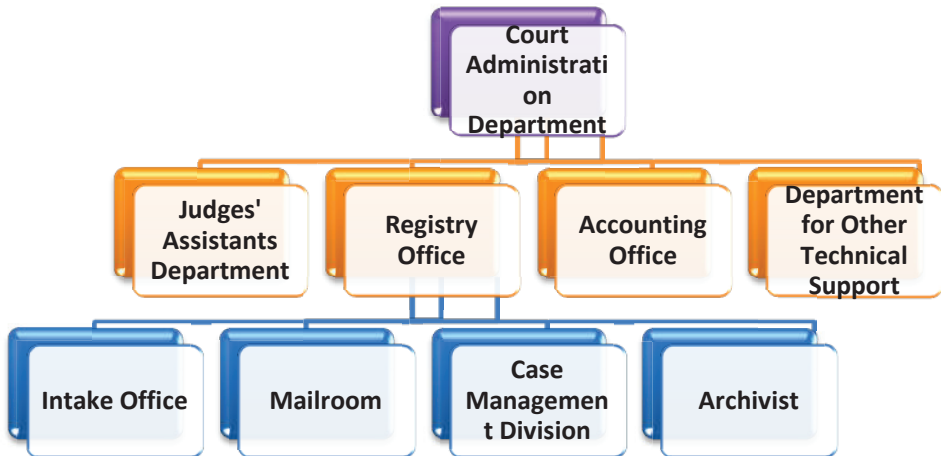
To fulfill the function of adjudicating and ruling in the cases in the same legal field, monitor and study social relations, phenomena and judicial practice issues in the court's basic organizational unit entitled 'the Sector of Judges (and Legal Associates)', the following court departments are established:



The Court Administration Department performs the tasks that ensure the preconditions for proper conduct of court operations, in particular:

- organization of internal operations in the court
- creation of conditions for the work of judges and other court employees
- performance of tasks related to exercise of rights, fulfillment of obligations and responsibilities of judges and other employees, keeping statistics and preparing reports on court operations
- tasks related to permanent court interpreters and expert witnesses
- tasks of authentication of documents intended for use abroad, and other types of authentication within the court's scope of work
- tasks related to complaints against the work of court employees
- tasks related to building maintenance, procurement and maintenance of equipment and other material and technical resources of the court
- tasks related to material and financial operations of the court
- organization of the court's professional sources' library
- tasks related to access to information
- tasks related to participation in the projects that contribute to the implementation of judiciary reform
- tasks related to the obligations towards the BiH HJPC and other bodies and institutions.

The Court Administration Department includes the following internal organizational units:



Court presidents are at the head of the organizational unit of the Sector of Judges (and Legal Associates). They manage the work of all departments of judges (and legal associates). A Court President *ex officio* also directly performs the tasks of coordination of work of all organizational units of the court.

The operations of particular court departments within the Sector of Judges (and Legal Associates) are managed by a Head of the court department, who is appointed by the Court President.

Court presidents run the organizational units for court administration and their own offices. Within the scope of court administration management, a Court President may delegate some of his powers to the Court Secretary or another official or employee in the court administration.

The Head of the Land Registry Office runs the work of that department. He organizes performance of all tasks of the office, distributes work among the office employees and instructs them about the manner of task execution, while at the same time he ensures timely, lawful and proper execution of all tasks within the office's scope of work, he keeps the Court President appraised about the situation and the issues arising within the office's scope



of work. He is directly accountable to the Court President for performance of these tasks.

The Registrar runs the operations of the Register of Legal Persons. He organizes performance of all tasks of the Register, distributes tasks among the Register's employees and instructs them about the manner of task execution, ensures timely, lawful and proper performance of all tasks within the Register's scope of work, he keeps the Court President apprised of the situation and the issues arising within the Register's scope of work. He is directly accountable to the Court President for performance of these tasks, while for the segment of specialist tasks he is accountable to the Judge-Chairman of the Commercial Department.

It has already been noted above that in Republika Srpska there are commercial courts that perform this function, and that there are no land registry offices in the courts in Republika Srpska.

## 2. PLANNING AND DEFINING OF PRIORITIES IN COURT MANAGEMENT

A fundamental time management rule reads as follows:

*„If you do not plan your day yourself, others will do it for you. Their work will become your priority.“*

In court proceedings, time should be used with utmost rationality and efficiency, because the successful completion of the work depends on that. The most important aspect of time management is personal organization and organization of employees. Time management is not mere monitoring and analysis of time spent, but a way to improve both ourselves and the environment through efficient use of time. Efficient time management leads to improved effectiveness in achievement of goals, better balance of personal and professional lives and contributes to timely completion of tasks without unnecessary side effects, such as stress, rushing, accompanying errors etc.

A written plan is the basic and most efficient time management tool. The plan contributes to better personal organization. Such plans may be short-term – daily, monthly, quarterly, semi-annual, annual or long-term.

In effect, planning means defining your short- and long-term goals. Planning requires setting priorities, and the plan segments can also be formulated. Certainly, in courts the priority goal in planning of activities will be to resolve cases in an efficient and professional manner, i.e. to meet the set quotas and achieve high quality of court's work.

Planning also implies monitoring of results, i.e. collection of information on the quality of work performed. This process involves an assessment (and evaluation) of the results of work of judges and administrative staff. Evaluations issued on the basis of such information and analysis should be realistic and stimulating.

An analysis of the current situation in a court provides a baseline for the new planning cycle. Plans serve to improve the performance of the courts. (Thus, for instance, the Backlog Resolution Plan gave exceptional results on the level of the entire BiH, which is illustrated by the datum that, since the start of implementation of the requirement to make such plans in BiH, the number of such cases has been considerably reduced, with over 70,000 oldest cases

resolved every year since 2010 through 2014, i.e. in total over 300,000 cases. In 2014 alone 86,000 of the oldest cases were resolved in BiH).

The first step in planning is an analysis of the situation. In effect, this is a summary of information collected when examining the major issues and setting priorities, during the analysis of the court's internal organization, i.e. identification of the court's internal potential, strengths and weaknesses, and recognized obstacles to the execution of the plan. Such an analysis includes information on the number of unsolved cases, types of cases, expected inflow of new cases etc. Essentially, it is necessary to collect information on the current situation and forecast changes.

Planning permits the courts to carry out their constitutionally- and legally appointed duties. Future activities are planned, priorities are set, resources, both human and financial, are efficiently allocated, and the implementation progress is monitored relative to the adopted goals.

Planning ensures productivity, and courts' annual work plans have become a part of the long-term strategic goal, i.e. fulfillment of the mission of the courts as particular bodies of the state.

The permanent goal, which is realistic, attainable and indispensable, and which should become the long-term strategic goal is to have a fully autonomous, fully independent and maximally efficient judiciary, fully in respect of the rule of law.

The regulations that define the obligations of court presidents (Law on BiH Court, Republika Srpska Law on Courts, FBiH Law on Courts, rulebooks on internal court operations)<sup>9</sup> define tasks a Court President is required to complete within defined timeframes. In addition, specific HJPC instructions, as well as the provisions of other laws, determine the obligations and tasks of court presidents and the timeframes for their fulfillment.

In the next section we will present, in the tabular form, some of the requirements of court presidents pursuant to rulebooks on internal court operations and other pertinent regulations and cite the specific regulation that constitutes the basis for the given obligations, action timeframes and modes of execution of such obligations.

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<sup>9</sup> Law on BiH Court – BiH Official Gazette no. 49/09 and 97/09, Republika Srpska Law on Courts – RS Official Gazette no. 37/12, FBiH Law on Courts – FbiH Official Gazette no. 38/05, 22/06 and 63/10, Book of Rules on Internal Court Operations, adopted by BiH HJPC on 11<sup>th</sup> July 2012 – BiH Official Gazette no. 66/12, Book of Rules on Internal Court Operations adopted by RS Minister of Justice – RS Official Gazette no. 9/14.

## LIST AND TIMEFRAME OF OBLIGATIONS OF COURT PRESIDENTS

Court President's obligations	Legal basis	Timeframe	Mode of execution
Work schedule of judges and employees, monthly duty roster	Book of Rules, <sup>10</sup> Art. 8. pt. g)	By 10th January	Decision – disseminated to judges and employees
Preparation of the Action Overview of Cases and plans for resolution of war crimes cases	HJPC Instruction no. 12-08-368-2/2015 of 22nd January 2015	By 10th January	Filled-in form 1 is submitted to HJPC, Supervisory Body and the judges
Preparation of the Action Overview of Cases and plans for resolution of war crimes cases - quarterly	HJPC Instruction no. 12-08-368-2/2015 of 22nd January 2015	By day 10 of the first month in the quarter	Filled-in form 1 is submitted to HJPC, Supervisory Body and the judges
Reporting of BiH Court on war crimes cases	State Strategy for Adjudication of War Crimes Cases, strategic measures 5 and 9	Continuously, every three months	Information – submitted to BiH Court
Monitoring of resolution of war crimes cases – meetings of departments/councils	HJPC Instruction no. 12-08-368-2/2015 of 22nd January 2015	Monthly, every quarter, by day 10 of the following month	Updated overviews and implementation reports are submitted to HJPC and the Supervisory Body
Backlog Resolution Plan	HJPC Instruction no. 12-50/67/44/2015 of 22nd January 2015	By 31st January, by quarters	Plan – submitted directly to the Superior Court and HJPC

<sup>10</sup> Concerns the Book of Rules on Internal Court Operations, and hereinafter we will use only 'the Book of Rules' if the relevant provisions are the same, which is most often the case.

<b>Court President's obligations</b>	<b>Legal basis</b>	<b>Timeframe</b>	<b>Mode of execution</b>
Monitoring of the implementation of the plans – meeting of departments/councils	- II -	Monthly every quarter	Meeting of the council – department, submission of the minutes to HJPC
Submission of information briefs on plan implementation	-II -	Semi-annually, by 20th July, annually by 31st January	Information brief – submitted directly to the Superior Court and HJPC
Action Plan for Resolution of Bankruptcy Cases and Backlog Resolution Plan of Cases Arising from Bankruptcy Proceedings	Conclusion of the HJPC session on 05 March 2014	10th January 10th June	Semi-annual plan is submitted to the HJPC's Standing Committee for Judicial Efficiency and to the Judicial Efficiency Unit of the HJPC Secretariat
Report on Plan implementation	-II-	Semi-annually by 10th July Annually by 10th January	Implementation report, in tabular format, is submitted to the HJPC's Standing Committee for Judicial Efficiency and to the Judicial Efficiency Unit of the HJPC Secretariat
Report on court performance	Applicable provisions of the Law on Courts and Article 89 of the Book of Rules	Annually by 31st January, semiannually by 15th July, quarterly by 10th day, monthly by 5th day of the following month	Work reports forms and the Narrative Report, semiannual and annual are submitted to HJPC, Ministry of Justice and directly to the Superior Court. Monthly reports are submitted to RS Ministry of Justice
Evaluation of performance of judges and presidents of immediately lower courts	HJPC Instruction	By the deadline set by HJPC	Filled-in forms with evaluations are submitted to HJPC

<b>Court President's obligations</b>	<b>Legal basis</b>	<b>Timeframe</b>	<b>Mode of execution</b>
Evaluation of performance of court secretaries, legal associates, judicial trainees, heads of organizational units and ICT associates, as well as others	Art. 8, Pt. m) of the Book of Rules, Art. 79 of RS Law on Courts	By 31st January	Evaluation decision – delivered to the employee
Preparation of the Budget Proposal (budget proposal for the following year)	Laws that regulate budgets, Law on HJPC	By 01st September	Proposal – submitted to HJPC in line with the guidelines, then HJPC, with its opinion, submits it to the Ministry of Justice
Court budget implementation report	Laws that regulate budgets, Law on HJPC	By end-February	Report – submitted to the Ministry of Justice and HJPC
Convenes general sessions and sessions of the court administration council	Book of Rules, Art. 8, Pt. j)	As needed, at least quarterly	Meeting – the transcript is disseminated to the participants
Meetings with presidents of lower courts	Book of Rules, Art. 9	Semiannually	Minutes are disseminated to participants and to HJPC
Taking action on complaints, suggestions and praises	Book of Rules, Art. 124	Weekly	Decision on establishment of a committee, opening of the box, actions pursuant to applicable law and other regulations
Oversight of enforcement of custody orders	RS Law on Criminal Procedure, Art. 211	Every 15 days	Keeping a ledger, taking steps to alleviate identified irregularities
Execution of penal sanctions	Book of Rules, Art. 102	Monthly	Overview of the records on the execution of penal sanctions – taking appropriate measures

<b>Court President's obligations</b>	<b>Legal basis</b>	<b>Timeframe</b>	<b>Mode of execution</b>
Monitoring of the preparation of court decisions	Book of Rules, Art. 85	Monthly	Every month the Court President receives a report on court decisions prepared with delays, the Court Presidents takes appropriate measures
Inventory list	Laws regulating accounting and auditing	By 31st December	The Court President establishes the necessary committees, after the inventory takes and reviews the reports
Annual Work Program	Book of Rules, Art. 8, Pt. đ)	By 31st December	Written program submitted to judges and employees.

This table presents the obligations explicitly stipulated in the Book of Rules on Internal Court Operations and in other regulations. There are, however, numerous other requirements arising both from the Book of Rules and from other regulations, such as, for instance, adoption of the Book of Rules on Internal Organization and Job Description, adoption of other rulebooks, individual legal documents, orders, instructions and guidelines. Obligations arising from the regulations that cover storage and safekeeping of archival materials, protection from fires, statistical issues etc.

*We suggest, and this solution has already proven sound and appropriate, to use an existing computer software programs-planners (reminders), such as the "Desktop – Reminder 2", for planning, recording and continuous monitoring of performance of above obligations.*

### **3. FUNDAMENTAL PRINCIPLES OF ORGANIZATION OF COURT OPERATIONS**

#### **3.1 Sector of Judges and Legal Associates**

As mentioned above, court departments are established within the basic organizational unit 'the Sector of Judges (and Legal Associates)'. (It has been noted above that this classification of courts has been developed for the needs of this Module and does not constitute an official classification). This primarily applies for larger municipal and basic courts which have been classified above as follows:

C (14 - 20 judges/associates, including the President)

D(21 or more judges/associates, including the President)

This could apply, although not always nor as a rule, to the category B (7-13 judges/associates, including the President). The question whether this type of organization is justified for courts with fewer judges and fewer cases may be reasonably posed.

For the category A (1-6 judges/associates, including the President) of first-instance courts, where, as a rule, a single judge typically covers several different types of cases, it is indispensable to properly consider the justification of the need to form establish court department in the context of the organization and functioning of the court and of real possibility to resolve all the issues typically addressed within departments at the judges' department sessions.

In a litigation department of large courts of category D (21 or more judges/associates, including the President), within some departments even so-called sub departments may be established, due to specialization of judges for certain types of cases. This approach naturally depends on the actual number of cases in the court, which further determines the number of judges assigned to those cases. These are family law, labor law, property law, and small-claims cases.

In a similar way and under the same condition one might consider an enforcement and commercial department in those courts in which, due to the large number of such cases and the number of judges assigned choose some kind of specialization.



With regard to second-instance courts, establishment of court departments is, just as with first-instance courts, mandatory for the courts classified as

category C (14 - 20 judges/associates, including the President)

category D (21 or more judges/associates, including the President)

This would only partially apply to the courts in category B (7-13 judges, including the President), depending on the number of cases for each case type and whether the number of judges is closer to the lower or higher end within the stated range. Here also, just as with first-instance courts, the need to establish court departments in the context of the effectiveness of the organization and functioning of the court and of the realistic possibility to resolve all matters normally addressed within a department at the judges' department sessions.

### **3.2 Court President's Council, Judges' General Session/Peers' College**

The role of the Court President's Council, Judges' (and Legal Associates') General Session – or the Peers' College (it would be good to also include legal associates), as designated by the BiH HJPC Book of Rules on Internal Court Operations, performance of the office of the president of a court department and sessions of court departments, as well as their inter-related functioning, are essential segments of the organization of operations in courts. Their position and powers are regulated by the BiH HJPC Book of Rules on Internal Court Operations, and in the daily life and work this needs to be further specified by concrete internal documents of the court – starting with the Book of Rules on the Internal Court Organization on to specific operational decisions made in the court.

Pursuant to Art. 12 of the BiH HJPC Book of Rules on Internal Court Operations and Art. 12 of the Book of Rules of the RS Ministry of Justice on Internal Court Operations (RS Official Gazette, no. 9/14), the Peers' College or the Judges' (and Legal Associates') General Session has the following powers:

- reviews results achieved in the previous period
- analyzes the situation in each specific case type, by departments
- analyzes unresolved old cases
- analyzes the number of cases assigned to each judge
- analyzes the number of resolved and unresolved cases for each judge
- reviews work on priority cases
- reviews the promptness of the court and of the work of each judge

- reviews working time utilization
- analyzes potential for improvement of work methods
- analyzes implementation of the court's work program and its work report

In a nearly identical fashion, both in the Federation of Bosnia and Herzegovina and in Republika Srpska, the laws on courts stipulate convening and holding the Judges' General Session, which is convened 'when so required by the rules of the court procedure'. For the time being, in both entities the laws on criminal procedure stipulate that the General Session decides about recusal of judges, and the extended General Session of the Supreme Court 'takes principled positions on matters pertaining to application of laws'.

Due to the fact that the Peers' College (General Session) is a body of the court that meets quarterly, and that in larger courts there is a need for a nimbler body that will function between the session of the Peers' College, this could be the Court President's Council, which is tasked with monitoring, planning and strengthening the work of court departments, and particularly with the analysis of how promptly the backlog is handled and how effective the court operations are.

The need to hold the sessions of court departments, such as the mini-Peers' College (Judges' General Session) emerges as an important element of the organization of the work of judges, and in these sessions all matters of importance to the department and that are specifically listed as within the scope of work of the Peers' College (General Session) need to be *discussed*.

The experience shows that a combination of activity of the Court President's Council, Peers' College and court departments in larger courts yields good results, and it should be used in the organization of court operations to the maximum possible extent.

In smaller courts, and particularly in the smallest ones, the role of the Peers' College is indispensable and it should unite all those functions which the Court President's Council and the court department sessions may share in larger courts.

A primary element of a very important principle of court organization involves the segment that relates to responsibility and monitoring/oversight of performance of specific functions and activities in the court, which will be discussed extensively below.

## 4. MOST FREQUENT MISTAKES IN COURT ORGANIZATION

### **Mistake no. 1**

*'Mother'* of all mistakes is the lack of a developed standard of monitoring/oversight of the performance of specific (programmatic and operational) activities. Therefore, this is an omission of the Court President even at the level of the basic principle of organization of court operations. Certainly, even the failure to implement such standards also constitutes a major mistake.

### **Mistake no. 2**

Furthermore, some court presidents appoint heads of court departments although, objectively, the small number of judges and judicial associates, and therefore small number of cases do not provide justification for it. In such cases, as a rule, heads of court departments are rotated every year, so that over a certain period of time all judges could receive the salary portion belonging to the department head.

This causes major organizational failures, as well as injustice towards the heads of court departments in larger courts, particularly those where the number of judges and cases per department is higher than in the entire court where this practice persists. Moreover, even the overall functioning of such an organization becomes questionable, from the standpoint of organization of the operations of the court department and the tasks it is supposed to perform, particularly in the segment of the role of the Judges' Council and of conducting monitoring/oversight in the court.

### **Mistake no. 3**

Assigning a judge to work on a particular case type primarily to respond to that judge's wish rather than due to justified reasons for such an assignment may be a mistake with grave consequences. A mistake that regularly leads to considerable consequences for the court's performance, but also for the rights of parties to have trials within a reasonable period of time is a court president's failure to react in a timely fashion to possible needs for changes in the assignment of judges and judicial associates to specific case types due to objective reasons – such as longer sick leaves, cessation of employment of judicial officials, major changes in the number and composition of cases within particular case types.

**Mistake no. 4**

Disregarding the role of the Court President's Council, Judges' Council, failure to use or insufficient utilization of the function of the judges' department sessions, and possible errors on the part of the department heads may have major negative consequences for the overall functioning of the court

As noted above, the prescribed role of the Court President's Council, Judges' Council, exercise of the office of the heads of court departments and judges' department sessions, as well as their failure to function in an interlinked fashion are the central point of the organization of court operations. Potential errors, or a failure of this chain to function lead to major mistakes that are not only organizational in nature, but also affect daily court operations.

## 5. EFFECTIVE PLANNING OF COURT OPERATIONS

Successful time management requires understanding of time as an operational and business resource, as well as of the need to organize it and plan effectively.

Therefore, planning is both a need and a requirement for any organized structure, including judicial bodies, i.e. courts. Planning guides operations, explains the institution's mission, vision and goal.

When making plans, setting goals is the fundamental issue: why is something done and what one wishes to achieve. Then it is necessary to define precisely which activities will be taken. Next, it is necessary to define how, with whom and with what the planned activities will be carried out. Lastly, attained goals need to be controlled, which constitutes an essential, final element of every planning.

Each court is required to submit an annual work program, a backlog resolution plan, a budget plan, while individual courts, depending on their jurisdiction, may also need to adopt an action overview of cases and a plan for resolution of war crimes cases, as well as an action plan for resolution of any unresolved bankruptcy cases, as well as a backlog resolution plan for cases arising from bankruptcy procedures.

In carrying out of its function, the court may adopt other plans as well. For instance, some courts adopt a plan of holding meetings at the court etc.

### 5.1 Annual work program

A basic duty of the Court President, stipulated by the Book of Rules on Internal Court Operations is to adopt annual work programs (work plans). As needed, this program includes a program of resolution of cases from preceding years (Art. 8, Pt. đ)), In addition, the court's obligation is also to develop a backlog resolution plan, as well as the plans for resolution of war crimes cases for the courts with such jurisdiction.

#### **The work program should include:**

- duties and tasks that follow from legal provisions that define the subject-matter and local jurisdiction of this court,

- number of unresolved cases from the previous year and expected inflow of cases in the coming year,
- manner of resolution of old cases, if there are such cases,
- other duties and tasks it should perform within its scope of work,
- timeframes for performance of specific duties and tasks, including persons responsible for execution,
- information about the number and composition of employees in accordance with the job systematization, who will be directly involved in implementation of the work program,
- resources required for implementation of the work program and
- other matters of import for court operations.

It is of great importance to define in the work program the goals to be achieved in the year covered by the work program, e.g. if the court is up-to-date with its caseload, then the goal may be to keep the court up-to-date, i.e. to address all incoming cases during the year. If the court is not up-to-date, then the goal may be to reduce the number of unresolved cases by all case types by a certain percentage, and targeted percentage reduction in the number of unresolved cases during the year may vary for different case types.

To prepare a court's annual work program, the baseline is the number of unresolved cases as of the end of the previous year, with the analysis of the situation by case type, by the kind and age of cases. Such an analysis includes estimates of expected inflow of cases, which is normally obtained through the so-called historical approach for a certain preceding period. Second-instance courts prepare these estimates by assessing the status of cases at lower courts. In this fashion, a total number of cases that would be in procedure during the period can be forecast.

To ensure successful planning, it is necessary to consider the total number of staff (number of judges and administrative staff) and to distribute court work appropriately. It is important to correctly establish the percentage of allocation of cases on the basis of CMS in the given year and to assign administrative staff appropriately to ensure full efficiency in the performance of operational tasks.

A basic element of any plan is the goal, which is in our case related to the need to reduce the number of unresolved cases, while ensuring that the court's actions are efficient and meet high quality standards.

A plan defines timeframes, modalities of plan execution and monitoring (monitoring of implementation).

An analysis of plan implementation and reporting is a way to establish whether the intended goal has been achieved, to identify possible errors and shortcomings of the plan and to reaffirm the plan's beneficial effects. Naturally, the court's annual work report provides a comprehensive analysis of the plan's implementation. In addition to the report with statistical data on the work of the courts, a narrative report is also prepared, which allows the court's performance to be better understood. In accordance with HJPC guidelines, such a narrative report should include:

- a look at the organization and staff complement of the court,
- fulfillment of the quotas in the reporting period,
- attained level of quality,
- results in regard to resolved and unresolved cases,
- comparison of the inflow and resolved cases relative to the previous period,
- possible significant changes in the number of unresolved cases,
- results in the work on old cases,
- duration of court procedure,
- results in the work on war crimes, corruption and organized crime cases,
- information about lapsed cases,
- information about the internal measures taken to prevent sexual and gender-based harassment (guidelines adopted by HJPC in February 2015),
- planned measures for improvement of the situation in the court.

## **5.2 Backlog Resolution Plan**

Preparation of the plans for resolution of cases is regulated by the Instruction for Preparation of Plans for Resolution of Cases in Courts,<sup>11</sup> which defines in detail the methodology of the preparation of the backlog resolution plan, monitoring of the plan's execution, involvement of court presidents and the responsibility for the plan's implementation.

The use of the CMS system has an enormous significance in the preparation of the backlog resolution plan, as it provides maximal support for drafting a comprehensive and precise backlog resolution plan. Also, CMS system permits effective monitoring of the plan's execution.

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<sup>11</sup> The Instruction adopted by BiH HJPC, no. 12-50-67-44/2015, of 22 January 2015

### **5.3 Action overview of cases and plan for resolution of war crimes cases**

The Instruction on Monitoring of Resolution of War Crimes Cases in Courts<sup>12</sup> regulated the obligation of the courts to prepare action overviews of the work on war crimes cases, the manner of preparation of the plan, contents of the action overview, responsibility, modalities of monitoring of the resolution of war crimes cases, reporting and other matters of import for resolution of war crimes cases. The action overview for „K/Kri“ cases is compiled annually, while the case resolution plan for „Kps/Kro“ and „Kž/Krž“ cases is prepared on the quarterly basis. The courts are required to submit completed forms as stipulated by the Instruction to the Standing Committee for Judicial Efficiency and the Supervisory Body for Monitoring and Implementation of the State Strategy for Work on War Crimes Cases by 10<sup>th</sup> January, while the courts that adopt quarterly plans for resolution of cases are required to submit them no later than on the 10<sup>th</sup> day of the first month of the quarter for which the plan is prepared. The courts that adopt annual plans are required to prepare them by 10<sup>th</sup> January of the current year. The Instruction further regulates the responsibility for monitoring the resolution of war crimes cases, and for reporting on the resolution of these cases.

### **5.4 Action plan for resolution of bankruptcy cases and Backlog Resolution Plan arising from bankruptcy procedures**

The BiH HJPC conclusion adopted on the session of 05th March 2014 established the requirement for the courts with the jurisdiction to adjudicate bankruptcy cases to prepare action plans for resolution of each particular bankruptcy case, and for the courts in which the cases were initiated that arose from bankruptcy proceedings to prepare plans for resolution of these cases. The backlog resolution plan arising from bankruptcy proceedings includes all unresolved cases of this kind, regardless of the date of the initial act. The backlog resolution plan includes information on the number of cases, the judge, the case origination date, the stage which the case reached, as well as the notice whether the case is planned for resolution in the reporting period.

### **5.5 Budget planning**

An adequate budget of judicial bodies would considerably strengthen independence of the judiciary. On the other hand, the shortage of funding constitutes a significant obstacle to court efficiency. It is not rare that for some courts the postal service will refuse to continue providing mail service because of non-payment of previous bills, or that the provision of basic utility

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<sup>12</sup> The Instruction adopted by BiH HJPC, no. 12-08-368-2/2015 of 22<sup>nd</sup> January 2015.



services to the courts (water, electricity, phones etc.) is brought into question. Old accumulated debts to expert witnesses or court-appointed attorneys are a separate problem. Debts from earlier years are a grave burden on the current court budgets. The funding shortage is often reflected also on the inability to add new ordinary judges and employ additional judges, which is, from both mathematical and logical standpoint, nearly the only way to reduce the case backlog.

At present, the judiciary in Bosnia and Herzegovina is funded from 14 different sources. The BiH Court is funded from the budget of BiH institutions, the courts in RS are funded from the RS budget, the FBiH Supreme Court from the FBiH budget, other FBiH courts from cantonal budgets, and the Brcko District court from the budget of the Brcko District. Budgetary issues are regulated by multiple regulations: the Law on HJPC, Law on BiH Court, Law on Courts in FBiH, Law on Courts in RS, Law on Courts in BDBiH, Law on Budget in FBiH, Law on the RS Budget System, Law on Funding of BiH Institutions and the Law on Budgets of BDBiH.

Such fragmentation certainly causes imbalances in the allocation of funds, and certainly does not contribute to complete independence of the courts. Lastly, inadequate funding of the courts impacts efficiency. According to the 2014 BiH Progress Report, for the judiciary sector it was noted that, due to budgetary restrictions, it was not possible to fill 13% of planned positions for ordinary and additional judges or prosecutors in Bosnia and Herzegovina.

Planning of budgets and drafting budget proposals are the measures that should contribute to implementation of other plans for court operations.

A provision of Art. 17 of the Law on HJPC stipulated that BiH HJPC, at its own discretion, takes part in the process of development of annual budgets for courts and prosecutor's offices, that it defends adequate and continuous funding for courts and prosecutors' offices in BiH, and that it monitors and advises the courts and prosecutors' offices on appropriate and effective techniques and procedures concerning the budget, management and administration. Pursuant to the abovementioned provision, HJPC provides the courts with budget guidelines for planning required resources, i.e. for the drafting of budget proposals for the following year and these guidelines represent a recommendation regarding budget planning and a form of assistance to the courts in preparation of their budget proposals. Each court will assess its own need for budget funding for court operations in the coming year, and HJPC guidelines will certainly be a useful remedy in that process. The court is required to explain in detail the differences in its own

estimate relative to the estimates provided in HJPC guidelines. When planning its needs for budget funding, each court will take into account the data on the number of employees, envisaged expenditure for employee compensation (outlays for gross salaries, in annual terms, outlays for gross cost reimbursements and other employee personal income), expenditure for procurement of goods and services and a request for fixed assets.

The proposal needs to state and describe both general and specific needs related to the strategic goals of each particular court (broadening of the systematization, need for additional judges, enhancing the conditions in the courts etc.). A realistic budget request, approved without amendments or reductions, would constitute an ideal situation for achieving the main goal – totally independent judiciary as an equal part of government authorities.

When a court prepares an estimate of needed budget funding for the functioning of the court in the next year, it is then submitted to the HJPC's Judicial Budget Department for a response. After the HJPC response is received, it is submitted on to the responsible ministry, along with the proposed next year's budget.

The Court President should play an active role in preparing the court's plan of needed resources, he should consider all aspects of the court's needs in the coming period, envisage potential needs for increased budget funding in specific line items, to insist on allocation of funding for additional judges, if that is really necessary.

In this entire process, one's goals should be realistic, but there should be no shrinking from insistence that such a realistic budget proposal be approved, because this is the only way to create precondition for implementation of other plans in any court's operations.

## **6. COMMUNICATION AND WORK WITH COURT STAFF**

Communication is a process of targeted and easily understandable transmission of messages, ideas and signs between human beings. As here we deal – primarily – with transmission of operational and specific professional messages, it is clear that efficiency and effectiveness of this process constitutes the very core of functioning of any organization.

The books of rules on internal court operations<sup>13</sup> envisage requirements and instruments for both internal and external communications in the courts. For instance, in the provision of Art. 8, Para 1, Point k) of the Book of Rules stipulates the duty of the Court President to chair the proceedings of the Court President's Council and the Judges College, to convene the General Session and the Session of the Court Administration College, pursuant to the Internal Court Communication Plan and the established needs. The provision of Art. 10, Para 1, Item i) of the Book of Rules stipulates the duty of the Court Secretary to hold regular meetings with the heads of the court's organizational units to plan court operations. Duties of court department heads are also stipulated, as are the other forms of internal communications, as well as the forms of external communications.

All these activities need to be covered by the Internal and External Court Communications Plan. Banja Luka District Court adopted and published on its Website its Internal and External Communications Plan, which we used in this report, with minor modifications, and we recommend it to the courts as a good example.

Internal communications function permeates all aspects of an organization's activities, in our case – the court. It conveys to the employees clear messages about their duties and performance and is vital for the decision-making process. Information need to flow on the daily basis and be precise, aligned both with the organizational structure and the cultural principles.

Motivation helps achieve enhanced efforts of individuals or the group to achieve best possible job performance. In this regards, the management is

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<sup>13</sup> The Book of Rules on Internal Court Operations (Republika Srpska Official Gazette, no. 9/14, of 17<sup>th</sup> February 2014), the Book of Rules on Internal Court Operations (BiH Official Gazette, no. 66/12 of 27<sup>th</sup> August 2012).

expected to define the goals with precision, to establish a clear system of remuneration and create favorable working environment.

Through the established communications system, through both formal and informal channels, employees receive messages about the conduct expected within the organization. Monitoring clearly determines the status within the communications system, identifies and eliminates obstacles and examines the roles and responsibilities of various levels of management.

It is of utmost importance for the process of operational communication to function properly and continuously. Organizational communication is particularly important, and it is defined as *'a process of creation and exchanging messages within a network of interdependent relationships to help mitigate environmental uncertainties'*. In other words, organizational communication concerns the manner in which people communicate within a given organizational context.

### **Goals of communication:**

1. support and promote the mission, vision, goals and values of the court, to enable it to perform its tasks within the judicial hierarchy,
2. motivate and preserve trust and cohesion of court's employees,
3. ensure that all employees know, understand and act in accordance with agreed rules, principles and values of communication,
4. make accessible the rules, principles and values which are the bases for the communication in this court.

### **Advantages of effective communication**

1. greater efficiency in performance of entrusted tasks
2. employees become more willing to embrace the need for change
3. increases motivation and dedication of employees
4. improves relationships and understanding among employees
5. motivates people to become involved in the organization
6. keeps people up-to-date and
7. helps people understand the need for changes.

In the case of the court, good communication achieves fast and efficient mitigation of shortcomings in order to ensure highest-quality performance. It is of high importance for all employees to know, understand and conduct themselves in accordance with the rules and principles of communication.

## 6.1 Forms of communication

There are three forms of formal communication:

- 1) Top-down communication
- 2) Bottom-up communication
- 3) Horizontal communication.

**Top-down communication** flows from the top down, from the Court President through the Court Secretary and department heads to the managers of organizational units. The top-down communication channels should inform, persuade, explain, fascinate, guide and push to action. Other communication mechanisms (bottom-up and horizontal) cannot efficiently function without successful functioning of top-down channels *Examples of messages communicated in this manner include: **task instructions, additional clarifications, procedures and practical information.*** Top-down communication typically occurs at open meetings and/or staff briefings.

- a) Open meetings are organized to inform staff about key tasks, important issues or to announce/present impending changes. Such a meeting is typically chaired by the Court President, but in particular situations other members of the management team can do it as well.  
**Here are some advantages** of open meetings: employees get a sense that managers value them sufficiently to talk to them directly, respond to their questions and provide feedback; decision-makers receive first-hand information, i.e. have direct contact with employees.  
**Some of downsides** of open meetings are that some people are hesitant to ask questions in such meetings; the questions that are posed are frequently personal in nature and concern less vital aspects of the work etc.
- b) **Briefings may be organized** by the Court President, Court Secretary, department heads, and managers of organizational units. Such meetings typically deal with problems and staff performance. They are often a way for a manager to swiftly inform the staff about important issues, and to incorporate their views into the process. Staff are keener to receive information and tasks directly from their immediate superior than indirectly.  
**Advantages** of briefings are that they create more opportunities for two-way communication than open meetings; information may be reformulated to meet the needs of particular teams; most people feel less constrained when they ask question; regularity of briefings gives people confidence that they are getting the full story etc.

**Bottom-up communication** is the transmission of messages from lower to higher levels, i.e. communication initiated by subordinates with their superiors. Types of messages that are passed through this form of communication typically concern performance, job-related issues, relations with colleagues etc.

- a) **Visiting employees at their work stations** represents a rather efficient form of interaction of managers with employees. In this way, their wishes and needs can be known in the fastest way. This type of communication permits direct contact with the manager. In such communication, employees feel more appreciated, which carries considerable motivational force.
- b) **Meetings with staff representatives** are mostly used in complex organizational units with large numbers of staff, where a manager cannot directly interact with front-line employees.

**Horizontal communication** is applied for resolving problems and distribution of information between workgroups, departments and teams. Court presidents/court secretaries/managers of organizational units ensure team coordination by initiating and encouraging horizontal interaction.

This form of communication reduces administrative costs and loss of time, reduces the possibility for potential misinformation, and permits application of lessons learnt in one part of the organization in another. Effective horizontal communication also prevents duplication of efforts or non-completion of tasks, which happens when people mistakenly assume that defined tasks will be performed by someone else, i.e. that they would be performed by another organizational unit.

Understanding of these basic forms, manners and processes of communication is a key indicator of success in exchange of information among the employees in the organization. Good internal communication is not just a reflection of successful policies and good personal relations, but a precondition for smooth operation and continuing development of the organization.

In particular, employees should be regularly informed about ongoing and planned changes. Also, through specialized courses and training programs they should be taught about current forms of information transfer.

Enhancement of the communications system implies defining the existing state of the system, identification of obstacles, choke points and deformations

in the communications process, with an analysis of key barriers. Enhancement of internal communications may be achieved also through changes in the organizational structure in the sense of combination of existing or creation of new channels of communication. It is essential that the organization is aware and implements latest techniques and technologies, because that is a precondition of efficiency and effectiveness of the communications system.

## **6.2 Internal communications**

Internal communication contributes to better management and monitoring of the implementation of goals and planned tasks of the court.

This form of communications depends on the Court President, Court Secretary, Public Information Officer, ICT department, which creates technical preconditions for some forms of communication, but also on other staff.

### **Court President**

- Manages court operations and represents the court before other bodies and organizations;
- Convenes and chairs the meetings of the Court President's Council, which includes the Court President and heads of court departments. The purpose of these meetings is to monitor, plan and enhance the operations of court departments, and particularly to analyze whether the court operations are up-to-date and efficient, by department and on the level of the entire court.
- Manages the work of the Judges' College.
- Convenes and chairs the Court Administration College, which includes the Court President, Court Secretary and the managers of the court's organizational units, in order to monitor, plan and enhance the operations of the court administration.
- As needed, convenes and chairs the General Session, composed of all judges in the court, to deliberate on issues as defined by law.
- As needed, holds meetings with all court employees. Such meetings will address all current issues related to the court's operation, and particularly the matters of workplace discipline, interpersonal relations in the court, treatment of clients and other parties in the judicial procedure by the employees whose duty is to come into contact with such parties *ex officio*.

Minutes will be kept of all above mentioned sessions and meetings.

A copy of the minutes will be disseminated to participants in such meetings.

### **Court Secretary**

The Court Secretary has a vital role in the internal communication process. The Court Secretary holds meetings with such court employees whom he manages directly. In such meetings, the current issues related to the work of court employees are discussed, performance and fulfillment of the tasks for the preceding period are analyzed and future tasks and obligations are planned.

In the course of the year, the Court Secretary organizes extraordinary staff meetings, as needed.

The Court Secretary daily maintains good internal communications with court employees by telephone, email or through direct contact.

The Court Secretary informs the Court President in writing about the meetings held.

### **Heads of court departments**

As needed, the heads of court departments hold meetings with the judges in their departments. These meetings cover the issues related to the work in the department, lawful and timely performance of tasks, status with regard to particular case types, periodic reports about the numbers and types of newly received cases, cases in the procedure, resolved and unresolved cases, and particularly about old unresolved cases (following the criterion established by the HJPC Instruction from 2005), about the reasons for delays in their resolution, about the implementation of the program of resolution of old cases, about the quality of work of the department's judges, about the degree in which the work of the department's judges is up-to-date, about the harmonization of judicial practice among different judges and colleges, about measures for better, more efficient and more up-to-date work of the department, about application of laws and other regulations, about starting initiatives for amending them, about the need to procure legal literature, about the choice of topics for training of judges, judicial associates and court interns and about other issues that may be resolved within the department.

The minutes of these meetings are kept and electronically shared with the Court President.

### **Managers of internal organizational units**

Managers of internal organizational units hold regular monthly meetings with all employees or with one part of the internal organizational unit they manage. In these meetings, performance of all employees in the organizational unit, or its segment, the operation of the internal organizational unit or a part of the organizational unit, are analyzed,



problems that occur in the work are raised and measures proposed to overcome existing problems in the work, all in order to further enhance operation and functioning if the given organizational unit within the court as a whole. The managers of internal organizational units are required to advise the Court Secretary (or Court President) in writing about the meeting and the conclusions adopted.

### **Public Information Officer**

The Public Information Officers responds to inquiries of concerned external parties (journalists, institutions, citizens) regarding the information about the work of the court, and from the court activities, and which, pursuant to the Law on Freedom of Information, may be made accessible to the public. He maintains regular contacts with court employees through email, telephone or direct contact. His task is to pass available information to the court's ICT Department so that they would be published on the court's Internet site.

## **6.2.1 Fors of internal communications**

### **Meetings**

Staff meetings should have an agenda prepared and published in advance, and feedback in the form of written minutes. The agenda for each meeting includes the title and the order of agenda items, goals of the meeting and anticipated duration, as well as the names of the presenters for the main agenda items.

### **Bulletin**

At least semiannually, the court **should** publish a bulletin with professional articles on particular legal fields, or from judicial practice. The bulletin is printed, and also **published** on the court's Internet site.

### **Committees, working groups and expert teams**

As a form of work and of horizontal communication, ad hoc committees, working groups and expert teams will be established in the court as needed. Such committees, teams, and working groups shall regularly and transparently report about their activities to the Court President, responsible bodies and, where pertinent, the general public as well.

## **6.3 External communication**

The main purpose of external communication is to improve the communication of the court with interested bodies, organizations, citizens and all other interested parties, and to enhance the image of the court as an open with modern organization.

The goal is that all these parties need to be timely and adequately informed about court's activities and that the parties, lawyers and media representatives are satisfied with the work of the court.

The manner of public communications will constantly be developing, while **it should be a topic of debate at the court at least once a year.**

### **6.3.1 Forms of external communication**

This communication shall be established in multiple ways: by means of message boards and through the court's Internet site, with timely and relevant information about the work of the court. Direct contacts with the media representatives (press-conferences, interviews etc.) will also be used as a special form of public communication.

It is common that the Public Information Officer maintains contacts with the media, but other court employees may do so, with the approval of the Court President.

#### **Brochures**

Available brochures about the work and organization of the judiciary shall be placed at the accessible points in the court.

#### **Court notice board**

The contents of the court board shall be updated regularly.

The Court Secretary and the Public Information Officer are directly **responsible** for the selection of the contents published on the notice board, as well as to ensure that the information published is current.

#### **Internet site**

The Internet site shall provide all relevant information and documents related to the work of the court. This includes links and relevant documents for the work and reform of the judiciary. The development of the site will be in the charge of a team appointed by the Court President, which would include the Public Information Officer, a group of judicial associates and employees at the ICT department, to provide technical support.

#### **Duties of Court President**

The Court President will periodically initiate meetings with the responsible ministries of justice, members of HJPC, Judicial Commission, Prosecutor's Office, Bar Association, Notaries' Chamber, and Centers for Training of

Judges and Prosecutors, the Center for Social Work and other bodies and organizations, in order to inform these parties about the work of the court.

As needed, the Court President will establish cooperation with court presidents of lower courts in order to exchange experiences and improve efficiency of performance of court administration tasks, observe legally mandated deadlines, processing of old cases, operation of the land registry offices, execution of penal sanctions, oversight over enforcement of custody decisions and about other issues of import for lawful and proper functioning of the courts within their jurisdiction.

The minutes from such meetings shall be distributed to participants, HJPC, responsible ministry of justice and the Judicial Commission.

## **7. COMMUNICATION AND WORK WITH CLIENTS**

Courts exist to clients and citizens and therefore communication and work with clients matter. To this end, all courts should constantly strive to enhance the quality of communications, increase the level of accessibility of information about the work of the court, and build confidence and positive perception about the court's work in the public. The court has a legal obligation, as well as the power, to make its work more open to the public in general, and in particular toward its clients.

Poor communication creates negative perception among citizens, creates false expectations, diminishes confidence in objectivity and fairness of the court and causes problems for both clients and the courts.

Lawful, accountable, independent and objective process, with full respect for other parties, is the essential precondition for communication and work with clients.

There are several factors of importance for good communication between the court and the parties, i.e. citizens:

### **Location, physical form of the court building, interior arrangements in the court**

A prestigious location, adequate and well-designed building and suitable interior decoration constitute essential conditions for the successful work of judges, but also for the reputation of the court, as an institution citizens should trust.

### **Court employees**

#### Information desk clerk

The first court employee a client encounters is the Information Desk Clerk, or in some courts the doorkeeper – receptionist. Certainly, the first impression that the client, or a citizen, gets in the contact with the court is very important, which is why the Information Desk Clerk should direct the client in an appropriate manner, provide correct and precise information that are of help for clients in citizens to exercise their rights.

### Registry clerks

In the great majority of cases, the party will come into contact with the clerks in the Registry. For this reason, Registry clerks must be appropriately trained for proper approach and contact with clients. Clients must receive correct and precise information.

### Other court employees

They also must pay attention, when in contact with clients, within their scope of work that the court exists to serve clients and citizens and that, within their scope of work, they need to provide required information. Pursuant to the Rules of Order, they must be properly dressed, wear tags with their names and positions, and treat clients courteously.

### Court President – client communication

It is a common practice that the Court President will receive clients during publicly announced hours. In our view, this is a good practice and an obligation of every court. The process is, in truth, easier for court presidents in smaller communities than for court presidents in the courts with large numbers of cases and judges. However, certain mechanisms, 'filters', can be put in place, such as written request and prior announcements of client visits, and the visits can be approved only in justified situations. The practice has shown that in this way the Court President receives certain information about the problems of the parties, which should and can be addressed, as well as knowledge of other problems present in the court that need addressing.

### Internet access to court files

The Web-based service '*Access to Court Files*' provides users with information on the course of the proceedings via the Internet. At the court's Registry, a party can verbally request a single access code, or it can mail a request to the court and receive a notification of issuance of the single access code, containing the court case file number, the single access code and the web address for access. This system provides the parties with full insight into the course of the court proceedings without the need to come to the court.

### Court's Notice Board

Courts' notice boards serve for presentation of court decisions, announcement of court decision and notifications in line with procedural laws. The boards are used to provide information intended for the public, standards for treatment of clients, information about legal aid, lists of expert witnesses and court interpreters, trial schedules, as well as other information vital for clients and the public. The Instruction on the Manner of Filing Complaints against the Work of the Court are also publicized on the notice board.

### Court's Internet site

Within the judiciary web portal [www.pravosudje.ba](http://www.pravosudje.ba) there are web pages for all courts. The web pages are an important instrument for communication with clients and the public in general, but they should be, above all else, up-to-date and comprehensive, to ensure that all necessary information on court operations are presented adequately.

When publishing court decisions on official court web pages, it is necessary to adhere to the HJPC Guidelines (of February 2014), which state the basic principles, as follows: collection of personal information, quality of personal information, protection of information, transparency and openness, protection of interests of children and minors, protection of interests of witnesses, protection of interests of legal person and protection of interests of persons whose information is published. Pursuant to these guidelines, these web pages should provide access to indictments or corresponding information content for war crimes and other crimes against international law for which there is no statute of limitations, for organized crime, crimes of corruption, abuse of office-related crimes, economic crimes, crimes punishable by long-term imprisonment or ten-year imprisonment, and for other files for which it is established that 'particular public interest' exists. Since these decisions are public, they are published without limitations related to the character and severity of the crime. Information about personal information of the indictees and convicted felons are also published, but without the information about the Unique Identity Code, personal ID document numbers and the special category information as defined in Art. 3 of the Law on Protection of Personal Information (personal information that reveals racial origin, citizenship, national or ethnic origin, political persuasion, party affiliation, trade union membership, religious, philosophical or other convictions, health status, genetic code, sex life, criminal convictions, biometric data), unless such information does not constitute a crucial aspect of the crime.

According to these guidelines, every institution shall adopt a special book of rules or a set of instructions that will describe in detail the process of presentation of court legal documents on the Internet and appoint persons authorized for publication of such documents.

### Media relations

Media relations must be maintained in such a way that information provided to the public strengthens the court's position, promotes the work of the judiciary as a whole and improve the public's perception of the court and the judiciary. Regarding media relations, it is worth noting that the Court

President is authorized to provide information to the media about the work of the court and about specific cases. Such information also may be provided by the person in charge of public information (a spokesperson). A public statement is issued when the public or clients need to be informed about an important event or procedure and when public attention should be directed to a certain issue.

The Court President should address the public when the issues of importance to the court are at stake. The Court President is the organizer of the court's strategy for public information issues and public relations. The public should be addressed only on occasions when this is necessary and inevitable, for instance in case of issuing public statements on important events, or when responding to unfounded and malicious attacks on the court and judges, in which case a correction needs to be demanded of inaccurate information harmful to the judge, court and the judiciary. In the above situations, a reaction is necessary only if the unfounded criticism is of serious import and might cause a significant negative resonance in the community, or if it reveals drastic lack of understanding of the legal system or the role of judges and courts in the society.

#### Information Officer/Court Spokesperson

An Information Officer/Court Spokesperson's primary role is to provide information to clients, but also to the rest of the public, pursuant to the provisions of the Law on the Freedom of Access to Information. He should be knowledgeable in the field of public relations and communications science, must know law and the work of judiciary bodies and must be informed about the work of the court in all its segments.

#### Informational brochures

This kind of informational materials should be current and of practical use for its intended users. Brochures may be designed by the court itself, or HJPC brochures or those of other organizations may be distributed. Court brochures instruct the public about the procedure of document authentication, or obtaining apostilles, issuance of certificated that no criminal procedure is pending, court testaments, entry of properties in the land registry office, regulation of property lines, probate proceedings, recognition of foreign judicial and arbitration decisions, witness protection measures, access to the right to defense counsel in a criminal trial. There is certainly room for publication of more brochures – instructions to explain other court procedures. Such brochures should be accessible for citizens also through court web pages. We believe that a good solution would be to unify printing

of all necessary brochures for the needs of all courts in FBiH and RS, i.e. throughout BiH.

#### Informational posters

Such posters should be current, graphically and textually appealing, because their purpose is to highlight certain issues and the need to pay attention to them.

#### Forms

Forms are intended to facilitate clients' access to their rights. The forms may be the forms of request for access or copying of files, access to information, requests for issuance of certificates on no pending criminal proceedings, forms to file complaints or petitions. Unified forms for all courts could also be produced.

#### Guide for access to information and information register index

It serves to aid clients and citizens in accessing their rights pursuant to the laws that regulate the freedom of access to information. It explains the right to access to information, explains ways to submit requests, the procedure and the timeframes for their processing. The register index contains the types of information held by this court, as well as the format in which such information is available and the site where they can be accessed.

#### Complaints, comments and praises' box

The box makes it possible for citizens to lodge complaints and grievances, give comments and praises that the court will then treat pursuant with the provisions of its Rules of Order, the Law on Courts and Law on HJPC.

#### Signs and instructions inside the court (spatial arrangements)

These are very important details of interior arrangements, because they make it easier for clients and other visitors to find their way around the court building. They should be simple, graphically legible and written in letters large enough to be visible at a distance. When the signs are made, pay attention that the court premises are visited by the elderly, the partially sighted people, the disabled and, often people with poor reading skills who – each for their own reasons – may be unable to read small-printed texts, door and wall signs that lack sufficient contrast with the background etc.

Naturally, such signs should be grammatically correct and spelt properly, and provide correct titles and offices both for persons and for court departments.



### Court security

Court security includes the doorkeeper, Court Police, and available security equipment. With their conduct, appearance and professional actions they provide a sense of security to clients and create a pleasant and composed ambiance.

## 8. HUMAN RESOURCES MANAGEMENT IN COURTS

Human resources need to be managed in such a way that all employees are aware of the mission, vision and the goal for which they perform their duties. And here the goal and the mission are autonomous, independent and effective judiciary.

Management of human resources contributes to efficient utilization of available human potential and permits attainment of goals, i.e. the vision of the courts, as well as the meeting of employees' personal needs.

In order to achieve in full the mission, vision and goal of the court as an institution, it is necessary to use employee potential to the maximum, to constantly seek room and avenues of improvement and to make employees manage their time efficiently.

There is constant need for the courts to be more efficient, fully autonomous and independent. Every individual is a part of a team and it is perpetually necessary to coordinate and guide every individual in order to achieve set goals, fulfill the mission and create an environment in which every employee will be motivated to carry out its tasks with the full range of its abilities.

The most important elements in human resources management are resource planning, recruitment, performance management, motivation, training and professional development, as well as professional standards.

To an extent, planning of human resources in courts is restricted by current regulations. Specifically, the Book of Rules on Establishing Criteria for Setting the Levels of Administrative and Technical Support Staff in the Courts of Republika Srpska<sup>14</sup> stipulates that in basic courts the relationship between the number of employees and the number of judges can be no more than three employees per judge, while in district courts and the Republika Srpska Supreme Court 2.5 employees per judge. In FBiH, the number of administrative and technical support staff is determined by the Book of Rules on Setting Criteria for Establishing Levels of Employees in Municipal and cantonal courts and the FBiH Supreme Court<sup>15</sup>, and it set the same ratios as in RS. Consequently, the limits established by the abovementioned

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<sup>14</sup> Republika Srpska Official Gazette, no. 84/06.

<sup>15</sup> FBiH Official Gazette, no. 41/03 and 10/08.

regulations should be taken into account when planning human resources, and planning should focus on reallocation of staff within the existing structures. This reallocation needs to be done in such a way as to meet all the needs of the court as a public body, with well-balanced workload among employees. When allocating staff and assigning specific tasks, it is particularly necessary to pay attention to appropriate allocation of staff, bearing in mind both the needs of the court and specific departments, but also the abilities and talents of employees. It is no easy task, but the success formula is in meeting employees' needs, while using them as productively as possible in the performance of assigned tasks.

The Book of Rules on Internal Organization and Job Systematization set the court's internal organization, the scope of work of organizational units, assignment of duties and tasks, their description, preconditions for their performance, number of employees performing such duties and tasks, as well as the modalities of entering employment, modes of management, powers and responsibilities of employees in carrying out their duties and tasks, and also other matters of import for the court's internal organization and effective performance of duties and tasks. The internal organization should be established in such a way to ensure lawful, professional, efficient and rational performance of duties, full employment of employees through maximal utilization of their professional skills and other working abilities.

Bearing in mind abovementioned regulations and the restrictions of employment in courts, new employees are not brought in often. When employing new employees, all mechanisms need to be used to ensure that the court will obtain a qualified candidate, who will be a successful team member. Employment of a qualified candidate improves both the results and the motivation of other employees. Employment of new employees should be transparent and in such a way as to identify best candidates, through testing, interviews, and trial work through to final selection. The new employees' selection process must be based on clearer and standardized assessment conditions, because transparency and regularity in employment and candidate selection contributes considerably to creation of a positive perception of the court as an institution of particular significance and earns the court a good mark from the standpoint of independence. When choosing employees, select people with the knowledge, abilities and talents for the specific job for which they are being employed. It should be borne in mind that, after hiring an employee, the Court President, pursuant to the Labor Law, has a corrective mechanism – trial work and post-trial work evaluation.

It is a logical assumption that the Court President enjoys the respect of his employees, that he creates work atmosphere and encouraged dedication to the work, as well as the attitudes of full engagement and involvement to make sure that court employees function as an organization that works together towards the same goal within the same process.

When assigning tasks to employees, the Court President (Court Secretary) pays attention to predisposition and talent of individual employees, to their performance and satisfaction levels when carrying out certain tasks. Employees should have fairly balanced workloads, because that has a stimulating effect.

Good interpersonal relations are achieved, primarily, by knowing your employees well. If the conditions permit, you should know characteristics, personal circumstances, predilections and problems of the members of your work team (the court employee body).

Communication with employees is achieved through periodic meetings or visits, i.e. by visiting individual employees at their workplaces. Meetings should be well-prepared, specific and efficient (brief). In meetings it is necessary to adhere to the agenda, prevent departures from the topic at hand, encourage individuals to participate, listen actively and summarize conclusions. In the meetings it is also necessary to advise employees about most recent developments, performance results and other relevant information, which enhances their sense of team affiliation.

Depending on the reason (or the topic) of the meeting, the practice of keeping a record, or at least summary notes which – when sent to participants as feedback – may serve as a significant source of accountability in meeting individual or team obligations.

Visits to specific operational units impart significance and support to employees, while also permitting a certain type of oversight.

### Employee motivation

Motivation means making someone act in a certain way through reward or persuasion. In effect motivation provides the reason for people to perform any specific task. Although money, i.e. salaries, constitute the basic form of reward, it is still not the most important. It is felt that the effects of a salary raise last only six months, while the factors of satisfaction, pleasant work environment, receiving greater powers and responsibility are significantly more important motivational elements.

Motivation is a vital factor in human resources management, which makes it necessary to monitor and respect performance and commitment of individual employees. It is also indispensable to delegate some tasks to the staff, since this increases employees' personal responsibility.

Court presidents should seek ways to motivate employees in non-financial ways, partly because the potential for financial motivation is limited. It is indispensable to make sure that the Court President would know his employees, monitor their workloads and take measure to ensure balanced redistribution. It is necessary to recognize employees' virtues (as well as flaws) and to strive to make use of the former while seeking, in a sensible way, to correct the latter.

It is necessary to constantly work on building trust, to hear an employee always when that is necessary, to set realistic goals and tasks, and to delegate tasks that will permit employees to use and demonstrate not only their expertise, but also their innovativeness and talents. Delegation is entrusting others to carry out certain job or task, while retaining responsibility. The art of good management is to discover the optimal scope and types of tasks to delegate.

Still, this requires caution and one should never delegate the responsibility with the task, nor a task without guidelines. Also, never delegate difficult tasks, but they should first be performed by the manager himself, with possible assistance of his employees, which in practice constitutes partial delegation. Also, one should not delegate long-lasting or boring tasks, because this may create an impression that the manager is dodging his own duties. The purpose of delegation is to make the fulfillment of the Court President's obligations easier, but it should at the same time develop the team and motivate employees. The results of the work should be evaluated and praised, since that is how delegation lifts morale and builds employee confidence.

#### Willingness of employees to embrace change

New processes and systems that are becoming a reality in the judiciary as well – possibly to a greater extent than in the other segments of the society – aid the courts in fulfilling their mission and goals. Employees should use their potential to the maximum, and keep searching for space and avenues for improvement, follow the need for new knowledge and skills and permit their introduction. To this end, administrative staff needs additional training. In fact, in the course of the reform to date, training of administrative staff has been unjustly neglected. It is exactly the proper training that permits

participation in positive changes. Employees should be prepared for change and to embrace them, because the processes in question are essential (e.g. introduction of information technologies, introduction of CMS etc.).

### Employee evaluations

The Book of Rules on Internal Court Operations stipulates that court president evaluate the performance of judges, pursuant to the law and HJPC Instruction. Court presidents also evaluate the performance of court secretaries, judicial associates, court trainees, managers of organizational units and ICT officers. Court secretaries evaluate performance of other employees, while in the courts which do not have a court secretary it is the Court President who evaluates employee performance. Evaluation is a process of analysis of an employee's performance and an assessment of his contribution in the fulfillment of the mission and goals of the court. Evaluation defines the contribution of the individual in the team, but also helps with defining expectations, i.e. standards of performance expected when carrying out work tasks. Evaluation is also useful for employees to understand the tasks they are supposed to carry out, and as a way to improve their performance. Evaluation is a Court President's instrument to motivate employees and support employees to improve performance, as well as for identification of shortcomings and taking measures to alleviate them. In case of a successful performance and a good evaluation, the employee will be motivated to continue such work, and in the event of underperformance the employee will be instructed about shortcomings to eliminate.

Evaluation of the work of judges is regulated by adoption of the Criteria for performance evaluation of judges in Bosnia and Herzegovina. Regarding evaluation of court employees, in every court the employee evaluation process should be appropriately defined in the Book of Rules, establishing evaluation criteria and the type of evaluation, as well as other related issues. Evaluation needs to be conducted in a fair and objective manner, which will be based on performance, abilities and accountability in task execution. During evaluation, take into account employee expertise, the degree of completion of defined tasks, autonomy, level of commitment, quality of performance, level of motivation, work discipline, attitude towards the court and towards other employees. Evaluation also encompasses dedication at work, attitude toward work tasks and the manner of execution of duties. Evaluations are typically descriptive: unsatisfactory, satisfactory, successful, and particularly successful.

To ensure maximum objectivity in evaluation, an employee evaluation checklist should be formulated. The list might look as below:

**EMPLOYEE EVALUATION CHECKLIST**  
for the period from \_\_\_\_\_ till \_\_\_\_\_

Employee's first and last name and position title	<b>Dedication at work</b> (Circle only one answer – x)	<b>Attitude to duties</b> (Circle only one answer – x)	<b>Manner of performance of tasks</b> (Circle only one answer – x)	<u>Write on the line</u> A. A trait to highlight B. Something not praiseworthy	<b>Final evaluation</b>
_____ _____	x – stands out particularly x – stands out x – satisfactory x – does not make an effort	x – very responsible x – responsible x – satisfactory x – irresponsible	<b>X</b> - shows initiative and creativity x – performs all that is asked x – prefers routing tasks x – negligent in performing work tasks	A. _____ B. _____	x – particularly successful x – successful x – satisfactory x – unsatisfactory

Certainly, it is necessary to design a final template for the evaluation that will be presented to the employee following the defined procedure, and also to acquaint him with the expectations with regard to his performance of work tasks and responsibility at work, as well as with the ways he can improve his performance.

## 9. MATERIAL RESOURCES MANAGEMENT IN COURTS

Resources encompass human, financial and infrastructural resources.

Management of material resources is conducted within the established monitoring/oversight mechanism for planning and execution of obligations of all those responsible for the work of the court – each in his domain of responsibility.

The Court President is responsible for judges' annual work assignments. Prior to deciding about the allocation of judges, an analysis of the case situation regarding various case types in the court and assess the number of judges and judicial associates required for each case type should be carried out. This analysis certainly should be *verified* with court department heads, each for *his own* department.

Court presidents need to react, in a timely fashion, to any situation that disrupts the normal judges work assignments – longer sick leaves, maternity leaves, cessation of employment. And certainly also if a significant change in the number and composition of cases in specific case types occurs that might require corresponding realignment of the existing work assignment of judges and judicial associates.

The same holds for the employees in court administration, particularly for typists. Here it is important to request and obtain approval of the responsible government body to hire a replacement for a retiring employee. In view of the extended duration of this procedure, such an approval should be obtained long before the retirement date to ensure that, by the time the employee retires, the recruitment procedure for the new employee could be completed.

Through appropriate decision it is indispensable to introduce the standards of conduct for all employees in the court – judges, judicial associates and staff in court administration, which will then be transformed into the so-called standard operational procedures, i.e. the normal way of work. Such an approach permits most effective utilization of human resources without wastage of time and funds.

The way of using annual leave may affect the operation of the court as a whole, but also in individual segments, which certainly affects the court's



financials. Experience shows that collective annual leave represents the best solution for ensuring the greatest efficiency of the court. Splitting the leave, both by individuals (judges or employees) and in view of the fact that various court units would operate at different capacity would result in *wastage* of overall resources and thereby in its lower effectiveness.

The essential document that has a key impact on material resources is the court's annual budget. The Court President must prepare a draft annual budget that would ensure effective court operations and, what is most important, defend it and ensure that the authorities adopt it. This is why it is of utmost importance to develop partnership relations with the government bodies, in particular with the Government, through the line ministry, but also with the cantonal or entity parliament.

As a rule, and also, as stated in the folk proverb: *One can never have enough money and smarts*, it happens with some regularity that in the approved budget the court lacks funding, most frequently for utility services (payment of postal services) and material expenses. It is possible to intervene through reallocation of funds from one (or more) budget lines to the one line where the funding has run out. For this reason, it is crucial to regularly monitor and analyze the rate of expenditure of funds and realistically judge actual needs of the court in the next part of the year.

Available funds must be used properly and for intended purposes, which requires introduction of certain *business* standards in the court, to ensure that the funds will be used without unnecessary wasting. The Court President is responsible for the court's financial plan – both its adoption and its execution. Through the work of court administration, for which he is also responsible, it is possible to materially influence the expenditure of funds.

Adoption of certain rules and their consistent implementation do not affect the independence and autonomy of judges in their work (management of the procedure and adoption of court decisions), while the Court President is not only empowered, but also required to regulate the organization of the court's internal operations – Art. 8, Pts a, b, and c in connection with Art. 7, Pt. 2, Item a) of the Book of Rules on Court Internal Operations. These rules, among other things, are intended to ensure proper utilization of the court's material resources.

Within this context, and just for example, some important standards of conduct are stated that matter for greatest efficiency in utilization of human and material resources. In realistic terms, financial effects will not be so

considerable, but this more of operation represents an embodiment of the principle of operational rationality and accountability of every court employee, which helps reduce, or even completely eliminate the *bottle neck* in the performance of daily tasks.

- All court legal documents with multiple pages are printed on both sides. The responsibility lies with the judge's assistant – typist and with the judge who signs it.
- If a given petition has not been submitted in the appropriate number of copies for both the court and the other party, the memoranda will not be copied by the court – but in such situations the action will be taken pursuant the current regulations – as stipulated by Art. 66 and 67 in connection with Art. 336, Para 4 of the FBiH Law on Litigation Procedure, Art. 163 of the FBiH Law on Criminal Procedure (and of analogous provisions of RS Law on Litigation Procedure and RS Law on Criminal Procedure).
- If the petition is filed by the petitioner at the Registry, the clerk at the Registry desk will, prior to the recording of the petition, will advise the petitioner that it lacks the proper number of copies and what the consequences of such filing are. If the petitioner still insists on filing even after such notification, the Registry is required to record it.
- When changing the Sc date („skontro/evidencija“), the Instruction on „Sc“ change will not be printed and added to the file – it is sufficient that it is recorded in CMS.
- When the Sc date is changes, the Instruction on „Sc“ change (and removal of the file) that is given, for instance, on 4th June, may not be made out for 5th June, but the new “Sc” may be not before 6th June. The exception to this rule applies to such files for which the judge assesses that there is a need to be removed promptly.
- To issue the Instruction on „Sc“ change, if this requires solely the change of „Sc“ and no other necessary action, the file in question will not be removed, but „Sc“ will be changed in CMS.
- Judges' assistants collect the files from the Registry every working day from 8am, and the files and petitions for dispatching are delivered to the Registry from 14:30 to 15:30. The exception to this rule applies

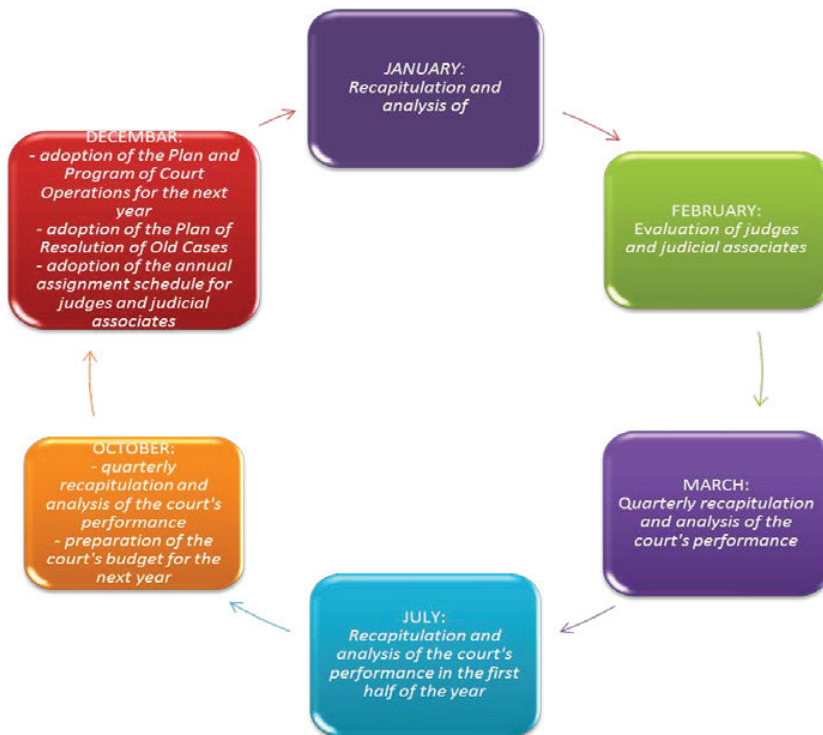
only to such files for which the judge orders prompt mail delivery, which needs to be dispatched the same day.

- When issuing the command 'Urgently remove the file for the judge', judges are required to pay attention to the exceptional nature of the command of this kind, solely for such situation when an action needs to be urgently taken in the given case, while, wherever possible, the option of changing „Sc“ in two days relative to the day of the issuance of the command should be used.
- Reception and delivery of mail to the authorized postal service is conducted in the court building at 8:30 and 12:30.
- As a rule, the files are kept at the Registry and they can be on the day of the hearing, during the time needed for writing the decision (not more than 30 days after the completion of the main hearing) and the time required for the current work on the file (no more than 7 days since the removal of the file for the judge), at which point the judge determines a new „Sc“ and returns the case to the Registry.
- The Registry is required to scan and enter into CMS all petitions immediately upon receipt.
- When entering the petitions into CMS, when they are not scanned, the Registry is required to provide exact generic note that will permit judges to estimate the value of such a petition and whether it should be reviewed and acted upon.
- When a petition is added to the file, the removal of the file may be requested solely in justified cases when a judge is legally required to take action on the basis of the petition in question.
- In the everyday work when there is need to check a given petition, the options provided by CMS should be use to the maximum extent possible and the file removal for direct checking of the given petition should be requested solely in the exceptionally justified cases.

## 10. PERFORMANCE MONITORING/OVERSIGHT OVER SPECIFIC ORGANIZATIONAL UNITS IN THE COURTS

Adoption of a well-developed standard of monitoring/oversight of performance of certain (programmatic and operational) activities is of utmost importance for court operations. The same holds for its consistent application. If there is a failure with this important principle for organization of court operations, major irremediable consequences for overall operations of the court may occur.

During the year, there are obligations of the court, including of the Court President himself, that are always linked for precise time intervals. These are standard typical activities of every Court President that occur every year at the same time. We might call it Court President's regular obligations calendar. At the same time these are also so-called strategic or programmatic duties (obligations) of the Court President. These duties include:



Furthermore, there is an entire series of important duties of the Court President which are in their essence so-called operational duties (obligations) and which are not connected with a *fixed* time period during the year. For instance these tasks would include:

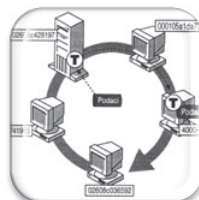
## Operational duties



- Reassignment of cases due to objective needs
- Reassignment of staff due to objective needs



- Holding general sessions and college meetings
- Working meetings at the BiH HJPC and with its committees and conferences
- Working meetings with the presidents of cantonal, district and supreme courts and chief prosecutor
- Working meetings at the line ministry and with other government bodies



- Tasks related to the operations of the land registry office and court register
- Tasks related to the operations of the Court Registry



- Meetings and other activities related to media relations

Each of the above strategic (programmatic) documents and activities, as well as every obligations arising from operational activities, naturally must comprise an aspect related to responsibility and monitoring/oversight of performance of those activities. If there is no established line of monitoring/oversight of performance of certain activities, neither such a Court President not such a court can be called successful.

The constant goal and programmatic orientation of the court must be to perform the judicial function as efficiently as possible, to ensure the highest quality of judicial protection, with full respect for constitutionality and legality, implementation of the principle of free access to courts, equal rights of participants in court proceedings and respect of the principle of providing court protection within a sensible timeframe. To achieve these ends, it is vital to reaffirm in practice the activities of the Judges' General Session and judges' department sessions, with regard to discussions about particular legal issues, definition of legal positions and harmonization of practices within the department, with the purpose to ensure unified application of the law.

The strategic orientation of the court for the next year must be established when adopting the Work Plan and Program of the court.

*Some examples of strategic goals/orientations contained in a work plan and program:*

- a) *In the Litigation Department, resolve all P\* cases as of September 2012, all Mal\* cases as of June 2012, as well as all cases presented to the court during 2015 that are by nature urgent.*
- b) *In the Criminal Law Department, resolve all K\* cases as of August 2015, as well as all Kpp\*, Kps\*, Kv\* Km\* cases, cases related to punitive orders and custody related cases that are received by the court through 2015.*
- c) *In the Commercial Department, resolve all Ps\* cases as of June 2014, all St\* and L\* cases as of March 2014, all Mals\* cases as of June 2013, as well as all cases presented to the court during 2015 that are by nature urgent.*
- d) *In the Non-Litigation Department resolve: all probate cases as of March 2015, all V\* cases as of June 2015 and all newly received non-litigation cases that law treats as urgent in nature.*
- e) *In the Enforcement Department, all Ip\* cases as of 2011 and I\* cases as of 2010.*

- f) In the ZKU\* resolve all cases from the Register of Deposited Contracts and land registry cases, except for those whose resolution is blocked due to objective reasons.

*Note: See below for explanations of above acronyms*

P*	First-instance litigation cases
Mal*	Low-value first-instance litigation cases
K*	First-instance criminal case
Kpp*	Preliminary criminal case
Kps*	Preliminary hearing in criminal proceedings
Kv*	Out-of-court Panel in criminal proceedings
Km*	Juvenile criminal proceedings case
Pr*	Minor offence case
Ps*	First-instance commercial case
St*	Bankruptcy proceedings case
L*	Liquidation proceedings case
Mals*	First-instance low-value commercial case
V*	Non-litigation case
Ip*	Enforcement procedure in commercial cases
I*	Enforcement procedure in litigation cases
ZKU*	Land Registry Office

This includes the issue of the standards of responsibility, i.e. of the well-developed standard modalities of monitoring/oversight of performance of specific activities.

The Court President's Council and Peers' College need also to discuss the report on the work of court departments from the standpoint of meeting the approximate quota for judges and monthly and quarterly plans for case resolution. On the basis of analysis conducted on that occasion in the Court President's Council and Peers' College, which comprises all judges (and judicial associates), it is necessary to define concrete measures to improve the operations of each court department and the court as a whole. This would be an important direction and way to conduct transparent monitoring/oversight of court performance: of the Court President, of the College, of the heads of court departments, but also of every individual judge and judicial associate.

Human resources issues constitute an important component of the court's Work Plan and Program, and it is necessary to plan the measures and actions

to be taken to ensure adequate recruitment of judges and judicial associates, as well as of court employees.

In the segment of the Work Plan and Program that deals with the public nature of courts' work and cooperation, it is necessary to specify what and when during the next year should be done by the court, with the focus on joint consideration of possible problems in communication between the Court, the Ombudsman, lawyers, prosecutors and notaries, consideration of the overall work of the court relative to the involvement of lawyers, notaries and prosecutors, and identification of possible more effective operational methods and procedures to ensure rule of law on the territory under the court's locational jurisdiction, i.e. in order to improve court operations. In this context, it is necessary to plan, at least once a year, to hold a meeting between the Court president, heads of court departments and of the Land Registry Office, Register of Legal Persons and the Registry with the representatives of the Regional Bar Association, notaries and the Ombudsman, i.e. of the Court President and the Head of the court's Criminal Department with the Chief Prosecutor and his deputies.

This is also an important part of a particular form of monitoring of the work processes and court operations by those segments of the judicial community and the professional circles. On the other hand, this is an important segment of activities of the Court President (and the court), that may help the Court President to make relevant decision for strengthening certain activities (work process) in the court.

In order to develop partnership relations with the local authorities, it is necessary to maintain regular contacts with the line ministry, possibly with the Government and the cantonal parliament.

It is very important to have regular contacts with the representatives of the media, but it is vital to develop such relations that will contribute to proper presentation of the court's work and to the understanding of the public for all problems that arise in the work of the court.

These segments also constitute vital parts of *the oversight* of the court by responsible government bodies and the public. Certainly, within the limits of the legal powers held by the former. On the other hand, and this is of exceptional importance for the overall functioning of the court, and particularly for securing funding for its operations, the Court President must ensure that the court is able to positively influence the passage of relevant decisions of the Government and the Parliament at the time of the passage of



the annual budget and budget rebalances. There are numerous good examples of *media* pressure on the government bodies to ensure funding for the work of the courts.

In order to monitor the implementation of the Backlog Resolution Plan and the overall performance of judges, and take appropriate measures for their execution, the Court President needs to develop an appropriate mechanism of performance oversight/monitoring. It is important to note that, pursuant to Art. 15, Para 1, of the BiH HJPC Instruction on Preparation of Backlog Resolution Plans, no. 12-50-67-44/2015 of 22nd January 2015, every court is required to monitor the implementation of the Plan at the sessions of court departments every month, to analyze the implementation of the Plan at the Peers' College every three months and to take appropriate measures that would ensure consistent implementation of the Plan.

As a rule, the Court President achieves this with a special decision that provides for oversight of the work of every judge, but also of the department as a whole.

Judges and judicial associates are required to submit their reports on the implementation of the Backlog Resolution Plan to the Head of the Court Department at the end of every month and cumulatively at the end of the quarter, and the report should state:

- the total number of cases from the Plan, by years of age of the initial act,
- the number of resolved cases from the Plan, by years of age of the initial act,
- the number of cases from the Plan that could not be resolved due to procedural or other legal obstacles,
- justification for every case not resolved from the Plan for the specific year, if that case was up for resolution and
- measures to take to resolve all unresolved (passed over) cases.

At the end of every month, and every quarter, the head of the court department is required to hold a departmental meeting at which an analysis will be conducted of the Plan's execution for the period and specify the tasks of every judge and judicial associate for the coming month, or quarter, the measures to address *passed over* cases and achieve maximal planned rate of the Plan's execution – at least around 8.5% of solved cases per month.

At the session of the Court President's Council and the Peers' College, the head of the court department shall present the summary report for the department (which was previously submitted to the Court President). The report shall include the summary information for the Department, as follows:

- the total number of cases from the Plan, by years of age of the initial act,
- the number of resolved cases from the Plan, by years of age of the initial act,
- the number of cases from the Plan that could not be resolved due to procedural or other legal obstacle, and
- measures to be taken in the following month, or quarter, in order to resolve *passed over* cases and achieve the planned rate of Plan execution – around 8.5% of solved cases per month.

The Court President is required to analyze the execution of the Backlog Resolution Plan (overall court performance) continuously at the sessions of the Court President's Council and Peers' College every three months and to adopt measures that would contribute to the Plan's execution, and to submit the session's minutes, as well as the minutes from the court department sessions, to the BiH HJPC.

In this way, the standard performance monitoring/oversight mechanisms are established for planning and execution of obligations of all persons responsible for the functioning of the court – each in his own domain of responsibility. In this way the essential relationship between operations and performance monitoring/oversight in the court is established, as well as a kind of supervisory role and position for the BiH HJPC.

With regard to operational tasks, the issue of monitoring/oversight becomes increasingly important for the court's overall work. Every task or execution of a duty of this kind must be subject to monitoring/oversight, but also to timely reaction to the situation that exists when conducting such tasks.

Naturally, some of this monitoring/oversight is conducted through authorized court employees – the Court Secretary, Head of the Land Registry Office, Head of the Register of Legal Persons, and Head of the Registry. Still, the Court President is nevertheless required to regularly monitor and in appropriate ways influence these court-internal processes as well. If he were to turn this over to the persons whom he entrusted with particular powers (or if he were *to drop it*), and if he failed to timely monitor/oversee these activities, serious problems in the court operations might result.

**PART THREE**  
**ICT TECHNOLOGY AS A**  
**MANAGEMENT TOOL**

*IPA Project staff*



# 1. USE OF INFORMATION AND COMMUNICATION TECHNOLOGIES AS MANAGEMENT TOOLS IN COURT MANAGEMENT

**Information technology (IT)** is defined as the 'study, design, development, implementation and support or management of computer information systems (IS), software applications and hardware'<sup>16</sup>. IT uses computers and software to transform, store, protect, process and safely transmit and receive information.

The term 'information technology' frequently expands to cover a much wider technological field.

IT technology has been used for business purposes since early 1920s. In line with the development trends of IT tools, the need has emerged for their increasing application in management of business processes. Management of business processes constitutes an organizational skill, while information technologies are used as a tool to enhance this skill.

In BiH judiciary, information technologies, in the form of hardware, have been used since the start of the judiciary reform in 2003, while software has been in use since 2006 for data input and processing, only to become a reliable management tool since 2010.

BiH HJPC, within the framework of the judiciary reform, implemented in all courts and prosecutor's office in BiH:

- the Case Management System in the courts (CMS) and prosecutor's offices (TCMS), and subsequently:
- the Utility Cases Processing System (SOKOP) and
- the Business Intelligence System (BI).

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<sup>16</sup> [http://sr.wikipedia.org/wiki/Informaciona\\_tehnologija](http://sr.wikipedia.org/wiki/Informaciona_tehnologija)

## 1.1 Case Management System in Courts (CMS)

### 1.1.1 Purpose of CMS system

The Case Management System in the courts, CMS for short, was a software application implemented by BiH HJPC, within its competences, in all courts in order to enhance the performance of the courts and speed up operational processes. The piloting of this project started within the framework of the USAID FILE project in 2006, with BiH HJPC subsequently continuing and successfully completing its implementation. The CMS system is a software tool that permitted automation, and thereby acceleration of many procedures in the courts, which lead to increased satisfaction of citizens, who are the final users of every legal or any other system.

Situation prior to implementation of CMS system	Situation after implementation of CMS system
Multiple registers for the same case, which led to duplication of tasks and to entering the same information into multiple registers.	There is only the single electronic register – CMS. The information once entered, it is accessed whenever necessary.
Entry of cases into ledgers and other registers could take days, sometimes, for some cases, even weeks	Entering case data takes several minutes.
Parties did not know the name of the adjudicating judge even months after the filing of the initial act.	At the time of the filing of the initial act, the parties know the name of the adjudicating judge.
Files were regularly lost in the court and there was no possibility of monitoring where the file really was.	Now, it is known at any moment where the file is physically located.
One file received multiple case numbers through the years before its completion, so it was impossible to know the exact number of cases in the court with any certainty.	One case file – one court number.
There was no Monitoring System: It was not know who did what and whether staff carried out their tasks.	At any moment, a judge has insight into whether his assistant completed a task or not.
Statistics was unreliable and imprecise.	Statistics is reliable and precise.



*Picture 1 – The appearance of the Registry prior to introduction of CMS system*

*Picture 2 – The appearance of the Registry after the introduction of CMS system*

### **1.1.2 CMS system as a management tool**

During the implementation of the CMS system in the courts in BiH (2006 – 2010), the focus was to provide the system's users (court employees, judicial associates and judges) with the highest-quality training for the use of the software, to ensure that the quality of data entered into the system would be as reliable as possible. After the implementation of the CMS system in all courts in Bosnia and Herzegovina was completed in 2010, we may claim that this was the start of the process of introduction of information technology in the judiciary, and the results could be expected only after a certain period of time. The entire process of introduction of information technology may be divided into several stages:

- I. **Stage One** – provide quality and continuous support to the courts and prosecutor's office in order to ensure that the data entered into the system would be correct and reliable. Each user received particular attention. Besides the regular training, which lasted at least one month per institution, the training team revisited the institutions after several months and retrained those users who needed it. Besides, the users received training for every new software function.
  
- II. **Stage Two** – was the process of data entry into the CMS system by the users. It was of extreme importance to determine from which procedural stage and which types of cases would be recorded in the CMS system and to resolve related dilemmas that emerged in

practice. This was of great importance due to the need to ensure unified application of the system by all system users, who currently number around 5,000.

- III. Stage Three** – verification of the data entered into the system. After a certain period of CMS implementation, preparation began of various types of analysis which permitted to identify certain errors in recorded data, and such information was sent to the courts for correction of such errors, in order to increase the quality of data entered into the system. This activity is continuous and when any data error is found, the responsible court is notified to make the required correction.
- IV. Stage Four** – use of data for statistical and analytical purposes. After the stage of data quality analysis and after courts corrected identified errors, it became possible to use the data for analytical purposes and to develop other statistical data. Previously, it took weeks, or even months, for staff employees to prepare statistical data and various reports, and now they can be obtained within a few minutes and at any time. Therefore, the focus of the remainder of this text will be on Stage Four and we explain how court presidents may use CMS as a management tool

It is of particular importance to note that CMS is an **information tool** that aids users to use the data found in the system in proper ways and at proper times, to receive useful information that would help them ensure that the next procedural steps would be correct and timely. From the standpoint of court presidents, this means that CMS data should be used:

a) through various reports

The CMS system permits court president to download various information important for understanding the real situation in the court. Besides the division of reports into individual (for every judge/associate so they can review their own performance), managerial (available to the Court President, heads of court departments and other persons in charge of preparing reports) and statistical reports (available to the Court President, heads of court departments and other persons in charge of preparing reports), reports may also be divided by the function for which they were created. Such a division may take the following form:

- **Number of resolved/unresolved cases** – The purpose of this type of report is to present to the Court President the data on the number of resolved/unresolved cases at a given point in time and



for a given period. Besides the number of cases, certain reports also provide information on the type of cases. What is the significance of this information for the Court President? On the basis of this information the Court President may monitor the trends in resolved/unresolved cases, in order to determine whether there was an increase/decrease in the number of resolved/unresolved cases and in what types of cases. So, for instance, if there was an increase in the number of unresolved cases relative to previous trends, this is a signal to the Court President that more detailed analysis is required to determine the causes for the increase in unresolved cases, and of which type, so he can take concrete steps to alleviate those causes. For this reason, it is very important for court presidents to use this type of reports.

- **Age structure of resolved/unresolved cases** – Such reports provide an overview of the age structure of resolved/unresolved cases over a given period or on a given day. Why does this information matter to the Court President? All judges/associates are required to take up cases based on the date of the initial act, i.e. on the sequence of the time when the parties filed the cases with the court. Bearing in mind the above requirement, it is extremely important for the Court President to have available information about whether the oldest cases are being resolved or not. If it is established that the cases are not being resolved in accordance with the sequence of their filing with the court, the Court President should take certain measures to prevent such a situation from reoccurring.
  
- **Duration of resolved/unresolved cases** – Duration is measured in days. There are numerous types of analysis and numerous reports that focus on the duration of cases. The European Commission for Efficiency of Justice (CEPEJ) in its reports pays considerable attention to the duration of individual procedures and compares the trends in all European states. What is the meaning of case duration? Duration of resolved cases means the duration of the procedure from the moment of its real commencement<sup>17</sup> to the time of its completion. Duration of unresolved cases implies the duration of the procedure from the moment of its real

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<sup>17</sup> The real commencement of a case is the time when the party first appeared at the court and filed the initial act (a claim, a charge, a proposal etc.).

commencement to the date of the data analysis. It is very important to take into account at the same time duration of both resolved and unresolved cases and to examine their correlation. If the duration of resolved cases varies significantly from the duration of unresolved cases, in the sense that the duration of resolved cases is considerably shorter than the duration of unresolved cases, which means that the judge/associate is working on newer cases, i.e. on the cases with more recent filing dates. If the duration of resolved cases is considerably longer than for the unresolved cases, it means that the judge/associate resolved a certain number of very old cases, which is positive. If the ratio of the duration of resolved and unresolved cases is approximately in balance, this means that the judge resolves cases in the order of the age of the initial act, which is also positive.

- **Backlog Resolution Plan** – After the Judiciary Reform of 2003, activities intended to enhance the performance of the judiciary were initiated. It was found that BiH has a very large number of very old cases which were backlogged, as a consequence of both the war and the reduced number of courts and cases during the reform, as well as of frequent absences of judges/associates, poor legislation etc. To address this problem, since 2011 BiH HJPC has implemented 'the Instruction for Preparation of Plans of Resolution of Cases in Courts'<sup>18</sup>. The instruction requires the courts to create case resolution plan in a unified format in the CMS system. The purpose of the implementation of the Instruction was to ensure that the courts would resolve oldest cases during the period covered by the plan. Second-instance and supreme courts prepare quarterly, while first-instance courts prepare annual plans. The plans are prepared electronically in the CMS system, and their implementation is monitored through CMS reports which were created specifically for this type of data. Such reports are significant for the Court President because they permit the monitoring of case resolution in the plan relative to resolution of cases outside the plan. Namely, the plan should include the oldest cases of each judge/associate individually. If the Court President finds that a judge/associate resolves a large number of cases from the plan relative to the number of cases outside the plan, it is positive. However, if the Court President observes that the judge/associate in question resolves, in

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<sup>18</sup> The first Instruction was adopted at the BiH HJPC session on 05-06<sup>th</sup> December 2010.

percentage terms, very few cases from the plan, while at the same time resolving a large number of cases outside the plan, he will need to analyze such a situation in greater detail and take certain steps if necessary.

- **Meeting orientational quotas** – Besides large numbers of unresolved cases, BiH HJPC also faced the problem of defining an appropriate way of evaluating the performance of judges and judicial associates. On the basis of results and detailed analysis of the case resolution trends in 2010 and 2011, BiH HJPC adopted 'the Book of Rules on Orientation Measurements for the Work of Judges and Judicial Associates in BiH'<sup>19</sup>. To permit the courts to monitor the meeting of their quotas in a simpler way, reports were created that permit every judge/associate, as well as the Court President, to check the data on meeting the quota for every judge/associate, as well as about the structure of the quota achieved. Monitoring of the achievement of the quota matters a lot, both to each judge/associate (for evaluation and advancement) and to the Court President (as it impacts overall performance of judges, and thereby the situation of the court as a whole. For the Court President, this information matters also because it permits him to review the composition of the achieved quota, and see whether it was achieved mainly by resolving the cases with recent filing dates or whether it was achieved also by resolving older cases, whether it was achieved by procedural rulings or the decisions on the merits etc.
  
- **Other reports** – The CMS system contains a range of other useful report that may provide useful information if used appropriately and timely.

b) reports should be downloaded from CMS periodically and as needed

As the manager of the institution, the Court President ought to possess basic information about the court operations at any time. If he is unable to conduct the analysis himself, the Court Secretary or heads of individual departments can prepare them for him. However, it is of great importance for him to have, at all times, available information about the situation at the court so he could take timely adequate actions if the need arises.

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<sup>19</sup> Adopted at the BiH HJPC session on 25<sup>th</sup> January of 2012, entered into force upon publication in the BiH Official Gazette, no. 43/12 of 4<sup>th</sup> June 2012.

Besides the regular monitoring of the situation at the court, the Court President can download all CMS reports as needed.

c) analysis of court operations on the basis of reports should be conducted on the continuous basis

For a Court President to be aware at all times about the situation at his court, he needs to monitor the judges/associates' performance trends continuously. Only such an approach will enable him to act timely if a problem emerges and to take proper measures for problem mitigation.

d) monitoring of court performance should be objective

The Court President should realistically and objectively review the performance of judges/associates. Hereby we mean the need to take concrete steps to alleviate the problems, if identified. Besides, when adopting and implementing any measures, he should put aside any subjective elements, so the good performance of employees should be praised, but adequate measures need to be taken with regard to persons whose performance is not acceptable.

The purpose of regular monitoring of the court's performance is:

- ✓ To react on time, if it proves necessary – If the Court President has court performance information available on time and if he regularly analyzes the court performance trends he can, if he notices the potential for a certain problem to emerge (e.g. a large inflow of certain type of cases, while a considerable reduction of another type of cases), take preventive measures (e.g. he can reassign judges/associates from the case type where the inflow has declined to the case type where the inflow has increased) before the problem really emerges (e.g. the situation arises that a judge/associate adjudicating on the type of cases where the inflow has declined cannot fulfill his quota, while the judge/associate adjudicating on the type of cases where the inflow has risen causes the number of unresolved cases to increase, and thereby the duration of such cases as well).
- ✓ Prevention of emergence of problems – timely reaction prevents emergence of real problems, or at least mitigates its scale and consequences.
- ✓ A good court manager is a proactive manager – this implies that passivity in managers, in this case of the Court Manager, can with time place the court in a situation in which various problems accumulate, while the performance plummets, and it becomes

hard to find solutions that would enhance overall situation at such a court in a foreseeable future. The Court President's main guideline and goal should be the success and good performance of his court, which implies the need for continuous monitoring of the court's work, for minimization of the subjectivity and continuous implementation of new activities that will yield improved performance of judges/associates and other employees, and thereby of the court as a whole.



Picture 3 – A view of the report list in the CMS system

## 1.2 Utility Cases Processing System (SOKOP)

### 1.2.1 Purpose of SOKOP system

One of the activities of the BiH HJPC during the judiciary reform was intended to reduce the number of utility cases before the courts. The first steps were made in 2010 when, upon the decision of the BiH HJPC, the implementation of the Phase One of the SOKOP (Sistem za obradu komunalnih predmeta – Utility Cases Processing System) pilot project began at the Zenica Municipal Court and Dobož Basic Court. After the successful implementation of the pilot phase, the implementation of Phase Two started, and over the following years the SOKOP system was introduced into other courts in BiH that expressed interest to have access to this system.

In 2012, BiH HJPC adopted the decision to implement the System for Electronic Filing and Processing of Low-Value Claims, so-called utility claims, in first-instance courts in BiH. Based on this decision, the original SOKOP system intended for processing of enforcement on the basis of a legitimate act into today's SOKOP-Mal, whose functionality was expanded to include low-value litigation cases and enforcements on the basis of enforceable documents.

The funding for the implementation of the SOKOP and SOKOP-Mal systems were secured from the projects 'Reduction of the Number of Unresolved Cases in Courts', funded by the Government of the Kingdom of Norway, and 'Enhancement of Judicial Efficiency', funded jointly by the governments of the Kingdom of Norway and Kingdom of Sweden, as well as from the 'Support to BiH Judiciary' Project funded through IPA funds.

The SOKOP-Mal system is a system for electronic filing and processing of cases, which permits electronic filing with the court and their electronic processing, as follows:

- in litigation cases in which the claim relates to monetary claims not exceeding 3,000<sup>20</sup>/5,000<sup>21</sup> KM and for which, among other possible types of evidence, a listing from the accounting records may be used as evidence,
- in enforcement cases which may be initiated with an enforcement proposal, on the basis of a legitimate act (not a cheque or a bill),
- in enforcement cases that may be initiated or continued on the basis of a final order.

This system permits processing of a large number of cases in a very short time, while the entire communication between the parties and the courts is conducted by email, without the need to send enforcement proposals in paper format.

The fundamental purpose of the system and the reason for its creation and development is to:

- reduce the number of steps that need to be taken in the proceedings for this type of cases, as well as to reduce the space required for file storage,
- permit the case handlers to cope with multiple cases at the same time, with maximum efficiency in the use of their time,
- reduce time between actions in the cases,
- rationalize field work and permit joint procedure for all cases involving the same enforcer.

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<sup>20</sup> FBiH Law on Litigation Procedures ('FBiH Official Gazette', no. 53/03, 73/05, 19/06) and the Law on Litigation Procedure of the Brcko District ('Brcko District Official Gazette', no. 8/09 and 51/10).

<sup>21</sup> RS Law on Litigation Procedure ('Republika Srpska Official Gazette', no. 58/03, 85/03, 74/05, 63/07 and 61/13).

The SOKOP-Mal system is available to all courts in the judiciary network and to enforcement applicants/claimants in the utility sector. Enforcement applicants/claimants are required to register previously with BiH HJPC and to obtain a valid digital certificate<sup>22</sup> that permits electronic communication with the courts.

Electronic communication between the enforcement applicant and the court is conducted by email, which is sent to the address [SOKOP\\_IT\\_SUPPORT@pravosudje.ba](mailto:SOKOP_IT_SUPPORT@pravosudje.ba), pursuant to material regulations. The Law on Litigation Procedure<sup>23</sup> permits electronic filing of documents, if they are signed with a qualified electronic signature (i.e. an electronic signature linked with a qualified electronic certificate). According to the BiH Law on Electronic Signature<sup>24</sup>, and the entity laws, as well as the Brcko District Law that regulate this matter, certificates issued in any EU country have the same legal validity as the certificates issued in BiH.

The basic benefits offered by the system compared to manual data processing are:

- completely electronic communication between the instigators of the procedure and the courts, which reduces the use of paper, as well as delivery and mail services,
- automatic processing of cases and potential for group creation of a large number of documents,
- automatic calculation of dates,
- support of the system in decision-making and administrative processing, which permits case handlers to manage multiple cases at the same time,

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<sup>22</sup> A Qualified Digital Certificate is an electronic certificate with which a Certification Authority guarantees the identity of the owner of an electronic signature. In BiH, pursuant to the Law on Electronic Signature, the certificates of the certification authorities from BiH, EU or some of EEA countries are valid, provided BiH is able to verify validity of such certificates.

<sup>23</sup> Art. 334, Para. 4 (RS and FBiH laws on litigation procedure) and Art. 72, Para. 4 (BD Law on Litigation Procedure):

(4) Documents delivered by email must be verified by a qualified electronic signature.

<sup>24</sup> Art. 24, Para. 1, the Law on Electronic Signature ('BiH Official Gazette', no. 91/06)

(1) Certificates issued by certification authorities based in a Member State of the European Union or a state that is a Member State of the European Economic Area, and whose validity is verifiable by Bosnia and Herzegovina are treated equally as domestic certificates. Qualified certificates of such certification authorities are treated same as domestic qualified certificates.

- rationalization of execution of enforcement activities and document deliveries,
- reduction of time between actions on the case and the number of required actions in handling cases of this type,
- reduction of the space required for file storage,
- rationalization of field work and allowing of joint procedures for all cases involving the same enforcee,
- option to merge the cases involving the same enforcee and enforcement applicant,
- electronic communication with the CMS system for automatic case management,
- option for users to check the files and download information in appropriate format, i.e. via Internet services.

The SOKOP system verifies incoming mail for all courts, and if the digital signature is valid and documents were previously properly certified, the system:

- affixes an electronic seal on every received document on which the date of verification of the validity of the electronic signature is shown as the date of the document's filing with the court<sup>25</sup>,
- creates a file, if it has not been created, and enters all information directly from the document into the SOKOP database,
- adds every received document to the appropriate case file,
- for certain documents, which lack the confirmation by the case handler (for instance for the enforcee's change of address), it updates the data in the SOKOP database,
- informs the judge/judicial associate about newly received documents through a task list.

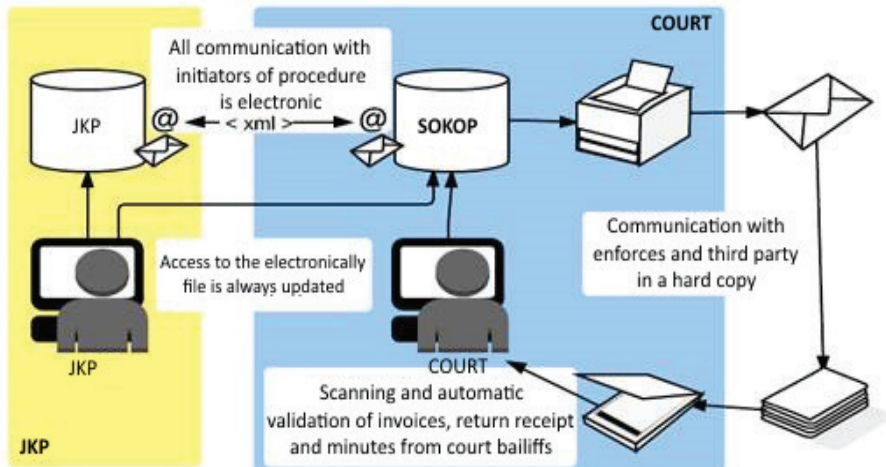
Only specific documents, such as the change of name/title of enforcees, require a confirmation by the case handler prior to changes being made in the database.

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<sup>25</sup> Art. 325, Para. 3, (RS and FBiH laws on litigation procedure) and Art. 77, Para. 3, (BD Law on Litigation Procedure):

(3) If a document has been filed electronically, the time of filing with the court will be the time marked on the verification of the qualified electronic signature.





Picture 4 – Schematic view of the operations in the SOKOP-Mal system

### 1.2.2 SOKOP system as a management tool

Electronic processing of utility cases data permits the Court President to access any particular case, information about the stage which the given case has reached, as well as about which judge/judicial associate is in charge of the given case. The system permits creation of various reports about the performance of judges/judicial associates, and thereby about the performance of the court. On the basis of the data provided by the system, the Court President can always know the percentage of the quota that was achieved, for a certain period, as well as the quota achieved for every individual judge. Assigning cases is conducted pursuant to the Rule Book on Orientation Measurements for the Work of Judges and Judicial Associates in the Courts in Bosnia and Herzegovina, so that each judge is assigned a given number of cases that form part of his quota. On the basis of the reports received, the Court President can know what number of resolved cases, unresolved cases, what state they are in, the inflow of cases to the court etc.

## **1.3 Business Intelligence (BI) System**

### **1.3.1 Purpose of BI system**

Although some court presidents handle the role of court managers well, often even a very effective Court President faces difficulties in carrying out its managerial duties. All court presidents and chief prosecutors in Bosnia and Herzegovina collect massive amounts of information on resolving cases, as well as on operational matters. In order to monitor the above information, the courts and prosecution offices use a wide range of software programs (MS Excel, MS Access), as well as various database applications, such as CMS. Use of multiple software tools may sometimes complicate data analysis, because it may happen that one piece of information is used from one, and another from a different software program, so they need to be combined. Processing of massive amounts of data in the CMS additionally burdens the database servers, which creates interference and delays in accessing the system.

In order to avoid such interference and complications, within the framework of IPA 2012 project implemented by BiH HJPC, the implementation of the Business Intelligence System (BI<sup>26</sup>) in judiciary institution is planned. This system permit combining and access to various types of data in one place, all with the purpose of more effective management and greater accessibility of information to the leaders in courts and prosecution offices. Introduction of the business intelligence system will greatly facilitate generation of required reports for court presidents and chief prosecutors. Reporting will be enhanced because it will be possible to monitor changes in the situation in the courts, i.e. the trends.

### **1.3.2 BI as a management tool**

Unified command screens will be created for the needs of court presidents, enabling them to obtain relevant and fast responses to main questions related to their duties and responsibilities:

- How is the court performing?
- What is the situation on delays? Is it improving or deteriorating?
- Does the court observe the decisions made by BiH HJPC?
- Is the Backlog Resolution Plan implemented as planned?
- What departments are achieving highest quotas, and what departments are lagging?
- In what departments do delays occur?

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<sup>26</sup> Business Intelligence System (BI).

The Business Intelligence System will be of considerable assistance in the process of making business decisions. Relevant stakeholders will have appropriate reports available in real time, which will permit them to monitor the process of resolution of all cases, as well as the adoption of strategic and operational decisions, with the goal of enhancing judicial efficiency.

To this end, development and application of command screens and reports on the level of court presidents would contribute to the strengthening of management capacities through introduction of the business intelligence system in the judiciary in Bosnia and Herzegovina, which would in turn support decision-making in three areas for which the BiH HJPC established quantitative performance frameworks:

- monitoring of plan implementation
- monitoring of quota fulfillment
- duration of resolved and unresolved cases.

The command screens will be created as graphic and tabular presentations of court performance. In this way, the Court President will be able to see whether there are problems in the court at the moment he turns on the command screen.



Picture 5 – Command screen – graphic data presentation

**Realizacija planova u periodu Planovi 2014**

NEVO_4_NAZIV	PLANOVI	IZVJEŠTI
OPĆINSKI SUD U MOSTARU	3503	2982
<b>OPĆINSKI SUD U MOSTARU Total</b>	<b>3503</b>	<b>2982</b>
OPĆINSKI SUD U SARAJEVU	18701	13636
<b>OPĆINSKI SUD U SARAJEVU Total</b>	<b>18721</b>	<b>13636</b>
OPĆINSKI SUD U TUZLI	7511	4138
<b>OPĆINSKI SUD U TUZLI Total</b>	<b>7511</b>	<b>4138</b>
OPĆINSKI SUD U PRAČINJU	2932	1554
<b>OPĆINSKI SUD U PRAČINJU Total</b>	<b>1918</b>	<b>1506</b>
OPĆINSKI SUD U PRAČINJU	2340	1725
<b>OPĆINSKI SUD U PRAČINJU Total</b>	<b>2343</b>	<b>1725</b>
OPĆINSKI SUD U ZVORNIKU	1581	853
<b>OPĆINSKI SUD U ZVORNIKU Total</b>	<b>1181</b>	<b>853</b>
<b>Grand Total</b>	<b>35131</b>	<b>26908</b>

**Trend, razmjena predmeta**

NEVO_4_NAZIV	PERIODEM_2011	PERIODEM_2012	2012 vs 2011 u %	PERIODEM_2013	2013 vs 2012 u %
OPĆINSKI SUD U MOSTARU	6949	6764	-0.26%	6687	-0.01%
OPĆINSKI SUD U SARAJEVU	9387	11756	0.26%	13356	0.14%
OPĆINSKI SUD U TUZLI	9787	9527	-0.21%	10262	-0.01%
OPĆINSKI SUD U PRAČINJU	1421	1308	-0.85%	1267	-0.01%
OPĆINSKI SUD U PRAČINJU	2529	1947	-0.85%	1878	-0.06%
OPĆINSKI SUD U ZVORNIKU	735	795	0.06%	782	-0.02%

**Trajanje - novi izvještaji na dan jedan sud**

NEVO_4_TIP	NEVO_4_NAZIV	Broj novih izvještaja predmeta na dan	Prosječno trajanje
SUD	OPĆINSKI SUD U MOSTARU	8883	894
SUD	OPĆINSKI SUD U SARAJEVU	12773	805
SUD	OPĆINSKI SUD U TUZLI	8899	878
SUD	OPĆINSKI SUD U PRAČINJU	1004	858
SUD	OPĆINSKI SUD U PRAČINJU	13976	947
SUD	OPĆINSKI SUD U ZVORNIKU	940	489

Picture 6 – Command screen – Tabular data presentation

Due to all the above tools (CMS, SOKOP and BI), court presidents will be able to have objective and realistic performance information for their courts, which will allow them to make concrete decisions aimed to enhance the courts' performance.

It is important to note that information technology solutions, no matter how advanced, will not resolve the problems in the courts, when they arise, without court presidents' proactive action. All such solutions are auxiliary tools that signal court presidents about existence of problems in their courts, where a concrete problem emerges as well as where a problem might arise in the future, but it is up to court presidents to take necessary preventive and mitigation steps.

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