



Visoko sudsko i tužilačko vijeće Bosne i Hercegovine
Visoko sudbeno i tužiteljsko vijeće Bosne i Hercegovine
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HIGH JUDICIAL AND PROSECUTORIAL COUNCIL OF BOSNIA AND HERZEGOVINA

2017 Annual Report

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FOREWORD FROM THE HJPC PRESIDENT

Dear friends and colleagues,

I am pleased to present the Annual Report of the High Judicial and Prosecutorial Council (hereinafter: HJPC) for 2017 which provides relevant information on major activities and the results achieved by the HJPC and the BiH judiciary during the past year.

Just as in the past, the HJPC has been consistent in its mission to provide for an independent, impartial and professional judiciary in BiH to ensure equal access to justice and equality for all citizens before the law.

Numerous activities have been performed in the past year focused on improving efficiency and the performance of the courts and prosecutors offices, as well as facilitating easier access to justice for the citizens.

The rule of law represents one of the major challenges for Bosnia and Herzegovina on its path towards EU membership. Key areas in negotiations between our country and the European Union are Chapter 23 - Judiciary and Fundamental Rights & Chapter 24 - Justice, Freedom and Security, and major responsibility for the success of the negotiations on these chapters lies with the judiciary. This is why, within the scope of its competences, the HJPC is determined to assume full responsibility of the process together with the judicial community,

Our common goal is to have a judiciary that can satisfy the criteria of the European Union and be fully aligned with European standards.

In light of this commitment, among the many activities carried out by the HJPC in this field, our cooperation with the European Commission in 2017 focused on working with various experts and fulfilling the recommendations of the EC Peer Review assessments concerning the performance and competences of the HJPC.

The process that began in 2016 and intensified in 2017 aimed to provide a professional assessment of the most sensitive matters under the jurisdiction of the HJPC.

Specifically, first an assessment was made, then recommendations were given concerning the "independence of the judiciary" which were addressed through amendments to the HJPC Rules of Procedure in the parts dealing with mechanisms that regulate decision-making processes, transparency as well as internal control processes of the institution.

We also worked on implementing recommendations targeting the appointment process, focusing on more transparent, efficient and professional career management for judges and prosecutors as well as addressing the system for the performance evaluation of judicial office holders and its effects on future promotion and professional accountability.

A Peer Review was also carried out for disciplinary proceedings which identified the need to increase efficiency and credibility of the disciplinary system and undertake further measures to improve accountability and integrity of the judicial office holders.

The HJPC also was involved in a Peer Review mission focused on financial statements for judges and prosecutors and relevant monitoring. The Peer Review resulted in a set of recommendations that will help the HJPC in its efforts to improve the functionality of financial statements for judges and prosecutors which, though present since the establishment of the HJPC, have yet to serve as a fully functional instrument to ensure transparency and integrity.

Even though professionalism of the judiciary was already covered in part with previous PR missions, the said Peer Review focused on the professional advancement of judicial office holders. Upon the completion of the mission, the European Commission gave recommendations for various areas where the system could be improved.

And finally, a new Peer Review mission focused on combatting organised crime, corruption and terrorism was carried out in October, 2017. This was a special Peer Review involving multiple sectors considering that combatting corruption and organised crime is a cross-cutting matter, and therefore, apart from the judiciary, law enforcement agencies and the relative executive authorities (agencies, directorates...) were also covered with the Peer Review.

Recommendations have yet to be provided with this report and are expected to be available in the first half of 2018.

Regarding the realisation of Peer Review recommendations, the HJPC has passed numerous decisions leading to the realisation of many “short-term” recommendations and activities. The HJPC also adopted an Action Plan for the implementation of Peer Review recommendations as well as conclusions for increased involvement by HJPC members in the realisation of the HJPC Action Plan during the first half of 2018.

We expect that the implementation of the Peer Review recommendations will greatly contribute towards improving internal processes at the HJPC also aligning them with European standards through amendments to the HJPC Rules of Procedure and other books of rules linked to the various areas covered with the Peer Review recommendations. At the same time, we also expect that this will lead to appropriate legal solutions that can serve as a basis for the ongoing improvement of various legal regulations concerning the HJPC and the BiH judiciary in general.

During the past decade the HJPC and the BiH judiciary have indisputably made significant progress together with quantifiable success. This is all the more important considering the extremely complex environment in which these activities have been carried out.

One of the more significant problems is definitely the large number of cases generated throughout the decades. We resolutely faced these problems and undertook numerous measures and activities that gave concrete results.

Our success may be relativised, however the fact remains that the judiciary has no more cases over ten years old, this due to the efforts of the HJPC, the court presidents and judges, all with the support of the international donors.

Cases over five years old are all but completed and we will continue with concerted efforts to fully eliminate all such cases and ultimately address the criticisms on the efficiency of the judiciary.

Between 2010 and year-end of 2017 we saw a drop in the number of pending cases by 183,047 i.e. 36%.

In applying the backlog reduction plans, between 2010 and year-end 2016, over 650,000 cases were completed while this figure rose to over 800,000 by the end of 2017.

The number of pending utility cases was reduced by 5% (16,406 cases) in 2017, compared to 2016, while there was an increase in the number of pending bankruptcy cases by 12% i.e. 99 cases, even though the length of bankruptcy cases was reduced by 8% i.e. 74 days.

This area still has work to do and so, in 2017, we adopted an Action Plan for Measures concerning the BiH Constitutional Court Decision on Violations to a Trial within a Reasonable Period of Time. One thing that is indisputable is that through concrete measures – backlog reduction plans, orientational measures, the informatisation of the judiciary, the renovation and modernization of judicial buildings – we have achieved a positive trend in procedure length before the courts which we trust will continue.

We see that there has been an increase in the number of war crime cases processed. A share in the success achieved here lies with the European Union which secured significant financial support for salaries for judges, prosecutors, professional and administrative staff as well as for material expenses for processing the cases.

The general aim of the support was to improve efficiency in processing war crime cases by reducing the number of pending cases (KTRZ) in the prosecutors offices by 50% during a five year period i.e. 2014 – 2018.

In order to achieve this goal, we introduced concrete activities that resulted in a 36% drop in the total number of pending war crime cases by year-end 2017.

The total number of pending KTRZ cases in all prosecutors offices in Bosnia and Herzegovina dropped from 1,210 to 773 cases between 2014 and year-end 2017.

Accordingly, we are moving in line with our goal and are confident of reaching it by the end of 2018.

Regarding amendments to the National War Crimes Strategy, the Working Group consisting of representatives from relevant institutions, adopted draft amendments to the National War Crimes Strategy which will be forwarded to the BiH Council of Ministers for adoption.

Amendments to the National War Crimes Strategy covered areas that were recognised by the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy in its analyses, reports and conclusions as requiring improvement.

As for the significance of the amendments to the Strategy for the performance of the judiciary, we can rightly expect the transfer of a larger number of war crime cases from BiH level to entity and Brcko District levels. Accordingly, we must secure funds to strengthen the human and material capacities of the judicial institutions on entity levels and for the Brcko District BiH so that they may process these cases after EU support subsidies. Specifically, one of the prerequisites to efficiently process war crimes is to have adequate human resources to be able to process more complex cases such as war crimes.

We trust that funds for the successful implementation of the revised Strategy will be secured and that war crime cases will be duly processed and completed.

A frequent criticism of the judiciary is the small number of corruption cases that are processed involving senior state officials.

Furthermore, sometimes it seems as though the performance of the judiciary in general, is being measured exclusively through the processing of these cases. Without taking away anything as to the importance of processing corruption-related cases, we believe that senior officials cannot serve as an appropriate measure, even though available data tells us that a significant number of officials had been processed in the past.

What we do want to stress is that results in this area can be improved significantly. Without doubt, the issue of corruption must be approached more efficiently with increased energy and dedication.

This is why the HJPC has taken on a range of activities within its competences and in coordination with other institutions operating in this area, and therefore, we expect to see better results.

A list of corruption-related crimes has been developed together with the introduction of separate designations for such cases so they can be consistently registered in all prosecutors offices and are easier to follow statistically in order to analyse trends and identify measures.

The Book of Rules on Orientational Measures was amended so that the changes to the quotas would stimulate prosecutors in their work on these cases.

A program was also developed and implemented for two-year specialised training for prosecutors on corruption and organised crime.

A training module was developed – Uncovering and Processing Corruption Crimes, with training completed for some 100 prosecutors and authorised officials.

Also, around 100 prosecutors and authorised officials attended training on the topic – Various Forms of Commercial Crimes and How to Prove Them.

Some 600 authorised officials attended training on the topic – The Quality of Criminal Reports with Particular Focus on Commercial Crimes and Corruption.

A form was also developed and delivered to facilitate planning complex investigations which would serve as a tool for cases involving commercial crimes and corruption.

Efforts through the Strategic Forum for cooperation between prosecutors and authorised officials led to the establishment of a new cooperation model between the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption and the district and cantonal prosecutors offices.

Furthermore, the HJPC is advocating for the establishment of permanent joint investigative teams from the prosecutors offices and the police, which are formed as a priority to process corruption crimes, commercial crimes and organised crime, with such teams already established in Banja Luka, Sarajevo and Zenica.

As for statistics, throughout 2017, the courts rendered 186 verdicts in corruption cases – so called KTK cases, which represents an increase of 8% from the previous year while the number of convictions rose by 4%.

In 2017, there were 43 prison sentences rendered in KTK cases which is a 10% increase from 2016.

There were 10 fines meted out in KTK cases throughout 2017, which is 25% more than for last year in the same types of cases.

As for the total number of organised crime or KTO cases, throughout 2017, there were 321 pending cases which represents an increase in case numbers compared to 2016.

In 2017, a total of 177 KTO cases were completed by the prosecutors offices which is 1% more than the previous year, while in 2017, the courts passed 25 verdicts in organised crime cases which is 47% more than for 2016. Of the 25 verdicts, 24 were convictions.

Regarding the breakdown of convictions, the majority of them i.e. 21 were prison sentences.

It is clear that for Bosnia and Herzegovina and its citizens, the fight against corruption and organised crime represents a priority above all others, and we will give our all within the framework of our competences to contribute to its success.

During this period, the HJPC has also seriously been addressing the matter of liability for judicial office holders.

It must be said that a judiciary that processes judges and prosecutors cannot, as some wish to show, be a poor judiciary. To the contrary, this is a responsible judiciary that is ready to face its own internal issues, a judiciary that does not want any individuals in its system or its community who, through their conduct, break the laws of our country and impede the reputation of the judiciary.

As for disciplinary liability and the pronouncement of relevant sanctions, since 2004 to year-end 2017, 10 judicial office holders were removed from office while 11 more resigned while disciplinary proceedings were still ongoing.

Written warnings were sent to 64 judges and prosecutors, while 87 judicial office holders received public reprimands. Salary reductions were imposed in 95 cases.

During the period in question, 261 disciplinary measures were pronounced, of which 19 measures in 2017.

Only a judiciary with a high level of integrity can serve as a true segment in the comprehensive mechanism for fighting corruption. A mature judiciary, that is self-aware and willing to face its own weaknesses and challenges can properly stand accountable to society and to the public. This is why we strive to establish a mature judiciary and achieve these very things.

We have adopted a well-defined Book of Rules on Conflicts of Interest for HJPC Members, whereby raising the accountability of our members to the highest possible level.

We have adopted integrity plans for judicial institutions in the form of internal anti-corruption documents which contain an overview of identified risks together with a set of measures, legal and practical, to prevent and remove the possibility for the occurrence and development of various forms of corruption or unethical conduct on all functional levels of the judicial institutions.

Also, when it comes to accountability and transparency, we are rigorously working on identifying solutions for better oversight and greater transparency of information found in the financial statements of the judges and prosecutors with independent European experts helping us through the Peer Review missions.

We have seen many improvements in the field of appointments and will continue with the introduction of new solutions to as best possible objectivise the selection and appointment process for judges and prosecutors as specified in the Peer Review mission.

Ultimately, we must continue with the judicial reforms process. It is key that we continue to diligently and efficiently, within the scope of our competences, work on dealing with challenges and issues concerning the judiciary and its functioning. We trust that, in doing so, we will help

establish a society with a stable business ambiance, together with a strategic approach for resolving future challenges within the judicial sector.

Numerous activities that are presented in the Report, were realised by the HJPC with the help and support of our friends, international donors, foremost the European Union, Sweden, Norway, Switzerland and the United States of America, as well as the Netherlands and the United Kingdom to all of whom we are truly grateful.

Just as in past years, the HJPC is open for cooperation with the legislative and executive branches for all important matters in the field of judicial reform, cooperation based on mutual respect and understanding so that we may achieve our goals together i.e. accession to the EU and the continued progress of our society in general.

And finally, as always, I would especially like to thank our colleagues, the judges and prosecutors, as well as all other employees of the judicial community. Without their dedication, perseverance and unwavering efforts, the HJPC would not be able to actively and successfully carry out the reform of the judiciary.

President of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina,
Milan Tegeltija

MEMBERS OF THE HJPC

Milan Tegeltija, President of the HJPC

Mandate: July 2014 - July 2018

The judges of the district, basic, district commercial courts of Republika Srpska and the High Commercial Court in Banja Luka elected judge Milan Tegeltija as a member of the HJPC in June, 2014.

He was elected President of the HJPC at the inaugural HJPC session in July, 2014.

He holds the office of judge of the Basic Court in Banja Luka.

Ms. Ruzica Jukic, Vice-President of the HJPC

Mandate: June 2016 – June 2020

The judges of the cantonal and municipal courts in the Federation of BiH elected judge Ruzica Jukic to the HJPC in June 2012. She was re-elected for a second term as Vice-President of the HJPC at the HJPC session on 26 May, 2016.

She holds the office of judge of the Municipal Court in Tuzla.

Ms. Jadranka Lokmic Misiraca, Vice-President of the HJPC

Mandate: November 2016 – November 2020

The prosecutors of the Prosecutors Office of BiH elected prosecutor Jadranka Lokmic Misiraca to the HJPC in September 2016. She was re-elected for a second term as Vice-President of the HJPC at the HJPC session on 12 October, 2016.

She holds the office of Deputy Chief Prosecutor of the Prosecutors Office of BiH.

Mr. Selim Karamehic, member of the HJPC

Mandate: June 2017 - June 2021

The Judicial Commission of the Brcko District elected judge Selim Karamehic to the HJPC in June 2017.

He holds the office of judge of the Basic Court of the Brcko District BiH.

Mr. Dragomir Vukoje, member of the HJPC

Mandate: February 2017 - February 2021

The judges of the Court of BiH elected judge Dragomir Vukoje to the HJPC in January 2017.

He holds the office of judge of the Court of Bosnia and Herzegovina.

Goran Nezirovic, Member of the HJPC

Mandate: February 2017 - February 2021

The judges of the Supreme Court of the Federation of BiH re-elected judge Goran Nezirovic to the HJPC for a second term in February 2017.

He holds the office of judge of the Supreme Court of BiH.

Ms. Violanda Subaric, Member of the HJPC

Mandate: September 2015 - September 2019

The judges of the Supreme Court of Republika Srpska elected judge Violanda Subaric to the HJPC in June 2015.

She holds the office of judge of the Supreme Court of Republika Srpska.

Mr. Slavo Lakic, Member of the HJPC

Mandate: July 2014 - July 2018

The prosecutors of the Federal Prosecutors Office of FBiH elected prosecutor Slavo Lakic to the HJPC in May, 2014.

He holds the office of prosecutor in the Federal Prosecutors.

Mr. Mahmut Svraka, Member of the HJPC

Mandate: September 2017 - September 2021

The prosecutors of the Republic Prosecutors Office of Republika Srpska re-elected prosecutor Mahmut Svraka to the HJPC for a second term in June 2012.

He holds the office of chief prosecutor of the Republic Prosecutors Office of Republika Srpska

Ms. Berina Alihodzic, Member of the HJPC

Mandate: September 2017 - September 2021

The prosecutors of the cantonal prosecutors offices in the Federation of BiH elected prosecutor Berina Alihodzic to the HJPC in September 2013.

She holds the office of Deputy Chief Prosecutor of the Cantonal Prosecutors Office of the Sarajevo Canton.

Ms. Zeljka Radovic, Member of the HJPC

Mandate: February 2015 - February 2019

The prosecutors of the district prosecutors offices in Republika Srpska elected prosecutor Zeljka Radovic to the HJPC in December 2014.

She holds the office of Chief Prosecutor of the District Prosecutors Office in Doboje.

Ms. Jadranka Ivanović, Member of the HJPC

Mandate: June 2015 - June 2019

The Bar Association of Republika Srpska elected attorney Jadranka Ivanović to the HJPC in March 2015.

She works as an attorney at a law practice in Banja Luka.

Ms. Amila Kunosic, Member of the HJPC

Mandate: January 2017 - January 2021

The Assembly of the Bar Association of the Federation of BiH elected attorney Amila Kunosic to the HJPC in December 2016.

She works as an attorney at a law practice in Tuzla.

Ms. Monika Mijic, Member of the HJPC

Mandate: December 2016 - December 2020

The Council of Ministers of BiH elected Monika Mijic to the HJPC in December 2016.

She is an advisor to the Minister with the Ministry of Justice FBiH.

Ms. Milijana Buha, Member of the HJPC

Mandate: October 2016 - October 2020

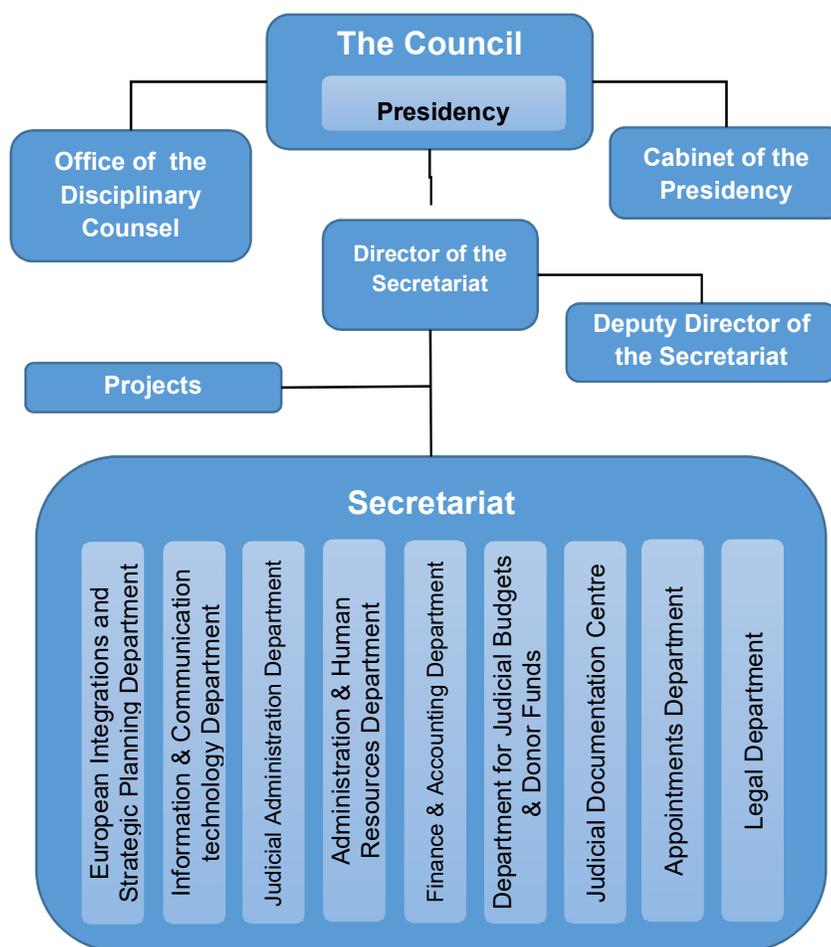
The House of Representatives of the Parliamentary Assembly of BiH elected Milijana Buha to the HJPC in October 2012.

She works as an assistant professor at the Faculty of Law of the University of Banja Luka.

In 2017, the following changes occurred to the composition of the HJPC:

- Selim Karamehic, judge of the Basic Court of the Brcko District BiH, replaced Dragan Tomas, judge of the Basic Court of the Brcko District BiH as representative of the Judicial Commission of the Brcko District BiH;
- Dragan Tomas, judge of the Basic Court of the Brcko District BiH, replaced Zijad Kadric, judge of the Appellate Court of the Brcko District BiH as representative of the Judicial Commission of the Brcko District BiH;
- Dragomir Vukoje, judge of the Court of BiH, replaced Goran Radevic, judge of the Court of BiH as representative of the Court of BiH;
- Goran Nezirovic, judge of the Supreme Court of FBiH, was re-elected on behalf of the Supreme Court of FBiH;
- Mahmut Svraka, Chief Republic Prosecutor of the Republic Prosecutors Office of Republika Srpska was re-elected on behalf of the Republic Prosecutors Office of Republika Srpska;
- Berina Alihodzic, Deputy Chief Cantonal Prosecutor of the Sarajevo Canton replaced Alma Dzaferovic, prosecutor of the Cantonal Prosecutors Office of the Tuzla Canton as representative of the cantonal prosecutors offices;
- Amila Kunosic, attorney from Tuzla replaced attorney Ilijas Midzic from Bihac, as representative of the Bar Association of the FBiH.

HJPC Organisational Chart



On 31 December, 2017, the HJPC had 134 employees, with 77 financed from the HJPC budget and 54 hired for the implementation of project activities by the HJPC and financed by donors. On 31 December, 2017, there were seven (7) ongoing employment procedures (three budget funded posts and four project based positions), of which two vacancies for posts with indefinite durations (Office of the Disciplinary Counsel and Legal Department) of the 84 posts that represents the employment limit for the HJPC with two announcements for trainee positions with backgrounds in law and economics, as well as four announcements for project positions with fixed durations that are funded by donors. The Book of Rules on Internal Organisation and the Systematisation of Posts of the HJPC provides for 104 posts with indefinite durations. Based on budget-related savings measures for BiH institution as elaborated in the Letter of Intent for a Stand-By Arrangement sent to the International Monetary Fund (IMF) and which limits employment in BiH institutions to 2009 levels, the maximum number of employees for the HJPC BiH stands at 84.

HJPC BUDGET

The HJPC finances part of its activities from funds approved with the budgets for BiH institutions, while project activities are directed at judicial reform and are financed by donors.

Funding HJPC activities

In accordance with the Law on the Budget for Institutions of BiH and International Obligations of BiH ¹, the approved 2017 budget for the HJPC is 4,866,000 KM. Of the said amount, 4,860,000 KM is earmarked for current expenditures, while 6,000 KM falls under capital investments.

Budget expenditure in 2017 amounted to 4,574,053 KM or 94%.

Table 1: Budget expenditure per item

| EXPENDITURES | Approved budget | Adjusted budget | Budget execution | Index |
|---|------------------|------------------|------------------|------------|
| I CURRENT EXPENDITURES | 4,860,000 | 4,851,900 | 4,561,669 | 94% |
| Gross salaries and other payments | 3,318,000 | 3,318,000 | 3,142,054 | 95% |
| Employee reimbursements | 158,000 | 245,000 | 241,122 | 98% |
| Travel expenses | 220,000 | 220,000 | 215,299 | 98% |
| Telephone and postal services | 62,000 | 53,000 | 50,044 | 94% |
| Power and utilities | 128,000 | 110,000 | 108,976 | 99% |
| Supplies | 30,000 | 17,000 | 16,744 | 98% |
| Transportation and fuel | 54,000 | 39,400 | 35,167 | 89% |
| Lease and rent | 1,000 | 1,000 | 688 | 69% |
| General maintenance | 468,000 | 457,000 | 392,579 | 86% |
| Insurance and payment operations | 7,000 | 5,500 | 3,809 | 69% |
| Contracted services | 414,000 | 386,000 | 355,188 | 92% |
| II CAPITAL EXPENDITURES | 6,000 | 14,100 | 12,384 | 88% |
| Acquisition of fixed assets in the form of rights | 6,000 | 14,100 | 12,384 | 88% |
| TOTAL I + II | 4,866,000 | 4,866,000 | 4,574,053 | 94% |

Financing project activities focused on judicial reform with donor funds

Article 15, paragraph 9 of the Law on the HJPC² stipulates that: The Council may receive donations from international donors to its operational budget and for special judicial reform projects outside the operational budget of the Council. Such funds shall be transferred to a special purpose account with the Central Bank of Bosnia and Herzegovina. The funds shall be spent upon the order of the Director of the Secretariat in accordance with regulations for the execution of donor funds issued by the Council and in accordance with the conditions of the grant agreement with the donor.

In 2017, donor funds were used to finance seven projects dealing with judicial reform and aimed at strengthening the capacities of the judiciary.

¹ Official Gazette of BiH, no. 94/16

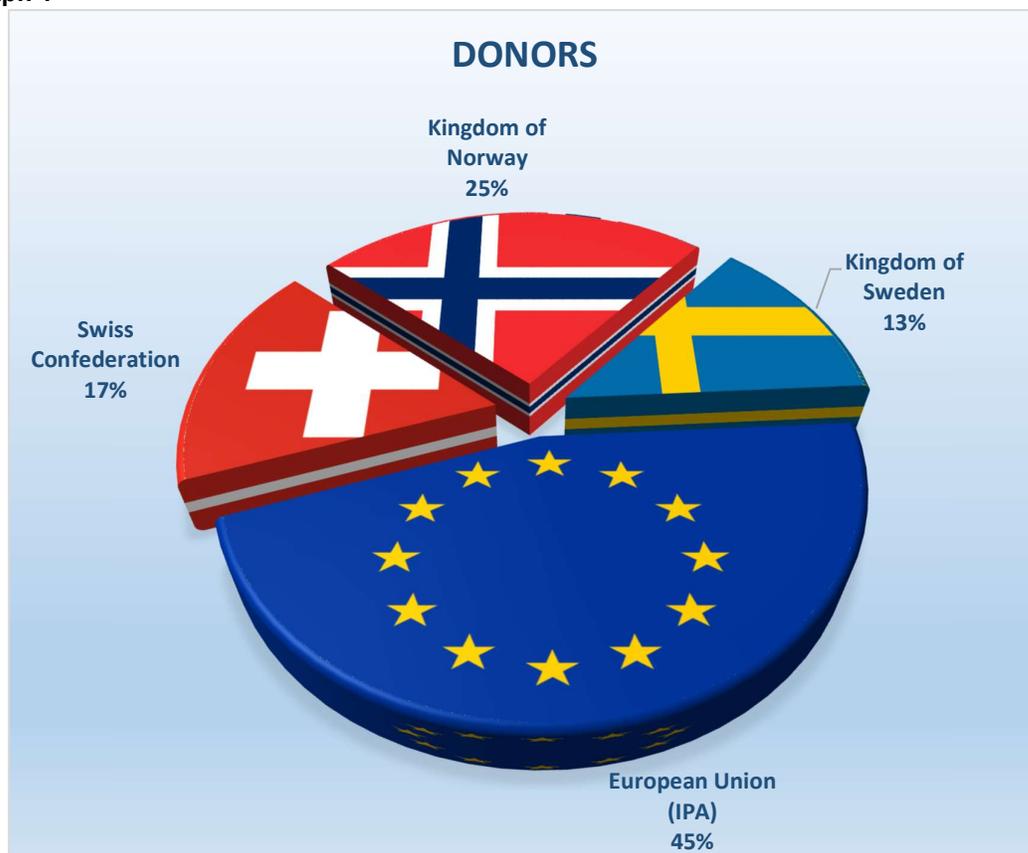
² Official Gazette of BiH, no. 25/04, 93/05, 48/07 & 15/08.

Table 2: Overview of donors and the total available funds for each project in 2017

| Total funds available in 2017 (KM) | Total expended in 2014 (KM) | Project implementation period |
|---|-----------------------------|-------------------------------|
| Donation of the Czech Republic for the Project - Reviewing and updating test tasks in order to establish a test task pool | | |
| 1,896 | 0 | January 2012 and onwards |
| Donation from the Swiss Government and the Kingdom of Norway for the Project - Support for the Judiciary of Bosnia and Herzegovina - Strengthening the Capacity of Prosecutors in the Criminal Justice System, phase II | | |
| 2,274,103 | 1,439,242 | December 2014 - November 2018 |
| Donation from the Kingdom of Norway for the Improving Judicial Efficiency Project, phase II | | |
| 2,936,797 | 1,094,199 | July 2015 - July 2018 |
| Donation from the Kingdom of Norway for the Project - Human Resources Management Information System for the Judiciary of Bosnia and Herzegovina, phase II | | |
| 447,735 | 170,302 | July 2015 - July 2018 |
| EU donation for the Project - Consolidation and the continued development of the judicial communication & information system (IPA 2013) | | |
| 5,040,125 | 3,405,967 | January 2016 - July 2018 |
| Donation from the Kingdom of Sweden for the Project - Improving the Efficiency of Courts and Accountability of Judges and Prosecutors in BiH, phase II | | |
| 1,765,985 | 168,562 | November 2016 - October 2019 |
| EU donation (IPA 2013) for the Enhancing War Crimes Case Processing Project | | |
| 1,190,518 | 719,549 | December 2016 - February 2019 |

The major donors in 2017 were the European Union contributing 45% of the total donor funds and the Kingdom of Norway contributing 25%. Significant funds were also contributed by the Kingdom of Sweden and the Swiss Agency for Development and Cooperation.

Graph 1



Investments in the Judiciary of Bosnia and Herzegovina

Between 2004 and 2017, the HJPC BiH secured 90 million KM for project activities involving judicial institutions at all government levels.

This figure included projects that the HJPC BiH directly carried out as well as projects carried out by the EU Delegation to BiH with the HJPC BiH as a partner.

The European Union is the largest single donor with 44.5 million KM, which was used to procure computer equipment, software and other equipment for the informatisation of the judiciary on all government levels as well as for renovating and furnishing judicial buildings.

The EU is followed by the Kingdom of Norway with 12.8 million KM and the Kingdom of Sweden with 9.1 million KM.

As for the breakdown of funds, 56.5 million KM was used for the procurement of equipment, 19.3 million KM for building renovation efforts and 3.9 million KM for the maintenance of the judicial information system.

During this period, 17.9 million KM were allocated to the HJPC from the budget of BiH institutions for purchasing computer equipment, software and other equipment within the Project for the Informatisation and Strengthening the Capacity of Judicial Institutions in BiH, as well as the maintenance of the judicial information system and other current expenditures for the judiciary.

Audits

In 2017, the Audit Office for BiH Institutions (hereinafter: AO) carried out the final audit for 2016, and the preliminary audit for 2017, based on samplings of major items from current and capital expenditures, donations received and public procurements completed thus far.

Relevant activities were initiated and appropriate measures taken based on the recommendations of the AO.

In 2017, independent auditors performed audits of the following grants:

- Audit of the annual financial statement of the Project - Support for the Judiciary of BiH – Strengthening the capacity of prosecutors in the criminal justice system, phase 2 (donors – Swiss Confederation and the Kingdom of Norway)
- Audit of the annual financial statement of the Improving Judicial Efficiency Project, phase 2 (donor – the Kingdom of Norway)
- Audit of the annual financial statement of the Human Resources Management System for the Judiciary of Bosnia and Herzegovina, phase 2 (donor – the Kingdom of Norway)

During the aforesaid audits, checks were made to financial regularity, consistency with project goals, economy and efficiency in managing the projects as well as the suitability, relevance and functioning of internal controls.

Chapter 1: EUROPEAN INTEGRATIONS

1.1 Peer Review missions and the realisation of recommendations stemming from the missions

In order to present the logic behind the Peer Review process and its objectives, we must first offer some background to the EU accession process from the perspective of the judicial reform, while also providing certain political and legal/technical criteria.

First of all, we need to stress that an independent, efficient, professional and accountable judiciary is the key to a properly functioning democratic society, and that the measures used to assess criteria fulfilment form part of the EU acquis – a French term that designates the accumulated legislation, other legal acts and agreements that regulate the EU and its functioning.

These common standards serve to ensure that the judiciary, wherever it may be within the EU, treats its citizens, legal persons and institutions equally, that their rights are respected and that they live and operate within the protections of the rule of law. This also means that judicial systems throughout the EU must enjoy mutual trust and be able to depend on each other. This is why we have a European judicial area to which all EU members states and candidate states strive.

In this regard the process of accession, and the instruments of technical assistance made available to the candidate countries, meaning BiH, have the purpose to facilitate this process, helping candidate countries to find solutions complying with the joint standards, and yet best fitting their traditions, cultures, and specific challenges; solutions which nonetheless are in the hands of the candidate country to implement and put in place.

Throughout the past few years, we have predominantly utilized instruments such as IPA, for instance. This is one of the tools used to provide concrete support to the process. It must be said that over 19 million EURs in IPA support has been invested since 2004 to help the BiH Judiciary alone to improve efficiency, professionalism, independence and accountability.

Another instrument largely used is TAIEX, which is the Technical Assistance and Information Exchange instrument of the European Commission, and through its support, technical exchange of experiences with EU experts was ensured on different aspects of the judicial processes such as, among others, fighting organized crimes, corruption and terrorism, improving witness protection and court security; improving communication and relation between judiciary and the media; redressing of victims of criminal offences, or execution at large.

Without delving into the details, this is an example of how the EU accession process assists BiH institutions in providing better service **to its citizens today**, and **meeting EU standards for accession, tomorrow**. The partnership between the Delegation of the European Union to BiH and the HJPC remains a vital part of the efforts for the betterment of the BiH judiciary and its ability to fulfil the requirements for EU accession in the coming years.

A key moment in this process took place on 15 February 2016, when BiH requested to join the EU; a request which led the EU Council on 20 September, to solicit the European Commission to provide an analytical opinion about the BiH application. In its opinion, the EC shall compare BiH existing standards against the political criteria for accession the EU has defined in Copenhagen in 1993 and in Madrid in 1995. For this purpose, in December last year, the questionnaire was delivered, and in parallel numerous Peer Review missions started in order to complement this massive analytical work.

Peer Review missions are an instrument of support, facilitated by TAIEX, which consists of exchange of best praxis between public administration, including the judiciary of Bosnia Herzegovina, and peers from different EU countries. But difference between classical TAIEX seminars and Peer Review missions, is that the latter have a specific objective, which in this concrete case consist of helping the European Commission to better assess the situation in BiH on particular issues on one side, and BiH authorities to better understand the reasons for alignment with the relevant EU practices on the other.

In the specific case of the judiciary: judges, prosecutors and other professionals from different countries, members of the European Union have visited, and will continue visiting BiH for the purpose to review some key areas of the judiciary. Following those reviews, the EU experts prepare dedicated reports, with specific recommendations, which are meant to assist the EC to assess the concrete status in BiH, and BiH institutions to further promote reform, in line with the EU standards which are reflected in the expert's recommendations. At the end of this stage, EU will accompany its analytical opinion with "key priorities", in other words, conditions for passing to the next stage – candidate status and accession negotiations on Chapters 23 and 24, the first ones to be opened.

The HJPC has first asked the EC to start its Peer Reviews in the most sensitive areas of its jurisdiction, and dedicated Peer Review missions have already been conducted with regard to:

Independence - Rules of Procedure of the High Judicial and Prosecutorial Council of BiH:

This was the first dedicated Peer Review carried out in July of 2016, and it reviewed the mechanism regulating the decision making processes within the High Judicial and Prosecutorial Council. The EU expert provided several recommendations, focusing among other on the democracy of the decision making process, its transparency, and the processes of internal control.

Appointments of judges and prosecutors:

The EU expert recommendations delivered following the Peer Review on appointments last year in September suggested you ensure that career management of judges and prosecutors become more transparent, efficient and professional.

As a follow up to this Peer Review a dedicated Peer Review on appraisal and evaluation and its impact on career advancement and professional responsibility was conducted in April 2017.

Integrity and accountability:

A Peer Review on the disciplinary proceedings was also conducted in September 2016, and this review noted a need to increase the effectiveness and credibility of the disciplinary system and take further measures to improve accountability and integrity of judicial and prosecutorial office holders.

Also with regards to integrity, a dedicated Peer Review mission on financial statements for judges and prosecutors and their review was carried out in April. Recommendations were provided to further assist the HJPC BiH in its efforts to improve the functioning of certain tools (financial statements) which, though available since the establishment of the HJPC BiH, have yet to be fully functional instruments to ensure transparency and integrity.

Professionalism:

While professionalism has already been covered in part by all the previously conducted Peer Review missions, a specific Peer Review on continuing legal education was carried out in May 2017. Then, the EU provided recommendations focusing on areas where judicial education may be improved to ensure the highest standards of professionalism; in particular on the multi-annual training programmes for judges and prosecutors, as well as induction training for newly appointed judges and prosecutors and in-service training to address shortcomings which through the daily work of individual office holders may be identified.

And finally, a **dedicated Peer Review mission focused on fighting organised crime, corruption and terrorism** was carried out in October, 2017. This was a special Peer Review involving multiple sectors considering that fighting corruption and organised crime is a transversal matter, and therefore, apart from the judiciary, law enforcement agencies and the relative executive authorities (agencies, directorates...) were also included in the Peer Review. Recommendations have yet to be provided with this report and are expected to be available in the first half of 2017.

The Peer Review will accompany us throughout the whole process of accession to the European Union. Their recommendations will help us identify concrete specifications of the EU Acquis applicable to the BiH judicial system.

As regards the Peer Review recommendations that can be addressed in the short-term, the Council has adopted/implemented the following:

- The Rules of Procedure on Amendments to the HJPC BiH Rules of Procedure whereby in Article 13, a new paragraph (9) is added and reads: “Minutes from the Council session are public records and shall be published on the website of the HJPC BiH. Parts of the Minutes that refer to an item of the agenda that, in accordance with the Rules of Procedure, is closed for the public shall not be published except for any conclusion that is adopted. In the part of the Minutes that addresses voting by the members of the Council, only the number of votes cast FOR, AGAINST and ABSTAINED shall be recorded without stating the names of the members of the HJPC BiH. (Peer Review, rec. 23)
- Decision establishing that all members of the ODC shall receive initial and ongoing training at the Judicial and Prosecutorial Training Centre. (Peer Review, rec. 14)
- Decision on the approval of direct access to the case management systems of the courts and prosecutors offices - CMS & TCMS, for ODC staff members. (Peer Review, rec. 17)
- Decision requiring the ODC to develop and distribute, both online and in print, brochures on initiating and conducting disciplinary proceedings to familiarise the general public with the matter. (Peer Review, rec. 22)
- Decision establishing the duty for members of disciplinary panels who are not members of the HJPC BiH to take specific induction training as carried out by the Judicial and Prosecutorial Training Centre. (Peer Review, rec. 29)
- Decision that court presidents and chief prosecutors are given Guidelines whereby, in the event that a judge or prosecutor of the court of prosecutors office has received a disciplinary sanction, a meeting will be organised with the other judges or prosecutors of the respective court or prosecutors office to discuss the risks stemming from conduct that may result in the commission of a disciplinary offence. (Peer Review, rec. 50)
- Decision on the disclosure of financial statement forms for judges and prosecutors on the HJPC BiH website and on the BiH judicial portal. (Peer Review, rec. 5)
- Decision to disclose statistical data on the fulfilment rate for filing the statements, the number of statements that were subject to monitoring together with the outcomes. (Peer Review, rec. 5)

The Council adopted the Action Plan for the Implementation of the Peer Review Recommendations together with a conclusion for increased involvement by Council members in the implementation of the recommendations in the next six months.

- To facilitate the implementation of the aforesaid Action Plan, the HJPC BiH adopted a special operational set-up for the next six months which entails that candidate interviews for judicial office will, in general, be conducted during the first week of a month, while the rest of the month will be dedicated to working on systemic and strategic issues regarding the implementation of the Peer Review recommendations.

As stated, due to the importance of the Peer Review process and the implementation of the recommendations, the Council adopted the said Action Plan with a deadline of 30 June 2018, while the deadline for recommendations on appointments and liability for judicial office holders was set for 28 February 2018.

A separate work plan was also adopted for the Council members to promptly implement the peer review recommendations through daily involvement in standing committee meetings and working groups, as well as a schedule for HJPC BiH sessions with only this item on the agenda. Accordingly, the Council convenes its sessions more or less every week.

We expect that the implementation of the Peer Review recommendations will greatly contribute towards improving internal processes at the HJPC BiH also aligning them with European standards through amendments to the HJPC Rules of Procedure and other books of rules linked to the various areas covered with the Peer Review recommendations. At the same time, we also expect that this will lead to appropriate legal solutions that can serve as a basis for the

ongoing improvement of various legal regulations concerning the HJPC and the BiH judiciary in general.

1.2 HJPC BiH participation in the Subcommittee on Justice, Freedom and Security

The Subcommittee on Justice, Freedom and Security is one of the joint cooperation bodies for Bosnia and Herzegovina and the European Union and the implementation of the SAA. At meetings with EU representatives, discussions are held on the implementation of the Stabilisation and Accession Agreement in the areas of justice, freedom and security. HJPC BiH representatives form part of the BiH delegation that participates in the work of the Subcommittee.

For the second meeting of the Subcommittee on Justice, Freedom and Security, the HJPC BiH prepared its contribution in line with its competencies and in reference to independence, impartiality and professionalism, accountability, efficiency, effectiveness and quality of the judiciary, as well as covering the processing of war crimes by the courts and prosecutors offices. At the meeting, presentations were made and activities addressed that focused on the realisation of EC recommendations. The HJPC representatives participated in the work of the Subcommittee between 30 November – 1 December, 2017. The European Commission gave recommendations for each of the areas covered for the BiH government and its institutions to implement and apply.

1.3 EC Questionnaire for Bosnia and Herzegovina

After verification by the HJPC Standing Committee for International Relations and European Integrations and subsequent approval by the Council at its session on 8-9 February, 2017, the responses to the EC questionnaire that fall under the competences of the HJPC were then, within the set deadline, uploaded to the IT system of the Directorate for European Integrations (IS DEI). There were 126 questions, in total, covering:

- 12 questions from the field Fundamental rights;
- 2 questions from the field – Democracy/Regional issues and international obligations;
- 88 questions from Chapter 23 – Civilian oversight over security forces, the judiciary and anti-corruption;
- 17 questions from Chapter 24 – Justice, freedom and security;
- 5 questions from Chapter 7 – Intellectual property law; and
- 2 questions from Chapter 27 – Environment.

Between August and September, the Working Group for Political Criteria met three times and included representatives from all levels of government as stipulated with the Decision on the System for the Coordination of European Integration Processes in BiH³. The meetings addressed the various responses from the relevant institutions and their harmonisation. The HJPC responded to 88 questions from this field. Responses for which an agreement was not reached were sent to the Committee for European Integrations to decide. A large number of responses that fell under the competences of the HJPC were sent to the said Committee. Regarding these questions, for which the HJPC prepared the responses for all government levels, in accordance with the methodology as defined during the preliminary meetings that were held in December 2016, the RS Ministry of Justice subsequently delivered data for RS level, which resulted in duplicated responses, different scopes of responses, varying statistical data for the same fields and, ultimately, poorly structured responses. In order to resolve this issue, all relevant institutions were asked for their opinion on the matter. After a suggestion was given by the Working Group and subsequently the Committee for European Integrations, all government levels, with the exception of Republika Srpska, decided in favour of the responses provided by the HJPC to the relevant questions.

³ Official Gazette of BiH, no. 8/16.

Apart from the Working Group for Political Criteria, HJPC representatives also participated in the working groups for chapters 24 and 27 which convened two times each. There were no disputed issues for these chapters or for Chapter 7, where the HJPC responded to 5 questions though did not have a member on the working group for the chapter.

Keeping in mind the complexity of translating legal matter, also the fact that the English version of the responses is the only valid version for the European Commission, in coordination with the DEI, the HJPC assumed the duty to translate all responses under their competences. In doing so, the HJPC, as the single institution in BiH, showed its commitment to actively contribute to this segment of preparations concerning the questionnaire, as well, all in order to ensure the appropriate level of quality in translation and improve inter-institutional cooperation in the European integration process.

1.4 Recommendations from the 2016 Report on Bosnia and Herzegovina

After the European Commission identified the future priorities for BiH in its 2016 BiH Progress Report, on 8 March 2017, the BiH Council of Ministers adopted an Action Plan for the Realisation of Priorities from the 2016 BiH Report (hereinafter: Action Plan) which incorporated proposals from the various institutions. Apart from that, all relevant institutions were tasked to report quarterly on the realisation of measures from the Action Plan⁴.

The HJPC was tasked with implementing 38 measures thus contributing to the realisation of the relevant priorities within the Rule of Law Chapter. Of the 38 measures, 31 were realised while 7 measures are either partially realised or unrealised at the time of completing this Final Report. These measures are:

- 5.4 Continue monitoring the application of new criteria for the performance evaluation of prosecutors and chief prosecutors, introducing new qualitative criteria for evaluation and propose new amendments, as required.
- 5.9 Piloting the competence matrix in designated courts for designated positions at the courts.
- 5.13 Adapt training on ethics and other related issues to facilitate distance learning methods.
- 5.14 Consider the method for confidential counselling on ethical issues in line with GRECO recommendations.
- 6.6 Initiate amendments to the law on enforcement procedure.
- 6.7 Provide support for pilot courts in setting up court-annexed mediation.
- 12.1 Review current regulations of the relevant authorities from Article 10 of the Agreement on the Establishment of an Electronic Data Exchange System between Police Bodies and the Prosecutors Offices and align amendments with current regulations.

Information on the implementation of measures that fall under the competences of the HJPC were included in the relevant DEI information system on 3 April 2018.

1.5 Projects funded by the European Union

On 10 July 2013, the BiH Council of Ministers adopted the State IPA 2013 Package which included projects for support to the BiH judiciary focused on strengthening the capacities of the judiciary in BiH for prosecuting war crimes and the consolidation and further development of the information and communications system. Apart from IPA 2013 projects, in 2017, we completed construction, reconstruction and renovation works on judicial institutions as funded with IPA 2012. In 2017, we also completed the preparation of technical documentation for the construction and renovation of judicial institutions in BiH to be funded with the IPA 2015 assistance package that was released after the adoption of the IPA 2015 package by the BiH

⁴ Institutions upload their reports to the DEI Information system for support to the BiH European integration process which is then used to provide responses to the EC questionnaire.

Council of Ministers on 25 June 2015, and the signing of the financial agreement on 14 July 2016.

The Project – Enhancing the Processing of War Crimes Cases in BiH – IPA 2013 (hereinafter: Project) represents the continuation of EU support for processing war crimes as secured within the assistance package IPA 2012/2013 (Measure 2 – Establishing an adequate system for the effective prosecution of war crimes in the relevant judicial institutions in BiH), for which the EU provided 14.8 million Euros to fund salaries for judges, prosecutors and support staff working on war crimes with the relevant courts and prosecutors offices in BiH, as well as to cover material expenses in connection with the prosecution of war crimes.

The Project is funded according to the Grant Agreement signed between the EU Delegation to BiH and the Ministry of Finance and the Treasury of BiH, with 7.4 million Euros secured for this phase of the Project to support the effective prosecution of war crimes in BiH. The beneficiaries of this support were 15 prosecutors offices and 8 courts, the High Judicial and Prosecutorial Council of BiH and the BiH Ministry of Justice – the Section for Criminal Defence and Training in Criminal Matters before the Court of BiH (OKO). Through this support, the European Union secured funds to cover salaries for 15 prosecutors, 6 judges and over 100 support staff who provide support to judges and prosecutors for processing war crimes (legal associates, advisors, investigators, psychologists and other staff).

The general goal of the project is to improve efficiency in prosecuting war crimes by the judiciary of Bosnia and Herzegovina by reducing the number of pending war crimes cases with known suspects in the prosecutors offices (KTRZ cases) by 50% within five years (2014 – 2018). The Project also focuses on:

- strengthening human and material capacities for processing war crimes by the judicial institutions;
- improving the professional capacities of the judges and prosecutors for processing war crimes; and
- improving the professional capacities of defence attorneys in war crimes cases.

Considering its role to oversee the implementation of the National War Crimes Strategy, the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy (hereinafter: Supervisory Body) is a key partner of the European Union for the Project. The Supervisory Body drafts its reports on the prosecution of war crimes cases which it sends to the HJPC BiH, and assesses the achievement of project goals, results and progress made. In evaluating the realisation of project goals, the Supervisory Body concluded that on 31 December 2017, the number of pending cases in the prosecutors offices was reduced by 36% and that processing war crimes cases at the prosecutors offices followed the set dynamic, with slight deviations.

Based on its substantial experience in the implementation of projects funded by the European Union and other donors, the HJPC BiH, as a beneficiary of the project, follows the processing of war crimes cases in the beneficiary prosecutors offices and courts and conducts the following activities:

- analyses the processing of war crimes cases by the courts and prosecutors offices that are project beneficiaries and delivers reports on the results achieved to the Supervisory Body and the EU Delegation in BiH;
- provides professional and administrative support to the Supervisory Body in overseeing the implementation of the National War Crimes Strategy;
- monitors the implementation of plans for processing war crimes cases by the prosecutors offices in BiH;
- organises peer meetings with judges and prosecutors to improve knowledge and skills for processing of war crimes;
- conducts centralised public procurements for the courts and prosecutors offices as beneficiaries of the project, thus ensuring uniformity, efficiency and economy of public procurement procedures;

– organises meetings and visits to courts and prosecutors offices to coordinate activities and provide support to all beneficiaries in order to facilitate the successful implementation of the project.

Consolidation and further development of the judicial communications and information system – the first phase of the IPA 2012 Project ended on 23 January 2016, after which the second phase started as financed with the IPA 2013 package, and with a duration period of 30 months. The objective of the project is to secure a range of preconditions for the efficient functioning of the judiciary in BiH, focusing on two key aspects: establishing the technical prerequisites and strengthening the management capacities of the judiciary. Implementation of the second phase of the project was supported with 6,679,159 KM from IPA 2013 funds, the budget of the BiH Institutions and the governments of the Kingdoms of Sweden and Norway. Information on the implementation of the Project can be found in Chapter 4 (Judicial efficiency) and Chapter 7 (Digital transformation of the judiciary in BiH) of this report.

Construction, reconstruction and renovation of judicial buildings – in 2017 works were completed on locations that were financed with IPA 2012 funds:

- reconstruction of the current building and the construction of a new annex to the building of the Basic Court in Banja Luka;
- reconstruction and building extension of the District Court in Banja Luka;
- construction of an annex to the Prosecutors Office of BiH;
- reconstruction of the building accommodating the District Prosecutors Office in Doboj, the District Court in Doboj, the District Commercial Court in Doboj and the Basic Court in Doboj.

The HJPC drafted preliminary designs and project documentation in 2016, as part of the preparations to improve the infrastructure within the judiciary which is to be financed from IPA 2015, together with the support of the Government of Sweden. This, then, put in place the conditions to initiate activities on the preparation of tender procedures for the construction, reconstruction and renovation of the judicial buildings in BiH as covered with the IPA 2015 program implemented by the EU Delegation to BiH (DEU). Based on the project documentation that was submitted, in 2017, the DEU developed the tender documentation and carried out tender procedures for the selection of contractors and supervising authorities for construction works on the following infrastructure projects:

- construction of the Palace of Justice in Trebinje that will accommodate three judicial institutions (basic court, district court & prosecutors office);
- reconstruction of the Basic Court in Foca;
- reconstruction and an extension to the District Prosecutors Office building in East Sarajevo;
- construction of a new building for the Municipal Court in Tuzla;
- reconstruction of the building of the Cantonal Court in Tuzla and the building of the Cantonal Prosecutors Office of the Tuzla Canton;
- reconstruction and a floor extension to the building of the Municipal Court in Ljubuski.

The beginning of works on the said projects is set for the first quarter of 2018. The DEU also requested the delivery of project documentation for the Basic Court in Gradiska. However, considering that the municipal authorities did not issue the relevant construction permits before the deadline, the DEU decided against funding construction works and the building of an annex to the of the basic court building in Gradiska.

Chapter 2: INDEPENDENCE OF THE JUDICIARY

2.1 The HJPC and the independence of the judiciary

In accordance with Article 17, item (27) of the Law on the HJPC, in 2017, the HJPC passed three opinions that found the independence of judicial institutions and judicial office holders to be jeopardised. The threats stemmed from media content and the actions of the legislative and executive branches that were focused on specific court/prosecutors office cases.

In one of the opinions, the HJPC found that the discussions held at the Sarajevo Cantonal Assembly regarding a particular case, which also involved an assessment of the evidence and its legality together with offering legal qualifications for the crime, all while trial was still ongoing, goes beyond the competencies available to the legislative body and represents inappropriate pressure on the judiciary.

Furthermore, regarding an enforcement case with the Basic Court in Zvornik, the Council called on the executive branch of Republika Srpska to refrain from any actions that may impede the independence of the said court and allow it to operate autonomously and unhindered.

As for media content that was recognised by the Sarajevo Cantonal Court judge, as representing an attack on their professional dignity while creating a climate that also jeopardised their physical security through tendentious and aggressive reporting and inaccurate information concerning a particular case that was still ongoing, the HJPC noted that the matter concerned various headings that represented a threat to judicial independence.

Apart from the above, the HJPC issued a press release in response to actions from representatives of the legislative and executive branches of RS in relation to a decision rendered by the Court of BiH in a particular case, which was considered to represent inappropriate pressure on state level judicial institutions.

At the same time, HJPC conclusions that were adopted in response to an announced parliamentary debate on judicial reform - and provoked by statements from various politicians, underlined the need to uphold the democratic principle for the separation of powers and maintain the HJPC as a safeguard to the independence of the judiciary in BiH, reminding of the conclusions adopted at the Conference, The Judiciary - Current Status and Prospects that was held in December 2016 in Mostar.

2.2 HJPC participation in the budget process for the courts and prosecutors offices

HJPC participation in the preparation, adoption and execution of the budgets of the courts and prosecutors offices is regulated with the Law on the HJPC, and the relevant laws on courts and prosecutors offices in BiH. The HJPC has an advisory role in the preparation of budgets i.e. it helps the courts and prosecutors offices in BiH in the preparation of their budget proposals. Every year the HJPC sends the courts and prosecutors offices guidelines with recommendations for them to prepare their budget proposals. Separate guidelines are prepared for each court/prospectors office, and represent HJPC's assessment on the minimum funds required for the institution to be able to operate efficiently. The HJPC also sends comments to budget proposals of the courts and prosecutors offices which they, in turn, deliver to the relevant ministries together with their budget proposal. Ultimately, the HJPC may comment budget drafts and proposals that are then given consideration by the legislative branch.

When comparing with the competencies available to other judicial institutions in a number of European countries, as well as in most countries of the region, it can be said that the HJPC's competencies are insufficient and do not facilitate full independence when it comes to financing the judiciary.

Also, numerous international documents (Opinion no.10(2007) of the Consultative Council of European Judges etc.) point out that financial independence represents one of the foundations for the independence of the judiciary.

Apart from lacking competencies for the budgeting process, another major problem is the fragmented financial setup for the judiciary i.e. funds coming from 14 different sources. Specifically, the Court of BiH and the Prosecutors Office of BiH are funded from the budget of BiH institutions, judicial institutions in Republika Srpska are funded from the budget of Republika Srpska, judicial institutions of the Brcko District BiH are funded from the District budget, the Supreme Court of FBiH and the Federal Prosecutors Office of FBiH from the budget of the Federation of BiH, while the cantonal courts and prosecutors offices and the municipal courts are funded from 10 different cantonal budgets.

Decisions on judicial budgets are rendered independent of each other, on all government levels, with no coordination in place. This problem is particularly prominent in the Federation of BiH where cantonal courts/prosecutors offices and municipal courts are funded from cantonal budgets even though most decisions related to funding needs are determined on entity and state levels (number of judges and prosecutors is set by the HJPC, while the salaries and other payments for judges and prosecutors, the number of courts and their seats, the criteria for the number of support staff, attorney fees that form the bulk of criminal process expenses, are all generated through decisions that are rendered on Federal level).

Throughout 2017, the HJPC looked to assist the courts and prosecutors offices in BiH in the preparation of their budget proposals. In its comments to budget proposals and to the drafts and proposed budgets, the HJPC used statistical data on case numbers in the courts and prosecutors offices together with other statistics pertaining to the judiciary and its work. Also, by maintaining contacts with the representatives of the executive and legislative branches, and, on a number of occasions, through its comments on draft budgets, the HJPC endeavoured to secure sufficient funding for the operations of the judicial institutions.

2.3 The budgets of the courts and prosecutors offices for 2017

The following table provides an overview of approved budgets for the courts and prosecutors offices for 2016 and 2017 as well as an assessment of the minimum funds required for efficient operations as compiled for the courts and prosecutors offices by the HJPC:

Table 3:

| | 2016 Budget | HJPC funding assessment for 2017 | Approved for 2017 | Amendments (rebalance) to the 2017 budget | Rebalance 2017/ 2016 budget | Rebalance 2017/HJPC assessment for 2017 |
|---------------------------|--------------------|----------------------------------|--------------------|---|-----------------------------|---|
| | I | II | III | IV | V=IV/I | VI=IV/II |
| Republika Srpska | | | | | | |
| Personal income | 49,190,200 | 52,549,727 | 49,380,700 | 49,380,700 | 0.4% | -6.0% |
| Goods & services | 10,099,400 | 19,409,300 | 10,628,500 | 10,628,500 | 5.2% | -45.2% |
| Produced fixed assets | 155,000 | 1,201,700 | 327,700 | 327,700 | 111.4% | -72.7% |
| Servicing debts | 0 | 0 | 0 | 0 | | |
| Total | 59,444,600 | 73,160,727 | 60,336,900 | 60,336,900 | 1.5% | -17.5% |
| Federation BiH | | | | | | |
| Salaries & other payments | 108,170,693 | 115,652,890 | 111,759,361 | 110,566,465 | 2.2% | -4.4% |
| Material & services | 23,916,141 | 31,243,000 | 23,906,843 | 25,011,595 | 4.6% | -19.9% |
| Capital expenditure | 537,934 | 1,845,150 | 1,146,166 | 1,215,169 | 125.9% | -34.1% |
| Total | 132,624,768 | 148,741,040 | 136,812,370 | 136,793,229 | 3.1% | -8.0% |
| Brcko District | | | | | | |
| Salaries & other payments | 5,397,675 | 5,638,090 | 5,457,364 | 5,387,364 | -0.2% | -4.4% |
| Material & services | 1,221,950 | 1,235,000 | 1,149,630 | 1,149,630 | -5.9% | -6.9% |
| Capital expenditure | 110,000 | 0 | 168,577 | 168,577 | 53.3% | |
| Total | 6,729,625 | 6,873,090 | 6,775,571 | 6,705,571 | -0.4% | -2.4% |

The key elements based on which the HJPC makes its funding assessments for the courts and prosecutors offices, as sent to the courts and prosecutors offices within the budgeting guidelines, are:

- The number of regular judges as approved with HJPC decisions and the number of reserve judges approved through the budget, the number of prosecutors for which budget funds have been approved as well as the number of support staff for the courts and prosecutors offices as currently approved with the respective budgets. This information was used to assess the minimum funds required for the institutions to operate as shown in the table.
- Assessment of funds required for material and services, developed based on data on expenses from the previous year; data on the number of criminal cases for the assessment of criminal procedure expenses; expected cost increase rate, and the expected rise for this type of expenditure due to the aforesaid staff strengthening.

– An assessment of the funds required for the procurement of ICT equipment so that the case management system within the judicial information system can operate properly. Considering that capital expenditures are planned jointly on Brcko District level for all institutions, this assessment was not made for the judicial institutions in the Brcko District.

Next in the budgeting process, the HJPC would use statistical data to comment the budget proposals and point out priorities for more judicial office holders and support staff. The comments to the budget proposals highlight courts with the biggest backlogs per judge in relation to other courts of the same instance and prosecutors offices with the fewest legal associates/investigators per prosecutor. The assessment for funds to cover additional needs is not shown in the table, while we can see that funds approved for salaries were not even at minimum levels required (-6% deviation for RS and -4.4% for the FBiH). In general, requests for additional funds to cover stated priorities were not approved.

The total budget for the judicial institutions in Republika Srpska was some 1.5% higher than for 2016. An increase was made to the main budget items and included an increase in goods and services (5.2%) and produced fixed assets (111.4%). The FBiH saw an increase in 2017 judicial budgets by 3.1%. An increase was noted for salaries and other payments (2.2%), while material and services had an increase of 4.6%. Regarding capital expenditures, the item was increased by 677,235 KM compared to the previous year.

Judicial institutions are also burdened with substantial attorney fees in mandatory defence cases and in cases involving indigent persons as the accused/suspects, expert witness expenses and postal fees.

Apart from that, capital expenditure was reduced to a minimum, even though there were major demands for maintenance of the ICT equipment to support the judicial information system. Certain procurement and maintenance needs for the ICT system were covered with donor funds and the HJPC budget. The entity and cantonal budgets need to assume financing the procurement and maintenance of this equipment considering that donor funds for these purposes are ever diminishing.

We can say that financing for the judicial institutions of the Brcko District is relatively satisfactory and that the approved budget do not deviate greatly from HJPC assessments (-2.4%). In 2017, there was a minor reduction to the budget i.e. 0.4% compared to 2016. One of the reasons for the satisfactory funding of the judicial institutions of the Brcko District is the special competencies the judicial institutions have in the preparation of the budget and the option for the Judicial Commission of the Brcko District to directly negotiate the budget with the District Assembly, which is a practice of a number of European countries.

The following table provides an overview of the approved budget for the Court of BiH and the Prosecutors Office of BiH that are financed from the budget of the BiH institutions.

Table 4:

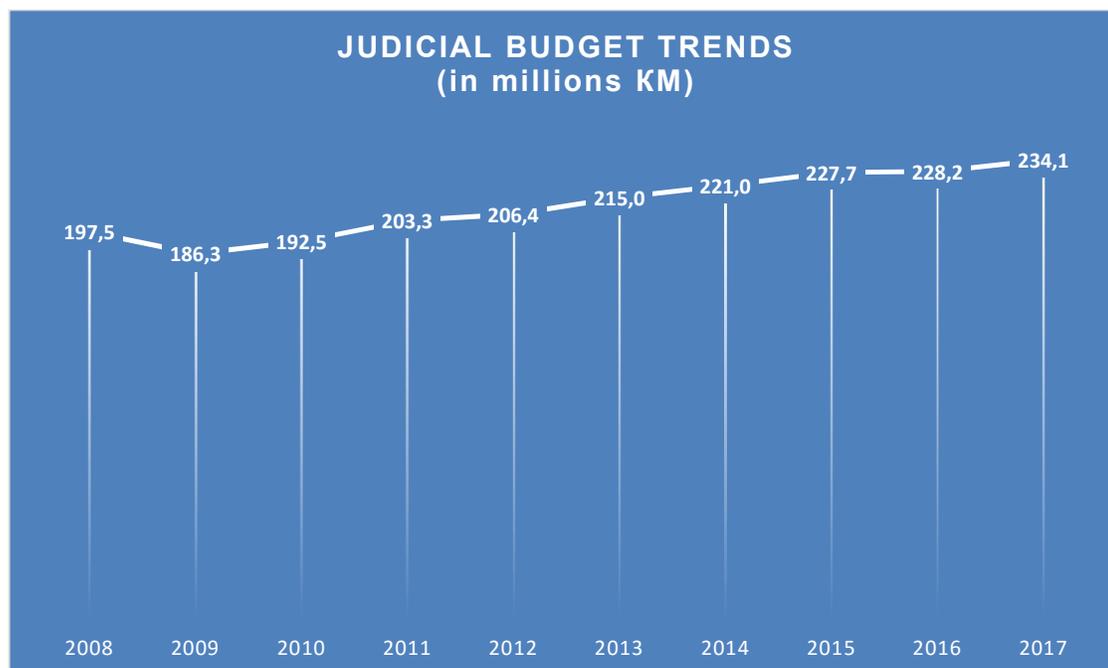
| | Approved budget for 2016 | HJPC funding assessment for 2017 | Approved budget for 2016 | Budget 2017/2016 | Approved budget 2017/HJPC assessment 2017 |
|---------------------------|--------------------------|----------------------------------|--------------------------|------------------|---|
| | I | II | III | IV=III/I | V=III/ II |
| Salaries & other payments | 23,488,000 | 21,854,013 | 23,848,000 | 1.53% | 9.1% |
| Material & services | 5,421,000 | 6,171,000 | 6,031,000 | 11.25% | -2.3% |
| Capital expenditure | 504,000 | 0 | 400,000 | -20.63% | |
| Total | 29,413,000 | 28,025,013 | 30,279,000 | 2.94% | 8.0% |

The total budget for judicial institutions that are financed from the budget of BiH institutions is up by 2.94% (approx. 866,000 KM) compared to 2016.

2.4 Budget trends

The following graph shows judicial budget developments between 2008 and 2017.

Graph 2



Chapter 3: APPOINTMENT & EVALUATION

3.1 Procedure for appointment to judicial office

3.1.1 Legal framework & procedures

A fundamental competence of the High Judicial and Prosecutorial Council in ensuring the independence and impartiality of the courts and prosecutors offices in Bosnia and Herzegovina is to establish transparent and objective appointments procedures for judicial office.

Article 43 of the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of BiH, no. 25/04, 93/05, 48/07 & 15/08) prescribes the appointment criteria and serves as general guidance for the HJPC when determining competences required for judicial office.

The appointment procedure for judges and prosecutors is prescribed in detail with the HJPC Rules of Procedure and the Book of Rules on Entrance Exams and Written Tests for Judicial Office Positions with the Judiciary of Bosnia and Herzegovina (hereinafter: Book of Rules on Entrance Exam and Written Tests).

In accordance with Article 37 of the HJPC Rules of Procedure, a competition procedure shall include:

- Entrance exams and written tests for candidates as prescribed for mandatory entrance exams and written tests;
- Candidate interviews;
- Candidate ranking and proposal.

Also, according to the provisions of the Rules of Procedure, candidate ranking is carried out based on the following criteria:

- candidate competence;
- legal analysis skills;
- the ability of the candidate to responsibly, independently and impartially hold the office for which they have applied, in consideration of, among other things, current work-related experience of a candidate, professional impartiality and standing, conduct outside the workplace, training and professional advanced training, the publication of academic papers, as well as other activities within the profession;
- communication and presentation skills;
- For managerial positions, the determination of managerial skills and experience; and
- the ability to manage human resources.

As stated above, candidate competence for those outside of the judiciary and for whom appointment on any level represents “entry into the judiciary” would be determined subsequent to an entrance exam and written test.

As for competence criteria for candidates already with the judiciary and whose appointment would represent either professional promotion or moving to another court or prosecutors office of the same level, competence will be determined based on the performance results for the past three years (performance is evaluated by the court president or chief prosecutor).

Regarding appointments to first instance courts and prosecutors offices, apart from the results achieved, the HJPC is aware that the segment dealing with the evaluation of candidate competence and skills must be improved so that the new solutions provide further guarantees for the selection of candidates with the best professional qualifications.

It is important to mention that during the past year we have seen an expert mission (Peer Review) carried out by the EU Delegation on the procedures and criteria for the appointment of judges and prosecutors, and its recommendations and best practices will assuredly contribute to better, more efficient regulation and implementation of the appointment procedure to judicial office.

Apart from the above, various activities were carried out in 2017 to facilitate online candidate application and enable regional centres to hold entrance exams as well as for conducting interviews via video link regionally.

Further on we will present general information on the activities that were carried out in 2017, such as: the number of competitions and positions announced, the number of interviews held and the number of decisions on appointment made.

Six competitions were announced in 2017. A total of 2,627 candidates applied to the vacancies as announced. After entrance exams and written tests were organised, 1,654 interviews were held with candidates who passed the threshold for interviews.

Ultimately, the HJPC passed 201 decisions on appointments to judicial office and 37 mandate extensions for reserve judges.

Table 5: Staffing levels of the courts and prosecutors offices at year-end 2017 (figures & ethnic breakdown)

Overview of systematised and filled judge/prosecutor positions as at 31 December 2017.

| Level/Institution | Systematisation no. | No. of positions filled | Ethnic breakdown | | | | Gender breakdown | |
|------------------------------|---------------------|-------------------------|------------------|----|----|------|------------------|-----|
| | | | B | C | S | O | M | F |
| Court of BiH | 57 | 52 | 22 | 9 | 17 | 4 | 27 | 25 |
| Prosecutors Office of BiH | 63 | 58 | 27 | 9 | 18 | 4 | 30 | 28 |
| Supreme Court FBiH | 58 | 44 | 26 | 9 | 8 | 1 | 12 | 32 |
| Prosecutors Office FBiH | 12 | 12 | 6 | 3 | 2 | 1 | 6 | 6 |
| High Commercial Court | 7 | 7 | 1 | 1 | 5 | 0 | 4 | 3 |
| Supreme Court RS | 23 | 23 | 4 | 3 | 13 | 3 | 8 | 15 |
| Prosecutors Office RS | 14 | 12 | 2 | 1 | 8 | 1 | 7 | 5 |
| Cantonal courts | 148 | 139 | 75 | 31 | 26 | 7 | 38 | 101 |
| Cantonal prosecutors offices | 212 | 203 | 120 | 38 | 30 | 1615 | 98 | 105 |
| District courts | 122 | 110 | 25 | 9 | 70 | 6 | 39 | 71 |
| District prosecutors offices | 110 | 83 | 13 | 7 | 56 | 7 | 40 | 43 |
| Municipal courts | 445 | 418 | 222 | 96 | 68 | 32 | 150 | 268 |

| | | | | | | | | |
|--|-------------|-------------|------------|------------|------------|-----------|------------|------------|
| Basic courts | 212 | 198 | 46 | 15 | 129 | 8 | 77 | 121 |
| Basic Court of the Brcko District | 20 | 18 | 6 | 3 | 7 | 2 | 11 | 7 |
| Prosecutors Office of the Brcko District | 9 | 9 | 4 | 2 | 3 | 0 | 4 | 5 |
| Appellate Court of the Brcko District | 9 | 8 | 2 | 3 | 3 | 0 | 4 | 4 |
| TOTAL | 1521 | 1394 | 601 | 239 | 463 | 91 | 555 | 839 |

District commercial courts fall under district courts except for the High Commercial Court which is shown separately.

Table 6: Overview of ethnic and gender breakdowns of the management for the judicial institutions in BiH as at 31 December 2017

| Level/Institution | Bosniac | Croat | Serb | Others | Male | Female |
|--|-----------|-----------|-----------|----------|-----------|------------|
| Court of BiH | | | | 1 | 1 | |
| Prosecutors Office of BiH | | 1 | | | | 1 - acting |
| Supreme Court FBiH | | | 1 | | 1 | |
| Prosecutors Office FBiH | | | 1 | | 1 | |
| Supreme Court RS & High Commercial Court | | 1 | | 1 | 1 | 1 |
| Prosecutors Office RS | 1 | | | | 1 | |
| Cantonal courts | 6 | 3 | 1 | | 2 | 8 |
| Cantonal prosecutors offices | 4 | 5 | 1 | | 6 | 4 |
| District courts and commercial courts | 3 | | 8 | 1 | 7 | 5 |
| District prosecutors offices | | 1 | 5 | | 4 | 2 |
| Municipal courts | 16 | 9 | 5 | 1 | 14 | 17 |
| Basic courts | 4 | 0 | 15 | 1 | 13 | 7 |
| Appellate Court of the Brcko District | | | 1 | | 1 | |
| Basic Court of the Brcko District | | 1 | | | 1 | |
| Prosecutors Office of the Brcko District | 1 | | | | 1 | |
| TOTAL | 35 | 21 | 38 | 5 | 54 | 45 |

3.1.2 Key recommendations from the expert mission assessment (Peer Review) on appointments to judicial office

To improve the appointment procedure, during the past year the expert mission (Peer Review) carried out by the EU Delegation on the procedures and criteria for the appointment of judges and prosecutors was continued, and its recommendations and best practices should contribute to better, more efficient regulation and implementation of the appointment procedure.

Subsequent to interviews that were carried out with all relevant HJPC personnel and members of the judicial community, EU experts drafted an analysis of the system for appointment to judicial office and gave a final assessment with recommendations to improve the current procedure for appointments and career promotion.

Certain recommendations require legislative amendments while others can be addressed by the HJPC through amendments to internal regulations and procedures. According to the recommendations from the expert mission, a system must be established that will separate procedures for first-time entrants to the judiciary and procedures involving moving to other positions of the same level and promotion to higher level positions.

Essentially, the most important recommendation from the expert Report on Procedures and Criteria for the Appointment of Judges and Prosecutors, advocates the introduction of a so-called career-based system for the BiH judiciary. According to this recommendation, all appointments to higher positions in courts and prosecutors offices should be carried out exclusively through the system for the promotion of judicial office holders.

Actually, only appointments to first level positions would be carried out based on a public competition while horizontal transfers and promotions would be completed based on an internal announcement for the judiciary, meaning that procedures would be quicker and simpler.

Promotion to appellate and supreme court levels should be carried out through an internal procedure and based on specific requirements.

Apart from the above, entrance exam procedures also need to be changed to improve effectiveness, impartiality and transparency. Entrance exams should be held once a year, always in the same period, for an exact number of positions and should consist of an entrance exam, a written test and an interview. Ranking would exclusively be based on the competence of the candidates.

Mandates for managers have been subject to discussion at the HJPC for some time now i.e. establishing a maximum number of terms for managerial positions in a court or prosecutors office.

Regarding the period and extension of mandates for managers, it was agreed that they should be 4 year terms with the option of one extension.

We also need to redefine the rules for the election of court presidents so that they facilitate the selection of the best judge from the court whereas if the court has a vacancy, then a judge of another court of the same or higher instance may be appointed. The same rule would also apply for election procedures involving prosecutors offices.

The recommendations from the expert mission propose that a separate procedure be designed for the appointment of managers (court presidents, chief prosecutors and deputy chief prosecutors) which would include the requirement for candidates to prepare and present a work plan for the relevant court/prosecutors office while also proposing the introduction of a training program for managing judicial institutions.

At its session on 4 October 2017, the HJPC generally accepted all recommendations that focused on improvements to the appointment procedure. Based on the adopted HJPC plan, the recommendations will be reviewed, in detail, and potential solutions will be incorporated in the internal regulations covering appointments. At the same time, proposal amendments will be prepared for the legal framework, as required. These activities should be completed by the end of June 2018.

3.2 Performance evaluation for judicial office holders

3.2.1 Legal framework

Article 17, item (22) of the Law on the HJPC prescribes that the HJPC (22) “determines the criteria for the performance evaluation of judges and prosecutors”. The performance evaluation of judges and legal associates in the municipal courts, prosecutors, court presidents and chief prosecutors is performed once a year based on HJPC criteria. The performance evaluation for the last three years must be used to assess the competence of a candidate as part of the appointment procedure in accordance with the HJPC Rules of Procedure.

The provisions on the performance evaluation of judicial office holders in courts and prosecutors offices throughout Bosnia and Herzegovina still lack consistency regarding legal basis and the evaluation period.

The laws on courts in FBiH, RS and the Brcko District of Bosnia and Herzegovina determine jurisdiction for the performance evaluation of judicial office holders whereby court presidents evaluate the performance of the judges, while the president of the immediately higher instance court evaluates the performance of the president of an immediately lower instance court. However, the Law on Courts of FBiH does not stipulate for the performance evaluation of the president of the Supreme Court of FBiH. Furthermore, the Law on the Court of Bosnia and Herzegovina does not prescribe the performance evaluation of its judges and court president⁵. The laws on courts determine the evaluation period in two ways: at least once during the year (Law on Courts of the Federation of Bosnia and Herzegovina) and at least once in three years (laws on courts of Republika Srpska and the Brcko District BiH).

The laws on prosecutors offices do not prescribe the basis for the performance evaluation of prosecutors and chief prosecutors except for the Law on Prosecutors Offices in Republika Srpska.

Since 2014, the HJPC has approached the Ministry of Justice of Bosnia and Herzegovina on a number of occasions to initiate a procedure for amendments to the Law on the HJPC to consistently define competences and procedures for the performance evaluation of all judicial office holders in BiH. The initiative was submitted in line with the recommendations of the EU - BiH Structured Dialogue on Justice as well as the tasks stemming from the BiH Justice Sector Reform Strategy and its Action Plan. Nonetheless, the HJPC initiative was not realised throughout 2017.

3.2.2 Performance evaluation of judicial office holders for 2017

Here in the Report you can find data on the evaluation of judicial office holders for 2017⁶.

The performance of 1,073 judicial office holders of the regular courts in BiH were evaluated in 2017. Of the total evaluated, the majority were evaluated with “exceptionally successful performance” (516 or 48%), 384 or 36% received the evaluation “successful performance”, 122 or 11% “good performance, 45 or 4% “satisfactory performance” and 6 or 1% of the judicial office holders received the evaluation “unsatisfactory performance”.

⁵ The performance of a judge of the Court of BiH is evaluated in order to participate in a competition procedure.

⁶ Data does not include performance evaluations for the presidents of the entity supreme courts, the President of the Appellate Court of the Brcko District BiH, the Chief Prosecutor of the Prosecutors Office of BiH, the chief prosecutors of the entity prosecutors offices and the Chief Prosecutor of the Prosecutors Office of the Brcko District BiH seeing as the HJPC had not completed the evaluation procedure for the said judicial officials before the publication of this Report.

Table 7: Overview of the performance evaluations of the judicial office holders at the courts

| COURTS | Performance evaluation - court presidents, judges & legal associates at the municipal courts of the FBiH | | | | | | | | | |
|---|--|------------|------------------------|------------|------------------|------------|--------------------------|-----------|----------------------------|-----------|
| | Exceptionally successful performance | | Successful performance | | Good performance | | Satisfactory performance | | Unsatisfactory performance | |
| | | % | | % | | % | | % | | % |
| Supreme Court of the Federation of BiH | 40 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| Supreme Court of Republika Srpska | 15 | 80% | 2 | 10% | 0 | 0% | 2 | 10% | 0 | 0% |
| Appellate Court of the Brcko District BiH | 7 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| High Commercial Court in Banja Luka | 0 | 0% | 5 | 72% | 1 | 14% | 0 | 0% | 1 | 14% |
| Cantonal courts | 92 | 63% | 40 | 28% | 8 | 6% | 5 | 3% | 0 | 0% |
| District courts | 30 | 43% | 29 | 41% | 7 | 10% | 4 | 6% | 0 | 0% |
| District commercial courts | 16 | 55% | 12 | 42% | 1 | 3% | 0 | 0% | 0 | 0% |
| Municipal courts | 253 | 48% | 183 | 34% | 62 | 12% | 26 | 5% | 5 | 1% |
| Basic courts | 58 | 28% | 105 | 50% | 40 | 19% | 5 | 3% | 0 | 0% |
| Basic Court of the Brcko District BiH | 5 | 26% | 8 | 42% | 3 | 16% | 3 | 16% | 0 | 0% |
| TOTAL | 516 | 48% | 384 | 36% | 122 | 11% | 45 | 4% | 6 | 1% |

The performance of 350 judicial office holders of the prosecutors offices in BiH were evaluated in 2017. Of the total evaluated, the majority were evaluated with “exceptionally successful performance” (219 or 63%), 105 or 30% received the evaluation “successful performance”, 18 or 5% “good performance, 7 or 2% “satisfactory performance” and one prosecutor or 0% received the evaluation “unsatisfactory performance”.

Table 8: Overview of the performance evaluations of the judicial office holders in the prosecutors offices

| PROSECUTOR OFFICES | Performance evaluation - chief prosecutors, deputy chief prosecutors & prosecutors | | | | | | | | | |
|------------------------------------|--|------|------------------------|-----|------------------|----|--------------------------|----|----------------------------|----|
| | Exceptionally successful performance | | Successful performance | | Good performance | | Satisfactory performance | | Unsatisfactory performance | |
| | | % | | % | | % | | % | | % |
| Prosecutors Office of BiH | 50 | 92% | 2 | 4% | 0 | 0% | 2 | 4% | 0 | 0% |
| Federal Prosecutors Office of FBiH | 11 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| Republic Prosecutors Office of RS | 10 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| Cantonal prosecutors offices | 89 | 48% | 79 | 43% | 12 | 6% | 4 | 2% | 1 | 1% |
| District prosecutors offices | 57 | 69% | 21 | 26% | 3 | 4% | 1 | 1% | 0 | 0% |

| | | | | | | | | | | |
|--|------------|------------|------------|------------|-----------|-----------|----------|-----------|----------|-----------|
| The Prosecutors Office of the Brcko District BiH | 2 | 24% | 3 | 38% | 3 | 38% | 0 | 0% | 0 | 0% |
| TOTAL | 219 | 63% | 105 | 30% | 18 | 5% | 7 | 2% | 1 | 0% |

3.2.3 Key recommendations from the expert analysis (Peer Review) concerning the performance evaluation of judges and prosecutors in Bosnia and Herzegovina

In 2017, international experts contracted by the European Commission prepared an Analysis of the performance evaluation process for judges and prosecutors in Bosnia and Herzegovina⁷, together with other expert analyses for other areas of the BiH judicial system. The analysis was delivered to the HJPC in June 2017.

As part of the expert analysis, discussions were held with judicial office holders throughout BiH, legislative bases were reviewed, as were the procedure and criteria for the performance evaluation of judges and prosecutors and the effect an evaluation grade has on career advancement together with the consequences of a poor evaluation grade.

The Analysis offers a range of recommendations to improve the performance evaluation system for judges and prosecutors while also looking to achieve an appropriate balance between quantity and quality criteria for performance evaluation in line with the best European standards.

The evaluation system should be mandatory for all judges and prosecutors in BiH, including those who work at judicial institutions on state level. Individual appraisal should take place, in normal circumstances, every three years and not annually. In their evaluations, the evaluators state measures for improving performance for each respective judicial office holder and their institution, in general. The findings from the aspect of human resources management have to clearly distinguish between facts the appraised person is responsible for and such falling under the responsibility of the “system of judiciary”. In the event of the former, consideration may be given to positive and negative aspects for the person in question.

The highest performance evaluations should be reserved for exceptional performances to inspire judges and prosecutors to strive for excellence. Therefore, the best grades should be limited to, at most, 20% of all those evaluated in each court and prosecutors office unless elaborated circumstances justify a higher percentage. We need to reinforce the mechanisms of correlation between the different stages of a judicial career. The evaluation procedure must be interconnected with the disciplinary procedure imposing that the most negative grade establishes the opening of an investigation leading to possible disciplinary measures.

Quality criteria within the evaluation process must be reinforced. Evaluators must assess the quality of the work provided especially of judicial decisions – rulings or indictments - and decide on the concrete quality of their conclusions.

Therefore, any evaluation as to decision quality should focus on:

- The formal adequacy;
- The ability to establish the facts of the case;
- The juridical level of the decisions, namely the legal, jurisprudential and academic knowledge revealed through them;
- The ability to solve complex cases;
- The capacity to convince based on the consistency of the arguments used in the reasoning of the decisions, with particular emphasis on the original ones;

⁷ The expert analysis (Peer Review) is conducted by the European Commission in order to analyse the state of the country submitting an application for membership to the European Union and covers development and the application of legislation and the development of institutions with respect to preparations for membership with the EU for any given area.

– The speediness with which the decisions are delivered and the compliance with legal deadlines;

The evaluation of the quality of the judicial/prosecutorial work should also focus on:

- The judge or prosecutor’s verbal skills;
- The ability to organise and efficiently conduct the proceedings;
- The readiness to take on extra activities within the court or PO administration (e.g. mentoring).

The reversal rate and the acquittal rate for judgements can still be used, though a judge or prosecutor being evaluated may request that reversal and acquittal data is not used to lower their evaluation grade. The said criteria should only be used if a decision was modified or reversed on grounds of a substantial lack of legal reasoning or a qualified breach of law. The influence of qualitative criteria on the evaluation grade should gradually grow.

The evaluator should continue to be the President of Court or the Chief Prosecutor of the evaluated judge or prosecutor. Nonetheless, the explanatory reports accompanying evaluations require more substantive reasoning, based on clearly established criteria for evaluation. However HJPC should have in their internal structure a specialized department with competences to decide on the final mark to be conceded notwithstanding the present mechanisms of complaint to the HJPC already in place and finally the judicial review possibility.

Before the evaluator (Court President or Chief Prosecutor) gives his/her appraisal to the HJPC, the evaluated person should be informed about its wording and grade and have the possibility to respond to it in writing. The evaluator takes this statement into consideration, amending his/her draft – or not – before forwarding it to the HJPC. More formalised remedies should not be provided before the decision of the HJPC about the final grade not to slow down the procedure unnecessarily.

The evaluated judge or prosecutor has the right to have access to the documents being examined and to actively participate in the appraisal procedures by expressing his/her own point of view and commenting on any critical remarks. A judicial review must be permitted in case of discordance about the final grade fixed by the HJPC.

Appraisals as judges and prosecutors and such as Court Presidents and Chief Prosecutors should be kept clearly separate and, if both functions are fulfilled, merged just at the level of the final grade following the ratio of judicial and managerial work. If the evaluated person fulfils 100% of their managerial work and not more judicial/prosecutorial one, his/her final mark/grade should be considered as fully equivalent to a final mark/grade gained on 100% of judicial/prosecutorial work or on “mixed marks/grades”.

The recommendations are divided into different phases according to the envisaged timeframe for their implementation.

Short-term, middle term and long-term proposals

Short-term:

- Significantly reduce the input/weight of quantitative criteria and increase in proportion the input/weight of the qualitative aspect by evaluating 15 written and reasoned decisions (five presented, ten randomly selected) under the aspects of:
 - formal adequacy;
 - clear establishing of facts;
 - consistency of the arguments in the reasoning of the decision and by evaluating verbal skills.
- Prolong the period of appraisals to three years.
- Establish an Evaluation Committee within the HJCP out of members with judicial and prosecutorial professional experience to decide about the final grades based on the formalised proposals of the evaluators.

Middle term:

- Make sure, that under the aspect of appraisals there is no longer an indirect discrimination of judges/prosecutors in mainly managerial positions.

Long-term:

- Establishment of a proper judicial career system that coordinates in a harmonious manner transfers, promotion and new appointments on the basis of well-functioning exams and appraisals.

At its session held on 5-6 July 2017, the HJPC decided to, in principle, accept the recommendations from the Expert Analysis with reference to increasing the importance of performance quality over quantity and establishing more stringent criteria for exceptionally successful performances by judges and prosecutors. The HJPC adopted a plan to thoroughly review the recommendations and draft amendments to the performance criteria for judges and prosecutors by June 2018.

Chapter 4: JUDICIAL EFFICIENCY

4.1 Efficiency of the courts

Major achievements:

- The number of pending cases dropped by 5% compared to 2016.
- Through their backlog reduction plans, the courts completed over 140,000 of the oldest cases.
- The age breakdown average of pending cases at the courts was also reduced.
 - In 2011, there were 151,472 cases two years and older, while in 2017, this figure was 71,517 which represents a decrease of 53%.
 - In 2011, there were 44,432 cases five years and older, while in 2017, this figure was 8,202, which represents a decrease of 82%.
 - In 2011, there were 8,079 cases ten years and older, while in 2017, this figure was 674, which represents a decrease of 92%.
- A total of 6,938 settlements were concluded, representing over 25% more than in 2015 (5,568) and 2014 (5,413).
- Two Court Settlement Week events were held which contributed to the increased use of this instrument by generating greater interest from the parties to seek an amicable solution to their dispute.
- Activities on harmonising caselaw and improving the quality of court decisions continued through cooperation between the biggest first and second instance courts in the country: municipal and cantonal courts in Sarajevo, basic and district courts in Banja Luka.
- The Municipal Court in Sarajevo adopted Guidelines for Managing Civil Litigation Proceedings that serve as instructions for judges aimed at establishing consistency in the interpretation and application of procedural law as well as reinforcing procedural discipline in civil proceedings.
- Dialogue has been initiated with civil society organisations aimed at improving the status of vulnerable citizen groups concerning access to justice.
- The SOKOP-Mal network has been expanded to include new users. As at 31 December 2017, 19 courts and 15 judgment creditors were processing utility cases this way, while consent to join the system was given to 7 new courts and 2 new judgment creditors.
- At its session on 23 March 2017, the HJPC adopted a decision on the mandatory application of SOKOP-Mal for all first instance courts in BiH in order to establish a common system for processing utility cases in the BiH judiciary.
- Work started on the construction of a building for the Olovo branch office of the Municipal Court in Visoko.
- Ceremonies were organised to mark the construction of a new Data Centre for the BiH judiciary as well as the beginning of construction of the Olovo branch office building.
- All means of PR communications (invitations, announcements and press releases, articles) were used and published on the web portal www.pravosudje.ba and on the HJPC website to inform the public and increase transparency in the operations of the courts.

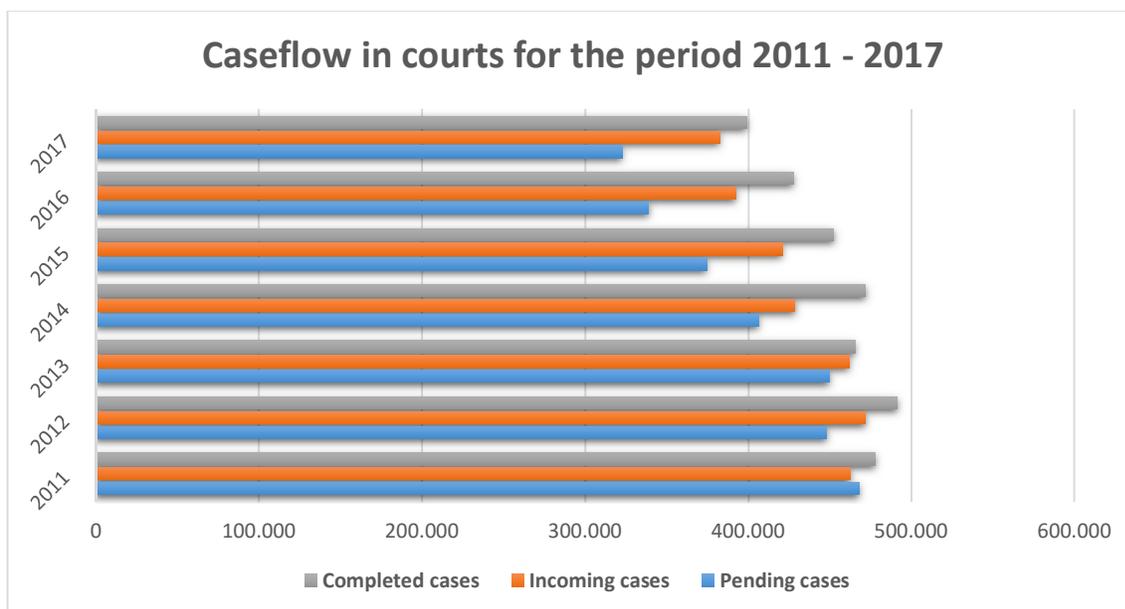
The HJPC Strategic Plan defines four key principles for the functioning of the judiciary: efficiency, quality, accountability and independence - and the HJPC continues to work on all elements.

Efficiency is one of the major principles of the HJPC, especially considering BiH efforts on European integrations. Efficiency is important to ensure the quick completion of court proceedings and the right of equal access to justice for all citizens.

Due to the importance of the principle, the HJPC makes great efforts and takes on numerous activities to increase the efficiency of the judicial system in BiH.

The results of activities implemented throughout 2017 - from the aspect of efficiency - are shown further on in the chapter and are mainly reflected through trends for completed and pending cases throughout the year.

Graph 3: Trends for completed, pending and incoming cases for the period 2011-2017



4.1.1 Backlog reduction plans

Since 2011, by implementing the backlog reductions plans, the HJPC has attempted to lower case numbers, age breakdowns and the length of the oldest cases at the courts. The courts draft their plans based on Instructions⁸ for drafting backlog reduction plans for the courts (hereinafter: Instructions). According to the Instruction, all courts are required to draft backlog reduction plans.⁹

Thanks to these activities, every year courts complete over 100,000 of the oldest cases along with their regular activities. This means that in 2017, the courts completed 149,154 (85%) of the 175,358 cases set with the plans.

As for court levels, the highest implementation percentage was achieved by the supreme courts as they fully implemented their plans, the second instance courts achieved a 98% disposal rate while the first instance courts were at 83%.

⁸ Adopted on 6 December 2010 with the most recent amendments passed at the HJPC session on 13-14 December 2016.

⁹ First instance courts annually and higher instance courts quarterly.

Table 9: Implementation of the plan by entity

| | Total number of cases | Disposed cases | % disposed | Remain pending | % pending |
|---------------------------------------|-----------------------|----------------|------------|----------------|-----------|
| All BiH courts for 2017 | 175,358 | 149,154 | 85% | 26,204 | 15% |
| By entity | | | | | |
| RS courts for 2017 | 53,069 | 46,115 | 87% | 6,954 | 13% |
| FBiH courts for 2017 | 116,351 | 98,615 | 85% | 17,736 | 15% |
| Courts of the Brcko District for 2017 | 3,747 | 2,780 | 74% | 967 | 26% |

When viewing entity level, the courts of the Federation of BiH had completed 98,615 cases from the plans by 31 December 2017. At the same time, the courts of RS had completed 46,115 cases. The courts of the Brcko District BiH completed 2,780 cases in 2017, while the Court of BiH completed 2,191 of their oldest cases.

Table 10: Implementation of the plans by entity

| | Total number of cases | Disposed cases | % disposed | Remain pending | % pending |
|------------------------------|-----------------------|----------------|------------|----------------|-----------|
| By level | | | | | |
| First instance | 144,591 | 119,400 | 83% | 25,191 | 17% |
| RS courts | 44,265 | 37,539 | 85% | 6,726 | 15% |
| FBiH courts | 97,288 | 79,755 | 82% | 17,533 | 18% |
| Courts of the Brcko District | 3,038 | 2,106 | 69% | 932 | 31% |
| Second instance | 26,005 | 25,540 | 98% | 465 | 2% |
| RS courts | 7,870 | 7,642 | 97% | 228 | 3% |
| FBiH courts | 17,426 | 17,224 | 99% | 202 | 1% |
| Courts of the Brcko District | 709 | 674 | 95% | 35 | 5% |
| Third instance | 2,571 | 2,570 | 100% | 1 | 0% |
| RS courts | 934 | 934 | 100% | 0 | 0% |
| FBiH courts | 1,637 | 1,636 | 100% | 1 | 0% |
| Court of BiH for 2017 | 2,191 | 1,644 | 75% | 547 | 25% |

Between 2011-2017, the courts significantly changed the age breakdown of pending cases, while trend has been positive. The biggest influence on lowering the age breakdown of the cases was from activities focused on processing cases in the courts based on the backlog reduction plans. The effect the plans had on the age breakdown of pending cases can be seen from the following data.

- In 2011, there were 151,472 cases two years and older, while in 2017, this figure was 71,517, which represents a 53% reduction.
- In 2011, there were 44,432 cases 5 years and older, while in 2017, this figure was 8,202, which represents an 82% reduction.
- In 2011, there were 8,079 cases 10 years and older, while in 2017 this figure was 674, which represents a 92% reduction.

However, there still remain a number of cases with various issues that prevent their processing. Some of the reasons for this are:

- In many cases, the courts have problems serving the parties with writs (addresses wrong, not updated),
- Numerous postponements to hearings, and
- Inappropriate working conditions, especially concerning enforcement procedure (not enough bailiffs, lacking equipment, the size of the territory under the jurisdiction of the court compared to the number of employees, numerous postponements to enforcement procedures by the parties).

These and other reasons greatly affect the duration of proceedings before the courts.

4.1.2 Processing bankruptcy cases

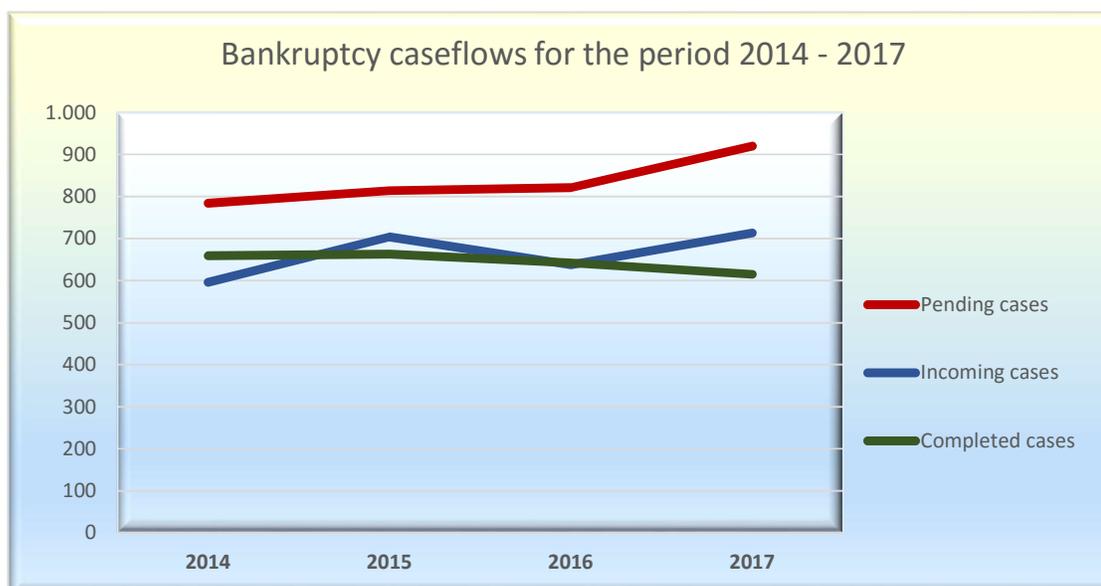
Commercial cases are extremely important for the economy of a country. With this in mind, the HJPC has paid particular attention to bankruptcy cases over the past period in order to increase the performance efficiency of the courts in their processing. Since 2014, the courts are required to draft action plans for processing bankruptcy cases. The Plans are drafted annually and updated every six months.

The length of bankruptcy proceedings is also affected by cases that stem from bankruptcies and without completing them beforehand, the bankruptcy cases themselves cannot be completed. These are, generally speaking, all civil cases.

The HJPC regularly follows trends concerning the processing and length of pending and completed bankruptcy cases. As for analysing statistical data, further on we show trends on bankruptcy caseflow in the courts.

Table 11: Bankruptcy caseflows at the courts by year

| | 2014 | 2015 | 2016 | 2017 |
|---|------|------|------|------|
| Pending at year-end | 784 | 814 | 821 | 920 |
| Increase/decrease in the number of pending cases for the period | | 4% | 1% | 12% |
| Incoming cases for the period | 596 | 704 | 638 | 713 |
| Increase/decrease in the number of incoming cases for the period | | 18% | -9% | 12% |
| Completed during the period | 659 | 663 | 642 | 615 |
| Increase/decrease in the number of completed cases for the period | | 1% | -3% | -4% |

Graph 4: Overview of bankruptcy caseflows at the courts through the years

The table and graph above show an increase in the number of pending bankruptcy cases, also that this was accompanied by increased inflow during the period.

As for the length of pending cases, a drop in the length of pending bankruptcy cases is visible through the years as can be seen in the data from the table below.

Table 12: Length of pending bankruptcy cases through the years

| COURT | 2015 | 2016 | 2017 |
|---|------------|------------|------------|
| MUNICIPAL COURT IN TUZLA | 1,906 | 2,116 | 1,639 |
| DISTRICT COMMERCIAL COURT IN BIJELJINA | 1,397 | 1,353 | 1,372 |
| DISTRICT COMMERCIAL COURT IN EAST SARAJEVO | 1,594 | 1,350 | 1,242 |
| DISTRICT COMMERCIAL COURT IN DOBOJ | 1,115 | 1,074 | 1,237 |
| MUNICIPAL COURT IN LIVNO | 879 | 993 | 1,207 |
| MUNICIPAL COURT IN BIHAC | 962 | 961 | 1,043 |
| DISTRICT COMMERCIAL COURT IN TREBINJE | 1,102 | 947 | 931 |
| DISTRICT COMMERCIAL COURT IN BANJA LUKA | 838 | 888 | 907 |
| MUNICIPAL COURT IN TRAVNIK | 861 | 806 | 708 |
| BASIC COURT OF THE BRCKO DISTRICT BiH | 510 | 736 | 662 |
| MUNICIPAL COURT IN ZENICA | 658 | 608 | 632 |
| MUNICIPAL COURT IN SARAJEVO | 615 | 714 | 584 |
| MUNICIPAL COURT IN SIROKI BRIJEG | 589 | 423 | 502 |
| MUNICIPAL COURT IN MOSTAR | 336 | 330 | 415 |
| MUNICIPAL COURT IN ORASJE | 229 | 162 | 386 |
| DISTRICT COMMERCIAL COURT IN PRIJEDOR | n/a | n/a | 68 |
| MUNICIPAL COURT IN GORAZDE | 48 | n/a | 0 |
| Total average duration of bankruptcy cases | 936 | 939 | 865 |

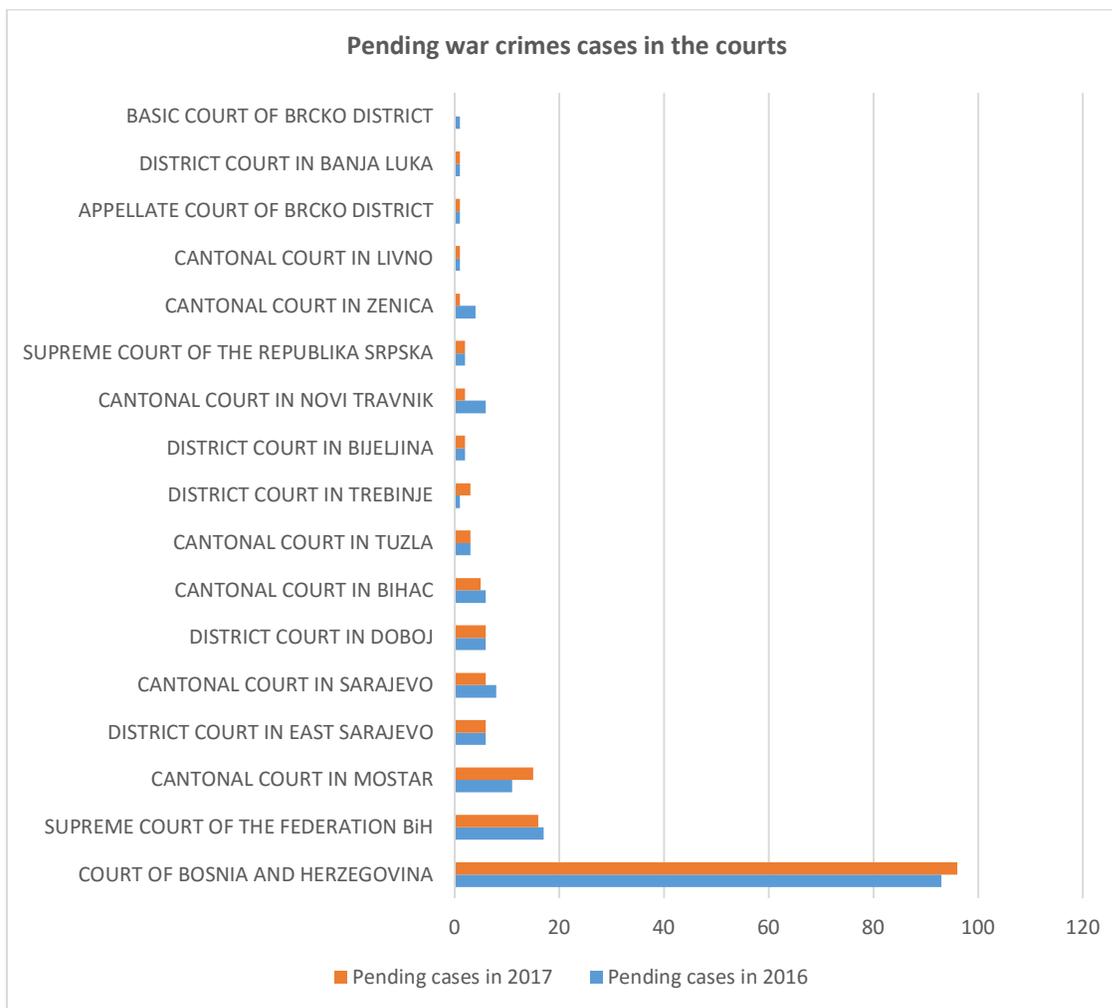
4.1.3 Processing war crimes cases

Throughout 2017, the HJPC continued with its special activities aimed at expediting the processing of war crimes in the courts. As part of the IPA 2013 Project – funded by the European Union – the HJPC followed trends on the number and length of war crimes cases in all relevant courts. Since 2015, courts with jurisdiction to process war crimes¹⁰ are required to draft quarterly action reviews for war crimes cases. The courts are required to draft the action review for cases in the indictment phase, trial phase and under appeal. The goal for monitoring the processing of war crimes is to reduce the number of pending war crimes cases in the courts.

Analyses on the number of completed and pending cases as well as the length of war crimes cases is carried out semi-annually.

Based on the most recent analysis, we have identified a downward trend in the number of pending war crimes cases in the courts which can be seen in the graph.

Graph 5: Overview of pending war crimes cases in the courts by entity



The HJPC organised a one-day workshop titled – Processing War Crimes as part of the IPA 2013 Project, in order to review the current status and practices on processing war crimes. The workshop was held on 18 May 2017, at Vlasic. The workshop was attended by judges and prosecutors who deal with war crimes. The topics discussed at the workshop included status

¹⁰Based on the adoption of the Instructions for overseeing the processing of war crimes at the HJPC session on 22 January 2015.

conferences and protected witnesses. Information on the conference and its conclusions were placed on the HJPC website.

4.1.4 Action plan for expediting court proceedings

In 2017, the HJPC paid particular attention to cases for which decisions were rendered by the Constitutional Court of Bosnia and Herzegovina (hereinafter: Court of BiH), finding a violation of Article 6, paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms with reference to reasonable time violations and the length of proceedings.

Upon analysis of the BiH Constitutional Court decision on reasonable time violations in court proceedings, at its session on 14-15 June 2017, the HJPC adopted a conclusion on the establishment of the Working Group for the Implementation of the Decisions of the BiH Constitutional Court. The working group was tasked with providing the Council with a set of measures to facilitate the implementation of the said decisions as well as a set of measures that would serve as a deterrent to any potential violation of Article 6 of the European Convention.

Ultimately, the Working Group proposed to the HJPC an action plan with short and long-term measures and a defined timeline for the realisation of activities. The short-term measures are measures the HJPC can put in place immediately upon adopting the Action Plan, while long-term measures require cooperation between the HJPC and other institutions. At its session on 25-26 October 2017, the HJPC adopted the Action Plan and published it on its website.

4.1.5 Improving court efficiency through the performance of court staff

As part of the Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH Project (ICEA Project), the HJPC established cooperation with the Swedish Courts Administration, and through the exchange of experiences between the BiH courts (Municipal Court in Tuzla and Basic Court in Bijeljina) and their sister courts in Sweden (District Court Varbergs, District Court Malmo and District Court Ystad) is working on identifying key activities and tasks for non-judicial staff, the potential introduction of greater autonomy in the work of the staff and the delegation of certain administrative tasks from judges to non-judicial staff. The primary aim of this cooperation is to set up standards and positive practices to improve the operations of the courts by improving the performance of non-judicial staff within the current legislative framework together with identifying legislative amendments to further improve court performance.

4.1.6 Improving court performance efficiency through training

Throughout 2017, the HJPC carried out various activities focused on advanced training for court presidents, deputies, department heads, judges and legal associates. These activities involved a range of trainings sessions aimed at improving managerial skills for court presidents, achieving greater efficiency in managing hearings as well as covering contemporary communications between the courts and the media.

The training sessions represented a continuation of the training efforts during the past years and, since the participants considered them to be very useful for improving skills required to execute their tasks, were organised again in 2017. With this in mind, the HJPC utilised the IPA 2013 Project and with the assistance of the EU, continued with training on strengthening managerial capacities in the courts for management positions, and managing court procedures for judges and legal associates throughout 2017. In Republika Srpska, two sessions each were organised by the RS Judicial and Prosecutorial Training Centre on the topics - strengthening managerial capacities and managing court procedures, while the FBiH Judicial and Prosecutorial Training Centre organised one training for each topic.

Image 1: Training - Proactive Role of the Court Presidents in the Court Management



Image 2: Training – Managing the Court Procedure

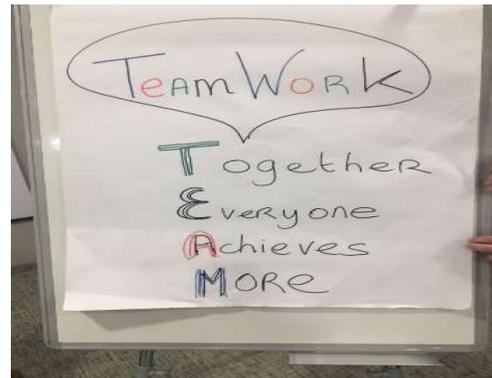


4.1.7 Managing courts and court procedures more efficiently

The implementation of activities with the Improving Judicial Efficiency II Project (hereinafter: IJEP II) continued in 2017, in cooperation with the Council for the Judiciary of the Netherlands and the Norwegian Courts Administration. This year, two groups of activities were implemented: those that deal with improving court management and those that deal with improving the efficiency of civil litigation proceedings.

Towards the end of 2016, we saw the realisation of a pilot project at the Municipal Court in Sarajevo focused on innovative selection and appointment procedures for court department heads based on transparency and using internal competitions, and then, in 2017, a series of training sessions were organised for the court staff. Specialised training on management, teamwork and communication skills was developed in cooperation with the Dutch Training Institute and the training was attended by the court president, the department heads, judges who see themselves as potential managers in the future as well as the managers of the administrative/technical departments of the court. The training contributed to a change in organisational traditions, developing teamwork and accountability and fostering a sense of ownership for targets and results. The goals were achieved through cooperation with peers i.e. judges from the Netherlands.

Images 3 & 4: Training for the department heads of the Municipal Court in Sarajevo



In order to make the training that was implemented in the Municipal Court in Sarajevo available to all judicial office holders in BiH, in cooperation with the judicial and prosecutorial training centres in the FBiH and RS (hereinafter: the JPTCs), the IJEP II hired local trainers and organised Train the Trainers sessions while at the same time developing a training curriculum on the topic – Teamwork & Communication, which was incorporated into the annual JPTC

curricula for 2018. The first training effort was organised for court management and the judges of the Civil Litigation Department of the Basic Court in Banja Luka.

Cooperation was continued between the first instance target courts and their appeal courts (municipal and cantonal courts in Sarajevo; basic and district courts in Banja Luka). The cooperation focused on harmonising case law, improving the quality of court decisions, processing large groups of cases involving the same or similar factual and legal bases together with all other issues that are relevant for court performance. Cooperation was implemented through professional gatherings (round tables), with participation by all judges of the civil departments of the courts - the target departments for IJEP II – as well as through regular meetings between the two departments of the courts to address current issues in their work. The effects of the cooperation can be seen in the number of reversed decisions in the Civil Litigation Department of the Municipal Court in Sarajevo.

To achieve greater efficiency in processing civil cases, the judges of the Civil Litigation Department of the Municipal Court in Sarajevo continued their work on developing tools to manage cases more efficiently. In March of 2017, guidelines developed by the Municipal Court in Sarajevo on managing civil litigation procedures came into effect. The guidelines serve as non-binding directions for judges with the aim of achieving consistency in interpreting and applying procedural law and reinforcing procedural discipline in civil proceedings. A manual on drafting judgements in civil proceedings was also designed to attempt to standardise conduct and improve the quality of court decisions, while a judgment template form was also developed.

Image 5: Guidelines on Managing Civil Litigation Proceedings at the Municipal Court in Sarajevo.

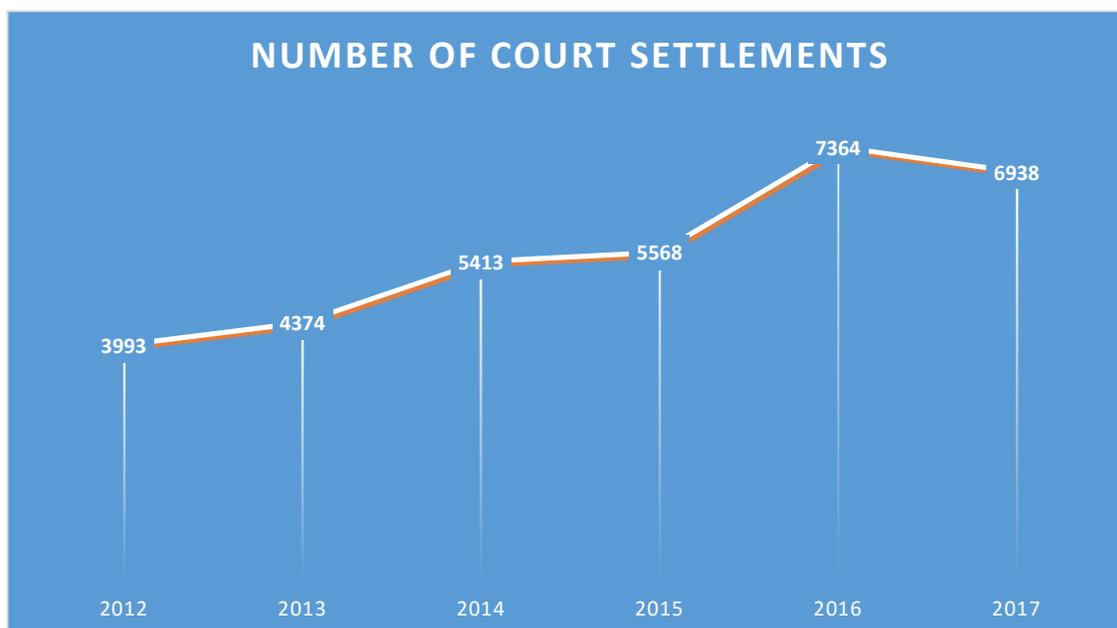


4.1.8 Improving court performance efficiency through the promotion of court settlement

Since 2012, the HJPC been implementing activities on the promotion of court settlement and increasing its application to complete cases. Two events entitled *Court Settlement Week* were organised within IJEP II (April & November), when the courts processed pre-defined cases that were deemed suitable for court settlement. At the same time, during the said events, parties were invited to approach the courts with motions to settle, an option that is available throughout court proceedings up to the rendering of a decision with finality. During the period of the events, some 1,273 settlements were reached before the courts in BiH.

Training efforts involving judges and legal associates were continued. The JPTCs of the FBiH and RS organised four workshops on the topic of court settlement. Throughout the year, the HJPC embarked on a promotional and informational campaign to raise public awareness.

A total of 6,938 settlements were reached in 2017, which is slightly less than in 2016 (7,364), though more than in 2015 (5,568), 2014 (5,413), 2013 (4,374) & 2012 (3,993).

Graph 6: No. of court settlements reached before the courts in BiH for the period 2012-2017

4.1.9 Gender equality, vulnerable citizen groups and cooperation with civil society organisations and international organisations

In 2017, implementation of the Project – Improving Court Efficiency and the Accountability of Judges and Prosecutors in BiH (hereinafter: ICEA) started, as funded by the government of the Kingdom of Sweden which focuses on improving gender equality in the judiciary as well as improving the status of vulnerable groups and access to justice.

An analysis was carried out on gender equality in the BiH judiciary and a framework plan was developed covering activities for the upcoming period. The primary recommendation from the analysis was to introduce so called *gender mainstreaming*¹¹ for judicial institutions, which will follow as implementation of the ICEA Project continues. In line with this recommendation, various activities have been undertaken to ensure appropriate training for HJPC staff and the employees of other judicial institutions. In cooperation with the Atlantic Initiative, a training session was organised for HJPC staff on gender equality, the law and labour relations, with the same training to be organised in 2018, for the staff of the ICEA Project target courts. Seminars on gender equality (Gender (in)equality - prejudices and stereotypes) are also planned as part of the 2018 induction training and advanced training programs of the JPTCs of the FBIH and RS.

In order to establish cooperation with civil society organisations (hereinafter: CSO), the ICEA Project identified CSOs that deal with the protection of rights and access to justice for vulnerable citizen groups and, in May 2017, held an initial meeting with representatives of the organisations. Stemming from the meeting and subsequent proposals, an action plan was developed for the upcoming period.

¹¹ Systematically incorporating the specific position, priorities and requirements of women and men in every policy aimed at improving equality for women and men along with the modification of all general policies and measures, in particular those focusing on equality.

Images 6 & 7: Cooperation with civil society organisations

After conveying Council support for the partner organisations, the Women's Rights Centre in Zenica and the Women's Association Banja Luka, formed expert groups for multi-sectoral cooperation on gender-based violence for the FBiH and RS. The FBiH expert working group adopted and delivered its conclusions and recommendations to the HJPC BiH for improving the status of injured persons/victims of gender-based violent crimes in criminal proceedings.

4.1.10 Improving enforcement procedures in BiH

For years now, the Sarajevo Canton and the Municipal Court in Sarajevo have had to deal with the large number of utility cases. Of the total number of utility cases in BiH, the Municipal Court in Sarajevo has almost 50% on record. In order to resolve the problems concerning utility cases in the Sarajevo Canton, at its session on 5-6 March 2013, the HJPC passed a decision to establish a Steering Board to reduce the number of utility cases in the Sarajevo Canton. The members of the steering board include representatives of the HJPC, the Municipal Court in Sarajevo, the cantonal public utility companies and representatives of the relevant cantonal ministries. The general task of the steering board is the implementation of measures adopted with the Action Plan to reduce the number of utility cases in the Sarajevo Canton. During 2017, the steering board held three meetings at which they reviewed the measures from the Action Plan and their implementation. The major measures implemented in 2017, involve the implementation of SOKOP-Mal in the Sarajevo Canton and hiring support staff to provide short-term assistance at the court in using the system to process cases. It must be stressed that the government of the Sarajevo Canton adopted its own Action Plan based on the aforesaid plan, and initiated the implementation of most measures which should result in fewer utility cases coming before the Municipal Court in Sarajevo, increased collection of claims from debtors and improved utility services within the Canton.

In 2017, as part of the ICEA Project, the HJPC began activities focused on improving enforcement procedures in BiH. Accordingly, the activities undertaken in 2017, had the following objectives:

- to promote and encourage the proposal of more efficient enforcement means when initiating and conducting enforcement procedures;
- In cooperation with the Project target courts, reorganise business processes within the enforcement departments and undertake measures to strengthen the role of court bailiffs; &
- start a public dialogue to identify the optimal model for the systemic solution for enforcement procedures in BiH.

Apart from the aforesaid HJPC activities on improving enforcement procedures in BiH, other BiH strategic documents also underline the need to resolve this issue¹² in their conclusions and recommendations. In September 2017, in line with project activities and the

¹² The EC Report on Bosnia and Herzegovina for 2015 & 2016; Recommendations from the EU-BiH Structured Dialogue on Justice; the HJPC BiH Strategic Plan for 2014-2018; the Stabilisation and Association Agreement between the EU and BiH (1st & 2nd meetings of the Subcommittee on Justice, Freedom and Security, Bruxelles) etc.

recommendations adopted at the first meeting of the Subcommittee on Justice, Freedom and Security (December 2016, Bruxelles), the HJPC organised a regional TAIEX conference on the topic of enforcement procedure reform in BiH where significant conclusions were reached as follows:

- In cooperation with the relevant ministries of justice, the HJPC BiH will draft an Action Plan to identify an appropriate solution for enforcement procedure reform focused on transferring utility cases from the courts. The Action Plan will contain concrete measures, a set dynamic and deadlines as well as listing who has the lead for the activities, all in line with the practices of EU states and the European Court of Human Rights.
- In cooperation with the ministries of justice, the HJPC BiH will initiate activities aimed at harmonising regulations that cover enforcement procedures, all in accordance with the Justice Sector Development Strategy for 2014 – 2018. As part of the activities, rules for court bailiffs must be harmonised in order to improve their work performance.

In order to implement the conclusions from the TAIEX conference, a joint meeting was held between representatives of the EU delegation, the BiH Ministry of Justice, the entity ministries of justice, the Judicial Commission of the Brcko District BiH and the HJPC (24 November 2017, Sarajevo) focusing on future activities. An agreement was reached to set up a joint working group which would include representatives of the HJPC, the judiciary and the relevant ministries, with the aim of identifying solutions for the comprehensive reform of enforcement procedure in BiH. One of the tasks of the working group is to define measures for the Action Plan as well as setting deadlines for implementation based on the draft Action Plan developed and delivered by World Bank experts. The draft Action Plan contains concrete measures, a set dynamic as well as deadlines and represents a starting point for developing a plan for enforcement procedure reforms. The activities were welcomed by the European Commission at the second meeting of the Subcommittee on Justice, Freedom and Security.

4.1.11 Improving court performance efficiency by improving the openness and availability of information on the work of the HJPC and the judicial institutions in BiH to the professional community and the general public

One of the strategic objectives of the HJPC is devoted to improving openness and availability of information on the work of the HJPC and the judicial institutions in BiH to the professional community and the general public.

Mindful that greater openness and better communication with the public by judicial institutions, and stronger cooperation with the media can have a significant impact on improving the image and reputation of the judiciary as well as increasing public trust in the judiciary, throughout last year the HJPC BiH continued its efforts covering a range of activities.

The HJPC implemented numerous activities within its current projects focusing on the importance and impact public relations have in creating public opinion on the judiciary as well as informing and familiarising the public on how the courts and prosecutors offices operate.

The broad range of activities the HJPC conducts focused improving transparency in the work of judicial institutions also includes training efforts for judicial office holders where the importance and impact public relations have in creating public opinion on the judiciary is addressed. This is why, in cooperation with the judicial and prosecutorial training centres of the FBiH and RS, two seminars were organised on the topic - Modern Communications with the Public, which were attended by numerous representatives of judicial institutions, in the belief that they could acquire the appropriate skills to be able to make the public more aware of the performance results of the courts and the way they operate as well as to improve the reputation of the judiciary in BiH.

Image 8: Training - Modern Communications with the Public

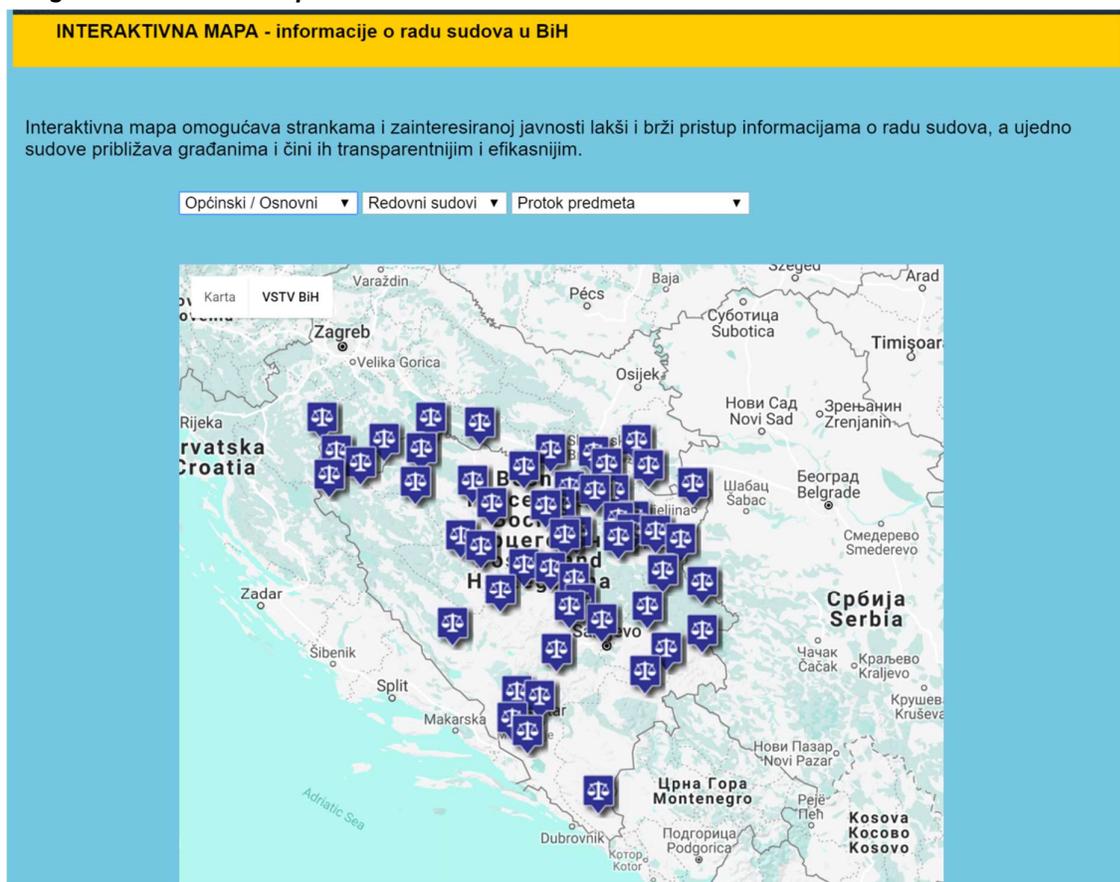


Image 9: Training - Modern Communications with the Public



Understanding the way the judiciary operates, judicial institutions and the media, press presence at trials, limited access to case information, media criticism of judicial institutions, and press accountability and competence were some of the major issues covered at four round-tables organised for members of the judiciary and the press, in 2017, by the HJPC under the heading *The Judiciary and the Media*. Only through joint efforts and cooperation can we build public trust in both systems. Fair, timely and constructive - not destructive - criticism of the judiciary is vital, focused on informing the public, increasing public confidence and improving access to justice.

The HJPC introduced a very important technological novelty within the judiciary to facilitate public access to the courts and make courts more transparent and efficient in their work. Specifically, we launched an interactive map covering the performance of the courts on all levels in BiH within the web portal *pravposudje.ba*. Parties to proceedings, and other interested parties, can access reports on case flows, backlog reduction plan realisation and case durations at first and second instance courts without needing to approach the relevant court or the HJPC BiH, beforehand.

Image 10: Interactive map for courts

The past year was important also because the HJPC opened dialogue with civil societies, while a meeting was held with representatives of 22 NGOs, thus establishing a starting point for cooperation and identifying key issues concerning the rights of vulnerable persons in contacts with the courts. The cooperation aims to further improve court performance when dealing with court users, in particular marginalised groups as well as tending to the needs of various vulnerable groups within our society.

Keeping in mind that court settlement is a less used instrument to resolve disputes in BiH, twice a year - (October and April) - the HJPC and the courts look to promote court settlements by initiating campaigns involving numerous guest appearances on national and local TV and radio shows, preparing various press releases as well as other releases that are published in print and electronic media's throughout BiH. The promotional activities produced the desired results and showed that people were ever more receptive to court settlements which are quicker and more efficient while the parties themselves are more satisfied with the outcome of their dispute and with court services.

The HJPC is also satisfied that the courts have shown a willingness to change their approach to work and improve the efficiency of the judiciary and court procedures by reducing the number of pending cases and offering better service to the public.

The positive effects of the *Court Settlement Weeks* can also be seen in that the legal departments of the public utility companies in BiH embraced the opportunity and approached beneficiaries against whom they had pending suits to attempt to resolve their disputes quickly, frugally and amicably.

Towards the end of the year, the HJPC participated in the international campaign - 16 Days of Activism against Gender-based Violence, in order to strengthen awareness of the various types of gender-based violence that occur every day, both in BiH and abroad. As for promoting various activities, a one-day seminar was organised for the HJPC staff on the topic - Gender

bias in the workplace and the law, focused on recognising and eliminating gender bias and other types of gender-based discrimination and sexual harassment in the workplace.

The HJPC BiH will continue with activities aimed at improving public relations, convinced that only through good cooperation with the media as based on mutual respect and understanding is it possible to accurately and promptly inform the public on the performance of judicial institutions and their importance to society in general.

4.1.12 Improving the performance efficiency of the judiciary through the reconstruction and renovation of judicial buildings and their furnishing

Construction of a new building for the Olovo Branch Office of the Municipal Court in Visoko

The Olovo branch office was located in a building dating back to 1932 and was in extremely poor condition. The building was absolutely unsuitable for work considering that it was rundown and couldn't even offer the bare minimum standards required. The branch office building in Olovo had major security risks for both the employees and the parties.

Images 11 & 12: The Olovo Branch Office of the Municipal Court in Visoko before the construction of the new building



In 2013, the Government of the Zenica – Dobož Canton provided funds for the development of the project documentation for the construction of a new building for the Olovo Branch Office and obtained the relevant planning permit.

Image 13: Land lot for the new Olovo Branch Office building



The project proposal for the Improving Judicial Efficiency II Project planned for contracting qualified supervision and the procurement of furniture for a number of judicial institutions that were to be renovated within the IPA 2012 program. Based on the results of the survey on the condition of judicial buildings, and in cooperation with donors, the HJPC reviewed the proposal to redirect unspent funds for the construction of the Olovo Branch Office.

On 25 May 2017, donors gave the HJPC BiH consent use the Improving Judicial Efficiency II Project to implement all activities on the construction of a new building for the Olovo Branch Office.

After the tender documentation was prepared together with the accompanying technical documents, the HJPC and the IJEP II implemented a public procurement procedure for works and supervision services on the construction of a new building in Olovo for the branch office.

Construction works started on 18 October 2017 and were planned to be completed in April 2018.

The construction contract for the new building of the Olovo Branch Office amounted to 298,083 EUR.

Images 14 & 15: Construction works on the new Olovo branch office building



Furnishing judicial institutions in BiH

The project proposal for the Improving Judicial Efficiency Project planned for the procurement of furniture for a number of judicial institutions that were earmarked for reconstruction and renovation within the IPA 2015 program.

The HJPC set aside some 300,000 KM with the IJEP II to address these efforts.

Upon preparation of the tender documentation and the technical specification, a public procurement procedure was carried out to furnish and equip the following judicial institutions:

- New building of the Basic Court in Banja Luka;
- New floor extension for the District Court in Banja Luka;
- New building for the Cantonal Court in Bihac;

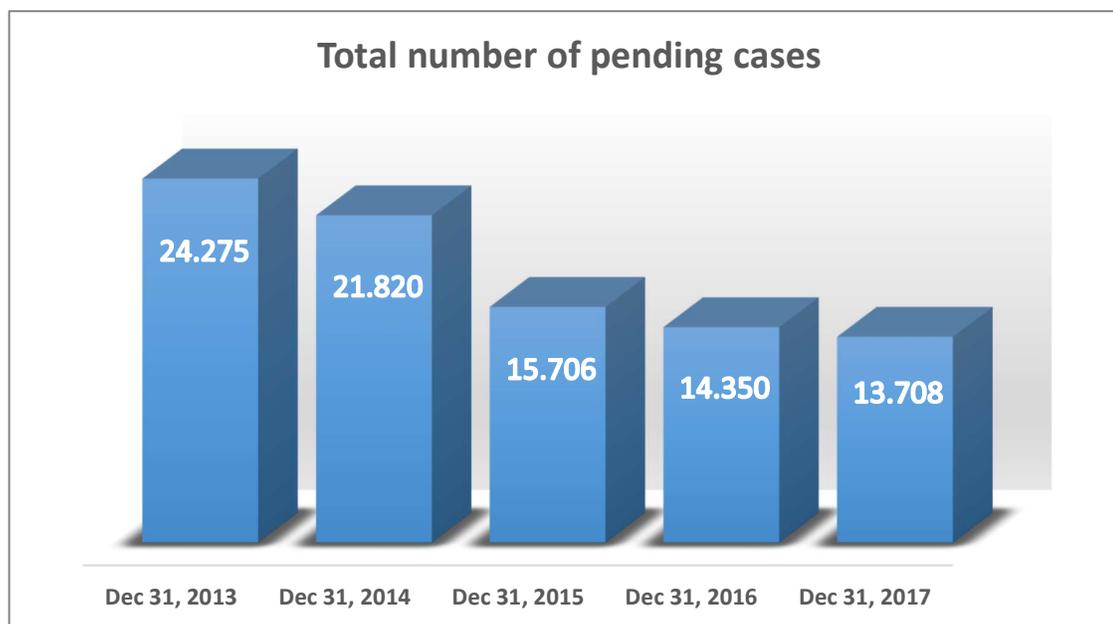
New building for the Municipal Court in Tuzla. The USAID Justice Project funded the procurement of furniture in the amount of 185,152.22 KM which was used to partially furnish a number of prosecutors offices in BiH and the Supreme Court of the FBiH.

4.2 Prosecutors offices and efficiency

Within its competences and based on statistical data, the HJPC regularly follows the situation regarding the performance efficiency of all prosecutors offices in Bosnia and Herzegovina.

According to data from 2017, there is a visible downward trend in all prosecutors offices regarding pending KT cases (cases with known perpetrators). Accordingly, on 31 December 2017, there were 13,708 recorded pending KT cases which was 4% less than on 31 December 2016 i.e. 14,350.

Graph 7



In 2017, prosecutors offices issued 12,510 indictments, of which 231 indictments involving corruption-related crimes which is 18% more than the number of indictments issued for corruption-related crimes in 2016 i.e. 195.

Throughout 2017, the prosecutors offices in BiH completed 3,510 old cases i.e. cases over two years old.

In 2017, prosecutors offices, on average, achieved their collective quotas at 109%, which is 8% lower than in 2016. In 2017, prosecutors offices, on average, achieved a 95% quality rate for indictments which represents a 1% increase on 2016, while the quality of orders not to conduct or discontinue investigations remained the same as in 2016 i.e. 99%.

The said indicators represent the result of prosecutor efforts together with numerous activities and measures that were taken by the Standing Committee for the Efficiency of Prosecutors Offices and the HJPC BiH.

In 2017, the Standing Commission for the Efficiency of Prosecutors Offices held 12 meetings dealing with current issues concerning prosecutors offices as well as issues concerning the field of work as determined with the decision on the establishment of the Standing Commission for the Efficiency of Prosecutors Offices.

Throughout the year, the Standing Committee for the Efficiency of Prosecutors Offices focused on addressing the recommendations of the EC experts as presented in the Peer Review missions that were carried out with the HJPC BiH. The recommendations referred to the evaluation of judicial office holders, the procedure and criteria for their appointment, personal and financial statements and their verification within the judiciary, induction training and advanced training, disciplinary action against judges and prosecutors as well as the Rules of Procedure on the Operations of the High Judicial and Prosecutorial Council of BiH. All recommendations concerning prosecutors were reviewed separately and proposals were given for their implementation. The Standing Committee for the Efficiency of Prosecutors Offices prioritised the review of the recommendations for the performance evaluation of prosecutors and their implementation, and subsequently drafted, and submitted for adoption by the HJPC BiH, an Action Plan for amending the legal framework for the evaluation of the performance of chief prosecutors, deputy chief prosecutors, department heads and prosecutors in line with the recommendations, which the HJPC BiH then adopted.

The members of the Standing Committee for the Efficiency of Prosecutors Offices continued with the practice of visiting prosecutors offices in BiH and speaking with prosecutors on their day-to-day problems and introducing them to the activities carried out by the Standing

ommittee for the Efficiency of Prosecutors Offices that affect the performance of prosecutors offices. In 2017, the members of the Standing Committee for the Efficiency of Prosecutors Offices visited the District Public Prosecutors Office in Bijeljina.

The practice of holding meetings of the Standing Committee for the Efficiency of Prosecutors Offices with chief prosecutors throughout BiH was continued. At the meetings and in line with past practices, chief prosecutors would present draft documents vital for the operations of the prosecutors offices and have the opportunity to provide any remarks prior to their ultimate adoption by the HJPC BiH.

Based on an analysis of the effects the territorial set-up of prosecutors offices has on working hours and associated expenses that was drafted in 2016, the HJPC BiH concluded that dialogue must be established with the relevant ministries of justice in order to establish the direction of future actions. At the same time, further research is ongoing to consider all other positive and negative factors that may stem from any restructuring of the prosecutorial system in BiH and the implications this may have to the set-up and the efficiency of the courts in dealing with criminal cases.

The analysis contains an overview of the status of the current system and defines its advantages and flaws. In accordance with the HJPC conclusion, the Standing Committee for the Efficiency of Prosecutors Offices will hold a number of meetings in the near future with representatives of the executive branch in order to address problems regularly faced by the prosecutors offices which affect the day-to-day operations.

In 2017, an assessment was carried out of the Investigation Planning Form for complex organised/commercial crime and corruption cases which was developed and distributed to all prosecutors offices throughout BiH. Considering the fact that the use of the forms was at the prerogative of the prosecutors, while the aim was that they serve as a supplementary tool for processing complex cases, directing the prosecutors on which actions to take and in which order, the assessment showed that, regardless of prosecutors pointing out their significant advantages, the forms were sparingly used and more effort is required towards increasing their use.

In line with the process for the strategic reform of the BiH judicial system, the prosecutorial system continued the practice involving mid-term strategic planning.

With this in mind, a strategic framework for the prosecutorial system of FBiH and RS was developed for 2018 - 2020 at the regular chief prosecutor collegium meetings, which serves as a basis to define common action areas, greater efficiency in achieving common goals for all employees as well as developing annual plans for each prosecutors office for 2017.

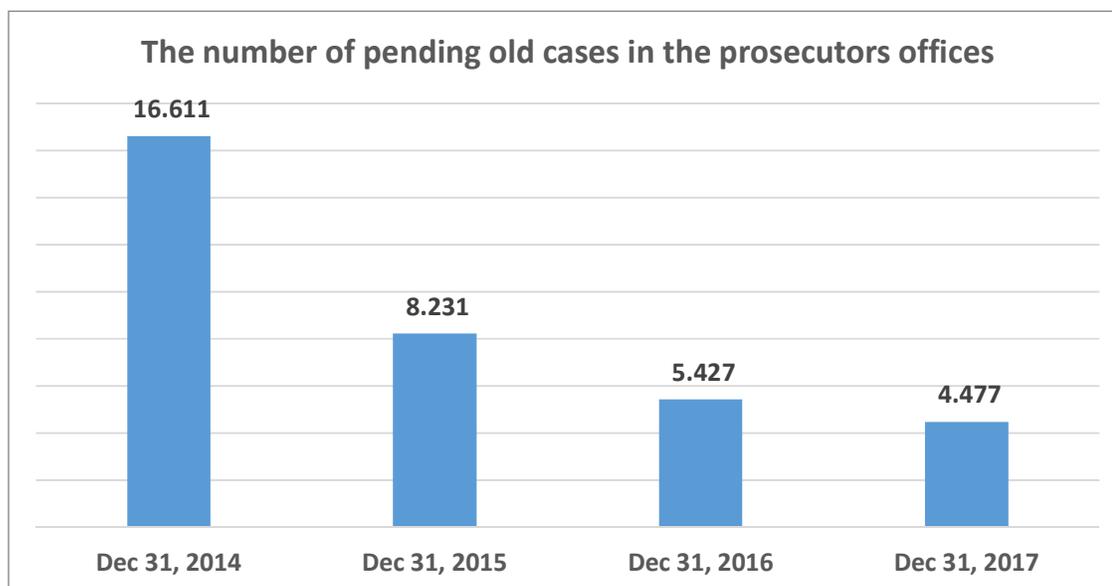
4.2.1 Situation analysis and backlog reduction measures for the prosecutors offices

All prosecutors offices that have old pending cases passed backlog reduction plans in 2017, as prescribed with the current Instructions for drafting backlog reduction plans at the prosecutors offices in BiH.

In all of the prosecutors offices throughout BiH, at year-end 2017, the plans were fulfilled at 81%.

The total number of pending old cases in the prosecutors offices in BiH as at 31/12/2017 (4,777) was 73% less than the total number of pending old cases as at 31/12/2014 (16,611).

Graph 8



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The 40 legal associates hired as support staff for nine prosecutors offices had their employment extended through the Strengthening the Capacity of Prosecutors in the Criminal Justice system Project so as to exclusively deal with old cases at the prosecutors offices. Since 2017, the number of the aforesaid legal associates dropped to 28 in consideration of the results and objectives achieved in reducing backlogs.

In order to consistently apply the current Instructions for drafting backlog reduction plans at the prosecutors offices and further improve results in reducing backlogs as well as to reinforce the duty of chief prosecutors to ensure the processing of backlogs according to initial filing dates, the Standing Committee for the Efficiency of Prosecutors Offices proposed - and the HJPC adopted - Instructions on amendments to the instructions for drafting backlog reduction plans at the prosecutors offices in BiH.

4.2.2 Improving cooperation between prosecutors and the police

Successful cooperation between the prosecution and law enforcement agencies is a key factor for the successful operations of prosecutors offices in BiH.

Within the framework of the Strengthening prosecutorial capacities project, the HJPC works on two levels to address this matter - strategic and operative.

The strategic forum - made up of managers from prosecutors offices and police agencies and operating on strategic level (Chief Prosecutor of PO BiH, Chief Federal Prosecutor of FPO FBiH, Chief Republic Prosecutor of the Republic Public PO of RS and the Chief Prosecutor of the PO of the Brcko District BiH as well as the Director of the State Investigation and Protection Agency, the Director of the Federal Police Administration, the Director of the RS Police Administration and the Chief of Police of the Brcko District) - has met four times as planned throughout 2017.

Some of the more important topics covered by the Strategic Forum in 2017 are:

- Adoption of amendments to the Instructions on cooperation between prosecutors offices and law enforcement officials;
- Support for the establishment of joint investigative teams between the prosecutors offices and the police to process organised crime, commercial crimes and corruption-related crimes;

- Support for the establishment of departments for children and minors within the law enforcement agencies and the prosecutors offices¹³;
- The capacities of the prosecutors offices and law enforcement agencies for processing war crimes;
- Cooperation between the prosecutors offices and law enforcement agencies with the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption;
- Obstacles in the application of the Instructions on processing cases if the offence has the features of a criminal offence or minor offence and the risk of violating the *non bis in idem* rule.

The strategic forum has supported the activities of the Project - Strengthening the Capacity of Prosecutors in the Criminal Justice System and the continued promotion of the work of the permanent joint investigative teams of the prosecutors offices and the police. In following the positive practices regarding the establishment and work of the joint investigative teams in Banja Luka, the Project initiated the same in Sarajevo and Zenica, where in May of 2017, permanent investigative teams were established within the commercial department of the Prosecutors Office of the Sarajevo Canton and in June of 2017, in the corruption crimes section of the Prosecutors Office of the Zenica - Doboј Canton. The HJPC BiH is monitoring the results of the prosecutors offices in line with the changed set-up.

The heads of the prosecutors offices and the law enforcement agencies used the strategic forums to propose certain amendments to the criminal codes in effect in BiH, in connection with the use of special investigative actions for persons at large. The proposed amendments were sent out to all relevant ministries of justice, and their adoption would mean that the relevant EU standards in this field have been met.

Throughout 2017, joint workshops were held for prosecutors and authorised officials on improving the quality of criminal reports. Five additional workshops were held on the topic in 2017, and were attended by some 150 officials. Accordingly, since the inception of these activities, 13 workshops have been held on the topic - Improving the Quality of Criminal Reports, with active participation by over 400 police officers from all parts of BiH.

In order to facilitate the sustainability of the training and improve the skills of the authorised officials and prosecutors in other fields, throughout 2017, and as part of the activities of the Improving the Capacity of Prosecutors in the Criminal Justice System Project, the HJPC BiH developed and distributed training brochures – Collecting Legal Evidence in Criminal Proceedings, and a revised edition of the Practical Brochure for Authorised Officials and Prosecutors – Corruption and Commercial Crimes (crimes according to the list of corruption-related crimes as adopted by the HJPC BiH). Both training materials will be used in future training for prosecutors and police officers.

In order to improve prosecutor awareness on the forensic capacities available in BiH, the HJPC BiH established cooperation with the various institutions operating in forensic sciences. The cooperation resulted in the preparation of a brochure – BiH Forensic Guide, with general information, definitions, contact information and guidelines for prosecutors on types of forensic witnessing and the capacities of all relevant institutions in BiH. The plan is for the Guide to be distributed, followed by relevant training for prosecutors on the application of forensics and how best to utilise forensic witnessing.

At the same time, the Project for strengthening the capacity of prosecutors continues to monitor the application of the Instructions on Cooperation with Prosecutors and Authorised Officials in Evidentiary Procedures in Investigations and, in 2017, adopted a number of changes to the Instructions which regulate, in greater detail, efficiency in the actions of law enforcement agencies and the prosecutors offices when dealing with anonymous reports which do not contain the minimum information required for action.

¹³ This support was provided within the framework of the UNICEF Justice for Every Child Project;

The application of the Instructions is still present while its effects are visible through easier cooperation between prosecutors offices and law enforcement agencies in their daily operations.

4.2.3 Transparency in the operations of prosecutors offices, support for NGOs and prosecutor associations

Through the Project for strengthening the capacity of prosecutors, the HJPC organised a range of activities to improve the quality of service, increase accountability and the overall treatment of people contacting the prosecutorial system. During the reporting period, a Strategy on the Treatment of Persons in Contact with the Prosecutors Offices was adopted, which sets forth a range of activities focused on securing professional conduct with persons in criminal proceedings, introducing the public to the operations of the prosecutors offices and establishing and strengthening interaction with the community to suppress crime in all its forms. The Council entered into a partnership with NGO sector representatives to assist prosecutors offices in implementing the Strategy more efficiently. The support of the NGO representatives is focused on increasing transparency of the prosecutors offices, victim & witness support and increased interaction between prosecutors offices and the local community.

A Plan was implemented to provide advanced training for spokespersons at the prosecutors offices in order to improve their public relations competences, while training was continued for journalism students to contribute to creating better, more accurate reporting on the judiciary.

Apart from civil society representatives, the Project also supported the prosecutor associations in FBiH and RS as they implemented programs for strengthening internal and external capacities. The support targets the sustainability and transparency of their work. The HJPC BiH has approached this issue by strengthening the capacities of the associations in management skills (drafting project proposals, presentation skills, public relations, strategic planning, public representation etc.), all with the aim of better representing the interests of the prosecutorial community within decision making processes and in public.

The Council contributed to the general recognition of prosecutors offices by financing the process for the development of a visual identity and by procuring promotional material for prosecutors offices with the new visual identity, also including the newly established District Public Prosecutors Office in Prijedor. As part of their daily external communications, prosecutors offices use the new visual identity which facilitates the recognition of their work in media broadcasts.

In cooperation with the USAID Justice Project, a mechanism was designed and adopted to measure the speed and quality of information that is disclosed to the public. Based on this mechanism, the Council will analyse the state of public relations in 2017. The introduction of PR metrics in the BiH judicial system represents the first such endeavour for a judiciary in the region and broader.

4.2.4 Improving the efficiency of the performance of prosecutors offices through reconstruction, renovation and equipment

In line with a comprehensive survey that was carried out on the physical condition of prosecutors office buildings and their level of equipment, the HJPC BiH regularly monitors and looks to improve the working conditions for all prosecutors offices in BiH. In 2017, funds from the Strengthening the Capacity of Prosecutors in the Criminal Justice System Project were used to procure various equipment as well as for the renovation of a number of prosecutors office buildings. The procurements served to facilitate prosecutors offices in the application of the Strategy on the Treatment of Persons in Contact with the Prosecutors Offices.

As part of the procurements carried out in 2017, and based on needs, prosecutors offices received the following equipment/works:

- AV equipment for receiving testimony from minors;
- scanners, faxes, computers and walk-through metal detectors;
- moving walkways for people with mobility difficulties;

- construction and adaptation of rooms for questioning minors;
- upgrading video surveillance systems;
- reconstruction works on archives, detention units, evidence rooms etc.

Chapter 5: JUDICIAL INSTITUTIONS' PERFORMANCE QUALITY

5.1 Quality indicators for the performance of courts in 2017

This section of the annual report shows data on the quality of court decisions for 2017, as calculated by courts, in line with the HJPC BiH criteria¹⁴. Apart from the said data, the report in this section separately shows statistical indicators on the outcomes of proceedings in 2017, that were finalised upon a legal remedy filed with higher instance courts (data on appealed decisions). The indicators of appealed decisions are not enough to calculate the quality of court performance. However, they do allow the reader to gain more information on the percentage of upheld decisions and other types of decisions and which parties to the proceedings filed the legal remedies.

5.1.1 Decision quality and statistical indicators for appealed decisions

Court decisions quality according to the HJPC criteria

The quality of decisions by judicial office holders in courts is calculated based on the percentage of reversed decisions compared to the total number of upheld, modified and reversed decisions by the higher instance court and the percentage of reversed and modified decisions compared to the total number of decisions that allow for legal remedy. The individual performance results for judicial office holders are used to calculate the collective quality of court decisions.

In 2017, the courts in Bosnia and Herzegovina achieved the following performance quality results:

Table 13: Quality of courts performance

| Court ¹⁵ | Performance quality for 2016 | Performance quality for 2017 |
|---------------------------------------|------------------------------|------------------------------|
| Court of Bosnia and Herzegovina | 94% | 92% |
| Banja Luka High Commercial Court | 96% | 88% |
| Cantonal Courts | 90% | 92% |
| District Courts | 88% | 90% |
| District Commercial Courts | 88% | 76% |
| Municipal Courts | 91% | 91% |
| Basic Courts | 86% | 85% |
| Basic Court of the Brcko District BiH | 91% | 90% |

Statistical indicators for appealed decisions

This section of the annual report presents statistical indicators on appealed decisions (decisions challenged through legal remedies).

The Court of Bosnia and Herzegovina

743 (78%) appealed decisions were upheld, 92 (10%) were modified, 69 (7%) reversed, while 53 (5%) were reversed in part. Statistical indicators for appealed decisions are shown in the following table according to the internal organisational setup of the Court of Bosnia and Herzegovina:

¹⁴ Article 16 of the Criteria for the Performance Evaluation of Judges in Bosnia and Herzegovina.

¹⁵ The quality of court decisions is not calculated for the Supreme Court of the Federation of Bosnia and Herzegovina, the Supreme Court of Republika Srpska and the Appellate Court of the Brcko District of Bosnia and Herzegovina.

Table 14: The Court of Bosnia and Herzegovina

| Division | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|----------------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Criminal | 88% | 85% | 8% | 7% | 4% | 6% | 0% | 2% |
| Section I | 84% | 79% | 11% | 9% | 5% | 6% | 0% | 6% |
| Section II | 87% | 86% | 9% | 7% | 4% | 6% | 0% | 1% |
| Section III | 90% | 87% | 6% | 6% | 4% | 7% | 0% | 0% |
| Administrative | 74% | 71% | 11% | 13% | 7% | 7% | 8% | 9% |
| Appellate | 92% | 87% | 7% | 4% | 1% | 9% | 0% | 0% |

Cantonal and District Courts

3,001 (79%) appealed decisions of cantonal courts were upheld, 393 (10%) were modified, 335 (9%) reversed, while 57 (2%) were reversed in part.

984 (70%) appealed decisions of district courts were upheld, 226 (16%) were modified, 168 (12%) reversed, while 24 (2%) were reversed in part.

Statistical indicators for appealed decisions of the cantonal and district courts are shown in the following tables according to case type:

Table 15: Cantonal Courts

| Case type | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|----------------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Civil | 81% | 84% | 13% | 11% | 5% | 4% | 1% | 1% |
| Criminal | 70% | 66% | 3% | 4% | 24% | 27% | 3% | 3% |
| Administrative | 42% | 70% | 49% | 23% | 9% | 7% | 0% | 0% |

Table 16: District Courts

| Case type | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|----------------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Civil | 63% | 66% | 16% | 19% | 18% | 11% | 3% | 4% |
| Criminal | 86% | 86% | 5% | 4% | 9% | 10% | 0% | 0% |
| Administrative | 61% | 66% | 26% | 20% | 12% | 14% | 1% | 0% |

Commercial Courts

825 (77%) appealed decisions of district commercial courts were upheld, 111 (10%) were modified and 138 (13%) reversed. Statistical indicators for appealed decisions are shown in the following table according to case type:

Table 17: District Commercial Courts

| Case type | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|-----------------------------------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Commercial | 80% | 76% | 10% | 12% | 10% | 12% | 0% | 0% |
| Enforcement | 78% | 80% | 2% | 2% | 19% | 18% | 1% | 0% |
| Non-contentious | 44% | 67% | 22% | 11% | 33% | 22% | 0% | 0% |
| Registration of business entities | 64% | 56% | 7% | 33% | 29% | 11% | 0% | 0% |

Municipal and Basic Courts

17,581 (75%) appealed decisions of municipal courts were upheld, 2,962 (13%) were modified, 2,510 (11%) reversed, while 308 (1%) were reversed in part.

6,948 (71%) appealed decisions of basic courts were upheld, 1,063 (11%) were modified, 1,666 (11%) reversed, while 110 (1%) were reversed in part.

Statistical indicators for appealed decisions are shown in the following table according to case type:

Table 18: Municipal Courts

| Case type | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|-------------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Civil | 73% | 71% | 17% | 18% | 9% | 9% | 1% | 2% |
| Commercial | 77% | 77% | 10% | 9% | 12% | 13% | 1% | 1% |
| Criminal | 72% | 68% | 12% | 14% | 15% | 17% | 1% | 1% |
| Enforcement | 78% | 85% | 5% | 3% | 16% | 11% | 1% | 1% |
| Other | 81% | 80% | 12% | 12% | 7% | 8% | 0% | 0% |

Table 19: Basic Courts

| Case type | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|-------------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Civil | 71% | 71% | 14% | 13% | 14% | 14% | 1% | 2% |
| Criminal | 66% | 63% | 15% | 18% | 18% | 18% | 1% | 1% |
| Enforcement | 76% | 76% | 5% | 4% | 19% | 19% | 0% | 1% |
| Other | 66% | 70% | 8% | 7% | 25% | 22% | 1% | 1% |

Basic Court of the Brcko District Bosnia and Herzegovina

879 (77%) appealed decisions were upheld, 105 (9%) were modified, 155 (14%) reversed, while five (0%) were reversed in part. Statistical indicators for appealed decisions are shown in the following table according to case type:

Table 20: Basic Court of the Brcko District Bosnia and Herzegovina

| Case type | Upheld decisions | | Modified decisions | | Reversed decisions | | Partially reversed decisions | |
|-----------|------------------|------|--------------------|------|--------------------|------|------------------------------|------|
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Civil | 73% | 76% | 15% | 9% | 12% | 14% | 0% | 1% |

| | | | | | | | | |
|-------------|-----|-----|-----|-----|-----|-----|----|----|
| Commercial | 72% | 73% | 13% | 9% | 15% | 12% | 0% | 6% |
| Criminal | 75% | 74% | 18% | 16% | 7% | 10% | 0% | 0% |
| Enforcement | 84% | 85% | 4% | 0% | 12% | 15% | 0% | 0% |
| Other | 74% | 71% | 16% | 15% | 10% | 14% | 0% | 0% |

5.2 Quality indicators for the performance of prosecutor's offices in 2017

This section of the annual report shows data on the quality of prosecutorial decisions in 2017, as calculated by prosecutor's offices, in line with the HJPC BiH criteria¹⁶. Apart from the said data, this section separately shows the statistical indicators for final court decisions rendered in 2017, based on the indictments filed by the prosecutor's offices in Bosnia and Herzegovina. The indicators are insufficient to calculate the performance quality of the prosecutor's offices, but they provide the reader with additional information on the types of court decisions rendered based on the indictments.

5.2.1 Quality of prosecutorial decisions according to the HJPC criteria

Quality criteria for scoring the performance of prosecutor's offices

The quality of prosecutorial decisions is assessed based on the HJPC criteria. The quality of prosecutors' indictments is determined based on the total number of indictments filed and the total number of final judgments rejecting charges, acquitting the accused as well as based on the number of final decisions rejecting indictments compared to the total number of indictments filed. The quality of indictments in cases dealing with commercial crime, organised crime and war crimes is established based on the total number of indictments filed and the total number of final judgments rejecting charges and acquitting the accused, compared to the total number of indictments filed. The quality of decisions by prosecutors working on cases involving minors is determined based on the total number of motions filed for developmental measures and juvenile imprisonment and the total number of upheld and denied motions and discontinued procedures by the courts.

The quality of prosecutorial orders not to conduct investigations and orders to discontinue investigations is determined based on the total number of such decisions issued during the reporting period and the total number of decisions upholding the complaints filed by the injured parties or complainants against the orders issued by chief prosecutors during the reporting period.

According to the Criteria, data on the performance quality of prosecutor's offices for the reporting period is shown separately for indictment quality and the quality of orders not to conduct and to discontinue investigations.

¹⁶ Articles 19, 20 and 21 of the Criteria for the Performance Evaluation of Prosecutors in Bosnia and Herzegovina

Indictment quality

In 2017, the prosecutor's offices in Bosnia and Herzegovina achieved the following indictment quality results:

Table 21: Indictment quality in prosecutor's offices

| Prosecutor's Office | Indictment quality 2016 | Indictment quality 2017 |
|---|-------------------------|-------------------------|
| The Prosecutor's Office of BiH | 94% | 94% |
| Cantonal Prosecutor's Offices | 95% | 96% |
| District Prosecutor's Offices | 94% | 94% |
| Special Department of the RS PO | - ¹⁷ | 100% |
| The Prosecutor's Office of the Brcko District BiH | 94% | 94% |

Quality of orders not to conduct and discontinue investigations

In 2017, the prosecutor's offices in Bosnia and Herzegovina achieved following results in terms of quality of orders not to conduct and discontinue investigations:

Table 22: Quality of orders not to conduct and discontinue investigations

| Prosecutor's Office | Quality of orders not to conduct and discontinue investigations |
|---|---|
| Prosecutor's Office of BiH | 98% |
| Cantonal Prosecutor's Offices | 99% |
| District Prosecutor's Offices | 100% |
| Special Department of the RS PO | 100% |
| Prosecutor's Office of the Brcko District BiH | 100% |

5.2.2 Statistical indicators on court decisions¹⁸

The following tables show statistical indicators for legally binding court decisions in connection with indictments filed by prosecutor's offices during the reporting period

Prosecutor's Office of Bosnia and Herzegovina

Of the total number of legally binding court decisions, in 2017, 133 (89%) were convictions, while dismissals, acquittals and decisions rejecting indictments accounted for 18 cases (11%). The following table shows the breakdown of court decisions per case type alleged in indictments:

¹⁷ Pursuant to the Law on Fighting Corruption, Organised Crime and the Most Serious Forms of Commercial Crime (Official Gazette of the RS, No. 39/16), the Special Department for the Fight against Corruption, Organised Crime and the Most Serious Forms of Commercial Crime within the RS Public Prosecutor's Office started its work in 2016. Accordingly, it is not possible to show the indictments quality data on an annual level, i.e. for the entire 2016.

¹⁸ In cases involving juvenile perpetrators of criminal offences (KTM), courts granted 98% of filed motions for developmental measures and juvenile imprisonment.

Table 23: Statistical indicators for court decisions pursuant to indictments from the PO BiH

| Case type | Total number of judgments | No. / percentage of convictions | | No. / percentage of verdicts rejecting charges | | No. / percentage of acquittals | | No. / percentage of other decisions | |
|-----------|---------------------------|---------------------------------|------------|--|------------|--------------------------------|------------|-------------------------------------|------------|
| | | No. | percentage | No. | percentage | No. | percentage | No. | percentage |
| KT | 26 | 19 | 73% | 0 | 0% | 3 | 12% | 4 | 15% |
| KTK | 10 | 9 | 90% | 0 | 0% | 0 | 0% | 1 | 10% |
| KTO | 23 | 19 | 83% | 0 | 0% | 4 | 17% | 0 | 0% |
| KTPO | 74 | 71 | 96% | 2 | 3% | 1 | 1% | 0 | 0% |
| KTRZ | 18 | 15 | 83% | 0 | 0% | 3 | 17% | 0 | 0% |

Cantonal Prosecutor's Offices

Of the total number of legally binding court decisions in 2017, 7,023 (96%) were convictions. Verdicts rejecting or acquitting of charges as well as decisions rejecting indictments, denying motions for developmental measures and juvenile imprisonment and the discontinuance of Ktm procedures were rendered in 333 (4%) cases. The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 24: Statistical indicators for court decisions pursuant to indictments from the cantonal POs

| Case type | Total number of judgments | No. / percentage of convictions | | No. / percentage of verdicts rejecting charges | | No. / percentage of acquittals | | No. / percentage of other decisions | |
|-----------|---------------------------|---------------------------------|------------|--|------------|--------------------------------|------------|-------------------------------------|------------|
| | | No. | percentage | No. | percentage | No. | percentage | No. | percentage |
| KT | 7,073 | 6,770 | 96% | 78 | 1% | 214 | 3% | 11 | 0% |
| KTK | 84 | 75 | 89% | 2 | 2% | 7 | 8% | 0 | 0% |
| KTO | 6 | 6 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| KTPO | 184 | 164 | 89% | 2 | 1% | 18 | 10% | 0 | 0% |
| KTRZ | 9 | 8 | 89% | 0 | 0% | 1 | 11% | 0 | 0% |

District Prosecutor's Offices

Of the total number of legally binding court decisions in 2017, 3,676 (92%) were convictions. Verdicts rejecting or acquitting of charges as well as decisions rejecting indictments, denying motions for developmental measures and juvenile imprisonment and the discontinuance of Ktm procedures were rendered in 313 (8%) cases. The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 25: Statistical indicators on court decisions based on indictments from District POs

| Case type | Total number of judgments | No. / percentage of convictions | | No. / percentage of verdicts rejecting charges | | No. / percentage of acquittals | | No. / percentage of other decisions | |
|-----------|---------------------------|---------------------------------|------------|--|------------|--------------------------------|------------|-------------------------------------|------------|
| | | No. | percentage | No. | percentage | No. | percentage | No. | percentage |
| KT | 3,838 | 3,534 | 92% | 86 | 2% | 210 | 5% | 8 | 0% |
| KTK | 42 | 41 | 98% | 0 | 0% | 1 | 2% | 0 | 0% |
| KTPO | 102 | 94 | 92% | 4 | 4% | 4 | 4% | 0 | 0% |
| KTRZ | 7 | 7 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |

Special Department of the RS Prosecutor's Office

Of the total number of final court decisions in 2017, 19 (100%) were convictions. The following table shows the breakdown of court decisions per types of cases in which indictments were filed:

Table 26: Statistical indicators for court decisions based on indictments by District POs

| Case type | Total number of judgments | No. / percentage of convictions | | No. / percentage of verdicts rejecting charges | | No. / percentage of acquittals | | No. / percentage of other decisions | |
|-----------|---------------------------|---------------------------------|------------|--|------------|--------------------------------|------------|-------------------------------------|------------|
| | | No. | percentage | No. | percentage | No. | percentage | No. | percentage |
| KT | 8 | 8 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| KTK | 6 | 6 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| KTO | 4 | 4 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| KTPO | 1 | 1 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |

The Prosecutor's Office of the Brcko District BiH

Of the total number of final court decisions in 2017, 249 (94%) were convictions. Verdicts rejecting or acquitting of charges as well as decisions rejecting indictments, denying motions for developmental measures and juvenile imprisonment and the discontinuance of Ktm procedures were rendered in 18 (6%) cases. The following table shows the breakdown of court decisions per types of cases in which indictments were filed:

Table 27: Statistical indicators on court decisions based on indictments by Brcko District PO

| Case type | Total number of judgments | No. / percentage of convictions | | No. / percentage of verdicts rejecting charges | | No. / percentage of acquittals | | No. / percentage of other decisions | |
|-----------|---------------------------|---------------------------------|------------|--|------------|--------------------------------|------------|-------------------------------------|------------|
| | | No. | percentage | No. | percentage | No. | percentage | No. | percentage |
| KT | 245 | 234 | 96% | 1 | 0% | 9 | 4% | 1 | 0% |
| KTK | 12 | 8 | 67% | 0 | 0% | 4 | 33% | 0 | 0% |
| KTPO | 10 | 7 | 70% | 0 | 0% | 3 | 30% | 0 | 0% |

5.3 Judicial training in Bosnia and Herzegovina

In 2017, the HJPC conducted numerous activities within its remit in the field of judicial trainings. For example, at its session on 12 January 2017, it approved the election of Gorjana Popadic, RS Supreme Court Judge, as member of the Steering Board of the RS JPTC, following the nomination by the RS Supreme Court. Ms Popadic was elected to replace Judge Senad Tica, whose membership in the RS JPTC Steering Board ended on 06 December 2016 due to his resignation. Also, at its session held on 14 June 2017, the HJPC approved the election of Prof. Dr. Enes Blkić, Law Faculty Dean, Zenica University, as member of FBiH JPTC Steering Board, following his appointment by the Federation BiH Justice Minister. Mr Bikić was elected to replace Prof. Dr. Suzana Bubić, whose membership in the FBiH JPTC Steering Board ended due to her retirement.

In addition to this, at its session held on 8 and 9 February 2017, the HJPC approved the 2017-2020 Mid-term Strategy for Initial Training and Professional Development of Judges and Prosecutors in Bosnia and Herzegovina. The Strategy aims to improve the entire system, from provision of adequate literature, through improving the process of selecting trainers and their knowledge sharing skills, improving training needs analysis and training methodology, to the need for cooperation with all relevant domestic and international organizations.

The same session was also used for consultations regarding the selection of the RS JPTC Director, based on the presentations by the most successful candidates. The Council agreed

with the ranking list of the RS JPTC Steering Board, who selected Tomislav Cavic as the Director of this public institution, in accordance with their competence.

Following the proposal by the Standing Committee for Training and the Judicial Documentation Centre, at its session held in June 2017 the HJPC approved the annual reports of the RS JPTC, the FBiH JPTC and the Brcko District Judicial Commission in the part relating to the training of judges and prosecutors in 2016. On that occasion, the HJPC requested the JPTCs to provide data on judges and prosecutors who failed to comply with their minimum annual requirement of continuing professional development. The analysis of the responses has shown that, among other things, judges and prosecutors tend to sporadically attend trainings which are not included in the training curricula, hence it will be necessary to analyse such trends in future.

As part of implementing the Training Program of the FBiH JPTC for the current year, a request was made to approve additional seminars, which this JPTC has implemented in cooperation with the US Embassy in BiH and the US State Department's Project for the Western Balkans. A seminar on the European Convention on Human Rights (Articles 2, 3 and 4) was organised on 30 and 31 January 2017, and a seminar on European Convention on Human Rights (Articles 5, 6 and 7) was organised on 1 and 2 February 2017. At its session held on 14 June 2017, the HJPC decided to approve the mentioned seminars as mandatory training days. During the period between 29 and 31 May, 2017, TAIEX Peer Review was conducted covering initial and continuing legal education for judges and prosecutors in Bosnia and Herzegovina with the aim to enable the European Union to analyse the system of judicial education (both initial and on the job education), the available curricula, and the ways in which the system of professional development/education can contribute to development and further strengthening of judicial professionalism and independence in BiH.

This report includes the most important findings of the experts regarding the existing judicial education system based on international and European standards in the field of judicial training, while taking into account the complex organization of Bosnia and Herzegovina as a state. The report with its recommendations was provided to the HJPC on 15 September 2017, and already on 03 October 2017 it was forwarded to the JPTCs and the steering boards for their meetings and arrangements on how to implement the recommendations. Working on these recommendations is a priority for all institutions involved in the education process.

In line with the recommendations, the Standing Committee on Education and JDC focused their efforts on improving initial training for newly appointed judges and prosecutors. Thus, in cooperation with the JPTCs, a survey was conducted among the newly-appointed judges on their training needs, while the HJPC's project "Strengthening the Capacity of Prosecutors in the Criminal Justice System of BiH" has previously conducted a similar survey among the newly appointed and chief prosecutors. By analysing the answers, and based on the previous experiences in implementing training for this category of judicial office holders, two sets of topics were selected for the training of newly appointed judges and prosecutors in 2018. The initial training program for the newly appointed judicial office holders has been made part of the curricula of the JPTCs and Judicial Commission of Brcko District for 2018, which the HJPC approved at its session on 20 and 21 December 2017.

Moreover, mentor prosecutors have been introduced, to provide support to the newly appointed colleagues during their first year of taking office, in accordance with the Book of Rules on the Procedure for the Appointment and Method of Work of the Prosecutor Mentors for the Newly Appointed and Other Prosecutors, adopted at the HJPC session in November 2017. Introducing this support represents the formalization of knowledge transfer within a judicial institution that was included in the Initial Training Program for the newly-appointed judicial office holders dating from December 2013. The entire activity was preceded by consultations and meetings between the Standing Committee for Education and JDC with the representatives of the JPTCs and Brcko District Judicial Commission, the consultations between the HJPC's Standing Committee for the Efficiency of Prosecutors and Chief Prosecutors in BiH, and learning from the Serbian experiences with their model of mentoring in judicial institutions, presented by Nenad Vujic, Director of the Judicial Academy of the Republic of Serbia.

The Standing Committee for Education and the JDC have begun discussions on the best way of introducing mentoring in courts in Bosnia and Herzegovina. This is also one of the most important recommendations made by the European Commission after conducting the aforementioned Peer Review on the training system for judges and prosecutors in Bosnia and Herzegovina.

Through the activities of the Project “Strengthening the Capacity of Prosecutors in the Criminal Justice System” several seminars were organised for prosecutors and authorized officials to improve their knowledge of prosecuting criminal offenses of corruption, economic crime, as well as confiscation of proceeds of crime during criminal procedure.

In cooperation with the Project “Strengthening the Capacity of Prosecutors and the USAID’s Justice Project in 2017, specialist trainings for prosecutors on organized and economic crime, corruption and cyber crime that began in 2016 have been successfully completed. Participants were awarded certificates for the successful completion of the specialist training.

A new concept of video link meetings between prosecutors was introduced, which they use to exchange knowledge and experience in prosecuting certain types of crime. This is an efficient model of additional training without losing time on travel and being away from office. In 2017, three video conferences were organised with about 90 prosecutors from all over BiH.

A Cooperation Agreement was signed between institutions that provide training for prosecutors and authorized officials in BiH, which aims to promote their cooperation through organising joint trainings and exchange of resources between the signatories. The agreement was signed by: the FBiH Judicial and Prosecutorial Training Centre, the RS Training Centre for Judges and Public Prosecutors, the Police Academy of the Federation Ministry of the Interior, the RS Police Training Institute, Training and Continuing Professional Development Agency Mostar, Border Police Training Centre BiH, Brcko District Police and Directorate for Coordination of Police Authorities in BiH.

In 2017, USAID’s Justice Project organised the training for members of the HJPC disciplinary panels and the Office of Disciplinary Counsel on applying the guidelines for deciding on disciplinary measures, which was included in the regular JPTCs curricula for 2018.

5.4 Information System for the Judicial Documentation Centre

As at 31 December 2017, there were 11,826 decisions available in the HJPC’s JDC court’s decisions database, which makes it the largest source of information on the case law. The database is used annually by 30.5% of the judicial community, as well as many users/organisations outside the judiciary, on annual subscription (lawyers, law schools, international organisations, banks, insurance companies, etc.).

As a reminder, the highest instance courts provide the decisions they deem relevant for case law, because they contain good reasoning of a legal concept, a legal position taken in it, an interesting issue that was raised in the case, etc. In addition to the decision, courts provide their legal position taken in the decision, the applied legislation, and the names of legal concepts examined, which are entered in the database to make it easier for the end user to search and find the relevant caselaw.

In the database, these decisions are linked to judgments of the lower courts, as well as some procedural decisions, most often related to detention, to enable the user an overview of the entire procedure, or better understanding of the factual and legal analysis, and arguments for the decision. An exception to this rule are decisions in certain cases that, due to their importance, are automatically submitted for publication, for example, decisions in war crimes cases, discrimination cases, etc.

Some courts have started an initiative seeking to include more of their decisions in the database, as due to current selection rules, some very interesting judgments of lower courts have not been included in the database because they never reached the highest instance court. This is especially important if one takes into account that due to legislative restrictions certain cases can never be considered by the regular highest courts in the country, for example, minor offence, administrative, enforcement, non-contentious courts, etc. Including

the decisions of lower courts in the database will be a challenge to deal with in the future period.

By the end of 2017, 190 new pieces of information were published on the web site of the HJPC's Judicial Documentation Centre¹⁹. Most of the published content is related to the laws adopted in 2017, at the state and entity level, and Brcko District of Bosnia and Herzegovina, as well as publications related to the case law of the European Court of Human Rights.

84 laws have been published, namely:

- Five (5) laws at the level of Bosnia and Herzegovina,
- Twenty (20) laws at the level of the Federation of Bosnia and Herzegovina,
- Forty three (43) laws at the level of Republika Srpska and
- Seventeen (17) laws at the level of Brcko District of Bosnia and Herzegovina.

As for case law of the European Court of Human Rights, 14 pieces of information on cases against Bosnia and Herzegovina were published, 38 pieces of information on selected cases related to the countries in the region or beyond, and reviews of the European Court of Human Rights case law for 2014, 2015 and 2016. Also, the work of the Constitutional Court of BiH was also regularly followed.

The web site also featured a number of publications and magazines, including the bulletins of the Federation Supreme Court and the Court of Bosnia and Herzegovina for 2016, training manuals (e.g. Manual for Managing Court Proceedings, Proactive role of court in managing the proceedings etc.), magazine "Nova pravna revija", results of the research on "Response of the BiH judiciary to corruption", publication "Compensation of non-pecuniary damages in criminal and civil proceedings in BiH", translations and opinions of the Consultative Council of the European Judges, as well as other interesting judicial news and developments²⁰. Also, magazine "Pravna hronika" /*Legal Chronicles*/ is available on the web site, which is jointly issued by the HJPC and the AIRE Center.

A representative of the HJPC Judicial Documentation Centre participated in 38th annual of the European Co-ordination Committee on Human Rights Documentation (ECCHRD), held on 20 and 21 April 2017 in Venice, Italy. The meeting was an opportunity to, among other things, present the digital databases of legal information (HURIDOC) and judicial decisions (HUDOC), and promote the proper use of internet for research papers and exchange of knowledge. Acquired knowledge is important for the work of the HJPC's Judicial Documentation Centre, whose mission is to ensure the exchange of latest court decisions and other relevant information within the judicial community of Bosnia and Herzegovina.

Representatives of the HJPC of BiH participated in the work of IV Regional Forum on the Rule of Law for Southeast Europe, held on 17 and 18 March 2017 in Tirana, Albania, organized by the AIRE Centre and Civil Rights Defenders. The organization of the forum was supported by the UK Foreign Office, Swedish Government, the Regional Cooperation Council and GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit). The aim of the Forum was to promote the implementation of the European Convention on Human Rights in the region, to support regional cooperation in the furtherance of the rule of law and human rights, as well as to assist in the process of the region's integration into the EU. The theme of the forum was freedom of expression and its connection with the right to privacy and the right to a fair trial. Presentations primarily focused on the freedom of expression and judiciary, media reporting on court-related issues, as well as hate speech on the Internet, in politics and in the media.

The HJPC also participated in the organization of an conference entitled "The right to a reasoned decision - a mandatory standard in the proceedings before courts", held on 6 and 7 November 2017 in Sarajevo in cooperation with the Constitutional Court of BiH and the AIRE Center. In addition to making welcome remarks and moderating the second day of the conference, the representatives of the HJPC also prepared a paper that was presented by

¹⁹ www.pravosudje.ba/csd

²⁰ 19.563 visits to the database have been recorded. The page was visited by a total of 18.994 people, and during 52.735 visits 179.943 different content pages were reviewed.

Monika Mijić, a member of the HJPC. The conference focused on the European standards regarding the right to a reasoned court decision, while the participants discussed the practice of courts in BiH regarding these standards. The conference resulted in many messages aimed at improving the quality of court decisions and the need for the relevant institutions to develop guidelines for a reasoned court decision²¹, with an aim to increase legal certainty and protect the rights of citizens in Bosnia and Herzegovina.

5.5 Coordination of panels for case law harmonisation in Bosnia and Herzegovina

In 2017 two meetings of the civil case law harmonisation panels were held. The meetings discussed the currency clause in loan agreements and the issue of whether a bill of exchange that has not been protested, even though it contains a "no protest" clause, is an authentic document. It was not possible to harmonise positions on these issues.

Regarding a loan agreement with currency clause, the entity level supreme courts expressed their position on this issue in the decision of the Federation Supreme Court on disputable legal issue number 58 0 P 135023 16 Spp dated 25 May 2016²², and in the legal opinion of the RS Supreme Court dated 17 March 2017²³. The discussions will continue once the courts issue decisions in specific cases.

There are still contradictory positions taken by courts regarding the second issue that was discussed. Namely, according to the opinion of the Federation Supreme Court, expressed in the decision on disputable legal issue number: 22 0 I 031405 16 Spp dated 05 December 2016²⁴, a bill of exchange that was not protested, even though it contains a "no protest" clause is not an authentic document, while the RS Supreme Court has taken the opposite position, as expressed in its rich case law. This issue needs to be raised again at one of the next meetings of the Panel.

The Panel considered an initiative to amend Article 263 paragraph (3) of the RS CPC, and the relevant provisions of the other civil procedure codes²⁵, and the need to revise its legal opinion regarding the costs of lawyers who have offices outside the seat of the court. The initiative to amend Article 263 paragraph (3) was not agreed on, while the Panel found that the position of the Constitutional Court of BiH, expressed in the decision AP-1398/14 is consistent with the legal opinion of the Panel dated 22 July 2014, and therefore it is not necessary to revise it. Panel members have reiterated once again that the confidence and the right to choose a lawyer are one thing and the right to compensation of necessary costs are a different thing. Namely, parties are entitled to choose a lawyer whom they fully trust, irrespective of whether their office is or is not based outside the seat of the court, and this position does not preclude parties from taking a lawyer of their choice, or even more than one lawyer, or even a lawyer from another country. However, the question whether such costs are necessary for the conduct of proceedings is something that the court will be guided by in deciding on the compensation of costs, taking into account the circumstances of any given case. As the Constitutional Court of BiH states in the cited decision: "it is the discretion of courts to reject such request if they find in the case at hand that the costs were not necessary, or that not granting those costs, in itself, does not constitute a violation of the right of access to the court".

In 2017, the Criminal Panel submitted another initiative to the relevant justice ministries, regarding the harmonization of legislative provisions that would penalize the disclosure (revelation) of the protected witness' identity in criminal laws applicable in Bosnia and Herzegovina. This initiative was agreed upon at the Panel meeting of 31 March 2016 and verified by the Appellate Division of the Court of Bosnia and Herzegovina, as well as the

²¹ Other messages from the conference are available on the web site:

<http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=71707>

²² For more information: <http://vsudfbih.pravosudje.ba/vstv/faces/vijesti.jsp?id=61819>

²³ The Department took the position that the agreements with currency clause are not null and void.

²⁴ <http://vsud-fbih.pravosudje.ba/vstv/faces/vijesti.jspid=64992>

²⁵ These are the provisions which stipulate that second-instance court decisions granting motions for retrial are not appealable.

criminal departments of the entity level Supreme Courts and the Appellate Court of the Brcko District of BiH between March and November 2017. The initiative will ensure the consistent use of terminology between criminal codes and the Law on Protection of Witnesses under threat and vulnerable witnesses, i.e. To replace the use of words “protected witness” in the name of criminal offence and in the text with words “witness under protection”²⁶.

The work of the Panel was presented at the annual conference on “Harmonisation of case law in Bosnia and Herzegovina – preliminary results of the panel for harmonisation of case law” held on 9 June 2017 in Sarajevo²⁷. In their presentations, among other things, the participants voiced full support for and commitment to further professional dialogue between highest instance courts, which functions in a complex judicial structure in Bosnia and Herzegovina, and stressed the importance of the process as a good example for the countries in the region and beyond. They also emphasized the importance of the principle of legal security as an element of the right to a fair trial and the relevant standards established by the European Court of Human Rights in its cases (*Iordan Iordanov v. Bulgaria*, *Spaseski v. Macedonia*, *Vusić v. Croatia*, etc.).

In addition to highlighting the need to standardize the work of panels, the importance of bringing the work of the panels closer to lower courts through round tables was also highlighted, as well as the need to establish and strengthen case law departments. Relatedly, the results of the administrative, civil and criminal panels for 2017 were presented at the round tables organized by the Council of Europe in cooperation with the Entity level Training Centres. Discussions have shown uneven application of legal norms in similar factual circumstances, even within one court, which is why it is essential that the debates of this type continue in future to help reconcile and harmonize positions.

The BiH model of harmonization of case law, as well as the experiences of other countries in this area were discussed during the Regional Round Table, held on 26 June 2017 in Belgrade organized by the Supreme Court of Cassation and Judicial Academy of the Republic of Serbia and the Council of Europe on “Case Law Departments and other tools for harmonization of case law”. After a thorough discussion on effective models of case law harmonization and their applicability in different legal systems, the participants noted the need to establish specialized case law departments in all courts, which would have up-to-date information on their own case law and the case law of other courts in the country and beyond.

²⁶ This legislative initiative has already been implemented in Republika Srpska.

²⁷ Mirsad Ceman, President of the Constitutional Court of BiH and Elena Brezoska – Jovanovska on behalf of Council of Europe spoke about the case law harmonisation process, while Ranko Debevec, President of the Court of BiH, Damjan Kaurinovic, President of the Appellate Court of Brcko District BiH, Judge Obren Buzanin, Head of the Criminal Department of the RS Supreme Court and Judge Zdenko Eterovic, Head of the Administrative Department of the FBiH Supreme Court reflected on the work of the Panel. Judge Senad Tica of the RS Supreme Court presented the results and challenges of the Civil Law Panel, while the work of the criminal and administrative panels were presented by Judges Hilmo Vucinic and Zvezdana Antonovic of the Court of BiH. The experiences and recommendations for the further work of the panel were presented by Judges Maida Kovacevic of the Appellate Court of the Brcko District BiH and Fatima Imamovic of the FBiH Supreme Court.

Image 16: Participants in the Regional round table in Belgrade

For these departments to function properly, the participants stressed the significance of the domestic case law databases equipped with functional search engines and various search parameters. On that occasion, Ljiljana Filipovic, Judge of the FBiH Supreme Court, explained the importance and the role of the HJPC Court Documentation Centre, as a place where the national database of select court decisions from Bosnia and Herzegovina is maintained and updated. This Round Table represents a follow up on the International Forum "Dialogue of Courts - an Instrument for harmonizing case law", held in Sarajevo on 21 and 22 June 2016.

Furthermore, on 29 September 2017 a high-level conference on harmonization of case law was organized in Athens, by the Council of Europe and in cooperation with the Council of State of Greece. The conference was attended by representatives of judicial institutions from 20 member states of the Council of Europe and institutions responsible for reviewing and publishing case law. This was the first multilateral meeting organized with an aim to determine how to provide better support to the process of harmonization of case law in member states of the Council of Europe. This was an opportunity for the participants to analyse and exchange positive experiences regarding the consistency of case law as a prerequisite for legal certainty and harmonization of case law through the prism of human rights. At the session dedicated to presentation of good practices in the Council of Europe member states, in addition to the experiences of Serbia and Russia, mechanisms for the harmonization of case law in Bosnia and Herzegovina were presented.

Chapter 6: INTEGRITY AND RESPONSIBILITY

6.1 Integrity

The necessity for strengthening judicial accountability and integrity was highlighted through the 2014-2018 BiH Justice Sector Reform Strategy, as well as the HJPC BiH 2014-2018 Strategic Plan. In the med-term plan of the Council for the 2017-2019 period, as a part of the program enhancing the accountability of judicial office holders, activities have been planned to build capacities to prevent and detect corruption and conflict of interest in the BiH judiciary, as well as to implement electronic filing, registering, processing and monitoring of financial statements.

Bearing in mind commitments undertaken under the EU Reform Agenda, the Structured Dialogue between the EU and BiH, as well as other goals important to further the process of BiH integration into the EU, the Peer Review (PR) carried out in 2016, assessed, among other things, the financial reports of judges and prosecutors as a measure for preserving integrity and as a tool to counter corruption and analyse the rules of disciplinary proceedings and disciplinary measures in the BiH judiciary (hereinafter: the PR report).

The HJPC BiH continues activities on improving adherence to standards of professional ethics, integrity and accountability. Therefore, in 2017 a Working Group for Improving the Integrity and Accountability of Judicial Office (hereinafter: the Working Group) was established with specific tasks in the areas of improving the codes of ethics, monitoring the implementation of guidelines for the prevention of conflict of interest in the judiciary in Bosnia and Herzegovina, establishing a functional system for submission, processing and verification of financial statements of judicial office holders as well as improving the disciplinary proceedings. USAID's Justice Project provides significant professional support for the operations of this Working Group.

The Working Group, as a priority activity, set the establishment of the System for Submission, Processing and Verification of Financial Statements of the Judicial Office Holders in accordance with the legislative competence of the Council, aware of the fact that reports on financial status and interests are an important tool to counter and detect conflicts of interest and illicit gaining of wealth among holders public office.

Recommendations in the PR report emphasize the importance of this issue. The need for a better transparency of the Council was singled out, in the form of submitting of financial statements, as well as in an internal document specifying actions of the Council in relation to recording and monitoring of financial reports, which should be made available to the public.

At a session held on 4 September 2017, the Council adopted the new form for reporting on the income, assets and interests of holders of judicial office. Under a decision of the Council of 27 November 2017, it was published on the HJPC website for the purpose of informing the public. Compared to the previous form, the adopted one has a more detailed record of income and activities of the judicial office holders as well as of marital/extra-marital partners and children with whom they live in a same household. The paid activities are separated from the unpaid additional activities, data on life insurance policies as well as gifts and donations are recorded. When it comes to the value of the declared property, the threshold was reduced from 20,000 KM to 5,000 KM, compared to the previous reports. When drafting the form, the Council also had in mind the Guidelines on the Prevention of Conflict of Interest, which were adopted in July 2016.

In 2017, the Working Group prepared the Draft Rulebook which covers all important issues in the process of submitting, processing and controlling the reports submitted by the holders of the judicial office, which is also one of the PR recommendations. Adoption of the Rulebook is expected in the first half of 2018, after which the system for electronic submission, registration, processing and monitoring of financial reports of judges and prosecutors should start through the use of the new form and the new method of filling in and electronically submitting the information by holders of judicial office.

Although the HJPC back on 28 November 2005 adopted the Code of Judicial Ethics and the Code of Prosecutorial Ethics as well as the Guidelines for the Prevention of Conflict of Interest in the Judiciary in 2016, the issue of ethics needs to be given greater attention to clarify in

practice the dilemmas in terms of the application of adopted documents and possible sanctions in the event of non-compliance. In 2017, a Working Group commenced activities on the preparation of the Manual for the Application of the Code of Ethics and Improvement of the Code of Ethics with the adopted Guidelines as well as finding possibilities for their monitoring and practical application.

In July 2016, the HJPC BiH adopted Guidelines for the preparation and implementation of the plan of integrity in judicial institutions of Bosnia and Herzegovina as supporting documents: Methodological Guidelines for Integrity Plan in Judicial Institutions in BiH and Model of the Integrity Plan, submitted to all judicial institutions in BiH.

In March 2017, in accordance with the Guidelines for the Preparation and Implementation of the Integrity Plan in Judicial Institutions in BiH, the HJPC BiH adopted the **List of Basic Risks** to Violation of Integrity in Judicial Institutions (Courts and Prosecutor's Offices) in BiH and possible measures to enhance integrity, *(the process risk identification has identified a total of 52 risky processes, of which 30 are for the courts and 22 for the prosecutor offices), and then for these risks a total of 170 risk factors were identified (of which 96 are for the courts and 74 for the prosecutor offices), while more than 300 measures were proposed.* Also, the **Questionnaire for Integrity Self-Assessment** was adopted at that same session of the HJPC BiH. **All adopted documents were submitted to judicial institutions in Bosnia and Herzegovina.** USAID's Justice Project provided significant support in the drafting of these documents to the HJPC BiH.

In the first week of April 2017, in cooperation with APIK, with the support of the Regional Anti-Corruption Initiative (RAI), as well as the USAID Justice Project, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina organized **four regional trainings (in BiH: Tuzla, Banja Luka, Mostar and Sarajevo) for coordinators of integrity plans and one member of the working group for drafting an integrity plan within each judicial institution in Bosnia and Herzegovina.**

As of 1 December 2017, out of 102 judicial institutions, 98 submitted their integrity plans to the High Judicial and Prosecutorial Council of BiH for an opinion. The process of giving opinions by the Standing Committee for Judicial and Prosecutorial Ethics, Independence and Incompatibility has been taking longer than expected because judicial institutions embarked upon this process for the first time and thus were required to be given detailed instructions during the preparation and assisted in understanding individual segments of integrity plans and their design. Also, the other reason is that the plans, by their nature, are very copious documents. The review of the plans has been approached in a detailed fashion, including the provision of substantive suggestions and opinions, so that the integrity plans are as good as possible and in order to achieve the highest level of uniformity. This means that the process is not only about giving a formal opinion. The process of giving opinions to integrity plans will be completed by the end of February 2018. In early 2018, judicial institutions are about to start implementing the integrity plans (a four-year document).

In relation to disciplinary proceedings and the practice conducted thus far, especially in a part concerning the imposed disciplinary measures or the penal policy, the Council started activities on the analysis of the penal policy and improvement of the work of disciplinary panels. The Working Group for the Advancement of the Integrity and Accountability of Holders of Judicial Office, in cooperation with the USAID Judicial Project, prepared a Draft Manual on Disciplinary Accountability, covering important issues of disciplinary proceedings, including issues on the prohibition of performing incompatible duties, the code of ethics as well as international standards and practices in these areas. Within these activities, the Working Group monitors the PR recommendations in the area of disciplinary proceedings. Most PR recommendations require amendments to the Law on HJPC BiH, so activities for the time being are focused on the preparation of bylaws with an aim of improving the disciplinary procedure.

6.2 Disciplinary proceedings

6.2.1 Complaints of misconduct against the holders of judicial office

In 2017, the Office of Disciplinary Counsel (ODC) in ex officio capacity received/registered 1,077 complaints or 17.2% more than in 2016.

During 2017, the ODC resolved 933 complaints, which is more than in 2016 (922). Bearing in mind that in 2017, the ODC had even less available personnel resources than in the preceding year, we can say that the achieved results were made primarily due to additional efforts by the ODC staff.

To illustrate, in addition to other investigative actions, the ODC inspected 1,144 cases through the Case Management System in courts and prosecutor's offices (CMS/TCMS).

The most frequent reasons for filing of complaints included a dissatisfaction with the rendered judicial/prosecutorial decisions, or the length of court and prosecutor proceedings.

The largest share of complaints (37%) refer to duration of proceedings. It should be noted that in the past year, the Constitutional Court of BiH significantly tightened their standards in terms of the length of proceedings, putting the focus on consideration of the entire objective length of proceedings, passing unified decisions on the violation of the right to trial within a reasonable time in dozens, even hundreds of court cases. The individual reasons for the duration of proceedings certainly could not be fully examined in each individual case. The ODC, on the other hand, must prove the subjective flaws in the work of judges and prosecutors, which caused such delay in the proceedings. Bearing in mind the indicators for the performance of judges and prosecutors, which, among other things, refer to the number of cases in trial, achieved benchmark quotas, the Case Resolution Plan, chronological disposal of cases, etc., the ODC has in many cases found that despite an objective duration of the proceedings, there is no sufficient evidence substantiating a disciplinary accountability of those judges/prosecutors.

Discontent over a rendered decision was the reason for 22% of complaints.

Article 87 of the Law on the HJPC provides that a judge or prosecutor shall not be subject to civil liability for decisions taken within the scope of official duties. However, this immunity shall not apply to a disciplinary responsibility of judges (and judicial associates with powers of a judge) for committing disciplinary offenses under Article 56, paragraph 9 of the Law on HJPC on "issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules."

It should be noted that 18% of complaints were filed over disciplinary offenses of judges under Article 56, paragraph 9 of the Law on HJPC over "issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules," when the arguments and the complaints, to a certain extent, are about such decision which has finalized court proceedings, so a part of these complaints should be viewed in a broad sense of dissatisfaction with the rendered decisions.

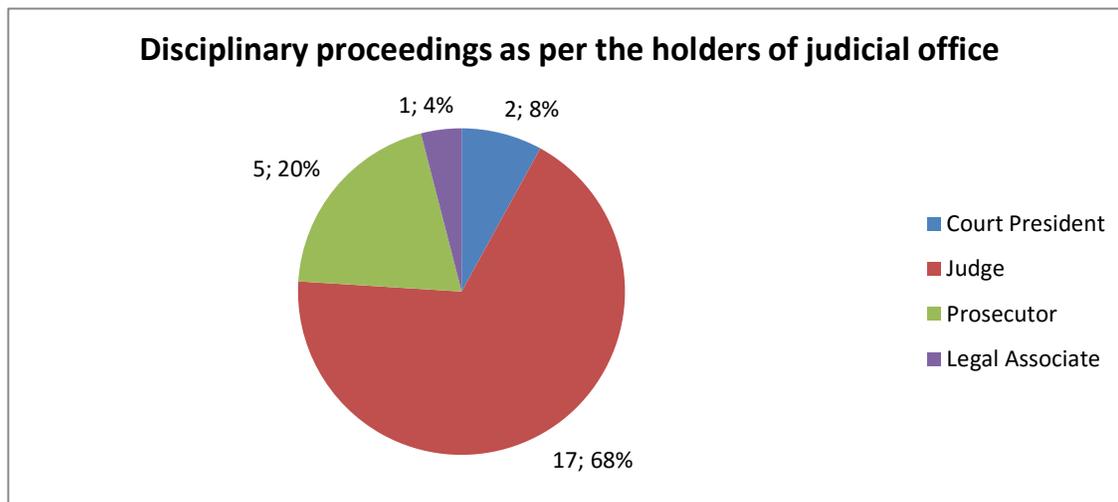
We consider that it is necessary to filter out the fact that almost one in 10 complaints (9%) refer to a conduct or treatment of a judge or a prosecutor toward parties in proceedings.

In 2017, the average time to resolve a complaint amounted to slightly more than one year, or 376 days, which is significantly less than the legal, two-year deadline under which the ODC is to resolve a complaint after receiving it.

6.2.2 Initiated disciplinary proceedings

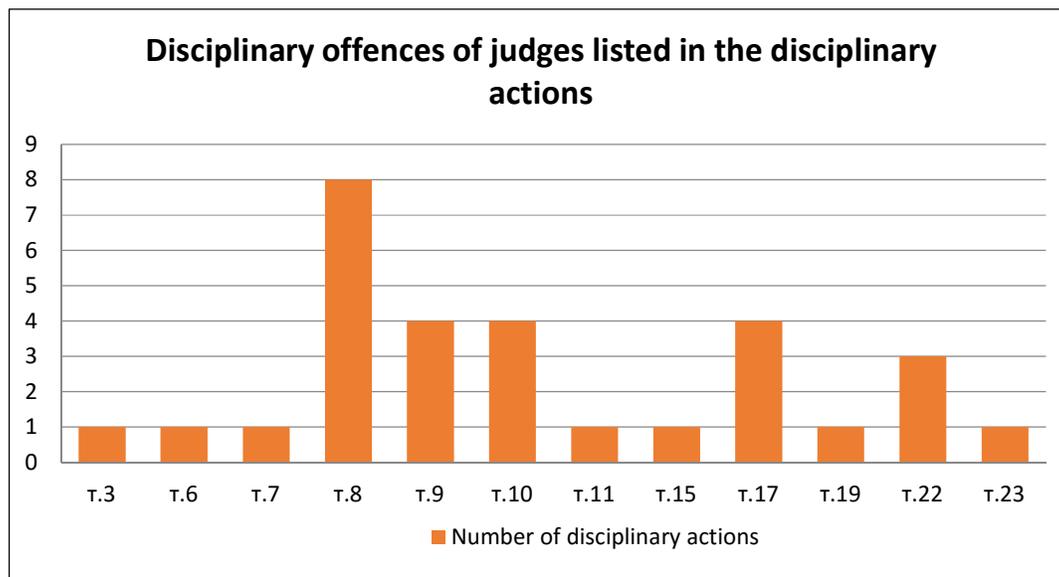
In 2017, the ODC initiated 25 disciplinary proceedings.

Graph 9



Most disciplinary proceedings were initiated against judges due to a disciplinary offense under Article 56, paragraph 8 of the Law on the HJPC, "neglect or careless exercise of official duties" (32% of the total number of complaints).

Graph 10



As regards the disciplinary proceedings initiated against the prosecutors, three-quarters of disciplinary cases were equally divided between disciplinary offenses referred under Article 57, paragraphs 8 and 9 of the Law on the HJPC on the "neglect or careless exercise of official duties," and on "unjustified delays in issuing decisions or any other act related to the exercise of prosecutorial functions, or any other repeated disregard of the duties of the prosecutorial function."

Graph 11

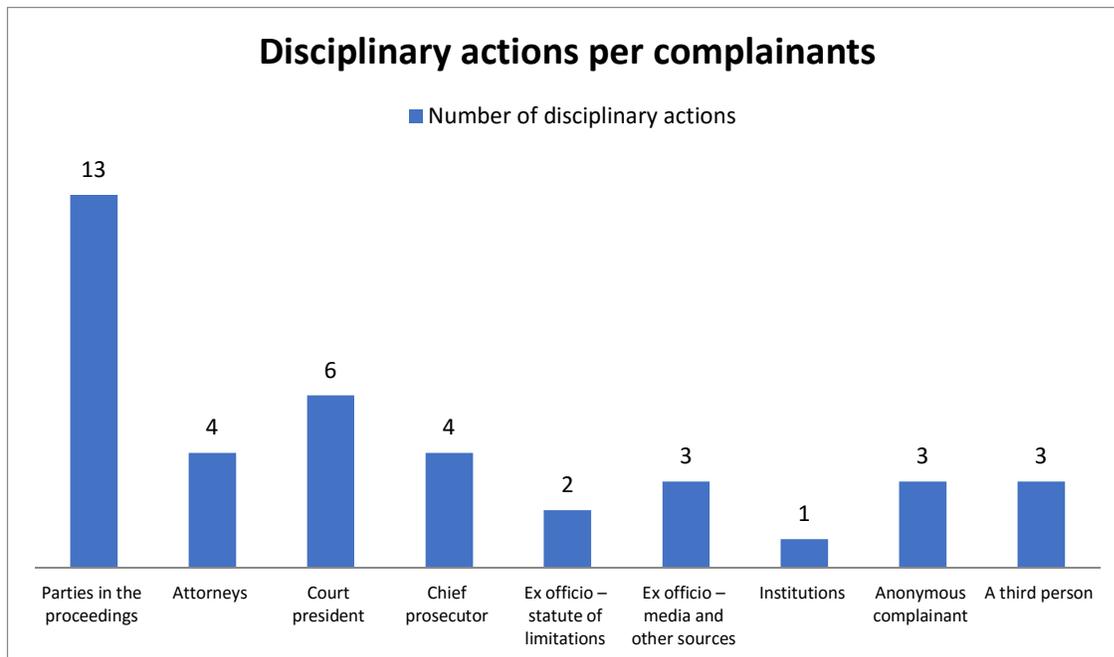


Most disciplinary proceedings were initiated based on a complaint by a party in the proceedings or an attorney (68%).

As much as 40% of proceedings were initiated based on complaints by the managers of judicial institutions.

We also need to mention the percentage of cases initiated on the basis of complaints ex officio (20%), and based on anonymous complaints (12%).

Graph 12



6.2.3 Suspension from office

During 2017, the ODC filed nine motions for suspension of four judges and four prosecutors due to criminal investigations or criminal proceedings conducted against them and one motion against a prosecutor on the grounds of initiated disciplinary proceedings of removal from office.

The ODC appealed against two first instance decisions rejecting the motion for suspension, which have been upheld. The contested decisions were overturned and holders of judicial office were removed from office.

The decisions of disciplinary panels rejected final three motions, upheld six motions, while two judges and four prosecutors were suspended.

Bearing in mind that suspensions of holders of judicial office were carried over from previous years - one from 2015 and three from 2016, by the end of 2017 ten holders of judicial office were suspended: one court president, three judges and six prosecutors.

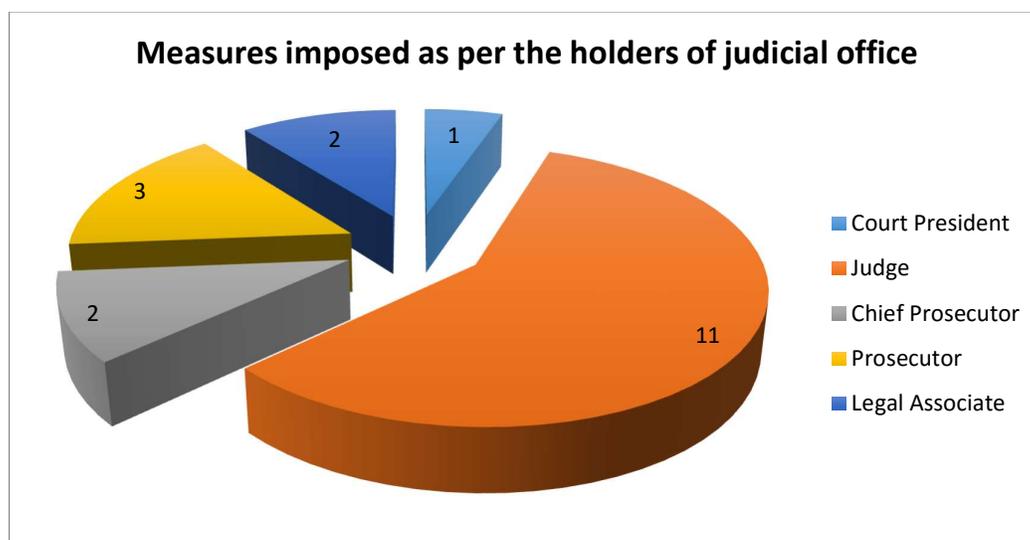
6.2.4 Completed disciplinary proceedings

During 2017, a total of 24 proceedings initiated in 2016 and 2017 were completed.

Disciplinary accountability was found in 19 proceedings, while disciplinary action was rejected in five cases.

Disciplinary accountability was found against three persons who performed managerial duties at the time the disciplinary offense: two chief prosecutors and one court president.

Graph 13



Disciplinary accountability of judges was most commonly found for the following disciplinary offenses:

- unjustified delays in issuing decisions or any other act related to the exercise of judicial functions, or any other repeated disregard of the duties of the judicial function (26%),
- neglect or careless exercise of official duties (21%),
- issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules (16%) and
- failure, for an unjustifiable reason, to comply with decisions, orders or requests of the Council (16%).

Disciplinary accountability of prosecutors was most commonly found for the following disciplinary offenses:

- neglect or careless exercise of official duties (21%) and
- unjustified delays in issuing decisions or any other act related to the exercise of prosecutorial functions, or any other repeated disregard of the duties of the prosecutorial function (16%).

In 19 disciplinary proceedings, the following disciplinary measures were handed down in final decisions:

- reduction in salary (10),
- public reprimand (4),
- a written warning which shall not be made public (3),
- reassignment from the position of chief prosecutor to position of a prosecutor (1) and
- removal from office (1).

The disciplinary measure of removal from office was handed down to a municipal court judge for disciplinary offenses referred to in Article 56, paragraph 14 of the HJPC: "if he or she is sentenced to imprisonment for a crime, or if he or she is convicted of a crime which makes him or her unfit for judicial function."

The Office appealed all five cases when a disciplinary action was rejected, and these appeals were rejected in decisions by the second instance disciplinary panels.

The ODC filed five appeals against the sanctions imposed in the first instance and two appeals against sanctions imposed in the second instance. Appeals were not filed only in three first instance cases, in one of them the measure of removal from office was imposed.

The ODC appeals were upheld in two cases and more stringent disciplinary measures were imposed.

Chapter 7: DIGITAL TRANSFORMATION OF BiH JUDICIARY

7.1 Second generation of case management system in courts and prosecutor's offices (CMS/TCMS) as a foundation to providing quality services to citizens

Within the framework of the new generation of the Automatic Case Management System in Courts (hereinafter: CMS), and in accordance with the Rulebook on Internal Court Operations of the Federation of Bosnia and Herzegovina and the Brcko District of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", no. 66/12, 40/14, 54/17 and 60/17), the Rulebook on Internal Court Operations of the Republika Srpska ("Official Gazette of the Republika Srpska", No. 9/14 and 71/17), and the Rulebook on the Automatic Case Management System in Courts (CMS) ("Official Gazette of Bosnia and Herzegovina" No. 04/16, 37/16, 84/16 and 40/17), the CMS Module has been developed for issuing certificates on the conduct of no criminal proceedings (hereinafter: the Module).

This Module provides for the verification of data on the conduct of criminal proceedings in all courts in Bosnia and Herzegovina, based on data on criminal cases registered within the CMS system.

The certificate is issued by a municipal/basic court at the request of the applicant irrespective of the place of residence of the applicant, the seat of a legal entity or the residence of a foreign entity. The Rulebooks of Internal Court Procedure envisage the form and the scope of the information to be provided in the request that the applicant submits to the court for issuing the certificate. Certificates are issued on the forms. Their content is also prescribed by the Rulebooks on Internal Court Procedure.

The application of this Module commenced in April 2017. **In addition to significantly accelerating of the certification process and the ability to file a request and issue a certificate in all courts in Bosnia and Herzegovina, regardless of the applicant's place of residence, the new certificates are issued on the basis of data on the conduct of criminal proceedings before all courts in Bosnia and Herzegovina, whereby the comprehensiveness of the issued certificates and legal security in the country is significantly enhanced. By this decision, the applicants no longer need to travel to a seat of a second instance court or wait for a first instance court to send to a second instance court an ex officio request for verification in order to obtain such certificate. Applicants can file a request and obtain the certificate on the conduct of no criminal proceedings in any first instance court in Bosnia and Herzegovina. In this manner, citizens and other people applying for certificates on the conduct of no criminal proceedings save both the time and the money compared to a prior situation, which often required certificate applicants travelling to another town where the court competent for issuing certificates on the conduct of no criminal proceedings is seated.**

Examples of the aforementioned manner of court operations, before the Module application commenced, are the Basic Court in Foca and the District Court in Trebinje. An applicant would submit a request with the Basic Court in Foca. After the Basic Court in Foca completed the application, for the part pertaining to this court, the applicant had to physically hand over this request no later than 24 hours in the premises of the District Court in Trebinje. In addition to this, the applicants could have requested the Basic Court in Foca to submit the application ex officio to the District Court in Trebinje. In this case, the applicant would come to pick up the certificate at the premises of the basic court, but within 15 days after the date of filing the application. In this manner, the applicants and the courts have been losing time and accruing significant material costs.

By applying a new module, the procedure for verifying the conduct of criminal proceedings is accelerated and simplified, and in most courts, the verification and issuing of certificates is carried out immediately upon submitting the request for issuing the certificate, with the payment of the required court fee.

In addition, citizens of Bosnia and Herzegovina, persons who have the registered residence in the country as well as legal entities can now obtain a certificate on the conduct of no criminal proceedings in the nearest municipal/basic court or a department of the court, having no need to seek verification in cantonal/district courts, which significantly saves time, costs and resources of courts in Bosnia and Herzegovina.

By applying the Module, by the end of 2017, the courts in Bosnia and Herzegovina issued a total of 63,317 certificates.

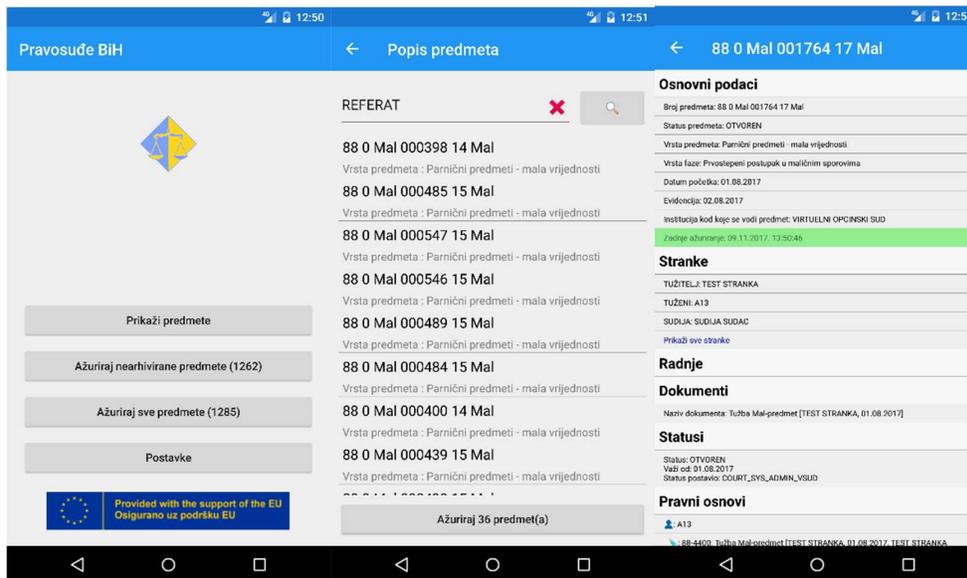
The Module for issuing the certificate on the conduct of criminal proceedings was developed within the new generation of the Court Case Management System – CMS, supported by the European Union through the Project "Consolidation and Further Development of Judicial Information and Communication System" - IPA 2013.

7.2 Modern access to justice - mobile applications to access the court cases

In order to follow the trends in the development and application of primary digital technologies (especially the mobile technology), and taking into account the rising mobile Internet penetration,²⁸ the ICT Department, within the IPA 2013 Project "Consolidation and further development of judicial communication and information system," developed a mobile application for access to the court cases. The mobile app enables citizens and lawyers connected to the internet to access a case or cases via a smart phone (all cases except the criminal cases), wherein they appear as parties or legal representatives of the parties. Access will be implemented on the "Web access to cases" service model, which has been available to citizens and lawyers in Bosnia and Herzegovina for more than eight years.

In 2017, a version of mobile applications for the Apple iOS operating system has been developed and broadly tested, while the version for Android is also developed and planned to be put into operation in January 2018. Testing was conducted in cooperation with the Bar Associations of the Federation BiH and of the Republika Srpska. More than 50 attorneys were involved in the testing process and their quality recommendations enabled improvements of applications so they are fine-tuned to the needs of the user.

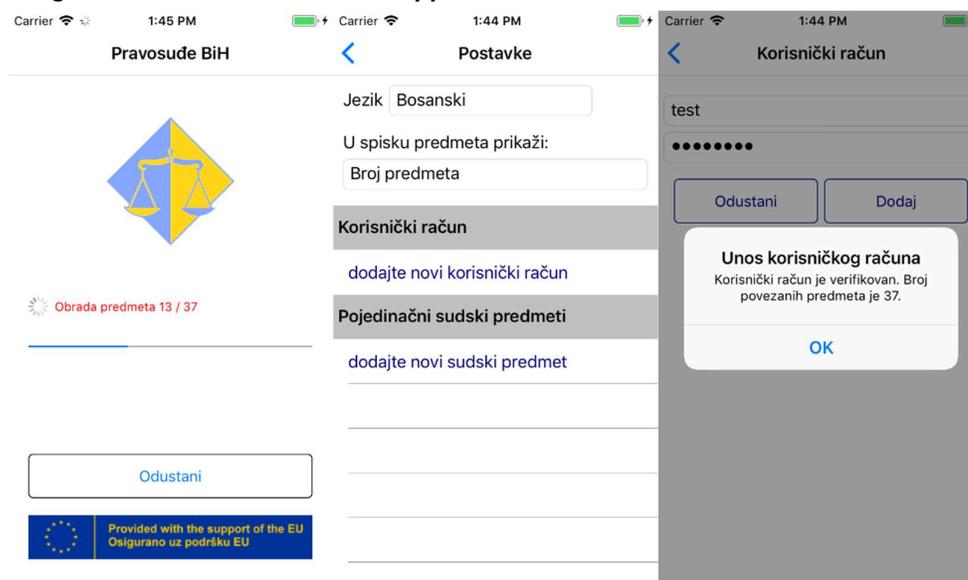
Image 17: The screen of the Android mobile application to access the court cases



²⁸ In 2015, the INTERNET SOCIETY GLOBAL INTERNET REPORT has foreseen a 98% mobile internet penetration in the Central and Eastern Europe by 2019.

The application is available in all three languages and two scripts used in Bosnia and Herzegovina. It is possible to search the information within a case using multiple criteria, inform the application user of changes in the court case and review electronic documents in the case. Mobile applications will be available through the *Apple Store* and *Google Play* web store.

Image 18: Screens of iOS mobile applications to access the court cases



7.3 Implementation of the reporting and business decision making system

The system for reporting and business decision-making is a mixture of theory, processes, architectures and technologies that transforms the raw judicial data produced every day into practical information essential for decision-making based on facts and effective management of courts and prosecutor's offices. The system based on the modern Data Warehouse and Business Intelligence technologies was developed in 2016 under the auspices of the IPA 2013 project "Consolidation and further development of judicial communication and information systems." As a reminder, the system was extensively used in 2016 and 2017 in order to prepare the response to the European Commission questionnaire. Statistical reports that combine data from different information systems (databases) used in the BiH judiciary (CMS / TCMS, HRMIS, SOKOP Mal) can be made through the system.

Through visually-friendly control panels and reports that in 2017 were tailored to specific management needs of court presidents and chief prosecutors, the managers will have a clear picture of the impact of policy measures and operational decisions that direct the work of judicial institutions. In addition to strategic reports and management boards that provide an overview of the situation in courts and prosecutor's offices, the system allows detection of and referral for elimination of errors caused when entering data into the case management system in courts and prosecutor offices CMS/TCMS. In this manner, managers of institutions will have a better insight into the quality of data entered into the system, based on which they will be able to give clear instructions to employees for their correction, which would avoid the need for a subsequent correction of errors.

With this tool, managers of judicial institutions get a comprehensive view of the situation in a court or in a prosecutor's office. Rather than having a reactive approach, this system paves the way for judiciary to be proactive.

Graph 19: Overview of the basic control panel available to Chief Prosecutors

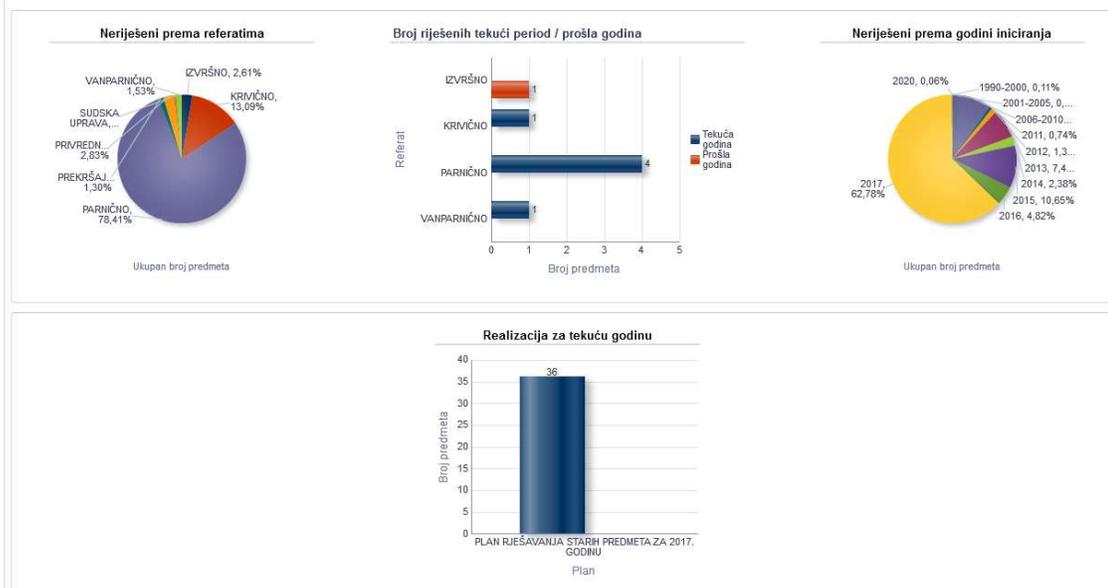


Image 20: Different types of reports available Chief Prosecutors (statistical, analytical, reports on the quality of data and ad hoc reports)



Through the SIPO system, the following types of reports are accessible to authorized users:

- **Statistical reports** used for the overall control of the situation within the court/ prosecutor's office (e.g., the flow of cases, trend for unsolved cases, compliance with the plan to resolve the unresolved cases, age-structure of the cases, etc.).
- **Analytical reports** that allow the managers to have a more detailed and deeper insight into specific problems that cause or are associated with the ineffectiveness (e.g., report on the cases fallen under the statute of limitations, cases that cannot be resolved, structure of criminal cases in prosecutor's offices with no scheduled hearing, *Time Management Checklist* reports);
- **Reports on the quality of data stored in the CMS/TCMS system**, used to observe illogical issues in data entering, such as multiple parameters for individual identification in proceedings (particularly for attorneys and notaries), cases shown to be completed even though they still have scheduled and open hearings;
- **ad hoc reports** that help court presidents and chief prosecutors identify occasional issues
- e.g. criminal cases when the defence is not appointed ex officio. Reports from these categories are created based on requests submitted by users of courts and prosecutor's offices.

Image 21: Overview of the basic control panel available to court presidents**Image 22: Different types of reports available to court presidents (statistical, analytical, reports on the quality of data and ad hoc reports)**

7.4 Support for human resource management in judiciary and for the process of appointment of holders of judicial office – Human Resource Management Information Systems (HRMIS)

The Human Resource Management Information System in the BiH judiciary (HRMIS) provides standardized collection and analysis of relevant data on judicial staff and employees of judicial institutions in order to improve the objectivity, effectiveness and cost-effectiveness of the process of selection, appointment and promotion of judicial office holders. Using HRMIS module for testing the candidates for vacant judicial office positions in 2017, a competitive examination of 308 candidates has been conducted. The possibility for simultaneous testing for a number of candidates contributes to the efficiency of the appointment process, while the automatic generating of test results after their completion, gives the candidates the possibility to review their score, which significantly contributes to the transparency of the procedure.

In 2017 the necessary IT and audio-visual equipment was acquired, which should enable implementation of qualification testing from regional test centres in Banja Luka, Mostar and Tuzla and interviewing of candidates via video-links.

Table 28: Statistical indicators of qualification tests performed in 2017

| | |
|---|--------|
| Total number of tested candidates | 308 |
| For prosecutorial function | 76 |
| For judicial function | 232 |
| Total number of candidates who passed the test | 197 |
| Judges | 150 |
| Prosecutors | 47 |
| Percentage | 63.96% |
| Average time of test duration | 83.44 |
| Highest score | 93 |
| Lowest score | 41 |
| Number of judicial office holders appointed on the basis of tests performed in 2016 | 71 |

Table 29: Number of qualification tests upon a vacancy

| Vacancy | Vacancy opened | Number of tests |
|----------|----------------|-----------------|
| 684 | 21. 02. 2017 | 14 |
| 724 | 04. 05. 2017 | 22 |
| 753 | 12. 07. 2017 | 13 |
| In total | | 49 |

In 2017, implementation of the Module for Staff Data Records (MELP) was successfully conducted in the District Commercial Court in Istocno Sarajevo, the Municipal Court in Bugojno and Travnik, while it commenced in the Municipal Court in Visoko. In this manner, these institutions can manage their human resources more efficiently, and reduce the time for preparing and obtaining reports in this matter.

reducing the time necessary to prepare and obtain reports in this matter.

7.5 Implementation of the SOKOP Mal system

The enforcement procedure is currently one of the main obstacles to establishing of an efficient BiH judiciary, because the enforcement i.e. the utility cases make up most of the unresolved cases in the BiH judiciary.

In 2017, in order to improve the processing of utility cases and small value cases, within activities under the Project Improving Justice Efficiency II, the activities continued on expanding the network of users and on improving the system for electronic submission and processing of the small value, so-called "utility" cases at first instance courts in Bosnia and Herzegovina (**SOKOP Mal system**). In order to increase efficiency of the courts and to establish a unified system of processing utility cases, at the meeting held in March 2017, and the HJPC adopted a decision on the mandatory application of SOKOP Mal system in all first instance courts in Bosnia and Herzegovina (Decision HJPC BiH 23 March 2017 No. 12-02-2-1306-1/2017).

The SOKOP Mal system currently has about 1,250,000 cases, while the total number of utility cases in BiH is about 1,780,000. Thus, 70% of cases are resolved using the SOKOP Mal system. The main advantages of the system that contribute to the efficiency of the work are seen in:

- electronic processing of the cases with pre-created forms for the courts as well as for external users (in accordance with the laws on enforcement procedure)
- the possibility of implementing the enforcement and civil (for small claims) proceedings,

- automatic calculation of deadlines,
- reducing the necessary actions in case handling,
- reducing the space required to safe-keep the cases,
- enabling decision-makers to process a number of cases at the same time, maximizing the efficient use of time, to be able to focus more on the judicial function and
- rationalization of work on the ground and providing a common course of action for all cases that have the same defendant.

As of 31 December 2017, the SOKOP Mal system is in application or has been given the consent to be accessed by 26 courts and 16 enforcement seekers/claimants. In accordance with the approach of certain courts and external users, the system operation training has been conducted, while the system functionality is continuously improved according to the needed requirements of the users. Also, an ongoing support is provided for the work of all courts which use the SOKOP Mal system. In 2017, a total of 30 training sessions were held, of which 20 were provided to courts and 10 to those initiating the cases. Typically, a training for operations in the system were organized at the headquarters of the court or an external user and lasted between one and two days. Total number of court personnel and staff responsible for handling the system for external users who have been given the training is about 70 people in the reporting period.

7.5.1 Implementation the SOKOP Mal system in the Sarajevo Canton

The problem of a large number of unresolved utility cases is particularly prevalent in the Sarajevo Canton, due to the fact that the Municipal Court in Sarajevo currently has about 800,000 utility cases, which is about 50% of the total number of unresolved utility cases in the courts in BiH, while the amounts claimed through these cases reach about 140,600,000 KM.

Until the introduction the SOKOP Mal system, the Municipal Court in Sarajevo processed these cases through the KODIFEL²⁹ system, and its implementation was partly financed by the HJPC BiH. KODIFEL represents the first phase of deployment of electronic processing of utility cases, and its upgrade continued through the SOKOP Mal system. In order to use the new functionality of the SOKOP Mal system and make the processing of utility cases in the BiH judiciary uniform, the implementation of the SOKOP Mal system commenced in the Canton of Sarajevo in 2016.

Implementation of the new (SOKOP Mal) system in this court required the implementation of important activities:

- migration of cases and supporting documents from the KODIFEL into the SOKOP Mal system;
- purchase of special servers that will allow the “intake” of a large number of cases;
- purchase and installation of digital certificates for five utility companies;
- development of special subsystems for utility companies, which will facilitate their communication with the SOKOP Mal. External contractor was hired for the development of the above subsystem;
- further development of the system functionality as per the needs to continue working on the cases transferred from KODIFEL;
- engagement of additional staff (assistants to judges and couriers) to provide necessary support to the court in the initial stages of work in the system and
- continued holding of training sessions for court personnel and utility companies.

Since September 2017, the SOKOP Mal has been in full implementation in the Municipal Court in Sarajevo and in the cantonal public utility companies: KJKP RAD d.o.o. Sarajevo, KJKP Toplane d.o.o. Sarajevo, KJKP Vodovod i kanalizacija Sarajevo, Komunalac Hadzici and JKP Vodostan Ilijas. The introduction of the SOKOP Mal system in the Sarajevo Canton in the first

²⁹ Conversion to digital format and electronic processing of utility cases.

months of operation significantly reduced the number of utility cases before the Municipal Court in Sarajevo. This was a compounding effect of several elements, including:

- uniform updating of databases of all utility companies, which led to enter only the open cases in the system,
- creation of an electronic database of archived cases,
- mass withdrawal of cases where conditions have been previously fulfilled and
- faster and more efficient processing of a number of cases through the new system.

7.6 Ensuring long-term sustainability and security of judicial information system

In 2017, the following activities were undertaken aimed at ensuring long-term sustainability and security of judicial information system:

– Equipping the new centre for processing and data storage with necessary infrastructural devices was carried out as well as the procurement, installation and putting on line the network equipment, servers, mass storage systems i.e. the backup data. The installation of this equipment is the continuation of optimization and consolidation of the ICT systems in order to achieve a maximum utilization of installed hardware resources in the data centre with the least possible energy consumption and lower maintenance costs of the installed IT equipment. The data centre and hardware systems are in fact designed and constructed in a manner to provide maximum accessibility and optimal application performance and service of the judicial information system.

– The process of transfer (migration) of applications and services of the judicial information system from the old equipment in the data centre to the new equipment in the new data centre.

The primary centre for the processing and data storage of the Judicial Information System (hereinafter: the Data Centre) is the backbone of the judicial IT infrastructure where all the basic system services are located (CMS/TCMS, HRMIS, SOKOP Mal, Web portal, intranet portal, e-mail system etc.). The first phase of the data centre development, which included construction and installation works on the building of the new data centre was completed in late October 2016. The second phase of the works included equipping of the data centre with a generator, surge protection system (UPS), air conditioning system, fire alarm systems, video surveillance and server cabinets. This was completed in the first half of 2017. The construction and equipping of the data centre with the necessary devices and IT equipment was made possible with the funds of the project: "Strengthening judicial efficiency," funded by the Government of the Kingdom of Sweden and the project "Consolidation and further development of the judicial information and communication system" - IPA 2013, funded by the European Union.

The new data centre meets international standards and EU directives in the field of infrastructure and data centre protection, including the ISO 27001 standards on information security.

Images 23 & 24: Premises of the new centre for data storage and processing of the Judicial Information System BiH



In 2017, additional computers, scanners and printers were also purchased, including the office equipment for the needs of courts and prosecutor's offices, and sets of audio-visual equipment for examining of minors for the needs of prosecutor's offices in Bosnia and Herzegovina.

Improving the ICT infrastructure in judiciary of Bosnia and Herzegovina has enabled investments from the following sources:

- Budget of institutions of Bosnia and Herzegovina,
- Project: "Consolidation and further development of judicial information and communication systems," funded by the European Union from the Instrument for Pre-Accession Assistance - IPA 2013
- "Project on Human Resource Management in Judiciary II" and "Improving Judicial Efficiency Project II," funded by the Kingdom of Norway,
- "Project on improving court efficiency and accountability of judges and prosecutors in BiH, Phase 2," funded by the Kingdom of Sweden,
- Project: "Support to judiciary of Bosnia and Herzegovina - Strengthening the role of prosecutors in the criminal justice system Phase 2," funded by the Swiss Confederation and the Kingdom of Norway and
- Project: "Enhancing the work on the war crimes cases," funded by the European Union.

Table 30:

| Type of investment | Source of funds | 2017 (in BAM) |
|--|--------------------------------|------------------|
| Computer equipment | Budget of BiH institutions | 623,738 |
| | European Union | 922,361 |
| | Norway | 41,855 |
| | Switzerland | 52,529 |
| Computer equipment – total | | 1,640,483 |
| Software | The budget of BiH institutions | 39,488 |
| | European Union | 47,778 |
| | Sweden | 5,000 |
| | Norway | 3,020 |
| Software – total | | 95,286 |
| Maintenance of Judicial Information System | Budget of BiH institutions | 367,555 |
| Maintenance of judicial IT | | 367,555 |
| TOTAL INVESTMENTS | | 210,3324 |

In addition to these investments, the HJPC is within its jurisdiction provided technical expertise to USAID's "Justice Project" in the process of procurement of ICT equipment for the prosecutor officers, the ODC and the Supreme Court of the Federation of BiH.

In 2017, the work has continued on the preparation and adoption of the supporting documents necessary for the implementation of the Judicial Information System Security Policy in BiH, adopted at the Council session held on 9 and 10 November 2016. The Judicial Information

System Security Policy is a comprehensive document setting the regulatory grounds for development of a safe Judicial Information System.

ANNEX 1: RECOMMENDATIONS

Judicial independence

- It is necessary to reduce the existing fragmented financing (financing from 14 different sources) of judiciary by introducing a single financing for courts and prosecutor's offices at least in the Federation of BiH.
- It is necessary to enhance the powers of judicial institutions in the budgetary process, so that the HJPC is the formal proponent of judicial budgets for courts and prosecutor's offices and negotiator with the executive and legislative authorities on the budgets of courts, prosecutor's offices and the HJPC budget, as regulated in the Brcko District.

Appointments and performance evaluation

- In accordance with the Peer Review recommendations on Procedures for Appointment of Judges and Prosecutors, the HJPC will prepare a proposal to amend provisions of the Law on HJPC in 2018. Also, in a segment that does not require legislative changes, the HJPC will modify the Rules of Procedure of the HJPC and the Rulebook on the entrance exam and written test for candidates applying for judicial office positions in judiciary of Bosnia and Herzegovina.
- In 2018, the HJPC will prepare a proposal of provisions for performance evaluation of holders of judicial office in the new Law on HJPC and criteria for evaluation of the work of holders of judicial office, in accordance with the Peer Review recommendations on Performance Evaluation of Judges and Prosecutors in Bosnia and Herzegovina.

Judicial efficiency

- It is necessary to strengthen cooperation and communication of judiciary with executive and legislative authorities with an aim of improving judicial efficiency.
- It is necessary for executive and legislative authorities to provide financial resources to fill the vacant judicial positions as per the systematisation of positions.
- Initiate amendments of the Civil Procedure Code with an aim changing provisions that affect efficiency of court proceedings.
- Initiate changes of the legislative framework related to the position, type and task assignments of non-judicial staff in order to increase the efficiency of the courts.
- It is necessary to find an adequate legislative solution to the problem of uneven workload of the courts.
- It is necessary to change the organizational culture in judicial institutions, towards developing of teamwork, responsibility and a sense of ownership of collective goals and work results. The role of qualified and well-educated managerial staff (court presidents and presidents of departments) is crucial in this aspect.
- The concept of independence of judges in decision making needs to be understood in relation to the imperative of the rule of law, which entails equality of citizens before the law. This is achieved through harmonization of the case law, which needs a continuous work, as well as the through quality of judicial decisions, through an open, professional dialogue of holders of judicial functions in all court instances.
- Courts need to work on strengthening procedural discipline in order to achieve a more efficient and cost effective judicial process and its shorter duration. This primarily means a uniform and strict application of procedural provisions related to delays and postponement of hearings, evidence and any other action in proceedings that affect fulfilment of the foregoing goals.
- Courts need to work continuously on promoting an alternative dispute resolution/amicable settlement, and in particular to recommend the parties to settle wherever possible. This

ensures a more efficient, shorter and cheaper procedure and mutual satisfaction of the parties with the outcome of a dispute.

- It is necessary to work on the training and developing the sensitivity of employees in judicial institutions to work with clients belonging to vulnerable groups of citizens. In this regard, judiciary should develop cooperation with civil society, from where it is possible to draw recommendations for improvement.
- In order to achieve gender equality in judiciary, it is preferable to start the implementation of the gender mainstreaming policy.
- It is necessary to continue to expand the network of the SOKOP Mal system users, in accordance with the decision of the HJPC of 23 March 2017.
- It is necessary to continue to carry out activities aimed at reforming the enforcement procedure in BiH, in accordance with conclusion of the second meeting of the Subcommittee on Justice, Freedom and Security, and the conclusions TAIEX workshops and strategic documents of the HJPC and of BiH.
- It is necessary to continue the efforts to secure the funds for the reconstruction of judicial institutions, primarily with an aim of ensuring the safety of employees and case parties, thereby increasing efficiency of judicial institutions.
- It is necessary to continue work on improving communication between the judicial community and the public in order to increase transparency of the judiciary and create a positive public opinion on the work of judicial institutions.
- After the focus in the past period was on improving efficiency of operations of prosecutor's offices, in future, it is necessary to put the focus on the quality of operations of prosecutor's offices, all in accordance with the Peer Review recommendations.
- Through joint meetings and cooperation, it is necessary that the HJPC BiH and executive authorities initiate a dialogue that would lead to a solution for the problem of many trips of prosecutors to represent indictments before the courts, which significantly affects an efficient and effective work of prosecutors.
- It is necessary to actively work on improving the material position of cantonal and district prosecutors in BiH.
- It is necessary to continue to actively use the established forms for cooperation between prosecutors and police at strategic and operational level.
- Continue the implementation of Strategies for dealing with persons who come into contact with prosecutor's offices in particular in a part related to motivating citizens to participate in criminal proceedings.
- It is necessary to continue with the practice of identifying and collecting good practices of conduct and work of the prosecutor's offices and allow the sharing of such practices between prosecutor's offices, including a good practice of creating permanent investigative teams of prosecutors and investigators.
- Within the jurisdiction of the chief entity prosecutors consider a possibility of reassigning some cases or prosecutors with an aim of resolving the problem of large number of cases in some prosecutor's offices and an insufficient number in other prosecutor's offices.
- Continue the process of strategic planning in prosecutor's offices.
- It is necessary to insist on expanding and improving the systematization in prosecutor's offices so as to provide for new categories of employees that would provide expert assistance to prosecutors, such as the position of adviser of economic profession with an aim of efficiently resolving the economic crime cases.

Quality of work of judicial institutions

– Continue implementing the Peer Review recommendations in the field of training and performance evaluation of holders of judicial office in order to improve the quality of holders of judicial office.

Integrity and accountability

– Consistently apply all the Peer Review recommendations on disciplinary proceedings in judiciary of Bosnia and Herzegovina that have not yet been implemented, in particular as regards an increase in the number of employees of the ODC.

– Adopt Rulebook which will define the procedure for reporting, monitoring and verification of financial statements of holders of judicial office and a new form for financial statements and ensure an efficient system of their monitoring and verification.

– Consistently enforce implementation of all recommendations of the European Commission expert mission related to disciplinary proceedings and adopt the Manual for its implementation.

– Improve code ethics for the holders of judicial office and align them with the Guidelines for the Prevention of Conflict of Interest in the BiH judiciary and adopt the Manual for their implementation.

– Complete the drafting of the plans for integrity of judicial institutions in BiH and implementation of supervision over their application.

ANNEX 2: STATISTICAL REPORT ON PERFORMANCE OF THE COURTS

Analysis of the court performance

This section of the report presents the work of regular courts in 2017 by analysing the aggregated statistical data on the performance of regular courts in terms of the flow of cases, quantity and quality of court performance, falling under the statute of limitations of criminal and minor offence cases and the enforcement of criminal sanctions cases. Data for 2017 are compared to the data for 2016. Performance data for individual courts are available at the vsts.pravosudje.ba website.

Please note that statistics are not related to performance of courts for the so-called "utility" cases – the cases of debt collection for provided utility services and in tax collection cases where the claimants are the public service broadcasters.³⁰

Flow of cases – per court instances

The total number of unresolved cases in 2017 was down by 17,532 cases or 5.2%, showing continuation of a declining trend in the number of unresolved cases in the courts in 2017. Reduction in the number of unresolved cases was observed at all instances, except in the Court of Bosnia and Herzegovina, where there was an absolute increase in the number unresolved cases by 103 cases or by 4.3%. The largest absolute reduction in the number of unresolved cases was observed in municipal courts (9,636 cases or by 5.2%).

Table 31: Unresolved cases in courts

| COURTS | Unresolved cases | | Change in the number of unresolved cases | Percentage change in the number of unresolved cases |
|--|------------------|-------------|--|---|
| | 1 Jan 2017 | 31 Dec 2017 | | |
| | I | II | III = III | IV = II / I |
| Court of Bosnia and Herzegovina | 2,399 | 2,502 | 103 | 4.3% |
| Supreme Court of Federation BiH | 9,155 | 7,769 | -1386 | -15.1% |
| Supreme Court of Republika Srpska | 2,457 | 2,270 | -187 | -7.6% |
| Appellate Court of the Brcko District of BiH | 299 | 205 | -94 | -31.4% |
| Higher Commercial Court Banja Luka | 297 | 215 | -82 | -27.6% |
| Cantonal courts | 49,830 | 49,138 | -692 | -1.4% |
| District courts | 5,525 | 5,249 | -276 | -5.0% |
| District Commercial Courts | 9,302 | 7,913 | -1,389 | -14.9% |
| Municipal courts | 186,452 | 176,816 | -9,636 | -5.2% |
| Basic courts | 68,847 | 65,057 | -3,790 | -5.5% |

³⁰ Also, the data in this section of the report do not include the information on following cases: judicial administration, registration of businesses, preparation phase for administrative dispute cases, enforcement of minor offence sanctions, expungement of sanctions and protective measures in various criminal cases, cases of ordering into custody in minor offence cases.

| | | | | |
|--------------------------------------|----------------|----------------|----------------|--------------|
| Basic Court of Brcko District of BiH | 4,822 | 4,719 | -103 | -2.1% |
| TOTAL | 339,385 | 321,853 | -17,532 | -5.2% |

Compared to 2016, the inflow of cases in 2017 was reduced by 11,846 cases or by 3.0%. By comparing the changes in the number of unresolved cases (Table 1), and changes in the inflow of cases (Table 2), it can be determined whether the change in number of unresolved cases is caused by a change in the inflow or by activities within the courts.³¹ This comparison leads to the following conclusions:

- Extremely positive trend (decrease in the number of unresolved cases, despite of the increase in inflow) was observed in the district commercial courts and the Municipal Court of the Brcko District.
- Positive trend (decrease in the number of unresolved cases significantly exceeds the inflow decrease) was observed in the entity supreme courts, High Commercial Court, district courts and basic courts.
- Negative trend (decrease in the number of unresolved cases is significantly smaller than the inflow decrease) was observed in the cantonal courts.
- Extremely negative trend (increasing number of unresolved cases, despite the falling inflow) was observed in the Court of Bosnia and Herzegovina.
- Change in the number of unresolved cases is proportionate to the change of inflow (reduction in the unresolved of cases is in proportion to reduction of inflow) was observed in the Appellate Court of the Brcko District and in municipal courts.

Table 32: Inflow of cases in courts

| COURTS | Number of received cases | | Change in the number of received cases | Percentage change in the number of received cases |
|--|--------------------------|--------|--|---|
| | 2016 | 2017 | | |
| | I | II | III = III | IV = II / I |
| Court of Bosnia and Herzegovina | 6,570 | 5,877 | -693 | -10.5% |
| Supreme Court of Federation BiH | 5,221 | 4,762 | -459 | -8.8% |
| Supreme Court of Republika Srpska | 2,446 | 2,344 | -102 | -4.2% |
| Appellate Court of the Brcko District of BiH | 1,707 | 1,247 | -460 | -26.9% |
| Higher Commercial Court Banja Luka | 1,130 | 1,097 | -33 | -2.9% |
| Cantonal courts | 40,287 | 36,592 | -3695 | -9.2% |
| District courts | 16,071 | 15,925 | -146 | -0.9% |

³¹ Changing the number of unresolved cases may be caused by a change in the inflow or a change in the number of cases resolved in the courts or by a combination of these two factors. Thus, for example, a 10% increase of the inflow of cases may result in an increase in the number of unresolved cases by 10%, leading to conclude that the increase in the number of unresolved cases is caused by an increasing inflow.

If, by additional effort the courts manage to resolve a part of the increased influx of cases, then the increase in the number of unresolved cases will be lower than the increase of inflow. For example, the inflow of cases may have a 10% increase and the number of unresolved cases a 5% increase, which could be defined as a positive result.

Contrary to the above, an increase in the number of unresolved cases may be higher than the increase of the inflow. For example, the inflow of cases may be up by 10% and the number of unresolved cases up by 15%, which could be defined as a negative result.

| | | | | |
|--------------------------------------|----------------|----------------|----------------|--------------|
| District Commercial Courts | 7,776 | 8,797 | 1,021 | 13,1% |
| Municipal courts | 205,198 | 197,908 | -7290 | -3.6% |
| Basic courts | 99,770 | 99,623 | -147 | -0.1% |
| Basic Court of Brcko District of BiH | 6,437 | 6,595 | 158 | 2.5% |
| TOTAL | 392,613 | 380,767 | -11,846 | -3.0% |

Compared to 2016, the courts resolved 29,338 fewer cases, which is a fall by 6.9%. Fewer resolved cases were recorded in all courts except in the Supreme Court of the Federation of BiH and district commercial courts where a higher number of resolved cases was observed and in the Higher Commercial Court which observed a slight increase in the number of resolved cases compared to 2016. The biggest fall in the number of resolved cases was observed in municipal courts (17,913 or by 7.9%), basic courts (9,318 or by 8.3%), as well as Cantonal Courts (1,464 or by 3.8%).

Table 33: Number of cases resolved in courts

| COURTS | Number of resolved cases | | Change in the number of resolved cases | Percentage change in the number of resolved cases |
|--|--------------------------|----------------|--|---|
| | 2016 | 2017 | | |
| | I | II | III = III | IV = II / I |
| Court of Bosnia and Herzegovina | 6,310 | 5,774 | -536 | -8.5% |
| Supreme Court of Federation BiH | 5,304 | 6,148 | 844 | 15,9% |
| Supreme Court of Republika Srpska | 2,610 | 2,531 | -79 | -3.0% |
| Appellate Court of the Brcko District of BiH | 1,820 | 1,341 | -479 | -26.3% |
| Higher Commercial Court Banja Luka | 1,169 | 1,179 | 10 | 0.9% |
| Cantonal courts | 38,748 | 37,284 | -1,464 | -3.8% |
| District courts | 16,576 | 16,201 | -375 | -2.3% |
| District Commercial Courts | 8,886 | 10,186 | 1,300 | 14,6% |
| Municipal courts | 225,457 | 207,544 | -17,913 | -7.9% |
| Basic courts | 112,731 | 103,413 | -9,318 | -8.3% |
| Basic Court of Brcko District of BiH | 8,026 | 6,698 | -1,328 | -16.5% |
| TOTAL | 427,637 | 398,299 | -29,338 | -6.9% |

Flow of cases - per case type

The number of unresolved cases was down in all court departments, except for the minor offense and non-litigation department which observed an increase in the number of unresolved cases by 18.7% at the Minor Offense, and by 11.7% at the non-litigation department. The largest decrease was observed in the civil and enforcement department (by 11.3%), while in other departments, the unresolved cases were reduced by between 4% and 7%.

Table 34: Unresolved cases in courts - by types of cases

| CASE TYPE | Unresolved cases | | Change in the number of unresolved cases | Percentage change in the number of unresolved cases |
|-----------|------------------|-------------|--|---|
| | 1 Jan 2017 | 31 Dec 2017 | | |

| | I | II | III = III | IV = II / I |
|----------------------|----------------|----------------|----------------|--------------|
| Civil cases | 125,151 | 111,026 | -14,125 | -11.3% |
| Enforcement cases | 84,580 | 74,990 | -9,590 | -11.3% |
| Criminal cases | 21,843 | 20,918 | -925 | -4.2% |
| Minor offence cases | 21,929 | 26,030 | 4,101 | 18.7% |
| Commercial cases | 22,270 | 20,688 | -1,582 | -7.1% |
| Administrative cases | 15,529 | 14,508 | -1,021 | -6.6% |
| Non-litigation cases | 48,083 | 53,692 | 5,609 | 11.7% |
| TOTAL | 339,385 | 321,852 | -17,533 | -5.2% |

Compared to 2016, a downward trend in the inflow of all kinds of cases is evident except for the minor offence and commercial cases, which have seen an increased inflow - for minor offence cases by 6,001 or 11.8%, and for commercial cases by 655 or 3.7%. The largest decrease of the inflow, both in absolute terms and percentage-wise was observed in civil cases (11,304 cases or by 11.4%).

Table 35: Inflow of cases in courts - by types of cases

| CASE TYPE | Number of received cases | | Change in the number of received cases | Percentage change in the number of received cases |
|----------------------|--------------------------|----------------|--|---|
| | 2016 | 2017 | | |
| | I | II | III = III | IV = II / I |
| Civil cases | 98,901 | 87,597 | -11,304 | -11.4% |
| Enforcement cases | 74,493 | 70,858 | -3,635 | -4.9% |
| Criminal cases | 68,759 | 67,838 | -921 | -1.3% |
| Minor offence cases | 50,880 | 56,881 | 6,001 | 11.8% |
| Commercial cases | 17,517 | 18,172 | 655 | 3.7% |
| Administrative cases | 11,858 | 10,524 | -1,334 | -11.2% |
| Non-litigation cases | 70,205 | 68,896 | -1,309 | -1.9% |
| TOTAL | 392,613 | 380,766 | -11,847 | -3.0% |

Compared to 2017, the courts resolved fewer cases if looking at all case types. The highest drop in the number of resolved cases was observed in the enforcement cases (10,271 cases or by 11.3%).

Table 36: Number of resolved cases in the courts - by types of cases

| CASE TYPE | Number of cases resolved | | Change in the number of resolved cases | Percentage change in the number of resolved cases |
|----------------------|--------------------------|---------|--|---|
| | 2016 | 2017 | | |
| | I | II | III = III | IV = II / I |
| Civil cases | 108,608 | 101,722 | -6,886 | -6.3% |
| Enforcement cases | 90,719 | 80,448 | -10,271 | -11.3% |
| Criminal cases | 69,283 | 68,763 | -520 | -0.8% |
| Minor offence cases | 56,605 | 52,780 | -3,825 | -6.8% |
| Commercial cases | 19,900 | 19,754 | -146 | -0.7% |
| Administrative cases | 12,792 | 11,545 | -1,247 | -9.7% |

| | | | | |
|----------------------|----------------|----------------|----------------|--------------|
| Non-litigation cases | 69,730 | 63,287 | -6,443 | -9.2% |
| TOTAL | 427,637 | 398,299 | -29,338 | -6.9% |

Performance quality and quantity

The quantity of work in courts is expressed through the collective quota achieved in a calendar year, and the HJPC establishes criteria for its calculation. The realized collective quota of the Court is calculated by dividing the percentage sum of the quotas achieved by each judge, court president, and legal associates in municipal courts, divided by the number of judges and legal associates who have been appointed to a court. Table 37 shows the achieved collective quota for all levels of courts where the HJPC planned the criteria based on which the courts calculate their indicator on their work performance. This table includes the data of new courts and prosecutor's offices that started their work in 2017.

Average quality of judicial decisions in all regular courts in BiH during 2017 was 88%, while in 2016 this figure stood at 89%. The average achieved quota in 2017 amounted to 113%, while in 2016, it stood at 123%.

Table 37: Quality and quantity of the courts

| Courts | Quality of work | The quantity of work - average realized collective quota |
|--|-----------------|--|
| The Court of Bosnia and Herzegovina | 92% | 134% |
| The Supreme Court of the Federation BiH | - | 139% |
| The Supreme Court of the Republika Srpska | - | 109% |
| Appellate Court of the Brcko District of BiH | - | 198% |
| Higher Commercial Court of Banja Luka | 88% | 94% |
| Cantonal courts | 92% | 106% |
| District courts | 90% | 94% |
| District Commercial Courts | 76% | 131% |
| District courts | 91% | 113% |
| Basic courts | 85% | 107% |
| Basic Court of the Brcko District of BiH | 90% | 157% |

Statute of limitations

In 2017, the Courts registered in the CMS that 250 cases fell under the statute of limitations for criminal prosecution, while 93 cases fell under the statute of limitations for enforcement of criminal sanctions. Due to this, 2017 saw an increase in the number of criminal cases falling under the statute of limitations (after the indictment). In 2017, the enforcement of criminal sanctions were up by 175 cases or by 204% to 343 cases due to falling under the statute of limitations and being registered as completed by the courts, compared to 168 such cases in 2016.

There was an increase in the number of cases with a statute of limitations in 2017 compared to 2016 in courts in the Republika Srpska. This increase in the number of cases that fell under the statute of limitations was largely caused by legislative changes that occurred during 2017. The new Criminal Code of the Republika Srpska (Official Gazette of RS, No. 64/17 of 10 July 2017) prescribes shorter deadlines for the statute of limitations for the criminal prosecution.

As in the past, the courts often registered the cases as completed because of the statute of limitations due to the accused being unavailable (206 cases or 61%), while in a number of cases it was noted that such decision was passed because a case arrived to a court after the legal deadline for the statute of limitations (13 cases, 6%).

In 2017, the courts registered 119 cases as completed in the CMS, after such cases crossed the legal deadline for the statute of limitations to initiate or conduct minor offence proceedings. This is 38 cases or 47% more than in 2016. The relative statute of limitations was established in 13 minor offence cases, of which in 11 cases came to the court after having fallen under the statute of limitations to initiate and conduct the minor offence proceedings. An absolute statute of limitations was established in 106 minor offence cases, out of which 29 or 27% came after having fallen under the statute of limitations to initiate and conduct the minor offence proceedings.

Court decisions - whereby proceedings in criminal and minor offence proceedings were finalized due to having fallen under the legal deadline of the statute of limitations - were submitted to the Office of Disciplinary Counsel in order to find a possible liability of judges for such a manner of finalizing these cases.

Table 38: Statute of limitations

| Department | Case type | Relative statute of limitations | Absolute statute of limitations | Total |
|---------------------------|-----------|---------------------------------|---------------------------------|------------|
| Criminal cases | X | 2 | 91 | 93 |
| | K | 3 | 116 | 119 |
| | kps | 3 | 62 | 65 |
| | Kv | 1 | 42 | 43 |
| | Kz | 0 | 18 | 18 |
| | Kzk | 0 | 4 | 4 |
| | Kzz | 0 | 1 | 1 |
| Total criminal cases | | 9 | 334 | 343 |
| Minor offence cases | pr | 8 | 34 | 42 |
| | Prm | 0 | 3 | 3 |
| | pv | 1 | 52 | 53 |
| | Pzp | 4 | 16 | 20 |
| | PZPR | 0 | 1 | 1 |
| Total minor offence cases | | 13 | 106 | 119 |
| TOTAL | | 22 | 440 | 462 |

ANNEX 3: STATISTICS ON THE WORK OF PROSECUTORS

Analysis of performance of prosecutor's offices

This chapter presents the work of prosecutor's offices in 2017, through the aggregate reports on the work of the prosecutor's offices on the raised indictments, judgements, unresolved Kt³² cases (reports and investigations), Kt cases that fell under the statute of limitations for criminal prosecution as well as the results achieved in terms of quality and quantity of work in accordance with the applicable general documents of the HJPC.

The information about the work of individual prosecutor's offices are available on the website vsts.pravosudje.ba.

Indictments

During 2017, the prosecutor's offices filed 12,510 indictments against 15,406 persons. Compared to 2016, the total number of indictments reduced by 1,113 or by 8%, meaning that in 2017 there has been 1,316 or 8% fewer persons indicted. A drop in the number of filed indictments was observed at all levels of prosecutorial system in BiH, except in the Brcko District Prosecutor's Office.

Table 39: Indictments filed

| Prosecutor's offices | Indictments filed in 2016 | | Indictments filed in 2017 | | Change in the number of filed indictments | | | |
|----------------------|---------------------------|---------------|---------------------------|---------------|---|------------|---------------|------------|
| | Cases | Persons | Cases | Persons | Cases | Persons | | |
| BiH | 175 | 380 | 168 | 369 | -7 | -4% | -11 | -3% |
| FBiH | 8,731 | 10,871 | 8,122 | 10,084 | -609 | -7% | -787 | -7% |
| RS | 4,482 | 5,194 | 3,957 | 4,646 | -525 | -12% | -548 | -11% |
| Brcko District BiH | 235 | 277 | 263 | 307 | 28 | 12% | 30 | 11% |
| TOTAL | 13,623 | 16,722 | 12,510 | 15,406 | -1,113 | -8% | -1,316 | -8% |

Judgments³³

In 2017, 13,230 judgments were passed, which is 1,031, or 7% fewer judgments than in 2016. The number of convicting judgements in 2017 compared to 2016 was down by 1,053 or 8%. In 2017, the acquittals were up by 16 or 2%, while dismissing judgments were up by 6 or 3%.

Acting upon filed indictments, in 2017 the courts passed 12,197 or 92% convicting judgements, finding 14,749 persons guilty. In 6%, or 810 cases, acquittals were passed for 1,142 persons. Dismissing judgements were rendered in 223 or 2% of cases.

³² The KT cases are the cases which the prosecutor's offices initiated against certain persons upon grounds for suspicion of them having perpetrated a criminal offense. The "KT" designation for the purposes of this report includes all types of cases against identified perpetrators: KT, KTRZ, KTK, KTPO, KTT, etc. KTT.

³³ Data on judgments includes all judgments regardless of whether they become final in the reporting period.

Table 40: Judgments

| Prosecutor's offices | Convictions | | Acquittals | | Dismissed judgements | | TOTAL | |
|----------------------|---------------|---------------|------------|--------------|----------------------|------------|---------------|---------------|
| | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| BiH | 117 | 212 | 14 | 81 | 2 | 11 | 133 | 304 |
| FBiH | 7,990 | 9,820 | 529 | 725 | 113 | 184 | 8,632 | 10,729 |
| RS | 3,844 | 4,433 | 258 | 325 | 106 | 138 | 4,208 | 4,896 |
| Brcko District BiH | 246 | 284 | 9 | 11 | 2 | 2 | 257 | 297 |
| TOTAL | 12,197 | 14,749 | 810 | 1,142 | 223 | 335 | 13,230 | 16,226 |

Compared to 2016, the number of convictions was down 1,053 or 8%. A drop in the number of convictions was observed at all levels of the prosecutorial system, except in the Brcko District Prosecutor's Office, where an increasing number of convicting judgements was observed by 11 judgements or 5%.

Table 41: Convicting judgements

| Prosecutor's offices | Convicting judgements in 2016 | | Convicting judgements in 2017 | | Change in the number of convicting judgements | | | |
|----------------------|-------------------------------|---------------|-------------------------------|---------------|---|------------|---------------|-------------|
| | Cases | Persons | Cases | Persons | Cases | | Persons | |
| BiH | 147 | 295 | 117 | 212 | -30 | -20% | -83 | -28% |
| FBiH | 8,589 | 10,788 | 7,990 | 9,820 | -599 | -7% | -968 | -9% |
| RS | 4,279 | 5,085 | 3,844 | 4,433 | -435 | -10% | -652 | -13% |
| Brcko District BiH | 235 | 292 | 246 | 284 | 11 | 5% | -8 | -3% |
| TOTAL | 13,250 | 16,460 | 12,197 | 14,749 | -1,053 | -8% | -1,711 | -10% |

In 2017, a suspended sentence handed down in 66% of convicting judgements, prison sentence in 21% of convicting judgements, while a fine was imposed in 13% of such judgements. Therefore, in 2017 compared to 2016, there was a 1% drop in the number of convicting judgements with suspended sentence. In 2017, the percentage of convicting judgements with a sentence of imprisonment remained unchanged, while there was a 1% decrease in the number of convicting judgements with an imposed fine compared to the previous year.

Table 42: Breakdown of the criminal sanctions imposed in convicting judgements

| Prosecutor's offices | Prison sentence | | A fine | | Suspended sentence | |
|----------------------|-----------------|--------------|--------------|--------------|--------------------|--------------|
| | Cases | Persons | Cases | Persons | Cases | Persons |
| BiH | 50 | 103 | 2 | 11 | 65 | 98 |
| FBiH | 1,778 | 2,314 | 457 | 542 | 5,699 | 6,894 |
| RS | 642 | 783 | 1,040 | 1,185 | 2,115 | 2,412 |
| Brcko District BiH | 87 | 102 | 32 | 34 | 127 | 148 |
| TOTAL | 2,557 | 3,302 | 1,531 | 1,772 | 8,006 | 9,552 |

Unresolved cases³⁴

In 2017, the total number of the unresolved Kt cases (unresolved reports and investigations) against the known persons who are suspected of committing criminal offence was down by 733 cases or 5%, and the number of suspects in unresolved cases dropped by 2.712 or 9%. A drop in number of unresolved cases was observed in the Cantonal Prosecutor's Offices and the Prosecutor's Office of Brcko District, while the district prosecutor's offices observed a rise in the number of unresolved cases by 15%. The Prosecutor's Office of BiH registered a 7% rise in the number of unresolved cases.

Table 43: Unresolved cases

| Prosecutor's offices | Number of unresolved cases as of 31 Dec 2017 | | Change in the number of unresolved cases compared to 31 Dec 2016 | | | |
|----------------------|--|---------------|--|------------|---------------|------------|
| | Cases | Persons | Cases | | Persons | |
| BiH | 1,294 | 7,484 | 80 | 7% | -151 | -2% |
| FBiH | 8,058 | 13.840 | -1.379 | -15% | -2,594 | -16% |
| RS | 4,289 | 6,329 | 572 | 15% | 46 | 1% |
| Brcko District BiH | 95 | 124 | -6 | -6% | -13 | -9% |
| TOTAL | 13,736 | 27,777 | -733 | -5% | -2,712 | -9% |

Statute of limitations on criminal prosecution

In 2017, indictments was filed in 152 cases against 253 persons by the prosecutor's offices in the TCMS, after a decision on suspending proceedings due to falling under the statute of limitation for criminal prosecution. In 2016, prosecutor's offices made such decisions in 189 cases. This means that in 2017 the number of prosecutorial decisions on case completion due to falling under the statute of limitation was reduced by 37 cases, or by 20%. Just as in the previous period, prosecutorial decisions on falling under the statute of limitations were also passed at the stage of report processing (decision not to conduct investigation in 82 or 54% of cases) and also in the investigation stage (70 cases or 46%).

Prosecutorial decisions to discontinue proceedings due to having fallen under the statute of limitations were submitted to the Office of Disciplinary Counsel to find a possible accountability of prosecutors for such a manner of completion of these cases.

Table 44: Statute of limitations for criminal prosecution before indictment

| Prosecutor's offices | Relative statute of limitations | | Absolute statute of limitations | | TOTAL | |
|----------------------|---------------------------------|------------|---------------------------------|------------|------------|------------|
| | Cases | Persons | Cases | Persons | Cases | Persons |
| BiH | 1 | 1 | 0 | 0 | 1 | 1 |
| FBiH | 36 | 64 | 32 | 54 | 68 | 118 |
| RS | 44 | 68 | 39 | 66 | 83 | 134 |
| Brcko District BiH | 0 | 0 | 0 | 0 | 0 | 0 |
| IN TOTAL | 81 | 133 | 71 | 120 | 152 | 253 |

Breakdown of crimes

The following table presents the data on the number of indictments filed as per the chapters of criminal codes in BiH, as most indictments in 2017 alleged those crimes. Just as in 2016,

³⁴ In addition to the unresolved Kt cases against the known perpetrators shown in Table 5, the Prosecutor's Offices as of 31 December 2017 had 299 unresolved Ktm cases against 479 minors.

criminal offences listed in the Table include over 70% of the total number of indictments filed in 2017.

Complete data on the breakdown of crimes and data on all chapters and articles of criminal codes are available on the website vsts.pravosudje.ba

Table 45: Breakdown of crimes

| Law | Chapter | Description | Indictments raised in 2016 | | Indictments raised in 2017 | |
|---------------------------|------------------------|---|----------------------------|---------|----------------------------|---------|
| | | | case | persons | case | persons |
| Criminal Code of BiH | CC BiH Chapter XVIII | Criminal offenses against Economy and Market Integrity and criminal offenses in the field of customs duties | 66 | 137 | 82 | 103 |
| | CC BiH Chapter XVII | Criminal offenses against humanity and values enshrined under international law | 96 | 170 | 59 | 96 |
| Criminal Code of the FBiH | CC FBiH Chapter XXV | Criminal offenses against property | 2,577 | 3,368 | 2,311 | 2,944 |
| | CC FBiH Chapter XXI | Criminal offenses against human health | 939 | 1,066 | 1,177 | 1,302 |
| | CC FBiH Chapter XXX | Criminal offenses against public order and legal transactions | 1,105 | 1,377 | 949 | 1,291 |
| | CC FBiH Chapter XVI | Criminal offenses against life and limb | 670 | 822 | 711 | 902 |
| | CC FBiH Chapter XXVIII | Criminal offenses against public traffic | 787 | 796 | 663 | 672 |
| | CC FBiH Chapter XX | Criminal offenses against marriage, family and youth | 558 | 577 | 608 | 625 |
| Criminal Code of the RS | CC RS CHAPTER XXIII | Criminal offenses against property | 1,477 | 1,765 | 1,286 | 1,581 |
| | CC RS CHAPTER XVI | Criminal offenses against life and limb | 41 | 47 | 466 | 607 |
| | CC RS CHAPTER XXXII | Criminal offenses against public traffic safety | 457 | 465 | 428 | 431 |
| | CC RS CHAPTER XXX | Criminal offenses against public law and order | 575 | 654 | 411 | 496 |
| Criminal Code of the BD | CC BD Chapter XXV | Criminal offenses against property | 84 | 103 | 85 | 104 |
| | CC BD CHAPTER XVI | Criminal offenses against life and limb | 458 | 603 | 44 | 53 |

| | | | | | | |
|--|-------------------------|---|---------------|---------------|---------------|---------------|
| | CC BD Chapter XXX | Criminal offenses against public order and legal transactions | 19 | 19 | 22 | 25 |
| | CC BD Chapter XX | Criminal offenses against marriage, family and youth | 11 | 12 | 20 | 21 |
| TOTAL FOR THE ABOVE CHAPTERS OF CRIMINAL CODE | | | 9,920 | 11,981 | 9,322 | 11,253 |
| TOTAL FOR ALL SECTIONS OF CRIMINAL CODE | | | 13,623 | 16,722 | 12,510 | 15,406 |

Quality and quantity of work

In 2017, the prosecutor's offices on average generated a collective quota of 109% and compared to 2016, it was down by 8%. In accordance with the criteria for evaluating the work of prosecutors and chief prosecutors,³⁵ the quality of prosecutorial decisions is expressed through two elements: the quality of indictments and the quality of the order on discontinuation and suspension of investigations. In 2017, the prosecutor's offices on average achieved the quality of indictments at 95%, which is a 1% increase compared to 2016. The average result of prosecutor's offices as per the element *quality of orders on discontinuation and suspension of investigations* is the same as in 2016 and stood at 99%.

Table 46: Quality and quantity of prosecutor's offices

| Prosecutor's Office | Quality of work | | Quantity of work - average realized collective quota |
|---|---------------------------|---|--|
| | Quality of indictments | Quality of orders on discontinuation and suspension of investigations | |
| Prosecutor's Office of BiH | 94% | 98% | 136% |
| Cantonal Prosecutor's Office | 96% | 99% | 102% |
| District Prosecutor's Office | 94% | 100% | 121% |
| Special Department of the RS Public Prosecutor's Office | 100% | 100% | 109% |
| Prosecutor's Office of the Brcko District of BiH ³⁶ | 94% | 100% | 80% |

³⁵ At its session on 7 July 2016, the HJPC adopted criteria for performance evaluation of prosecutors in BiH. Also, at its session on 29 November 2016 the HJPC adopted criteria for performance evaluation of chief prosecutors, deputy chief prosecutors and heads of department in the prosecutor's offices in BiH, which are aligned with the criteria for performance evaluation of prosecutors in BiH. In 2017, at its session on 25 and 26 October 2017, the HJPC adopted amendments to the above criteria.

³⁶ Prosecutors of the Prosecutor's Office of the Brcko District of BiH have not been able to achieve a specific quota amounting to 100% due to an insufficient number of cases. The insufficient number of cases is the result of an insufficient inflow of cases.