



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

2018 Annual Report

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FOREWORD FROM THE HJPC PRESIDENT

Dear friends and colleagues,

I am pleased to present the 2018 Annual Report of the High Judicial and Prosecutorial Council, which provides an overview of major activities and the results achieved by the HJPC and the judiciary of Bosnia and Herzegovina 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.

It stands to be repeated that the rule of law represents one of the major challenges before Bosnia and Herzegovina on its path towards EU membership. Chapter 23 - The Judiciary and Human Rights & Chapter 24 - Justice, Freedom and Security, represent key areas in negotiations between our country and the European Union. I dare say that, after the numerous activities undertaken in 2018, we have made significant progress in addressing important issues covered in these chapters, even when compared to other countries with candidate status. And for that reason I feel proud, though I also feel the weight of responsibility to finish the reform activities we have successfully initiated.

I can safely say that the High Judicial and Prosecutorial Council of Bosnia and Herzegovina is determined to assume full responsibility in this process so that we may have a judiciary that is fully in line with European standards.

In 2018, one of the key activities was the Initiative for the review of the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina that the HJPC sent to the Ministry of Justice of Bosnia and Herzegovina. The Initiative took into consideration the recommendations from the Peer Review missions as prepared based on a comprehensive analysis of our current practices and the best European practices.

Allow me to list some of the proposed amendments to the law, keeping in mind that they represent substantive amendments aimed at improving the performance of both the HJPC and the judiciary, in general.

The Initiative foresees the establishment of a judicial and a prosecutorial department to operate within the framework of a single Council, while the duties and obligations of the president, vice-presidents and council members are set forth in detail.

Furthermore, the Initiative foresees an increase in the number of Council members to 20, in order to ensure the election of HJPC members on all levels of the judiciary while also stipulating that a Council member cannot, at the same time, hold the office of court president, chief prosecutor or deputy chief prosecutor and that they will have one four-year mandate and cannot be re-elected in succession.

We also have amendments dealing with the procedures for the election, appointment and evaluation of judicial office holders as well as provisions on financial statements which I will elaborate further on.

I stress that since this is a Foreword, it prevents me from listing all of the changes that have been put forward with the Initiative, and so for anyone who is interested in the Initiative itself, I recommend they look for it on our website where it is readily available.

One thing I wish to underline is that the amendments represent substantive changes to address the voids that were identified in the current law.

As for appointments, the implementation of a significant number of recommendations from the Peer Review report are not possible without the comprehensive reform of the legislative framework. The Initiative for the review of the Law on the HJPC significantly changes the current appointments system by: prescribing horizontal transfers; introducing a career-based system that allows for separate procedures for the promotion of judicial office holders; the introduction of a single public competition for basic level positions; prescribing separate rules for appointment to management-level positions as well as prescribing provisions on evaluation to serve as the basis for deciding on the careers of judges and prosecutors.

The amendments to the HJPC Rules of Procedure that came into effect in June 2018, as well as the amendments to the Book of Rules on Written Tests and Entrance Exams, served to implement the recommendations that focused on: improving written testing and entrance exams; introducing more demanding test procedures and improving the structured interview; introducing differences between first appointments and promotion; prescribing separate rules for the election of court presidents and chief prosecutors, as well as adherence to ranking lists.

Apart from this, activities were also completed on updating the question pool database for entrance exams which was placed on the HJPC website.

We also adopted the questions for conducting interviews with candidates and the interview form which will be used within the process for elections and appointments to management-level positions in judicial institutions.

As for disciplinary procedures, the recommendations referred to improving the codes of ethics, drafting documents to regulate conduct for judicial office holders and overseeing their application.

Efforts are underway on the implementation of the recommendations for improving disciplinary procedures, the operations of disciplinary panels, the reasoning to disciplinary decisions and improving sanctioning policy, as are the drafting of a Manual for Conducting Disciplinary Proceedings, developing a compilation of decisions passed in disciplinary proceedings, an analysis of sanctioning policies per type of offence as well as planning training for members of the disciplinary panels and judicial office holders on the subject.

Recommendations that refer to informing the public on disciplinary cases are already in place. Anonymised final decisions passed in disciplinary proceedings are published on the Council website, while in the event of increased public interest in a specific disciplinary case, information can be provided even if the case hasn't been completed with finality, while noting that the procedure is not finished and may be appealed.

Within the framework of the Initiative for the review of the Law on the HJPC, recommendations were implemented that focused on: more precise definitions for disciplinary offences, simpler disciplinary procedures and legal remedies in disciplinary procedures, the status of the Office of the Disciplinary Counsel, the status and employment of the chief disciplinary counsel and the disciplinary counsels, explaining and contesting decisions not to initiate disciplinary proceedings, the composition of disciplinary panels, the assignment of disciplinary cases as well as legal consequences to disciplinary measures rendered and expunging disciplinary measures from the records.

As regards the integrity of judicial office holders, allow me to mention the financial statements for judicial office holders. By adopting of the Book of Rules on the Submission, Verification and Processing of Financial Statements and the Financial Statement Form, on 1 January 2019, the High Judicial and Prosecutorial Council put in place high standards concerning the financial transparency of judges and prosecutors in Bosnia and Herzegovina.

The Book of Rules introduces the electronic submission, verification and processing of financial statement, thus simplifying the procedure and making it more efficient. At the same time, it requires judges and prosecutors to provide information on their finances as well as the finances of the members of their household within 30 days of taking up office, while judges and prosecutors who are already in office must update their information when reporting for the previous calendar year, at latest by 31 March of the current year.

Apart from providing information on their income and that of the members of their household, judges and prosecutors must also provide detailed information on how and when they acquired any real estate, vehicles, movable property with a value over 5,000 KM, funds in banks, insurance policies and other investments and expenditures over the said amount as well as information on any gifts or donations.

At the same time, the Council verifies this information through formal, regular and extraordinary checks and if any irregularities are identified, the office of the disciplinary counsel is informed, accordingly. As for any irregularities that can be classified as criminal offences, they are also forwarded to the relevant prosecutor's office, whereas in the event of covering up any properties, liabilities, income or expenditures, the relevant tax authority is also notified.

In consideration of the Council's commitment to full transparency of the BiH judiciary and with public interest in mind concerning the financial data of judicial office holders, the new electronic system will allow for the disclosure of financial reports of judges and prosecutors on the HJPC BiH website, without disclosing personal data.

As regards the integrity of the judiciary, we have introduced integrity plans for each judicial institution. I emphasise that we are far ahead of our colleagues in the region when it comes to this area, moreover, even our colleagues from member states in the European Union.

The Council objective was to improve the integrity of judicial institutions systemically and equally and to identify the best practices of judicial institutions that could be applied by all other judicial institutions in BiH. Furthermore, the successful implementation of integrity plans by the judicial institutions will contribute to strengthening the rule of law and increasing public confidence in the judicial institutions throughout Bosnia and Herzegovina.

The effort, when completed, resulted in the adoption of integrity plans by all BiH judicial institution covering a 4-year period, which means that we can expect initial reports in the first quarter of 2019.

The performance efficiency and quality of judicial institutions is one of the issues we continue to work on and remains constantly in the centre of our focus.

As for the efficiency of the courts in this field, we worked on issues addressing balanced workloads for judges with pending cases as well as regarding age breakdown, the election of court department heads, alternative dispute resolution, Guidelines for Civil Litigation Proceedings, enforcement procedure reform and the review of the laws on enforcement procedure.

Detailed statistical information on the performance of courts can be found in this Report. We can conclude that the number of pending cases is constantly going down and that backlog reduction plans are being implemented successfully. Courts complete over 100,000 of the oldest cases every year together with their regular activities, and in doing so reduce the number of pending cases by some 5% - 10% on average.

As regards prosecutors offices, based on data from 2018, all prosecutors offices in BiH show a downward trend in the number of pending KT cases (cases involving known perpetrators). Throughout 2018, prosecutors offices issued 12,201 indictments, while 2,751 old cases were completed i.e. cases over two years old.

I would especially underline certain types of crimes and their processing – organised crime and corruption – and take the opportunity to mention the activities taken by the HJPC. Among others, we established a Standing Committee for the Efficiency of Prosecutors Offices, implemented a Project that supports the Strategic Forum for the managers of prosecutors offices and law enforcement agencies in BiH, with operational forums also established. Activities were carried out on promoting and establishing permanent investigative teams in the commercial crimes departments and the corruption and organised crime sections, amendments were adopted to the Book of Rules on Organisational Measures for the Performance of Prosecutors which prescribe weighting cases involving financial investigations, joint training sessions were organised for prosecutors and law enforcement officials as well as meetings between chief prosecutors and representatives of audit institutions in Bosnia and Herzegovina.

With the support of the EU Delegation and within the framework of the IPA 2017 Project, ten prosecutors offices will receive 11 associates for a period of two years who are professionals in the field of economy and finance. The reason for the additional support in the field of economy and finance is to reinforce prosecutorial capacities in this area.

There is one other case type that is afforded special attention and that is war crimes. Just as in the past, we have recorded positive trends in their processing. One thing I wish to stress is the need to adopt the revised National War Crimes Strategy so that the processing of these cases can continue in line with the foreseen dynamic and deadlines.

I would also like to offer data from the Office of the Disciplinary Counsel (ODC) which received 895 complaints in 2018, which is 16.9% fewer complaints than the previous year and

completed 1,145 complaints, which represents an increase of 22.7% compared to 2017 (933 complaints). The most common reasons for filing complaints in 2018, were the length of procedures by courts and prosecutors offices and dissatisfaction with the court decisions.

I will also mention the digital transformation of the judiciary by listing the achievements and ask that the readers of our annual report read the chapter covering this major transformation. Within the framework of the second generation case management systems for the courts and prosecutors offices, we developed a Module for issuing police clearance certificates which the courts in BiH used to issue 89,2015 certificates in 2018.

Furthermore, we developed a calculator for court procedure costs that allows any party to receive information on their approximate court expenses.

We also continued the process for the implementation of the Module for the digitisation of archives in the judicial institutions in BiH.

We have fully modernised access to justice with the aid of a mobile app called E-COURT, which is highly rated by ICT experts and used to access court cases, which we have nominated for the prestigious 2019 Council of Europe Crystal Scales of Justice prize. The practicality of the mobile app is noted through the number of case data requests, with 1,278,604 requests recorded between July and December 2018 or 8,000 requests daily.

An application for the assessment of the risk of corruption in BiH institutions was also developed,

as well as a Human Resources Management System for the judiciary (HRMIS), the video conferencing system of the BiH judiciary has been improved as well as numerous other projects that ensure our position as leaders in the region and beyond when it comes to the informatisation of the judiciary.

The results I have mentioned here were not achieved solely by us. They were achieved together with the judges and prosecutors, as well as our partners within the local government and the international community. It is together with them, and with the same dedication and diligence, that the HJPC wishes to continue resolving issues vital for the judiciary of Bosnia and Herzegovina.

As regards the legislative and executive branches, the Council is open for cooperation on all important issues concerning the reform of the judiciary. Cooperation founded on mutual respect and understanding so that we may reach our common goal – joining the European Union and the prosperity of the entire BiH society.

A major part of our success is owed to our many international friends who, just as in the past, have generously supported us. Numerous activities that are presented in the Report were implemented by the HJPC with the assistance and support of our friends – donors from the international community – foremost the European Union, Sweden, Norway, Switzerland, the Netherlands and Great Britain to whom we owe our sincerest gratitude.

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

President of the HJPC BiH,
Milan Tegeltija

MEMBERS OF THE HJPC

Milan Tegeltija, President of the HJPC

Mandate: July 2014 - July 2018 (2nd mandate)

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, 2018.

He was re-elected for a second term as President of the HJPC at the inaugural HJPC session on 9 July, 2018.

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

Ms. Ruzica Jukic, Vice-President of the HJPC

Mandate: July 2014 - July 2016 (2nd mandate)

The judges of the cantonal and municipal courts in the Federation of BiH elected judge Ruzica Jukic to the HJPC in May 2016. She was re-elected for a second term as Vice-President of the HJPC at the HJPC session on 9 July, 2018.

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 (2nd mandate)

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 9 July, 2018.

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

Mr. Selim Karamelic, member of the HJPC

Mandate: June 2017 - June 2021

The Judicial Commission of the Brcko District elected judge Selim Karamelic to the HJPC in June 2017. He was elected to the position of Council member to work full-time at the Council at the session on 25 October 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 Vukoja to the HJPC in January 2017.

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

Mr. Goran Nezirovic, member of the HJPC

Mandate: February 2017 - February 2021 (2nd mandate)

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 FBiH.

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 2018 - July 2022 (2nd mandate)

The prosecutors of the Federal Prosecutors Office of FBiH re-elected prosecutor Slavo Lakic to the HJPC for a second term in May, 2018.

He holds the office of prosecutor in the Federal Prosecutors Office of FBiH.

Mr. Mahmut Svraka, member of the HJPC

Mandate: September 2017 - September 2021 (2nd mandate)

The prosecutors of the Republic Prosecutors Office of Republika Srpska re-elected prosecutor Mahmut Svraka to the HJPC for a second term in September 2017.

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 2017.

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

Ms. Zeljka Radović, 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 of the Federation of BiH.

Ms. Milijana Buha, member of the HJPC

Mandate: October 2016 - October 2020

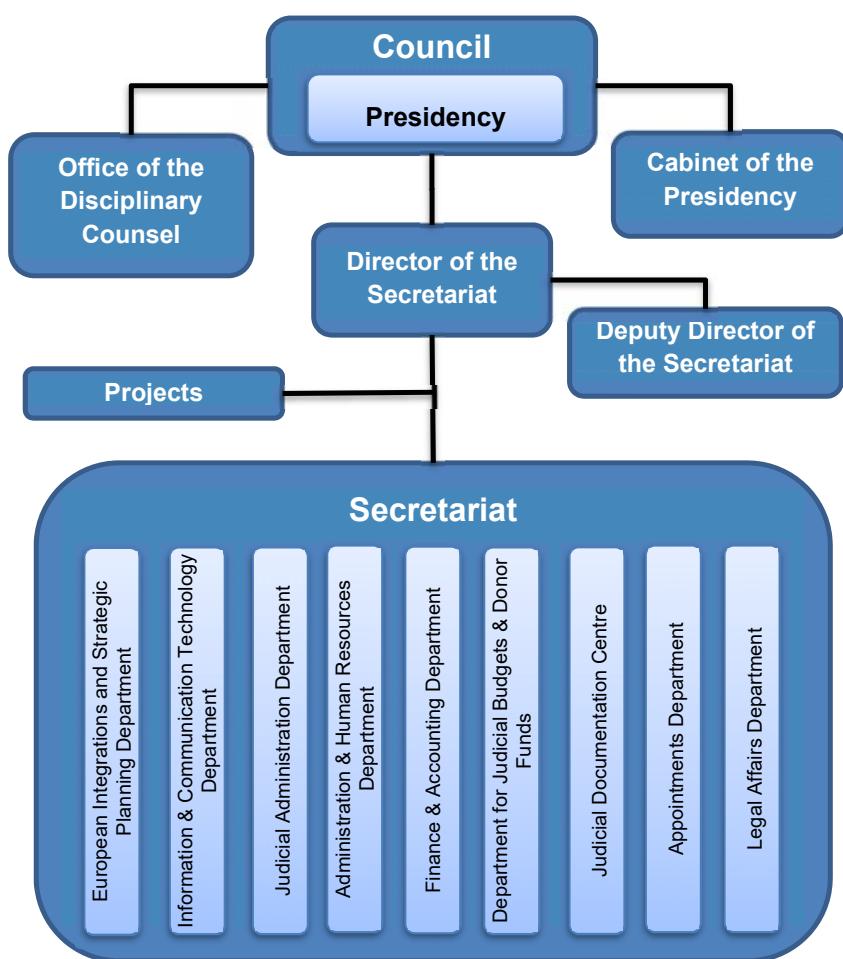
The House of Representatives of the Parliamentary Assembly of BiH elected Milijana Buha to the HJPC in August 2016.

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

In 2018, the composition of the HJPC changed as follows:

- Milan Tegeltija, judge of the Basic Court in Banja Luka, was re-elected to the Council on behalf of the district, basic and district commercial courts of Republika Srpska and the High Commercial Court in Banja Luka.
- Slavo Lakic, prosecutor of the Federal Prosecutors Office of FBiH, was re-elected to the Council on behalf of the Federal Prosecutors Office of FBiH.

HJPC Organisational Chart



On 31 December, 2017, the HJPC had 145 employees, with 83 financed from the HJPC budget and 62 hired for the implementation of project activities by the HJPC and financed by donors. Also, with 31 December 2018, there were seventeen (17) competitions underway to fill vacancies (2 for budget-funded positions & 15 for projects), with one initiated through a public vacancy announcement and the other through an internal vacancy announcement for permanent positions (JAD) within the limit of 84 positions for the HJPC, while there were fifteen competitions for fixed-term project positions as funded by the 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 funded 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 2018 budget for the HJPC is 5,072,000 KM. Of the said amount, 5,066,000 KM is earmarked under current expenditures, while 6,000 KM falls under capital investments.

Budget expenditure in 2018 amounted to 4,852,426 KM or 96%.

Table 1: Budget expenditure per item

EXPENDITURES	Approved budget	Adjusted budget	Budget execution	Index
I CURRENT EXPENDITURES	5,066,000	4,996,565	4,792,945	96%
Gross salaries and other payments	3,407,000	3,407,000	3,298,187	97%
Employee reimbursements	175,000	163,000	160,011	98%
Travel expenses	220,000	260,000	239,231	92%
Telephone and postal services	62,000	50,000	48,870	98%
Power and utilities	128,000	103,000	102,355	99%
Supplies	30,000	15,000	14,921	99%
Transportation and fuel	54,000	46,565	45,628	98%
Lease and rent	1,000	1,000	531	53%
General maintenance	569,000	472,000	456,519	97%
Insurance and payment operations	6,000	6,000	2,746	46%
Contracted services	414,000	473,000	423,945	90%
II CAPITAL EXPENDITURE	6,000	82,000	59,481	73%
Equipment	6,000	82,000	59,481	73%
TOTAL I + II	5,072,000	5,078,565	4,852,425	96%

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 2018, donor funds were used to finance eight projects dealing with judicial reform and aimed at strengthening the capacities of the judiciary.

¹ Official Gazette of BiH, no. 08/18.

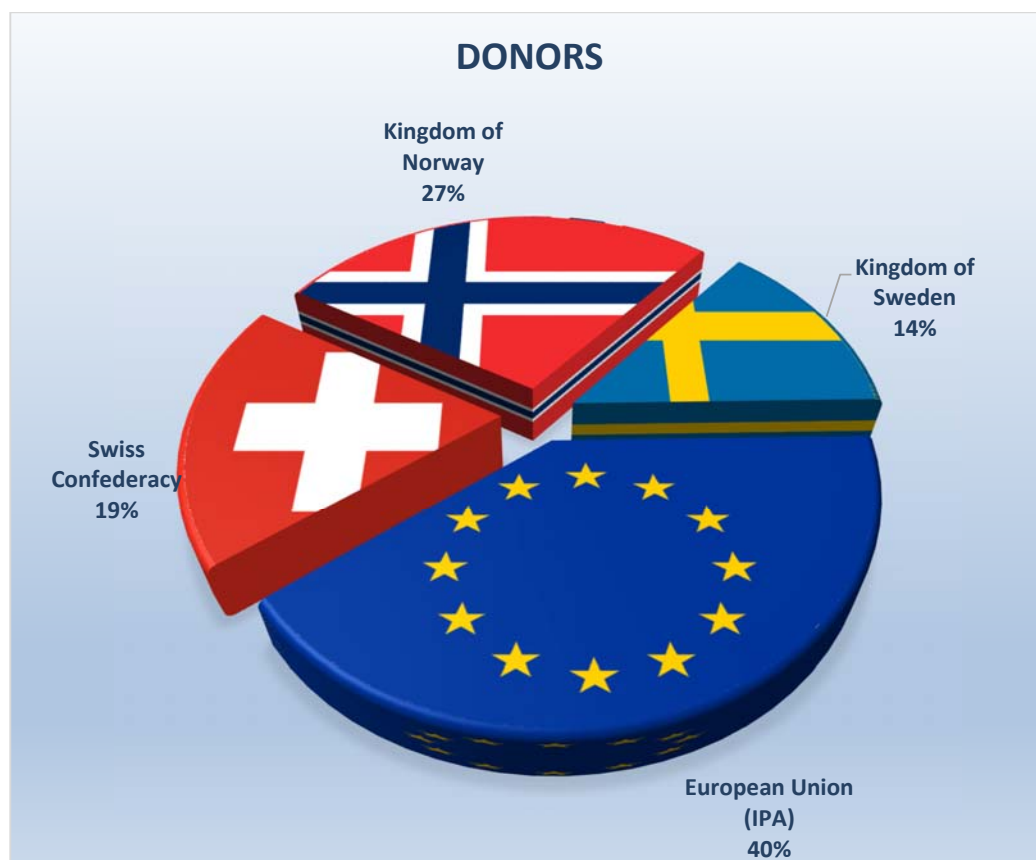
² Official Gazette of BiH, no. 25/04, 93/05, 48/07 & 15/08.

Table 2: Overview of donors and the total available funds for each project in 2018

Total funds available in 2018 (KM)	Total expended in 2018 (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		
1,354,263	1,354,263	December 2014 - July 2019
Donation from the Kingdom of Norway for the Improving Judicial Efficiency Project, phase II		
1,739,779	1,739,779	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		
230,903	230,903	July 2015 - July 2018
EU donation for the Project - Consolidation and the continued development of the judicial communication & information system (IPA 2013)		
1,577,520	1,577,520	January 2016 - August 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		
971,456	971,456	November 2016 - October 2019
EU donation (IPA 2013) for the Enhancing War Crimes Case Processing Project		
789,369	789,369	December 2016 - August 2019
EU donation (IPA 2017) for the Project - Building an Effective and Citizen-friendly Judiciary		
494,952	494,952	September 2018 - August 2021

The major donors in 2018 were the European Union contributing 40% of the total donor funds and the Kingdom of Norway contributing 27%. 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 2018, the HJPC BiH secured 97 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 48.6 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 14.2 million KM and the Kingdom of Sweden with 9.2 million KM.

As for the breakdown of funds, 58.5 million KM was used for the procurement of equipment, 23 million KM for building renovation efforts and 4.4 million KM for the maintenance of the judicial information system.

During this period, 18.4 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 2018, the Audit Office for BiH Institutions (hereinafter: AO) carried out the final audit for 2017, and the preliminary audit for 2018, based on samplings of major items from current and capital expenditures, donations received and public procurements completed thus far.

In its 2017 Report, while stating an emphasis of matter, the AO gave the following positive opinion:

"It is our opinion that the financial statements of the Council present fairly and accurately, for all material aspects, the state of assets, liabilities and revenue sources as at 31/12/2017 and the expenditure of the budget for the year ending at the aforesaid date, in accordance with the accepted financial reporting framework..."

"In our opinion, activities, financial transactions and information of the Council for 2017, concerning all material aspects, are in accordance with the law and other relevant regulations."

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

The Financial Audit Report for the High Judicial and Prosecutorial Council of Bosnia and Herzegovina for 2017 is available on the website of the Office for the Audit of BiH Institutions³.

- In 2018, independent auditors performed audits of the following grants:
- Audit of the financial statements of the Improving the Efficiency of the Courts and the Accountability of Judges and Prosecutors in BiH Project, phase 2 (Kingdom of Sweden as donor) - for the period 15 November 2016 - 31 December 2017.
- Audit of the financial statements 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) for the period 1 January 2017 - 31 December 2017.
- Audit of the financial statements of the Improving Judicial Efficiency Project, phase 2 (Kingdom of Norway as donor) - for the period 1 January 2017 - 31 December 2017.
- Audit of the financial statements of the Human Resources Management Information System for the Judiciary of Bosnia and Herzegovina Project, phase II (Kingdom of Norway as donor) - for the period 1 January 2017 - 31 December 2017.
- Audit of the financial statements of the Improving Judicial Efficiency Project, phase 2 (Kingdom of Norway as donor) - for the period 1 January 2018 - 31 December 2018.
- Audit of the financial statements of the Human Resources Management Information System for the Judiciary of Bosnia and Herzegovina Project, phase II (Kingdom of Norway as donor) - for the period 1 January 2018 - 31 July 2018.
- Audit of the financial statements of the Enhancing War Crimes Case Processing Project, phase 2, for the period 1 January 2017 - 31 December 2017.
- Audit of the financial statements of the Enhancing War Crimes Case Processing Project, phase 2 (IPA 2013) for the period 1 January 2018 - 31 December 2018.
- Audit of the financial statements of the Project - Consolidation and the continued development of the judicial communication & information system (IPA 2013) for the period 24 January 2016 - 31 August 2018.

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.

³ The HJPC BiH Financial Audit Report is available at the following link:

http://www.revizija.gov.ba/revizioni_izvjestaji/financijska_revizija/izvjestaji_2017/?id=6410

Chapter 1: EUROPEAN INTEGRATIONS

1.1. Implementation of recommendations stemming from the Peer Review missions

On 15 February 2016, Bosnia and Herzegovina filed a request for membership to the EU based on which, on 20 September of that year, the EU Council asked the European Commission for an analytical opinion on the request from BiH. In its opinion, the EC shall compare existing BiH standards against the political criteria for accession that the EU defined in Copenhagen in 1993 and in Madrid in 1995. With this in mind, in December 2015, Bosnia and Herzegovina received a Questionnaire together with supplementary questions in June 2017. Parallel to this, there are numerous peer review missions being carried out. In the case of the judiciary, judges, prosecutors and other experts from EU member states have either visited or will visit BiH in order to conduct an analytical review of various key areas. After the visits, reports will be developed with recommendations designed to assist the European Union in assessing the current situation in BiH and its institutions concerning continued reform efforts in accordance with EU standards, as incorporated with the recommendations. At the end of the phase, together with the analytical opinion, the EU will provide a list of “key priorities” for BiH to fulfill in order to move on to the next phase - acquiring candidate status and beginning negotiations on accession to the EU. The general practice regarding the last EU enlargement rounds was to begin negotiations with chapters 23 and 24⁴.

To date, the European Commission has carried out peer reviews in seven areas with regards to HJPC competences. In order to ensure the implementation of the recommendations, in September 2018, the HJPC adopted a second Action Plan containing a range of activities with short, mid and long-term. The following represents a short overview of the recommendations from the Peer Review missions and their implementation throughout 2018:

After all recommendations from the Peer Review mission **focused on the HJPC Rules of Procedure** were implemented by November 2017, which was possible through amendments to the HJPC RoP⁵, the HJPC continued its efforts on the implementation of the remaining recommendations in this area throughout 2018. In July 2018, an Initiative for the Review of the Law on the HJPC was adopted and sent to the European Commission and the Ministry of Justice of BiH. The Initiative addresses recommendations regarding the number of full-time members, the rights and duties of Council members, voting and decision-making procedures, judicial and prosecutorial departments and mechanisms to avoid outvoting by judges or prosecutors within the Council as well as temporary reassignments for judges and prosecutors. When finalising the Initiative, consideration was given to the comments from the European Commission.

The Peer Review report for “**Disciplinary Procedures in the BiH Judiciary**” had 34 recommendations that were implemented either in full or in part.

The recommendation that referred to **improving the codes of ethics** was implemented in November 2018, with the adoption of the amendments to the Code of Judicial Ethics⁶ and the Code of Prosecutorial Ethics⁷, as well as the Manual for their practical application in order to further harmonise with the Guidelines for the Prevention of Conflicts of Interest in the BiH Judiciary⁸. Thus, the amendments to the codes of ethics clearly defined the following issues:

- Independence (participation in bodies formed by the legislative and executive branches as well as other governmental and non-governmental organisations, receiving fees for various engagements etc.),

⁴ Chapter 23: Judiciary and Fundamental Rights; Chapter 24: Justice, Freedom and Security

⁵ Recommendations that refer to the rights and duties of Council members, the procedure for the recusal of council members and the transparency of the work of the Council.

⁶ Official Gazette of BiH, no. 13/06, 24/15, 94/18

⁷ Official Gazette of BiH, no. 13/06, 32/15, 94/18

⁸ The HJPC adopted the Guidelines in July 2016.

- Impartiality (assessing and avoiding perceived and potential conflicts of interest, the duty to recuse oneself in proceedings where a judge, prosecutor or a family member or holds any interest, the duty to acquire an opinion as to the compatibility of a function with other activities, conduct outside of the office, public appearances and communication etc.),
- Integrity and appropriate conduct (holding any property that may lead to a conflict of interest, avoiding certain places, avoiding certain public activities etc.),
- Issues concerning the application of adopted documents (in November 2018, the HJPC adopted a document - *Instruments for Monitoring the Application of the Guidelines for the Prevention of Conflicts of Interest in the Judiciary*).

The implementation of recommendations for **the improvement of disciplinary proceedings**, the operations of disciplinary panels, the reasoning for disciplinary decisions and improving sanctioning policy is currently ongoing. Efforts are underway on the development of a Manual for Disciplinary Proceedings which will serve to help the disciplinary panels and the ODC, as well as creating a compilation of decisions from disciplinary cases. An analysis is also being developed on sanctioning policy per offence type which will serve to establish consistency in the working practices of the disciplinary panels. Training on topic is also planned for disciplinary panel members and for judicial office holders.

Within the framework of **the Initiative for the review of the Law on the HJPC**, recommendations were implemented that focused on: more precise definitions for disciplinary offences, simpler disciplinary procedures and legal remedies in disciplinary procedures, the status of the Office of the Disciplinary Counsel (ODC), the status and employment of the chief disciplinary counsel and the disciplinary counsels, explaining and contesting decisions not to initiate disciplinary proceedings, the composition of disciplinary panels, the assignment of disciplinary cases as well as legal consequences to disciplinary measures rendered and expunging disciplinary measures from the records. Consideration was also given to comments delivered by the European Commission in June 2018.

In September 2018, the HJPC adopted amendments to **the Book of Rules on Internal Organisation** and the Systematisation of Posts with reference to the ODC, establishing three more positions for disciplinary counsels. The HJPC will, in cooperation with other institutions - foremost the Council of Ministers of BiH - look to secure funding for the new posts.

Recommendations that refer to **public disclosure on disciplinary cases** were implemented, in that, the HJPC website publishes anonymised final decisions rendered in disciplinary proceedings, while activities are also planned for further improvements. The HJPC issues press releases on disciplinary proceedings that are still pending in the event of increased public interest, especially in cases involving suspensions (temporary suspension from office) of judges and prosecutors.

Efforts are underway with reference to the signing of a **protocol between the HJPC and the Constitutional Court** of BiH which would establish the priority to process disciplinary cases that have been completed before the HJPC, and against which an appeal has been filed with the Constitutional Court of BiH.

Furthermore, in line with the recommendation for the **public disclosure of relatives** of judges and prosecutors who are employed with the judiciary, the HJPC has prescribed the duty to provide information on the relatives of judges and prosecutors, who are employed in courts and prosecutors offices, in the Book of Rules for the Submission, Verification and Processing of Financial Statements of Judges and Prosecutors.

By adopting a separate decision in October 2018, the HJPC also implemented the recommendation on the requirement of court presidents and chief prosecutors in BiH to, with reference to disciplinary measures pronounced against judges and prosecutors, **discuss the risks** stemming from this and report to the HJPC. The Decision was sent to all court presidents and chief prosecutors.

The implementation of many of the recommendations⁹ from the Peer Review report on the **appointment of judicial office holders** is not possible without the comprehensive reform of the legislative framework that covers appointments to judicial office.

As a starting point for the preparation of its proposal for the review of the Law on the HJPC, the HJPC used both the recommendations of the Peer Review reports and the comments from the European Commission from June 2018. The adopted **Initiative for the review of the Law on the HJPC** provides for major changes to the current appointments system by: Introducing a single public competition for first instance positions, prescribing horizontal transfers, introducing a career-based system with a separate procedure for the promotion of judicial office holders, prescribing separate rules for management-level appointments as well as prescribing provisions on evaluation to facilitate decision-making on the careers of judges and prosecutors.

Within the process to improve the legislative framework, apart from the recommendations, consideration was also given to the comments received from the European Commission in April 2018. **The amendments to the HJPC Rules of Procedure** that came into effect in June 2018, as well as the amendments to the Book of Rules on Written Tests and Entrance Exams, served to implement the recommendations that focused on: Improving written tests and entrance exams, introducing more demanding test procedures and improving the structured interview, differentiating between first-time appointments and promotion (based on adapted criteria for the assessment of candidate competence depending on their professional status), prescribing separate rules for the election of court presidents and chief prosecutors (introducing the mandatory preparation and presentation of work plans) as well as respecting the established ranking lists (prescribing exceptions that may lead to deviating from ranking lists).

In 2018, activities were completed on updating the question pool database for entrance exams which was placed on the HJPC website.

Furthermore, in September 2018, the HJPC adopted Instructions for the assessment of candidate skills and abilities. Parts of the document that contains: 1) a list of candidate competences to be examined at the interview & 2) the structure and contents of the work plan, can be found on the HJPC website. The Instructions establish the criteria for the assessment of work plans presented by management-level candidates.

Apart from that, the HJPC Standing Committee for test procedures prepared questions to assess the abilities and skills of the candidates at the interview as well as the candidate interview form. The aforesaid documents were adopted in November 2018. Activities linked to the review and entry of questions in the database for the automated selection of interview questions for candidates will continue.

Throughout 2018, key recommendations from the Peer Review report on **the Appraisal of Judicial Office Holders** were implemented.

Within its initiative for the review of the HJPC Law, the HJPC prepared provisions on the appraisal of judicial office holders as follows: New appraisal criteria have been defined, the HJPC established an appraisal committee to decide on performance appraisals after considering proposals from heads of judicial institutions, the appraisal period has been extended to three years.

Apart from that, in September 2018, the HJPC adopted draft Criteria for the evaluation of judicial office holders in the courts and prosecutors offices in line with the current legislative framework and with regard to competences for evaluation (court president and chief prosecutor) and the period of evaluation (one year) and sent it to the members of the judicial community and the European Commission for feedback. The adoption of the criteria serves to implement the recommendation on reducing the significance of quantitative criteria and increasing that of qualitative criteria in evaluating the performance of all judicial office holders in BiH, in accordance with the current legislative framework for evaluation (court president and chief prosecutor) and the evaluation period (one year). The criteria for the evaluation of judicial office holders in the courts and prosecutors offices were further improved in line with feedback

⁹ There are 27, in total, and they are divided by topic.

from the European Commission and the judicial community. The new Criteria for the evaluation of judicial office holders in the courts and prosecutors offices were adopted in November 2018 and will be applied from the beginning of 2019.

The Peer Review report on **Personal Financial Statements** that was delivered in April 2017, put forward ten recommendations. Of those, three recommendations that refer to the need to legally prescribe the contents of financial statement forms, prescribe regular control of the forms, and prescribe cooperation with other institutions for the exchange of relevant information, as well as the disclosure of financial statements, have been implemented within the initiative for the review of the HJPC Law¹⁰.

As regards the implementation of the remaining seven recommendations, in September 2018, the HJPC adopted the **Book of Rules on the Submission, Verification and Processing of Financial Statements for Judges and Prosecutors and the Financial Statement Form for judges and prosecutors** which will be applied from 1 January 2019. The Book of Rules clearly regulates the procedure for filing personal financial statements, the procedure for verifying and processing data from the financial statements, while the form contains detailed information on the property and income of a judge or prosecutor. According to the Book of Rules, judges and prosecutors must provide information on their finances as well as the finances of the members of their household (spouse and children) within 30 days of taking up office, while judges and prosecutors who are already in office must update their information when reporting for the previous calendar year, at latest by 31 March of the current year. Apart from providing information on their income and that of the members of their household, judges and prosecutors must also provide detailed information on how and when they acquired any real estate, vehicles, movable property with a value over 5,000 KM, funds in banks, insurance policies and other investments and expenditures over the said amount. Judges and prosecutors must also declare any gifts and donations that are over 25 KM in value and that are linked to the performance of their duties as well as any gifts and donations received in a personal capacity that exceed a one-off amount of 500 KM or 1,000 KM in total for a year. The HJPC verifies the information through regular and extraordinary formal checks. In light of the above, relevant training will be organised for HJPC staff that will be working on analysing and verifying data from the personal financial statements. The Office of the Disciplinary Counsel will be informed of any irregularities that are found. As for any irregularities that can be classified as criminal offences, they are also forwarded to the relevant prosecutor's office, whereas in the event of covering up any properties, liabilities, income or expenditures, the relevant tax authority is also notified.

Together with the support of donors, preparations are under way on the establishment of a database for personal financial statements of judges and prosecutors, and we expect that judges and prosecutors will be able to file their personal financial statements on-line from 2020. The electronic system will also allow for the disclosure of financial statements from judges and prosecutors on the HJPC website while anonymising personal data. Until the system is set up, judges and prosecutors will continue to submit their financial statements in printed form which can be made available to the public on request, in accordance with the laws on the protection of personal data and freedom of access to information.

Of the 13 recommendations on **“Training”**, three refer to induction training and **the introduction of a mentorship system in the courts and prosecutor's offices**. Implementation of this recommendation in the courts is in its early stages and for now only includes supervision over the existing forms of support in courts with new judges who were appointed in 2017 and 2018. Increased activities are expected after the TAIEX seminar on induction training and mentoring in the courts¹¹, where examples will be presented of the best practices from five EU member states. After the representatives of the HJPC, the judicial community and other relevant authorities are familiarised in detail with the mentoring models and workplace teaching methods that are in place in France, the Netherlands, Italy, Spain and Sweden, the HJPC will decide on which method will be applied for BiH. Once a decision is

¹⁰ Provisions in the Initiative have been harmonised with the original recommendations from the Peer Review Report and with the comments provided by the European Commission in June 2018.

¹¹ Planned for 29 – 30 January 2019

made, we will look to define a legal framework, select mentoring judges and develop training for the judge mentors so that the mentoring system can be implemented in 2020, in courts with judges who have no previous experience in office. Further assistance from EU experts will most likely be required to implement the said activities.

The mentoring system was introduced in prosecutors offices in November 2017, with the adoption of the Book of Rules on the Selection and Work of Consultative Prosecutors and HJPC activities throughout 2018 and 2019, foremost, focus on overseeing the implementation of the Book of Rules. We know that 12 prosecutors offices have appointed 17 consultative prosecutors. Of that number, in 2018, seven consultative prosecutors worked together with seven newly appointed prosecutors as stipulated with the Book of Rules, providing support on specific casework, assistance in analysing investigations and gathering evidence, providing guidance as to various actions, drafting various documents etc. In 2019, together with the judicial and prosecutorial training centres (JPTC's), training will be organised for consultative prosecutors, while information that is acquired through supervision will, in the long-term, be used to improve the system.

At the same time, the JPTCs are organising **trainings for newly appointed judges and prosecutors** on topics that the HJPC defined towards the end of 2017. During 2018, the HJPC focused on monitoring the implementation of these trainings to improve their contents and methodology for 2019. Since we have noticed that newly appointed judges and prosecutors continue to pick which training to take i.e. they do not attend training that is predetermined and developed for them, in October 2018, the HJPC passed a decision according to which, from 1 January 2019, the heads of the institutions will be required to ensure that newly appointed personnel attend the full programs that are developed for newly appointed judges and prosecutors within the first six months.

The HJPC believes that the implementation of the remaining ten recommendations, those pertaining to **professional development**, is continuous, as these activities are repeated annually. Activities related to the training needs analysis, the development of programs, the selection of trainers, supervision of trainings and cooperation with the JPTCs and their steering boards have increased. The process of establishing a permanent network of contact persons in the courts and prosecutor's offices is currently ongoing, aimed at ensuring the continuous collection of information on training needs and case law as well as for advising the JPTCs on the development of programs for 2019.

In its decision of October 2018, the HJPC also detailed the **rule on minimum mandatory advanced training** which will be applied from 1 January 2019, and according to which judges and prosecutors are required to undertake between 3 and 10 days of advanced training covering topics that are linked to their case loads. There are two exceptions to the rule. Specifically, in the event that the head of an institution plans on reassigning a judicial office holder to work on another group of case, they shall, if they deem necessary, approve additional training for the judicial office holder that focuses on the new group of cases. Persons who intent on applying for management-level positions may apply for any management-related training that is organised.

Throughout 2018, cooperation efforts between the HJPC and the USAID Justice Project resulted in specialised 2 1/2 year training programs for prosecutors on corruption, commercial crime, organised crime and cyber-crime. As part of the activities of the HJPC Project - *Strengthening the Capacity of Prosecutors in the Criminal Justice System*, that is funded by the Swiss government, a forum was established for the exchange of knowledge, where prosecutors used video links at their workplace to attend training and exchange experiences with their colleagues from other prosecutors offices.

A cooperation forum was established for the implementation of the Memorandum of Understanding between institutions that deal with training matters in the security and justice sectors, which will work on the exchange of information and resources as well as the improvement of joint training for prosecutors and authorised officials.

Efforts are underway on the development of a distance learning module covering topics under the mandatory training curriculum for newly appointed prosecutors.

In October 2017, the European Commission carried out a Peer Review Mission on **Combatting Corruption, Organised Crime and Money Laundering**, which along with the HJPC also involved numerous other institutions in BiH, law enforcement agencies and relevant executive authorities (agencies, directorates etc.). The Action Plan for the implementation of the recommendations in this area was developed in May 2018, according to which the HJPC contributes towards the implementation of seven recommendations, with a number of them completed in 2018, and others still ongoing.

As part of recommendation no. 3, "Improve regular cooperation between the prosecutors offices and law enforcement agencies through joint investigative teams", the HJPC was in charge of implementing one of the activities¹², which was completed in November 2018. At the meeting of the HJPC Standing Committee for the Efficiency of Prosecutors Offices that was held with the chief prosecutors, an agreement was reached that each prosecutors offices, depending on its internal set-up, was required to commit to one of the adopted models: Appoint a contact prosecutor for corruption cases or establish 24 hour duty shifts in their departments for corruption, organised crime and commercial crime.

The HJPC has partially implemented one activity¹³ within the framework of recommendation no. 4, "Improve proactive approaches to investigations by law enforcement agencies and prosecutors offices through, among others, improved data exchange on crimes", by including the training curricula of the JPTCs, which will be held in February 2019.

In November 2018, the HJPC adopted amendments to the Book of Rules on Provisional Measures for the Performance of Prosecutors which prescribed evaluation values for financial investigation cases, thus implementing the requirement from recommendation no. 5 - Improve performance results on cases involving financial investigations, as well as money laundering as a separate crime.¹⁴ The HJPC has another activity within the same recommendation¹⁵; it is in the final phase of preparing guidelines for chief prosecutors on financial investigations in cases involving corruption, organised crime and money laundering, with adoption expected at the beginning of 2019.

The HJPC also contributed to the implementation of recommendation no. 7 - Ensure the effective seizure of proceeds of crime, subsequent to final and binding court decisions, through the enforcement of prejudgment attachments: a) Secure property in the earliest phase of criminal proceedings (temporary seizure); b) Establish records and closely follow the situation (incl. analyses); c) Create appropriate property databases and develop and implement a project aimed at comprehensively registering all immovable properties;

d) Ban disposal of property that is not registered in the land books, by adopting a Form for temporary manual records for gathering data on temporarily and permanently seized assets¹⁶ in September 2018.

In November 2018, the HJPC adopted amendments to the Book of Rules on Performance Indicators for Prosecutors which prescribe separate values for financial investigations as well as new Criteria for the Performance Evaluation of Prosecutors in Prosecutors Offices in BiH, Criteria for the Performance Evaluation of Chief Prosecutors, Heads of Departments/Sections in Prosecutors Offices and Criteria for the Performance Evaluation of the Chief Prosecutor of the Prosecutors Office of BiH, the Federal Prosecutors Office of FBiH, the Republic Public

¹² Activity 3.4. Organise a meeting with chief prosecutors to provide instructions for drafting guidelines to be used in prosecutors offices for establishing internal (24h) prosecutor duty shifts in the departments, in order to ensure close cooperation between the prosecutors and the police.

¹³ Activity 4.3. In cooperation with the judicial and prosecutorial training centres, organise additional trainings on investigating criminal organisations.

¹⁴ Activity 5.2. Amend the Book of Rules on Performance Indicators Prosecutors in Prosecutor's Offices in BiH by prescribing separate values for cases involving financial investigations.

¹⁵ Activity 5.3. Organise a meeting with chief prosecutors to provide them with guidelines to pass binding instructions to include financial investigations when conducting investigations in cases involving organised crime/corruption/money laundering.

¹⁶ Activity 7.1. Adopt temporary manual records for temporarily and permanently seized assets until such time a module has been set up in the TCMS system.

Prosecutors Office of RS and the Prosecutors Office of the Brcko District BiH, thereby implementing two activities¹⁷ within the framework of recommendation no. 8 - Establish criteria for measuring the performance of prosecutors dealing with financial investigations and seizures of assets.

Activities are currently underway on the implementation of HJPC obligations within the framework of recommendation no. 9 - When using plea agreements, judges and prosecutors must ensure that the penalty proposed is in proportion to the severity of the crime and its consequences (Organise a peer review mission to analyse the use of plea bargaining). In November 2018, the Standing Committee for the Efficiency of Prosecutors Offices held a meeting with chief prosecutors on the preparation of relevant guidelines¹⁸. Accordingly, a TAIEX workshop is expected to be held in January 2019. Activities are also underway on the implementation of another obligation within this recommendation and in connection with activity 9.2. Initiate a procedure to organise a peer review mission (TAIEX) to analyse the use of plea bargaining.

As for recommendation no. 11 - Improve work on processing corruption cases, the HJPC is tasked with three activities, of which two are underway and one is completed. Specifically, an analysis on the percentage of reports filed by police agencies, the public and others involving corruption-related crimes is ongoing along with gathering the necessary data.¹⁹ In order to implement another activity from recommendation no. 11, the HJPC drafted an analysis of the reasons for the age of reports and investigations involving corruption cases that remain pending for over three years, while appropriate measures are currently being developed.²⁰ Apart from that, one activity has been fully implemented through the adoption of conclusions at the meeting of the HJPC Standing Committee for the Efficiency of Prosecutors Offices that was held with chief prosecutors in November 2018.²¹

1.2. Additional questions from the EC Questionnaire for Bosnia and Herzegovina

In February 2018, Bosnia and Herzegovina handed over to the European Commission its responses to the Questionnaire from December 2016, which included 126 responses that fell under the competences of the HJPC. After reviewing and analysing the responses, on 20 June 2018, the European Commission sent Bosnia and Herzegovina additional questions which served to finalise the EC Opinion on the Application filed by Bosnia and Herzegovina for Membership to the European Union.

The chairpersons of the various working groups and their deputies were responsible for the verification of the collated responses from all relevant BiH institutions just as for the preparation of responses to the first EC questionnaire.

On 27 June 2018, the Committee for European Integrations²² adopted a conclusion requiring the Working Group for European Integrations to submit their responses and any potential issues to the Committee for action by 15 August 2018. In order to fulfill the above conclusion, at its July session, the HJPC adopted a conclusion accepting the proposed timeline for the

¹⁷ Activity 8.1. Amend the Book of Rules on Performance Indicators Prosecutors in Prosecutor's Offices in BiH by prescribing separate values for cases involving financial investigations. Amend the criteria for the performance evaluation of prosecutors and chief prosecutors.

¹⁸ Activity 9.1. Organise a meeting with chief prosecutors to develop and provide guidelines for rendering Instructions on criteria for reaching plea agreements in cases involving high-level corruption and organised crime for reasons of general prevention.

¹⁹ Activity 11.1. An analysis needs to be made regarding the percentages of reports involving corruption-related crimes as reported by police agencies, citizens and others and propose measures for improvements.

²⁰ Activity 11.2. An analysis needs to be made on the reasons why various reports and investigations concerning corruption-related cases remain pending for over three years.

²¹ Activity 11.3. Organise a meeting of chief prosecutors on processing corruption in accordance with the peer review recommendations.

²² A body within the coordination mechanism.

fulfilment of HJPC obligations within the process of preparing responses to the additional questions from the European Commission.

Additional questions within the competences of the HJPC, 15 in total, were divided as follows:

- Political Criteria Chapter (includes chapter 23) - 12 questions
- Economic Criteria Chapter - 1 question
- Chapter 7. Intellectual Property Law - 1 question²³
- Chapter 24. - 1 question

In line with the accepted timeline, prior to entry in the DEI IT system, on 25 July 2018, HJPC responses were sent to the Council members to review and were verified at the meeting of the HJPC Standing Committee for International Relations and European Integrations.

After representatives of all relevant institutions entered their responses in the DEI IT system, the chairpersons of the working groups and their deputies worked on organising and verifying the responses per chapter. Additional consultations were carried out for certain responses, with the HJPC offering further clarifications and accordingly, finalising one part of its obligations within the process for the preparation of responses from BiH institutions to the additional questions from the EC questionnaire.

1.3. Projects funded by the European Union

Throughout 2018, various projects were implemented for the BiH judiciary as funded by the European Union with IPA 2013, IPA 2015 & IPA 2017. The proposal agreement for financing the 2017 Country Action Program for Bosnia and Herzegovina between the European Union and BiH which incorporates support projects for the BiH judiciary that are focused on strengthening the capacities of the BiH judiciary for processing war crimes, support for the efficient performance of the judiciary and the continued development of the judicial ICT system was established by the Council of Ministers on 4 May 2018. The Presidency of BiH adopted the Financing Agreement for IPA 2017 on 13 August 2018, thus establishing the preconditions for arranging support projects for the BiH judiciary as covered with IPA 2017.

The Project - "Enhancing War Crime Case Processing in BiH" (hereinafter: Project) represents the second phase of EU support for processing war crimes and is implemented based on the Grant Agreement between the EU Delegation to BiH and the Ministry of Finance and the Treasury of BiH, which secured 7.4 million EUR for this phase of the Project. 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 (hereinafter: OKO). Specifically, this Project secured funds to cover salaries for 15 prosecutors, 6 judges and 114 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). Activities aimed at achieving this goal include strengthening human and material capacities for processing war crimes in judicial institutions, improving the capacities of judges and prosecutors for processing these cases as well as improving the capacities of defence attorneys in war crime cases.

The HJPC, as one of the Project beneficiaries, monitors the processing of war crimes cases at the courts and prosecutors offices (Project beneficiaries) analyses and reports on the rate of processing war crime cases, provides professional and administrative support to the Supervisory Body in overseeing the implementation of the National War Crimes Strategy, while also following the implementation of the plans for processing war crimes cases at the prosecutors offices in BiH, organising peer gatherings, meetings as well as conducting

²³ Within this question, separate statistical data was sought on patents, trademarks, models and designs.

centralised public procurements for the courts and prosecutors offices that are Project beneficiaries.

The Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy (hereinafter: Supervisory Body) is the key domestic partner to the European Union for the implementation of this Project. The Supervisory Body assesses the level of achievement of project targets and results in line with its competences and based on regular statistical reports involving the judicial institutions that are prepared by the HJPC. Aware of the pace at which war crime cases were being processed, the Supervisory Body concluded that, as at 31 December 2018, the project target was at 43% and that war crime cases were being processed at the prosecutors offices as anticipated, with minor deviations. The latter is further elaborated in Chapter 4 - Judicial Efficiency - The Efficiency of Prosecutors Offices.

Implementation of the second phase of the Project - Consolidation and Further Development of the Judicial Communication and Information System, funded with IPA 2013 ended on 31 August 2018. The value of the project that was funded by the European Union, the governments of Sweden and Norway and with the BiH budget amounted to 6,679,159 KM. This project served to strengthen the technical resources and security of the judicial information system, as well as the managerial capacities of the judiciary together with providing new services for the public. 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.

Implementation of the Project - Building an Effective and Citizen-Friendly Judiciary, as funded by the EU and amounting to 11,637,187.50 KM, started on 1 September 2018, and is planned for 36 months. The aim of the project is to ensure better services for the public, improve the overall efficiency, accountability and transparency of the judiciary in Bosnia and Herzegovina in order to reinforce public confidence in the BiH judiciary. These targets represent major elements of the process for strengthening the rule of law in BiH which together with the BiH judicial reform represents the key condition for BiH and the process for EU accession. In order to achieve the set objectives, the project will encompass: support to the courts and prosecutors offices for increasing efforts on specific case types, support for recording and harmonising caselaw, the continued development of managerial skills for court presidents, ensuring the appropriate IT tools and services in the judiciary, the promotion of alternative dispute methods and a range of activities aimed at fulfilling EC peer review recommendations.

Throughout 2018, the following construction works were carried out as financed by the European Union with IPA 2015:

- the construction of a new building for the Municipal Court in Tuzla,
- the reconstruction of the building accommodating the Cantonal Court in Tuzla and the Cantonal Prosecutors Office of the Tuzla Canton,
- the reconstruction and an extension to the District Public Prosecutors Office building in East Sarajevo,
- the reconstruction of the Basic Court in Foca,
- the construction of a new building to accommodate the Basic Court in Trebinje, the District Court in Trebinje and the District Public Prosecutors Office in Trebinje, &
- reconstruction and an extension to the Municipal Court building in Ljubuski.

Apart from the aforesaid projects, in 2018, construction of the new Cantonal Court building in Bihac was completed as funded by the European Union through IPA 2012.

1.4. Establishing Cooperation with the European Network of Councils for the Judiciary

One of the strategic objectives of the HJPC is the ongoing implementation of reform activities vital to the integration of Bosnia and Herzegovina with the European community. Considering the importance of a quality-based judiciary that serves as a fundamental tool for protecting its very independence and its responsibilities, since the very beginning of the reform process, the

HJPC has devoted particular attention to issues concerning the quality of the judiciary. In order to fulfill these strategic objectives, the HJPC has been conducting activities as foreseen with the Project - Improving Judicial Quality, funded by the Government of the Kingdom of Norway. Therefore, in order to ensure the continuation of the judicial reform process in line with European standards, the Project looked to establish cooperation between the HJPC and the European Network of Councils for the Judiciary (hereinafter: ENCJ).

The general objective of the ENCJ, as an international non-profit association, is to reinforce the independence, accountability and quality of the judiciary to the benefit of the citizens. Ever since 2013, the ENCJ has been increasing its activities aimed at standardising and measuring the quality of the judiciary throughout Europe.

To that end, the said cooperation entails the analysis of the independence, accountability and quality of the judiciary according to ENCJ criteria. The said criteria looks to assess the state of the national judiciary with the use of various indicators that have been developed in line with European standards, to serve as a basis for the integrated development of judicial quality.

The project proposal entails that cooperation is established through HJPC participation in completing ENCJ questionnaires on the independence, accountability and quality of the judiciary as well as the survey among judges on independence.

The HJPC completed the Questionnaire on independence and accountability, which looked to identify minimum standards for the judiciary according to the ENCJ scale, which would then serve as an instrument for self-assessment and identifying possible proposals to improve the standards. Representatives of the ENCJ members & observers considered the Questionnaire to be well-prepared, while new activities were agreed focused on developing quality elements within the judiciary.

Apart from that, next year will see the completion of the analysis on independence and accountability based on the completed Questionnaire, the analysis of the quality of the judiciary based on the completed ENCJ questionnaire as well as the introduction of a new survey among judges as to the perception of independence.

Support to the process for the initial analysis of the state of the BiH judiciary will be provided by Norwegian and Dutch experts who actively participate at the ENCJ.

In accordance with the above, this cooperation will result in better support to BiH to be able to respond to any demands within the justice sector reform process.

Chapter 2: INDEPENDENCE OF THE JUDICIARY

2.1. The HJPC and the independence of the judiciary

Throughout 2018, the HJPC BiH - in cooperation with the European Commission, focused on the preparation of an initiative for a new Law on the High Judicial and Prosecutorial Council of BiH, based on the recommendations of the EC Peer Review Mission (hereinafter: Peer Review recommendations). The aforesaid activities were supported by the participants of the Conference - Current Status and Perspective with Focus of Fighting Corruption and Organised Crime, that was organised in February 2018 in Banja Luka with the support of the USAID BiH Justice Project and the Office of the Special Representative of the European Union to BiH.

Following the deadlines from the Action Plan for the implementation of the Peer Review recommendations, the HJPC BiH sent the BiH Ministry of Justice an Initiative for the Review of the Law on the High Judicial and Prosecutorial Council of BiH that was adopted at the HJPC BiH session (hereinafter: the Initiative) that was held on 28 & 29 June 2018.

The participants of the Conference: the Judiciary - Current Status and Perspectives, that was held in Mostar in December 2018, supported the initiative in the segment that referred to the achieved level of independence and standards regarding the system and election of members to the HJPC BiH as well as the selection of judicial office holders (more details can be found in Chapter 1 - European Integrations, 1.1 Implementation of recommendations stemming from the Peer Review Missions).

One of the criteria for determining institutional and individual independence of the judiciary is that the judiciary must be free to decide cases without external interference and that individual judges must be free to decide case without any external interference.²⁴

In connection with this, we are witness to continued pressure being exerted against the judiciary in its work by the public, the media and the political powers. In reflecting on the pressures against the judiciary which also target to the performance of prosecutors offices, the president of the HJPC BiH called on politicians not to interfere in the work of prosecutors offices, stressing that they must be free of all inappropriate pressures, whether from politicians or the public. The Council concluded that they should always respond to or issue a denial with reference to any media publications that undermine the reputation and independence of the judiciary, in general.

Furthermore, the security of judicial institutions and judicial office holders in BiH is one of the fundamental prerequisites for a professional, independent and impartial judiciary so as to comprehensively combat organised crime and corruption as well as process other serious crimes and deal with all other processes that take place before the courts.

Throughout 2018, we witnessed a significant number of threats targeting judicial office holders in BiH. Accordingly, the Council considered the information from the Working Group for the Security of Judicial Institutions and Judicial Office Holders in BiH and expressed its concern due to the threats and attacks against judicial office holders on all levels in BiH, further pointing out the need to find systemic solutions for security issues and the protection of judicial office holders.

The HJPC BiH is of the view that, among other things, the current situation is the result of inappropriate actions by various individuals, including representatives of the executive and legislative branches of BiH, which, in turn, created an atmosphere that gives rise to security risks for judicial office holders and so, the Council believes it is importance to refrain from such conduct.

²⁴ Venice Commission Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina no. 648/2011, dated 18 June 2012. p. 18.

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

HJPC participation in the preparation and adoption 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.

In accordance with the aforesaid legal authorities, the HJPC participates in processes for the preparation of budgets for courts and prosecutors offices as follows:

- Courts and prosecutors offices are sent guidelines with recommendations for the preparation of their budget proposals, Separate guidelines are prepared for each court/prosecutors office, which 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,
- In the event that the budget drafts and proposals for the courts and prosecutors offices that are adopted by the executive branch do not provide for sufficient funds, the HJPC may submit its remarks to such budget drafts and proposals,

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 for judicial institutions when it comes to financing the judiciary. In a certain number of European countries, institutions that manage the financing of the judiciary, independent of the ministry of justice, also propose the budgets for the courts and prosecutors offices and negotiate with the executive and legislative branches within the process of adopting the budgets. Also, the said institutions manage funds approved for the judiciary and allocate the funds for each court and prosecutors office. Various international documents also point out the need to ensure the independence of the judiciary with respect to its funding (Opinion no. 10 of the Consultative Council of European Judges of the Council of Europe from 2007 etc.).

Apart from lacking authorities in the budgeting process, another significant problem for the judiciary is its fragmented financial setup i.e. funding from 14 separate sources that, independent of each other, decide on the budget for the judiciary. Specifically, the Court of BiH and the Prosecutors Office of BiH are funded from the budget for BiH institutions, the judicial institutions in Republika Srpska are funded from the budget of Republika Srpska, the judicial institutions in the Brcko District are funded through the District budget. The Supreme Court of the Federation of BiH and the Federal Prosecutors Office of the Federation of BiH are funded from the Federation budget, while the cantonal courts, cantonal prosecutors offices and municipal courts are separately funded from the 10 cantonal budgets.

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).

The long-term strategic efforts of the HJPC are focused on:

- reducing the current financial fragmentation (14 separate funding sources), primarily by introducing a common financing setup for the courts and prosecutors offices in the Federation of BiH and
- Increase the authorities judicial institutions have within the budgeting process whereby the HJPC would formally propose the judicial budgets for the courts and prosecutors offices and negotiate with the executive and legislative branches as to the budgets and the budget of the HJPC.

2.3. The budgets of the courts and prosecutors offices for 2018

The following table provides an overview of approved budgets for the courts and prosecutors offices for 2017 and 2018 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: Overview of approved budgets for the courts and prosecutors offices for 2017 & 2018

	2017 Budget	HJPC funding assessment for 2018	Approved for 2018	Amendments (rebalance) to the 2018 budget	Rebalance 2018 / 2017 Budget	Rebalance 2018 / HJPC assessment for 2018
	I	II	III	IV	V=IV/I	VI=III/I
Republika Srpska						
Personal income	49,380,700	53,046,434	52,163,300	49,935,600	1.1%	-5.9%
Goods & services	10,628,500	18,803,300	11,497,800	11,231,300	5.7%	-40.3%
Capital expenditure	327,700	1,140,600	386,100	639,100	95.0%	-44.0%
Other expenditures - transactions		0	180,400	466,100		
Servicing debts	0	0	0	371,700		
Total	60,336,900	72,990,334	64,227,600	62,643,800	3.8%	-14.2%
Federation BiH						
Salaries & other payments	110,566,465	122,410,665	121,324,738	120,305,769	8.8%	-1.7%
Material & services	25,011,595	28,715,200	25,037,692	25,883,307	3.5%	-9.9%
Capital expenditure	1,215,169	1,726,100	2,003,640	1,709,602	40.7%	-1.0%
Total	136,793,229	152,055,888	148,366,070	147,898,678	8.1%	-2.7%
Brcko District						
Salaries & other payments	5,387,364	5,628,354	5,563,407	5,408,407	0.4%	-3.9%
Material & services	1,149,630	1,290,000	1,159,630	1,159,630	0.9%	-10.1%
Capital expenditure	168,577	0	90,000	90,000	-46.6%	
Total	6,705,571	6,918,354	6,813,037	6,658,037	-0.7%	-3.8%

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 staffing capacity of the judicial institution in line with the HJPC decision on the necessary number of judges and prosecutors, and the current number of reserve judges as approved with the court budget. The guidelines serve only to assess the minimum funds required to tackle current case flows, as well as any increase in the number of judges based on the approved systematisation, though only for prioritised judicial institutions and in realistic numbers. At the same time, the guidelines for the number of support staff in courts and prosecutors offices is based on current figures considering that this represents an assessment on the minimum funding requirements for courts/prosecutors offices to operate. The guidelines do not cover requirements for additional resources in order to deal with backlogs (need to increase the number of judges as well as investigators and legal associates in the prosecutors offices).

– The assessment of funds required for materials and services was made based on data on expenditures from past years, data on the number of criminal cases for the assessment of criminal procedure costs, expected cost increase rates etc.

– 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. Also, due to the specificity of their institutions, the needs for equipment for the Court of BiH and the Prosecutors Office of BiH were not included. Due to the inability to reliably assess the situation, the guidelines did not include construction and reconstruction needs for judicial buildings.

The total budget for the judicial institutions in Republika Srpska was some 3.8% (around 2.3 million KM higher than for 2017. The budget increase generally refers to expenditures for goods and services (around 600,000 KM) and capital expenditure (around 300,000 KM). Some 466,000 KM was approved to pay off debts from the past (generally for debts for attorneys involving mandatory defence cases and indigent persons as the accused). The approved funds for salaries and other payments are close to levels from the previous year (1.1%). Generally speaking, in 2018, we did not witness any reinforcement of human resources in the court and prosecutors offices. At the same time, the courts continue to be saddled with major debts to attorneys for cases involving mandatory defence and indigent persons.

The FBiH saw an 8.1% increase in judicial budgets for 2018. The increase was noted for items - gross salaries and other payments (around 9.7 million KM), while budget expenditure for materials and services and capital expenditure was somewhat higher than last year (around 870,000 KM and 500,000 KM respectively). Even though, based on the aforesaid data, we could conclude that funds were approved for significant reinforcements for the courts and prosecutors offices, the following must be stated:

An increase to the approved funds by-and-large referred to salaries and other payments for prosecutors and judges and support staff in order to establish special departments at the Federal Prosecutors Office of the Federation of BiH and the Supreme Court of the Federation of BiH to combat organised crime and corruption (some 4.5 million KM). The funds were not expended since accommodation issues were not resolved for the special departments.

One part of the increase was earmarked for two newly formed municipal courts in the Federation of BiH (Municipal Court in Srebrenik and the Municipal Court in Citluk in the amount of 1.6 million KM). The two courts were not covered with the budget guidelines.

The budget of the judicial institutions of the Brcko District was slightly lower than for the previous year (- 0.7%, primarily with reference to capital expenditure). We can say that funding for the judicial institutions of the Brcko District is on a relatively satisfactory level.

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

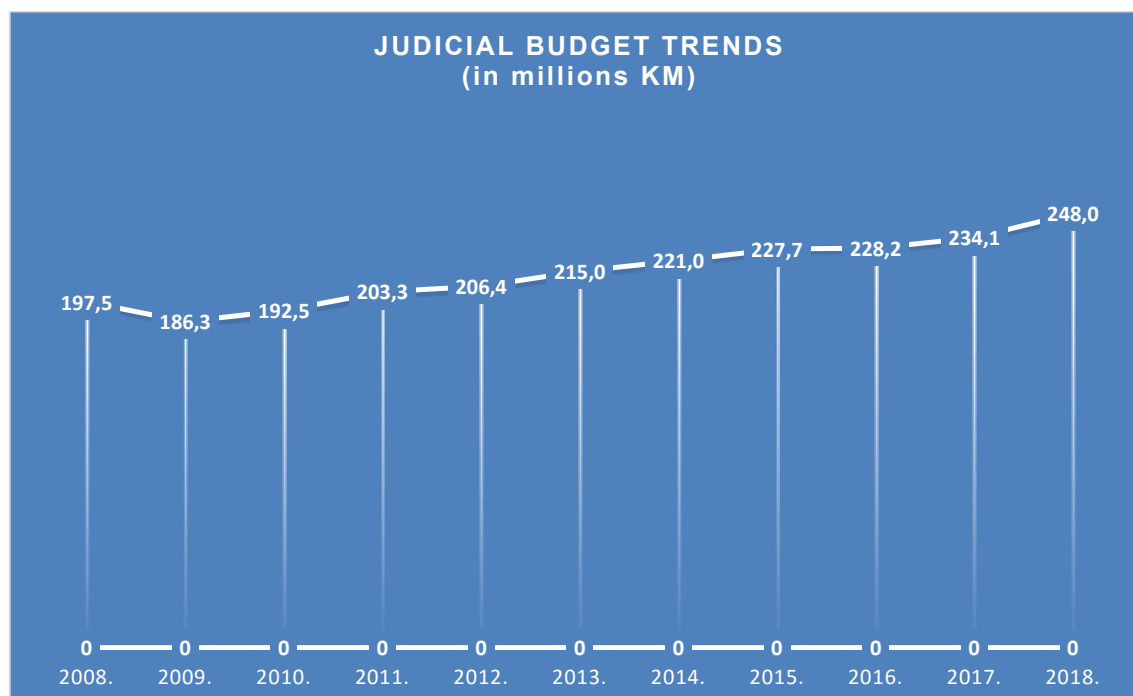
Table 4: Approved budgets for the Court of BiH and the Prosecutors Office of BiH

	Approved budget for 2017	HJPC funding assessment for 2018	Approved budget for 2018	2018 budget / 2017 budget	Approved budget for 2018 / HJPC assessment for 2018
	I	II	III	IV=III/I	V=III/ II
Salaries & other payments	23,848,000	24,221,880	24,080,000	0.97%	-0.6%
Material & services	6,031,000	6,828,505	6,179,000	2.45%	-9.5%
Capital expenditure	400,000		589,000	47.25%	
TOTAL BUDGET	30,279,000	31,050,385	30,848,000	1.88%	-0.7%

The total budget for judicial institutions that are financed from the budget of BiH institutions is up 1.9% (approx. 570,000 KM) compared to 2017. We can say that the Court of BiH and the Prosecutors Office of BiH have stable financing for current resources that is to a certain extent burdened by significant expenses for attorney fees involving mandatory defence cases and indigent persons, as well as for exhumation costs. At the same time, we can assume that obligations stemming from the implementation of peer review recommendations on organised crime and corruption will require additional resources, especially for the Prosecutors Office of BiH.

2.4. Budget Trends

The following graph shows judicial budget developments between 2008 and 2018.

Graph 2

We reiterate that the graph above shows approved budgets though not actual expended funds. A major part of the increase in approved budgets for 2018 refers to salaries and payments for prosecutors, judges and support staff in the special departments of the Federal Prosecutors

Office of the Federation of BiH and the Supreme Court of the Federation of BiH that, however, was not effected. Also, funds were approved for the opening of two new municipal courts (Municipal Court in Citluk and the Municipal Court in Srebrenik) as well as for payments owed to attorneys in Republika Srpska.

Chapter 3: APPOINTMENT & EVALUATION

3.1. Procedure for appointment to judicial office

3.1.1. Legal framework & procedures

Establishing transparent and objective appointment procedures for judicial office are a fundamental competence of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in ensuring the independence and impartiality of the courts and prosecutors offices in Bosnia and Herzegovina.

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 criteria for determining the 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:

- a) entrance exams and written tests for candidates as prescribed for mandatory entrance exams and written tests,
- b) candidate interviews,
- c) candidate ranking and proposal,

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

- a) candidate competence,
- b) legal analysis skills,
- c) the ability of the candidate to responsibly, independently and impartially hold the office for which they have applied, professional impartiality and standing as well as conduct outside the workplace,
- d) current experience of a candidate,
- e) training and professional advanced training, the publication of academic papers, as well as other activities within the profession, &
- f) communication skills.

Ranking candidates for management-level positions is carried out in line with the following criteria:

- a) candidate competence
- b) legal analysis skills;
- c) the ability of the candidate to responsibly, independently and impartially hold the office for which they have applied, professional impartiality and standing as well as conduct outside the workplace,
- d) current experience of a candidate,
- e) training and professional advanced training, the publication of academic papers, as well as other activities within the profession,
- f) communication skills, &
- g) managerial skills and experience as well as 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, in 2018, the HJPC amended its Rules of Procedure in order to improve the segment dealing with the evaluation of candidate competence and skills, meaning that the new solutions provide further guarantees for the selection of candidates with the best professional qualifications.

In 2018, the relevant normatives/legal framework was amended in order to implement the Peer Review recommendations of the European Commission²⁵.

The amendments to the HJPC BiH Rules of Procedure that came into effect in June 2018, as well as the amendments to the Book of Rules on Written Tests and Entrance Exams, served to implement the recommendations on: improving written tests and entrance exams, introducing more demanding test procedures and improving the structured interview, differentiating between first-time appointments and promotion (based on adapted criteria for the assessment of candidate competence depending on their professional status), prescribing separate rules for the election of court presidents and chief prosecutors as well as prescribing exceptions that may lead to deviating from candidate ranking lists. A very important change refers to the duty of candidates who apply for management-level positions to develop and submit a work plan which will allow for the election of the best candidates for office as well as making it possible to oversee and follow plan implementation in the event of election.

Apart from amendments to the said regulations, in September 2018, the HJPC BiH also adopted Instructions on the Assessment of Candidate Skills and Competences, while parts of the document, showing a list of candidate competences to be addressed at the interview together with the structure and content of the work plan, have been placed on the HJPC BiH website.

The HJPC Standing Committee for appointments prepared questions to assess the abilities and skills of the candidates at the interview as well as preparing a candidate interview form. The documents were adopted at the HJPC BiH session that was held on 8 & 9 November 2018.

The updated question pool (database) for entrance exams was published on the HJPC BiH website, contributing to greater transparency of entrance exam procedures.

The HJPC Standing Committee that deals with appointments will continue its activities on reviewing and entering questions in the database for the automated selection of candidate interview questions as well as the review of files to develop written templates in order to carry out written tests for candidates.

There area also plans to hold two TAIEX seminars on the topics - legal remedies to dispute Council decisions and checking candidate fitness within the appointment process.

In order to improve the use of information technology within the process for appointments to judicial office, in 2018, we secured the conditions to introduce *online* candidate application, we established regional centres for carrying out entrance exams as well as the ability to conduct interviews through video links regionally, all of which will significantly contribute to greater efficiency and economy of process for the appointment of judges, prosecutors and legal associates.

Throughout 2018, six competitions were announced with 2,415 applicants. After tests were completed, 282 interviews were held with candidates who had passed the set threshold to be eligible for interviews.

²⁵ There are 27, in total, and they are divided by topic.

Ultimately, the HJPC passed 103 decisions on appointments to judicial office together with 37 mandate extensions for reserve judges.

3.2. Performance evaluations for judicial office holders

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, prosecutors, court presidents and chief prosecutors is carried out annually, in line with 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.

3.2.1. New criteria adopted in accordance with the recommendations from the expert analysis (Peer Review) concerning the performance evaluation of judges and prosecutors in Bosnia and Herzegovina

On 27 November, 2018, the HJPC adopted new criteria for the performance evaluation of judicial office holders at the courts and prosecutors offices²⁶. The new criteria were developed based on recommendations from the peer review on the performance evaluation of judges and prosecutors that was prepared by EC experts in 2017. The Peer Review assessment recommended improvements to the system for the performance evaluation of judges and prosecutors in Bosnia and Herzegovina together with establishing an appropriate balance between quantitative and qualitative criteria in line with the best European standards. The Criteria are in line with the current legislative framework on performance evaluation (court president/chief prosecutor) and the evaluation period (one year). The performance of judicial office holders will be monitored and evaluated for 2019, using the new criteria.

The new criteria did not incorporate the following recommendations from the peer review:

- Evaluations should be carried out every three years;
- The HJPC will decide on the final grades as to performance.

In July 2018, the HJPC BiH sent the European Commission and the Ministry of Justice of Bosnia and Herzegovina a proposal to amend the Law on the HJPC BiH in order to resolve the legal obstacles preventing the implementation of the said recommendations.

The most important change made with the new criteria is the more thorough evaluation of quality by defining new criteria for the analytical score of judge/prosecutor performance. Also, the criteria define elements for the performance evaluation of court department heads regarding the management of their department and these elements correspond to criteria that are applied for evaluating the performance of court presidents in managing their court. Traditional criteria will be used together with the new elements for the performance evaluation of judicial office holders in the courts and prosecutors offices: provisional quotas (individual and collective) and statistical quality of decisions (individual and collective). Processing old cases in the prosecutors offices and courts will continue to be evaluated, in that, with the new criteria for the courts, this element is defined so as to assess the performance results of the judges, court departments and the courts on processing cases from the backlog reduction plans in accordance with the initial filing date (Percentage of oldest cases completed from the plan). Ultimately, the new criteria prescribes that, in their performance evaluation, the evaluator will list measures to improve the performance of the relevant judicial office holder.

The following represents a detailed overview of the criteria for the analytical score for judges and prosecutors according to which the evaluators will assess the quality of performance and

²⁶ The new criteria for the performance evaluation of judges, court department heads, court presidents, heads of prosecutors office departments/sections, deputy chief prosecutors and chief prosecutors, and the Book of Rules on the Procedure for the Evaluation of Judicial Office Holders were published in the Official Gazette of BiH (no: 93/18). The regulations came into effect on 4 January 2019.

decisions rendered by the relevant judicial office holders based on which a concrete decision will be made as to the quality of their conclusions.

The analytical quality of work and decisions of a judge will be assessed based on the following elements:

- a) consistency of the introduction, enactment clause and reasoning of a court decision with the procedural provisions that prescribe their content, especially concerning any requests, objections, claims from the appeal, as well as the existence of clear instruction for the lower instance court in the event of the decision being reversed;
- b) The quality of reasoning of court decisions concerning the ability to properly assess evidence and properly and fully establish the state of facts, legal analyses and analytical opinions, consistency in presenting the reasoning, knowledge and application of regulations and caselaw, including the application of international agreements and practices of the European Court of Human Rights and other international courts;
- c) oral and writing skills, especially the ability to legibly and concisely express and apply the appropriate legal terminology;
- d) communication with parties, other authorities and relationship with associates;
- e) quality in conducting procedures with particular consideration for:
 - the ability to solve complex cases;
 - trial preparation through proper preparations for main hearings/trials, precise definition of actions that need to be carried out at hearings and evidence that needs to be presented as well as the concentration of evidence;
 - conducting procedures in accordance with the principles of efficiency and economy, avoidance of undue postponing and adjourning of hearings and by taking legal measures to ensure the presence of the accused, litigants, witnesses and expert witnesses, undertaking measures to prevent any abuse of the procedural rights of the parties and other participants, adherence to legal deadlines in scheduling hearings/trials, and taking legal measures, which must be reflected in the minutes of the hearings, to finalise disputes through court settlement;
 - promptness in drafting and dispatching court decisions;
- f) willingness to assume additional work in connection with the performance of judicial duties especially mentoring, contributing to the work of the court or court department (participation in preparing the court bulletin and similar activities), cooperation with training and advanced training efforts (including publication of law papers or books, educational activities), international cooperation and cooperation involving legislative procedures (participation in working groups tasked with drafting of laws and other regulations), as well as other judicial activities, specialist and postgraduate studies.

The following information sources are defined when evaluating the analytical quality of work and decisions:

- a) The opinion of the court department head based on their ongoing monitoring and analysis of the performance of the judge during the evaluation period as well as the direct review of cases, as required, regarding the execution of their competences from Article 17 of the Book of Rules on Internal Court Operations and Article 6, paragraph (3) of the Criteria;
- b) a report on the review of at least 4 (four) cases for which proceedings have been completed with finality during the evaluation period with a decision on merits that has not been reviewed through legal remedy, of which at least 3 (three) cases selected randomly by the court president while at least 1 (one) case is selected by the evaluated judge. The selected cases must allow for a comprehensive analysis and evaluation of the analytical quality of performance and decisions of the evaluated judge. The said review shall be carried out by the court president in cooperation with the court department head and a separate report shall be made. This information source may be

used for scoring the analytical quality of work and decisions for all judges, in that, this is a mandatory information source if the department of the immediately higher instance court drafted an analytical opinion from Article 7 of the Criteria, based on forms that were completed for less than 10 (ten) cases of the evaluated court president.

- c) the opinion of the department of the immediately higher instance court, except for judges of the courts from Article 20 of the Criteria, which is provided based on the ongoing overview of all casefiles of the evaluated judge involving cases that the court decided on pursuant to a filed legal remedy;
- d) the minutes and reports of the immediately higher instance courts as part of the cooperation prescribed with the Book of Rules on Internal Court Operations and other elements under the legal framework;
- e) records made by an evaluator, department head or judge mentor based on attending hearings or reviewing the audio recordings from hearings of the evaluated judge;
- f) the statistical report on the average length of procedures in cases that the judge completed during the evaluation period;
- g) the statistical report on the average length of procedures in cases of the judge that remain pending during the evaluation period;
- h) statistical report on the number hearings in cases that the judge completed during the evaluation period;
- i) other information of relevance to the evaluation of the analytical quality of performance and decisions.

The analytical score for prosecutor performance shall be established on the basis of the following elements:

- j) compliance with statutory requirements in prosecutorial decisions;
- k) the ability to establish decisive facts significant to rendering prosecutorial decisions;
- l) the ability to solve complex cases;
- m) expedience in rendering decisions and compliance with statutory deadlines;
- n) the ability to organise and efficiently conduct investigations in a proactive manner;
- o) professional quality of a decision, demonstrated legal knowledge and use of legal remedies.

The analytical performance evaluation score shall be determined on the basis of a review of a total of 5 (five) cases, 4 (four) of which shall include decisions rendered in the evaluation period and selected randomly from the case management system (TCMS) by the chief prosecutor, and 1 (one) case selected by the evaluated prosecutor, as well as on the basis of the additional information sources.

- a written opinion of the deputy chief prosecutor, head of department/section and consultative prosecutors;
- written opinion of the entity prosecutor's office.

The opinion of the deputy chief prosecutor, the head of department/section and the consultative prosecutors as stated above is given subsequent to the ongoing monitoring of the overall work of the evaluated prosecutor during the evaluation period by the deputy chief prosecutor, the head of department/section and the consultative prosecutors.

The opinion of the entity prosecutors office is given based on the review of one case as randomly selected by the entity prosecutors office.

Table 5: Gender breakdown of judge/prosecutor positions filled as at 31 December 2018

Level	Institution	Systematisation no.	No. of positions filled	Ethnic breakdown				Gender breakdown	
				B	C	S	O	M	F
State	court	57	50	21	9	16	4	26	24
	prosecutor's office	63	56	27	8	17	4	29	27
Supreme Court FBiH		58	45	26	8	9	2	12	33
Prosecutor's Office FBiH		22	10	5	3	1	1	5	5
High Commercial Court		7	7	1	1	5	0	4	3
Supreme Court RS		23	23	4	3	13	3	7	16
Prosecutor's Office RS		14	11	2	1	7	1	6	5
Cantonal	courts	177	134	73	31	24	6	34	100
	prosecutor's office	212	205	120	37	33	15	99	106
District	courts	122	111	27	9	69	6	39	72
	prosecutor's office	110	86	13	7	60	6	42	44
Municipal	courts	447	422	230	94	67	31	152	270
Basic	courts	212	195	44	13	128	10	76	119
Brcko District	Basic Court	20	18	6	3	7	2	11	7
	prosecutors office	9	9	4	2	3	0	4	5
	Appellate Court	9	8	2	3	3	0	4	4
TOTAL		1562	1390	605	232	462	91	550	840

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 2018

Level	Institution	Bosniac	Croat	Serb	Others	Male	Female
State	court				1	1	
	prosecutors office		1				1
Entity FBiH	court			1		1	
	prosecutors office						
Entity RS	court & High Commercial Court		1		1	1	1
	prosecutors office	1				1	
Cantonal	court	5	3	1		1	8
	prosecutors office	4	5	1		6	4
District	District courts and commercial courts	3	8		1	7	5
	prosecutors office		1	5		4	2
Municipal	courts	16	10	5	1	14	18
Basic	courts	2		15	1	11	7
Brcko District	Appellate Court			1		1	
Brcko District	Basic Court		1			1	
Brcko District	prosecutors office	1				1	
TOTAL		32	30	29	5	50	46

Chapter 4: JUDICIAL EFFICIENCY

4.1. Efficiency of the Courts

4.1.1. Improving court management and reinforcing court management capacities

4.1.1.1. Predictable court costs for first instance proceedings

Equal access to justice is one of the fundamental elements for a functional rule of law system, where the availability of information contributes to the accessibility of the judiciary by the public. In recognising the importance of this for the judiciary, the European Commission for the Efficiency of Justice (CEPEJ) established that the level of clarity of possible court costs for parties represents one of the elements for the evaluation of a judicial institution. Within the framework of the IPA 2013 project, the HJPC BiH made it possible for parties receive information on predictable minimal court costs, for the first time ever. However, ultimate court costs depend on developments during the proceedings and its outcome.

During the past period, as part of its project activities, the HJPC BiH carried out a survey on public confidence in the BiH judiciary which showed that, when filing a statement of claim, parties lack information on potential costs of proceedings. Since this information is unavailable, upon the completion of proceedings, parties are often unhappy with the court decision on court costs stressing that they would have withdrawn their claim or attempted to resolve their dispute amicably had they known the cost of the proceedings.

It is very important that parties have information on potential costs for initiating a dispute because:

- a party has the right to be informed of any potential costs for their proceedings,
- Some parties would look to resolve their dispute through alternative dispute resolution methods, which is a quicker, more economic option than civil proceedings.

Apart from that, many parties are not informed of the legal provision stating that if a party unconditionally loses their case they are required to settle costs for opposing party, as well.

With all of this in mind, within the IPA 2013 project, the HJPC BiH implemented a new functionality to the CMS for estimating minimum costs for parties in first instance enforcement, civil and commercial proceedings.

In order to develop a technical solution, we analysed current procedural laws and the attorney fees established by the entity bar associations in BiH. Based on the technical solution, when filing a statement of claim or an enforcement motion with the court, the party will receive information on potential predictable minimum costs from the filing of the claim/motion through to the rendering of the first instance judgment/decision. This does not, however, mean that they will be the actual costs when proceedings are completed. They can also be lower if the parties agree so through their representatives or higher if certain unforeseen costs occur (e.g. expert witness) or if during proceedings evidence from expert findings is presented or if a party unconditionally loses a dispute and is required to pay costs for opposing party, as well.

The information contained on the confirmation note on the submission of a document by a party contains:

- the court fee for the complaint/enforcement motion,
- attorney fees for drafting complaints/motions for enforcement,
- attorney fees for attending preliminary hearings,
- attorney fees for attending main hearings,
- court fees for decisions.

Apart from that, the parties also have notice showing information on the possibility of resolving their dispute through alternative methods.

Image 1: Sample confirmation slip with information on predictable costs

OPĆINSKI SUD Broj predmeta: 23.01.2018.		INFORMATION FOR PARTIES PRIKAZ TROŠKOVA ZA PARNIČNE I PRIVREDNE SPOROVE Izrada tužbe: - Ako advokat pripada adv. komori FBiH: 1440 KM - Ako advokat pripada adv. komori RS: 700 KM Taksa na tužbu: od 500 KM do 750 KM Priprema ročište: - Ako advokat pripada adv. komori FBiH: 1440 KM - Ako advokat pripada adv. komori RS: 700 KM Glavna rasprava: - Ako advokat pripada adv. komori FBiH: 1440 KM - Ako advokat pripada adv. komori RS: 700 KM Taksa na presudu: od 200 KM do 500 KM NAPOMENE: INFORMACIJA O ADR - Procjena troškova nije obavezujuća za sud ili stranku. Služi kao informacija o mogućim troškovima na osnovu vrijednosti spora, i troškova angažmana advokata. - Svoj spor možete riješiti brže i ekonomičnije sklapanjem sudske nagodbe. Za sve informacije obratite se ovom sudu. - Detaljnija informacija o troškovima dostupna je putem internet linka http://www.pravosudje.ba/kalkulator_troskova/ .
Potvrda prijema dokumenta		
Vrsta dokumenta	Tužba Rs predmet	
Podnosilac dokumenta	ADV 1	
Datum i vrijeme prijema	23.01.2018 15:30:36	
Datum i vrijeme pošte		
ID dokumenta	43-15953	
Vanjski broj		
Broj primjeraka	3	
Vrsta prijema dokumenta	LIČNO	
Glavne stranke	SAMIR - D.O.O	
Predmet zadužio(la)		
Radi	P19 : Naknada štete - prema odredbama ZKP-a, Osnovi za građanske parnice	
Vrijednost spora	70.000,00 KM	
	VRIJEDNOST SPORA	

Work on the new CMS functionalities started in February and finished in November 2018. Parallel to this option, we have also developed a web application that based on parameter input allows parties to receive an estimate of their potential court costs. This is very useful for parties that haven't yet filed a complaint/motion for enforcement and who want information on how much their procedure could cost.

Information on predictable costs is available on the HJPC BiH website at www.pravosudje.ba

Image 2: Example of a calculation of minimum procedure costs on the website

Pravosudje | Posao u pravosuđu | Servisi | Kutak za medije | Kontakt

Nalazite se ovdje -> Kalkulator troškova

Kalkulator troškova postupka

Kalkulator troškova je informativnog karaktera, nije obavezujući za sud ili stranku i ne mora nužno predstavljati stvaran iznos troška postupka. Ukoliko uočite pogrešku u vezi s procjenama troškova, molimo vas da obavijestite Odjel za IKT VSTV-a putem mail-a: weburedniste@pravosudje.ba. Funkcionalnost kalkulatora troškova je u testnoj - pilot fazi, te su izračuni dostupni samo za pilot institucije navedene u listi vezanoj uz parametar "Sud".

* Sud: OPĆINSKI SUD U TUZLI

* Vrsta troška: Prikaz troškova za parnične i privredne sporove

Vrsta spora: Osnovi za građanske parnice

Pravni osnov: Izdržavanje - djece

* Vrijednost spora: 0 ,00 KM

Izračunaj

*Napomena: sve polje označena znakom * su obavezna za unos kako bi kalkulator vratio rezultat.*

PRIKAZ TROŠKOVA ZA PARNIČNE I PRIVREDNE SPOROVE

ULAZNI PARAMETRI:

- Vrijednost spora: 0 KM
- Pravni osnov: P1
 - Opis: Izdržavanje - djece
 - Zakon: Osnov za građanske parnice
 - Član: -
- Za sud: OPĆINSKI SUD U TUZLI
- Datum i vrijeme pokretanja: 20.04.2018 14:56:08

ORIJENTACIONI IZRAČUN TROŠKOVA POSTUPKA:

Izrada tužbe: od 240 KM do 240 KM, zavisno od toga koja se od niže navedenih opcija primjenjuje:

- Ako advokat pripada adv. komori FBiH: 240 KM
- Ako advokat pripada Adv. komori RS: 240 KM

Taksa na tužbu: 20 KM (Tužba)

Thanks to this functionality, for the first time parties are able to receive information on estimated minimum costs of court proceedings when filing complaints/motions for enforcement.

4.1.1.2. Building management capacities through the development of new SIPO reports and time management reports (TMCL Reports)

The CMS system allows the courts and prosecutors offices to generate various statistical data in real time. However, most of the reports, when generated, further affect the speed of the CMS system while, at the same time, there is also the need to follow performance trends for courts and prosecutors offices by reviewing multiple statistical data at once. This type of combined monitoring through the CMS system is not supportable. Accordingly, as part of IPA 2012 and 2013 projects, the HJPC BiH developed an IT tool so that management can monitor the overall performance of one or more judicial institutions from a single place. The system is called SIPO and is available to all courts and prosecutors offices and aims to improve management capacities. By creating a set of reports in SIPO, we looked to make it easier for the courts and prosecutors offices to generate statistical reports offices that serve for developing policies and decision-making. Throughout 2018, SIPO developed over ten reports that make it easier and simpler for the courts and prosecutors offices to see whether their performance trends are positive or negative. If the trends are not satisfactory, the court president/chief prosecutor has a tool to point this out and, based on their competences, is able to take measures to correct the situation on time, if necessary.

Reports that are created within SIPO are divided into statistical reports, analytical reports, data quality reports and *ad hoc* reports. Statistical reports offer an overview of the overall performance of an institution based on various parameters, analytical reports provide a detailed overview of the various parameters concerning the performance of an institution, while data quality reports show whether an institution has cases that contain errors that may affect the accuracy of data and trends. *Ad hoc* reports are generated based on the current requirements of an institution.

TCML reports and time management checklist reports represent a set of reports focused on monitoring whether cases are being processed within predictable deadlines or not. In line with the objective, three reports have been developed with the CMS:

1. TMCL - general report that helps a court president to identify the judges and the types of cases that have processing delays.
2. TMCL - report that shows which cases and which judges have two or more hearings scheduled in a case. This is particularly important for civil proceedings since the law prescribes that a court shall schedule one preliminary hearing and one main hearing throughout civil proceedings. This report identifies a problem and informs the court president who should then take measures to prevent large numbers of hearings being held in a single case.
3. TMCL - report that tells us in which phase of procedure either predictable or optimal deadlines were exceeded and by how many days.

The reports were designed based on CEPEJ recommendations with the purpose of facilitating court presidents and department heads in identifying which phase of procedure has the most frequent delays and with which judges. Then, you can identify and analyse the causes that led to the delays and take the appropriate measures.

4.1.1.3. Improving teamwork, management and communication in the Basic Court in Banja Luka and the District Court in Banja Luka

Throughout 2018, the HJPC BiH continued implementation of the Improving Judicial Efficiency Project II (hereinafter: IJEP II) funded by the Government of the Kingdom of Norway and in cooperation with the Council for the Judiciary of the Netherlands and the Norwegian Courts Administration.

Accordingly, activities were carried out to improve management in the Project's target courts, and to improve communication and teamwork as an essential segment of organisational culture changes in courts, to lead to better performance.

A team of judges from the Amsterdam District Court and the Appellate Court in Norway participated in implementing this activity and had a lead role in managing the process. The judges provided advisory support to their colleagues in BiH and ensured the implementation of the best practices from their home countries, adapted to the domestic legal framework. Such comprehensive *peer to peer* cooperation finally resulted in the domestic judges taking over the process of improving performance efficiency.

Strengthening the position of court presidents and court department heads was also the objective for their visit to the District Court in Amsterdam where they exchanged experiences on management and work methodology.

Modelled on the activities previously carried out in the Municipal Court in Sarajevo, the presidents, department heads and judges of the Basic Court in Banja Luka and the District Court in Banja Luka underwent two-day training on teamwork, management and communication, which was organised at the District Court in Amsterdam.

Apart from that, ongoing peer-to-peer cooperation with judges from Norway and the Netherlands contributed to a change in the organisational culture of the said courts and the establishment of better senior-level and mid-level management.

Images 3 & 4: Training on teamwork, management and communication at the District Court in Amsterdam



4.1.2. Reorganising administrative duties in the courts

Thus far, HJPC BiH focus has generally been on increasing the efficiency of court performance by monitoring quota achievement, as well as reducing backlogs and case duration in the courts. Even though this continues to be vital, as regards the efficiency of the BiH judiciary, during the past year the HJPC BiH has, with its project activities, devoted greater attention to improving internal work processes in the courts and improving performance quality. We have noticed that judges are burdened with various administrative tasks that prevent them from fully focusing on their judicial duties and drafting quality court decisions. These are administrative tasks that can be delegated to other staff in the court with the appropriate training and in ongoing communication with the judge. In many courts, non-judicial staff and trainees/volunteers are not involved enough in working with the judges which has a demotivating effect and prevents them from developing professionally.

In order to create a more suitable working environment, within the Project - Improving the Efficiency of the Courts and the Accountability of Judges and Prosecutors in BiH - phase 2, (hereinafter: ICEA Project), funded by the Government of the Kingdom of Sweden, a very important activity was implemented in 2018, focusing on improving work processes in the courts. Cooperation was established between the HJPC BiH and the Swedish Courts Administration (hereinafter: SNCA). The said cooperation involves the exchange of experiences between BiH courts and Swedish courts aimed at reorganising court operations, reorganising the work of non-judicial staff to process cases more quickly, reducing backlogs, reducing case length, reducing court expenses through more rational utilisation of human resources and, at the same time, better motivating all court employees.

The HJPC BiH selected the Municipal Court in Tuzla and the Basic Court in Bijeljina as pilot courts for this cooperation. Throughout 2018, the two courts cooperated closely with the Swedish courts i.e.: The Varberg District Court, the Malmo District Court and the Ystad District Court.

The cooperation started in 2017, while major advances were made by the two pilot courts in 2018, with the implementation of specific changes to work processes in the courts.

During the reporting period, Swedish experts paid a number of visits to the Municipal Court in Tuzla and the Basic Court in Bijeljina. During each visit, the courts were offered various guidelines to improve performance. Accordingly, throughout 2018, the courts compiled:

1. A list of tasks that can be delegated from a judge to other court staff - primarily court trainees/volunteers,
2. A table to check actions that are taken (civil, non-litigation and minor offence cases),
3. A training plan for court trainees/volunteers,
4. A list of proposed amendments to legislation aimed at improving work processes in the courts.

Apart from these documents, since the beginning of 2018, the Municipal Court in Tuzla and the Basic Court in Bijeljina have been operating under a completely new set-up which has resulted in judges achieving higher quotas, completing more cases, while at the same time trainees/volunteers are more motivated to work and learn since they are directly cooperating with the judges. This requires teamwork when processing cases which, in turn, leads to greater productivity and quality of court performance.

As a final event for this activity in 2018, as well as an indication of the continuation of cooperation in future, on 27 - 28 November 2018, a roundtable was held in Sarajevo on the topic - Internal reorganisation of court operations and human resources. The roundtable was attended by representatives of the SNCA, the Embassy of Sweden, Swedish experts, HJPC BiH representatives, current and future target courts as well as the relevant ministries of justice. The achievements of the two pilot courts were presented as well as plans for the upcoming period, together with an initiative for legislative amendments that are required for the full implementation of project activities. In consideration of the positive effects of the project activities in the Municipal Court in Tuzla and the Basic Court in Bijeljina, there are plans to implement these activities in 6 additional target courts in 2019, i.e.: The Basic Court in Prijedor, the District Commercial Court in Prijedor, the Municipal Court in Bihac, the Basic Court in Trebinje, the District Commercial Court in Trebinje and the Municipal Court in Mostar. Close cooperation with the relevant ministries of justice is vital during the upcoming period considering that various legislative amendments will be required in order to achieve the long-term goals and their sustainability.

4.1.3. Support for the courts from the HJPC BiH

4.1.3.1. The Application and the effects of the orientational measures in the courts

The Book of Rules on Orientational Measures for the Performance of Judges and Legal Associates in the Courts in BiH²⁷ (hereinafter: Book of Rules), started application in 2012. Since then, the HJPC BiH has continued to monitor quotas achieved by the judges and legal associates. The Book of Rules was adopted with the aim of reducing court backlogs as well as to introduce a transparent and objective evaluation system for judge performance.

According to an analysis of the effects of the application of the Book of Rules in 2012, it is obvious that the bulk of judges in Bosnia and Herzegovina achieve their set quotas which, in 2018, resulted in a further drop in pending cases by some 20,000, compared to 2017 or 6%.

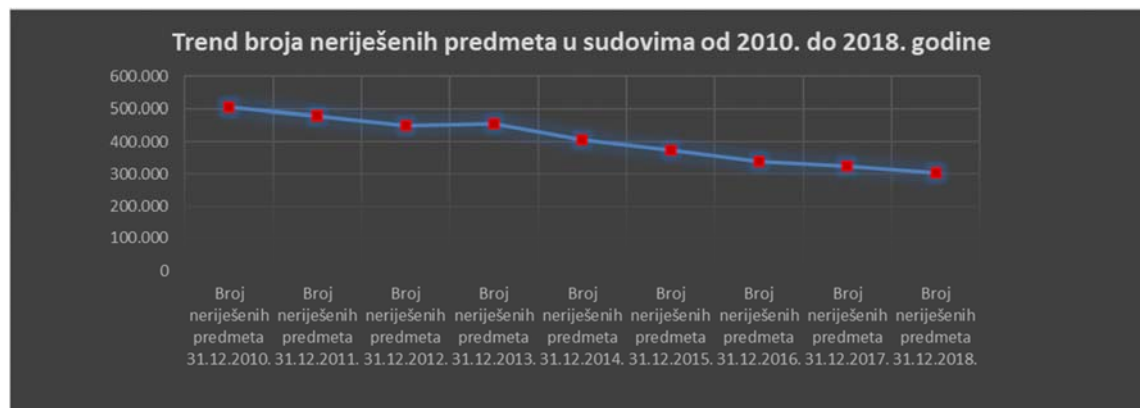
4.1.3.2. Pending cases reduced

After the 2003 judicial reform process, the BiH judiciary was faced with a huge increase in the number of pending cases and very old cases. Since then, the HJPC BiH has been undertaking various activities with the most effective being the introduction of mandatory backlog reduction plans. Since 2011, the courts are required to draft plans in accordance with the Instructions for drafting backlog reduction plans in the courts²⁸ (hereinafter: Instructions). In accordance with the Instructions, all courts are required to draft backlog reduction plans.

Thanks to these activities, the courts complete over 100,000 of the oldest cases annually, together with their regular activities i.e. thanks to the said plans and the quotas that are achieved, the courts annually reduce the number of pending cases on average by 5% - 10%.

On the 31 December 2018, the number of pending cases in the courts was 302,986, which is 6% less than compared to 2017 when there were 322,719 pending cases. This means that since 31 December 2012, i.e. since to the beginning of the application of the new framework for court quotas there are 145,308 fewer cases (32% reduction).

Graph 3: Pending cases trend in the courts for the period 2010-2018



In 2018, the courts accounted for 175,445 pending cases in their backlog reduction plans. Of that number, they completed 149,619 cases or 85% of the plans, which shows that the courts continue to have positive results just as in past years. We can also see that in 2018, that cantonal, district and supreme courts have implemented their plans at 98%.

²⁷ Official Gazette of BiH, no. 43/12, dated 4 June 2012

²⁸ The Instructions were adopted on 6 December 2010, while the most recent amendments were adopted at the HJPC BiH session on 13-14 December 2016.

Table 7: Implementation of the backlog reduction plans

	Total number of cases	Disposed cases	% disposed	Remain pending	% pending
All BiH courts for 2018	175,445	149,619	85%	25,826	15%
RS courts for 2018	55,214	47,423	86%	7,791	14%
FBiH courts for 2018	114,251	97,424	85%	16,827	15%
Courts of the Brcko District for 2018	3,471	2,815	81%	656	19%
Court of BiH for 2018	2,509	1,957	78%	552	22%

Table 8: Implementation of the backlog reduction plans by instance

	Total number of cases	Disposed cases	% disposed	Remain pending	% pending
All BiH courts for 2018	175,445	149,619	85%	25,826	15%
I instance	145,313	120,495	83%	24,818	17%
II instance	24,317	23,875	98%	442	2%
III instance	3,306	3,292	100%	14	0.4%
Court of BiH for 2018	2,509	1,957	78%	552	22%

The performance results of the courts on processing cases from the plans are placed on the HJPC BiH website quarterly in order to provide the public with greater transparency on the performance of the courts.

Even though the courts have achieved good results in processing cases from the plans, the HJPC BiH carried out a comprehensive analysis of the number of open cases before the courts and their distribution among the judges, and determined that there were examples of an unequal case distribution among the judges, per case type and case age which has a direct effect on processing time. This is why the HJPC BiH, at its session on 27 November 2018, adopted new instructions for drafting backlog reduction plans based on case types. The point of adopting the new Instructions was to establish the equal distribution of cases in the courts and, in doing so, further improve court performance in processing cases according to initial filing dates. This way, all courts and all judges will be covered with the plans meaning that more of the oldest cases will also be covered, accordingly. This, in turn, means that more of the oldest cases will be completed in 2019.

By amending the legal framework for orientational measures, and the way backlog reduction plans are made and monitored, BiH courts will draw closer to European standards for case processing times.

4.1.3.3. Monitoring the processing of bankruptcy, administrative and civil litigation cases against budget users

Monitoring the processing of bankruptcy cases

The HJPC BiH systemically monitors the processing of all cases in the courts, however due to increased numbers and processing durations for certain types of cases, during the past years we have particularly focused on improving the processing of bankruptcy cases, administrative cases and civil litigation cases initiated against budget users.

The problems faced by the courts in Bosnia and Herzegovina when processing commercial cases, in particular bankruptcy and liquidation cases, have a major effect on business processes in Bosnia and Herzegovina which is due to the fact that many areas lacked the

appropriate reforms and there was no systemic approach to dealing with various obstacles. In order to expedite work on bankruptcy cases, the courts are required to draft action plans for processing bankruptcy cases and cases stemming from bankruptcy. The action plans are prepared annually and updated every six months. One particular problem with these cases is their duration. The length of bankruptcy proceedings is also affected by cases that stem from bankruptcies and without completing them beforehand, the relevant bankruptcy cases cannot be completed. Generally speaking, these are civil cases.

Further on we can see bankruptcy case trends for the period 2014-2018.

Table 9: Bankruptcy case trends in the courts for the period 2014-2018

<i>Bankruptcy cases</i>	2014	2015	2016	2017	2018
Pending at year-end	784	814	821	920	917
Increase/decrease in the number of pending cases for the period		4%	1%	12%	0%
Incoming cases for the period	596	704	638	713	736
Increase/decrease in the number of pending cases for the period		18%	-9%	12%	3%
Incoming cases for the period	659	663	642	615	725
Increase/decrease in the number of pending cases for the period		1%	-3%	-4%	18%
No. of judges on bankruptcy cases	46	45	57	54	56

Based on the aforesaid trend, we can conclude that, compared to 2017, there is a slight drop in the number of pending bankruptcy cases and a slight increase in the number of incoming cases.

Even though the HJPC BiH monitors processing trends for all case types in the courts, as of recently we have noticed a problem concerning an increase in the duration of bankruptcy cases together with an increase in the number of pending administrative cases. Apart from these two occurrences, based on an analysis of pending civil cases focused on the initiators of proceedings, we found that many civil suits were filed against institutions that are budget users which generate large numbers of disputes with the courts through their actions - by and large labour disputes.

The number of bankruptcy cases, itself, isn't the major issue, rather their duration. Specifically, on 31 December 2018, bankruptcy cases on average took 917 days to finish, which is 52 days longer than in 2017. Therefore, at its session on 14-15 March 2018, the HJPC BiH addressed the analysis on bankruptcy and liquidation cases and adopted a conclusion on the establishment of a working group to improve bankruptcy/litigation case processing (hereinafter: Working Group). The main task of the working group is to identify a modality to improve the processing of bankruptcy cases. In 2018, the Working Group held a number of meetings where they identified the primary activities that need to be completed in order to expedite the processing of these cases by the courts. The activities are planned for implementation in 2019.

Monitoring the processing of administrative cases

In 2018 the HJPC BiH also monitored the processing of administrative disputes in the courts. During the past period, we noticed an increase in the number of administrative disputes in the courts, and an analysis was carried out to determine the reasons for the situation. The analysis on pending administrative cases was presented at the session of the HJPC BiH on 14-15 March 2018. Then, conclusions were adopted requiring improved training for judges who process these cases, while certain courts needed to reorganise work processes in their

administrative departments to be able to process the cases quicker and more efficiently, which the courts carried out.

Monitoring the processing of civil litigation cases against budget users

A significant number of disputes that burden the BiH judiciary due to their numbers and length are cases against budget users. In monitoring case processing in the courts, we noticed that a certain number of civil litigation cases involve budget users as parties to proceedings²⁹. These cases are extremely important considering that they further burden the courts and their dispute values are very high, and, in the event of losing the dispute, all costs are collected from the state/entity/canton/municipal budgets, while the majority of disputes end up having the statement of claim upheld.

The chief findings of the analysis using data as at 31 December 2018 are:

- There were 28,151 pending cases of this type, which is 35% of the total number of civil and commercial non-utility cases in the courts i.e. 106,119 according to CMS data.
- The bulk of the pending cases are processed at the following ten courts: cantonal courts in Sarajevo, Mostar, Livno & Tuzla, municipal courts in Sarajevo, Mostar, Lukavac & Tuzla, Basic Court in Banja Luka & the Supreme Court of FBiH;
- Most cases are disputes stemming from employment, which through to their conclusion involve 1st instance proceedings and appeals proceedings. Considering the analysis of the relevant decisions of the first and second instance courts, where by-and-large, statements of claim were confirmed and first instance decisions were upheld by the second instance court, we can conclude that the representatives of the budget users intentionally initiate 1st and 2nd instance proceedings to prolong payments. By prolonging the process, the very institutions that are parties to proceedings, are increasing the amounts that are to be paid out through the budget.
- Alternative dispute resolution methods are rarely used in these cases;
- On 31 December 2018, the total value of all open cases against budget users was 2,711,972,981 KM. (two billion, seven hundred an eleven million, nine hundred and seventy-two thousand, nine hundred and eighty-one KM).

A press conference was held on 11 June 2018, to present the findings of the Analysis on pending cases in 2017 involving budget users, and the public was informed of the problems with these cases and how they affect judicial efficiency. Therefore it is very important that the public is informed of this problem, which cannot be resolved only on court level.

4.1.4. Improving the way judges conduct case management

4.1.4.1. Developing tools for effective management of court procedures

As part of the implementation of IJEP II, cooperation between the first-instance target courts with their competent appeal courts was continued (the Municipal and Cantonal Courts in Sarajevo; Basic and District Courts in Banja Luka), with the focus on harmonising case law, improving the quality of court decisions, processing large groups of cases with the same or similar factual or legal bases, as well as any other issues pertinent to the functioning of the courts. This cooperation was in the form of periodic meetings of the representatives of the courts of both instances.

In 2018, following the model of the Municipal Court in Sarajevo, corresponding tools for more efficient case management were developed in the Basic Court in Banja Luka.

In fact, a preliminary hearing plan were adopted, as well as the complaint review checklist and the guidelines for management of civil litigation proceedings, in order to uphold the principle of equal treatment in same situations, ensure legal certainty and equality of citizens before law, guarantee proportionality in exercise of rights and promote the principles of effectiveness and efficiency of the proceedings.

²⁹ Institutions that are financed from state/entity/canton/municipal budgets etc.

In addition, the Basic Court in Banja Luka and the District Court in Banja Luka signed a Memorandum of Cooperation to harmonise case law, uphold the principles of effectiveness and economy and promote procedural discipline, and the first training in decision writing was held for the judges of both of these courts.

Graphs 5 and 6: Signing the Memorandum of Cooperation between the Basic Court in Banja Luka and the District Court in Banja Luka



4.1.4.2. Guidelines for appointing court department heads

To strengthen the courts' management capacity and improve effectiveness of court management, by way of development and strengthening of a proactive engagement and managerial role of court department heads in IJEP II, HJPC BiH developed and adopted the Guidelines for appointing court department heads.

The purpose of these guidelines is:

- to ensure that court department heads perform their duties, as stipulated by Article 17 of the Rule Book on Internal Court Operations,
- to strengthen the role and responsibilities of court department heads, particularly in the context of organisation and management of court departments, as one of the elements of the court department heads' performance evaluation, as stipulated by the Criteria for Performance Evaluation of Court Presidents and Court Department Heads in Bosnia and Herzegovina,
- to eliminate the risk factor, when selecting department heads, as highlighted in the integrity plans of the judicial institutions of Bosnia and Herzegovina, which involves the non-existence of any regulations that would stipulate clear and objective criteria and procedures for selection of department heads.

These guidelines constitute a set of recommendations, intended for the presidents of the courts in Bosnia and Herzegovina, whose aim is to establish a clear, objective, and transparent process of appointing court department heads, and to set requirements that a court department head should meet, and specify skills that he/she should have to duly meet the challenges and demands of this position.

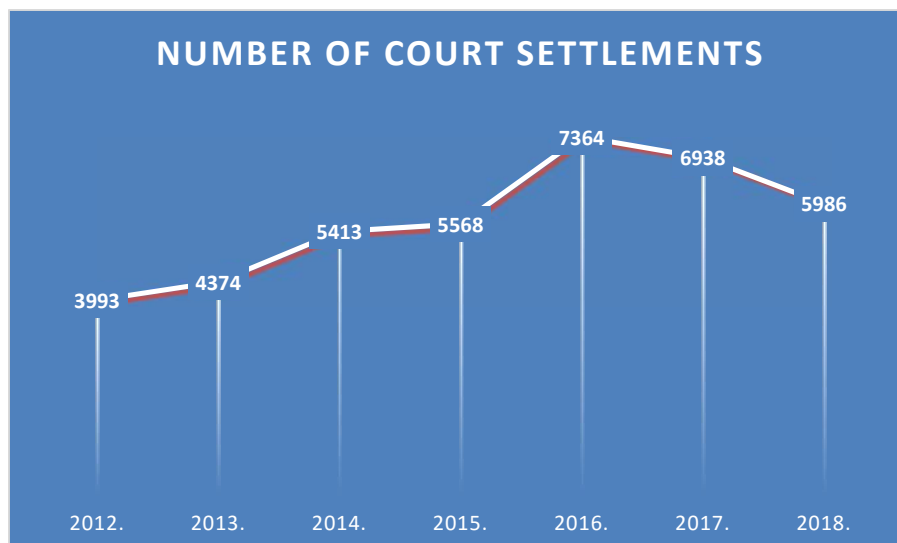
4.1.4.3. Court settlement

As the improvement of the system of alternative dispute resolution is a strategic goal of the Justice Sector Reform Strategy 2014-2018, and that court settlement had been a less utilized model of dispute resolution in case law in BiH, HJPC BiH, through the IJEP II, has implemented a series of activities to promote court settlement and increase the number of cases that are resolved in this manner.

In 2018, HJPC BiH continued to organize the 'Court Settlement Week'. These events were held on two occasions, in April and November 2018, when the courts heard previously identified cases that were suitable for amicable settlement. During these periods, parties were encouraged to approach the courts with their proposals for court settlement.

The total number of court settlement in 2018 was 5,986.

Graph 4: Number of court settlements concluded before courts in BiH, 2012-2018



4.1.5. Processing war crimes cases

War crimes cases are a considerable burden for the judiciary. Through a series of activities, HJPC BiH sought to improve processing of war crimes cases in courts and prosecutor offices.

Courts were required to implement the Instructions for overseeing the processing of war crimes in courts³⁰ (hereinafter: the Instructions), which required them to prepare the action overview of cases to accelerate resolution of the cases of this type. In 2018, HJPC BiH organized the workshop *Resolving War Crimes Cases in Courts*, which took place on 17 May 2018 in Trebinje. The workshop was attended by the judges who worked on war crimes cases, and the discussion covered statistical data, application of IT technology for faster processing of war crimes cases, as well as the pending war crimes cases whose resolution faced various obstructions. Alongside the representative of courts and HJPC BiH, the representatives of the OSCE Mission in Bosnia and Herzegovina also attended the workshop. In addition to the above issues, the topics of aggravating and mitigating circumstances for sentencing in war crimes cases were also discussed, as well as how to write better explanations of decisions in these cases.

Images 7 and 8: Workshop 'Resolving War Crimes Cases in Courts' in Trebinje

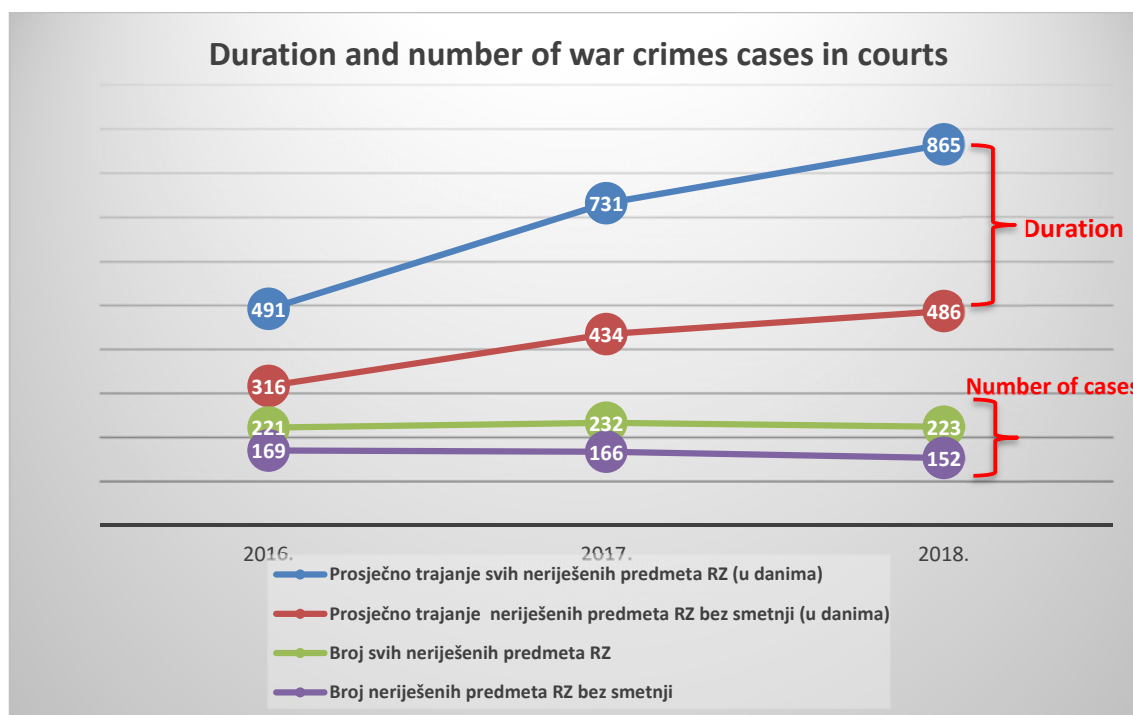


As to the statistics of the resolution of war crimes cases, the number of unresolved war crimes cases in courts exhibited a declining trend, but the duration of these cases exhibited an increasing trend.

³⁰ The Instruction was adopted at the HJPC BiH session held on 21st and 22nd January 2015.

The statistical analysis did not encompass cases where certain procedural or legal obstacles had been identified. Even so, the problem of the duration of unresolved war crimes cases persists.

Graph 5: Overview of the observed trends in the number and duration of war crimes cases in courts



In a detailed analysis of the action reviews of cases, it was found that some courts faced the situation when they do not receive timely replies from the BiH Ministry of Justice to international legal process request to other states in any given case. Courts frequently wait more than six months for such replies, and it also frequently happens that no reply is received, even after several repeated urgent requests, which ultimately results in prolongation of such cases.

In addition, it was found that the institution of status conference, i.e. preparatory hearing, was not being used, although this institution is allowed by law to promote economy and efficiency in processing war crimes cases. Consequently, the Standing Committee for Court Efficiency and Quality adopted a conclusion in which it recommended courts to make greater use of the institution of status conference, which had been proven as a very efficient and economical organizational tool in processing war crimes.

4.1.6. Reform of enforcement procedure

The enforcement procedure in Bosnia and Herzegovina is one of the main obstacles to the judicial efficiency, as enforcement cases account for the largest part of unresolved court cases. Both the HJPC BiH and European Commission recognized the problem of enforcement procedure, and it features prominently in numerous strategic documents, recommendations and conclusions that Bosnia and Herzegovina committed to on its path to the EU. To address this problem, and following the European Commission's recommendations, in 2018, the HJPC BiH, within the Project "Improving the Efficiency of Courts and Accountability of Judges and Prosecutors in BiH" (funded by the Government of Sweden) conducted considerable activities to improve the existing enforcement procedure and find the modalities for its comprehensive reform.

4.1.6.1. Announcing hearings for sale of mobile assets and movable property as an enforcement instrument

Sales of mobile assets and movable property had not been proven as an effective enforcement instrument, primarily because of the failure to take possession of such property, but also because potential buyers had no opportunities to examine the objects offered for sale. Experience showed that there is no interest of the public for purchasing movable property in executory sales, because such property, after being inventoried, remained in possession of the attached debtors, and potential buyers have no real way to inspect assets on sale. Due to the lack of information about the objects being sold through executory sales, frequently there are no buyers at such sales – which takes away the meaning of the entire court proceedings. The consequence of this shortcoming in the enforcement procedure is a large number of suspended enforcement procedures due to failed executory sales.

To enhance this key segment of the enforcement procedure, i.e., to inform the public and potential buyers about the appearance and other features of the assets subject to executory sale in a simple fashion, in 2018 a special software was developed – a mobile app for bailiffs which permits advertising of sales of movable property through court internet portals.

This application will make the work of bailiffs easier and more transparent. Namely, a bailiff acting on the court decision, would conduct the inventory and estimate an attached debtor's mobile assets on the spot (in the apartment, house, etc.). After writing the protocol, the bailiff would use his/her mobile phone with the app installed to photograph the inventoried assets. Consequently, using the app in question, the bailiff will be in position (in the field, during the inventory and estimate process) to access 'the electronic file', take photographs of the mobile asset in question, forwards all information and photographs of assets electronically to the judge in charge, and the latter would, pursuant to the law, continue the procedure and initiate the publication on the Internet and sale of the assets in question.

Announcements of executory sales on the Internet offer potential buyers the following information and conveniences:

- appearance/photograph of the asset that is subject to executory sale,
- information about the time and place of the auction, its features, prices, etc., and
- the opportunity for potential buyers to follow executory sales at any time and to find all information on the assets being sold, prices, location, date of sale without the need to visit the court.

Introduction of the practice to announce sales of movable property through Internet portals would increase the transparency of the enforcement procedure, facilitate the work of the courts and bailiffs in the field and contribute to greater success of executory sales of mobile assets and movable property.

In the first phase, this function would be available only to the courts that use SOKOP-Mal, later in the course of implementation and upgrading, the app would also be linked with the CMS, which would permit its use in all enforcement cases. The Municipal Court in Zenica will be the first pilot court for implementation.

4.1.6.2. Promoting alternative institutions that would contribute to greater efficiency of the enforcement procedure

Pursuant to the provisions of the laws on enforcement procedure in BiH, the procedure for collection of utility payments is initiated on the basis of a valid document by a utility company submitting a proposal (within the limitation period of one year). Experience demonstrated that, in a considerable part of utility cases, attached debtors are informed about the court case only upon the receipt of the enforcement decision, when they are required, in addition to the core debt, to pay court costs and interest, without being previously informed about the occurrence of debt and the court case.

Because of this, it became necessary to introduce in some first-instance courts the step of sending pre-claim notices by the court in enforceable utility cases for which enforcement motion had been received.

If we analyse the status of enforcement cases, and starting with the principles of enforcement procedures that emphasize urgency, efficiency and economy, the idea to implement the above activity was proposed. The purpose of the activity was to address the need to resolve cases which attached debtors are unaware of, while avoiding additional costs inherent in the conduct of the full enforcement procedure. To that end, the above mentioned courts received support in the form of short-term employment of additional staff – couriers, as well as for printing and delivery of an adequate quantity of *blank* notices. The notice contains information about the court case, the enforcement request, as well as the warning to the attached debtor that, unless he settles the debt in the set period, the court would order enforcement on the basis of the request, which would generate additional, and often double, costs for the attached debtor after adding in the requirement to pay the enforcement decision fee, enforcement costs and other costs emerging during enforcement.

The implementation of these activities started in late 2018, and it would be followed by an analysis of the results obtained in the pilot courts.

4.1.6.3. Improving enforcement procedure through promotion of the Opinion of the Personal Data Protection Agency in Bosnia and Herzegovina to obtain data on attached debtors' assets

The size of backlog part of unresolved enforcement cases, which for the most part comprises utility cases, was caused particularly by inadequate choice of enforcement instruments and by different interpretations of some legal provisions in this field. Effectively, claimants frequently were unable to obtain information on attached debtors' assets, or they did not even request submission of this data from authorized data controllers during the proceedings.

Taking into account these issues, the HJPC BiH requested the Personal Data Protection Agency to issue an Opinion³¹ on obtaining debtors asset information, and they received the reply that the Law on the Protection of Personal Data does not pose an obstacle for sharing debtors' information, for the purposes of enforcement procedure, but that data processing, just as in any other proceedings, should be conducted pursuant to the principles of personal data processing (there should be a legal basis, a defined range of necessary data, it should be proven that requested data is indispensable for safeguarding and upholding legal rights and interests of the claimants of enforcement, etc.).

The Opinion has been noted, and disseminated to the courts, thereby achieving its promotion to highlight the importance of obtaining quality data on debtors' assets from authorized oversight agencies, i.e. to highlight the requirement for the oversight agencies to make this data available to enforcement claimants as well, which would enhance the efficiency of the enforcement procedure.

In addition, meetings were held with the data oversight agencies and enforcement claimants, to emphasize that the responsiveness of the oversight agencies in providing data was greater than in the previous period, which indicated the significance of the effort to promote the Opinion. For this reason, the HJPC BiH will continue to implement these activities in 2019.

4.1.6.4. Reorganisation of business processes in enforcement department and strengthening the role and training of bailiffs

As the organisation of court operations, as well as the level of training of bailiffs, affect the (non-) resolution of enforcement cases in courts, the HJPC BiH initiated activities to find solutions for reorganisation of business processes in a number of courts and to improve the performance of bailiffs. To enhance the training of bailiffs, the cooperation was established with the entity judicial and prosecutorial training centres (FBiH JPTC and RS JPTC), to develop the topics that would involve bailiffs within the framework of trainings for judges.

In 2018, an analysis was conducted of the performance of the enforcement departments of a number of first-instance courts, which found some deficiencies and proposed appropriate

³¹ Opinion of the Personal Data Protection Agency no. 03-1-37-2-888-2/13 RK

measures to improve the organisation and performance of these enforcement departments. This activity involved the following five courts:

- Basic Court in Banja Luka,
- Basic Court in Bijeljina,
- Municipal Court in Mostar,
- Municipal Court in Tuzla, and
- Municipal Court in Zenica.

The following types of data were processed for this analysis:

- case statistics for each pilot court, and the rate of resolution of case inflows in each court,
- number of judges, legal associates and bailiffs working on enforcement cases,
- the court's level of technical equipment,
- modality of (organisation of) the work and of the monitoring of bailiffs' performance,
- description of duties of a bailiff, short description of the practical aspects of conducting inventories, estimates and sales of movable property, and
- manner and rate of success of sales of seized assets, and similar data that affect (non-) efficiency of the enforcement procedure.

This analysis defined a series of proposals and recommendations to improve the performance of enforcement departments that can be applied to all first-instance courts in BiH, the most important being:

- drafting of appropriate plans in each court (plans of distribution or reassignment of enforcement cases in courts, plans to resolve utility cases, plans to train bailiffs),
- allowing transfer (delegation) of certain duties and tasks from judges to typists or legal trainees, or from typists to legal trainees,
- introduction of permanent professional training of bailiffs, because the effectiveness of the enforcement procedure depends on their skills and capabilities,
- harmonisation of case law and perspectives of various courts regarding the implementation of the enforcement procedure,
- defining a clear, unified and transparent *Enforcement Cost List*, that would be made available to parties,
- securing adequate premises at the courts for receiving parties, conducting hearings and performing other operations in the process of implementing the enforcement procedure,
- improving the sale of movable property by advertising on the courts' Internet portals.

Implementation of the defined conclusions, recommendations and proposals generated on the basis of this analysis would enhance the efficiency of the enforcement procedure and improve the performance of bailiffs.

4.1.6.5. Initiation of a public dialogue on identification of an optimum model for a systemic solution for the enforcement procedure

In 2018, the HJPC BiH implemented extensive activities to open a public dialogue on identification of an optimal model for a systemic solution of the enforcement procedure.

Pursuant to the conclusions and recommendations of the European Commission (adopted in the Sub-Committee for Justice, Freedom and Security, and related to improvement of the enforcement procedure), the HJPC BiH initiated cooperation with the BiH Ministry of Justice, which resulted in the creation of the Working Group for improvement of the enforcement procedure and revision of the Laws on enforcement procedure in BiH (the Working Group). The members of the Working Group are representatives of the competent ministries of justice of BiH and the entities, of the Judiciary Commission of the Brcko District of BiH, of the judicial community and the HJPC BiH.

The task of the Working Group was divided into two segments:

- defining an adequate model of the enforcement procedure applicable in Bosnia and Herzegovina and
- preparation of a comprehensive revision of the laws on enforcement procedure in BiH.

To implement this task, in the course of 2018, the Working Group held four meetings and adopted pertinent conclusions. To find a suitable model of the enforcement procedure, the systems of the countries in the region and Eu were studied, particularly those systems where the court enforcement system had been replaced with the system of public or private enforcement agents.

The Working Group analysed the laws on enforcement procedure in BiH and prepared a set of proposed amendments to these laws that would contribute to a reduction of the duration of the enforcement procedure and, ultimately, to the reduction of the number of enforcement cases in the courts. With the assistance of the BiH Ministry of Justice, this proposal will be submitted to competent ministries for subsequent procedure.

In the course of 2018, the HJPC BiH participated in the Peer Review on Enforcement in Bosnia and Herzegovina conducted by the European Commission, and the recommendations and conclusions adopted by this mission will define the course of further reform of the enforcement procedure and the activities of the Working Group.

4.1.7. Improving gender equality in the judiciary

As a signatory of numerous international documents on human rights and freedoms, and as a state whose Constitution guarantees the highest level of internationally recognised human rights and freedoms, Bosnia and Herzegovina is required to uphold the principle of gender equality and strive actively for its establishment, as well as to ensure exercise of all human rights and fundamental freedoms for all, without discrimination on any grounds.

In light of the judiciary's crucial role in safeguarding human rights and fundamental freedoms, and in order to introduce and enforce adequate measure to achieve gender equality in the BiH judiciary, and to improve the position of vulnerable groups in contact with the judiciary, before all else it is essential to conduct an analysis of the situation in the judiciary.

As a first step towards implementation of appropriate activities to improve gender equality in the judiciary, in 2018, under the Project "Improving the Efficiency of Courts and Accountability of Judges and Prosecutors in BiH" – Phase II, funded by the Government of Sweden, the HJPC BiH conducted an anonymous survey among judges, support staff and other parties (lawyers, prosecutors, expert witnesses and notaries-public) to determine the views of the BiH judiciary on gender equality.

A total of 969 respondents took part in this survey, and they shared their views on the ways courts handle proceedings and parties, equality of salaries and career advancement prospects, various gender biases, as well as their personal experiences (gender biases, sexual and gender-based harassment), etc. The analysis of the survey's results revealed that a majority of respondents felt that the awareness of gender equality within the judiciary was on an intermediate level, and that gender equality in the judiciary is an important issue which should be addressed appropriately, and consequently, in the coming period the HJPC BiH would embark on drafting a strategy to improve gender equality in the BiH judiciary.

The HJPC BiH recognised the importance of prevention and response to gender-based violence in BiH, which was demonstrated through its support to the expert groups for establishment of multisectoral cooperation in the field of gender-based violence, whose work aims to improve the position of the injured parties/victims of gender-based violence in criminal proceedings. To increase awareness of these issues in the entire BiH judiciary, the HJPC BiH conducted preparatory activities to organise a TAIEX workshop on gender-based violence and equal access to justice, to be held in March 2019. The purpose of this workshop would be to exchange experiences and best practices in this field between EU Member States and the regional non-EU countries, as well as to raise awareness of these issues, and it would be

attended by over 100 representatives of the BiH judiciary, EU Delegation to BiH, Embassy of Sweden, responsible executive authorities and relevant civil society organisations.

In addition, the HJPC BiH continued to hold trainings on gender-equality topics, both for judicial office holders and for the staff of the HJPC BiH. As part of these activities, a seminar entitled “Gender Bias in Labour Relations and Application of Laws” was held at the Basic Court in Bijeljina for its employees to learn about how to recognise and eliminate gender bias and various forms of gender-based discrimination and sexual harassment in the work environment. Also, the entity JPTCs, in cooperation with the Women’s Right Centre (Zenica) and Women United (Banja Luka), held two seminars in Neum on the topic “Gender (In)equality: Biases and Stereotypes”. Besides, the training entitled “Gender Mainstreaming in the Work of Judicial Institutions”, in cooperation with the Atlantic Initiative.

Images 9 and 10: Seminars on the topic: “Gender (In)equality: Biases and Stereotypes” organised by the entity Judges and Prosecutors’ Training Centres in Neum



Lastly, upon the initiative of the HJPC BiH, an initial training was organised for newly appointed advisors for prevention of sexual and gender-based harassment in the judicial institutions in BiH³². The initial training was held for advisors from twelve judicial institutions, and it was used to acquaint them with the concepts of sexual and gender-based harassment, its forms and repercussions, and their role in preventing sexual and gender-based harassment in the judicial institutions in BiH.

Images 11 and 12: Initial training for newly appointed advisors for prevention of sexual and gender-based harassment in the judicial institutions in BiH



4.1.8. Support to the exercise of the rights of vulnerable groups before the judiciary

To identify the areas in which to support vulnerable groups (persons with disabilities, Roma, LGBT persons, children and marginalised categories of women), in contact with the judiciary, the HJPC BiH prepared proposals of the activities to support these groups, and established cooperation with the competent state institution, as well as non-governmental and international organisations involved in these issues, to identify the segments where there is interaction with the judiciary, and in which the vulnerable groups have the greatest need for support.

³² Advisors for prevention of sexual and gender-based violence are appointed in all judicial institutions in BiH pursuant to the Guidelines for prevention of sexual and gender-based violence in the judicial institutions in BiH, adopted by the HJPC BiH in 2015.

To adopt an appropriate program of measures to support persons with diminished physical capabilities, i.e. persons with disabilities, as a distinct vulnerable group, the HJPC BiH launched an analysis of the situation in the judiciary, i.e. an assessment of the degree of architectural and functional accessibility of the buildings housing the courts and prosecutor offices for persons with disabilities. The analysis in question was conducted by means of a questionnaire filled in by judicial institutions, and its results would be the basis for development of a proposed set of activities intended to eliminate identified barriers to access the buildings of judicial institutions.

To mark the international days (April 8th – International Roma Day, May 17th – International Day against Homophobia, Biphobia and Transphobia, November 20th – International Children's day, December 3rd – International Day of Persons with Disabilities) of significance for vulnerable groups, the HJPC BiH issued commemorative press releases, thereby joining the efforts of state institutions and the non-governmental sector to secure access to justice for all persons, without discrimination, and noted that it would take appropriate activities to support vulnerable groups in exercising their rights, access to the judiciary, and contacts with the courts.

Within the scope of these activities the HJPC BiH established cooperation with relevant non-governmental and international organisations, aware of the significance of their respective roles in the development of society, and of the fact that these organisations give voice to the vulnerable groups they represent, all in order to plan and implement activities that would effectively enhance the position of vulnerable groups in contact with the judiciary.

4.1.9. Improving services to citizens through reconstruction and renovation of judicial institutions

4.1.9.1. Construction of a new building in Olovo, to house the Branch Office of the Municipal Court in Visoko

Using the funding provided by the Government of Norway through the “Improvement of Judicial Efficiency” Project (IJEP II), the HJPC BiH continued its activities on reconstructing and modernisation of judicial institutions in Bosnia and Herzegovina, with the completion of the construction of a completely new building in Olovo in May 2018, and this building now houses the Branch Office of the Municipal Court in Visoko.

The Branch Office of the Court in Olovo had, prior to the construction of the new building, been located in a building erected in 1932. The condition of this building was quite poor. According to the assessment of the physical condition of all judicial facilities in Bosnia and Herzegovina, the building of the Court in Olovo was assessed as the poorest. Business processes were performed with difficulties, and the condition of the building endangered both the staff and the clients. The assessment of its condition confirmed that the existing building could not be rebuild without considerable investment, and, on the other hand, the very location was unsuitable, as it was immediately adjacent to the primary road. Taking into account these considerations, the HJPC BiH accorded the Branch Office in Olovo the top priority for capital investment.

Image 13: Entrance into the old Branch Office Image 14: Old building of the Branch Office



On several occasions, the HJPC BiH tried to secure funding for construction of a new building. All efforts remained unsuccessful until spring 2017, when, at the initiative of the HJPC BiH, the Government of Norway supported the proposal to use the IJEP II project to build and equip the new building of the Court's Branch Office.

At the proposal of the HJPC BiH, through the IJEP II the Government of Norway supported the modernisation of the judicial institutions to enhance the operational efficiency and improve services for citizens, and the construction and equipping of the new building of the Olovo Branch Office of the Municipal Court in Visoko was included in the implementation of IJEP II. The value of the contract to provide works on the construction of the new building was 620,000 km, with 35,000 KM allocated for procurement of furniture and equipment.

The Government of the Zenica-Doboj Canton allocated the funding for the preparation of the project documents, for issuance of necessary construction permits, and funded the development of the land in the building's vicinity, while the Municipality of Olovo ceded the land plot.

The construction works began on October 18, 2017, and were completed in May 2018. The inaugural ceremony for the opening of the new building of the Olovo Branch Office of the Municipal Court in Visoko took place in June 2018.

Images 15 and 16: Inaugural ceremony for the opening of the new Court Branch Office in Olovo



The new building of the Branch Office in Olovo has around 600 m² of functionally organised premises. A modern registry and archive offices were built. The building has two modern courtrooms, judges' offices, and the infrastructure for persons with disabilities was installed. A detention unit was installed in the Court Police room, and security cameras were installed. The entire building was furnished with new furniture. The Court's Branch Office received an energy efficient building, due to quality joinery, heat-insulation facade, heat-insulated roof and a new energy efficient pellet-based building heating system, which is also environmentally friendly.

Regardless of the size of the project and the institution, this construction project symbolically showed a major step forward in terms of improvement of working conditions and provision of better conditions for citizens in Bosnia and Herzegovina, because this was a resolution of the problem of an institution which was housed in the poorest building in Bosnia and Herzegovina.

Preparation of design documentation for IPA 2017 Programme for the Municipal Court in Zenica

The HJPC BiH provided continuous technical support to the European Union Delegation in BiH with the preparations for the implementation of the IPA 2017 Programme. The alterations of the design documentation for the construction of the annex to the building of the Municipal Court in Zenica, as well as the reconstruction of the existing building of the Municipal Court in Zenica were carried out within the framework of the implementation of IJEP II, funded by the Government of Norway, i.e. of the project component related to the modernization of court facilities in 2018. The existing design documentation, which was prepared with the funding of the Ministry of Justice and Administration of the Zenica-Doboj Canton in 2011, needed to be aligned with the available budget planned for construction through the IPA 2017 Programme. The design documentation envisaged expansion of the Municipal Court in Zenica by around

2,400 m² through addition of an annex to the building, as well as a reconstruction of the ground floor and a part of the basement of the existing building to create premises with improved functionality by separating court offices from administrative and services for the public, establishing circulation, waiting, information, and services areas, and permitting easier access and movement of citizens within the building. The Government of Norway set aside 27,000 KM for the alterations of the design documentation.

Building and reconstruction of judicial institutions in BiH under IPA 2013 and IPA 2015 programmes

Within IPA 2013, the construction of the new building of the Cantonal Court in Bihać was completed in March 2018. With this project, the Cantonal Court in Bihać received a building with 2,300 m² of functionally organised useful floor area. The basement houses the archives, court police with detention units and official parking space. A functional and accessible registry office and a large courtroom with the witness protection area are on the ground floor. Disabled access has been provided. Two courtrooms and court administration offices and judges chambers are on the first floor, and just judges' chambers on the second.

Image 17: Functionally furnished courtroom in the Cantonal Court in Bihać



Image 18: Building of the Cantonal Court in Bihać



This project created better and more efficient conditions for work of judicial office holders to ensure more effective operations, improved performance, higher quality of services, while at the same time facilitating access for citizen who use court services.

Under the IPA 2015 Programme, the following construction and reconstruction works on judicial institutions in BiH were initiated in the spring of 2018:

- reconstruction and expansion of the building of the District Prosecutor's Office in East Sarajevo,
- by end-2018, the construction works were completed on the expansion of the upper floor, of the sloped roof, while the specialist works on reconstruction of the ground and first floor were partially completed. The work on the facade was under way. The completion of the works is planned for mid-2019,
- construction of the new building of the Municipal Court in Tuzla,
- by end-2018, the reinforced-concrete and masonry works in the basement, ground and first floor were completed. The works are planned to be completed in the fall of 2019,
- reconstruction of the existing building housing the Cantonal Prosecutor's Office in Tuzla, as well as the Cantonal Court in Tuzla,
- by end-2018, most of the planned works were completed, and the specialist construction and installation works on the floors were under way. It was planned to complete the works by mid-2019,
- construction of the Palace of Justice in Trebinje,
- by end-2018, the construction works were completed, and some installation works. The works on the façade were under way. It was planned to complete the works by mid-2019.

Image 19: Building of the Palace of Justice in Trebinje



- reconstruction of the Basic Court in Foča,
- by end-2018, the construction and specialist works on one wing and the building's façade were completed, while the works on the other wing were continuing. It was planned to complete the works by mid-2019,
- reconstruction and expansion of the building of the Municipal Court in Ljubuški,
- by mid-2018, the construction works on the expansion of the upper floor, sloped roof were completed, and the specialist works on the reconstruction of the ground, first and second floor were partially completed. The works on the building's façade were under way. It was planned to complete the works by mid-2019.

Image 20: Works on the facade of the building of the Municipal Court in Ljubuški

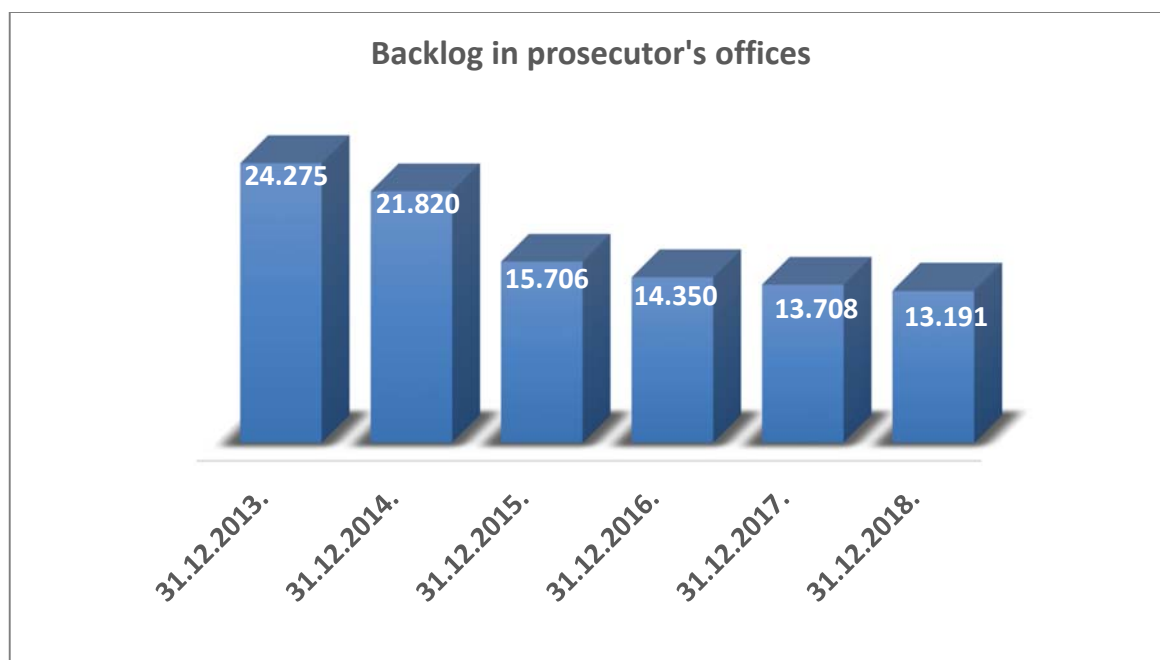


4.2. Efficiency of Prosecutor's Offices

In line with its competencies, the HJPC is regularly monitoring the efficiency of all prosecutor's offices throughout Bosnia and Herzegovina.

According to 2018 data, there is a visible downward trend in all prosecutor's offices in terms of pending KT cases (cases with known perpetrators). Accordingly, as at 31 December 2018, there were 13,191 pending KT cases, which was 4% less compared to 31 December 2016, when this figure amounted to 13,708.

Graph 6



In 2018, prosecutors offices filed 12,201 indictments, of which 218 indictments involving corruption-related crimes, which is 6% more than the number of indictments filed for corruption-related crimes in 2017, i.e. 231.

The project *Strengthening Prosecutorial Capacities in the Criminal Justice System* provides continuous support to the Standing Committee for the Efficiency of Prosecutor's Offices, which held 24 meetings in 2018 to discuss current issues pertaining to the work of prosecutors, as well as the issues falling within the remit of the Standing Committee for the Efficiency of Prosecutor's Offices, as set forth in the decision establishing it.

The Standing Committee for the Efficiency of Prosecutor's Offices took the lead in the preparation of the Action Plan for the implementation of the European Commission's Peer Review recommendations in the areas of corruption, organised crime and money laundering. In 2018, the activities of the project were focused on implementation of this Action Plan. More details are provided in the relevant chapter of the report relating to European integration and the implementation of Peer Review recommendations.

At the proposal of the Standing Committee for the Efficiency of Prosecutor's Offices, at its meeting held on 8 and 9 November 2018, the HJPC adopted a definition of high-profile corruption and high-profile organised crime, as per request of the Commission's Directorate-General for Neighbourhood and Enlargement Negotiation. The purpose of the definition is to ensure more accurate statistical monitoring of individual high-profile corruption and organised crime cases.

In 2018, the current *Uniform List of Corruption Offences* encompassed by all criminal codes in Bosnia and Herzegovina was amended. The Standing Committee for the Efficiency of

Prosecutor's Offices has aligned the current *Uniform List of Corruption Offences* with the new Criminal Code of the RS from 2017, as well as with the amendments made to the other three criminal code following the adoption of the *Uniform List of Corruption Offences* in 2015.

Members of the Standing Committee for the Efficiency of Prosecutor's Offices continued with their established practice of communicating with chief prosecutors through visits to individual prosecutor's offices and holding joint meetings with all chief prosecutors.

In 2018, the Standing Committee for the Efficiency of Prosecutor's Offices discussed other significant issues pertaining to the efficiency and quality of prosecutors' work.

Following the impact assessment of the current territorial organisation of prosecutors' offices on the use of working time and associated costs, which was prepared in 2016 by the *Strengthening Prosecutorial Capacities in the Criminal Justice System* project, and the HJPC conclusions thereafter, in 2018 a dialogue with the relevant ministries was launched in order to determine further course of action. An updated impact assessment of the territorial organisation of the prosecutor's offices will serve as a basis for further activities in this area.

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. The *Strengthening Prosecutorial Capacities in the Criminal Justice System* project, in partnership with USAID Justice Project, in 2018 continued to support the meetings of chief prosecutors of FBiH and chief prosecutors of the RS. A 2018 - 2020 strategic framework for the prosecutorial system of FBiH and the RS was agreed and developed, which serves as a basis for identification of common action areas, greater efficiency in achieving common goals by all employees, as well as for developing annual plans for each prosecutor's office for 2018.

In 2018, in cooperation with the Prosecutor's Office of BiH, the 2018-2020 Strategic Plan of the Prosecutor's Office of BiH was drafted and adopted.

4.2.1. Situation analysis and backlog reduction measures for the prosecutor's offices

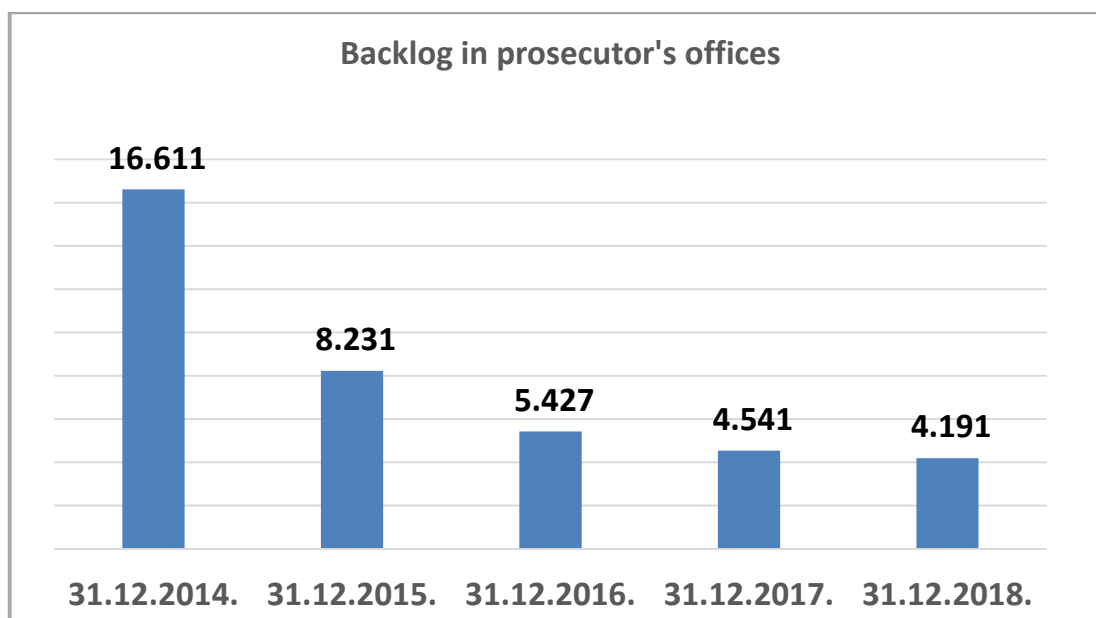
All prosecutor's offices that have old pending cases passed backlog reduction plans in 2018, as prescribed with the current Instruction for drafting backlog reduction plans in prosecutor's offices in BiH.

At the end of 2018, the overall plan realisation rate all of the prosecutor's offices in BiH was 78%.

Throughout 2018, the prosecutor's offices in BiH completed 2,751 old cases i.e. cases over two years old.

The total number of pending old cases in the prosecutor's offices in BiH as at 31 December 2018 (4,191) was 75% less than the total number of pending old cases as at 31 December 2014 (16,611).

Graph 7



The employment of 28 additional legal associates in 9 prosecutor's offices within the framework of the *Strengthening Prosecutorial Capacities in the Criminal Justice System* project has significantly contributed to backlog reduction in prosecutor's offices.

4.2.2. Improving joint work of police and prosecutors

Successful cooperation between the prosecution and law enforcement agencies is a key factor for the successful operations of prosecutor's offices in BiH. Within the framework of the *Strengthening Prosecutorial Capacities in the Criminal Justice System* project, the HJPC works on two levels to address this matter - strategic and operative.

In 2018, the project provided support to four meetings of the Strategic Forum of prosecutors and law enforcement agencies attended by the Chief Prosecutor of BiH, Chief Prosecutor of the FBiH Prosecutor's Office, Chief Prosecutor of the RS Public Prosecutor's Office and Chief Prosecutor of the Brcko District Prosecutor's Office, Director of the State Investigation and Protection Agency, Director of the FBiH Police Directorate, Director of the RS Police and Chief of the Brcko District Police.

This strategic forum discusses the issues relevant for the effective work and cooperation between prosecutors and police, and in 2018 the focus of was on:

- the prevention of *ne bis in idem* principle violations³³
- setting procedures for handling anonymous crime reports and amending the Instructions on cooperation of prosecutors and law enforcement officers in conducting an investigation,
- harmonisation of case records held by police and prosecutor's offices,
- proposing changes to criminal procedure codes so as to enable teams to actively seek fugitives to be formed more effectively,
- best practices in conducting financial investigations and
- the commitments of these institutions in implementing the Peer Review recommendations of the European Commission.

Regarding police-prosecution operational cooperation, the *Strengthening Prosecutorial Capacities in the Criminal Justice System* project has supported the establishment of an operational forum for cooperation between the Prosecutor's Office of BiH and the State

³³ No one shall be tried again for an offence for which he or she has already been tried.

Investigation and Protection Agency. By signing the Protocol on Cooperation between the two institutions, the modalities of cooperation are more precisely defined and the efforts of these institutions to conduct joint training, form joint teams, jointly create work plans and the like intensified. By establishing an operational forum for cooperation between the Prosecutor's Office of BiH and the State Investigation and Protection Agency, the process of establishing operational forums for cooperation between all police agencies and prosecutor's offices in BiH has been finalised. A total of 17 such operational forums have been established in BiH.

In order to ensure the sustainability of training and improve the skills of law enforcement officers and prosecutors in other areas as well, in the course of 2017, the HJPC developed and distributed an educational brochure on "Obtaining Lawful Evidence in Criminal Proceedings". In 2018, two training events on how to obtain lawful evidence were held for about 60 law enforcement officers from all police agencies.

In order to increase the awareness of prosecutors about the forensic capacities in BiH, the HJPC, in cooperation with institutions active in the field of forensic sciences, produced and distributed an informative brochure "Guide to Forensic Capacities in BiH" containing basic information, definitions, contact information and guidelines for prosecutors on the types of expertise and capacities of all competent institutions in BiH. In 2018, training for prosecutors and law enforcement officers on the application of forensic science in conducting investigations was held and similar training events will continue in the forthcoming period.

Throughout 2018, the *Strengthening Prosecutorial Capacities in the Criminal Justice System* project continued with promoting the practice of establishing standing joint investigation teams of prosecutors and police, where in addition to the previously established teams in Banja Luka, Sarajevo and Zenica, at the end of 2018, a decision was made to establish standing joint investigation teams of the Doboj District Prosecutor's Office and Doboj Police Directorate to deal with economic, organised crime and corruption cases.

4.2.3. Transparency of the work of prosecutors' offices, support to non-governmental organisations and associations of prosecutors

Through the "Strengthening Prosecutorial Capacities" Project, the HJPC implemented a series of activities to improve the quality of services, increase responsibilities and overall treatment of persons that get in contact with the prosecution system.

Quantitative monitoring of the implementation of the Strategy for Treatment of Persons in Contact with Prosecutors' Offices continued during this reporting period through a specifically established reporting mechanism. The current rate of implementation of the strategy for 2018 was 46%.

The support and monitoring of the partnership with the representatives of non-governmental organisations that supported prosecutors' offices in a more efficient implementation of the strategy. This support by the representatives of non-governmental organisations focused on the segments of increasing transparency of prosecutors' offices, support to victims and witnesses and increased interaction of prosecutors' offices with local communities. The following results were achieved using the expertise of the above mentioned NGOs: six short videoclips about the work of prosecutors' offices were produced for public dissemination, the Guidelines for prosecutors and prosecutorial staff for sensitised treatment of victims and witnesses were developed, as well as an informational brochure for citizens.

The aspect of public relations of the police and prosecutors' offices was further improved, with the continuation in 2018 of the practice of holding regular meetings and workshops for spokespersons of prosecutors' offices and law enforcement agencies. Training activities with students of journalism continued to contribute to a higher quality of reporting about the judiciary, and a Manual on Reporting on the Judiciary, containing the standards of professional, unbiased and ethical reporting, was developed.

Having been previously adopted by the HJPC, the implementation of the mechanisms to measure timeliness and quality of information the prosecutors' offices shared with the public commenced in 2018.

To promote crime prevention, in cooperation with the Ministry of Interior and Ministry of Education, Science and Youth of the Sarajevo Canton, learning activities were held in 70 elementary schools in the Sarajevo Canton to raise awareness to prevent unlawful conduct.

4.2.4. Increasing efficiency of operation of prosecutors' offices through reconstruction, renovations and equipping of judicial institutions

In 2018, procurement of certain quantities of equipment, as well as of works were funded by the "Strengthening the Capacity of Prosecutors in the Criminal Justice System" Project to help create the conditions for prosecutors to implement the Strategy for Treatment of Persons in Contact with Prosecutors' Offices, and to permit more efficient performance of regular tasks.

Through this channel, in 2018 prosecutors' offices in BiH, besides obtaining some IT equipment, continued to receive deliveries of electric platforms for transporting persons with developmental difficulties, videoconferencing equipment and video equipment for interviewing minors, and also procured some IT equipment for the police department that conducts community policing activities.

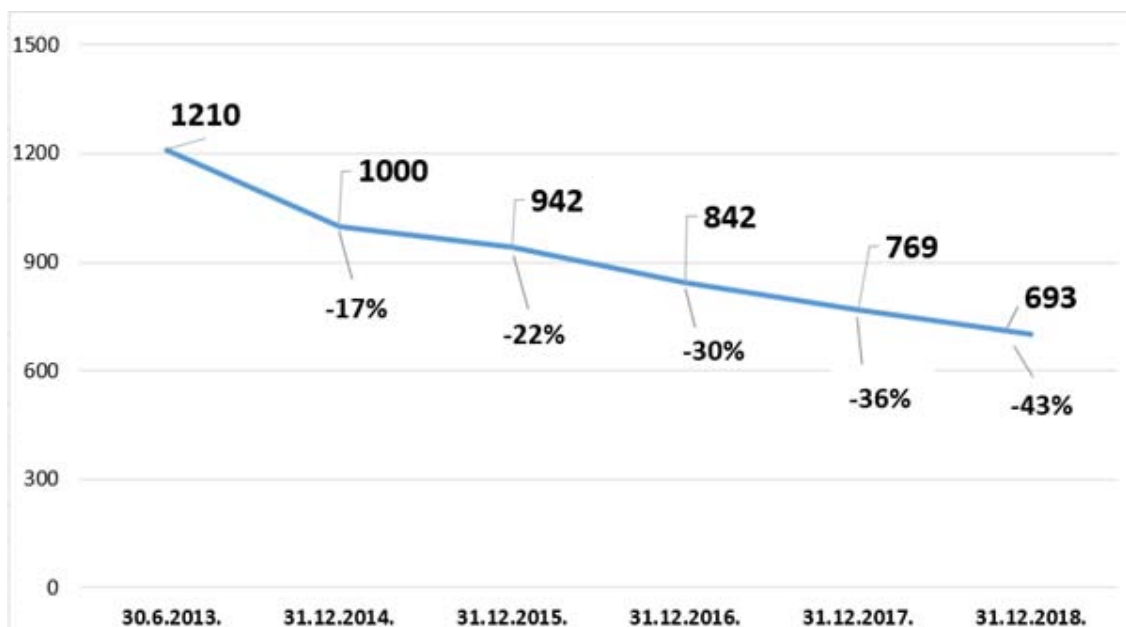
4.2.5. A Brief on the "Enhancing the Processing of War Crimes in BiH" project (IPA 2013 project), project activities, and the results in processing war crimes in prosecutors' offices in BiH

Regarding war crimes cases, in 2018 the HJPC BiH continued to implement the activities under the "Enhancing the Processing of War Crimes in BiH" project, to improve performance in processing of the cases of this type. In the course of implementation of relevant activities, the HJPC BiH, along with the specialist and technical support to the Supervisory Body for the Implementation of the National War Crimes Processing Strategy, and within its competences, undertook a series of measures directed to improve the dynamics of processing and achievement of project objectives. Consequently, at the end of 2018, the project objective – reduction of the backlog of unsolved war crimes cases with known suspects in prosecutors' offices (so-called KTRZ cases) by 50 percent over five years – by 43 percent³⁴. Namely, as of December 31st, 2018, the prosecutors' offices – beneficiaries of the "Enhancing the Processing of War Crimes in BiH" project had a total backlog of 693 KTRZ cases³⁵.

³⁴ The stated rate of achievement of the project objective was achieved relative to the base line of 1,210 unsolved KTRZ cases registered in June 2013. More information about this project is included in Chapter 1 – European Integration – the "Projects funded by the EU" section.

³⁵ The Prosecutor's Office of the Brčko District of Bosnia and Herzegovina, District Prosecutor's Office in Prijedor and Cantonal Prosecutor's Office of the Western-Bosnia Canton and Cantonal Prosecutor's Office of the Bosnian Podrinje Canton are not beneficiaries of this project. As of December 31st, 2018, these prosecutors' offices together had a total backlog of five KTRZ cases. Taking into account the number of unresolved cases in beneficiary prosecutors' offices, as of end-2018, the BiH judiciary recorded a total backlog of 698 unresolved KTRZ cases.

Graph 8: Dynamics of processing of KTRZ war crimes cases between June 30th of 2013 and December 31st, 2018.



In addition, having analysed the trends of the implementation of war crimes resolution plans of all prosecutors' offices in BiH, the HJPC BiH adapted the modalities of development and revision of plans to the need to reduce the backlog of war crimes cases, and the need for greater objectivity in the evaluation of the performance of prosecutors' offices, i.e. of the prosecutors working on these cases. The plans to resolve war crimes cases are developed in order to prioritise the processing of complex cases and ensure effective planning of the work of prosecutors' offices.

Chapter 5: JUDICIAL INSTITUTIONS' PERFORMANCE QUALITY

5.1. Indicators for the performance quality of the courts in 2018

This section of the annual report shows data on the quality of court decisions for 2018, as calculated by courts in line with the HJPC BiH criteria³⁶. Apart from the said data, the report in this section separately shows statistical indicators on the outcomes of proceedings in 2018, that were finalised upon a legal remedy with higher instance courts (data on appealed decisions). These indicators on 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 in 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 the 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 2018, the courts in Bosnia and Herzegovina achieved the following performance quality results:

Table 10: Quality of courts performance

Court	Performance quality for 2017	Performance quality for 2018
The Court of Bosnia and Herzegovina	92%	95%
Banja Luka High Commercial Court	88%	88%
Cantonal Courts	92%	92%
District Courts	90%	90%
District Commercial Courts	76%	90%
Municipal Courts	91%	91%
Basic Courts	85%	86%
Basic Court of the Brcko District BiH	90%	90%

Statistical indicators for appealed decisions

This section of the annual report shows statistical indicators for appealed decisions (decisions against which legal remedies have been filed).

The Court of Bosnia and Herzegovina

911 (87%) appealed decisions were upheld, 70 (7%) were modified, 46 (4%) reversed, while 26 (2%) 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:

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

Table 11: The Court of Bosnia and Herzegovina

Division:	Percentage of upheld decisions		Percentage of modified decisions		Percentage of reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Criminal	85%	89%	7%	7%	6%	3%	2%	1%
Section I	79%	85%	9%	10%	6%	3%	6%	2%
Section II	86%	88%	7%	7%	6%	4%	1%	1%
Section III	87%	94%	6%	5%	7%	1%	0%	0%
Administrative	71%	85%	13%	7%	7%	5%	9%	3%
Appellate	87%	87%	4%	4%	9%	3%	0%	6%

Cantonal and District Courts

2,883 (80%) appealed decisions of cantonal courts were upheld, 317 (9%) were modified, 316 (9%) reversed, while 108 (3%) were reversed in part.

1,127 (72%) appealed decisions of district courts were upheld, 273 (18%) were modified, 140 (9%) reversed, while 20 (1%) 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 12: Cantonal courts

Case type	Percentage of upheld decisions		Percentage of modified decisions		Percentage of reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Civil	84%	84%	11%	8%	4%	4%	1%	4%
Criminal	66%	70%	4%	5%	27%	23%	3%	2%
Administrative	70%	78%	23%	16%	7%	6%	0%	0%

Table 13: District courts

Case type	Percentage of upheld decisions		Percentage of modified decisions		Percentage of reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Civil	66%	65%	19%	15%	11%	16%	4%	4%
Criminal	86%	85%	4%	7%	10%	8%	0%	0%
Administrative	66%	71%	20%	23%	14%	6%	0%	0%

Commercial Courts

872 (79%) appealed decisions of district courts were upheld, 106 (10%) were modified, 126 (11%) reversed, while 24 (2%) were reversed in part. Statistical indicators for appealed decisions are shown in the following table according to case type:

Table 14: District commercial courts

Case type	Percentage of upheld decisions		Percentage of modified decisions		Percentage of reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Commercial	76%	80%	12%	11%	12%	9%	0%	0%
Enforcement	80%	77%	2%	4%	18%	19%	0%	0%
Non-contentious	67%	56%	11%	11%	22%	33%	0%	0%
Registration of business entities	56%	86%	33%	0%	11%	14%	0%	0%

Municipal and Basic Courts

17,144 (76%) appealed decisions of municipal courts were upheld, 2,596 (12%) were modified, 2,421 (11%) reversed, while 324 (1%) were reversed in part.

6,663 (70%) appealed decisions of municipal courts were upheld, 1,209 (13%) were modified, 1,498 (16%) reversed, while 108 (1%) were reversed in part.

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

Table 15: Municipal Courts

Case type	Percentage of upheld decisions		Percentage of modified decisions		Percentage of reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Civil	71%	74%	18%	15%	9%	9%	2%	2%
Commercial	77%	78%	9%	9%	13%	12%	1%	1%
Criminal	68%	71%	14%	13%	17%	15%	1%	1%
Enforcement	85%	81%	3%	5%	11%	13%	1%	1%
Other	80%	81%	12%	10%	8%	9%	0%	0%

Table 16: Basic courts

Case type	Percentage of upheld decisions		Percentage of modified decisions		Percentage reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Civil	71%	71%	13%	14%	14%	13%	2%	2%
Criminal	63%	59%	18%	21%	18%	20%	1%	0%
Enforcement	76%	74%	4%	7%	19%	18%	1%	1%
Other	70%	71%	7%	9%	22%	19%	1%	1%

Basic Court of the Brcko District Bosnia and Herzegovina

783 (78%) appealed decisions were upheld, 90 (9%) were modified, 137 (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 17: Basic Court of the Brcko District Bosnia and Herzegovina

Case type	Percentage of upheld decisions		Percentage of modified decisions		Percentage reversed decisions		Percentage of partially reversed decisions	
	2017	2018	2017	2018	2017	2018	2017	2018
Civil	76%	76%	9%	9%	14%	15%	1%	0%
Commercial	73%	88%	9%	0%	12%	12%	6%	0%
Criminal	74%	70%	16%	20%	10%	10%	0%	0%
Enforcement	85%	83%	0%	1%	15%	16%	0%	0%
Other	71%	76%	15%	12%	14%	12%	0%	0%

5.2. Performance quality indicators for prosecutor's offices in 2018

This section of the annual report shows data on the quality of prosecutorial decisions for 2018, as calculated by prosecutor's offices in line with the HJPC BiH criteria³⁷. Apart from the said data, this section separately shows the statistical indicators for final court decisions rendered in 2018, 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. Court decisions quality according to the HJPC criteria

Criteria for calculating the performance quality for prosecutor's offices

The quality of prosecutorial decisions is calculated based on the HJPC criteria³⁸. The quality of prosecutor indictments is determined based on the total number of indictments filed and the total number of legally binding verdicts rejecting the charges, acquitting the accused as well as based on the number of legally binding decisions rejecting indictments in relation 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 legally binding verdicts rejecting the charges and acquitting the accused in relation to the total number of indictments issued. 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 made during the reporting period and the total number of decisions upholding the complaints filed by the injured parties or the 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 in relation to indictment quality and the quality of orders not to conduct and to discontinue investigations.

Indictment quality

In 2018, the prosecutor's offices in Bosnia and Herzegovina achieved following indictment quality results:

³⁸ Article 19 21. for the Performance Evaluation of Judges in Bosnia and Herzegovina.

Table 18: Indictment quality in prosecutor's offices

Prosecutor's Office	Indictment quality 2017	Indictment quality 2018
The Prosecutor's Office of BiH	94%	93%
Cantonal Prosecutor's Offices	96%	97%
District Prosecutor's Offices	94%	95%
Special Department of the RS PO	100%	91%
The Prosecutors Office of the Brcko District BiH	94%	96%

Quality of orders not to investigate and orders to terminate investigation

In 2018, the prosecutor's offices in Bosnia and Herzegovina achieved following results in terms of quality of orders not to conduct and discontinue investigations:

Table 19: (Quality of orders not to investigate and orders to terminate investigation)

Prosecutor's Office	(Quality of orders not to investigate and orders to terminate investigation)	(Quality of orders not to investigate and orders to terminate investigation)
The Prosecutor's Office of BiH	98%	100%
Cantonal Prosecutor's Offices	99%	99%
District Prosecutor's Offices	100%	100%
Special Department of the RS PO	100%	99%
The Prosecutors Office of the Brcko District BiH	100%	100%

5.2.2. Statistical indicators on court decisions³⁹

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

The Court of Bosnia and Herzegovina

Of the total number of legally binding court decisions, in 2018, 145 (87%) were convictions, while dismissals, acquittals and decisions rejecting indictments accounted for 22 cases (13%). The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 20: Statistical indicators for court decisions pursuant to indictments from the 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	
KT	42	35	83%	0	0%	4	10%	3	7%
KTK	8	6	75%	1	13%	1	13%	0	0%

³⁹ In cases involving juvenile perpetrators of criminal offences (KTM), courts granted 99% of filed motions for developmental measures and juvenile imprisonment.

KTO	10	9	90%	0	0%	1	10%	0	0%
KTPO	87	83	95%	1	1%	3	3%	0	0%
KTRZ	18	10	56%	0	0%	8	44%	0	0%
KTT	2	2	100%	0	0%	0	0%	0	0%

Cantonal Prosecutor's Offices

Of the total number of legally binding court decisions in 2018, 7,039 (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 285 (4%) cases. The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 21: 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	
KT	7,071	6,808	96%	42	1%	215	3%	6	0%
KTK	93	84	90%	0	0%	8	9%	1	1%
KTO	8	8	100%	0	0%	0	0%	0	0%
KTPO	143	130	91%	0	0%	13	9%	0	0%
KTRZ	9	9	100%	0	0%	0	0%	0	0%

District Prosecutor's Offices

Of the total number of legally binding court decisions in 2018, 2,919 (93%) 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 219 (7%) cases. The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 22: Statistical indicators for court decisions pursuant to indictments from the 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	
KT	3,003	2,797	93%	72	2%	123	4%	11	0%
KTK	32	25	78%	1	3%	6	19%	0	0%
KTPO	99	94	95%	1	1%	4	4%	0	0%
KTRZ	4	3	75%	0	0%	1	25%	0	0%

Special Department of the RS Prosecutor's Office

Of the total number of legally binding court decisions, in 2018, 9 (82%) were convictions, while dismissals, acquittals and decisions rejecting indictments accounted for 2 cases (18%). The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 23: Statistical indicators for court decisions based on 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	
KT	3	3	100%	0	0%	0	0%	0	0%
KTk	4	3	75%	0	0%	1	25%	0	0%
KTO	3	3	100%	0	0%	0	0%	0	0%
KTPO	1	0	0%	0	0%	1	100%	0	0%

The Prosecutors Office of the Brcko District BiH

Of the total number of legally binding court decisions in 2018, 239 (95%) 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 12 (5%) 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 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	
KT	224	219	98%	1	0%	4	2%	0	0%
KTk	14	8	57%	0	0%	6	43%	0	0%
KTPO	13	12	92%	0	0%	1	8%	0	0%

5.3. Judicial training in Bosnia and Herzegovina

The quality of work of the judiciary depends on, inter alia, the quality of training of judicial officeholders, which in Bosnia and Herzegovina, in terms of planning and organization, is primarily entrusted to the Entity Centres for Judicial and Prosecutorial Training, and to a lesser extent to the Judicial Commission of the Brcko District of Bosnia and Herzegovina, while the advisory and supervisory role is entrusted to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina ⁴⁰.

Education is a right and an obligation of every judicial officeholder in our country, and it is essential for the objective, impartial and competent exercise of judicial functions, protection against inappropriate influence, and is extremely important for the harmonization and predictability of case law ⁴¹. Judges and prosecutors, regardless of length of service, attend a number of trainings each year, thus continuously developing and improving their professional knowledge and skills, while induction training is provided to persons who intend to pursue

⁴⁰The HJPC Law provides that the HJPC shall determine induction training for the appointed judges and prosecutors and supervise the implementation of the training, determine the minimum level of professional development programs that each judge and prosecutor must complete during the year, advise the Entity Judicial and Prosecutorial Training Centers in connection with the adoption of induction training and professional development programs, and supervise the implementation of trainings. Additional competencies of the HJPC are laid down in the Law on the Judicial and Prosecutorial Training Center in the Federation of BiH, or the Law on the Judicial and Prosecutorial Training Center in the Republika Srpska.

⁴¹ Opinion of the Consultative Council of European Judges No. 4 and 20

judicial office and to those who are appointed judges or prosecutors for the first time. Through an appropriate training system, the judiciary of Bosnia and Herzegovina seeks to address the challenges that judges and prosecutors face in their day-to-day work, beginning with major or minor legislative amendments, new phenomena in society that get an epilogue in court proceedings, the development of case law in some areas, needs for improving knowledge and skills and the like.

By overseeing the implementation of induction training and professional development of judges and prosecutors over a long period of time, the HJPC in 2018 identified some room for improvement of the training concept and adopted several conclusions at the end of October that would reflect upon the organization and quality of training in 2019.

With regard to the induction training of newly appointed judges and prosecutors, the HJPC emphasized that "the court president is required to enable new judges to attend the full course of induction training at the latest six (6) months upon their taking of office."

The same obligation is incumbent upon the Chief Prosecutor in respect of the newly appointed prosecutors.

In this way, the HJPC seeks to ensure that all new judges and prosecutors receive thorough, effective and uniform induction training within the Entity Training Centres within a short period of time after taking office, and to avoid the current situation in which the newly appointed, in consultation with the Head of Institution, were free to choose which 8 days of training they would attend in the first year after their appointment.

With regard to continuing professional development, the HJPC specified the rule to date regarding the minimum scope of this training in such a way that "other judges and prosecutors are required to complete a minimum of three (3) and a maximum of ten (10) days during a year days of professional development on topics that are related to the cases they are working on.

With this, the HJPC once again emphasized that judicial officeholders should primarily improve knowledge and skills relevant to the cases they are working on.

Exceptions are provided for in two cases.

Namely, when the head of an institution plans to assign a judicial officeholder to another department, he/she shall, if he/she deems it justified, approve him/her attendance of a training related to the new department, while persons who intend to apply for the management level posts may also apply for the management training.

Choosing a quality trainer is crucial to the quality of training of judges and prosecutors.

In this regard, in 2018, the Training Centres made certain amendments to the Book of Rules on categories, selection, rights and obligations of trainers, while for the first time the Brcko District Judicial Commission adopted such a document in order to give the institution a legal framework for engaging and paying trainers for the trainings they co-organize.

Furthermore, at the beginning of the year, the RS JPTC supplemented the existing list of their trainers, while the FBiH JPTC, after completing the competition procedure, established a new list of trainers.

In 2018, the HJPC considered and approved the lists of trainers, and was reserved about the books of rules on trainers, aware that they were only a formal precondition that did not guarantee the quality of training would actually be improved.

Discussions with relevant institutions will continue throughout 2019.

The HJPC also paid due attention to the planning of the training program for 2019 and, unlike in previous years, actively participated in the process from the early stage of program planning, that is, in the analysis of the training needs of the judicial community.

Information on training needs were collected and analysed within the preparations for the 14th conferences of court presidents and chief prosecutors, and through direct and written communication with all judicial institutions.

The HJPC also nominated certain topics for the program at the proposal of the Secretariat, that is, projects operating within the HJPC, which relate to the development of managerial skills, case management, security of judicial officeholders, ethics, use of the JDC database

and similar, as well as topics recommended through the European Commission Peer Review missions.

According to its competence, the HJPC also identified topics for the Induction Training Program for the Newly Appointed Judges and topics for the Induction Training Program for the Newly Appointed Prosecutors.

When creating the program, the conclusions and analyses taken when considering the annual activity reports of the JPTCs for 2017, which were approved by the HJPC's decision at its session held on 9 and 10 July 2018, were taken into account.

All of the above was submitted to the JPTCs for analysis and consideration, as they are creators of the annual training programs for judges and prosecutors.

The steering committees of these institutions have established the final programs for 2019, which was approved by the HJPC in December 2018.

In order for the activities carried out to be properly evaluated, the HJPC recommended that for all training activities the objectives and expected outcomes should be clearly defined.

During 2018, based on conclusions of the 14th conferences of court presidents and chief prosecutors, activities were undertaken to build a network of contacts in judicial institutions for delivering court decisions and training needs.

Specifically, the HJPC has called on the judicial community to cooperate more closely with the Standing Committee on Education and the HJPC Judicial Documentation Centre on these issues, as the proper identification of training needs by the judicial community itself is a continuous process that needs to be communicated in timely fashion and clearly to judicial policy makers and public institutions that identify and deliver training.

In accordance with the HJPC Book of Rules on the procedure for selection and work of the consultative prosecutor for the newly appointed and other prosecutors, the implementation of systematic mentoring for the first-time appointed prosecutors begun in 2018.

Specifically, a total of twelve prosecutor's offices have appointed seventeen consultative prosecutors who had years of prosecutorial experience.

Some of them had the opportunity to work with the newly appointed prosecutors in 2018 because in their prosecutor's offices the newly appointed had no prior experience in the position, and they were required to introduce them the wider context of prosecutorial work, to assist them in interpretation and analysis of the results obtained during work, provide them with professional support and guide them in their work, give feedback on their performance, review their decisions, and encourage them to improve their professional knowledge, critical thinking and independence in their work.

The HJPC was regularly informed throughout the year of the work of selected consultative prosecutors with the newly appointed prosecutors, and although limited, it could be stated that consultative prosecutors had a significant role in training of the newly appointed prosecutors to work independently.

In addition, consultative prosecutors can best understand in which areas the newly appointed prosecutors need further training and professional development, which significantly contributes to the quality of work of the new prosecutors, but also to the future effectiveness of the overall work of the particular prosecutor's office.

The competent HJPC Standing Committees will be more concerned with analysing the reports and information submitted in the next year, when it is also planned to develop the skills of consultative prosecutors to transfer knowledge through specialised trainings, i.e. workshops, and to develop a mentoring system for the newly appointed judges.

In further developing the mentoring system, the HJPC plans to take into account the good practices of the EU countries regarding induction training and on-the-job learning, which will be presented to the BiH judiciary at the TAIEX workshop scheduled for end of January 2019.

All of the above activities were carried out in consultation and cooperation with the Entity JPTCs and the Judicial Commission of the Brcko District of BiH.

Preparatory activities mainly took place within the work of the HJPC Standing Committee on Education and the JDC – representatives of the said institutions and representatives of the EUSAR regularly attended the meetings of the Committee, indicating the importance of that segment of HJPC's work in relation to BiH's Accession to the EU.

The Standing Committee on Education also cooperated with the steering committee of the JPTCs, whose composition was changed in 2018 due to the expiry of a five-year term.

In a procedure duly established by relevant legal provisions, the HJPC approved the selection, that is, the appointment of new members of the governing bodies of the JPTCs.

The new convocation of the RS JPTC's steering committee consists of:

1) Gorjana Popadić, Judge of the RS Supreme Court;; 2) Svetlana Brković, public prosecutor of the RS Public Prosecutor's Office; 3) Darko Radić, PhD, Professor at the Faculty of Law, University of Banja Luka; 4) Miodrag Bajić, PhD, RS Deputy Chief Public Prosecutor - Special Prosecutor; 5) Milenko Milekić, President of the Basic Court in Banja Luka 6) Daniela Milovanovic, Judge of the RS Supreme Court; 7) Dragoslav Erdelić, Judge of the District Court in Bijeljina; 8) Slavica Matijaš, Public Prosecutor of the District Public Prosecutor's Office in Banja Luka and 9) Stanko Nuić, Deputy Public Prosecutor of the District Public Prosecutor's Office in Istočno Sarajevo.

The new convocation of the FBiH JPTC's steering committee consists of 1) Nevenka Milosavljević, Judge of the FBiH Supreme Court; 2) Fikreta Vranjkovina, Prosecutor of the FBiH Prosecutor's Office; 3) Enes Bikić, PhD, Dean of the Faculty of Law, University of Zenica; 4) Mersiha Udovčić, Advisor for Legal Affairs in the Justice Sector of the FBiH Ministry of Justice; 5) Jozo Anđić, Judge of the Cantonal Court in Odžak; 6) Smajo Šabić, Judge of the Municipal Court in Zenica; 7) Aladin Bajrić, Judge of the Municipal Court in Bihać; 8) Zdenko Kovač, Chief Prosecutor of the Cantonal Prosecutor's Office of Herzegovina-Neretva Canton and 9) Ešref Sikira, Prosecutor of the Cantonal Prosecutor's Office of Zenica-Doboj Canton.

In line with the above, it can be stated that the HJPC, in cooperation with the JPTCs and the Judicial Commission of the Brcko District of BiH, and judicial institutions, in 2018, undertook a series of activities that should contribute in the long term to improving the quality of training of judges and prosecutors in Bosnia and Herzegovina and consequently the quality of the work of judicial officeholders. How the activities undertaken contribute to the implementation of the recommendations to the judiciary given by EU experts within the Peer Review missions⁴², and how they contribute to the European integration process is presented in Chapter 1 of this Annual Report.

Thus, through the activities of the project Strengthening Prosecutors in the Criminal Justice System, several seminars for prosecutors and law enforcement officers were held.

During 2018, two additional specialised trainings (for groups of prosecutors who previously attended specialised trainings over two years) were held with the support of the said Project on the topic of combating corruption, organized crime and high-tech crime.

At the suggestion of the participants in these trainings, a group of trainees was extended to a certain number of judges to share expertise.

Two videoconferences were also held to share knowledge, where prosecutors exchanged their knowledge and experience on the following topics:

"Measures to secure the presence of the suspect or accused and the successful conduct of criminal proceedings, with particular reference to custody and prohibition measures" and "Investigation and evidence presentation in bankruptcy offences with special reference to legislation, citing examples from practice".

⁴² More information on the recommendations can be found on the HJPC website, <https://vsts.pravosudje.ba/>, in the Judiciary section | European integration | Action plan for the implementation of the European Commission's recommendations.

This method of exchange of knowledge and training has become generally accepted by prosecutors, in which way they directly exchange knowledge and experience in dealing with specific cases without the additional waste of time to travel and attend trainings outside the seat of prosecutors.

On the basis of the Memorandum of Cooperation among police and judicial institutions in charge of training, supported by the EU-funded project implemented by the HJPC, regular meetings of the Training and Coordination Forum are held, consisting of representatives of the FBiH JPTC, the RS JPTC, Police Academy of the FBiH Ministry of Interior, Directorate for Police Training of the RS Ministry of Internal Affairs, Agency for Education and Professional Training Mostar, BiH Centre for Border Police Training, Police of Brcko District of BiH, Directorate for Coordination of Police Bodies of BiH, security agencies and the Armed Forces.

During the reporting period, the HJPC started the process of developing five interactive distance learning modules for newly appointed prosecutors, as well as a criminal justice reporting module for journalists, through the project Strengthening Prosecutors in the Criminal Justice System.

In this way, the capacities of newly appointed prosecutors and journalists are enhanced, as well as the capacities of the Judicial and Prosecutorial Training Centres in the segment of innovative teaching methods, including the distance learning aspect.

More about the training activities carried out through the Improving Judicial Efficiency project can be found in Chapter 4.

In order to connect and exchange experiences with institutions of a similar profile, HJPC representatives participated in several regional workshops, conferences and other educational meetings, including two regional meetings of the European Judicial Training Network (EJTN) on:

"The Role of Judicial Training Institutions in the Appointment and Career of Judges and Prosecutors" in Podgorica, and "Rule of Law at the Centre of Enlargement" in Zagreb, Regional Conference for Southeast Europe on Hate Crimes in Warsaw, The 5th Regional Judicial Forum in Skopje on the topic "Article 3 of the European Convention on Human Rights: Prohibition of Torture and Inhuman or Degrading Treatment", The 2nd National Judicial Forum on "Special Investigative Techniques in the Context of the Decision of the BiH Constitutional Court", and the like.

In 2018, the HJPC repeatedly discussed how to ensure faster sharing of knowledge and information from such meetings.

Namely, they are aware of the fact that many judicial officials during their careers have the opportunity to attend various study visits, conferences and trainings on relevant issues as employees of their institutions, as well as the fact that the information and materials obtained often remain in the possession of the individual who attended such a venue only. At the end of the year, the HJPC issued a series of conclusions that should ensure in the long run that the information relevant to the entire judiciary is collected and publicised in a single place and in systematic manner.

Specifically, the HJPC reminded the heads of the judicial institutions that the Book of Rules on Official Trips Abroad should be strictly observed, and that the HJPC should be made aware in particular of the purpose of the trip, the organizer and the source of funding.

When selecting participants in trainings and meetings, court presidents and chief prosecutors should take into account the interests and needs of the institution they manage.

Judges and prosecutors attending such trainings are required to provide the head of the institution with written information about the meeting, including the conclusions, if any, and the electronic materials or links to materials to ensure adequate knowledge sharing within the institution itself.

The Head of the Institution will forward this information and materials to the HJPC Standing Committee on Education and the Judicial Documentation Centre for their publication and distribution to the entire judicial community through the website www.pravosudje.ba/csd.

5.4. Information system of the Judicial Documentation Centre

The HJPC BiH has continuously undertaken activities aimed at improving the transparency of the work of judiciary, and one segment of these activities is related to ensuring access to court decisions. In this regard, the online publication of the most important court decisions of the supreme courts, the Appellate Court of the Brcko District BiH and the Court of BiH, as well as related lower instances decisions, continued through the central database available on the website of the HJPC Judicial Documentation Centre (www.pravosudje.ba/csd), which marked the 10th anniversary of its official launch on 27 July 2018.

To this end, the HJPC produced a short video promoting the activities it pursues in the field of transparency and quality of the judiciary⁴³. In addition, the activities of the JDC were presented at the 14th Conference of Court Presidents and Chief Prosecutors (14 and 15 May, Neum), inviting the heads of judicial institutions to cooperate more closely with the JDC in the delivery of court decisions and training topics.

The choice of decisions to be published in the system is still made by the aforementioned courts.

In early August 2018, the entry of decisions intensified, and at the end of the year there were 12,064 entered decisions searchable by various parameters.

The conditions for access to the database have not been changed and the database is freely accessible by users from judicial institutions, while other interested legal and natural persons are granted access by paying an annual subscription in the amount of 100 KM.

The database is still used regularly by a quarter of the judicial community, while requests for use by lawyers, insurance companies, law schools, banks, and so on are increasing.

By the end of 2018, there were 109,808 database visits, or 558,429 website visits.

The promotion of the user database and a more efficient way to search court decisions by the judicial community is done through training within training centres and other appropriate means.

Other legal information, including information on newly adopted laws at the Entity, Brcko District and state levels, is regularly published through the JDC's information system.

Information on the work of the BiH Constitutional Court, the European Court of Human Rights, and occasionally various legal publications and educational modules are also regularly published.

At the end of 2018, a total of 2020 different news items were available with supporting documents to download.

All users in the judiciary are regularly informed of new decisions and content on the site using the monthly electronic flyer.

The publication of decisions has continued to a greater or lesser extent on the websites of the courts themselves.

During 2018, the legal framework for the functioning of newly created case law departments in the supreme courts and the Appellate Court of the Brcko District BiH was also established, which is certainly a significant step forward in the judicial reform.

The work of these departments is still at an early stage and ranges from the establishment of a list of descriptors for recording the case law positions, adoption of internal rules of procedure for the departments, the introduction of an electronic system for recording court decisions and the like.

The activities of the HJPC and partner institutions to strengthen these departments began in early September 2018 as part of the EU funded project IPA 2017 Building an Effective and Citizen-friendly Judiciary.

⁴³ You can watch the video at <http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=74275>.

Specifically, in 2019, senior legal advisers will be hired in the highest court instances and the HJPC JDC, which will assist judges in recording and systematising case law over the next two and a half years.

The project will also intensify the publication of information on the work of international courts, notably the European Court of Human Rights, given the impact that the views of this Court have, or may have, on the development of case law in Bosnia and Herzegovina.

In this regard, representatives of the HJPC visited the Directorate of the Jurisconsult of the European Court of Human Rights in Strasbourg from 21 to 23 June to learn about the work and structure of this office.

The visit was also used as a preparatory activity for the development of job descriptions for senior legal advisers who will be hired within the IPA 2017 project, as well as for information on training opportunities for those staff members. On that occasion, the participants were presented with a method of developing the guidebooks with major and recent case law of this court, which were also publicised through the information system of the Judicial Documentation Centre⁴⁴.

In addition to the above, the representatives of the HJPC and the FBiH Supreme Court attended regional conference on the harmonization of case law, held from 11 to 13 April 2018 in Skopje, which was organized by the Directorate General of the European Court of Human Rights (Etch) and the Council of Europe, as part of the Action "Increasing judicial capacity to safeguard human rights and combat ill-treatment and impunity" (CAPI).

The conference is the result of a joint action by the Council of Europe and a European Union program called "Horizontal facility for Western Balkans and Turkey".

At the conference, a discussion was held on an adequate national model of case law harmonization, and best practices on the topic were presented.

Thus, the BiH model of work of the panels for case law harmonisation was presented, as a successfully formalized process without affecting judicial independence.

Judges of the high and supreme courts of Croatia, Macedonia, Montenegro, Serbia and Albania participated in the conference.

All of the above should ultimately add to the performance of the judiciary in BiH as well as a better access to court decisions.

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

The activities of the panels for case law harmonisation, composed of representatives of the courts of the highest instance in BiH,⁴⁵ continued in 2018. Namely, acting upon the conclusion of the Supervisory Body for monitoring the implementation of the National Strategy for War Crimes Processing, in September 2018 the HJPC adopted the conclusion under which the issue of harmonization of case law in war crimes was delegated to the Panel for Case Law Harmonisation in Criminal Justice, and the OSCE Mission to BiH was to provide support and assistance to the Panel on those cases.

The panel courts accepted this initiative, and a panel meeting for the criminal justice was held from 17 to 19 December 2018, when the following topics were discussed: meting out the punishment and the principle of ne bis in idem in war crimes.

Certain conclusions were adopted at the meeting, which should be verified in the upcoming period by the departments of the courts - members of the panel. As always, the panels worked in line with the Operational Rules of the Caselaw Harmonisation Panels⁴⁶. Bearing in mind that

⁴⁴ <http://csd.pravosudje.ba/vstv/faces/vijesti.jsp?id=74769>

⁴⁵ Judges of the Supreme Court of the Republika Srpska, the Supreme Court of the Federation of BiH, the Appellate Court of the Brcko District BiH and the Appellate Division of the Court of Bosnia and Herzegovina participate in the work of the case law harmonisation panels.

⁴⁶ <http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=50694>

the OSCE monitors the processing of all war crimes cases throughout BiH, panel members agreed that the OSCE Mission should submit an extended list of topics in the forthcoming period, with a brief explanation of its relevance for the panel's work, for the purpose of planning panel meetings in the coming year.

Panels for the civil and administrative areas were not held due to a lack of topics for harmonisation.

Chapter 6: INTEGRITY AND ACCOUNTABILITY

6.1. Integrity

With a view to strengthening integrity and accountability of BiH judiciary as set out in the 2014-2018 BiH Justice Sector Reform Strategy (JSRS), the 2014-2018 HJPC Strategic Plan and the HJPC Medium-Term Work Plan 2017 - 2019, and having regard to the commitments made under the EU Reform Agenda, the EU-BiH Structured Dialogue on Justice and the objectives set in the context of the EU integration process in BiH, as outlined in the Peer Review (PR) recommendations, the HJPC has conducted the planned priority activities aimed at building capacities to prevent and detect corruption and conflict of interest in the judiciary.

The activities have been undertaken towards improving the financial disclosure process and compliance with standards of professional ethics, integrity and accountability of judicial office holders. These activities have been implemented by the Working Group for Improving Integrity and Accountability of Judicial Office Holders and with the expert support of USAID's Justice Project in BiH.

Considering that the financial interests disclosure is an important means of countering and detecting conflict of interest and illicit enrichment of public officials, and with a view to establishing a functional and transparent financial disclosure system, at its session held on 26 and 27 September 2018, the HJPC has adopted the Book of Rules on the submission, verification and processing of financial reports of judges and prosecutors and the new Financial Disclosure Form, which are published on the HJPC website and will apply to the financial disclosure of income, assets and interests of judges and prosecutors for 2018.

The Book of Rules sets forth the rules and procedures for the submission, verification, processing, keeping and accessing the filed disclosure forms in the context of obligation of judges and prosecutors to submit their financial disclosure forms as required by the Law on HJPC. All judges and prosecutors in BiH are required to complete their financial disclosure forms and submit them to the HJPC within the prescribed deadlines. The enacted regulations introduce electronic filing, verification and processing of financial disclosure forms, making this process simpler and more efficient, and allowing disclosure of the forms on the HJPC website, with the exception of personal data.

As part of its activities to improve compliance with the standards of professional ethics, integrity and accountability of judicial office holders, at its session held on 27 November 2018, the HJPC adopted the amendments to the Code of Judicial Ethics⁴⁷ and the Code of Prosecutorial Ethics⁴⁸, with a view to further aligning them with the Guidelines for the Prevention of Conflict of Interest in the Judiciary of BiH adopted by the HJPC at its session held on 7-8 July 2016. In order to ensure consistent enforcement of enacted regulations, the Council adopted the monitoring instruments for the Guidelines for the Prevention of Conflicts of Interest in the Judiciary, and at its session held on 23 and 24 December 2018, it also adopted the Manual for the application of the Code of Judicial Ethics and the Code of Prosecutorial Ethics.

With a view to improving disciplinary procedures and the current HJPC practices, especially in terms of reasoning provided in disciplinary decisions and imposed sanctions, in 2018 the activities were undertaken to analyse the penal policy and improve the work of disciplinary panels. The Working Group for improving integrity and accountability of judicial office holders, in co-operation with the USAID Justice Project, is finalising a Manual for Disciplinary Procedures, and the deadline for the completion of planned activities in the field of discipline is end of 2019.

Recommendations that refer to public disclosure of information about disciplinary cases have been implemented, where the HJPC website publishes anonymised final decisions rendered in disciplinary proceedings.

In March 2017, within the framework of activities to improve the integrity of judicial institutions, the HJPC adopted the list of main integrity risks in BiH judicial institutions and potential

⁴⁷ Official Gazette of BiH, No. 13/06, 24/15, 94/18

⁴⁸ Official Gazette of BiH, No. 13/06, 32/15, 94/18

measures to strengthen integrity in line with the Guidelines for the Development and Implementation of Integrity Plans in BiH Judicial Institutions and their accompanying documents (Methodological Guidelines for Development of Integrity Plans in BiH Judicial Institutions and Model Integrity Plan) and submitted them to all courts and prosecutor's offices in BiH, where, as at 31 December 2018, 98 judicial institutions started with implementation of the adopted integrity plans, the two newly established judicial institutions had their draft integrity plans submitted to the HJPC for its opinion, while one newly established judicial institution is yet to prepare its integrity plan.

In order to fulfil its obligation stemming from the adopted Guidelines to monitor the implementation of the integrity plans in all judicial institutions in BiH, the HJPC, in cooperation with the Regional Anti-Corruption Initiative (RAI), has worked to develop an IT tool for monitoring the implementation of integrity plans, which will be made available to all judicial institutions in the first quarter of 2019 to facilitate their implementation of integrity plans and reporting, as well as the monitoring and reporting by the HJPC.

6.2. Disciplinary proceedings

6.2.1. Complaints against judicial office holders alleging breach of duty

In 2018, the Office of the Disciplinary Counsel (ODC) received 895 complaints, or 16.9% less than in 2017. In 2018, the ODC acted upon 1,145 complaints, which is an increase of 22.7% compared to the number of complaints in 2017 (933 complaints).

The most common reasons for complaints were the length of proceedings before courts and prosecutor's offices and dissatisfaction with court decisions.

The largest share of complaints relates to the length of the proceedings: 31% of complaints relate to the length of the proceedings before the court, and 10% of the complaints to the length of proceedings before the prosecutor's offices. Also, in 19% of the complaints, the complainants requested that the ODC takes action to have the proceedings completed.

When considering complaints on length of the proceedings, leaving aside the objective length of the proceedings, the ODC must prove the subjective failure on the side of a judge or prosecutor that caused delays in the proceedings. Taking into consideration performance indicators for judges and prosecutors, which, among other things, refer to the number of pending cases, performance targets achieved, backlog reduction plans, chronological case processing, etc., in many cases the ODC found that, despite lengthy proceedings, there was not enough evidence of a breach of duty of the judge / prosecutor in question.

Article 87 of the law on HJPC stipulates that a judge or prosecutor may not be prosecuted, arrested, or detained, nor be subject to civil liability for opinions expressed or decisions taken within the scope of official duties. However, this immunity does not refer to disciplinary responsibility of judges (and legal associates with adjudicative powers) in case of disciplinary offence provided for in Article 56, paragraph 9 of the Law on HJPC: "issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules".

It should also be noted that 21% of the complaints were filed against judges for disciplinary offence under Article 56, paragraph 9 of the HJPC Law: "issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules", where the allegations in the complaints are to a certain extent related to the outcome of the case, therefore some of these complaints should be viewed in the wider context of dissatisfaction with the decisions rendered.

We also believe that it should be mentioned that almost every tenth complaint relates to the careless or negligent exercise of official duties of a judge (9%) and to the conduct or behaviour of a judge towards the parties (8%).

In 2018, the average disposition time was 367 days, which is considerably less compared to the statutory deadline under which the ODC is required to resolve the complaint within two years from the date of receipt.

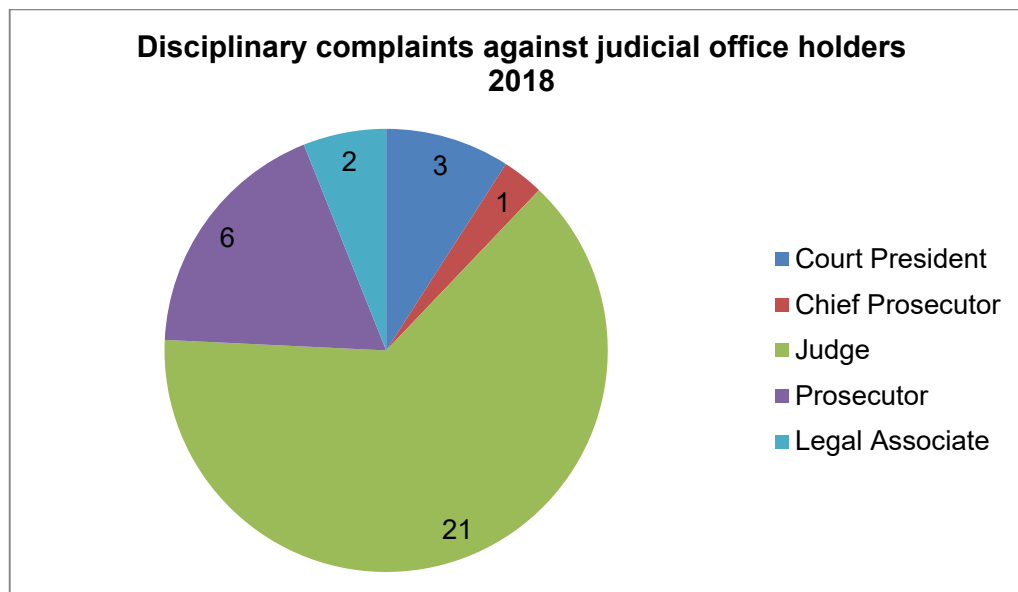
6.2.2. Initiated disciplinary proceedings

In 2018, the ODC initiated 33 disciplinary proceedings, which is the highest number of proceedings initiated in one year.

In 4 disciplinary cases, the ODC has requested that disciplinary panels impose the measure of removal from office.

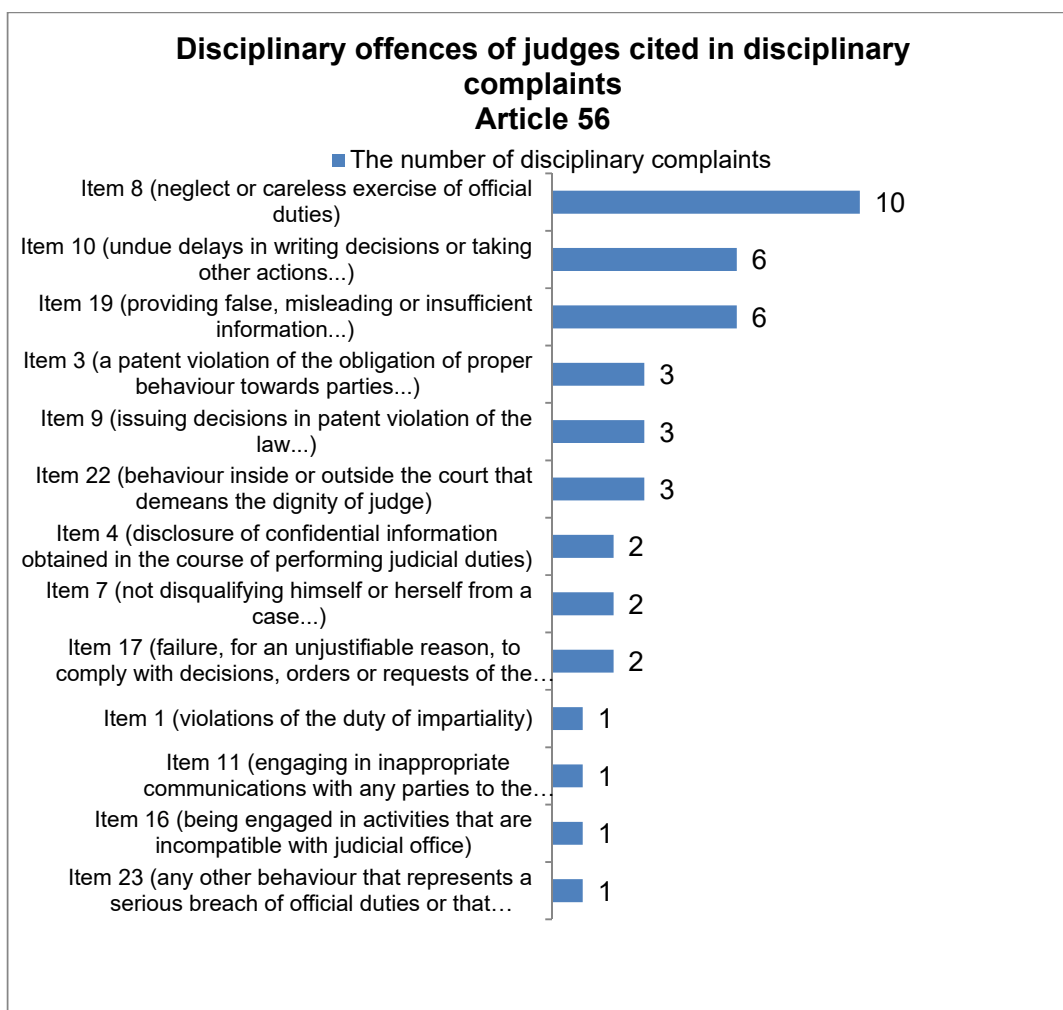
Most of the proceedings were instituted against judges (21). There were 6 proceedings instituted against prosecutors. There were also proceedings instituted against court presidents (two presidents of the municipal courts and one president of the basic court), against one chief prosecutor of the cantonal prosecutor's office, and two legal associates in the municipal courts.

Graph 9: Disciplinary complaints against judicial office holders

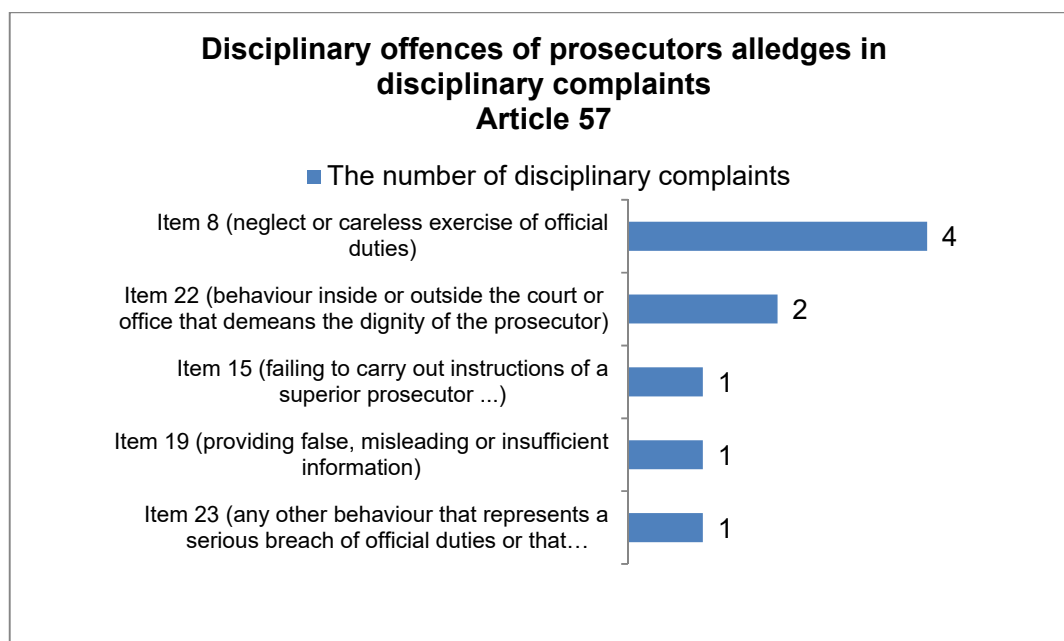


Most disciplinary proceedings against judges were instituted for disciplinary offences under Article 56 (8) of the HJPC Law "neglect or careless exercise of official duties" (10 disciplinary complaints). These are followed by offences under item 10 (undue delays in writing decisions or any other act related to the exercise of judicial functions, or any other repeated disregard of the duties of the judicial function" (6 disciplinary complaints) and item 19 "providing false, misleading or insufficient information with regard to job applications, disciplinary matters, promotion or career development matters or any other matters under the competence of the Council" (6 disciplinary complaints).

There were 3 disciplinary complaints filed for each of the following violations stipulated in Article 56, paragraph 3 of the HJPC Law, "a patent violation of the obligation of proper behaviour towards parties, their legal representatives, witnesses, or other persons", paragraph 9, "issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules" and paragraph 22 "behaviour inside or outside the court that demeans the dignity of judge".

Graph 10: Disciplinary offences of judges alleged in disciplinary complaints

Most disciplinary proceedings against prosecutors were instituted for disciplinary offences under Article 57 (8) of the HJPC Law "neglect or careless exercise of official duties" (4 disciplinary complaints).

Graph 11: Disciplinary offences of prosecutors alleged in disciplinary complaints

Most disciplinary cases were initiated on the basis of ex officio complaints (11) and complaints of the parties to the proceedings (10); followed by the complaints of the heads of judicial institutions (8) and attorneys (7). It should be noted that the sum does not correspond to the total number of disciplinary actions filed (33), since many disciplinary actions were filed on the basis of multiple complaints filed by different categories of complainants.

Graph 12: Disciplinary complaints by complainants

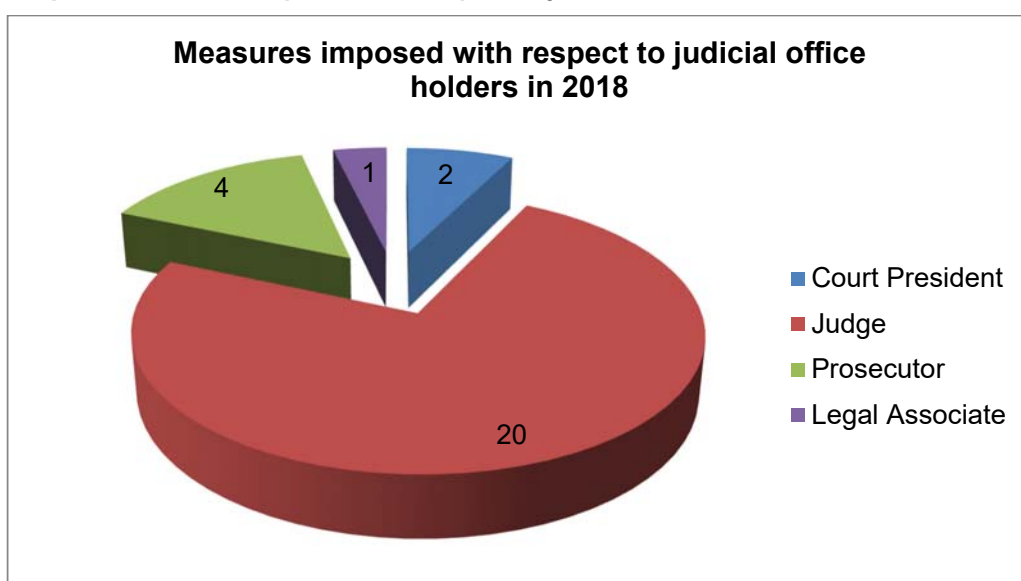
6.2.3. Completed disciplinary proceedings

In 2018, 30 disciplinary proceedings were completed. Breakdown of completed proceedings by the year of initiation is as follows: one completed case was initiated in 2016, 13 initiated in 2017 and 16 initiated in 2018.

In 27 cases disciplinary violations were found, in one case disciplinary complaint was rejected, two cases were discontinued due to the resignation of the basic court judge and expiration of mandate of one reserve judge of the basic court. The judge resigned during the course of disciplinary proceedings.

Twenty-seven judicial office holders were found to have committed disciplinary violations. Disciplinary measures were imposed on two municipal court presidents, 20 judges (8 municipal court judges, 5 basic court judges, 3 district court judges, 3 cantonal court judges and one judge of the Republika Srpska Supreme Court), 4 prosecutors (3 cantonal prosecutors and one prosecutor of the district prosecutor's office) and one legal associate of the municipal court.

Graph 13: Measures imposed with respect to judicial office holders



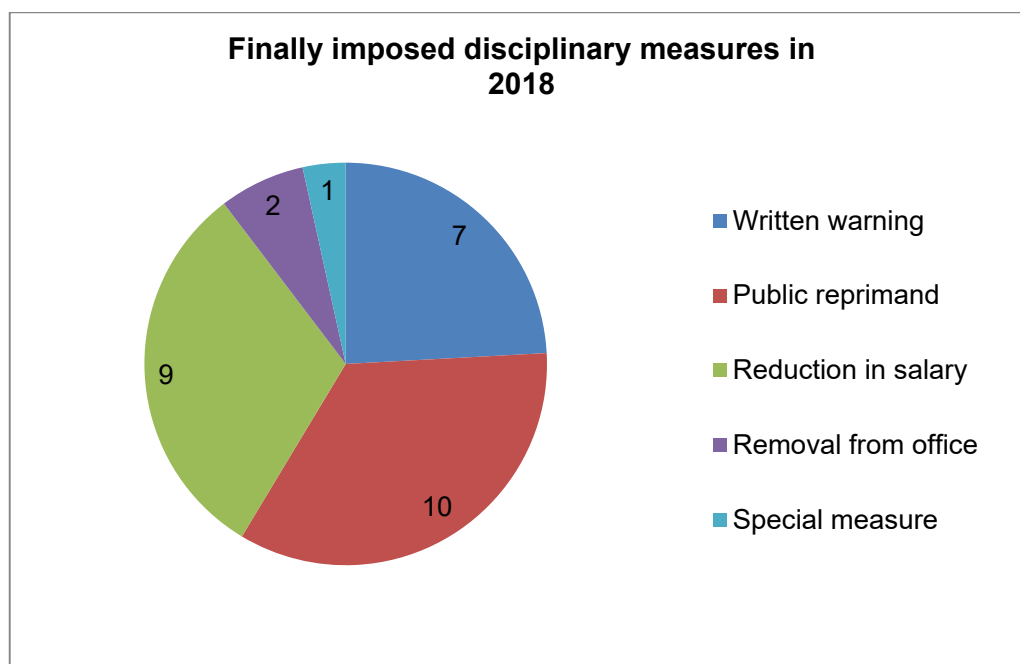
The most frequent disciplinary offences of judges are those listed under Article 56 of the Law on HJPC:

- Item 8 “neglect or careless exercise of official duties” – 12 judges
- Item 22 “behaviour inside or outside the court that demeans the dignity of judge” – 5 judges
- Item 10 “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” – 4 judges

The most frequent disciplinary violations of prosecutors are those listed under Article 57, point 8, “neglect or careless exercise of official duties;” (3 prosecutors).

In 27 disciplinary proceedings, 29 final disciplinary measures were imposed. Namely, two basic court judges were imposed two disciplinary measures each. One judge was issued a written warning not made public and a special measure involving attending a training programme on the Law on Enforcement Procedure. One judge received a written warning and reduction in salary.

The breakdown of all final disciplinary measures imposed is as follows: a written warning which shall not be made public (7), a public reprimand (10), reduction in pay (9), removal (2) and a separate measure (1).

Graph 14: Finally imposed disciplinary measures

A disciplinary measure involving removal from office was imposed on one cantonal court judge and one prosecutor of the district prosecutor's office.

The cantonal court judge has been removed from office for the following disciplinary offences under Article 56, item 8 of the Law on HJPC: "neglect or careless exercise of official duties", item 17 "failure, for an unjustifiable reason, to comply with decisions, orders or requests of the Council" and item 22. "behaviour inside or outside the court that demeans the dignity of judge".

The prosecutor of the district prosecutor's office has been removed from office for the following disciplinary offences under Article 57 of the Law on HJPC: Item 3 "a patent violation of the obligation of proper behaviour towards parties, their legal representatives, witnesses and other parties", item 8, "neglect or careless exercise of official duties" and item 9 "unjustified delays in performing any acts related to the exercise of prosecutorial functions, or any other repeated disregard of the duties of the prosecutor".

The ODC filed four appeals against first-instance measures and one appeal against the first instance decision dismissing the complaint. In the second instance, the ODC filed one appeal against the measure imposed.

The ODC appeal was upheld in one case and a more stringent disciplinary measure imposed.

6.2.4. Suspension from office

In 2018, the ODC filed a motion for a temporary suspension from office of a cantonal court judge on the grounds of a confirmed indictment against him. This motion was denied in the first instance, but after the appeal of the ODC it was granted in the second instance.

The ODC also filed three motions to extend suspension from office for three prosecutors (two prosecutors of the Prosecutor's Office of BiH and one prosecutor of the cantonal prosecutor's office) as the indictments against them were filed and confirmed following criminal investigations. All three motions were granted.

Bearing in mind that the suspensions imposed in previous years - one in 2015, three in 2016 and four in 2017 - continued, at the end of 2018, there were nine judicial office holders suspended, including 1 court president, 3 judges and 5 prosecutors.

Chapter 7: DIGITAL TRANSFORMATION OF BIH JUDICIARY

7.1. Second generation of Case Management System for courts and prosecutor's offices (CMS / TCMS) as a basis for citizen-friendly services

7.1.1. CMS module for the issuance of a certificate of (no) pending criminal case

As a part of the new generation of CMS, a CMS module for the issuance of a certificate of no pending criminal case was developed in 2017. By the end of 2018, courts in BiH issued 89 215 such certificates. Since the introduction of the module, the courts across the country are issuing an average of 7 435 certificates a month. Most of these certificates are issued in Canton Sarajevo and in Banja Luka.

A 30-second promotional video was created to inform the citizens about the certificate of no pending criminal case, which was seen by 646 816 visitors during the Facebook campaign, showing that there is a high public interest in the activities carried out by the HJPC BiH.

7.1.2. CMS - Proceedings cost calculator

In 2018, a new CMS functionality has been developed and implemented, enabling the parties to calculate the likely costs of court proceedings. The functionality has been developed, tested and implemented by the ICT Department of the HJPC Secretariat on the basis of the analysis described in Chapter 4 "Judicial Efficiency".

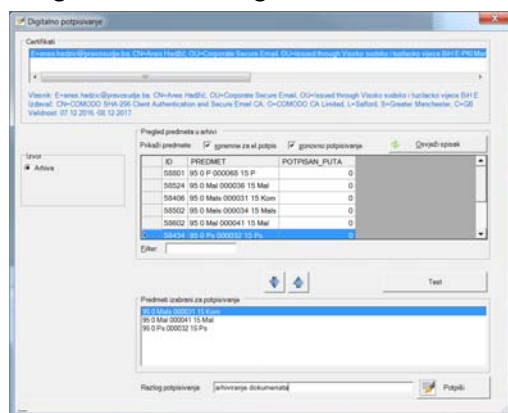
The functionality enables all parties to get an estimate of the likely costs of the proceedings after proceedings are instituted. The information generated by this functionality includes a note to the parties on the estimated minimum cost of the proceedings, which is purely informative.

The cost calculator, as a CMS functionality, was initially implemented in three pilot courts: the Municipal Court in Tuzla, the Basic Court in Bijeljina and the Basic Court of Brcko District BiH. After successful pilot implementation, the functionality has been implemented in other first-instance courts. In parallel with the development of this CMS functionality, a web application has been developed which enables the parties to get an estimate of first-instance costs in a particular type of dispute through a judicial web portal.

7.1.3. Digitization of judicial archives

In 2018, we also continued the implementation of the module for the digitisation of archives in the judicial institutions in BiH. To improve and simplify the indexation of scanned material, the module has been upgraded thus facilitating subsequent search and use of digitized content. At the same time, the pilot project was implemented to test the possibility of having digital archives installed in judicial institutions instead in the HJPC, thus eliminating the need for transferring large quantities of digital content from one network to another. The project results are positive and future implementation of this module will be done in this way.

Some equipment has been procured and distributed to judicial institutions, primarily the scanners that are needed for this activity. Technical specifications have been prepared so that the procurement process can be continued. In addition to scanners, equipment for storing digital data in institutions will also be procured.

Image 21: Archive digitization module

7.1.4. Activities of the Working Group for Strategic Planning and Development of the Case Management Systems in Court and Prosecutor's Offices in BiH (CMS / TCMS)

At its meeting held in February 2018, the Working Group for Strategic Planning and Development of the Case Management System in Courts and Prosecutor's Offices (hereinafter: the CMS / TCMS Working Group) discussed the Council's conclusion on the division of the CMS / TCMS Working Group into two separate working groups. On that occasion, the CMS / TCMS Working Group members unanimously agreed that the Working Group should not be divided into two, but remain a unique CMS / TCMS Working Group. In this period, by the decision of the Council, one judge member of the Working Group was replaced by one prosecutor. Also, the proposal to amend the CMS Book of Rules was adopted at the meeting thereby introducing new designations for different phases in first-instance minor offence proceedings so as to adjust the CMS to the new provisions of minor offence legislation and respond to CMS user requests. As far as the TCMS Book of Rules is concerned, the proposal to amend the TCMS Book of Rules was adopted so as to align it with the legislative changes governing the work of prosecutor's offices in Bosnia and Herzegovina.

In accordance with the Peer Review recommendations (Peer Review No. 17), at its meeting held April 2018, the CMS / TCMS Working Group adopted the proposal for amendments to the CMS Book of Rules and the proposal for amendments to the TCMS Book of Rules, thereby allowing disciplinary counsels from the Office of Disciplinary Counsel direct access to CMS data based on a specially created access permission.

Among other things, the quality of the data recorded in the CMS / TCMS was discussed at the meeting, and the procedure for amending the legal framework for the CMS / TCMS was initiated, which should result in better quality of recorded data.

At its session held on 18 and 19 April 2018, the Council has adopted the Book of Rules on Amendments to the CMS Book of Rules and the Book of Rules on Amendments to the TCMS Book of Rules on the basis of the CMS / TCMS Working Group proposal. With the aforementioned amendments to the Book of Rules, additional designations for case phases have been introduced in minor offence and prosecution cases and disciplinary counsels granted direct access to data.

The Book of Rules on Amendments to the CMS Book of Rules and the Book of Rules on Amendments to the TCMS Book of Rules have been published in the Official Gazette of Bosnia and Herzegovina, No: 34/18 of 25 February 2018.

7.1.5. A contemporary approach to access to justice - mobile applications for access to court cases

To improve access to court cases, an e-Court mobile application has been developed and tested, which enable parties access to court cases via smartphone. In January 2018, tests

were carried out in cooperation with the bar chambers in the BiH Federation and in the Republika Srpska, whereby a large number of test users were provided.

A mobile application for access to court cases was presented at the annual Microsoft Network 8 conference, which was held in Neum in April 2018. The conference was highly rated by the participants. Users were allowed to download the e-Court application using the Apple Store and Google Play online store on 14 April 2018 for Apple iOS and Android operating systems.

The online promotion of mobile application confirmed the high interest of the public, so the Facebook ad promoting the mobile app was viewed 472 434 times, and the LinkedIn ad 66 581 times. Google ads were viewed by 945 843 users.

At the end of 2018, the mobile application for Android was installed and used by more than 500 users, while Apple iOS devices had 288 users. From July to December 2018, the users of the e-Court applications had 1 278 604 requests for case-related information, which means there were around 8,000 requests per day.

Image 22: e-Court mobile application screenshots for Android

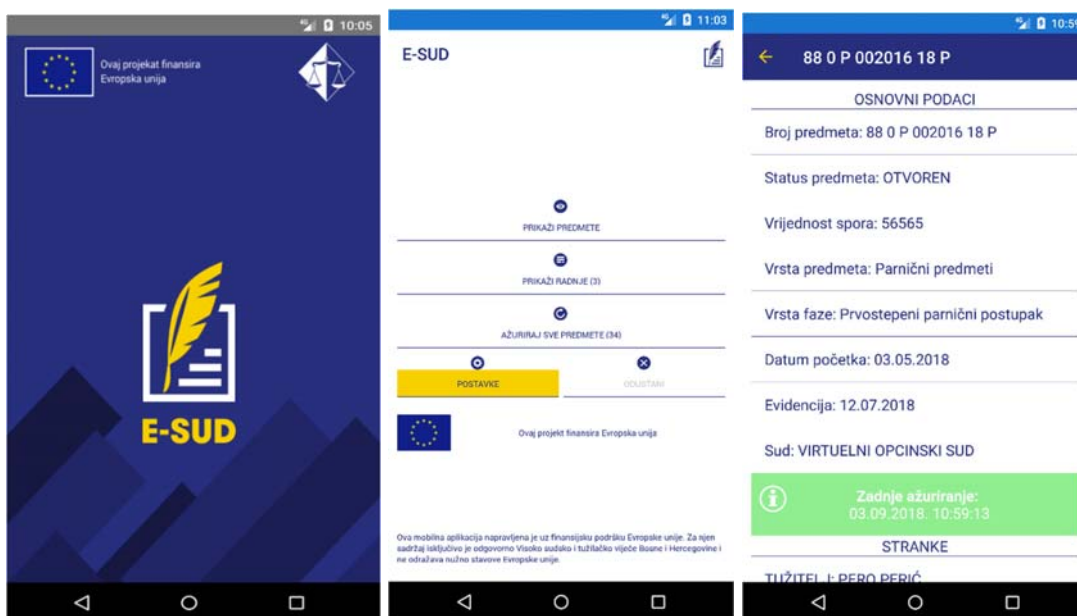
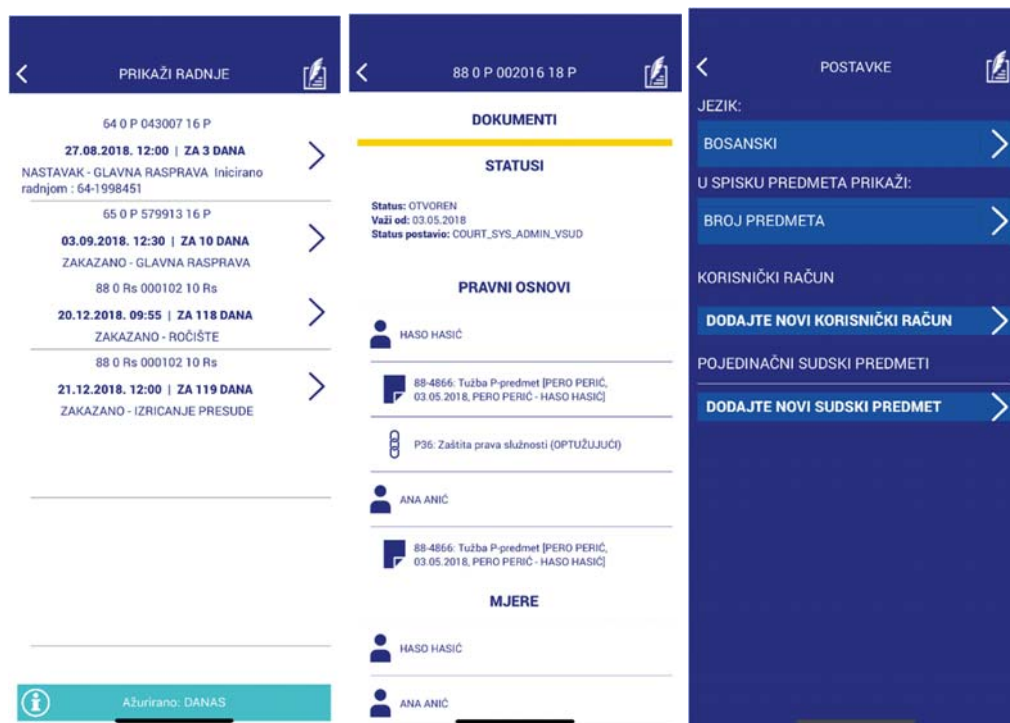
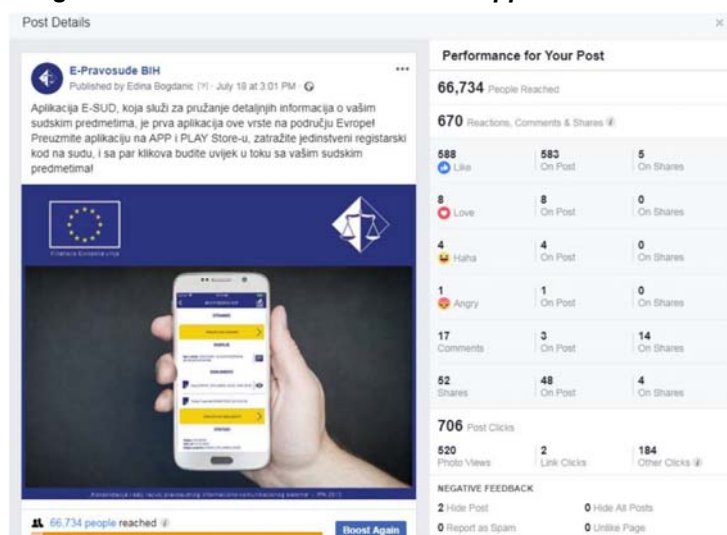


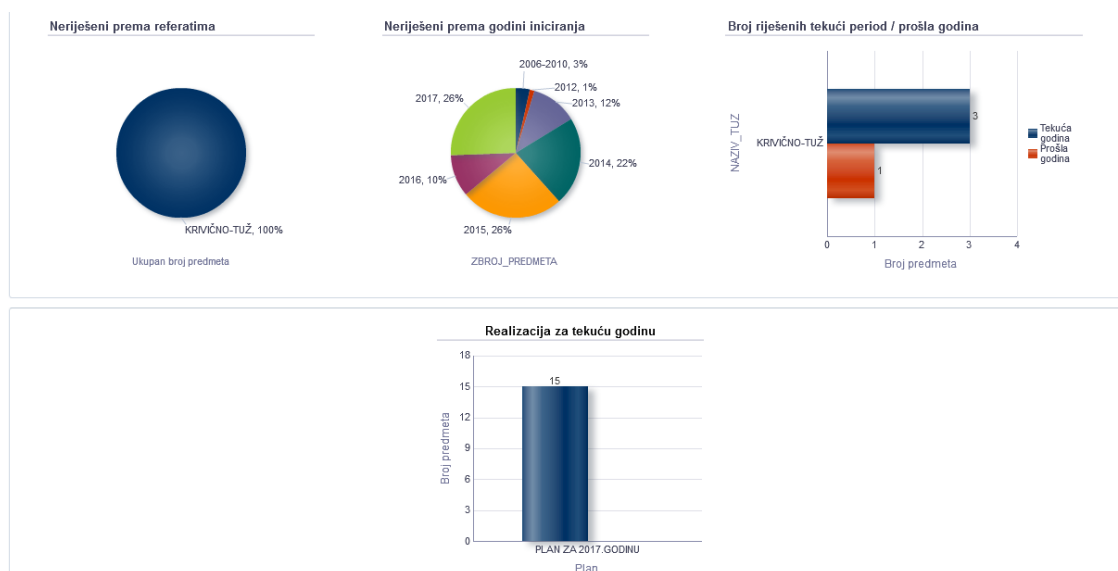
Image 23: e-Court mobile application screenshots for iOS**Image 24: Google add screenshot****Image 25: Promotion of e-Court mobile application via Facebook**

7.1.6. Implementation of the Reporting and Decision Support System

The Reporting and Decision Support System - SIPO complies statistical reports by combining data from various information systems (databases) used in the BiH judiciary (CMS / TCMS, HRMIS, SOKOP Mal).

In 2018, the reports tailored to the specific management needs of court presidents and chief prosecutors were generated and organised using the universal control panel in the SIPO system. In this way, the heads of the institutions have a clear picture of the efficiency and effectiveness of strategic measures and operational decisions they apply in managing judicial institutions.

Image 26: Different types of reports available to chief prosecutors (statistical reports, analytical reports, data quality reports, and ad hoc reports)



The HJPC has initiated the activities towards establishing co-operation with other institutions-beneficiaries outside the judicial system, and accordingly the Memorandum of Cooperation has been signed with the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) for electronic transfer of statistical data on corruption cases the Case Management System in courts and prosecutor's offices under the authority of the HJPC.

With the support of the IT team of the Regional Anti-Corruption Initiative (RAI), an application for assessing the risk of corruption in the institutions of Bosnia and Herzegovina was developed. The application will enable the process digitization starting with identification of responsible persons, deadlines, risks, measures, adoption of integrity plans and monitoring their implementation through reporting. The application is currently being tested, and its use is expected to start by the end of 2019.

7.1.7. Support for human resource management in the judiciary and the judicial appointments - Human Resource Management Information System in the BiH Judiciary (HRMIS)

The Human Resource Management System in the BiH Judiciary (HRMIS) enables standardized recording of relevant data on judicial office holders and employees in judicial institutions.

In 2018, the HRMIS module was used for entrance exams for 335 candidates for vacant judicial positions. The possibility of testing multiple candidates simultaneously contributes to the efficiency of the appointment process, and automatic generation of test results upon its completion enables candidates to see their results, which greatly contributes to the transparency of the process.

Table 25: Statistical data for entrance exams carried out in 2018

The total number of candidates tested	335
For prosecutor posts	91
For judge posts	244
Total number of candidates passing the examination	250
Judges	181
Prosecutors	69
Total number of candidates passing the examination (percentage)	74.62%
The average time complete the test in minutes	78.14
The highest score reached	99
The lowest score reached	39
The number of appointed judicial office holders based on the tests conducted in 2018	35

Table 26: Number of entrance exams per competition

Competition	Date of announcement	Number of tests
884	26/02/2018	4
904	12/03/2018	7
924	16/07/2018	23
Total		34

In 2018, the equipment for entrance examination was installed and tested in the regional examination centres in the Basic Court Banja Luka and Cantonal Court Mostar, and one more examination centre will be established in Tuzla following the completion of construction works in judicial institutions there.

Image 27: Examination centre in the Basic Court Banja Luka**Image 28: Examination centre in the Cantonal Court Mostar**

The videoconference system in the BiH judiciary has been upgraded to support a greater number of simultaneous sessions, and data storage capacity been expanded.

To further improve automation of the selection and appointment process for vacant judge and prosecutor positions, a HRMIS online application module has been developed and tested. Candidates will soon be able to apply and follow the appointment process using this application.

In 2018, the implementation of the Personal Data Registration Module - Personnel Register in the Cantonal Court Novi Travnik, the Cantonal Prosecutor's Office Zenica and the Municipal Court Kakanj continued successfully. In this way, these institutions are better able to manage their human resources, including less time needed to prepare and generate relevant reports.

A set of modules has been developed and implemented as part of the HRMIS system, their end users being the Finance and Accounting Department, which enable the public procurement procedures, keeping of official travel records, and tracking of financial flows of the institution.

7.1.8. Ensuring long-term sustainability and security of the Judicial Information System

In 2018, the activities on consolidation and protection of data centres within the Judicial Information System (JIS) in BiH continued. After the migration of all information services to the new data centre, which was built and equipped at the end of 2017, the reconstruction of the old data centre has started. The necessary works and procurement included the reconstruction of the data centre and the upgrading of the primary data centre infrastructure. A fire protection system and an access control system have been established in the backup data centre.

The works were completed at the end of July 2018, when the transformation of the old data centre to a backup JIS location has started.

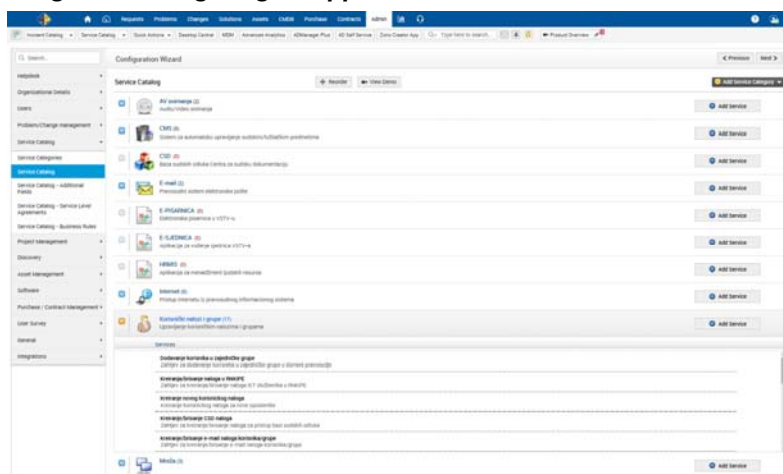
In June 2018, an IT infrastructure Security Monitoring and Incident Management System for BiH judiciary was procured and installed. The system is fully customized and user-friendly. A service configuration has started after the installation and it will provide a higher level of service for 6 000 users in the BiH judiciary.

Image 29: New JIS data centre premises



In order to provide a new level of services for 6 000 users in the judiciary, the HJPC has procured the following ManageEngine products in 2018:

- ManageEngine Service Desk Plus - a centralized IT solution for managing IT processes based on ITIL best practices. This solution includes help desk (incident management), asset management, problem management and change management.
- ManageEngine Netflow Analyzer – a software solution for monitoring the network traffic of key equipment and services in the HJPC data centres.
- ManageEngine Network Configuration Manager - a software solution for monitoring and automated configuration management of network devices in the HJPC data centres.

Image 30: ManageEngine application

7.1.9. Improving the processing of utility cases in courts

The number of utility cases that has reached 1.8 million⁴⁹ and their manual processing have shown numerous deficiencies when it comes to resolution of this type of cases before courts.

In order to simplify the processing of these cases, the HJPC, with the financial support provided by donors (the governments of Sweden and Norway), has developed a system for electronic processing of utility cases and small value disputes - **SOKOP Mal**.

The SOKOP-Mal system is intended for first-instance courts and it enables group filing and automatic processing of (utility) claims. This system enables entirely electronic communication between the judgement creditors and the courts, while also allowing for more efficient handling of these cases by judges.

Since its introduction, the SOKOP-Mal has been constantly developed and upgraded, including in 2018. The use of SOKOP-Mal has brought numerous advantages to the courts, the most important of which include:

- **grouping large numbers of writs and other filings** (up to 500 documents);
- **automated intake of initial filings** and the automatic review of the formal and procedural validity of filings;
- **merging cases** in accordance with BiH civil procedure legislation;
- **automatic calculation of deadlines** and the availability of a **task list** that provides users with a constant overview of ongoing tasks, information on cases in which deadlines have elapsed for certain party actions (filing objections, unpaid advances etc.);
- **electronic link-up** and two-way exchange of information and filings between SOKOP-Mal and CMS;
- the implementation of the litigation component of the system (Mal), which enables that the claims in small value disputes⁵⁰ be created electronically, with an indication that a default judgment is required. If no response to the complaint is submitted within the deadline, the system automatically proposes a default judgment and enables their group creation.

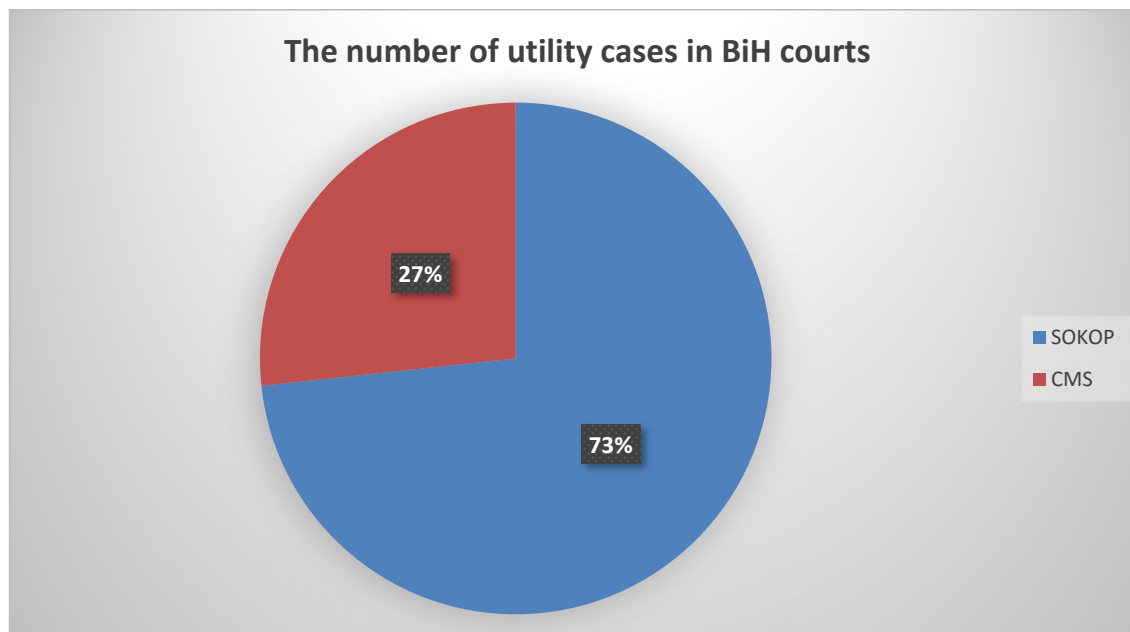
Given the advantages for and positive results of the courts using the system, the HJPC decided in 2017 to introduce mandatory use of the system in all first instance courts. According to the plan, in the next three years all first-instance courts will be required to use the SOKOP Mal system in processing utility cases. Thus, as of 31 December 2018, 26 courts and 21 judgment creditors are using or expressed readiness to use the SOKOP Mal. A total of 1 350 065 pending cases has been registered with the system, where 73.3% of all utility cases in BiH are

⁴⁹The total number of pending utility cases on 31 December 2018 was 1 842 938.

⁵⁰Article 408 of the Criminal Procedure Code of the Brcko District; Article 429 of the RS Civil Procedure Code and of the FBiH Civil Procedure Code

processed using the system. In the reporting period, the courts completed 103 818 cases through the system.

Graph 15



The largest system users are the Municipal Court Sarajevo and the Basic Court Banja Luka, which electronically communicate and process cases involving 9 judgement creditors in their respective jurisdictions.

Concurrently with the new users joining the SOKOP Mal system, in 2018 the HJPC continued with the provision of technical support and user training in order to enable unimpeded electronic sending and processing of utility cases. Particularly important is the support of the HJPC provided to the courts through the IJEP II project, funded by the Government of Norway, where additional short-term staff has been employed. For the delivery of the SOKOP writs, 38 persons are employed as legal associates, court bailiffs and couriers in the following courts: Sarajevo Municipal Court, Zenica Municipal Court, Tuzla Municipal Court, Srebrenica Basic Court and Bijeljina Basic Court.

The SOKOP Mal system was continuously developed and upgraded in 2018 in accordance with user requirements and changes to the relevant laws. The most significant functionalities of the system that were developed in the reporting period are:

- System upgrade through the development of the special software - a mobile application for court bailiffs. With this application, the court bailiffs are now able to access the SOKOP electronic file (when doing inventory and appraisal in the field), they can photograph movable property and electronically deliver all information and images to the judge, who then continues the law process including auction and sale. Also, each court has its own web portal offering the following information to potential buyers: the time and place of sale, the characteristics, (initial) prices and the images of items that are the subject of court sale.
- Automatic counting of judge quotas is enabled (automatic application of rules on recording of completed cases in accordance with the Book of Rules on Framework Performance Measures for Judges and Legal Associates in Courts of BiH).
- With new filters being added, additional search options are made available to system users.

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

- Advocate the adoption of amendments to the Law on HJPC BiH proposed on the basis of the *Peer Review* recommendations of the European Commission;
- In 2019, the HJPC will implement the amended provisions of the Rules of Procedure of the HJPC which came into force in June 2018, and relate to:
 - improving of written test and entrance exam,
 - introducing more demanding testing procedures and improving structured conversation,
 - introducing the difference between the first appointment and promotion (based on customized criteria for assessing the competence of candidates depending on their professional status),
 - introducing specific rules for the selection process of court presidents and chief prosecutors (requirement to prepare and present the work program introduced); in addition, the database of questions for the entrance exam is updated, and the questions are publicised on the HJPC website.
- Provide support to the courts and prosecutor's offices in the performance evaluation for 2019 and ensure the uniform application of new criteria for performance evaluation of the judicial office holders in all judicial institutions in BiH.

Judicial efficiency

Regarding the efficiency of the courts:

- It is necessary to cooperate with the competent ministries of justice to improve the organization of business processes in the courts in terms of changing the job description of a particular category of non-judicial staff, as well as the introduction of new categories of non-judicial staff in order to increase the efficiency of the courts.
- The competent ministries of finance need to provide sufficient financial resources to ensure a sufficient number of non-judicial staff in the courts.
- It is necessary for the courts to make maximum efforts and to take concrete measures (compliance with the backlog reduction plans, resolving cases by the age of the initial act, the equal distribution of cases per judge within the same department and by the age of the case, etc.) in order to prevent them from violation of the right to trial within reasonable time.
- It is necessary to insist on measures that will have the effect of reducing the inflow of litigation cases against budget users, as well as cases initiated by budget users.⁵¹
- It is necessary to improve the management of courts in terms of vertical and horizontal coordination in the courts as an important part of the organization of the work in courts, and to strengthen communication and teamwork within court departments.

⁵¹ Institutions and companies that are in some way financed from the budget

- It is necessary for the courts to develop adequate tools (such as adopted guidelines for litigation, memorandums of cooperation between the courts of first instance and second instance, plans for a preliminary hearing, checklists for preliminary examination of the lawsuit, etc.), which will improve the efficiency of court proceedings.
- It is recommended that the courts apply the Guidelines for Appointing Department Heads, thus establishing a clear, objective and transparent appointment process for the Department Heads, with the aim of strengthening their role and responsibility, particularly in the context of organizing and managing the operations of the court departments.
- It is necessary that the HJPC BiH and the courts take measures (promotion, weeks of court settlements, roundtables, etc.) in order to increase the number of cases resolved by a court settlement, and in that way affect more efficient resolution of the cases.

Reconstruction and modernization of selected judicial institutions

- HJPC is still committed to improving the working conditions of the courts and prosecutor's offices. Therefore, the HJPC BiH insists on capital investments in judicial institutions in BiH.

In terms of vulnerable groups:

- It is necessary to develop a strategy for the improvement of gender equality in the judiciary of BiH, on the basis of which the judicial institutions will adopt and implement their own action plans.
- It is necessary to undertake activities to raise awareness of the judicial office holders on gender issues and the specific needs of vulnerable groups in contact with the judiciary, as well as to provide adequate training for this purpose.
- It is necessary to improve the data collection system in the BiH judiciary, in order to enable comprehensive collection of data on violence against women and domestic violence, in accordance with the requirements stemming from international documents ratified by BiH.
- It is necessary to undertake adequate activities to ensure equal access to justice for all persons, without discrimination, or to provide the necessary support to vulnerable groups in exercising their rights.

Regarding the improvement of the enforcement procedure in BiH:

- For the purpose of better organization of the BiH courts' enforcement departments, it is necessary to reorganize them as to improve the status and role of bailiffs and introduce the compulsory training.
- It is necessary to continue the efforts to implement the reform of the enforcement procedure in accordance with the conclusions from meetings of the Subcommittee on Justice, Freedom and Security and the strategic documents of the HJPC and BiH.
- It is necessary to continue with the implementation of SOKOP-Mal system in all the first instance courts in BiH for the purpose of easier processing of utility cases.

Regarding the efficiency of the prosecutor's offices:

- 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.
- It is necessary to intensify the work of prosecutor's offices on high-level corruption cases.
- 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 situation 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 the strategic and operational level.

Continue to implement the Strategy for dealing with people who come in contact with

the prosecutor's offices, particularly in the part related to motivating citizens to participate in criminal proceedings.

- 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.
- It is necessary to insist on the extension and improvement of systematization in the prosecutor's offices so as to provide a new category of employees that would provide expert assistance to prosecutors, such as the position of economic adviser, in order to more effectively address commercial crime cases.

Quality of work of judicial institutions

- It is proposed to introduce an adequate system of mentoring for newly appointed judges in the courts, and to continue overseeing the work and training of consultative prosecutors.
- A consistent application of the decision on the minimum scope of initial training and professional development is proposed, as well as the improvement of the system in accordance with best practices.
- It is proposed to continue developing a network of contacts in the courts and prosecutor's offices in Bosnia and Herzegovina for the purpose of delivering court decisions and training topics.
- It is proposed that all competent institutions coordinate efforts to ensure access to selected court decisions and search functions for the general public in order to improve transparency of the judiciary.
- It is proposed to the competent institutions to continue with activities to harmonize case law.

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.

ANNEX 2 REPORT ON PERFORMANCE OF THE COURTS

Analysis of the court performance

This section of the report presents the work of regular courts in 2018 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 2018 are compared to the data for 2017. 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.⁵²

Also, it should be noted that for complete information about the flow of cases in courts, statistical tables should be considered: unresolved cases in courts, inflow of cases in courts and the number of cases resolved in courts.

Flow of cases – per court instances

Unresolved cases in courts

The total number of unresolved cases in 2018 was down by 18,799 cases or 5.8%, showing continuation of a declining trend in the number of unresolved cases in the courts in 2018. Reduction in the number of unresolved cases was observed at all instances, except in the High Commercial Court in Banja Luka, where there was an absolute increase in the number of unresolved cases by 100 cases or by 46.5% and in the Court of Bosnia and Herzegovina, where there was an absolute increase in the number of unresolved cases by 152 cases or by 6.1%. The largest absolute reduction in the number of unresolved cases was observed in municipal courts (13,639 cases or by 7.7%).

Table 27: Unresolved cases in courts

COURTS	The number of unresolved cases		Change in the number of unresolved cases	Percentage change in the number of unresolved cases
	01/01/2018	31/12/2018		
	I	II		
The Court of Bosnia and Herzegovina	2,502	2,654	152	6.1%
Supreme Court of the Federation of BiH	7,768	6,303	-1,465	-18.9%
Supreme Court of the Republika Srpska	2,270	2,132	-138	-6.1%
Basic Court of the Brcko District BiH	205	133	-72	-35.1%
Banja Luka High Commercial Court	215	315	100	46.5%
Cantonal Courts	49,128	48,357	-771	-1.6%
District Courts	5,248	5,271	23	0.4%
District Commercial Courts	7,910	6,240	-1,670	-21.1%

⁵² Also, the data in this section of the report do not include data on the following cases: court administrations, registration of business entities, preparation phase in cases of administrative disputes, enforcement of minor offence sanctions, expunging of sanctions and protective measures in various criminal cases, detention and the arrest in minor offence cases.

Municipal Courts	176,742	163,103	-13,639	-7.7%
Basic Courts	65,049	64,281	-768	-1.2%
Basic Court of the Brcko District BiH	4,748	4,197	-551	-11.6%
TOTAL	321,785	302,986	-18,799	-5.8%

Inflow of cases in courts

Compared to 2017, the total inflow of cases in 2018 was slightly reduced by 2,969 cases or by 0.8%. The highest absolute decrease in the number of received cases was observed in municipal courts, by 7,023 or by 3.5%, while in the basic courts the highest absolute increase in the number of received cases was by 3,679 cases or by 3.7%. A significant increase in the number of received cases, by 1,227 cases or by 21%, was observed in the Court of Bosnia and Herzegovina⁵³.

Table 28: Inflow of cases in courts

COURTS	Number of receive cases		Change in the number of received cases	Percentage change in the number of received cases
	2017	2018		
	I	II	III = II - I	IV = II / I
The Court of Bosnia and Herzegovina	5,877	7,104	1,227	20.9%
Supreme Court of the Federation of BiH	4,762	4,807	45	0.9%
Supreme Court of the Republika Srpska	2,344	2,343	-1	0.0%
Appellate Court of the Brcko District BiH	1,247	1,125	-122	-9.8%
Banja Luka High Commercial Court	1,097	1,318	221	20.1%
Cantonal Courts	36,592	36,678	86	0.2%
District Courts	15,925	16,092	167	1.0%
District Commercial Courts	8,797	7,922	-875	-9.9%
Municipal Courts	197,908	190,885	-7,023	-3.5%
Basic Courts	99,623	103,302	3,679	3.7%
Basic Court of the Brcko District BiH	6,595	6,222	-373	-5.7%
TOTAL	380,767	377,798	-2,969	-0.8%

Change in the number of unresolved cases and change in the inflow of cases

By comparing the change 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 the number of unresolved

⁵³ In 2018, general elections were held in Bosnia and Herzegovina, and 1,065 cases of election appeals were received in the Court of Bosnia and Herzegovina. As for the resolution of these cases, the Law on Administrative Disputes of BiH prescribes a very short 3 day deadline, so all these cases were resolved during 2018, which also affected the increase in the number of resolved cases in this Court by 20%.

cases is caused by a change in inflows or activities within the courts⁵⁴. This comparison leads to the following conclusions:

- An exceptionally positive trend (reducing the number of unresolved cases, despite the increase in inflows) was observed in the Supreme Court of the Federation of BiH, cantonal and basic courts.
- A positive trend (reduction in the number of unsolved cases is significantly higher than the decrease in inflows) was observed in the Supreme Court of the Republika Srpska, the Appellate Court Brcko District BiH, district commercial courts, municipal courts and the Basic Court of the Brcko District BiH.
- A negative trend (increase in the number of unresolved cases, but this increase is significantly less than the increase in inflows) was observed in the Court of Bosnia and Herzegovina.
- An exceptionally negative trend (the increase in the number of unsolved cases is significantly higher than the increase in inflows) was observed at the High Commercial Court in Banja Luka.
- The change in the number of unresolved cases proportional to the change in inflows (reduction in the number of unresolved cases is proportional to the decrease in inflows) was observed in district courts.

Resolved cases in courts

Compared to 2017, the total number of resolved cases in 2018 was slightly lower, i.e. the courts resolved 1,702 cases less or less by 0.4%. The largest reduction in the number of resolved cases was observed in municipal courts (3,020 cases or 1.5%), district economic courts (594 cases or 5.8%), as well as the Appellate Court of Brcko District BiH (144 cases or 10.7%). A slight decrease in the number of resolved cases was observed in the Supreme Court of the Republika Srpska (50 cases or 2%) and in district courts (132 cases or 0.8%).

A significant increase in the number of resolved cases was observed in the Court of Bosnia and Herzegovina, where the number of resolved cases in 2018 compared to the number of resolved during 2017 increased by 1,178 cases or by 20.4%. A slight increase in the number of resolved cases (from 0.4% to 3.3%) was observed in cantonal courts, basic courts, the Basic Court of the Brcko District BiH, the Supreme Court of the Federation of BiH and the High Commercial Court in Banja Luka.

⁵⁴ Change in the number of pending cases can be caused by change in the inflow or by change in the number of resolved cases in courts or by combination of these two factors. For example, increasing the inflow of cases by 10% can cause an increase in the number of unresolved cases by 10%, which could suggest that the increase in the number of pending cases was caused by an increase in inflows. If, by making additional efforts, the courts manage to resolve a portion of the increased inflow of cases then the increase in the number of unresolved cases will be less than the increase in inflows. For example, the inflow of cases can be increased by 10% and the number of unresolved cases by 5%, which could be defined as a positive trend.

Contrary to the above, an increase in the number of unresolved cases may be greater than an increase in inflows. For example, the inflow of cases can be increased by 10% and the number of unresolved cases by 15%, which could be defined as a negative trend.

Table 29: Number of resolved cases in courts

COURTS	Number of resolved cases		Change in the number of resolved cases	Percentage change in the number of resolved cases
	2017	2018		
	I	II		
The Court of Bosnia and Herzegovina	5,774	6,952	1,178	20.4%
Supreme Court of the Federation of BiH	6,148	6,272	124	2.0%
Supreme Court of the Republika Srpska	2,531	2,481	-50	-2.0%
Appellate Court of the Brcko District BiH	1,341	1,197	-144	-10.7%
Banja Luka High Commercial Court	1,179	1,218	39	3.3%
Cantonal Courts	37,284	37,449	165	0.4%
District Courts	16,201	16,069	-132	-0.8%
District Commercial Courts	10,186	9,592	-594	-5.8%
Municipal Courts	207,544	204,524	-3,020	-1.5%
Basic Courts	103,413	104,070	657	0.6%
Basic Court of the Brcko District BiH	6,698	6,773	75	1.1%
TOTAL	398,299	396,597	-1,702	-0.4%

Flow of cases – per case type

Unresolved cases by types

The number of unresolved cases was down in all court departments, except for the minor offence and non-litigation department which observed an increase in the number of unresolved cases by 18.7% at the minor offence, and by 7.1% at the non-litigation department, while the administrative department observed an increase the end of 2018 by 15 cases or by 0.1% compared to the beginning of 2018. A largest decrease was observed in the civil department (by 12.3%) and the enforcement department (by 15.5%), while in criminal and commercial departments, the unresolved cases were reduced by 5.7% and by 8.6% respectively.

Table 30: Unresolved cases in courts - by types of cases

CASE TYPE	Number of unresolved cases		Change in the number of unresolved cases	Percentage change in the number of unresolved cases
	01/01/2018	31/12/2018		
	I	II		
Civil cases	111,024	97,336	-13,688	-12.3%
Enforcement cases	74,961	64,125	-10,836	-14.5%
Criminal cases	20,911	19,727	-1,184	-5.7%
Minor offence cases	26,022	30,888	4,866	18.7%
Commercial cases	20,687	18,911	-1,776	-8.6%
Administrative cases	14,504	14,519	15	0.1%

Non-litigation cases	53,676	57,480	3,804	7.1%
TOTAL	321,785	302,986	-18,799	-5.8%

Inflow of cases by types

Compared to 2017, there was a decrease in the inflow of enforcement, commercial and civil cases from 4% to 9%. The largest reduction in inflows, both absolutely and as a percentage, was observed in civil cases (7,787 cases or 8.9%). The change in the inflow of cases in criminal department is negligible because in 2018 it received 0.6% less cases compared to 2017. In the course of 2018, the increase in the inflow of minor offence cases by 7% was observed, the increase in the inflow of non-litigation cases by 5% and the increase in inflow of administrative cases by 18.5%.

Table 31: Inflow of cases in courts - by types of cases

CASE TYPE	Number of receive cases		Change in the number of received cases III = II - I	Percentage change in the number of received cases IV = II / I
	2017	2018		
	I	II		
Civil cases	87,597	79,810	-7,787	-8.9%
Enforcement cases	70,858	68,129	-2,729	-3.9%
Criminal cases	67,838	67,443	-395	-0.6%
Minor offence cases	56,881	60,858	3,977	7.0%
Commercial cases	18,172	16,736	-1,436	-7.9%
Administrative cases	10,524	12,474	1,950	18.5%
Non-litigation cases	68,896	72,348	3,452	5.0%
TOTAL	380,766	377,798	-2,968	-0.8%

Resolved cases by types

Compared to 2017, the courts resolved fewer civil, enforcement and commercial cases in 2018. The highest drop in the number of resolved cases was observed in the civil cases (8,224 cases or by 8.1%). The number of resolved criminal cases was slightly lower (by 0.2%), while the courts resolved more minor offence, administrative and non-litigation cases in 2018.

Table 32: Number of resolved cases in courts - by types of cases

CASE TYPE	Number of resolved cases		Change in the number of resolved cases III = II - I	Percentage change in the number of resolved cases IV = II / I
	2017	2018		
	I	II		
Civil cases	101,722	93,498	-8,224	-8.1%
Enforcement cases	80,448	78,965	-1,483	-1.8%
Criminal cases	68,763	68,627	-136	-0.2%
Minor offence cases	52,780	55,992	3,212	6.1%
Commercial cases	19,754	18,512	-1,242	-6.3%
Administrative cases	11,545	12,459	914	7.9%
Non-litigation cases	63,287	68,544	5,257	8.3%
TOTAL	398,299	396,597	-1,702	-0.4%

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 achieved 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.

Average quality of judicial decisions in all regular courts in BiH during 2018 was 90%, while in 2017 this figure stood at 88%. The average achieved quota in 2018 was the same as in 2017 and it amounted to 113%.

Table 33: Performance quality and quantity

Courts	Performance quality	Performance quantity - average collective quota achieved
The Court of Bosnia and Herzegovina	95%	170%
Supreme Court of the Federation of BiH	-	119%
Supreme Court of the Republika Srpska	-	137%
Appellate Court of the Brcko District BiH	-	162%
Banja Luka High Commercial Court	88%	104%
Cantonal Courts	92%	104%
District Courts	90%	100%
District Commercial Courts	90%	151%
Municipal Courts	91%	112%
Basic Courts	86%	103%
Basic Court of the Brcko District BiH	90%	139%

Statute of limitations

In 2018, the Courts registered in the CMS that 268 cases fell under the statute of limitations for criminal prosecution, while 73 cases fell under the statute of limitations for enforcement of criminal sanctions. The total number of cases that fell under the statute of limitations for criminal prosecution (after the indictment) and the enforcement of criminal sanctions were down by two cases, due to 341 cases falling under the statute of limitations and being registered as completed by the courts in 2018, compared to 343 such cases in 2017.

As in the past, the courts often registered the cases as completed because of the statute of limitations due to the accused being unavailable (209 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 (25 cases, 7%).

In 2018, the courts registered 99 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 20 cases or 17% more than in 2017. The relative statute of limitations was established in 9 minor offence cases, of which in 8 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 90 minor offence cases, out of which 42 or 47% 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 34: Statute of limitations

Department	Case type	Relative statute of limitations	Absolute statute of limitations	Total
Criminal cases	Iks	0	73	73
	K	2	101	103
	Kps	1	99	100
	Kv	1	39	40
	Kž	0	24	24
	Kžž	0	1	1
Total criminal cases		4	337	341
Minor offence cases	Pr	9	44	53
	Prm	0	2	2
	Pv	0	24	24
	Pžp	0	20	20
Total minor offence cases		9	90	99
TOTAL		13	427	440

ANNEX 3 REPORT ON THE WORK OF PROSECUTORS

Analysis of performance of prosecutor's offices

This chapter presents the work of prosecutor's offices in 2018, through the aggregate reports on the work of the prosecutor's offices on the: criminal reports, investigations, filed indictments and judgements in Kt cases⁵⁵, 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 BiH.

Performance data for individual prosecutor's office are available at the vsts.pravosudje.ba website.

Criminal reports

In 2018, in the prosecutor's offices, there were criminal reports filed in 31,543 cases in relation to 51,673 persons reported. Compared to 2017, the inflow of criminal reports decreased, and the total number of criminal reports per cases decreased by 1,977 or by 6%, i.e. 3,171 or 6% fewer persons were reported. Compared to 2017, the total number of processed reports per case in 2018 dropped by 1,211 reports or by 5% , i.e. 2,111 or 6% fewer reports against persons were processed. However, more criminal reports were processed than received in 2018, resulting at the year end in reduction in the number of unprocessed criminal reports per case by 760 or by 8%, and per person by 1,237 or by 6%.

As in the previous year, out of the total number of criminal reports, observed by case, 71% of them were processed, or 29% remained unprocessed.

During 2018, a total of 22,512 criminal reports were observed in cases against 32,543 persons. From the breakdown of the processed criminal reports, which is shown in the following table, it is evident that the majority of the reports resulted in order to investigate, that is 72% cases in relation to 65% persons. A significant number of criminal reports resulted in order not to investigate, that is 24% cases in relation to 28% persons.

Table 35: Flow of reports and breakdown of processed reports

Prosecutor's Offices	Total number of reports in 2018		Processed reports in 2018						Pending reports as of 31/12/2018	
			by order not to conduct investigation		by order to conduct investigation		other available means			
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BiH	1,583	7,754	240	970	347	918	101	568	890	5,292
			35%	39%	50%	37%	15%	23%		
FBiH	19,280	29,470	3,935	6,280	9,505	12,213	592	1,184	5,219	9,735
			28%	32%	68%	62%	4%	6%		
RS:	10,302	13,940	1,281	1,993	5,843	7,346	290	563	2,877	4,029
			17%	20%	79%	74%	4%	6%		
Brcko District BiH	378	509	0	0	374	495	4	14	0	0
			0%	0%	99%	97%	1%	3%		
TOTAL	31,543	51,673	5,456	9,243	16,069	20,972	987	2,329	8,986	19,056
			24%	28%	72%	65%	4%	7%		

⁵⁵ 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.

Investigations

There were 19,876 cases i.e. 28,439 persons under investigation in 2018 in the prosecutor's offices. Compared to 2017, there were fewer orders to investigate, and the total number of investigations per case dropped by 1.019 or by 5%, that is, per person by 1,864 or by 6%. Compared to 2017, the total number of completed investigations in 2018 dropped by 1,005 cases investigated or by 6%, that is by 2.021 persons investigated or by 9%. However, there were more investigation completed than ordered in 2018, and consequently there was a slight decrease in the number of uncompleted investigations at the end of year.

As in the previous year, out of the total number of investigations, observed by case, 81% of them were completed, or 19% remained uncompleted.

During 2018, a total of 16,120 investigations were completed in cases against 20,917 persons. From the breakdown of the resolved investigations, which is shown in the following table, it is evident that most of the investigations resulted in indictment, i.e. in 76% of the cases or against 70% of the persons processed. Significant number of investigations resulted in order to discontinue investigation, i.e. 22% of investigated cases or 25% of investigated persons.

Table 36: Flow of investigations and breakdown of completed investigations

Prosecutor's Offices	Total number of investigations in 2018		Completed investigations in 2018						Pending investigations as of 31/12/2018	
			by order to discontinue investigation		resulting in indictment		other available means			
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BiH	750	2,907	114	358	171	336	43	214	422	1,999
			35%	39%	52%	37%	13%	24%		
FBiH	11,512	15,524	1,534	2,305	8,066	9,655	165	364	1,744	3,197
			16%	19%	83%	78%	2%	3%		
RS	7,151	9,395	1,897	2,516	3,655	4,332	70	308	1,529	2,239
			34%	35%	65%	61%	1%	4%		
Brcko District BiH	463	613	72	88	314	388	19	53	58	84
			18%	17%	78%	73%	5%	10%		
TOTAL	19,876	28,439	3,617	5,267	12,206	14,711	297	939	3,753	7,519
			22%	25%	76%	70%	2%	5%		

Indictments

During 2018, the prosecutor's offices filed 12,206 indictments against 14,711 persons. Compared to 2017, the total number of indictments reduced by 304 or by 2%, meaning that in 2018 there has been 695 or 5% fewer persons indicted. A drop in the number of filed indictments was observed in cantonal and district prosecutor's offices, while in the Brcko District Prosecutor's Office the number of filed indictments increased by 19%. A slight increase in the number of filed indictments was observed in the Prosecutor's Office of BiH.

Table 37: Indictments

Prosecutor's Offices	Filed indictments in 2017		Filed indictments in 2018		Change in the number of filed indictments			
	Cases	Persons	Cases	Persons	Cases		Persons	
BiH	168	369	171	336	3	2%	-33	-9%
FBiH:	8,122	10,084	8,066	9,655	-56	-1%	-429	-4%
RS	3,957	4,646	3,655	4,332	-302	-8%	-314	-7%
Brcko District BiH	263	307	314	388	51	19%	81	26%
TOTAL	12,510	15,406	12,206	14,711	-304	-2%	-695	-5%

Judgements⁵⁶

In 2018, 12,766 judgements were passed, which is 1,495 or 7% fewer judgements than in 2017. The number of convicting judgements in 2018 compared to 2017 was down by 456 or 4%. In 2018, the acquittals were up by 25 or 3%, while dismissing judgements were down by 33 or 15%.

Acting upon filed indictments, in 2018 the courts passed 11,741 or 92% convicting judgements, finding 14,265 persons guilty. In 7%, or 835 cases, acquittals were passed for 1,188 persons. Dismissing judgements were rendered in 190 or 1% of cases.

Table 38: Judgements

Prosecutor's Offices	Convictions		Acquittals		Dismissed judgements		TOTAL	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BiH	144	266	19	50	2	4	165	320
FBiH:	7,977	9,747	492	726	72	118	8,541	10,591
RS	3,358	3,953	300	371	115	133	3,773	4,457
Brcko District	262	299	24	41	1	1	287	341
TOTAL	11,741	14,265	835	1,188	190	256	12,766	15,709

Compared to 2017, the number of convictions was down by 456 or 4%. A drop in the number of convictions was observed in cantonal and district prosecutor's offices, except in the Prosecutor's Office of BiH and in the Prosecutor's Office of Brcko District BiH, where an increasing number of convicting judgements was observed by 23% and by 7% respectively.

⁵⁶ Data on judgments includes all judgments regardless of whether they become final in the reporting period.

Table 39: Convictions

Prosecutor's Offices	Convictions in 2017		Convictions in 2018		Change in the number of convictions			
	Cases	Persons	Cases	Persons	Cases		Persons	
BiH	117	212	144	266	27	23%	54	25%
FBiH:	7,990	9,820	7,977	9,747	-13	0%	-73	-1%
RS	3,844	4,433	3,358	3,953	-486	-13%	-480	-11%
Brcko District BiH	246	284	262	299	16	7%	15	5%
TOTAL	12,197	14,749	11,741	14,265	-456	-4%	-484	-3%

In 2017, a suspended sentence handed down in 67% of convicting judgements, prison sentence in 13% of convicting judgements, while a fine was imposed in 13% of such judgements. Therefore, in 2018 compared to 2017, there was a 1% increase in the number of convicting judgements with suspended sentence. In 2018, the percentage of convicting judgements with an imposed fine remained unchanged, while there was a 1% decrease in the number of convicting judgements with a sentence of imprisonment compared to the previous year.

Table 40: 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	53	127	4	17	87	122
FBiH:	1,663	2,174	496	586	5,755	6,908
RS	506	680	979	1,127	1,844	2,109
Brcko District BiH	92	102	19	20	151	177
TOTAL	2,314	3,083	1,498	1,750	7,837	9,316

The analysis of suspended sentences resulted in conclusion that almost 80% of suspended sentences were imposed for the following criminal offences: theft and robbery (14%), possession, trafficking and enabling the use of narcotic drugs (13%), endangering public transport (11%), causing physical injuries (8%), domestic violence (7%), forest theft (3%), damage to other people's property (5%), forgery of documents (5%), security threats (3%), violent behaviour (3%), unauthorized possession, production and trafficking of weapons or explosive materials (3%), as well as evasion (2%). For other crimes, the percentage of the imposed suspended sentences, after the offence, is less than 1% of total suspended sentences pronounced.

Unresolved cases⁵⁷

In 2018, 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 997 cases or 7%, and the number of suspects in unresolved cases dropped by 1.202 or 4%. 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

⁵⁷ In addition to the unresolved Kt cases against the known perpetrators shown in Table 7, the Prosecutor's Offices as of 31 December 2018 had 199 unresolved Ktm cases against 275 minors.

in the number of unresolved cases by 3%. The Prosecutor's Office of BiH registered a 1% rise in the number of unresolved cases

Table 41: Unresolved cases

Prosecutor's Offices	Number of unresolved cases as of 31/12/2018		Change in the number of unresolved cases compared to 31/12/2017			
	Cases	Persons	Cases		Persons	
BiH	1,312	7,291	18	1%	-193	-3%
FBiH:	6,963	12,932	-1,095	-14%	-908	-7%
RS	4,406	6,268	117	3%	-61	-1%
Brcko District BiH	58	84	-37	-39%	-40	-32%
TOTAL	12,739	26,575	-997	-7%	-1,202	-4%

Statute of limitations on criminal prosecution

In 2018, decisions on suspending proceedings were filed in 137 cases against 193 persons by the prosecutor's offices in the TCMS, due to falling under the statute of limitation for criminal prosecution before indictment. In 2017, prosecutor's offices made such decisions in 152 cases. This means that in 2018 the number of prosecutorial decisions on case completion due to falling under the statute of limitation was reduced by 15 cases, or by 10%. 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 69 or 50.4% of cases) and also in the investigation stage (68 cases or 49.6%).

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 42: 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	0	0	4	13	4	13
FBiH:	18	35	34	45	52	80
RS	45	61	36	39	81	100
Brcko District BiH	0	0	0	0	0	0
TOTAL	63	96	74	97	137	193

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 2018 alleged those crimes. Just as in 2017, criminal offences listed in the Table include almost 80% of the total number of indictments filed in 2018.

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 43: Breakdown of crimes

Law	Chapter 1:	Description	Filed indictments in 2017		Filed indictments in 2018	
			Cases	Persons	Cases	Persons
Criminal Code of BiH	CC BiH Chapter XVIII	Criminal offences against economy and market integrity and criminal offences in the field of customs duties	82	103	94	106
	CC BiH Chapter XVII	Criminal offences against humanity and values enshrined under international law	59	96	68	109
Criminal Code of the FBiH	CC FBiH Chapter XXV	Criminal offenses against property	2,311	2,944	2,144	2,623
	CC FBiH Chapter XXI	Criminal offences against human health	1,177	1,302	1,703	1,919
	CC FBiH Chapter XXX	Criminal offences against public order and legal transaction	949	1,291	903	1,156
	CC FBiH Chapter XVI	Criminal offences against life and limb	711	902	603	795
	CC FBiH Chapter XXVIII	Criminal offences against public traffic	663	672	757	762
	CC FBiH Chapter XX	Criminal offences against marriage, family and youth	608	625	617	644
Criminal Code of the RS	CC RS Chapter XX	Criminal offences against property	1,286	1,581	1,219	1,493
	CC RS Chapter XII	Criminal offences against life and limb	466	607	463	593
	CC RS Chapter XVI	Criminal offences against marriage and family	287	297	303	312
	CC RS Chapter XXXI	Criminal offences against public traffic safety	428	431	257	264
	CC RS Chapter XXVIII	Criminal offences against public law and order	411	496	265	343

Criminal Code of BD BiH	CC BD Chapter XXV	Criminal offences against property	85	104	104	125
	CC BD Chapter XVI	Criminal offences against life and limb	44	53	47	62
	CC BD Chapter XX	Criminal offences against marriage, family and youth	20	21	31	34
	CC BD Chapter XXX	Criminal offences against public order and legal transaction	22	25	29	29
TOTAL FOR THE ABOVE CHAPTERS OF CRIMINAL CODE			9,609	11,550	9,607	11,369
TOTAL FOR ALL SECTIONS OF CRIMINAL CODE			12,510	15,406	12,206	14,711

Performance quality and quantity

In 2018, prosecutor's offices, on average, achieved their collective quotas at 110%, which is 1% higher than in 2017. In accordance with the criteria for evaluating the work of prosecutors and chief prosecutors, 58 the quality of prosecutorial decisions is expressed through two elements: quality of indictments and quality of orders not to conduct investigations, and orders to discontinue investigations. In 2018, the prosecutor's offices on average achieved the quality of indictments at 96%, which is a 1% increase compared to 2017. The average result of prosecutor's offices as per the element quality of orders not to conduct and to discontinue investigations is the same as in 2017 and stood at 99%.

Table 44: Performance quality and quantity

Prosecutor's Offices	Performance quality		Performance quantity - average collective quota achieved
	Indictment quality	Quality of orders not to conduct and to discontinue investigations	
Prosecutor's Office of BiH	93%	100%	133%
Cantonal Prosecutor's Office	97%	99%	102%
District Prosecutor's Office	95%	100%	126%
Special Department of the RS Public Prosecutor's Office	91%	99%	105%
Prosecutors Office of the Brcko District BiH ⁵⁹	96%	100%	82%

⁵⁸ 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.

⁵⁹ Prosecutors of the Prosecutor's Office of the Brcko District 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.

