



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

2019 Annual Report

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FOREWORD FROM THE HJPC PRESIDENT

Dear friends and colleagues,

I am pleased to present the 2019 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.

As emphasised in the European Commission Opinion, the rule of law and fundamental rights represent fundamental values of the European Union, and so the High Judicial and Prosecutorial Council of Bosnia and Herzegovina is determined to assume full responsibility for the continued harmonisation of the judiciary in line with European standards while carefully nurturing the rule of law.

When presenting the results, allow me to remind you that towards the end of May 2019, the European Commission had announced an enlargement package for 2019 which includes the communication on enlargement policy, the European Commission Opinion on BiH's application for EU membership and the Analytical Report.

In the Opinion, apart from declaring that BiH had achieved a certain level of preparedness to implement the *acquis* and European standards in the rule of law field, it also pointed out the other deficiencies in the field, concluding that to begin negotiations, the country must achieve the appropriate degree of compliance with membership criteria and in particular criteria requiring the stability of institutions guaranteeing democracy and the rule of law.

To that end, it was stressed that BiH must fundamentally improve its legislative and institutional framework and so, accordingly, an action plan was prepared to implement the priorities from the Analytical Report of the European Commission.

There are 14 measures from the Action Plan that are directed at the HJPC and focused on priorities in the field of "Rule of Law and Fundamental Rights", and we can proudly say that during the past year we have achieved positive results in the implementation of these priorities.

In following the current legislative framework and its own competences, the HJPC has adopted a number of rules aimed at removing identified deficiencies in the judiciary, especially with reference to appointment criteria and the performance appraisal of judges and prosecutors.

In line with this, the HJPC is currently implementing new procedures based on the recommendations of the European Commission expert missions focused on the judiciary i.e. *Peer Review* recommendations focused on improving written testing and entrance exams, introducing more challenging test procedures and improved structured interviews, introducing distinctions between entrance-level appointments and promotions, prescribing separate rules for the election of court presidents and chief prosecutors as well as adhering to the established ranking lists.

Apart from this, TAIEX seminars were also organised covering legal remedies for contesting HJPC decisions and verifying candidate fitness during the appointment process with a conclusion adopted on the need to prepare appropriate solutions for the future legislative and regulatory framework.

In order to improve the utilisation of information technology in the appointment process for judicial office, the prerequisites were established for the introduction of online candidate application, the establishment of regional centres to carry out entrance exams as well as for the ability to conduct

interviews via 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.

In January 2019, performance evaluation criteria for judges and prosecutors came into effect with the aim of reforming the previous evaluation system that was quantity-focused, and which was subject to abuse by prioritising easier cases in order to achieve a quota and by neglecting the quality of reasoning's to decisions. The new criteria as based on EU standards ensure that the comprehensive performance evaluation for judicial office holders also accounts for quality of performance.

Consequently, the courts and prosecutors offices consistently follow the achievement of both quantitative and qualitative indicators based on the new performance evaluation criteria for judges and prosecutors. The performance evaluations for 2019 will be determined during the first quarter of 2020, and then used for appointment procedures in accordance with the HJPC Rules of Procedure.

As regards the numerical data linked to appointment to judicial office in 2019, we note that during this period there were four competitions announcing 117 vacancies in the judiciary. There were 1,191 applications processed from 779 applicants. One hundred and fifty-four (154) candidates were invited to take an entrance exam while 79 candidates had written tests.

In 2019, the HJPC assumed a range of activities to improve disciplinary proceedings, in adherence with GRECO and *Peer Review* report recommendations. Accordingly, in 2019, we adopted the Manual for conducting disciplinary proceedings which is for all participants involved in disciplinary proceedings.

In order to reinforce the preventive effect of disciplinary process, in cooperation with the entity judicial and prosecutorial centres, we set up induction training and ongoing training for the staff of the Office of the Disciplinary Counsel, while also establishing induction training and ongoing training for members of the disciplinary panels within the HJPC. At the same time, we also established an electronic system for the assignment of cases to disciplinary panels.

In July 2019, the HJPC completed the third and last cycle of its survey for judges and prosecutors on ethics and disciplinary liability, to further analyse the need for training on judicial ethics and conflicts of interest as well as to research the perception of judges and prosecutors as to the fairness and impartiality of disciplinary proceedings.

The HJPC continued its activities on the prevention of conflicts of interest. After the adoption of the amended codes of judicial and prosecutorial ethics, which integrated the Guidelines for the Prevention of Conflicts of Interest, in February 2019, we then adopted the Manual for the application of the codes of ethics which incorporates all guidelines regulating the conduct of judges and prosecutors, conflicts of interest as well as ethical rules. In order to establish a mechanism for overseeing the application of the Guidelines, the HJPC adopted a document – *Institutional mechanisms and records for the implementation of instruments for overseeing the application of the Guidelines for the prevention of conflicts of interest in the judiciary*.

In April 2019, judicial institutions submitted their reports on the implementation of integrity plans for 2018 to the HJPC, while in September 2019, the HJPC adopted a consolidated annual report on the implementation of the integrity plans together with relevant recommendations. The report has been uploaded to the HJPC website and delivered to the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption and to the ministries of justice, while the legislative and executive authorities on all levels in BiH were invited to cooperate on the implementation of the relevant measures from the integrity plans.

As for asset declaration for judicial office holders, in implementing the recommendations from the Peer Review report for "Personal Financial Statements", in September 2018, the HJPC adopted the Book of Rules on the Submission, Verification and Processing of Financial Statements of

Judges and Prosecutors together with a new financial statement form, with their application planned for 1 January 2019, while addressing the submission of financial statements for the year 2018.

In administrative proceedings that were subsequently initiated on the motion of the BiH Judge Association, the Personal Data Protection Agency in BiH banned the HJPC from processing the personal data in the manner prescribed with the Book of Rules. Accordingly, in March/April 2019, the HJPC passed decisions postponing the application of the Book of Rules until the conclusion of a dispute initiated by the HJPC before the Court of BiH against the decision of the Personal Data Protection Agency in BiH. Therefore, the old financial statement forms will be used by the judges and prosecutors for the year 2018.

At the time of preparing this report, we were already aware of the decision of the Court of Bosnia and Herzegovina confirming the decision of the Personal Data Protection Agency banning the processing of personal data in the manner prescribed with the HJPC Book of Rules.

Accordingly, I remind that one of the key HJPC activities in 2018 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 that were prepared based on a comprehensive analysis of our current practices and the best European practices, and among others, also addressing the issue of processing financial statements which obviously needs to be resolved through the appropriate legal provisions.

This is why I sincerely hope that the revised Law on the High Judicial and Prosecutorial Council will soon come before the representatives of the Parliamentary Assembly of Bosnia and Herzegovina for consideration and adoption so that we may improve the current law on the HJPC BiH and address its deficiencies.

Considering that the rule of law, as stated, is a key prerequisite for enlargement, in April 2019, the European Commission put forward an initiative that focused on monitoring and assessing success in the implementation of reforms in the rule of law field.

Mr Reinhard Priebe, a former German judge and director with the European Commission, led this initiative tasked with providing an opinion with recommendations to the European Commission, the government and the BiH public concerning the state of the rule of law in our country.

Accordingly, the initiative resulted in the creation of a document – *Expert Report on Rule of Law Issues in Bosnia and Herzegovina*, with its findings presented by Mr Reinhard Priebe at the 4th meeting of the Subcommittee for Justice, Freedom and Security held on 5-6 December 2019 in Brussels.

This document which, among others, analysed the performance of the Council, was considered by the HJPC at its session on 18-19 December 2019, with a range of conclusions adopted for implementation in 2020.

Key issues concerning the performance of judicial institutions are issues of efficiency and quality which is why they are dealt with continuously and why they remain the focus of our attention.

In 2019, the HJPC also had numerous activities aimed at reducing the number of the oldest cases, increasing the productivity of judges and prosecutors, better organisation of the operations of judicial institutions, improving their capacities for strategic planning as well as ensuring better working conditions for judges, prosecutors and support staff.

Also, for the first time, strategic activities were taken towards increasing the use of alternative dispute resolution methods in order to reduce the number of cases at the courts as well as the number of pending cases.

Detailed statistical information on the performance of courts can be found in this Report. What we can say for 2019, is that the backlog reduction plans of the courts covered 174,389 cases, of which 157,145 cases were completed by 31 December 2019, which represents a 90% completion rate of the plans.

The effects of the plans and the normatives are also visible with the data where between 31/12/2010 and 31/12/2019, we saw the number of pending cases in the courts drop by over 200,000.

As regards prosecutors offices, based on data from 2019, we can see that all prosecutors offices in BiH show an increase in the number of pending KT cases (cases involving known perpetrators). Accordingly, on 31 December 2019, there were 13,546 recorded pending KT cases which was 3% more than on 31 December 2018 i.e. 13,191 pending cases.

In 2019, prosecutors offices in BiH completed 2,289 old cases. The total number of pending old cases in the prosecutors offices in BiH on 31 December 2019 (4,858) was 71% lower than the total number of pending old cases on 31 December 2014 (16,611).

In 2019, prosecutors offices issued 11,485 indictments, of which 225 indictments involving corruption-related crimes which is 3% more than the number of indictments issued for corruption-related crimes in 2018 i.e. 218 indictments.

When speaking of corruption and organised crime, I stress that, in accordance with its competences, the HJPC has assumed a range of measures to improve the processing of these crimes.

A priority of the HJPC Standing Committee for the Efficiency of Prosecutors Offices in 2019 was the realisation of activities from the Action Plan for the Implementation *Peer Review* recommendations on fighting corruption, organised crime and money laundering, also noting that all activities with a 31/12/2019 deadline have been realised.

On the proposal of the Standing Committee, the HJPC adopted a Book of Rules on Amendments to the Book of Rules on Quotas for the Performance of Prosecutors in the Prosecutors Offices in BiH, with separate valuations given to high-level corruption cases.

Furthermore, guidelines were adopted for chief prosecutors on including financial investigations when conducting investigations in cases involving corruption, organised crime and money laundering.

Guidelines for passing binding instructions on additional criteria for reaching plea bargains in cases involving corruption, organised crime and other types of cases were also adopted by the HJPC in connection with the implementation of Peer Review recommendations in this field.

I stress that in order to fight corruption and organised crime properly, successful cooperation between prosecutors offices and law enforcement agencies is required and, at the same time, represents a key factor for the successful performance of prosecutors offices in BiH. To that end, the HJPC has undertaken a range of strategic and operational activities to improve this cooperation.

I would also reflect on the issue of processing war crime cases and, at the same time, express my disappointment that the revised War Crimes Strategy has yet to be adopted which, as a consequence, makes it more difficult to process these cases and fulfil the deadlines set with the Strategy.

However, despite this limiting factor, judicial institutions have succeeded in achieving sound results i.e. at year-end 2019, we saw a 49% drop in the number of pending KTRZ cases, while on 31 December 2019, all prosecutors offices in BiH had 621 pending KTRZ cases.

One thing that I would emphasise here is that, thanks to the exceptional efforts of the HJPC and the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy,

we have secured the long-term sustainability of results achieved through the support of the European Union with the timely transfer of financing for all judicial office holders under the framework of the regular budget. Specifically, from 2020, all judicial office holders appointed in regular procedures by the HJPC BiH, who were financed through European Union IPA 2013 support, were transferred to be financed from the regular budget for judicial institutions thus affirming the principle of financial independence for judicial office holders.

With this in mind and the aim of improving the overall efficiency of processing war crimes in the upcoming period, the HJPC will focus in particular on improving the capacities of support staff who assist the judges and prosecutors in processing war crimes cases.

Earlier, I had mentioned activities that were initiated to improve disciplinary proceedings, while now I will offer some general statistical information for the Office of the Disciplinary Counsel (ODC) which received 843 complaints in 2019.

The most common reasons for filing complaints were discontent with the length of court/prosecutors office procedures as well as discontent with the decisions of the courts and prosecutors offices. Concretely, 29% of all complaints referred to the duration of procedures before the courts, while 13% referred to the duration of procedures before prosecutors offices.

In 2019, the ODC initiated 46 disciplinary proceedings against 47 judicial office holders, while 42 disciplinary proceedings were completed.

The average processing time for complaints in 2019 was 307 days, which is significantly less than the legal deadline stipulated for the ODC to process complaints i.e. two years from their filing.

And ultimately, allow me to also mention one of the many achievements from the digital transformation of the BiH judiciary. Specifically, the Asset Forfeiture Module that the HJPC developed in 2019. The module has two sections: prosecutorial, where key information is recorded from prosecutorial decisions proposing the seizure of assets and the court section which records key information from court decisions.

Based on the information recorded, we can chronologically follow the procedure for asset seizure and establish an overview of assets that the prosecution has proposed for seizure as well as an overview of assets the court has seized through its decisions. By recording key information from procedures enforcing decisions on the seizure of assets, we can acquire a comprehensive image of actual seized assets from crimes that were committed.

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 addressing issues vital for the judiciary of Bosnia and Herzegovina.

As for the legislative and executive authorities, the HJPC is open for cooperation on all important matters in the field of judicial reform, cooperation based on mutual respect and understanding so that we may achieve our common goals – accession to the European Union and the general prosperity of our society.

A major part of our success is owed to our many international friends who, just as in the past, have supported us generously. 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 and the Czech Republic to whom we owe our sincere gratitude.

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

Milan Tegeltija

President of the HJPC BiH

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 Karamehic, member of the HJPC

Mandate: June 2017 - June 2021

The Judicial Commission of the Brcko District elected judge Selim Karamehic to the HJPC in June 2017. He 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. Jadranka Stanisic, member of the HJPC

Mandate: September 2019 – September 2023

The judges of the Supreme Court of the Republika Srpska elected judge Jadranka Stanisic to the HJPC in September 2019.

She holds the office of judge of the Supreme Court of RS.

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 Doboj.

Ms. Duska Bogojevic, member of the HJPC

The Bas Association of the Republika Srpska elected Duska Bogojevic to the HJPC in July 2019.

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.

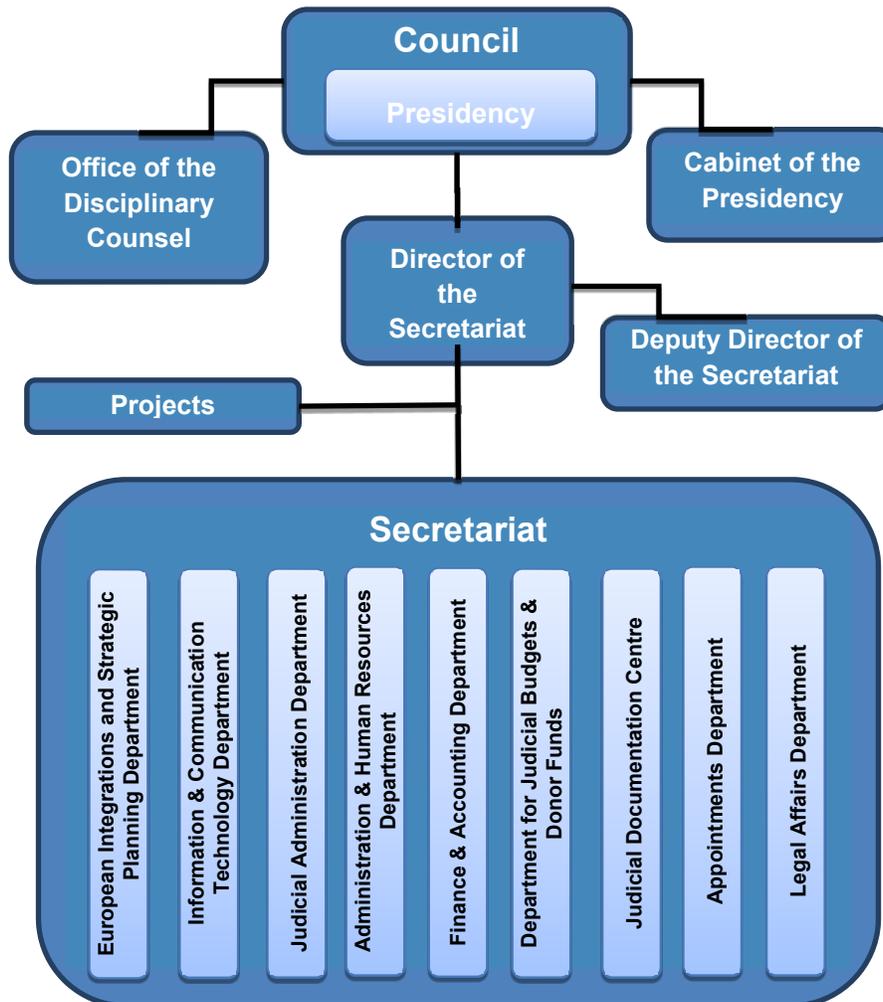
In 2019, the composition of the HJPC changed as follows:

Jadranka Stanisic, a judge of the Supreme Court of the Republika Srpska, on behalf of the Supreme Court of the Republika Srpska, replaced Violanda Subaric, a judge of the Supreme Court of the Republika Srpska.

Zeljka Radovic, the Chief Prosecutor of the District Prosecutor's Office in Doboj, was re-elected to the HJPC on behalf of the district prosecutor's office of the Republika Srpska.

Duska Bogojevic, an attorney from a law practice in Banja Luka, on behalf of the Bar Association of the Republika Srpska replaced Jadranka Ivanovic, an attorney from Banja Luka.

HJPC Organisational Chart



On 31 December, 2019, the HJPC had 151 employees, with 79 financed from the HJPC budget and 72 hired for the implementation of project activities by the HJPC and financed by donors. Also, with 31 December 2019, there were twenty-three (23) competitions underway to fill vacancies (3 for budget-funded positions & 20 for projects). All were initiated through a public vacancy announcement, of which three were for vacant civil servant positions (Judicial Administration Department, Finance and Accounting Department and Office of the Secretariat Director) within the limit of 84 positions for the HJPC, while there were twenty 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 107 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 BiH¹, the approved 2019 budget for the HJPC is 5,122,000 KM. Of the said amount, 5,056,000 KM is earmarked under current expenditures, while 66,000 KM falls under capital investments.

Budget expenditure in 2019 amounted to 4,758,969 KM or 93%.

Table 1: Budget expenditure per item

| EXPENDITURES | Approved budget | Budget execution | Index |
|-----------------------------------|------------------|------------------|------------|
| I CURRENT EXPENDITURES | 5,056,000 | 4,756,178 | 94% |
| Gross salaries and other payments | 3,490,000 | 3,374,467 | 97% |
| Employee reimbursements | 180,000 | 155,572 | 86% |
| Travel expenses | 230,000 | 186,966 | 81% |
| Telephone and postal services | 50,000 | 46,070 | 92% |
| Power and utilities | 100,000 | 89,161 | 89% |
| Supplies | 10,000 | 7,203 | 72% |
| Transportation and fuel | 47,000 | 46,084 | 98% |
| Lease and rent | 1,000 | 362 | 36% |
| General maintenance | 529,000 | 462,730 | 87% |
| Insurance and payment operations | 6,000 | 2,925 | 49% |
| Contracted services | 413,000 | 384,497 | 93% |
| II CAPITAL EXPENDITURE | 66,000 | 2,933 | 7% |
| Equipment | 66,000 | 2,933 | 7% |
| TOTAL I + II | 5,122,000 | 4,758,969 | 93% |

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 2019, donor funds were used to finance seven projects dealing with judicial reform and aimed at strengthening the capacities of the judiciary.

¹ Official Gazette of BiH, no. 84/19

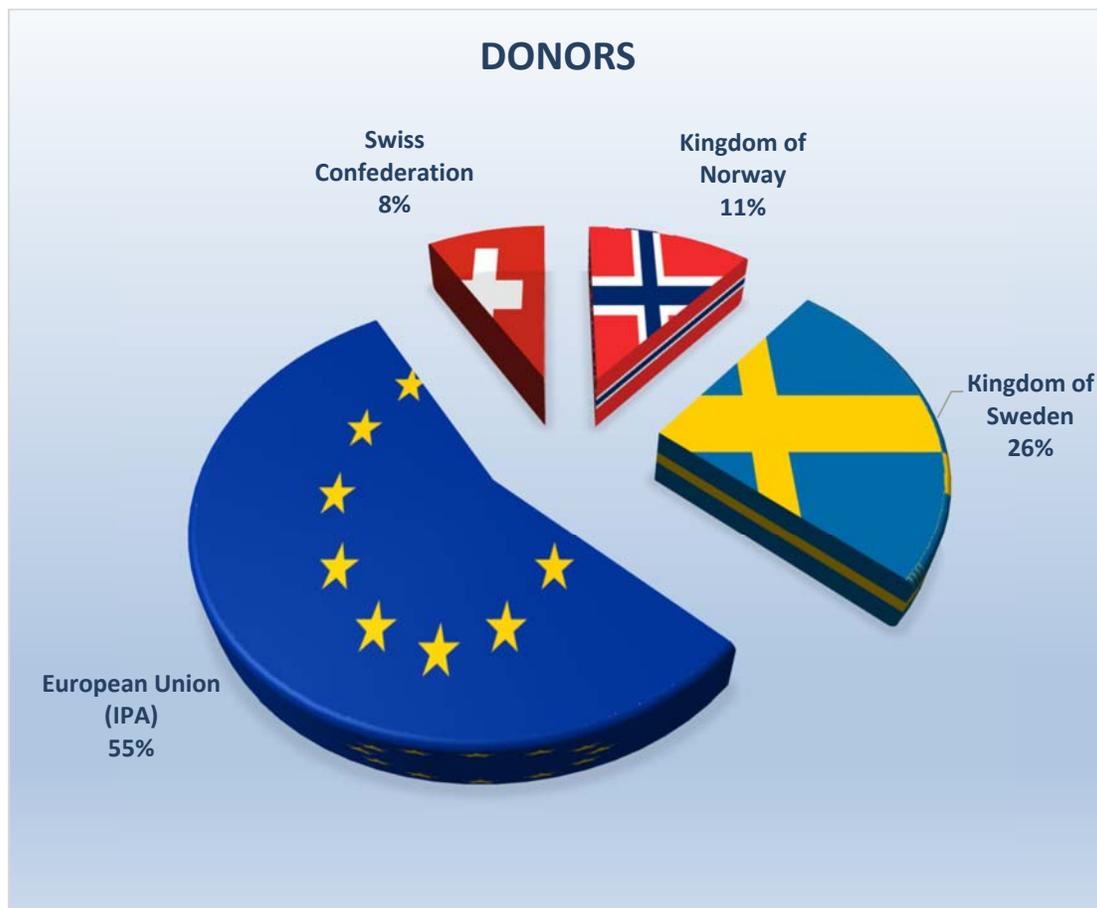
² Official Gazette of BiH, no. 25/04, 93/05, 48/07 & 15/08.

Table 2: Overview of donors and the total available funds for each project in 2019

| Total funds available in 2019 (KM) | Total expended in 2019 (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 | | |
| 810,938 | 788,293 | December 2014 - July 2019 |
| Donation from the Kingdom of Sweden for the Improving Court Efficiency and Accountability of Judges and Prosecutors Project, phase II | | |
| 1,674,842 | 1,408,666 | November 2016 - March 2020 |
| EU donation for the Project – Enhancing War Crime Case Processing (IPA 2013) | | |
| 304,405 | 265,343 | December 2016 – October 2019 |
| EU donation (IPA 2017) for the Project - Building an Effective and Citizen-friendly Judiciary | | |
| 7,704,931 | 2,689,217 | September 2018 – August 2021 |
| Donation from the Kingdom of Norway for the Project „Improving Judicial Quality“ | | |
| 730,974 | 286,406 | February 2019 – February 2021 |
| Donation of the European Union (IPA 2017) for the Project „Enhancing War Crimes Case Processing in BiH“ | | |
| Total funds available in 2019 (KM) | Total expended in 2019 (KM) | Project implementation period |

The major donors in 2019 were the European Union contributing 55% of the total donor funds and the Kingdom of Sweden contributing 26%. Significant funds were also contributed by the Swiss Agency for Development and Cooperation and the Kingdom of Norway.

Graph 1: Donors



Investments in the Judiciary of Bosnia and Herzegovina

Between 2004 and 2019, the HJPC BiH secured 112 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 62.1 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 14.5 million KM and the Kingdom of Sweden with 9.8 million KM.

As for the breakdown of funds, 59.1 million KM was used for the procurement of equipment, 36.3 million KM for building renovation efforts and 4.8 million KM for the maintenance of the judicial information system.

During this period, 18.8 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 2019, the Audit Office for BiH Institutions (hereinafter: AO) carried out the final audit for 2018, and the preliminary audit for 2019, based on samplings of major items from current and capital expenditures, donations received and public procurements completed thus far.

In its 2018 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 31/12/2018 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 2018, 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 2018 is available on the website of the Office for the Audit of BiH Institutions.

In 2019, independent auditors performed audits of the following grants:

Audit of the financial statements of the Project - Building an Effective and Citizen-friendly Judiciary, IPA 2017 (the European Union as donor) - for the period 1 September 2018 - 31 August 2019.

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 1 January 2018 - 31 December 2018.

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 2018 - 31 December 2018.

Audit of the financial statements of the Enhancing War Crimes Case Processing Project, phase 2 (IPA 2013) for the period 1 October 2018 – 6 October 2019.

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

Chapter 1: EUROPEAN INTEGRATION

1.1 Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union

After Bosnia and Herzegovina presented its application for membership of the European Union on 15 February 2016, on 20 September 2016, the Council of the European Union invited the Commission to submit its opinion on this application. At the end of May 2019, the Commission published the 2019 Enlargement Package, which includes a Communication on Enlargement Policy, the Opinion of the European Commission on BiH's application for EU membership (hereinafter: the Opinion) and the Analytical Report.

In this Opinion, the Commission assesses Bosnia and Herzegovina's application on the basis of the country's capacity to meet the criteria set by the European Council in Copenhagen in 1993, as well as in Madrid in 1995, notably regarding the country's administrative capacity and the conditions of the Stabilisation and Association process. The Opinion also takes into account Bosnia and Herzegovina's track record in implementing its obligations under the Stabilisation and Association Agreement (SAA) which entered into force on 1 June 2015.³

Also, the Commission highlighted the many remaining shortcomings in the area of rule of law in the country and concluded, that, for the accession negotiations to be opened, BiH would have to achieve "the necessary degree of compliance with the membership criteria and in particular the Copenhagen political criteria requiring the stability of institutions guaranteeing notably democracy and the rule of law". The country will need to fundamentally improve its legislative and institutional framework to ensure it meets a number of key priorities set out in the Analytical Opinion forming an integral part of the Opinion.

To implement the above priorities, an Action Plan for the implementation of priorities from the Analytical Report of the European Commission⁴ (hereinafter: the Action Plan) has been prepared. In the Action Plan, the following 14 measures that are focused on the priorities in the area of Rule of Law and Fundamental Rights refer to the HJPC:

- 4.3 Carry out a performance appraisal procedure for holders of judicial offices in courts and prosecutor's offices in 2019 on the basis of the new appraisal criteria for reports,
- 4.4 Carry out an analysis of the implementation of the Rulebook governing selection and work of consultative prosecutors, and adopt its amendments to improve the system,
- 4.5 Adopt a Decision on the mentoring model that will be implemented in first-instance pilot courts (Mostar and Banja Luka),
- 4.6 Adopt a framework Mentoring Programme for newly appointed judges,
- 4.7 Carry out immediate monitoring of the delivery of training for newly-appointed holders of judicial offices within the Entities' training centres and make recommendations on how to improve relevant training programmes,
- 6.1 Develop an Action Plan for implementation of recommendations from the draft Peer Review Report on enforcement procedure in BiH for the needs of the Working Group for improvement of enforcement procedure and review of the enforcement procedure laws in BiH,

³ Opinion of the European Commission on Bosnia and Herzegovina's application for membership of the European Union, p. 5.

⁴ Action Plan adopted on 15 October 2019 by the CoMBiH

- 6.2 Develop an Analysis for revising the existing and adopting new pieces of secondary legislation on the work and status of enforcement officers, in line with the draft Amendments to the Law on Enforcement Procedure in BiH (developed by the Working Group) as well as recommendations from the draft Peer Review Report on enforcement procedure in BiH,
- 6.3 Develop an Analysis of all aspects of the introduction of debtor's and utility users' registers, in line with the recommendation from the draft Peer Review report on enforcement procedure in BiH,
- 7.3 Establish a monitoring mechanism for resolution of corruption cases in courts,
- 7.4 Implement Peer Review recommendations and OSCE recommendations to HJPC for the purpose of resolution of corruption cases in courts,
- 10.2 Keep records of attacks on journalists in BiH, and promptly act upon any knowledge about the attacks in accordance with the powers (investigation and prosecution of any recorded cases),
- 19.26 Continuous improvement of the system for electronic exchange of data in records of police bodies and prosecutor's offices in BiH, by improving or aligning search conditions: search parameters, reasoning and data received in response to queries, and alignment with regulations governing personal data protection,
- 21.1 Develop a CMS/TCMS module for recording of confiscation of proceeds of crime and implement it in courts and prosecutor's offices⁵,
- 21.2 Update the HJPC's Court Decision Database with all final judgments in the fields of corruption and organised crime, with a special focus on money laundering.

As emphasized in the Commission's Opinion, the rule of law and fundamental rights are the basic values on which the European Union is founded, and Bosnia and Herzegovina has some level of preparation to implement the *acquis*⁶ and European standards in this area.

The Opinion has found the constitutional and legislative framework on the judiciary to be incomplete. The High Judicial and Prosecutorial Council of Bosnia and Herzegovina is the single managing body responsible for guaranteeing the independence of judges and the autonomy of prosecutors throughout the country and regulating their careers. To strengthen the role of the HJPC as a guarantor of the independence of the judiciary, the HJPC needs to be provided with an explicit constitutional status, including clear rules on its composition and powers.

The HJPC is also in charge of appointing all judicial office holders in the country, including the judicial associates in the municipal courts of the BiH Federation and takes part in the selection procedure for judges in the entity constitutional courts, notably by interviewing candidates and proposing a ranking of candidates to the entity parliaments.⁷ "The Law on the HJPC has several deficiencies concerning judicial appointments, performance appraisal, disciplinary procedures, conflict of interest and declaration of assets. Moreover, it does not provide for the right to an effective legal remedy against final decisions of the HJPC, except those on the dismissal of judges and prosecutors."⁸ In order to align the Law on the HJPC with European standards, in its related opinions issued in 2012 and 2014 the Venice Commission recommended in particular to:

- improve the rules on selecting the HJPC members,

⁵ The module for recording of confiscation of proceeds of crime has been implemented and it will be in use in courts and prosecutor's offices in Bosnia and Herzegovina from 1 January 2020.

⁶ *Acquis* is the body of common *rights* and *obligations* that are *binding on all EU Member States*.

⁷ Opinion of the European Commission on Bosnia and Herzegovina's application for membership of the European Union, p. 66.

⁸ Opinion of the European Commission on Bosnia and Herzegovina's application for membership of the European Union, p. 67.

- establish two sub-councils, for judges and prosecutors respectively,
- avoid setting quotas along ethnic lines as they may undermine the effective functioning of the system,
- avoid an increased risk of politicisation of appointment procedures.

As a reminder, in the context of the Structured Dialogue on Justice, the European Commission recommended stepping up the level of independence and accountability of the judiciary by addressing shortcomings in particular in relation to appointments, integrity and disciplinary matters. It also recommended significantly improving the quality criteria in performance appraisal. In June 2018, the HJPC submitted to the Ministry of Justice a legislative initiative to amend the Law on the HJPC with a view to complying with those recommendations.⁹

Within the current legislative framework, a number of rules were adopted in 2018-19 by the HJPC on the basis of its self-regulatory powers. They aim to address some deficiencies of the judiciary, in particular regarding the criteria for the **appointment** and performance appraisal of judges and prosecutors.

To that end, the HJPC is currently implementing new procedures, in line with the Peer Review recommendations¹⁰, including: improving written test and entrance exam process, introducing more demanding testing procedures and improving structured interviews, making distinction between first appointment and promotion (based on customized candidate evaluation criteria depending on their professional background), introducing specific rules for the selection of court presidents and chief prosecutors (they are now required to prepare and present their work programmes), and the compliance with the ranking list (providing for exceptions that may lead to deviations from the ranking list). In addition, TAEIX seminars were held on legal remedies challenging the decisions of the HJPC and candidate suitability check in the appointment process, which resulted in a conclusion that appropriate solutions for the future legislative framework needed to be developed.

In January 2019, the criteria for performance **evaluation** of all judges and prosecutors came into force with the aim of reforming the previous quantity-based evaluation system, which allowed misuse by giving preference to more simple cases in order to meet quota or by neglecting the quality of reasoning.¹¹ The new criteria are based on EU standards and ensure that the overall performance evaluation process for judicial office holders reflects the performance quality as well.

Accordingly, courts and prosecutor's offices consistently monitor the achievement of quantitative and qualitative indicators according to the new criteria for performance evaluation of judges and prosecutors. Performance evaluation scores for 2019 will be determined in the first quarter of 2020 and will be used in the appointment process in accordance with the HJPC Rules of Procedure. The new criteria envisage that, in addition to other quantitative elements of performance evaluation, the analytical score for each judge and prosecutor will be made on the basis of comprehensive sources of information on the quality aspects of their work.

At the beginning of 2019, the HJPC prepared and distributed to the courts a list with judicial quality performance indicators. Court presidents and heads of departments monitor the performance of judges to determine their analytical score. In addition to that, when deciding on appeal, the appellate courts regularly fill in the forms with observations concerning the quality of individual

⁹ By the end of 2019, the BiH Ministry of Justice did not finalise the consolidated draft of the Law – Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union, p. 67.

¹⁰ Covered by amendments to the Rules of Procedure of the HJPC, and amendments to the Book of Rules on Written Tests and Entrance Exams.

¹¹ Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union, p. 70.

first-instance decisions and the conducted first-instance proceedings. Based on these observations, the appellate courts will prepare and submit to the presidents of lower courts an opinion on the quality of work of the judges of these courts in order that this opinion be taken into account when determining the analytical score of judges' work.

In March 2019, the HJPC adopted and in September the same year amended the Instruction which clarified the elements of the analytical score of the work of prosecutors, which also enabled the prosecutor's offices to randomly select cases from the TCMS. All chief prosecutors in BiH randomly selected from the TCMS two cases that each prosecutor completed in 2019 and did an analytical review of these cases. The second part of the analytical review was carried out at the end of 2019, when the chief prosecutors randomly selected from the TCMS and reviewed two more cases completed by each prosecutor, plus one more completed case selected by the evaluated prosecutor.

In 2019, the HJPC also carried out activities aimed at improving the area **disciplinary procedure**, taking into account the recommendations of GRECO and the Peer Review report. To that end, in September 2019, the HJPC adopted a Disciplinary Praxis Manual, which is intended for all participants in disciplinary proceedings¹².

In order to strengthen deterrence in the field of judicial discipline, in cooperation with the entity Judicial and Prosecutorial Centres, induction and continuous training was provided for staff in the Office of Disciplinary Counsel, and in the HJPC the induction and continuous training for members of disciplinary panels. An electronic case assignment system for disciplinary panels has been introduced.

In July 2019, the HJPC conducted the last, third cycle¹³ of the survey for judges and prosecutors on ethics and disciplinary accountability, to further analyse the needs for training on judicial ethics and conflict of interest, as well as to study the perception of fairness and impartiality among judges and prosecutors.

The HJPC also continued its activities on the **prevention of conflict of interest**. After the amended codes of judicial and prosecutorial ethics were adopted,¹⁴ incorporating the Guidelines for the Prevention of Conflicts of Interest in the Judiciary (hereinafter: the Guidelines¹⁵), in February 2019, the Manual for the Application of Codes of Ethics was adopted, which consolidates all guidelines governing the conduct of judges and prosecutors, conflict of interest and rules of ethics. In order to set up a mechanism for monitoring the implementation of the Guidelines, in September 2019, the HJPC adopted the document titled "Institutional mechanisms and records for the use of instruments for monitoring the implementation of the Guidelines for the Prevention of Conflicts of Interest in the Judiciary".

In April 2019, judicial institutions submitted to the HJPC reports on the implementation of their integrity plans for 2018,¹⁶ and in September 2019, the HJPC adopted a consolidated annual report on the implementation of integrity plans, including the appropriate recommendations. The report has been published on the HJPC's website and submitted to the Agency for Prevention of Corruption and Coordination of the Fight against Corruption and the ministries of justice, while legislative and executive bodies at all levels in BiH were invited to cooperate in implementing relevant measures from the integrity plans.

¹² The Office of Disciplinary Counsel, the members of disciplinary panels, judges and prosecutors subject to disciplinary action and their defence counsels.

¹³ The first cycle conducted in 2015 and the second in 2017.

¹⁴ In November 2018.

¹⁵ Adopted in July 2016.

¹⁶ Integrity plans for the period 2018-2021 were adopted at the beginning of 2018.

When it comes to **asset declarations of judicial office holders**, implementing the recommendations from the Peer Review on Financial Declarations and Their Verification in the Judiciary, in September 2018, the HJPC adopted the Rulebook on the submission, verification and processing of financial statements of judges and prosecutors and a new financial statement form, the application of which was planned to start on 1 January 2019 covering financial declarations of judges and prosecutors for 2018.

In the administrative procedure instituted at the request of the Association of Judges in BiH, the BiH Personal Data Protection Agency prohibited the HJPC from processing personal data in the manner prescribed by the adopted Rulebook. Consequently, in March and April 2019, the HJPC issued decisions postponing the application of the Rulebook until the dispute initiated by the HJPC's before the Court of BiH against the decision of the BiH Personal Data Protection Agency is resolved. So, the old financial statement form is used for 2018.

In order to secure an effective system for the review and processing of financial data, the HJPC is considering establishing a special department within the HJPC Secretariat to perform these tasks.

1.2 Expert Report on Rule of Law Issues in Bosnia and Herzegovina¹⁷

In view of the fact that the rule of law is at the core of the EU enlargement process, and that it was also the focus of the Commission's Opinion on Bosnia and Herzegovina's application for membership of the European Union, in April 2019, the European Commission launched a new initiative focused on monitoring and assessing the rule of law reforms and their implementation. The initiative was led by Mr Reinhard Priebe, former German judge and director at the European Commission, who was tasked with giving the European Commission and the authorities and the public in Bosnia and Herzegovina an opinion and recommendations regarding the rule of law in Bosnia and Herzegovina.

A number of meetings was held with relevant representatives of the authorities and judicial institutions in Bosnia and Herzegovina, including law enforcement agencies at the state, entity and Sarajevo Canton level to gather facts. Meetings were also held with the representatives of EU Member States and the international community, as well as with civil society representatives. Also, with the participation of a number of experts, the activities involving trial monitoring and implementation of peer review recommendations followed.

The initiative also included the Convention on the Rule of Law held on 20 November 2019, in Sarajevo, which brought together representatives of institutions from all levels of government, civil society and academia from all parts of Bosnia and Herzegovina.

The initiative resulted in the Expert Report on Rule of Law issues in Bosnia and Herzegovina, the findings of which were presented by EU legal expert Reinhard Priebe, at the fourth meeting of the Subcommittee on Justice, Freedom and Security, held on 5-6 December 2019 in Brussels.

At its session held on 18-19 December 2019, the HJPC considered this document, which, among other things, analysed its work, and adopted the following conclusions:

1. The HJPC BiH will not delve into the parts of the Report related to the existing constitutional order of Bosnia and Herzegovina, considering them to be political issues not within its scope of competence;

¹⁷ Brussels, 5 December 2019

2. The HJPC BiH is aware of the fact that its establishment entails that it shall bear the fundamental responsibility for the judiciary and exercise its powers in a manner which instils public trust and confidence in the judiciary;
3. The Report correctly maps systemic shortcomings in the functioning of the judiciary, which have not been satisfactorily addressed in the reform;
4. A culture of accountability and transparency, strengthening judicial integrity and rebuilding public confidence are the priorities in which visible progress will be made in the coming year:
 - Financial declarations – supplement, publication, verification – HJPC members;
 - Financial declarations – court presidents and chief prosecutors;
 - Development of a Communication Strategy.
5. More efficient and better quality civil, commercial, administrative and criminal justice (judiciary), fight against corruption, organised crime, processing of war crimes cases and evaluation and appointment of judicial office holders remain the priorities in for the HJPC BiH;
6. The HJPC BiH will share the entire Report with the relevant committees, on the basis of which they will recommend to the HJPC BiH the necessary measures, not covered by previous activities, as deemed justified and feasible under the current legal framework;
7. All proposed and adopted measures will be incorporated into the single operational reform programme of the HJPC BiH;
8. The HJPC BiH calls on the European Commission, which commissioned the Report, to monitor the work of the HJPC BiH even more effectively and to support its reform activities;
9. The HJPC BiH has tasked the relevant committee, which drafted the previous Rulebook on financial statements of judges and prosecutors, to, by the next session of the HJPC BiH, propose a revised Rulebook on financial reports of judges and prosecutors;
10. At its next session in January 2020, the HJPC BiH will adopt a revised Rulebook on financial statements of judges and prosecutors, repealing the earlier one, which is currently pending before the Court of Bosnia and Herzegovina, so that it can be applied in 2020;
11. Once the Rulebook on financial statements of judges and prosecutors is adopted, the HJPC BiH will begin creating the conditions for the establishment of an integrity unit by adopting a new systematization of the HJPC BiH (the Secretariat of the HJPC BiH);
12. Once the revised Rulebook on financial statements of judges and prosecutors is adopted, all members of the HJPC BiH will fill in a new financial statement form, and make it available to the public on a voluntary basis, in accordance with the standards set by the Rulebook;
13. The HJPC BiH calls on all court presidents and chief prosecutors to complete their financial statements immediately following the adoption of the Rulebook and make them immediately available to the public, in accordance with the standards set by the Rulebook;
14. The HJPC BiH accepts criticism as part of a dialogue between the judiciary and society as a whole, in which free media and civil society play a significant role. The HJPC BiH emphasizes that there is a clear delineation between freedom of expression and legitimate criticism, on the one hand, and improper pressure on the judiciary, on the other. Overly simplistic populist criticisms can further contribute to an atmosphere of public distrust in the judiciary;

15. The HJPC BiH expects the legislative and executive branches to fulfil their obligations on which the successful implementation of judicial reform depends.”

1.3 EU support to the BiH judiciary in implementing the National War Crimes Strategy – implementation and further support

1.3.1 EU support under IPA 2013 “Enhancing War Crime Case Processing in BiH“ – implementation

Focusing on improving the efficiency and quality of justice with the aim of strengthening the rule of law in BiH within the framework of the two assistance packages IPA 2012/2013¹⁸, in the period between 2014-2019, the European Union, through the Enhancing War Crime Case Processing in BiH project, provided financial assistance to the BiH judiciary totalling to EUR 14.8 million. Building on the activities carried out within the first phase of IPA 2012, the funding secured for second phase of EU support under IPA 2013 aimed to improve the efficiency and quality of war crimes processing. In the second phase of IPA 2013, the funds amounting to EUR 7.4 million were allocated to 23 judicial institutions to finance the salaries for 21 judges and prosecutors, and 114 additional staff members providing support to courts and prosecutor's offices in BiH in working on war crimes cases. Also, significant funds have been used to improve the material situation of judicial institutions, which is essential for efficient processing of this type of cases. The High Judicial and Prosecutorial Council of BiH, as one of the beneficiaries, implemented the assistance provided by the European Union through the organisation of meetings of the Supervisory Body for overseeing the implementation of the National War Crimes Strategy, coordination of systemic activities of judicial institutions, war crime trials monitoring and reporting, as well as organisation of peer-to-peer events bringing together judicial office holders.

The second phase of the IPA 2013 project "Enhancing War Crime Case Processing in BiH" was completed on 6 October 2019, bringing in visible effects in terms of some of the key systemic aspects of efficient and quality processing of war crimes cases by the BiH judicial institutions being improved, thereby contributing to the achievement of goals and measures envisaged by the National Strategy for Work on War Crimes Cases. The funds provided by the European Union enabled effective monitoring of progress towards achieving goals and individual measures from the National War Crimes Strategy through the professional and administrative support and 21 meetings of the supervisory Body organised in the period 2017-2019¹⁹. It should be mentioned that the support has resulted in improved efficiency in processing war crimes cases in prosecutor's offices, resulting in an overall reduction of backlog of war crime cases. Thus, as of 31 December 2019, the number of pending KTRZ cases in all prosecutor's offices in Bosnia and Herzegovina was 621, which is a satisfactory achievement rate of 49% when it comes to project objective, with a minimum deviation of 1% caused by objective circumstances.²⁰

¹⁸ The IPA 2013 project was implemented on the basis of a Grant Agreement signed between the EU Delegation to BiH and the BiH Ministry of Finance and Treasury. The EU assistance implemented in the period from 7 March 2016 to 6 October 2019 amounted to EUR 7.4 million. The beneficiaries were 15 prosecutor's 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. More specifically, the EU provided funds for the salaries of 15 prosecutors, 6 judges and 114 additional staff members assisting judges and prosecutors in their work on war crimes cases (expert associates, advisers, investigators, psychologists and other staff).

¹⁹ One of the key systemic problems identified was the functioning of regional cooperation in war crimes cases. Namely, as of 31 December 2019, the prosecutor's offices in BiH had 214 unsolved war crimes cases with over 400 suspects being unavailable.

²⁰ The overall objective of EU support provided under IPA 2013 was to improve the efficiency in processing war crimes cases by the BiH judiciary through reduction of the number of war crime cases in the prosecutor's

In addition to professional and technical support provided to the Supervisory Body and judicial institutions, in the period 2017-2019, the project component of the High Judicial and Prosecutorial Council of BiH organised a total of 7 peer-to-peer events, thereby contributing to building the capacities, practical knowledge and skills for over 300 judges, prosecutors and defence attorneys working on war crimes cases²¹.

1.3.2 EU support under IPA 2017 “Enhancing War Crime Case Processing in BiH” – further support

Upon finalisation of the second phase of IPA 2013 in October 2019, the European Union reaffirmed its partnership with Bosnia and Herzegovina by ensuring the continuity of its support to the BiH judiciary in processing war crimes cases in the total amount of EUR 1.4 million covering the period 7 October 2019 – 6 August 2020, to be implemented through the third phase of assistance package IPA 2017.

Drawing on the existing project structure, the programmed activities are carried out through an identical modality, with the participation of 25 judicial institutions as beneficiaries, together with the project component of the High Judicial and Prosecutorial Council of BiH.²² The overall objective of the third phase of IPA 2017 support is the strengthening the rule of law in Bosnia and Herzegovina while seeking to improve the systemic efficiency in processing war crimes cases by prosecutor's offices in BiH. The specific objective envisages a reduction in the number of pending KTRZ cases by at least 55% in a period of 7 years (2014-2020). The amount of EUR 1.4 million has been secured for 25 judicial institutions employing 97 professional and administrative staff members for a period of 10 months, which ensures that the project objective "Enhancing War Crimes Case Processing in BiH" will be achieved.

Given its competencies in monitoring the implementation of the objectives and measures from the National War Crimes Strategy, the Supervisory Body for overseeing the implementation of the National War Crimes Strategy is a key domestic partner of the European Union in implementing project activities and project objectives.²³ The Supervisory Body will assess the progress towards achieving of all project objectives and results based on regular statistical reports for judicial institutions prepared by the HJPC BiH²⁴. The project component of the HJPC BiH monitors work on war crimes cases in beneficiary institutions, that is courts and prosecutor's offices. With the view to improving the dynamics in processing war crimes cases, the project team of the HJPC BiH is implementing the following activities:

- provides professional and administrative support to the Supervisory Body in monitoring the implementation of the National War Crimes Strategy;

offices involving identified suspects (KTRZ cases) by 50% within five years (from 2014 to 2018), starting with 1210 pending KTRZ cases as a baseline. Additionally, other specific project objectives included 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.

²¹ Detailed information on events held is presented in Chapter 5 "Judicial Institutions' Performance Quality".

²² The Ministry of Finance and Treasury of BiH is the main applicant for the IPA 2017 support, while the Ministry of Justice of BiH is one of the beneficiaries.

²³ In accordance with the Decision on the Establishment of the Supervisory Body for overseeing the implementation of the National War Crimes Strategy, professional and administrative support to this body is provided by the HJPC BiH, that is by the "Enhancing War Crimes Case Processing in BiH" project.

²⁴ The efficiency in processing the KTRZ cases and the progress made towards the achievement of project's objective are presented in detail in Chapter 4 "Judicial Efficiency".

- analyses the dynamics in processing war crime cases by courts and prosecutor's offices - beneficiaries of the IPA 2017 project and submits a report on their performance to the Supervisory Body and the EU Delegation to BiH;
- monitors the implementation of backlog reduction plans by BiH prosecutor's offices;
- organises peer-to-peer events for judges, prosecutors and defence attorneys working on war crimes cases with the aim of improving their knowledge and skills. The events are organised in cooperation with the Section for Criminal Defence and Training in Criminal Matters before the Court of BiH - OKO, which is one of project beneficiaries;
- organises (regular and ad hoc) meetings and visits to courts and prosecutor's offices with the aim of coordinating activities and providing support to all beneficiaries so as to ensure successful project implementation.

Chapter 2: INDEPENDENCE OF THE JUDICIARY

2.1 The HJPC and the independence of the judiciary

In 2019, the work of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (hereinafter: the HJPC BiH / Council) and the judiciary was at the centre of attention of the public, media, political structures, and the legislature.

Namely, in June 2019, the House of Representatives of the BiH Parliamentary Assembly adopted the conclusions concerning the HJPC BiH and the judiciary as a whole.

The conclusion of the House of Representatives of the BiH Parliamentary Assembly envisaging the formation of an inquiry commission of that house to investigate the situation in the judiciary, with a particular focus on the HJPC BiH, has sparked notable controversy. This conclusion has essentially entailed parliamentary oversight over the work of the judiciary, which, as such, is neither foreseen nor permitted under applicable regulations of Bosnia and Herzegovina. With this move, the House of Representatives of the BiH Parliamentary Assembly has gone way beyond the scope of its powers, which constitutes gross interference and impermissible pressure of the legislature on the judiciary, and as such it undermines the democratic and constitutional three-branch system.

The Council stated that its members, judges and prosecutors in Bosnia and Herzegovina would in no way participate in the work of the inquiry commission of the House of Representatives of the BiH Parliamentary Assembly. At the same time, the Council urged the House of Representatives of the BiH Parliamentary Assembly to discuss all issues related to the judiciary in a partnership with the High Judicial and Prosecutorial Council based on respect for the democratic principle of separation of powers.²⁵

Conceptually, the HJPC BiH accepts the criticism as part of the dialogue between the judiciary and the society as a whole in which free media and civil society play a significant role. The HJPC BiH further emphasized that there was a clear delineation between freedom of expression and legitimate criticism, on the one hand, and improper pressure on the judiciary, on the other. Overly simplistic populist criticisms could add to public distrust in the justice system.²⁶

The HJPC BiH welcomes the activities of the European Commission undertaken in 2019 within the framework of the EU initiative to enhance the monitoring of the Rule of Law chain in BiH, which resulted in the Expert Report on Rule of Law Issues of the Rule of Law in Bosnia and Herzegovina of 5 December 2019. Namely, the Report emphasizes that "In the current BiH judicial order, the HJPC is indispensable" and underlines the need for further reforms.

The HJPC BiH expects the legislative and executive branches to fulfil their obligations on which the successful implementation of judicial reform depends, and strongly emphasizes the necessity of considering the Initiative for the revision of the Law on the HJPC BiH from June 2018.²⁷

2.2 HJPC participation in the budget process for courts and prosecutor's offices

In accordance with the Law on the HJPC BiH and the laws on courts and prosecutor's offices, the HJPC BiH participates in the preparation of the budget to be allocated for courts and prosecutor's offices where:

²⁵ Conclusions from the Council session held on 17 and 18 July 2019

²⁶ Conclusions from the Council session held on 18 and 18 December 2019

²⁷ Ibid.

- the courts and prosecutor's offices office are provided with the guidelines for the preparation of their budget proposals; separate guidelines are prepared for each court/ prosecutor's office, which represent the HJPC's estimate of the minimum funds required for proper functioning of judicial institutions;
- the HJPC BiH gives comments on budget proposals of courts and prosecutor's offices, along with an assessment of their respective budget proposals;
- in the event that the budget drafts and proposals for the courts and prosecutor's offices, that are adopted by the executive branch, do not provide for sufficient funds, the HJPC may submit its objections to budget drafts and proposals.

Unlike other judicial institutions in a number of European countries, the competences of the HJPC BiH are seemingly insufficient and do not ensure full Independence of judicial institutions in terms of their funding. In a number of European countries, the HJPC's peer institutions are the official proponents of the budget for courts and prosecutor's offices, they are negotiating with the executive and the legislative branch in the budget adoption process, and they also distribute funds to individual courts and prosecutor's offices. Relevant international documents (Opinion no.10(2007) of the Consultative Council of European Judges, etc.) also point to the need to ensure the independence of the judiciary in terms of its financing.

Apart from lacking powers in the budgeting process, another significant problem in the funding of the judiciary is fragmentation, i.e. financing from 14 different sources which, independently of each other, decide on the budget for the judiciary. Specifically, the Court of BiH and the Prosecutor's Office of BiH are funded from the budget of BiH institutions, judicial institutions in Republika Srpska are funded from the budget of Republika Srpska, judicial institutions of the Brcko District BiH are funded from the District budget, the Supreme Court of FBiH and the Prosecutor's Office of FBiH from the budget of the BiH Federation, while the cantonal courts and prosecutor's offices and the municipal courts are funded from 10 different cantonal budgets.

This problem is particularly conspicuous in the BiH Federation where cantonal courts/prosecutor's offices and municipal courts are funded from cantonal budgets even though most decisions related to funding needs are determined on entity and state level (the 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 made at the Federation level). Such fragmented financing of the judiciary is the constraint to implementation of strategic activities adopted at the level of BiH, and equitable distribution of funds while respecting the weight of cases, which is one of the recommendations issued by GRECO.

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

- reducing the current budget fragmentation (14 separate funding sources), primarily by introducing a single source of funding for courts and prosecutor's offices in the BiH Federation and
- increasing the powers that judicial institutions have in the budgeting process, whereby the HJPC would be the official proponent of the budgets for courts and prosecutor's offices and negotiate with the executive and legislative branch the budgets for courts, prosecutor's offices and the budget for the HJPC.

2.3 Information on the financing of judges and prosecutors, previously financed under IPA 2013, through regular budgets of courts and prosecutor's offices

One of the key issues that needed to be addressed in relation to the finalisation of the second phase of EU support under IPA 2013 in October 2019, which has helped build the human capacities and improve material resources of judicial institutions for more efficient war crimes processing, was securing timely funding for 15 prosecutors and 6 judges, previously funded under IPA 2013. Namely, in view of the finalisation of EU support to BiH judiciary under IPA 2013, there was a need to secure sufficient funds in the budget of judicial institutions for regular financing of these judicial office holders. In this regard, continued efforts and activities of the High Judicial and Prosecutorial Council of BiH, and the Supervisory Body for overseeing the implementation of the National War Crimes Strategy have ensured the long-term sustainability of EU support through timely transfer of all judicial office holders to regular budgets. So, from 2020 onwards, all judicial office holders, appointed by the HJPC through regular appointment process and financed under IPA 2013, were transferred to be funded through regular judicial budgets, thereby confirming the principles of financial independence of judicial office holders. In this regard, and with the aim of improving the overall efficiency of war crimes processing in the coming period, the HJPC BiH will focus on building the capacity of support staff to assist judges and prosecutors in working on war crimes cases.

2.4 The 2019 budgets of the courts and prosecutor's offices

The following table provides an overview of approved budgets for the courts and prosecutor's offices for 2018 and 2019, as well as an estimate of the minimum funds required for efficient operations as compiled for the courts and prosecutor's offices by the HJPC: Bearing in mind that the guidelines provide an estimate of funds only for the costs of salaries and allowances, material and part of capital expenditures, the total approved funds are shown separately for these positions only (current and capital expenditures):

Table 3: Overview of approved budgets for courts and prosecutor's offices for 2018 & 2019

| | 2018 Budget | HJPC minimum funding estimates for 2019 | Approved budget for 2019 | Amendments (rebalance) to the 2019 budget | Rebalance 2019 2018 budget | Rebalance 2019 / HJPC estimates for 2019 |
|---------------------|-------------|---|--------------------------|---|----------------------------|--|
| | I | II | III | IV | V=IV/I | VI=III/I |
| RS | | | | | | |
| Personal income | 49.935.600 | 55.121.100 | 53.380.400 | 52.681.500 | 5,5% | -4,4% |
| Goods & services | 11.231.300 | 13.900.100 | 12.007.300 | 11.689.800 | 4,1% | -15,9% |
| Capital expenditure | 639.100 | 847.513 | 547.900 | 2.000.500 | 213,0% | 136,0% |

| | | | | | | |
|--|--------------------|--------------------|--------------------|--------------------|--------------|--------------|
| RS current and capital expenditures | 61.806.000 | 69.868.713 | 65.935.600 | 66.371.800 | 7,4% | -5,0% |
| Other expenditures – transactions | 466.100 | 0 | 263.900 | 612.500 | 31,4% | |
| Servicing debts | 371.700 | 0 | 2.605.000 | 2.622.400 | 605,5% | |
| RS total | 62.643.800 | 69.868.713 | 68.804.500 | 69.606.700 | 11,1% | |
| FBiH | | | | | | |
| Salaries & other payments | 120.305.769 | 125.394.868 | 127.693.510 | 127.171.093 | 5,7% | 1,4% |
| Material services & | 25.883.307 | 28.070.000 | 25.848.407 | 26.398.412 | 2,0% | -6,0% |
| Capital expenditure | 1.709.602 | 1.667.810 | 1.645.200 | 1.684.912 | -1,4% | 1,0% |
| FBiH current and capital expenditures | 147.898.678 | 155.132.678 | 155.187.117 | 155.254.417 | 5,0% | 0,1% |
| Current transfers | 25.144 | 0 | 102.981 | 95.104 | 278,2% | |
| New court | | | 776.238 | 776.238 | | |
| Total FBiH | 147.923.822 | 155.132.678 | 156.066.336 | 156.125.759 | 5,5% | |
| Brcko District | | | | | | |
| Salaries & other payments | 5.408.407 | 5.544.890 | 5.563.952 | 5.278.952 | -2,4% | -4,8% |
| Material services & | 1.159.630 | 1.290.000 | 1.141.330 | 1.141.330 | -1,6% | -11,5% |
| Capital expenditure | 90.000 | 0 | 90.000 | 90.000 | 0,0% | |
| Total BD | 6.658.037 | 6.834.890 | 6.795.282 | 6.510.282 | -2,2% | -4,7% |

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

– Given the need for rational resource planning, and the fact that the guidelines are an estimate of the minimum resources required, the guidelines are based on existing human resources with the following exceptions:

- increasing the number of judges approved in the budget within the approved systematization only for extremely overburdened courts;
- planning of budget funds for prosecutors who were financed from IPA 2013 funds until 2019, having in mind that the mentioned donor funding ended in 2019;
- increasing the number of non-judicial / non-prosecutorial staff only for courts and prosecutor's offices with the lowest staff per judge / prosecutor ratio.

- The estimates for salaries and allowances of non-judicial / non-prosecutorial staff are made based on applicable regulations at the time of preparation of the guidelines.
- The following parameters have been used to estimate the funds required for materials and services:
 - expenditures from previous years,
 - expected price growth rate,
 - data on the number of criminal cases for estimating the costs of criminal proceedings (costs of defence attorneys, expert witnesses, etc.).
- An estimate of the funds required for the procurement of ICT equipment to enable smooth operation of the Case Management System has been made. Considering that capital expenditures are planned jointly on Brcko District level for all institutions, this estimate does not include judicial institutions in the Brcko District. The procurement of ICT equipment has been largely financed by donors, as well as from the HJPC budget. The long-term sustainability of the system requires the significant funds from the budgets of courts and prosecutor's offices. Due to the inability to make a reliable estimate, the guidelines did not incorporate the needs for construction and reconstruction of judicial buildings.

The total budget for the judicial institutions in Republika Srpska was some 11.1% (around BAM 7 million) higher than in 2018.

The largest share in budget increase comprised the repayment of debt from previous years in the amount of about BAM 2.6 million. These were mainly debts owed to attorneys for mandatory defence and defence for indigent persons, which are covered from the courts' budgets. Debts arose due to insufficient budgets in previous years. Through the revision of the adopted budget, the funds were approved for salaries and allowances of judges and prosecutors, who, until October 2019, were financed from IPA (capacity building project for prosecutor's offices - support to BiH judiciary in handling war crimes). The funds allocated for the procurement of goods and services were by about BAM 500,000 (4.1%) higher than those allocated in 2018. Significant amount of funds was approved through budget revision for capital expenditures.

It should be mentioned that not all systematized positions of judges have been filled in a certain number of courts, and that there is a need to hire a larger number of legal associates providing support to prosecutors in handling cases. For these reasons, the funds approved for salaries and allowances are lower compared to the HJPC's estimates of the funds required (around BAM -2.5 million or 4.4%).

In the BiH Federation, there was an increase in approved judicial budgets compared to 2018 by about 5.5% (about BAM 8.2 million). This budget increase primarily reflects an increase in allocations for salaries and allowances. Through the revision of the adopted budget, the funds were approved for salaries and allowances of judges and prosecutors who were previously financed from IPA funds (capacity building project for prosecutor's offices - support to BiH judiciary in handling war crimes). In a number of cantons, the salaries of non-judicial / non-prosecutorial staff were increased in 2019. For this reason, the total amount of approved funds is higher than the estimate made by the HJPC, as the guidelines are based on the regulations that were valid in 2018. At the time of preparing the guidelines, the HJPC did not have information on the decisions of governments / assemblies on changes in the salary calculation bases or coefficients that followed in 2019. Also, the number of non-judicial staff has increased in a number of courts. Expenditures for materials and services are about 2% (approximately BAM 500,000) higher than in 2018.

It should be emphasized that due to an insufficient number of judges, some of the courts are still struggling with an extremely high caseloads. Also, there is a need to hire more legal associates to support prosecutors in their work.

Although the budget of judicial institutions in the Brcko District was slightly reduced compared to the previous year (-2.2% in total), it can be said that the funding for judicial institutions in the Brcko District is at a relatively satisfactory level.

The following table provides an overview of the approved budget for the Court of BiH and the Prosecutor's Office of BiH that are financed from the budget of the BiH institutions. Taking into account the specific nature of these institutions, no budget guidelines have been made for the Court of BiH and the Prosecutor's Office of BiH.

Table 4: Approved budgets for the Court of BiH and the Prosecutor's Office of BiH

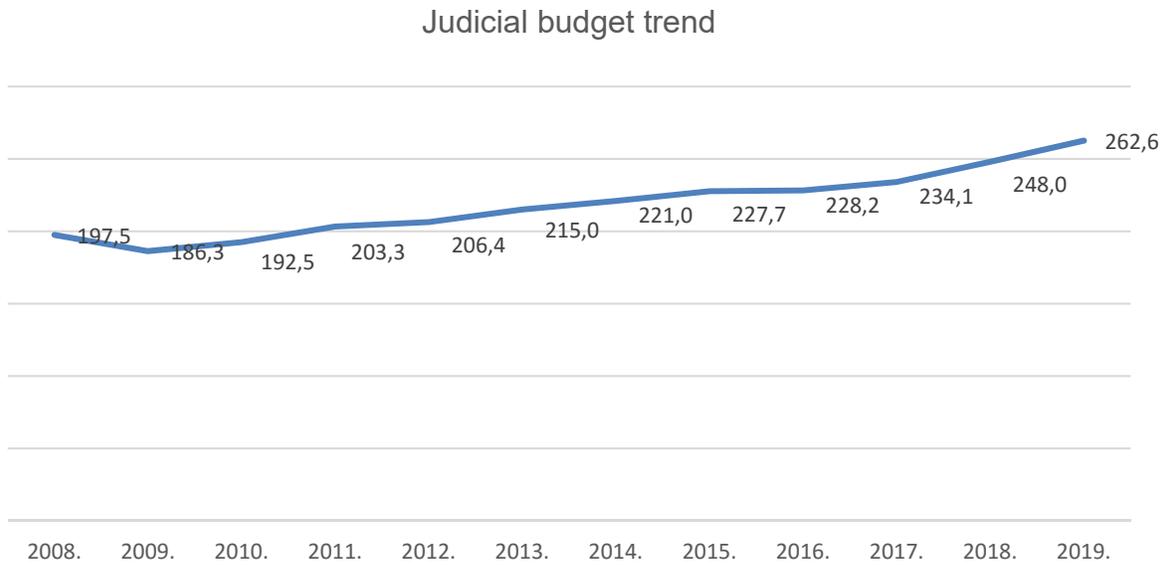
| | 2018 approved budget | 2019 approved budget | 2019 budget/ 2018 budget |
|---------------------------|----------------------|----------------------|--------------------------|
| | I | III | IV=III/I |
| Salaries & other payments | 24.080.000 | 24.455.000 | 1,56% |
| Material & services | 6.179.000 | 6.222.000 | 0,70% |
| Capital expenditure | 589.000 | 557.000 | -5,43% |
| TOTAL BUDGET | 30.848.000 | 31.234.000 | 1,25% |

The total budget for judicial institutions that are financed from the budget of BiH institutions is up by 1.25% (approx. 390,000 KM) compared to 2018. The Court of BiH and the Prosecutor's 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 and defence for indigent persons, as well as the exhumation costs. At the same time, we can assume that obligations stemming from peer review recommendations on organised crime and corruption will require additional resources, especially for the Prosecutor's Office of BiH.

2.5 Budget trends

The following graph shows the judicial budget trends in the period 2008 - 2019:

Graph 2: Judicial budget trends in the period 2008 - 2019



Chapter 3: APPOINTMENT & EVALUATION

3.1 Procedure for appointment of judicial office holders

3.1.1 Legal framework & procedure

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

Article 43 of the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Official Gazette of 25/04, 93/05, 48/07 & 15/08) prescribes the appointment criteria and serves as general guidance for the HJPC BiH when determining competencies 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: the Book of Rules on Entrance Exams and Written Tests). Pursuant to Article 37 of the HJPC Rules of Procedure, a competition procedure shall include:

- entrance exams and written tests for candidates as prescribed for entrance exam and written tests;
- candidate interviews;
- candidate ranking and proposal.

As stated above, the competency assessment for candidates outside the judiciary and for whom appointment to any instance would be a “gateway into the judiciary” is done based on an entrance exam and written test.

The candidates already holding judicial office and who are either seeking a promotion or moving to another court or prosecutor's office of the same level, are assessed based on the performance results for the past three years (their performance is evaluated by the court president or chief prosecutor).

In 2018, the relevant legal framework was amended in order to implement the Peer Review recommendations of the European Commission.²⁸

In 2019, the HJPC BiH has implemented the above recommendations by incorporating them into its procedures thereby seeking to improve written test and entrance exam process, introduce more demanding testing procedures and improve structured interviews, make distinction between first appointment and promotion (based on customized candidate evaluation criteria depending on their professional background), and introduce specific rules for the selection of court presidents and chief prosecutors. The candidates for leadership positions are now required to prepare and submit the work programme for the institution they apply to, which will enable the selection of the best candidates for these positions and supervision and monitoring over the implementation of the work programme of the selected candidate.

In the forthcoming period, the HJPC Standing Committee for the area of appointment will analyse the effects of the adopted amendments to the HJPC Rules of Procedure and the Book of Rules on Entrance Exams and Written Tests.

Also, in 2019, two TAIEX seminars were held on the topics of legal remedies challenging the Council decisions and checking candidate fitness within the appointment process.

²⁸ There are 27 recommendations grouped by topic.

In order to increase the use of information technology in the appointment process, in the period of 2018 and 2019, the prerequisites have been provided for the introduction of an online candidate application system, establishment of regional centres for conducting entrance exams and candidate interviews via video links at the regional level, which will certainly significantly contribute to a more efficient and effective process of appointing judges, prosecutors and legal associates.

When it comes to statistical data for 2019, there were four competitions announced in that period with 117 judicial vacancies. In that period, 1191 applications with 779 applicants were processed. There were 154 candidates invited to sit the entrance exam, while 79 candidates took the written test.

Table 5: Ethnic and gender breakdown of leadership positions in BiH judicial institutions as of 31 December 2019

| Level | Institution | Bosniac | Croat | Serb | Others | Male | Female |
|----------------|--|-----------|-----------|-----------|----------|-----------|-----------|
| State | <i>Court</i> | | | | 1 | 1 | |
| | <i>Prosecutor's Office</i> | | 1 | | | | 1 |
| Entity – FBiH | <i>Court</i> | | | 1 | | 1 | |
| | <i>Prosecutor's Office</i> | | | | | | |
| Entity - RS | <i>Court and High Commercial Court</i> | | 1 | | 1 | 1 | 1 |
| | <i>Prosecutor's Office</i> | 1 | | | | 1 | |
| Cantonal | <i>Court</i> | 5 | 4 | 1 | | 2 | 8 |
| | <i>Prosecutor's Office</i> | 4 | 5 | 1 | | 6 | 4 |
| District | <i>Courts and commercial courts</i> | 3 | 1 | 8 | 0 | 8 | 4 |
| | <i>Prosecutor's Office</i> | | 1 | 5 | | 4 | 2 |
| Municipal | <i>courts</i> | 16 | 9 | 5 | 1 | 14 | 17 |
| Basic | <i>courts</i> | 2 | 0 | 16 | 1 | 11 | 8 |
| Brcko District | <i>Appellate Court</i> | | | 1 | | 1 | |
| Brcko District | <i>Basic Court</i> | | 1 | | | 1 | |
| Brcko District | <i>Prosecutor's Office</i> | 1 | | | | 1 | |
| TOTAL | 97 | 32 | 23 | 38 | 4 | 52 | 45 |

Table 6: Gender breakdown of filled positions of judges and prosecutors as of 31 December 2019

| Level | Institution | Systematised positions | Filled positions | Ethnic breakdown | | | | Gender breakdown | |
|--|----------------------|------------------------|------------------|------------------|------------|------------|-----------|------------------|------------|
| | | | | B | H | S | O | M | Z |
| State | Court | 57 | 52 | 23 | 8 | 18 | 3 | 27 | 25 |
| | Prosecutor's Office | 63 | 58 | 27 | 9 | 17 | 5 | 31 | 27 |
| Supreme Court of the Federation of BIH | | 58 | 46 | 26 | 8 | 10 | 2 | 14 | 32 |
| Prosecutors Office FBiH | | 22 | 10 | 5 | 3 | 1 | 1 | 5 | 5 |
| High Commercial Court | | 8 | 6 | 0 | 1 | 5 | 0 | 3 | 3 |
| RS Supreme Court | | 23 | 23 | 4 | 3 | 13 | 3 | 7 | 16 |
| Prosecutors Office RS | | 14 | 10 | 2 | 1 | 6 | 1 | 5 | 5 |
| Cantonal | Courts | 177 | 142 | 78 | 34 | 24 | 6 | 36 | 106 |
| | Prosecutor's Offices | 210 | 200 | 117 | 37 | 32 | 14 | 95 | 105 |
| District | Courts | 130 | 107 | 23 | 10 | 68 | 6 | 37 | 70 |
| | Prosecutor's Offices | 110 | 85 | 13 | 7 | 59 | 6 | 41 | 44 |
| Municipal | Courts | 449 | 413 | 222 | 93 | 69 | 29 | 148 | 265 |
| Basic | Courts | 217 | 196 | 46 | 13 | 126 | 11 | 75 | 121 |
| Brcko District | Basic Court | 20 | 18 | 6 | 3 | 7 | 2 | 11 | 7 |
| | Prosecutor's Offices | 9 | 9 | 4 | 2 | 3 | 0 | 4 | 5 |
| | Appellate Court | 8 | 8 | 2 | 3 | 3 | 0 | 4 | 4 |
| TOTAL | | 1575 | 1383 | 598 | 235 | 461 | 89 | 543 | 840 |

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

3.2 Performance evaluation of 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 the 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 Application of new criteria adopted in accordance with the Peer Review recommendations on performance evaluation of judges and prosecutors on Bosnia and Herzegovina

On 27 November 2018, the HJPC adopted the new criteria for performance evaluation of judicial office holders in courts and prosecutor's offices.²⁹ The new criteria have been developed on the basis of Peer Review recommendations on appraisal of judges and prosecutors issued in 2017 by the experts hired by the European Commission. The Peer Review recommended improvements in the performance evaluation system for judges and prosecutors in BiH while striking 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 new criteria did not incorporate the following recommendations from the Peer Review:

- evaluation should take place every three years;
- the final grade shall be decided by the HJPC.

In July 2018, the HJPC BiH sent to the European Commission and the BiH Ministry of Justice a proposal for amendments to the Law on the HJPC BiH in order, among other things, to remove the legal obstacles preventing the implementation of the said recommendations.

The most important change in the new criteria is the greater weight given to the quality of work and decisions through a new criterion - analytical evaluation of the work of prosecutors / analytical quality of work and decisions of judges. Also, the criteria define the elements for performance evaluation of court department heads regarding their role as court department managers and these elements correspond to the criteria that are applied to court presidents when evaluating their performance as court managers. The criteria for performance evaluation for heads of departments / sections in prosecutor's offices had already been in place. Traditional criteria will be used together with the new elements for performance evaluation of judicial office holders in courts and prosecutor's offices: performance targets (quotas) and statistical quality of decisions. Backlog reduction efforts in courts and prosecutor's offices will continue to be evaluated based on quantitative indicators. Ultimately, the new criteria prescribes that, in their performance evaluation, the evaluator will list the measures to improve the performance of the relevant judicial office holder.

²⁹ Criteria for Performance Evaluation of Judges and Criteria for Performance Evaluation of Court Presidents and Heads of Court Departments (“Official Gazette of BiH”, No. 93/18, 53/19, 76/19), Criteria for Performance Evaluation of Prosecutors, Heads of Sections / Departments, Deputy Chief Prosecutors and Chief Prosecutors and Criteria for Performance Evaluation of Prosecutors (“Official Gazette of BiH”, No. 93/18, 53/19). the Book of Rules on the Performance Evaluation Procedure for Judicial Office Holders (“Official Gazette of BiH”, No. 93/18).

Consistent application of the new criteria is expected to help increase the efficiency and quality of performance of courts and prosecutor's offices.

In order to ensure uniform application and clarify certain provisions of the applicable criteria for performance evaluation of judicial office holders in courts and prosecutor's offices in BiH, in 2019 the HJPC adopted the necessary amendments to the criteria and instructions for their application. Also, the HJPC and its standing committees provided several opinions and instructions in the course of 2019 in order to clarify certain aspects of performance monitoring in accordance with the criteria and rules governing performance evaluation. Finally, courts and prosecutor's offices are allowed to use various tools as sources of information envisaged to be used in the performance evaluation of judicial office holders.

The evaluators, i.e. chief prosecutors and court presidents, will carry out the evaluation process for 2019 within 90 days³⁰ after the end of the evaluation period. In 2019, the evaluators monitored the performance of evaluated prosecutors, judges, heads of departments in courts and prosecutor's offices, as well as the presidents of lower-instance courts and chief prosecutors in district or cantonal prosecutor's offices. In this way, sources of information to be used in the evaluation process have been formed, which is particularly important for performance evaluation that is based on qualitative criteria (analytical evaluation of judges and prosecutors and organisation of work processes and managing of courts and prosecutor's offices). In accordance with the criteria, the evaluators will obtain some information from other judicial institutions (opinion of the relevant department of the higher-instance court, opinion of the Public Prosecutor's Office of RS or of the Prosecutor's Office of FBiH) or from the associates from the judicial institution that the evaluator is a head of (opinion of the department head).

The HJPC will carry out performance evaluation for 2019 for chief prosecutors and court presidents of the following judicial institutions

- Prosecutor's Office of BiH, Public Prosecutor's Office of RS, Prosecutor's Office of FBiH and Prosecutor's Office of BDBiH;
- Court of BiH, Supreme Court of FBiH, Supreme Court of RS and Appellate Court of BDBiH.

³⁰ The deadline for performance evaluation for 2019 expires on 31 March 2020.

Chapter 4: JUDICIAL EFFICIENCY

Continuous improvement of the work of judiciary, through the improvement of the efficiency and approximation of the BiH judiciary to the CEPEJ standards, is one of the basic strategic goals and a long-term commitment of the HJPC.

In the year behind us, the HJPC undertook a series of activities aimed at reducing the backlog of cases, increasing the productivity of judges and prosecutors, better organisation of work in judicial institutions, their capacity building in the strategic planning segment, and ensuring better working conditions for judges, prosecutors and other professional and technical staff, which will be presented in this chapter. Also, for the first time, strategic activities have been undertaken in the field of increasing the use of alternative dispute resolution, with the aim of reducing the number of cases before the courts and reducing the backlog of cases as well.

In addition, within the projects implemented by the HJPC, new activities have been initiated with the aim of improving the overall efficiency of the judiciary, which will be implemented in the upcoming period.

4.1 Efficiency of the courts

4.1.1 Improving court management

Establishing efficiency standards

In the past, the HJPC, through various activities, has established numerous criteria, indicators and efficiency measures, such as weighting of disposed cases, backlog reduction plan, optimum and foreseeable time frames, and foreseeable costs for court proceedings. However, all collected data were analysed fragmentarily and depending on the specific need.

The analysed information often indicated that the courts recorded promptness or satisfactory results based on one of the indicators or criteria, and at the same time recorded inefficiency or partial promptness and unsatisfactory results based on another criteria observed or measured. However, without correlating all established measures, indicators and criteria, it was difficult to conclude whether a particular court was efficient or not. Therefore, an idea arose to define criteria that will assess the efficiency of the entire court, so that it is possible to categorise the courts as efficient or inefficient in the observed period. This activity seeks to further analyse the reasons that led to the inefficiency of courts that were found to be inefficient, and to provide them with additional support in order to improve their productivity and efficiency.

By establishing a set of indicators and criteria, and analysing them through the established methodology, the HJPC would get a clear picture of the level of court efficiency, and it could be determined which courts require additional support to achieve a satisfactory level of efficiency, i.e. where the “bottlenecks” are, as well as which courts and to what extent require the reorganisation of work processes.

All parameters on the basis of which the efficiency of the court would be measured (length of proceedings, quota, implementation of the backlog reduction plan, number of disposed and pending cases) derive from the standards of court efficiency developed by the European Commission for the Efficiency of Justice (CEPEJ). However, the goal of the HJPC is to establish measurable indicators and criteria by conducting the described activity, which would bring a clear and measurable result on degree of courts’ efficiency in Bosnia and Herzegovina by correlating them and grading the obtained results based on individual indicators.

Developing a model strategic plan for the courts in BiH with relevant objectives, indicators and activities while providing support to the courts in drafting individual strategic documents

Despite the fact that the HJPC and the RS Ministry of Justice have adopted appropriate books of rules on internal court operations, which regulate the organisation and manner of internal court operations, the courts have so far not adequately performed strategic planning. In accordance with the mentioned books of rules, the courts are required to develop annual work programmes, which do not contain strategic goals or indicators for measuring their implementation.

Given the fact that there are no adequate strategic measures in these court work programmes, the HJPC, within the IPA 2017 project, planned activities related to training, development of frameworks and support to fifty courts in BiH in creating strategic plans, with the aim of improving the court resources management in the course of regular tasks and duties within its competence.

Strategic planning implies a process that helps the court to plan its future projects and activities, determine priorities, efficiently allocate resources according to defined priorities (not only financial, but also human and technological potentials, and other material resources at its disposal), as well as monitor progress in relation to the established strategic goals and priorities.

The process of strategic planning in the courts requires the establishment of a disciplined approach to strategic thinking and decision-making on the future activities, including all the staff in the appropriate stages of the work programme development.

During the reporting period, the HJPC, with the assistance of an external expert, analysed current practices in the development of court work programmes, as well as domestic regulations relevant to the organisation and work of courts, and held a number of meetings with presidents of the largest first and second instance courts in BiH.

The main findings of the analysis pointed out the shortcomings of the current court work programmes in terms of non-alignment of work programmes with the budget, lack of specific indicators for measuring performance, lack of procedures for defining processes, dynamics, coordination and accountability in preparing annual work programmes.

Based on the mentioned shortcomings of strategic planning, recommendations were given on how to overcome and eliminate the identified shortcomings, and it was concluded necessary to take measures to introduce strategic planning, so that courts could better manage their business processes and improve their performance.

Reorganisation of the work of non-judicial staff in courts

During 2019, the HJPC undertook important activities seeking the improvement of the internal reorganisation of courts in order to achieve efficiency, faster and better work of courts and work processes in courts by reducing the length of proceedings, reducing backlogs, reducing court costs, and improving motivation of all staff in the courts. For the first time, particular attention was paid to the efficiency of non-judicial staff and the organisation of business processes in the courts. The work in this segment arose from the question of what could be done in the field of efficiency, excluding the activities that are exclusively related to the work of judges, and how it could further contribute to increasing the productivity of the court, as well as who are the other stakeholders whose work affects the overall court operations.

Analysing the answers to these questions, it was determined that special attention should be paid to the reorganisation and improvement of business processes in the courts. Thus, as a target group of this activity, all categories of professional and administrative staff in the courts were identified, including judges, legal associates and administrative staff.

The activity of reorganisation of non-judicial staff started in 2017, under the ICEA II project, funded by the Government of Sweden. However, the real results of the activity became visible during 2019, by including additional six first instance courts to introduce changed business processes. Also, cooperation was established between the HJPC and the Swedish National Courts Administration (hereinafter: SNCA), with the aim of learning about good practice from the courts in Sweden.

The pilot courts (municipal courts in Mostar and Bihac, and the basic courts in Trebinje and Prijedor, as well as the district commercial courts in Trebinje and Prijedor) worked closely with the Swedish courts (Varberg, Malmö and Ystad district courts). In addition to the mentioned cooperation with courts in Sweden, the courts exchanged experiences with the Municipal Court in Tuzla and the Basic Court in Bijeljina, the first pilot courts with outstanding results in terms of increasing efficiency and productivity thanks to improved work processes.

In 2019, an introductory seminar was held for the representatives of all six new target courts, at which the plans and objectives of the activities were explained in detail, after which several visits of Swedish experts to the courts were organised. During each visit the courts were offered various guidelines to improve performance. Mutual cooperation and communication among the courts was key to achieving positive results in all eight courts.

As a result of the work, during 2019, the courts made a single list of tasks that can be delegated from a judge to other court staff, then a table for checking the actions taken (litigation, non-litigation and minor offence departments), training plan for trainees, and module for trainees, as well as a list of proposals for amendments to the laws and bylaws, with the aim of improving the work process in the courts.

Thanks to changes in internal work processes in pilot courts, without legislative amendments, there has been an improvement in work methodology, redistribution of tasks, and strengthening the role of trainees at courts, since they are future professional staff, through improving the quality of their training and strengthening their communication and cooperation with judges. Also, judges are relieved of certain administrative tasks, in order to be able to dedicate themselves to the quality of court decisions. Effective management of human resources, as well as of the court proceedings, has proven to be one of the conditions for increasing the efficiency of the citizen friendly judiciary.

As the final event of this activity in 2019, a workshop and a round table were held on the topic "Internal Reorganisation of Business Processes in Courts".

Images 1 and 2: Workshop and round table, held on 3 and 4 December 2019 in Sarajevo



The workshop was attended by representatives of the SNCA, the Embassy of Sweden, Swedish experts, representatives of the HJPC, target courts, and the round table was additionally attended by the competent ministries of justice. During the workshop, the courts exchanged experiences regarding the challenges they encountered during the implementation of project activities, and in order to ensure sustainability of the introduced changes in the work, they adopted certain conclusions.

The focus of the round table was on establishing cooperation with the competent ministries of justice, in order to adopt legislative amendments, change the existing job descriptions and introduce new categories of staff in courts, with the aim of increasing their responsibility, independence and productivity. Attending representatives of the ministries of justice affirmed readiness to further forge close cooperation in this matter.

As a final outcome of the work with courts activity, and in cooperation with Swedish experts, a blueprint and initial steps are planned to be developed with the aim of improving court work processes, being the initial working material for all new courts under the project.

Improving archiving in courts and creating conditions for faster digitalisation of court archives

The Improving Judicial Efficiency Project, funded by the governments of Norway and the Netherlands, initiated an activity related to the improvement of archival operations, which was carried out in the period from 2014 to 2015, when support staff was hired to improve the work of archives in municipal courts in Sarajevo and Mostar, and the basic courts in Prijedor and Zvornik. On that occasion, the work of the support staff established the conditions for adequate work and digitisation of the archive.

Activities seeking to improve archiving continued under the ICEA project, given that the proper functioning of the archive is one of the prerequisites for the efficient operation of any court. Archive protection is particularly important too, given its weight, content, preservation and bulkiness.

Taking into account the state of the archives and the number of archived cases in the municipal courts in Tuzla and Bihac, and the basic courts in Bijeljina, Trebinje and Banja Luka, they were selected as target courts for the implementation of this activity. In the mentioned courts, in the period from April to August 2019, support staff was hired to make preparations for the digitisation of the archive. The hired staff, under the supervision of the archivist employed in the court, performed tasks and provided support to the courts aimed at improving the archiving. The result of their engagement is reflected in 202,753 cases examined in detail, 74,969 physically arranged cases and 123,615 written-off cases. The importance of improving the archiving in the courts in Tuzla, Trebinje and Banja Luka is even greater because of the (re)construction of judicial buildings at these locations.

With the help of the support staff hired, a greater up-to-dateness of the archive was achieved, and preparatory actions were carried out that preceded the digitisation of the archive for a very large number of cases, all in order to improve the efficiency of the target courts.

4.1.2 Improving the way judges manage cases

Effects of the backlog reduction plans and application of the performance measurement framework in courts

Backlog reduction plans have been a continuous activity of the HJPC since 2011. After the adoption of the Instruction for Drafting Backlog Reduction Plans³¹ all courts were required to draft their backlog reduction plans.

Thanks to this, every year courts complete over 100,000 of the oldest cases along with their regular activities.

In 2019, the courts accounted for 174,389 pending cases in their backlog reduction plans. Of that number, they completed 157,145 cases by 31 December 2019, or 90% of the plans. If we compare this with 2018, the courts had approximately the same number of cases in the backlog reduction plans for 2019, while the implementation of the plan increased by 5% compared to the previous year.

Observing the data by entities, we can see the courts in both entities implemented their plans at 90% and more. The courts of the BDBiH and the Court of BiH had a slightly lower percentage of implementation. See table below for details.

Table 7: Implementation of the backlog reduction plans

| | Total number on of cases | Disposed cases | % disposed | Remain pending | % pending |
|---------------------------------------|---------------------------------|-----------------------|-------------------|-----------------------|------------------|
| All BiH courts for 2019 | 174.389 | 157.145 | 90% | 17.244 | 10% |
| RS courts for 2019 | 55.314 | 50.629 | 92% | 4.685 | 8% |
| FBiH courts for 2019 | 112.962 | 101.773 | 90% | 11.189 | 10% |
| Courts of the Brcko District for 2019 | 3.987 | 2.865 | 72% | 1.122 | 28% |
| The Court of BiH for 2019 | 2.126 | 1.878 | 88% | 248 | 12% |

From the aspect of court instances, the second and third instance courts have almost completely implemented their backlog reduction plans. A slightly lower percentage of implementation of the plans was recorded in the first instance courts. See table below for details.

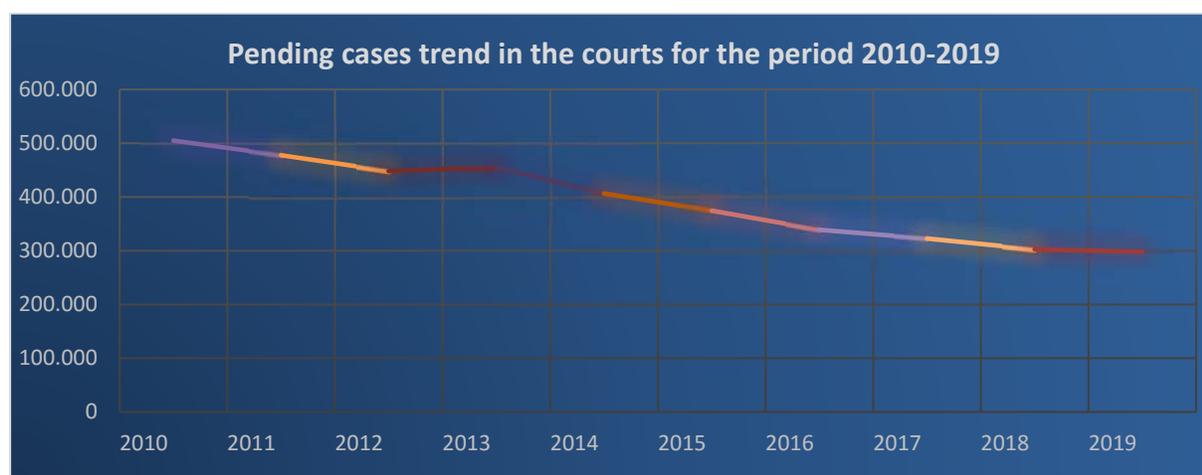
³¹ The Instruction was adopted on 6 December 2010, while the most recent amendments were adopted at the HJPC BiH session on 13-14 December 2016.

Table 8: Implementation of the backlog reduction plans by instance

| | Total number on of cases | Disposed cases | % disposed | Remain pending | % pending |
|----------------------------|--------------------------|----------------|------------|----------------|-----------|
| All BiH courts for 2019 | 174.389 | 157.145 | 90% | 17.244 | 10% |
| I instance | 141.286 | 124.769 | 88% | 16.517 | 12% |
| II instance | 27.472 | 27.014 | 98% | 458 | 2% |
| III instance ³² | 3.505 | 3.484 | 99% | 21 | 1% |
| Court of BiH for 2019 | 2.126 | 1.878 | 88% | 248 | 12% |

In addition to the backlog reduction plans, applying the Book of Rules on Performance Measurement Framework for Judges and Legal Associates in Courts in BiH³³ has a significant effect on reducing the backlog of cases. The HJPC BiH continued monitoring of quotas achieved by judges and legal associates.

The effects of the plans and regulations are visible through the fact that for the period from 31 December 2010 to 31 December 2019 there was a decrease of over 200,000 pending cases in the courts, which can be seen in the chart below.

Graph 3: Pending cases trend in the courts for the period 2010-2019

³² III instance includes the Appellate Court of Brcko District

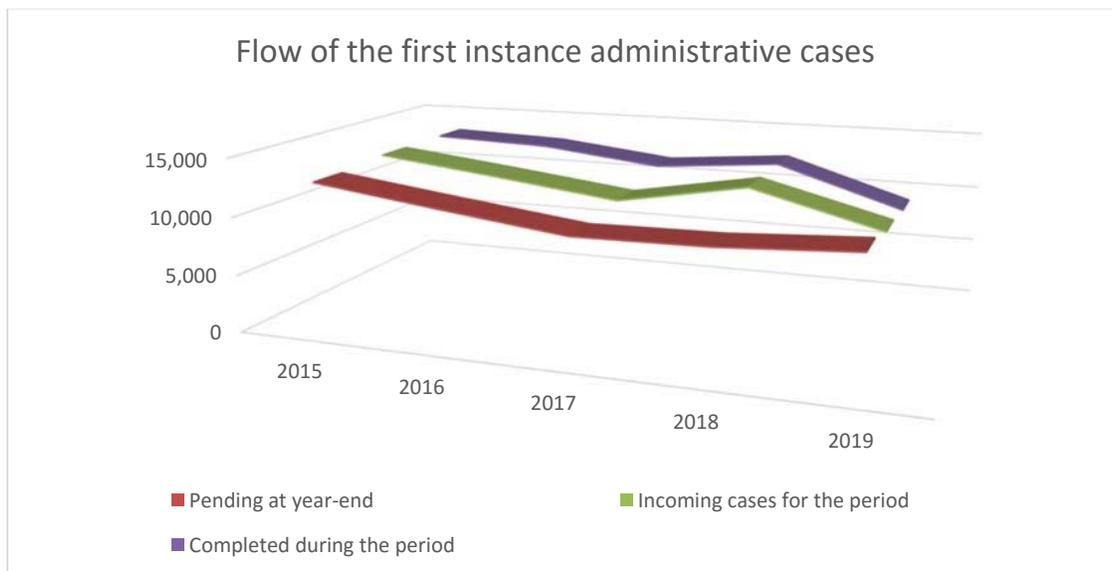
³³ Official Gazette of BiH, 43/12 dated 4 June 2012

Efficient processing of administrative and civil litigation cases against budget users

In the previous period, the HJPC also paid particular attention to the processing of administrative disputes in the courts. In this context, it is important to point out that administrative disputes are often complex in nature, and that in an administrative dispute the court decides on the lawfulness of the final individual acts of an administrative body, or on a right, obligation or law-based interest.

The cause of the large increase in the number of pending administrative cases, to the greatest extent, lies in the legislative amendment to the Law on Control of Eligibility for Exercising Rights in the Field of Veterans' Disability Protection, which led to the Supreme Court deciding on these types of disputes. In other words, the jurisdiction in dealing with administrative disputes, pursuant to this law, was transferred from the cantonal courts to the FBiH Supreme Court. As a result of this amendment, the number of pending cases exhibited increasing trend in 2014, but slightly declining trend until December 2019. Compared to the end of 2018, there was a slight increase in the number of pending administrative cases in December 2019. The trend is shown in the graph below.

Graph 4: Overview of the flow trend of the first instance administrative cases



Following the situation in the judiciary regarding the resolution of administrative disputes in courts, in March 2019 the HJPC adopted a conclusion on the hiring of domestic experts to draft a report on the state of judiciary when it comes to resolving administrative disputes and to give recommendations for improving the resolution of administrative disputes in courts.

Also, under the ICEA II project, detailed analyses of trends in administrative cases in the courts were made, which, among other things, were the starting point for experts to draft the said report.

In the mentioned report, the experts gave a number of recommendations pertaining to the improvement of the structure and content of training for judges in the field of administrative disputes, to the legislative amendments, as well as to the work organisation at courts for the purpose of resolving administrative cases.

In the forthcoming period, through its activities and within its competencies, the HJPC will seek to implement the proposed recommendations, with the aim of improving the resolution of

administrative disputes in courts and thus increase the productivity of courts performance in this segment.

Monitoring the specific phases of corruption and war crimes cases in the courts

During 2019, the HJPC, through its activities under the IPA 2017 project, sought to improve the processing of war crimes cases, and to improve the monitoring mechanism for corruption cases in the courts.

As for the war crimes cases, in 2019 the HJPC monitored the war crimes processing in courts in line with the provisions of the Instruction for Monitoring War Crimes Processing before the Courts. Pursuant to the provisions of the Instruction, courts that have pending war crimes cases in the phases of indictment, trial and appeal are required to make an action review of war crimes cases. These phases of the criminal proceedings are monitored in particular for the reason they are the key phases of the proceedings.

In addition to continuous monitoring of statistical data, in April 2019, the HJPC organised a workshop on "Processing War Crimes Cases". The workshop was attended by judges and prosecutors dealing with war crimes cases, and discussed complexity criteria, preparatory hearing, presentation of evidence, sentencing and other segments of criminal proceedings, and adopted conclusions published on the HJPC website.

Image 3: Workshop "Processing War Crimes Cases" in Mostar

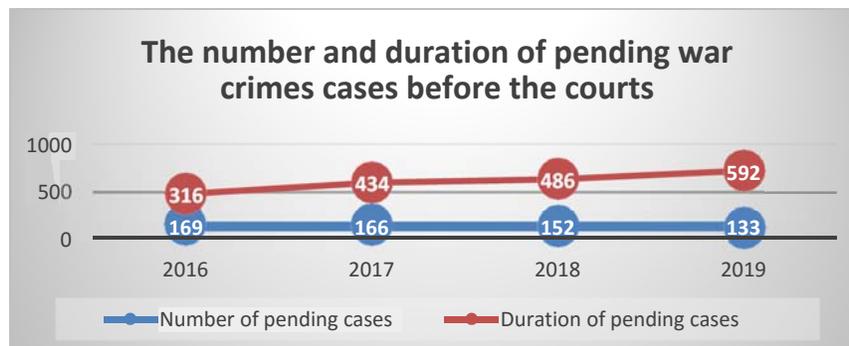


As to the statistics of the resolution of war crimes cases, the number of pending war crimes cases in courts exhibited a declining trend³⁴, but the duration of these cases exhibited an increasing trend. The statistical analysis did not encompass cases where certain procedural or legal obstacles had been identified. Even so, the problem of the duration of pending war crimes cases persists. It is also relevant piece of information that the number of pending cases in which procedural or legal obstacles to their resolution had been identified increased. These are cases in which the defendants are not available, or in which requests for mutual legal assistance have been made, and in which the court has not received a response for more than 6 months. The

³⁴ These are only cases that are in the phases of indictment, trial and appeal before the courts (Kps, Kro, K, Kri, Kž and Krž), and which are monitored in line with the Instruction for Monitoring War Crimes Processing before the Courts.

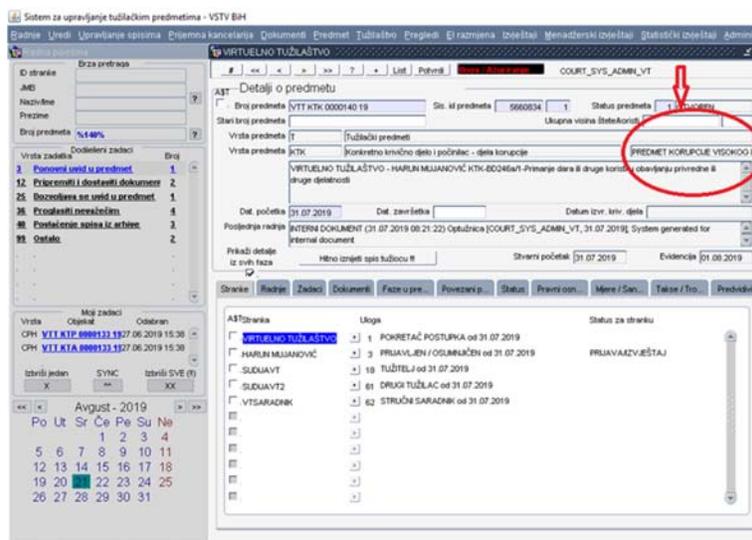
analysis encompassed only cases that are in the phases of indictment, trial or appeal. There were 83 such cases in 2019, which is 12 cases more compared to 2018.

Graph 5: The number and duration of pending war crimes cases before the courts



On the other hand, the fight against corruption, as well as the monitoring of the resolution of these cases before the courts, is of particular importance, both for the HJPC and for the general public. During 2019, the HJPC worked on improving the mechanism for monitoring the processing of cases of this type before the courts. In this way, the HJPC will be able to more adequately monitor the trends of influx and resolutions, as well as the duration of this type of cases, without creating additional workload to the courts for providing this data.

Image 4: Screen shot of the test database in the prosecutor's office with the information that this is a of high-profile corruption case



Also, statistical reports are being prepared and will be available to the courts so that they can monitor the flow of these cases, while reports have been created in the SIPO system through which trends for corruption cases can be monitored.

In addition to improving the mechanism for monitoring the processing of corruption cases before the courts, in July 2019 a workshop was organised on the topic "Prosecution of corruption cases". The workshop was attended by judges and prosecutors dealing with this type of cases, and conclusions were adopted aimed at establishing better mechanisms for working on corruption cases in courts and prosecutor's offices.

Image 5: Workshop on "Prosecution of corruption cases"

4.1.3 Intensifying the use of alternative dispute resolution methods in resolving court cases

Development of an Alternative Dispute Resolution Strategy (ADR) with an accompanying Action Plan

In addition to measures to reduce the backlog of cases before the courts, in the previous period the HJPC focused its activities on reducing the influx of new cases before the courts. These activities sought to promote amicable / alternative methods in resolving disputes primarily, but also to address the issue of insufficient use of alternative methods in resolving disputes, for the first time, strategically and comprehensively. Thus, under the project *Building an Effective and Citizen-friendly Judiciary - IPA 2017*, the HJPC formed an inter-institutional working group, which, in addition to members of the Council, brings together representatives of the BiH Ministry of Justice, RS Ministry of Justice, FBiH Ministry of Justice, the Judicial Commission of Brcko District BiH, the Association of Mediators in BiH, the Foreign Trade Chamber of BiH, the Institution of the Ombudsman for Consumer Protection, the Association "Arbitri", and judges of the first instance courts from the FBiH and RS. The working group has the task of drafting the ADR Strategy, and the Action Plan for its implementation. These strategic documents will comprehensively, analytically and in a planned way create a strategic framework for the development of alternative dispute resolution mechanisms in BiH, based on the analysis of the current situation, and through defining goals, development phases, dynamics of strategic plans, and finally identifying institutions to implement individual strategies. In their work so far, the HJPC project staff has conducted a comparative analysis of the mediation system in EU member states, in order to explore best European practices in the field of intra-court and court-connected mediation. Also, an analysis of positive legal solutions in Bosnia and Herzegovina was made in the area of mediation, arbitration, court settlement and conciliation in labour disputes, in order to assess the current situation and determine the basis for further work.

Also, in 2019, the HJPC, under the aforementioned Project supported by the European Union, intensified efforts to promote the concept of court settlement, through developing promotional activities plan and hiring a marketing agency that will conduct a marketing campaign in 2020, which aims to inform the general public about the benefits of a court settlement. In addition, as a result of efforts in that area, the work on issuing a special publication on the court settlement

stands out, within which several professional papers will be published, and collected on the basis of a previously announced public competition.

Taking account of the specifics of commercial disputes, and the particular advantages that alternative methods of resolving disputes have in this regard, the HJPC under the same project established cooperation with the Arbitration Court at the Foreign Trade Chamber of BiH, and with other chambers of commerce in BiH and the Association "Arbitri" from Sarajevo, with the aim of promoting ADR, through the organisation of specialised workshops and round tables intended for businesses in BiH. In addition to arbitration, the benefits of court settlement and mediation will also be promoted at the mentioned events, in cooperation with relevant institutions / organisations.

Besides promoting alternative dispute resolution, the activities carried out by the HJPC that cover enforcement proceedings are also noteworthy. 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 fees and interest, without being previously informed about the occurrence of debt and the court case or offered to reschedule the debt payment.

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. 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.

The implementation of these activities started in late 2018, in the basic courts in Bijeljina and Banja Luka, and municipal courts in Tuzla and Mostar, and it was completed in mid 2019. The results of these activities are reflected in the increased number of revoked enforcement request by judgement creditors, due to meeting the obligation in full by the judgement debtor or else reaching an agreement on debt repayment schedule.

4.1.4 Enforcement procedure reform

The largest number of all pending cases before the courts in BiH are enforcement cases. Systemic problems regarding the enforcement procedure have long been recognised by the HJPC, but also by the European Commission, which has addressed this issue in its reports on the situation in the judiciary. Following the recommendations of the European Commission, the HJPC, under the ICEA II project, funded by the Government of Sweden, during 2019, undertook significant activities aimed at improving the efficiency of courts within the existing legal framework, and finding modalities for complete reform of enforcement procedure.

Also, in addition to strategic measures, the HJPC has undertaken a number of activities of a practical nature, through the development of appropriate software solutions, and obtaining the opinion of the BiH Personal Data Protection Agency regarding the collection of data on property of judgement debtors. Namely, experience demonstrated that institutions refused to provide requested data to judgement creditors for reasons of personal data protection. Given that the opinion of the Agency on this issue clearly states that the Law on Personal Data Protection is not an obstacle to providing data on the debtor for the purpose of enforcement procedure, the HJPC distributed it to courts and utility companies, in order to emphasise the importance of obtaining quality data on the debtor's property when submitting a motion for enforcement.

Initiation of a public dialogue on identification of an optimum model for a systemic solution for 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.

In the course of 2019, the HJPC provided support to the Working Group in the form of coordination and organisation of meetings, and in the form of preparation of relevant analyses.

The task of the Working Group consisted of 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.

Based on the analysis of the existing laws on enforcement procedure, a set of amendments to the laws that were found to affect the duration of enforcement procedures was defined, in order to contribute to its more efficient implementation. When defining the legislative amendments, the recommendations given in the Peer Review of the European Commission regarding the enforcement of court decisions were also taken into account.

The compiled proposal of amendments to the laws on enforcement procedure was forwarded to the BiH Ministry of Justice for the purpose of sending the proposal to the competent entity ministries of justice and the Judiciary Commission of the Brcko District BiH, with the aim of initiating official legislative procedure. At the end of June 2019, the Federal Ministry of Justice submitted to the HJPC the draft amendments to the FBiH Law on Enforcement Procedure for the opinion. When submitting its opinion on the proposed amendments, the HJPC proposed that the amendments to the Law on Enforcement Procedure, which were given in the Peer Review and not covered by the draft Law, be further considered in order to determine the priorities and start their realization as soon as possible.

Amendments to the legislative framework, first of all, seek to harmonise the existing laws in entities and BDBiH, as to comply with the decisions of the Constitutional Court of BiH and the European Court of Human Rights in Strasbourg; to limit or delete provisions of laws that delay enforcement; to eliminate the shortcomings and ambiguities of the existing laws on enforcement procedure; and finally to define the legal framework to motivate and oblige the judgement creditor to take more active role in the enforcement procedure.

In addition to improving the existing legislative framework for enforcement procedure in BiH, the Working Group also had the task of defining an appropriate system of enforcement procedure applicable in BiH, which would include the possibility of introducing private enforcement officers into the legal system in BiH. In this regard, the Working Group took the position that this issue should be part of the long-term reform of the enforcement procedure in BiH, which will be worked on in the continuation of the Working Group's activities, in line with the European Commission's Opinion on BiH's application for EU membership, where, in Chapter 23 (Judiciary and fundamental rights), it was emphasised that BiH should revise the laws on enforcement procedure in the entities and the BDBiH, in order to reduce the backlog of utility cases, relieving the courts of the burden of undisputed claims.

Development of a mobile application for the sale of movable property of judgement debtor

One of the key factors that affects the efficient collection of receivables is the choice of the means of enforcement, stated in the motion for enforcement. In large number of enforcement cases the subject of enforcement are movables of the judgement debtor. Due to the lack of interest in the advertised items and the impossibility of settlement, the enforcement procedure is very often discontinued. Experience has shown that there is not much public interest in buying movables in court sales, given that such items, after inventoried, usually remain in the possession of the judgement debtor, and potential buyers cannot really see the items being sold.

In order to improve this segment of enforcement procedures, i.e. to enable the potential buyer to see the items advertised for sale, their condition and other properties, in the past year a mobile application for bailiffs was developed, which allowed advertising the sale of movables on the courts' websites.

Thanks to this application, the work of bailiffs has been improved, and now they can on the spot, during the inventory and appraisal of property, through this application, open the "electronic file" of items, take photos, and all information and images of movables shall be submitted electronically to the judge, so that the judge in line with the procedure established by law, may proceed and initiate advertising and sale.

On the other hand, it provides faster and easier screening of movables for sale and thus speeds up the auction and collection.

In 2019, the mobile application was installed in pilot courts (Basic Court in Bijeljina, Basic Court in Banja Luka, Municipal Court in Sarajevo, Municipal Court in Zenica and Municipal Court in Tuzla) and will be introduced in other courts in BiH in the upcoming period.

Reorganising business processes in enforcement departments, strengthening the role of court bailiffs and their training

Insufficient efficiency of the enforcement procedure is to some extent caused by inadequate organisation of work in the courts, and insufficient training for bailiffs. Recognising this fact, in the previous period the HJPC has undertaken a number of activities aimed at finding solutions for the reorganisation of business processes in a number of courts, and improving the work of bailiffs.

For the purpose of additional training of bailiffs, cooperation has been established with the entity JPTCs, in order to define topics within trainings for judges, which bailiffs could also attend.

When it comes to reorganisation of business processes in the enforcement departments, this activity was preceded by an analysis of the work of enforcement departments in a number of pilot courts, through which a number of proposals and recommendations for improvement were given, applicable to all first instance courts in BiH. The most important proposals and recommendations were related to the creation of adequate plans at the level of each court, enabling the delegation of certain tasks from a judge to a judge assistant or a trainee, and from a judge assistant to a trainee; further on, to the introduction of continuous professional training for bailiffs, harmonisation of case law, defining a clear, unified and transparent enforcement cost estimate, as well as to the improvement of sales of movables by advertising them on the courts' websites.

Also, given noticeably different actions of bailiffs in the field, as well as their lack of basic knowledge to take enforcement actions, two workshops were organised for bailiffs under this activity with the aim of exchanging knowledge and practical experiences. A detailed Bailiff Manual with templates has been also developed and distributed. The main purpose of this Manual is, above all, to facilitate the work of newly appointed bailiffs, given that it explains in detail all the

powers that bailiffs have under the enforcement procedure, but also to contribute to the uniform work of bailiffs on the ground.

4.1.5 SOKOP-Mal System implementation

SOKOP Mal system is the system for electronic filing and processing of small value cases, or the so-called “utility” cases. As of 31 December 2019, 1,402,565 cases are being processed, which represents 77.76% of the total number of utility cases in the BiH judiciary.

In the course of 2019, the HJPC BiH carried out significant activities both for the purpose of improving the system in question, as well as for the development and expansion of the network users - courts and judgement creditors.

Expanding the user network

The expansion of the user network of the SOKOP-Mal system, in accordance with the Decision of the HJPC BiH on mandatory application of the system for all first instance courts in BiH, implies an increase in the number of courts and judgement creditors / plaintiffs as system users. In this regard, in the course of 2019, meetings were held with courts that still do not apply the system in their work, and with public utility companies from the area of Zenica-Doboj Canton and Una-Sana Canton.

Meetings were held with the aim of presenting the SOKOP-Mal system and introducing the system in the courts and utility companies. The manner and beginning of its introduction was agreed with the courts, and the entry of backlog into the system began.

The following courts joined the system in 2019:

- Bugojno Municipal Court,
- Cazin Municipal Court,
- Bihac Municipal Court and
- Visoko Municipal Court.

Also, negotiations on joining the system have started with the Municipal Court in Zavidovici and the Municipal Court in Zepce.

In addition to the mentioned courts, in 2019, JP Komunalno Vares, Komunalno d.o.o. Breza, JKP Visoko and JP Grijanje Kakanj joined the system (or they are in the process of joining the system) as judgement debtors / plaintiffs.

So, at the end of 2019, a total of 30 first instance courts and 23 judgement creditors / plaintiffs in BiH are processing utility cases in the SOKOP-Mal system.

Improving SOKOP-Mal system and its functionalities

During 2019, the HJPC undertook a large number of activities to improve the SOKOP-Mal system, the most important of which are:

a) Improvement of the civil litigation module of the SOKOP-Mal system

The litigation part of the SOKOP-Mal system represents additional functionality which enables electronic sending of complaints and processing of small claims litigation cases. The specificity of this functionality is reflected in the possibility of sending and processing cases in which the value in the statement of complaint does not exceed the amount of 5,000 BAM and for which an excerpt from the accounting records can be used as evidence, along with other evidence.

During 2019, meetings were held with the judgement creditors who will use the mentioned module of the system (Sarajevostan d.o.o, JKP Visoko and JKP Vares). At the meetings, the way of work

and the advantages of the system were presented, after which the consents for access to the system were submitted, and the procedure of procurement of digital certificates was initiated.

It should be emphasised that the courts implementing the system already have the possibility to use this functionality, and the Project activities are carried out in order to increase the number of external users who file complaints to the courts to enforce the collection of their claims.

b) Developing second generation of the SOKOP-Mal system

The development of the second generation of SOKOP-Mal systems implies the use of new technologies that will enable overcoming the current shortcomings of the system, introducing new functionalities, increasing security and data protection, as well as the speed of the system and its applications. The establishment and development of the second generation of the SOKOP-Mal system will enable, ultimately, the maintenance and management of the system within the ICT department of the Secretariat of the HJPC BiH.

Also, in the course of 2019, a new functionality of the system (the so-called Public module) was created, which implies access to a court case via the Internet by the judgement debtor using an access code. In this way, judgement debtors will be able to check the case at any time, and follow it. This functionality is modelled on the functionality of the unique access code for the parties to the proceedings in the CMS system and it contributes to increasing the level of transparency of court proceedings.

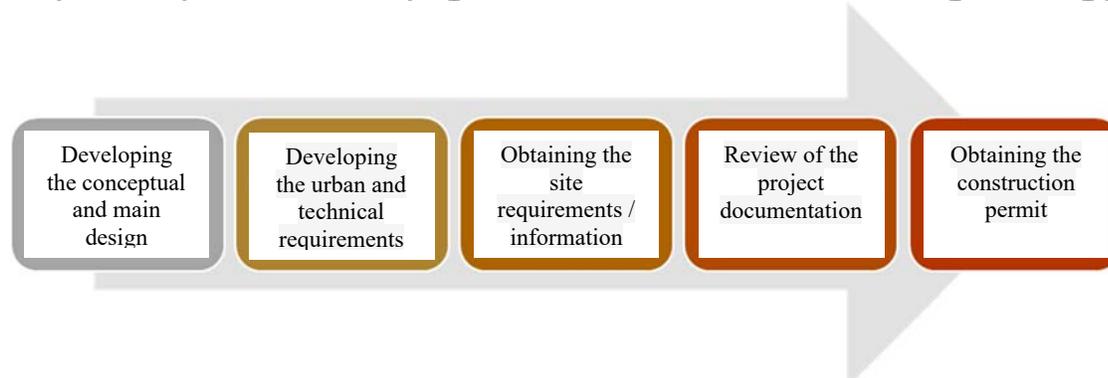
4.1.6 Reconstruction, adaptation and modernisation of the buildings of judicial institutions in order to improve the provision of services to citizens

Aware that the functional infrastructure and technical equipment of judicial institutions are a *conditio sine qua non* for increasing the efficiency of the judiciary, the HJPC, through the implementation of the ICEA Project, supported by Sweden, paid special attention to creating preconditions for construction and reconstruction of judicial institutions with the aim of building a more efficient judicial system and providing better services to citizens.

Having that in mind, in 2019, the HJPC continued to carry out activities aimed at finding financial resources for the reconstruction of judicial infrastructure, in order to build a modern and functionally equipped working space for judicial office holders, and professional and technical staff in the judiciary.

The process of reconstruction and construction of buildings of judicial institutions, given their architectural and functional complexity, is extremely difficult and logistically demanding work, which involves a series of legally defined phases preceding the construction or reconstruction, as presented in the diagram below.

Graph 6: The process of developing technical documentation and obtaining a building permit



The presented phases of the mentioned process include the involvement of a large number of experts, as well as interaction with the competent institutions in the field of urban planning and construction, which speaks volumes about the size of the problem that the HJPC tackled in all previous years, including 2019.

The HJPC, with the financial support of Sweden, through the ICEA II Project, carried out the presented process, with the aim of developing project documentation for the following judicial institutions whose construction and reconstruction would be financed through the IPA 2017 program:

- Mrkonjic Grad Basic Court (reconstruction of the building),
- Prnjavor Basic Court (reconstruction of the building),
- Zepce Municipal Court (construction of the building),
- Bijeljina District Public Prosecutor 's Office (construction of the building)

Infrastructural and technical solutions of the existing buildings of these judicial institutions could not meet the needs of a modern, efficient and citizen-friendly judiciary, in terms of functionality, energy efficiency, accessibility for people with disabilities, as well as security. The reasons for non-compliance with the minimum requirements in these segments are described in the table below.

Graph 7: Overview of infrastructural deficiencies of the buildings of judicial institutions

| Non-functionality | Energy inefficiency | Inadequacy for people with disabilities | Poor security |
|--|--|--|--|
| <ul style="list-style-type: none"> • Lack of space • Inadequate archive space • Poor network infrastructure | <ul style="list-style-type: none"> • High energy consumption • Increased greenhouse gas emissions • Lack of thermal facades | <ul style="list-style-type: none"> • Lack of access ramps • Difficulty moving for blind and partially sighted people | <ul style="list-style-type: none"> • The lack of anti-theft foil / window bars • Inadequate space for judicial police • Inadequate video surveillance system and fire alarm |

The development of project documentation for the reconstruction or construction of the buildings for mentioned judicial institutions covered all segments presented in the table above, and solutions are designed to significantly improve all aspects in terms of functionality, energy efficiency, accessibility for people with disabilities, as well as security.

Image 6: Future appearance of the new building of the Municipal Court Zepce (3D view)



Image 7: Future appearance of the reconstructed building of the Basic Court Mrkonjic Grad (3Dview)



Image 8: Future appearance of the new building of the District Public Prosecutor 's Office in Bijeljina



The total value of the developed project documentation, as well as all necessary studies (geotechnical reports, urban-technical conditions, studies on energy efficiency of buildings, audit of project documentation), amounted to approximately 160,000 BAM without VAT, which is a significant contribution of Sweden to BiH judiciary.

Additional importance, quality and contribution of these project activities is reflected in the fact that its implementation created the preconditions for withdrawal of EU funds, through the IPA 2017 programme, which are planned for reconstruction and construction of judicial buildings in total estimated value of approx. 1,960,000 EUR.

Also, it should be emphasised that in 2019, based on technical documentation provided by the HJPC, approval was obtained for the construction of an annex to the Municipal Court in Zenica, and reconstruction of part of the existing building, while the works are expected to begin in 2020.

Finally, it is important to emphasise here that the creation of modern and functional infrastructural conditions in the BiH judiciary remains a continued commitment of the HJPC BiH, as a significant aspect in building an efficient and quality and citizen-friendly justice system.

4.2 Efficiency of the Prosecutor's Offices

Within its competences and based on statistical data, the HJPC regularly monitors the situation regarding the performance efficiency of all prosecutor's offices in Bosnia and Herzegovina.

According to data from 2019, there is a visible upward trend in all prosecutor's offices regarding pending KT cases (cases with known perpetrators). Thus, on 31 December 2019, there were 13,546 recorded pending KT cases, which is 3% more than on 31 December 2018, when that number was 13,191.

Graph 8: Backlog in prosecutor's offices



In 2019, prosecutor's offices issued 11,485 indictments, of which 225 indictments involving corruption-related crimes which is 3% more than in the previous, i.e. 218 such indictments were issued in 2018.

In 2019, the Standing Committee for the Efficiency of Prosecutor's Offices held 16 meetings at which current issues of importance for the work of prosecutor's offices in Bosnia and Herzegovina were discussed. The priority work of the Standing Committee on Efficiency during 2019 was the implementation of activities from the Action Plan for the implementation of the *Peer Review* recommendations of the European Commission in the field of fight against corruption, organised crime and money laundering.

On the proposal of the Standing Committee, the HJPC, at its session held on 17 April 2019, adopted a Book of Rules on Amendments to the Book of Rules on Quotas for the Performance of Prosecutors in the Prosecutor's Offices in BiH, with separate valuations given to high-level corruption cases. The requirement to evaluate the high-level corruption arose from the recommendations given by the European Commission's *Peer Review* Mission in the field of combating corruption, organised crime and money laundering. At the session of the HJPC held on 23 and 24 January 2019, the Guidelines for chief prosecutors on financial investigations in cases involving corruption, organised crime and money laundering were adopted.

The Guidelines stipulate the obligation for prosecutors, when issuing an order to conduct investigation into certain criminal offences, to assess whether there is a basis to conduct simultaneous financial investigation.

In order to implement the *Peer Review* recommendations in the field of combating corruption, organised crime and money laundering, the HJPC, at the proposal of the Standing Committee on the Efficiency of Prosecutor's Offices, at its session held on 27 November 2019, adopted Guidelines for passing binding instructions on additional criteria for reaching plea bargains in cases involving corruption, organised crime and other types of cases.

The Standing Committee for the Efficiency of Prosecutor's Offices has realised all activities from the Action Plan for the implementation of the *Peer Review* recommendations on fighting corruption, organised crime and money laundering, for which deadline was 31 December 2019.

A significant part of the work of the Standing Committee for the Efficiency of Prosecutor's Offices during 2019 was related to monitoring the process of performance evaluation of prosecutors in prosecutor's offices, i.e. the application of new performance evaluation criteria for prosecutors, in which qualitative elements of performance evaluation prevail.

The project "Strengthening Prosecutors in the Criminal Justice System" initiated the establishment of a coordinating body of Chief Prosecutors from the BiH Prosecutor's Office, the RS Public Prosecutor's Office, the FBiH Prosecutor's Office and the BDBiH Prosecutor's Office, whose primary task is to resolve conflicts of jurisdiction among prosecutor's offices. The establishment of this coordinating body represents the realisation of the measure from the 15th Conference of Chief Prosecutors and Court Presidents held in Neum on 24 and 25 April 2019, by which the HJPC committed itself to its establishment until the adoption of relevant legislation that will regulate the issue conflicts of jurisdiction.

In 2019, the project *Strengthening Prosecutors in the Criminal Justice System* in partnership with the *USAID Justice Project*, continued to support the prosecutorial systems of the Federation of BiH and Republika Srpska, the BDBiH Prosecutor's Office and the BiH Prosecutor's Office in their development of three-year strategic plans for the period 2019-2021, annual plans for 2019 and annual reports for 2018 for all individual prosecutor's offices, as well as holding regular collegiums of chief prosecutors in the Federation of BiH and collegiums of chief prosecutors in Republika Srpska.

The continuous practice of mid-term strategic planning and holding of the chief prosecutors' collegiums has enabled the creation of clear common courses of action, and regular monitoring of the implementation of strategic plans and consideration of current issues has resulted in greater accountability and better communication within prosecutor's offices.

Through the project *Strengthening Prosecutors in the Criminal Justice System*, the HJPC finalised the harmonisation of the List of Bylaws (Internal Acts) in the Prosecutor's Offices in Bosnia and Herzegovina, the requirement that arises from the current legal framework, and submitted it to the Prosecutor's Offices in Bosnia and Herzegovina, with the aim of standardising internal acts in all prosecutor's offices in BiH.

The project *Strengthening Prosecutors in the Criminal Justice System* initiated the adoption of the Instruction for compiling statistical reports on the work of prosecutor's offices using the reporting and decision support system (SIPO) (hereinafter: the Instruction).

At the session held on 28 November 2019, the HJPC BiH adopted the Instruction and it was forwarded to all prosecutor's offices in BiH.

The Instruction was created from the need of the HJPC to develop a system of statistical reporting, which can provide timely and reliable statistics needed to plan and monitor the work of prosecutors' offices.

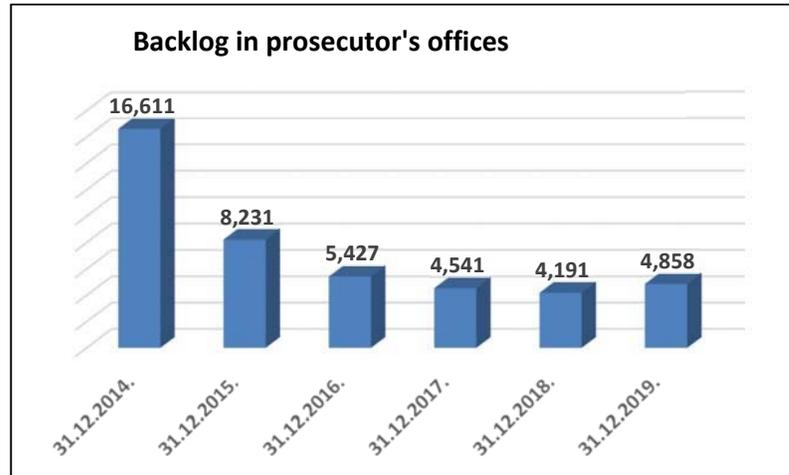
The Instruction enables the HJPC BiH and prosecutor's offices in BiH, using the technical properties of the SIPO system and the electronic case management system in prosecutor's offices (TCMS), to compile statistical reports on the work of prosecutor's offices employing the same methodology.

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

All prosecutor's offices that have backlog of cases made backlog reduction plans in 2019, as prescribed with the current Instruction for drafting backlog reduction plans in prosecutor's offices in BiH.

At the end of 2019, the overall plan realisation rate of the prosecutor's offices in BiH was 74%. Throughout 2019, the prosecutor's offices in BiH completed 2,751 oldest cases.

The total number of pending oldest cases in the prosecutor's offices in BiH as at 31 December 2019 (4,858) was 71% less than the total number of pending old cases as at 31 December 2014 (16,611).

Graph 9: Backlog in prosecutor's offices

4.2.2 Improving joint work of prosecutors and police

Successful cooperation between the prosecution and law enforcement agencies is a key factor for the successful operations of prosecutor's offices in BiH. To that end, under the project "Strengthening Prosecutors in the Criminal Justice System", the HJPC works on two levels to address this matter - strategic and operative.

The Strategic Forum - made up of managers from prosecutor's offices and police agencies and operating on strategic level (Chief Prosecutor of BiH PO, Chief Prosecutor of FBiH PO, Chief Prosecutor of the RS PPO and the Chief Prosecutor of the BDBiH PO as well as the Director of the State Investigation and Protection Agency, the Director of the FBiH Police Administration, the Director of the RS Police Administration and the Chief of Police of the BDBiH) - has met four times as planned throughout 2019.

The Strategic Forum discusses important issues for efficient work and cooperation between prosecutor's offices and the police, and during 2019 the forum discussed the following topics:

- strengthening the capacity and harmonisation of the organisational structure in the anti-corruption departments in prosecutor's offices and police bodies,
- joint training of prosecutors and law enforcement officers on the topic of prosecuting corruption and organised crime,
- insisting on the consistent application of the provisions of the Instruction on cooperation between prosecutors and law enforcement officers in dealing with anonymous reports and strengthening managers' supervision of the application of this Instruction.
- continuous presentation of statistical data in order to monitor the results in the fight against corruption and organised crime,
- providing support to prosecutor's offices by police agencies,
- cooperation of prosecutor's offices and police agencies in the investigation of war crimes.

When it comes to cooperation between prosecutors' offices and police agencies at the operational level, 17 operational forums in BiH are currently established and functioning independently. In 2019, a Round Table "Cooperation of Prosecutor's Offices and Police Agencies within the Established Operational Forums" was organised, where good practices in the application of the current Protocol on the Establishment of a Cooperation Forum were exchanged.

Through the project "Strengthening Prosecutors in the Criminal Justice System", the HJPC continued to advocate the practice of establishing permanent joint investigation teams of prosecutors and police, and in addition to previously established teams, in 2019 a permanent joint investigation team of the District Public Prosecutor's Office in Doboj and the Police

Administration in Doboј began to work on cases of economic crime, organised crime and corruption.

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

The project *Strengthening Prosecutors in the Criminal Justice System* continued implementing activities aimed at improving the quality and quantity of services, as well as the overall treatment of persons in contact with the criminal justice system. At the end of 2019, the prosecutor's offices in BiH implemented 86% of the Strategy for dealing with persons in contact with the prosecutor's offices in BiH.

Using the developed mechanisms for measuring the quantity and quality of public relations of prosecutor's offices, the HJPC continued to monitor these indicators through annual reports of prosecutor's offices and they are used as an indicator for achieving one of the strategic goals defined in the strategic framework of the RS and FBiH criminal justice systems.

Public relations of the police agencies and prosecutor's offices have been further improved, and regular meetings of spokespersons from prosecutor's offices and police agencies in BiH continued throughout 2019. The project *Strengthening Prosecutors in the Criminal Justice System* also organised a regional conference attended by 40 representatives of police agencies and prosecutors' offices from BiH, Serbia, Croatia and Montenegro.

The Project continued to provide continuous support to prosecutor's offices through the engagement of NGOs for more efficient implementation of the Strategy for dealing with persons in contact with the prosecutor's offices in BiH. The support of the NGO representatives is focused on increasing transparency of the prosecutors offices, victim and witness support and increased interaction between prosecutor's offices and the local community.

Under the Project, three short educational videos were made and publicised through public advertisers and social media with the aim of informing the public about the work of prosecutor's offices, in the following areas: 1) the rights of children in criminal procedure; 2) how to report domestic violence; and 3) things you need to know if you are an injured party / witness.

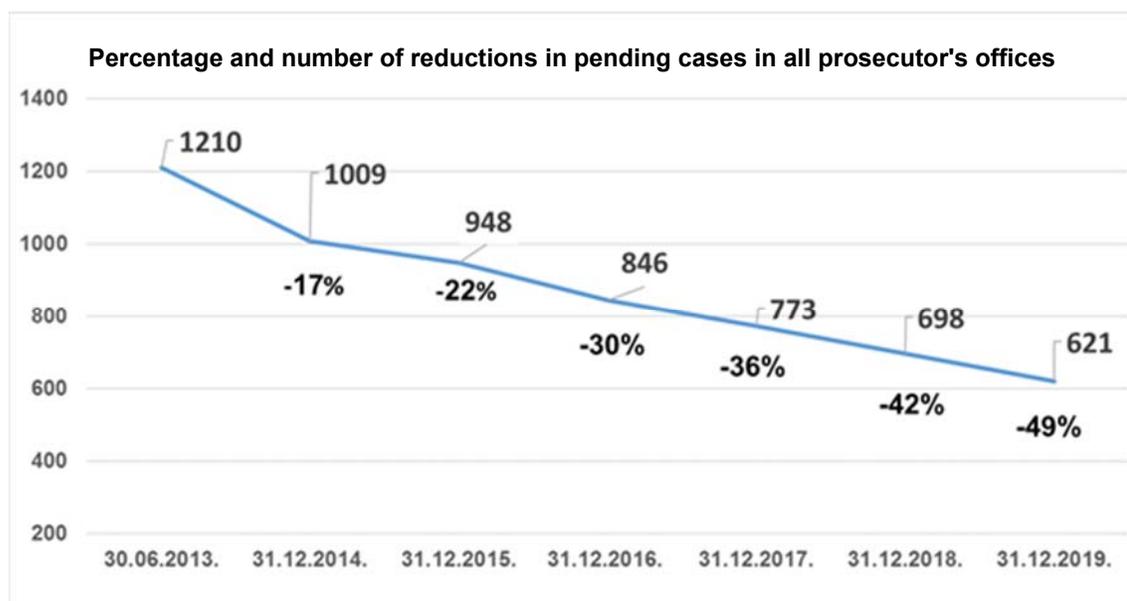
In order to provide answers to the media and the public, which they rightly expect, in a transparent way, the project *Strengthening Prosecutors in the Criminal Justice System* developed and distributed a Guide for the prosecutors in BiH on public and media appearance.

4.3 Information on activities in the processing of war crimes cases

When it comes to war crimes cases, in 2019 the HJPC BiH continued to implement the activities of the project *Enhancing War Crime Case Processing in BiH* (IPA 2013 and IPA 2017), seeking to improve the efficiency of the war crimes processing. As part of the implementation of relevant activities, the HJPC BiH, along with the professional and technical support to the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy, continuously monitored the implementation of the current Instruction for drafting backlog reduction plans for war crimes cases in prosecutor's offices in BiH and, within its competencies, undertook measures aimed at improving the dynamics of war crimes processing. Thus, at the end of 2019, the number of pending KTRZ cases decreased by 49%³⁵. Namely, as of 31 December 2019, all prosecutor's offices in BiH had a total of 621 KTRZ cases pending. As noted earlier in the Report, project activities continued under the IPA 2017 package.

³⁵ Realisation rate of project objectives was shown against the baseline of 1210 pending KTRZ cases as of July 2013. Given that the reduction in pending KTRZ cases is measured under the project *Enhancing War Crime Case Processing in BiH*, more information on the outcomes is provided in Chapter 1 "European Integration", EU Support to the BiH Judiciary in the Implementation of the National War Crimes Strategy - realisation and continuation.

Graph 10: Dynamics of processing of KTRZ war crimes cases from 30 June 2013 to 31 December 2018



Chapter 5: JUDICIAL INSTITUTIONS' PERFORMANCE QUALITY

5.1 Indicators for the performance quality of the courts in 2019

This section of the annual report shows data on the quality of court decisions for 2019, 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 2019, 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 Decisions 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 2019, the courts in Bosnia and Herzegovina achieved the following performance quality results:

Table 9: Quality of courts performance

| Court ³⁷ | Performance quality for 2018 | Performance quality for 2019 |
|---------------------------------------|------------------------------|------------------------------|
| The Court of Bosnia and Herzegovina | 95% | 95% |
| Banja Luka High Commercial Court | 88% | 88% |
| Cantonal Courts | 92% | 91% |
| District Courts | 90% | 91% |
| District Commercial Courts | 90% | 90% |
| Municipal Courts | 91% | 90% |
| Basic Courts | 86% | 85% |
| Basic Court of the Brcko District BiH | 90% | 86% |

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

988 (87%) appealed decisions were upheld, 87 (8%) were modified, 49 (4%) reversed, while 29 (3%) were reversed in part. Statistical indicators for appealed decisions are shown in the

³⁶ Article 16 for the Performance Evaluation of Judges in Bosnia and Herzegovina

³⁷ The quality of court decisions is not determined for the Supreme Court of the Federation of Bosnia and Herzegovina, Supreme Court of the Republika Srpska and the Appeals Court of the Brcko District of Bosnia and Herzegovina.

following table according to the internal organisational setup of the Court of Bosnia and Herzegovina:

Table 10: The Court of Bosnia and Herzegovina

| Division | Percentage of upheld decisions | | Percentage of modified decisions | | Percentage of reversed decisions | | Percentage of partially reversed decisions | |
|----------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Criminal | 89% | 87% | 7% | 8% | 3% | 4% | 1% | 1% |
| Administrative | 85% | 85% | 7% | 8% | 5% | 4% | 3% | 3% |
| Appellate | 87% | 87% | 4% | 4% | 3% | 3% | 6% | 6% |

Banja Luka High Commercial Court

86 or 74% appealed decisions were upheld, 13 or 11% were modified, 14 or 12% reversed, and 4 or 3% reversed in part. The statistical data on appealed decisions are shown in the following table:

Table 11: The Banja Luka High Commercial Court

| Case type | Percentage of upheld decisions | | Percentage of modified decisions | | Percentage of reversed decisions | | Percentage of partially reversed decisions | |
|------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Civil – Pž | 71% | 74% | 12% | 11% | 14% | 12% | 3% | 3% |

Cantonal and District Courts

2,683 (80%) appealed decisions of cantonal courts were upheld, 312 (9%) were modified, 315 (10%) reversed, while 35 (1%) were reversed in part.

1,134 (70%) appealed decisions of district courts were upheld, 318 (20%) were modified, 154 (9%) reversed, while 21 (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 | |
|----------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Civil | 84% | 87% | 8% | 9% | 4% | 3% | 4% | 1% |
| Criminal | 70% | 68% | 5% | 6% | 23% | 24% | 2% | 2% |
| Administrative | 78% | 73% | 16% | 17% | 6% | 10% | 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 | |
|----------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Civil | 65% | 57% | 15% | 22% | 16% | 16% | 4% | 5% |
| Criminal | 85% | 84% | 7% | 3% | 8% | 12% | 0% | 1% |
| Administrative | 71% | 69% | 23% | 25% | 6% | 6% | 0% | 0% |

District Commercial Courts

833 (80%) appealed decisions of district courts were upheld, 89 (9%) were modified, 120 (11%) reversed, while 4 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 | |
|-----------------------------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Commercial | 80% | 80% | 11% | 10% | 9% | 10% | 0% | 0% |
| Enforcement | 77% | 79% | 4% | 2% | 19% | 19% | 0% | 0% |
| Non-contentious | 56% | 75% | 11% | 0% | 33% | 25% | 0% | 0% |
| Registration of business entities | 86% | 67% | 0% | 11% | 14% | 22% | 0% | 0% |

Municipal and Basic Courts

16,968 (77%) appealed decisions of municipal courts were upheld, 2,459 (11%) were modified, 2,377 (11%) reversed, while 241 (1%) were reversed in part.

6,539 (70%) appealed decisions of basic courts were upheld, 995 (11%) were modified, 1,648 (18%) reversed, while 106 (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 | |
|------------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Civil litigation | 74% | 75% | 15% | 14% | 9% | 9% | 2% | 2% |
| Commercial | 78% | 78% | 9% | 11% | 12% | 10% | 1% | 1% |
| Criminal | 71% | 67% | 13% | 15% | 15% | 17% | 1% | 1% |
| Enforcement | 81% | 83% | 5% | 5% | 13% | 12% | 1% | 1% |
| Other | 81% | 86% | 10% | 5% | 9% | 9% | 0% | 0% |

Table 16: Basic courts

| Case type | Percentage of upheld decisions | | Percentage of modified decisions | | Percentage of reversed decisions | | Percentage of partially reversed decisions | |
|------------------|--------------------------------|-------|----------------------------------|-------|----------------------------------|-------|--|-------|
| | 2018. | 2019. | 2018. | 2019. | 2018. | 2019. | 2018. | 2019. |
| Civil litigation | 71% | 68% | 14% | 14% | 13% | 16% | 2% | 2% |
| Criminal | 59% | 60% | 21% | 15% | 20% | 25% | 0% | 0% |
| Enforcement | 74% | 73% | 7% | 6% | 18% | 20% | 1% | 1% |
| Other | 71% | 70% | 9% | 11% | 19% | 18% | 1% | 1% |

Basic Court of the Brcko District BiH

608 (74%) appealed decisions were upheld, 74 (9%) were modified, 137 (17%) reversed and there were no decisions 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 of reversed decisions | | Percentage of partially reversed decisions | |
|-------------|--------------------------------|------|----------------------------------|------|----------------------------------|------|--|------|
| | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 | 2018 | 2019 |
| Civil | 76% | 79% | 9% | 9% | 15% | 12% | 0% | 0% |
| Commercial | 88% | 69% | 0% | 6% | 12% | 25% | 0% | 0% |
| Criminal | 70% | 65% | 20% | 26% | 10% | 9% | 0% | 0% |
| Enforcement | 83% | 73% | 1% | 2% | 16% | 25% | 0% | 0% |
| Other | 76% | 74% | 12% | 10% | 12% | 16% | 0% | 0% |

5.1.2 Improving quality of court proceedings and court decisions

Expediting and increasing quality of the civil litigation proceedings through team work in and between courts along with the standardisation of actions by applying the Guidelines on Managing of Civil Litigation Proceedings

On the basis of positive results from previous activities in the Municipal Court in Sarajevo and the Basic Court in Banja Luka, in 2019, the HJPC started implementing the second phase of the activity, which refers to improving efficiency and quality of the civil litigation proceedings, developing a professional dialogue between first and second instance courts and strengthening of a proactive role of department heads and team work.

The activity is being implemented within the Improving Judicial Quality Project, in cooperation between the HJPC, the Norwegian Courts Administration and the Council for the Judiciary of the Netherlands. At this phase, the project activities are being implemented in 18 target courts in BiH (9 first instance and 9 competent second instance courts). The first eight months of implementation include: the Municipal and Cantonal Court in Tuzla, the Basic and District Court in Bijeljina and Basic and Appellate Court of the Brcko District, while the implementation in the Basic and District Court in Doboj, Municipal and Cantonal Court in Zenica, Municipal Court in Travnik and Cantonal Court in Novi Travnik started in September 2019. The six last target courts will be included in the project in 2020.

In cooperation with the competent second instance court, all first instance target courts developed and adopted the Guidelines on Managing Civil Litigation Proceedings. The Guidelines are adopted with the aim to harmonise interpretations of provisions of laws on civil litigation proceedings that affect the duration and quality of proceedings (postponement and adjournment of hearings, presentation of evidence...) and proved to be an efficient mechanism in the earlier phase to reach the aforesaid objective.

They are internal court documents and non-binding positions of the majority of judges from specific courts and in the end, they affect the legal certainty and equality before law.

Furthermore, the civil/litigation departments of the target first instance courts worked on standardisation of their actions. For that purpose, they started using the so-called Check-list for Examination of a Complaint and Response to Complaint and the form to prepare and conduct the litigation proceedings. The aforementioned tools affect the efficiency of court proceedings and better preparation of the judges for trial in a multitude of ways.

The project also initiated an intensified professional dialogue between the first instance and the competent second instance court, which resulted in drafting of the memorandum on cooperation between the courts. By signing it, the court established a permanent mechanism of cooperation and committed themselves to undertaking continued activities to harmonise the case law within their jurisdiction, strengthening the authority of the court and procedural discipline and strengthening the role of court department heads and improving the performance quality of judges in both court whilst fully respecting independence of the court and individual judges.

Images 9 and 10: Project activities in the Basic Court in Doboj and the initial meeting of the representatives of target courts following the beginning of the project implementation



Finally, the project activities were directed to strengthening of the court administration – primarily the role of the court president and court department heads and changing the organisational culture by developing team work. In cooperation with the Dutch Study Centre for the Judiciary, specialized trainings were held for this topic that were attended by a specific number of judges from the target courts. In addition, the implementation of the Guidelines for Appointing Court Presidents, which the HJPC adopted in 2018, was analysed.

Compilation of the manual for writing judgements with forms according to the European standards of the methodology concept for judgement writing and the implementation of training for judges

In the Improving Judicial Quality Project and established cooperation between the HJPC, the Norwegian Courts Administration and the Council for the Judiciary for the Netherlands an activity is being carried out in relation to improving quality of court decisions. The said activity includes the analysis of judgements in litigation proceedings on the level of the entire BiH judiciary, on the basis of which a manual on writing judgements with forms will be issued. In

the later phase of the project, on the basis of the said manual, training of judges will be held in cooperation with the entity judicial and prosecutorial training centres.

The objective of this activity was to identify the most common shortcomings in writing of court decisions, recognize and adopt the best practices and establish the quality standard in this domain. In the end, the objective is to ensure a concise and comprehensible court decision for the parties to the proceedings with a reasoning that is in accordance with European standards.

In that regard, the HJPC established a panel of experts to conduct this activity. Besides Goran Nezirovic, a member of the HJPC and judge of the Supreme Court of the Federation of BiH, the panel comprises judges of the Supreme Court of the Federation of BiH, the Supreme Court of the Republika Srpska, the Appeals Department of the Court of BiH, the Cantonal Court in Bihac, the District Court in Banja Luka, the Appeals Court of the Brcko District and experts selected on behalf of the Council for the Judiciary of the Netherlands and the Norwegian Courts Administration.

The analysis of the judgements in litigation proceedings will be limited to the technique and methodology of decision writing and will not touch upon the evaluation of appropriateness of judgment rendering. In order to have a comprehensive analysis, the panel stated that it was necessary to have an insight into a complete case file, with the exception of decisions to be analysed by the international experts who will limit their evaluations on the parts for which an insight into a judgement will be sufficient.

On the basis of the sample stratification, the HJPC staff will, in consultation with the experts, by the method of random selection, identify 100 cases, taking into consideration that the sample must include higher courts as much as possible.

The decisions/case files to be analysed will be anonymised and the decisions selected for analysis will be given a code and thus the evaluators will receive anonymised material for analysis. After the evaluation, the HJPC will deliver the evaluation form together with the evaluated decision to the judge in a sealed envelope. The objective of that step is to make a specific analysis effect on the individual judge as opposed to the general effect that will be achieved by publishing analysis results as guidelines and manual.

Strengthening courts' capacity to act focusing on bankruptcy and liquidation cases and strengthening of judges' capacity to process this case type

The number of pending cases in courts in BiH is not a problem to the same extent that can be said for the case duration, especially bearing in mind the importance of completing these cases. On 31 December 2019, the duration of a bankruptcy case was 980 days, which is 63 days longer than 2018.

The Building an Effective and Citizen-friendly Judiciary Project – IPA 2017, inter alia, focuses on strengthening the judges' capacity to process bankruptcy cases. Given the specific nature of bankruptcy cases in relation to economic issue that they must include and frequent lack of formal education on the part of the bankruptcy judges in that segment, the issue frequently arise and this results in the said cases being processed too long. With that in mind, the HJPC hired five economic experts, with both theoretical and practical knowledge of bankruptcy proceedings to strengthen the courts' capacity to process bankruptcy cases.

By hiring five economic experts, an analysis of the selected archived bankruptcy cases was done in five pilot courts (the municipal courts in Sarajevo, Tuzla and Bihac, district commercial courts in Banja Luka and Bijeljina), significant and frequent problems from economy and finances were identified and which the judges encounter and that in the end result in slow and long case processing.

The economic experts also started developing the training curriculum and modules for efficient conducting of most complex cases in courts from the aspects of economic issues they contain.

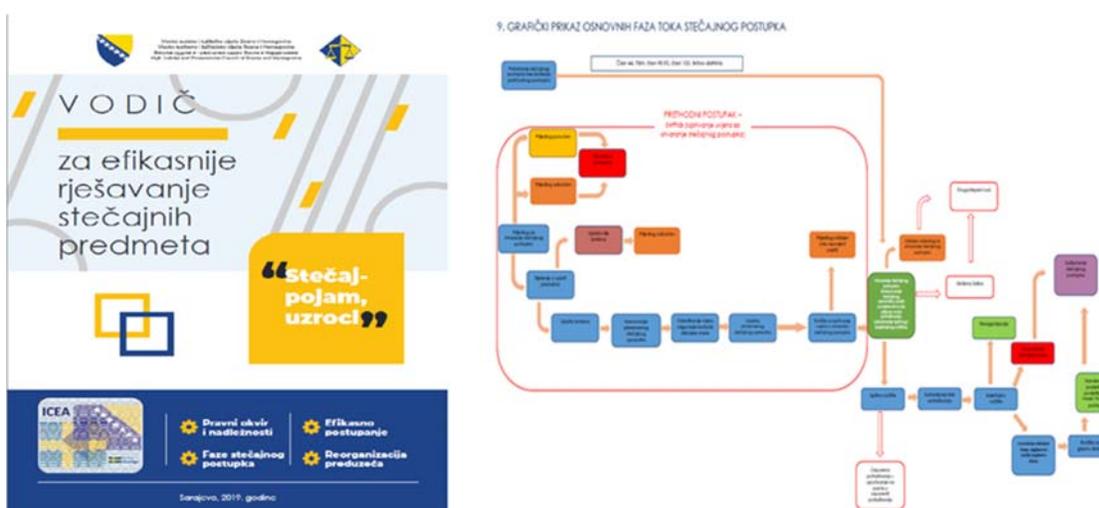
In the last phase of their employment, the selected economic experts will, in cooperation with the entity judicial and prosecutorial centres, carry out a suitable training for the trainers in the judiciary to ensure the activity is sustained and continued.

Of course, that is not the only measure the HJPC undertook in this segment in the past, given that already in 2018 it established a Working Group to improve processing of bankruptcy and liquidation cases, tasked to find a modality to improve processing of bankruptcy cases. In 2019, the Working Group was considering a plan to promote alternative commercial dispute resolution and potential advantages of legal solutions in the Republika Srpska and the Brcko District of BiH. The Parliament of the Federation of BiH was urged to adopt a new law on bankruptcy in the FBiH, but unfortunately, that still has not happened.

Apart from the cases originated by the bankruptcies, additional analyses pointed out the fact that it was necessary to especially give attention to the judges who are just starting to work on bankruptcy cases, as well as other participants in the proceedings, such as new bankruptcy administrators and even public at large.

Bearing this mind, the HJPC, within the ICEA II Project, hired experts to write the Guide for More Efficient Processing of Bankruptcy Cases, primarily intended for the judges encountering conduct of bankruptcy proceedings for the first time, that in a simple and clear way presents the bankruptcy proceedings from beginning until the end.

Image 11: The cover page of the Guide for More Efficient Processing of Bankruptcy Cases and the Guide chart depicting proceedings



At the promotions of the aforesaid Guide in 2019 in Teslic and Mostar, the round table participants showed great interest for this publication and we rightfully expect that it will be of great help to newly appointed judges and judges who have been assigned the bankruptcy case type for the first time.

5.1.3 Introducing mentorship system for newly appointed judges and legal associates

On the basis of the TAIEX *Peer Review* on initial and continuing legal education for judges and prosecutors in Bosnia and Herzegovina, that was carried out in 2017, the HJPC adopted an Action Plan for the implementation of the recommendation, which includes introducing mentoring in courts.

Given that this is a matter of strategic importance for the judiciary, in 2019, the HJPC ensured support to the process through the Improving Judicial Quality Project, which includes valuable expertise that will contribute to the quality of the system established. Specifically, at the session in April 2019, the HJPC established a Working Group for the Introduction of a Mentorship System in the Courts, comprised of judicial representatives from Bosnia and Herzegovina,

HJPC and judges from the Netherlands and Norway who have significant experience in implementing mentorship (partner countries in project implementation).

This Working Group has analysed the situation and needs for mentoring in BiH judiciary by holding a number of focus groups in October 2019 to get a grasp of the existing support situation in courts. Guided by all previous activities and analyses of the HJPC Judicial Documentation Centre, as well as the results of the TAIEX Workshop on Initial Training System (January 2019), the Working Group provided the HJPC with specific advice on introducing of a mentorship system.

Mentorship should facilitate development of judge craft for newly appointed judges, which includes everything that cannot be found in legal literature and is about how the judges do their job in practice. Fair trial and equal status of parties are at the core of judge craft, which the judicial office holders are aware of and thus the mentorship programme will not be conceptualised to teach, but to simply give information, assistance and direction. Mentorship provides professional support, guidelines and feedback on work, experience is shared, not knowledge of the legal science.

By decision of the HJPC, the mentorship system will include both the newly appointed judges and legal associates appointed by the HJPC in courts of the Federation of BiH, given that they act independently in cases, unlike the legal associates in Republika Srpska. In accordance with the Working Group mandate, a proposal of the mentorship framework programme was drafted, and the HJPC approved it in December 2019. It will be implemented in the pilot phase of implementation in 2020 in two target courts: the Municipal Court in Zenica and the Basic Court in Banja Luka. It is anticipated for the mentorship to encompass work organisation, skills for conducting hearings and the technique of drafting court decisions, while individual mentorship programmes will be developed depending on the work experience of the newly appointed judge and the requirements of the department he/she will working in.

5.1.4 Improving gender equality in the judiciary and providing support to members of vulnerable groups to exercise their rights

By taking specific activities in the ICEA II Project, in 2019, the HJPC confirmed its dedication to work on protection and promotion of human rights and fundamental freedoms guaranteed by the Constitution and finding and improving the position of vulnerable groups that are in contact with the judiciary.

To change awareness in the judiciary about this topic, the HJPC organised training for the judicial office holders and institution employees. In that sense, organised by the FBIH JPTC and in cooperation with the Centre of Women's Rights in Zenica, a seminar entitled "Gender Inequality: Prejudice and Stereotypes," was held. At the suggestion of the HJPC, the entity JPTCs included appropriate seminars/workshops on gender equality in their 2020 programmes of training and professional development. Apart from that, in cooperation with the Atlantic Initiative Association, the HJPC organised two trainings for advisers for prevention of sexual and gender-based harassment in judicial institutions in BiH.

Images 12 & 13: Initial and advanced training for advisers for the prevention of sexual and gender-based harassment in judicial institutions in BiH



In addition, a publication for the judges on prejudice and stereotypes has been written and distributed. The publication explains the notions of prejudice and stereotype and explains the consequences of such negative positions, especially in the context of law implementation and how to eliminate prejudices from the judicial system.

Image 14: The cover page of the publication for judges about prejudices and stereotypes



Besides that, in the international campaign "16 days of activism against gender-based violence," in partnership with some professional associations of judges and prosecutors in BiH, the HJPC organise a round table on the topic of "Processing of cases of gender-based violence."

Image 15: Round table on the topic of "Processing of cases of gender-based violence"



The HJPC efforts to strengthen the victim protection mechanism are reflected in the TAIEX workshop titled "Gender-based violence and equal access to justice," where the EU member countries and non-EU countries from the region exchanged experience and best practices.

Images 16 & 17: TAIEX workshop titled "Gender-based violence and equal access to justice"



As for providing support to vulnerable groups (disabled persons, Roma people, LGBTI persons, children and marginalised categories of women) in contact with the judiciary, it is important to note that the HJPC started implementing some suitable activities with a long-term objective to ensure equal access to justice for this part of our society.

With the aim of adopting a suitable programme of measures to support disabled persons, the HJPC carried out an analysis of the extent of architectural and functional accessibility to buildings of judicial institutions for disabled persons, based on which a proposal of activities will be created in the near future, focused on removal of identified barriers.

In 2019, the HJPC also carried out an information campaign for children victims of crime, as well as their parents/guardians, this vulnerable group with the rights they have during the initiation and duration of criminal proceedings. An illustrated publication represents the said campaign and was done in collaboration with a judge for minors and a psychologist, who have experience in working with children and minors and with an illustrator who made the visual part of the publication and contains information on the course of criminal procedure prepared in a way adjusted for children.

5.1.5 Strengthening the connection between the judiciary and media, so that the public and media understand better the court role, competencies and processes to improve the reputation and public trust in the judiciary

Due to the lack of funds, a great number of judicial Institutions in BiH do not have a spokesperson who can immediately and adequately answer the media questions on court proceedings or decisions in some court cases. In practice, the public relations job is done by court presidents, court secretaries or other staff hired for the job ad hoc or permanently.

Providing information to the media about issues important for the public, as well as the access to court cases, varies from court to court, from case to case and from issue to issue. This fact contributes to the media perception that the HJPC and courts in BiH withhold information due to organisational, political or personal reasons.

Training of court presidents and court administration on media relations and communications is necessary. That is why in November 2019, within the IPA 2017 Project, the HJPC organised seminars in cooperation with the JPTCs titled "Contemporary communications with the public" for court presidents, chief prosecutors, court secretaries, spokespersons and staff in charge of public relations. Seminar topics included issues such as: how to communicate with the public, leadership and image of court presidents and judges, preparing for public speaking, crisis communications, behaviour and ethics, lobbying and public relations, experience of institutions in working with media. Also, the said trainings included workshops on writing press releases, preparing and holding press conferences, preparing for public speaking, organising interviews and speaking in TV programmes.

Activities in the said trainings are planned for 2020. In this way, the HJPC endeavours to build up a transparent, accountable and accessible judiciary.

5.2 Performance quality indicators of prosecutor's offices in 2019

This section of the annual report shows data on the quality of prosecutorial decisions for 2019, as calculated by prosecutor's offices in line with the HJPC BiH criteria³⁸. Apart from the said data, this section separately shows the statistical indicators for final court decisions rendered in 2019, 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.

³⁸ Article 19-21 Criteria for the performance evaluation of judges in Bosnia and Herzegovina.

5.2.1 The quality of prosecutorial decisions according to the criteria of the HJPC BiH

Criteria for calculating the performance quality for prosecutor's offices

The quality of prosecutorial decisions is calculated on the basis of HJPC BiH criteria. 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, the 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 2019, the prosecutor's offices in Bosnia and Herzegovina achieved the following indictment quality as specified in the table:

Table 18: Indictment quality in prosecutor's offices

| Prosecutor's Office | Indictment quality 2018 | Indictment quality 2019 |
|---|-------------------------|-------------------------|
| Prosecutor's Office of BiH | 93% | 96% |
| Cantonal prosecutor's offices | 97% | 95% |
| District prosecutor's offices | 95% | 96% |
| Special Department of the RS PO | 91% | 93% |
| Prosecutor's Office of the Brcko District BiH | 96% | 95% |

Quality of orders not to conduct and discontinue investigations

In 2019, the prosecutor's offices in Bosnia and Herzegovina achieved the following quality of orders not to conduct or discontinue investigations as specified in the table:

Table 19: Quality of orders not to conduct and discontinue investigations

| Prosecutor's Office | Quality of orders not to conduct investigations or discontinue 2018 | Quality of orders not to conduct investigations or discontinue 2019 |
|-------------------------------|---|---|
| Prosecutor's Office of BiH | 100% | 99% |
| Cantonal prosecutor's offices | 99% | 100% |
| District prosecutor's offices | 100% | 100% |

| | | |
|---|------|------|
| Special Department of the RS PO | 99% | 99% |
| Prosecutor's Office of the Brcko District BiH | 100% | 100% |

5.2.2 Statistical indicators on court decisions³⁹

The following tables show statistical indicators for court decisions that became final during the reporting period.

Prosecutor's Office of Bosnia and Herzegovina

Of the total number of final court decisions in 2019, 178 (93%) were convictions, while dismissals, acquittals and decisions rejecting indictments accounted for 14 cases (7%). The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 20: Statistical indicators for court decisions based on indictments from the Prosecutor's Office of BiH

| Case type | Total number | Number/ percentage convictions | | Number/ percentage rejecting | | Number/ percentage acquittals | | Number/ percentage other decisions | |
|-----------|--------------|--------------------------------|------------|------------------------------|------------|-------------------------------|------------|------------------------------------|------------|
| | | Number | percentage | Number | percentage | Number | percentage | Number | percentage |
| KT | 49 | 45 | 92% | 1 | 2% | 0 | 0% | 3 | 6% |
| KTK | 4 | 3 | 75% | 0 | 0% | 1 | 25% | 0 | 0% |
| KTO | 17 | 16 | 94% | 0 | 0% | 1 | 6% | 0 | 0% |
| KTPO | 91 | 89 | 98% | 0 | 0% | 2 | 2% | 0 | 0% |
| KTRZ | 29 | 23 | 79% | 0 | 0% | 6 | 21% | 0 | 0% |
| KTT | 2 | 2 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |

Cantonal prosecutor's offices

Of the total number of final court decisions in 2019, 7,419 (95%) were convictions. Dismissals or acquittals as well as decisions rejecting indictments, denying motions for developmental measures and juvenile imprisonment and the discontinuance of KTM procedures were rendered in 385 (5%) 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 | Number/ percentage convictions | | Number/ percentage rejecting | | Number/ percentage acquittals | | Number/ percentage other decisions | |
|-----------|--------------|--------------------------------|------------|------------------------------|------------|-------------------------------|------------|------------------------------------|------------|
| | | Number | percentage | Number | percentage | Number | percentage | Number | percentage |
| KT | 7.485 | 7.134 | 95% | 30 | 0% | 297 | 4% | 24 | 0% |
| KTK | 126 | 111 | 88% | 1 | 1% | 13 | 10% | 1 | 1% |
| KTO | 11 | 11 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| KTPO | 171 | 153 | 89% | 0 | 0% | 18 | 11% | 0 | 0% |
| KTRZ | 11 | 10 | 91% | 0 | 0% | 1 | 9% | 0 | 0% |

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

District prosecutor's offices

Of the total number of final court decisions in 2019, 2,728 (93%) were convictions. Dismissals or acquittals as well as decisions rejecting indictments, denying motions for developmental measures and juvenile imprisonment and the discontinuance of KTM procedures were rendered in 206 (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 | Number/ percentage convictions | | Number/ percentage rejecting | | Number/ percentage acquittals | | Number/ percentage other decisions | |
|-----------|--------------|--------------------------------|------------|------------------------------|------------|-------------------------------|------------|------------------------------------|------------|
| | | Number | percentage | Number | percentage | Number | percentage | Number | percentage |
| KT | 2.792 | 2.596 | 93% | 69 | 2% | 122 | 4% | 5 | 0% |
| KTK | 41 | 35 | 85% | 0 | 0% | 6 | 15% | 0 | 0% |
| KTPO | 97 | 93 | 96% | 1 | 1% | 3 | 3% | 0 | 0% |
| KTRZ | 4 | 4 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |

Special Department of the RS Prosecutor's Office

Of the total number of final court decisions in 2019, 5 (83%) were convictions, while dismissals, acquittals and decisions rejecting indictments accounted for one decision (17%). 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 Special Department of the RS PO

| Case type | Total number | Number/ percentage convictions | | Number/ percentage rejecting | | Number/ percentage acquittals | | Number/ percentage other decisions | |
|-----------|--------------|--------------------------------|------------|------------------------------|------------|-------------------------------|------------|------------------------------------|------------|
| | | Number | percentage | Number | percentage | Number | percentage | Number | percentage |
| KT | 2 | 2 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |
| KTK | 3 | 2 | 67% | 0 | 0% | 0 | 0% | 1 | 33% |
| KTO | 1 | 1 | 100% | 0 | 0% | 0 | 0% | 0 | 0% |

Prosecutor's Office of the Brcko District BiH

Of the total number of final court decisions in 2019, 252 (95%) were convictions. In 14 cases or 5% the courts rendered acquittals. The following table shows the breakdown of court decisions per case type alleged in indictments:

Table 24: Statistical indicators for court decisions based on indictments from the Brcko District PO

| Case type | Total number | Number/ percentage convictions | | Number/ percentage rejecting | | Number/ percentage acquittals | | Number/ percentage other decisions | |
|-----------|--------------|--------------------------------|------------|------------------------------|------------|-------------------------------|------------|------------------------------------|------------|
| | | Number | percentage | Number | percentage | Number | percentage | Number | percentage |
| KT | 240 | 231 | 96% | 0 | 0% | 9 | 4% | 0 | 0% |
| KTK | 18 | 15 | 83% | 0 | 0% | 3 | 17% | 0 | 0% |
| KTPO | 8 | 6 | 75% | 0 | 0% | 2 | 25% | 0 | 0% |

5.3 Training of judicial office holders

In May 2017, the European Commission conducted a comprehensive analysis of the training system for judges and prosecutors in Bosnia and Herzegovina and submitted its recommendations for improvement, primarily recommending that a formal mentorship system for newly appointed judges and prosecutors be introduced to judicial institutions. In May and June 2019, in cooperation with the Study Centre for the Judiciary of the Netherlands and entity training centres, an HJPC representative participated in compilation of data for training requirements of different target groups in the judiciary. The said activities resulted in a number of recommendations for improving the training system, which the Standing Committee for Training and the Judicial Documentation Centre considered at a meeting in July 2019. The visits, as well as the EU mission, pointed out, among other things, that no sufficient trainings were organised in Bosnia and Herzegovina for newly appointed judges and prosecutors.

This part of the training has been the focus of the HJPC for several years now, seeing as the HJPC has the legal competence to define training for newly appointed personnel. In order to improve it, a number of activities have been conducted for years to establish real training needs of the newly appointed ones. In December 2013, the HJPC adopted a framework programme for this category of personnel, which in one part includes help to newly appointed ones by more experienced colleagues in judicial institutions. Thus, presence of the newly appointed ones is foreseen in hearings/trials of more experienced colleagues and presence of a more experienced colleague in hearings/trials of the newly/appointed ones in their first days of duty. Monitoring the implementation of the aforesaid, it has been established this form of support has not been carried out in all judicial institutions, meaning that it has been implemented in different ways, partly due to the fact that it is not legally regulated and due to the fact that both methodology and contents have not been developed sufficiently.

The introduction of the formal mentorship system in prosecutor's offices commenced in November 2017, when the HJPC adopted the Book of Rules on the Selection and Method of Work of Consultative Prosecutors with Newly-Appointed Prosecutors. The HJPC has been monitoring its implementation closely to remove the observed shortcomings and improve the system. In that relation, in November and December 2019, the competent standing committees of the HJPC considered problems in the work of consultative prosecutors and proposals for improvement of the system by amending the Book of Rules. Those amendments should be presented to the HJPC in the first half of the next year for adoption.

To introduce the mentorship system in courts, on 29 and 30 January 2019, a two-day TAIEX conference was held in Sarajevo on development of mentorship programme for newly appointed judges, at which, a training model on the job from five selected European countries was presented⁴⁰. Representatives of the judicial community in Bosnia and Herzegovina, representatives of the training centres for judges and prosecutors, consultative prosecutors and representatives of international organisations attended the workshop.

⁴⁰ Sweden, the Netherlands, France, Italy and Spain

Image 18: TAIEX workshop on introducing mentorship in courts (29 and 30 January 2019 in Sarajevo)



Accepting the general differences between judicial systems of Bosnia and Herzegovina and the EU member countries and in particular with regard to non-existence of a systemic solution for transfer of knowledge in judicial institutions, the following was observed:

- Bosnia and Herzegovina lacks a structured education system, starting with the end of the law studies and being in the judiciary, from the status of a volunteer or trainee and throughout the professional career;
- The need for a standardised initial training is obvious, which would be primarily focused on development of practical skills;
- There is a need for constant training and development of all staff in the judiciary; The current system lacks monitoring and continued student evaluation;
- There is a need to introduce the mentorship system for judges, newly-appointed judges, legal associates and others who wish to have a career in the judiciary which experienced professionals welcome;
- Mentorship should be defined as a priority, special care should be given to the role and duties of mentors by prescribing guidelines and instructions, as well as objectives and their benefits;
- The issue of motivating staff to become mentors should be especially regulated (their quota reduction, additional payment or additional points in judges' evaluation as potential incentives).

In that regard, at the session held in April 2019, the HJPC established the Working Group for the Introduction of a Mentorship System in the Courts in Bosnia and Herzegovina, while in December session it adopted the Framework Mentorship Programme that will be piloted in two first instance courts in 2020. More about the activities of the Working Group for Introduction of a Mentorship in Courts can be seen in the previous part of the chapter titled "Introducing Mentoring System for Newly Appointed Judges and Legal Associates."

As for improving the induction training and professional development of judges and prosecutors, the HJPC BiH has adopted several decisions within its competence in 2019 and gave a number of recommendations for improvement of the training system to the judicial and prosecutorial training centres.

On its March session, the HJPC considered amendments to the Book of Rules on the Trainers of the Judicial and Prosecutorial Training Centre of Republika Srpska and recommended that

the Book of Rules be additionally developed in the part of criteria for selection of trainers and to submit that same recommendation to the JPTC of the FBiH, which the HJPC granted in the previous year. Furthermore, the annual report of these institutions was considered at the June session and on that occasion a discussion ensued about different training trends. It was concluded that it was necessary to hold a topical session to discuss in detail all issues of judicial and prosecutorial training, whilst bearing in mind the recommendations of the European Union for that domain.

During its November session, the HJPC considered many proposals of the Standing Committee for Training and Judicial Documentation Centre to improve the initial training and professional development. On that occasion, it was concluded that the proposal for improving initial training should be additionally considered by the Standing Committee for Training and Judicial Documentation Centre. Another conclusion was that for 2020 training programme the following topics should be nominated as topics of special interest for the judiciary:

1. Integrity and ethics,
2. Trainings for managerial staff,
3. Specialist trainings for judges about organised crime and corruption,
4. Other trainings from the *Peer review* Action Plan for corruption that have not been implemented thus far.

Apart from that, for the purpose of continued development of knowledge and skills of judges and prosecutors in specific fields, the HJPC recommended the entity JPTCs to start grading the training as initial, medium and advanced. Furthermore, the HJPC BiH tasked the Standing Committee for Training and Judicial Documentation Centre to, in the cooperation with the JPTCs, get involved in the organisation of periodic meetings with international organisations that are active in training of judicial office holders. The Council adopted the recommendation that the JPTCs should develop standardised training for the trainers and hold conferences of trainers on a regular basis to discuss best practices and methods of teaching adults, especially because similar meetings and conferences used to be held periodically in the past.

Furthermore, at its December 2019 session, the HJPC adopted a decision to approve all work programmes of Training Centre and of the Brcko District Judicial Commission about the training of judges and prosecutors for 2020, with a conclusion that all open issues should be considered within the Standing Committee for Training and Judicial Documentation Centre in cooperation with the Judicial and Prosecutorial Training Centre of the FBiH, the Judicial Documentation Centre of Republika Srpska and the Judicial Commission of Brcko District BiH.

To establish sustainability of the conducted trainings and improve skills of the prosecutors working on corruption cases, in 2019, within activities of the Project "Strengthening the Capacity of Prosecutors in the Criminal Justice System," the HJPC wrote and distributed a training manual titled "Manual for Drafting of Certain Elements of Indictments for Corruption Offences." During 2019, it also held five practical trainings on indictment quality for prosecutors working on corruption cases.

To improve the prosecutors' appeal writing skills, in 2019, in cooperation with the FBiH JPTC and RS JPTC, within the activities of the Project "Strengthening the Capacity of Prosecutors in the Criminal Justice System," the HJPC wrote and distributed training material titled "Improving Appeal Writing Skills" and carried out two trainings on that topic during the year.

In order to improve the prosecutors' awareness on the forensic capacities available in BiH and the training of authorised officials, in cooperation with the institutions active in forensic sciences and the Judicial and Prosecutorial Training Centre of the RS and Judicial and

Prosecutorial Training Centre of the FBiH (JPTC RS and JPTC FBiH), within activities of the Project "Strengthening the Capacity of Prosecutors in the Criminal Justice System," in 2019, the HJPC held two mock exercises of site investigation and collection of traces for about 60 prosecutors and authorised officials from all police agencies.

Two video conferences were also held to share knowledge, where prosecutors exchanged their knowledge and experience on the following topics: "Novelties in the Law on Confiscation of Proceeds of Crime" and "Processing War Crimes in BiH with Elements of Sexual Violence."

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.

On the basis of the Memorandum on Cooperation between police and judicial institutions in charge of training, in 2019, meetings of the training-coordinating forum continued to be held on a regular basis that includes the representatives of the following bodies: the FBiH Judicial and Prosecutorial Training Centre, the RS Training Centre for Judges and Public Prosecutors, the Police Academy of the Federation Ministry of the Interior, the RS Police Training Institute, Training and Continuing Professional Development Agency Mostar, Border Police Training Centre BiH, Brcko District Police and Directorate for Coordination of Police Authorities in BiH, Intelligence Agency and Armed Forces.

Due to the importance of the problem BiH encounters in the fight against corruption and as the result of the intention to improve the joint work and cooperation between prosecutors' offices in BiH and law enforcement agencies, through the Project "Strengthening of Prosecutorial Capacities in Criminal Justice System," in cooperation with the Training Centre of the Intelligence Agency of BiH and other participants of the forum for cooperation in training, the HJPC organised a joint cross-agency training: "Intelligence Work in Support of Prosecutor's Office in Combating Corruption." That approach has led to successful implementation of training with multiple modules, in which 13 institutions participated. Seventeen participants went through the training and those were: Representatives of four prosecutor's office, the State Investigation Protection Agency, Federation Ministry of Internal Affairs (FMOIA), Ministry of Internal Affairs of the RS (RS MOIA), Intelligence Agency of BiH (IS BiH), Indirect Taxation Authority (ITA BiH), Armed Forces of BiH (AF BiH) and two cantonal ministries of internal affairs. The central part of the training was a situational exercise that went on for days and was simultaneously held on three locations in BiH.

5.4 Information on round tables organised within the Project "Enhancing War Crime Case Processing in BiH"

As pointed out earlier, within the implementation of the European Union support to the judiciary in BiH IPA 2013 in improving the efficiency of processing war crimes cases, in the period between 2017 and 2019, a total of 7 professional events were held with over 300 judges, prosecutors and attorneys participating who process war crimes cases. The participants of professional events assessed the format and concept of all three functions of the criminal procedure as an adequate platform that provides an opportunity for a comprehensive consideration of key material and procedural issues of applying the legal framework. At the same time, the professional events dealt with systemic issues identified as challenge areas to improve the efficiency of judicial institutions. Particular attention was given to making regional cooperation in war crimes cases work and finding normative and practical options to end cases of regional character where the suspects/indicted persons were at large. In addition, through the lens of relevant BiH Constitutional Court decisions, the issues of interpreting key substantive-legal and procedural-legal institutes of criminal legislature were considered in the direction of harmonised application, consistency of legal practice and increasing the degree of legal security. All the issues were raised from the perspective of judicial and prosecutorial functions and the attorney profession through all the relevant phases of criminal procedure, starting with the moment the prosecutor's offices receiving a report on perpetration of a criminal offence of a war crime until the court decision becomes final with a complementary focus on defence. The relevant information from the events and the adopted conclusions were delivered to the professional community and published on the HJPC BiH website, making them available to the public.

5.5 An information system for the HJPC Judicial Documentation Centre

From May 2008, the HJPC Judicial Documentation Centre has been continuously updating the electronic database with decisions rendered by the highest courts in Bosnia and Herzegovina.

In 2019, the database was expanded with 561 decisions and as at 31 December 2019, it contains a total of 12,623 decisions, which can be searched by legal institute, legal area, number of cases, applied regulation and also by the principle of free text search. The database is available to all judges and prosecutors, as well as other staff from judicial institutions, free of charge. By Decision of the Council of Ministers of Bosnia and Herzegovina of September 2012, access has been approved to the attorneys with a seat in Bosnia and Herzegovina under annual subscription and as of February 2014 to all interested parties under the same conditions. Integral anonymised decisions, which are of interest for both legal and factual matters, are primarily published in the database, together with referenced lower-instance decisions in the same case. Decisions from all areas are represented and lately special focus was on decisions from areas of war crimes, discrimination, terrorism, organised crime and corruption. For certain decisions, sentences defined by the judges are also published and selected indictments in war crimes cases too.

Other legal information, including information on newly adopted laws at the Entity level, the Brcko District of BiH level 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 monitored and published on a regular basis. A total of 2,212 various pieces of information that are useful to the judicial community were available at the end of 2019. All users are informed by an e-leaflet on a regular basis about new decisions in the database and other contents on the website www.csd/pravosudje.ba.

The database is still used regularly by one part of the judicial community, while requests for use by lawyers, insurance companies, law schools, banks, and so on are increasing. By the end of 2019, there were 127,713 database visits, or 611,526 visits to the website of the Judicial Documentation Centre. The promotion of the database of court decisions and its efficient search is done on a regular basis within the training centres and in other available means.

The activities of the HJPC and highest courts to strengthen case law departments began in early September 2018 as part of the EU funded Project IPA 2017 "Building an Effective and Citizen-friendly Judiciary." Mutual rights and obligations in the implementation of the 1.3.1. Component of this project titled "Reinforcing the Case law Departments" have been regulated by the Agreement on Cooperation signed on XV conference of court president and chief prosecutors (Neum, 24-25 April 2019).

Image 19: Presidents Damjan Kaurinovic, Milan Tegeltija, Vesna Antonic and Ranko Debevec signing the Agreement on Cooperation between the HJPC and Highest Courts (Neum, 24 April 2019).



In accordance with the Agreement, in April 2019, the Judicial Documentation Centre of the HJPC hired senior advisers for case law, while the hiring process has been only partly completed in the highest courts. Specifically, in November-December 2019, the selection process of the best candidates for the Supreme Court of the BiH Federation, Appellate Court of the Brcko District, Court of BiH was successfully completed, while the hiring process of one adviser was completed in the Supreme Court of the Republika Srpska. The competition for selection of another adviser has been repeated several times due to the lack of candidates.

During the project, the advisers will assist in recording of decisions in specialist departments and in the end, contribute to better access to court decisions. Apart from that, respecting the needs of the highest courts for systematic access regarding their case law and legal positions, in cooperation with AIRE centre, the HJPC initiated development of a database to be complemented with the database of court decisions (E-sentences). All the aforementioned leads to establishment of a better standard for publishing of court decisions as emphasised in the Opinion of the Consultative Council of European Judges (CCJE) number 20, from 2017.⁴¹

As of April 2019, the publication of information on the work of international courts was intensified, primarily on the work of the European Court of Human Rights, given the significant impact that the views of this Court have on the development of case law in Bosnia and Herzegovina. Information are available in the form of weekly table overviews and contain translation of summaries on 280 most important cases of the court. The summaries are adjusted to the professional public and public at large in BiH and include the period from June

⁴¹ A suitable reporting system on case law is necessary to ensure single application of law. If nothing else, judgements of supreme and appellate courts would have to be published, not just to inform the parties in a specific case about them, but courts, attorneys, prosecutors, academic circles and public at large, to ensure that they can refer to those judgements in future cases. When the supreme or appellate courts create a big case law, its mere publication will be insufficient to facilitate unhindered monitoring by the judges, attorneys and academic circles. The CCJE believes that in such circumstances it would be useful to have a system where selected decisions in a specific format (for example like 'a compilation of most important decisions') would be published to set important norms to comply with in future cases, with the aim to ensure that they are taken care of."

2018 to November 2019, available at the HJPC Judicial Documentation Centre at: <http://csd.pravosudje.ba/vstv/faces/vijesti.jsp?id=80830>.

On 9 December 2019, an agreement was signed between Milan Tegeltija, the HJPC President and Ambassador Kathleen Kavalec, the Head of the OSCE Mission to BiH, on taking over the War Crimes Map that will continue to be updated by summaries of completed cases with final decisions from all courts in Bosnia and Herzegovina within the Judicial Documentation Centre of the HJPC.

Image 20: Ambassador Kathleen Kavalec, President of the HJPC BiH Milan Tegeltija and Vice-President of the HJPC Ruzica Jukic during the signing of the Memorandum on Transfer of the War Crimes Map.



The OSCE Mission to BiH believes that it is exactly the Judicial Documentation Centre of the HJPC that has the key role in compilation and distribution of court decisions and legal opinions.

“In order to ensure long-term sustainability of the War Crimes Map, the Mission has identified the Centre as the most appropriate organisational unit to administer and update the Map. The Mission firmly believes that the HJPC should further support the Judicial Documentation Centre by strengthening capacities and expanding its role within the Council,” Kavalec said.

The overarching goal of the Map is to increase transparency in the processing of war crimes cases in BiH and to enable the public to better understand the work of the BiH judiciary in relation to war crimes cases. The War Crimes Map also aims to bridge the gap between judiciary investigating and processing of war crimes and the need for the public to have access to credible information on cases completed by the judiciary.

5.6 Coordinating the work of the panel for harmonisation of case law in Bosnia and Herzegovina

In the meetings for the harmonisation of case law, the highest instance judges in Bosnia and Herzegovina consider the issues of inconsistent actions by entity, state-level and Brcko District courts⁴². In the meeting held in December 2018, criminal law departments of the highest courts discussed the following topics: “Meting out the punishment” and the principle of *ne bis in idem*

⁴² 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.

in war crimes.” The panel’s meeting was held in Teslic under the auspices of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina with the support of the OSCE Mission to Bosnia and Herzegovina⁴³.

The conclusions that were subjected to verification in court departments where panel members work, were adopted between January and June 2019, in accordance with the Rules on panel work⁴⁴.

The panel from criminal law adopted the following conclusions:

- as for meting out punishment in war crimes cases:
 1. The state of war and armed conflict, as an element of a criminal offence, cannot be recognised as either aggravating or mitigating circumstance, because it is an important characteristic of a war crime.
 2. Mitigating circumstances should be recognised in relation to already established aggravating circumstances (analytical-synthetic method), bearing in mind the manner in which the crime was perpetrated that is to say the act of perpetration and the gravity of the criminal offence.
 3. The passage of time after the perpetration of a criminal offence cannot be considered in itself a mitigating circumstance in war crimes cases.
 4. The usual proper conduct in court cannot be considered as a mitigating circumstance.

The proposed conclusion not to consider the marital status as a mitigating circumstance in war crimes cases was not accepted due to reservations expressed by representatives of a court on the panel, which they maintained after additional consideration of arguments set forth by the panel members from the criminal law department. The conclusions with the explanation are available at the HJPC Judicial Documentation Centre website via the URL: <http://csd.pravosudje.ba/vstv/faces/vijesti.jsp?id=81094>

- As for the interpretation and application of the *ne bis in idem* principle in war crimes cases:
 1. That the *idem* element is evaluated based on the factual background of the disposed case and the ongoing case and that it is met only if both cases are based on identical or important similar facts in light of the judgement of the European Court for Human Rights in the case of Zolotukhin vs. Russia.
 2. That only decisions based on the merits may have the character of an adjudicated matter. Procedural decisions do not have the character of an adjudicated matter.

The conclusions with the explanation are available at the HJPC Judicial Documentation Centre website via the URL: <http://csd.pravosudje.ba/vstv/faces/vijesti.jsp?id=81094>

In December 2019, a preparatory meeting of the panel for criminal law was held to consider the possibility of a consistent practice by courts in matters of command responsibility and replacing the prison sentence with a fine in war crimes cases. Panels for the civil and administrative areas were not held due to a lack of topics for harmonisation. The work of the panel is promoted on a regular basis by the magazine *Legal Chronicles*, co-issued by the HJPC. The publication can be downloaded from the URL: <http://csd.pravosudje.ba/vstv/faces/vijesti.jsp?id=65295>

⁴³ At the initiative of the Supervisory Body for Overseeing the Implementation of National War Crimes Strategy in BiH, the HJPC adopted a decision to include the OSCE Mission to BiH in the work of the panel bearing in mind that the Mission has been overseeing the processing of war crimes cases in the entire BiH territory for years. The representatives of the highest courts - panel members, supported the decision.

⁴⁴ <http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=50694>

Chapter 6: INTEGRITY AND ACCOUNTABILITY

6.1 Integrity

With a view to strengthening integrity and accountability of the BiH judiciary 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 European Commission Expert Mission 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 evaluation of office holders. These activities have been implemented by the Working Group for Improving Integrity and Accountability Evaluation of Judicial Office Holders and with the expert support of the USAID's Justice Project in BiH.

Since in the administrative proceedings, initiated at the request of associations of judges in BiH, the Personal Data Protection Agency in BiH (AZLP) barred the HJPC from processing personal data in the manner prescribed by the Book of Rules for the Submission, Verification and Processing of Asset Declarations of Judges and Prosecutors, which the HJPC adopted in September 2018, in sessions held in March and April 2019 the HJPC adopted decisions according to which the application of the Book of Rules was postponed until the completion of the administrative proceedings which were initiated by the HJPC complaint before the Court of BiH against the AZLP decision and financial reporting of the judges and prosecutors for the previous 2018 was to be done within the time frame set by the law and on the previously used form of asset declaration. In the meantime, while implementing conclusions from the HJPC session held in December 2019, adopted in light of the recommendations from the European Commission Expert Report on Rule of Law Issues in BiH, the HJPC started the procedure of preparing and adopting the new book of rules. For the purpose of its application, activities on development of an electronic system for submitting, processing and publication of asset declarations were finalised and the establishment of a special department of the HJPC BiH Secretariat, that would, if provided with suitable human resources, perform these jobs and tasks, is currently underway.

Within the activity of improving compliance with standards of professional ethics, integrity and accountability evaluation of office holders, the HJPC continued with activities to ensure functional monitoring of the application of the Guidelines for Prevention of Conflict of Interest in the Judiciary. For that purpose, at the September 2019 session, it adopted a document titled "Institutional mechanisms and records for implementation of the Instruments for Monitoring the Application of the Guidelines for Prevention of Conflict of Interest in the Judiciary."

The implementation of integrity plans in judicial institutions in BiH started in 2018. In 2019, the judicial institutions submitted reports on the implementation of integrity plans for the said previous year and based on individual reports of institutions a comprehensive Annual Report on implementation of integrity plans in judicial institutions in 2018 was compiled. The HJPC adopted the report at the September 2019 session and the Recommendations to judicial institutions for further implementation of integrity plans were adopted as a composite part of the report.

At the said session, the HJPC adopted a conclusion calling on the executive and legislative bodies at all levels in BiH to express their understanding and willingness to cooperate with judicial institutions for the purpose of facilitating implementation of measures from integrity plans, the implementation of which depends on the cooperation with these bodies.

Throughout 2019, the HJPC continued cooperating with the Regional Anti-Corruption Initiative (RAI) on development of an IT tool for drafting and implementing the integrity plans and monitoring of their implementation for the purpose of facilitating their drafting and the process of reporting on their implementation in the following cycle and simplifying monitoring over their implementation and reporting for the HJPC as an institution, which, in accordance with the

Guidelines for Drafting and Implementing the Integrity Plan in Judicial Institutions in BiH, has the obligation to monitor this process.

6.2 Disciplinary procedures

To improve the disciplinary procedure and current HJPC practice, the work on drafting of the Disciplinary Praxis Manual that had been adopted in the September 2019 session, was finalised. The Manual has been published on the judicial portal of BiH and the HJPC website and also distributed to the FBIH and RS JPTCs and the Judicial Commission of Brcko District of BiH to be used in trainings on disciplinary accountability.

The activities in implementation of PR recommendations on informing the public on disciplinary cases have been finalised in a such a way that anonymised final decisions are being published on the HJPC website, while drafting and adoption of special rules that will regulate in detail the issue of publishing of disciplinary procedure decisions is in preparation.

6.2.1 Complaints against judicial office holders for breach of duty

In 2019, the Office of the Disciplinary Counsel (ODC) received 843 complaints, or 5.8% less than in 2018. In 2019, the ODC acted upon 1,036 complaints, which is less than 9.5% compared to the number of complaints in 2018 (1,145 complaints).

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

The largest share of complaints relates to the length of the proceedings: 29% of complaints referred to the duration of proceedings before a court, and 13% referred to the length of proceedings before a prosecutor's office. In addition, in 14.5% the complainants complained about judges' careless or negligent exercise of official duties and in 14% they expressed their dissatisfaction with court and prosecutorial decisions.

When considering complaints concerning the duration of the proceedings, apart from 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 the prosecutors may not be subject to civil liability for decisions taken within the performance 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 under 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 (8%) is about the conduct or behaviour of the judges towards the parties to the proceedings.

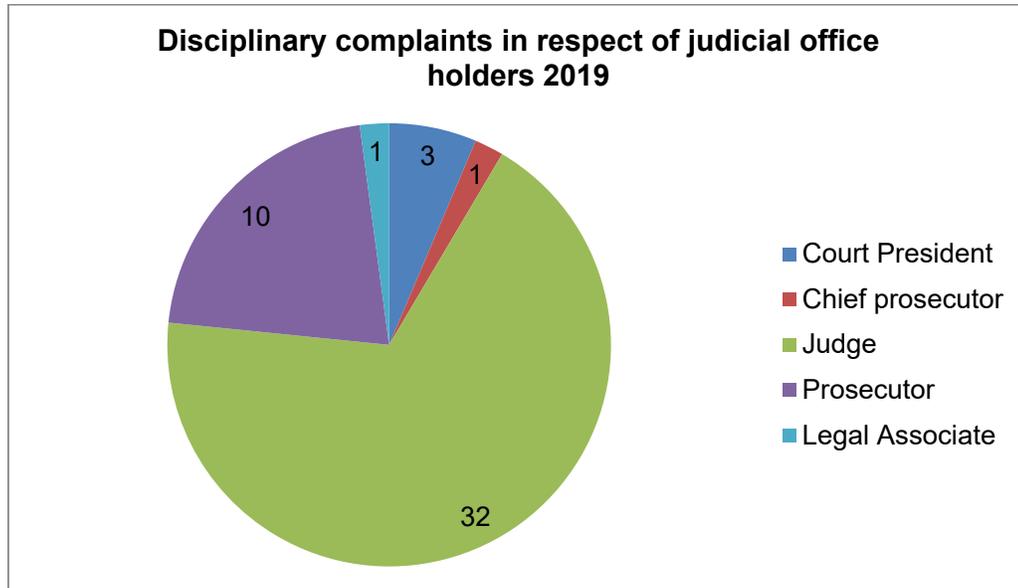
6.2.2 Initiated disciplinary proceedings

In 2019, the ODC initiated 46 disciplinary proceedings against 47 judicial office holders, which is the highest number of proceedings initiated in one year.

In two disciplinary cases, the ODC has requested that disciplinary commissions impose the measure of dismissal.

Most of the proceedings were instituted against judges (32). Ten proceedings were initiated against prosecutors. There were also proceedings instituted against court presidents (2 presidents of municipal courts and 1 of a basic court), against 1 chief prosecutor of a cantonal prosecutor's office and one legal associate of a municipal court.

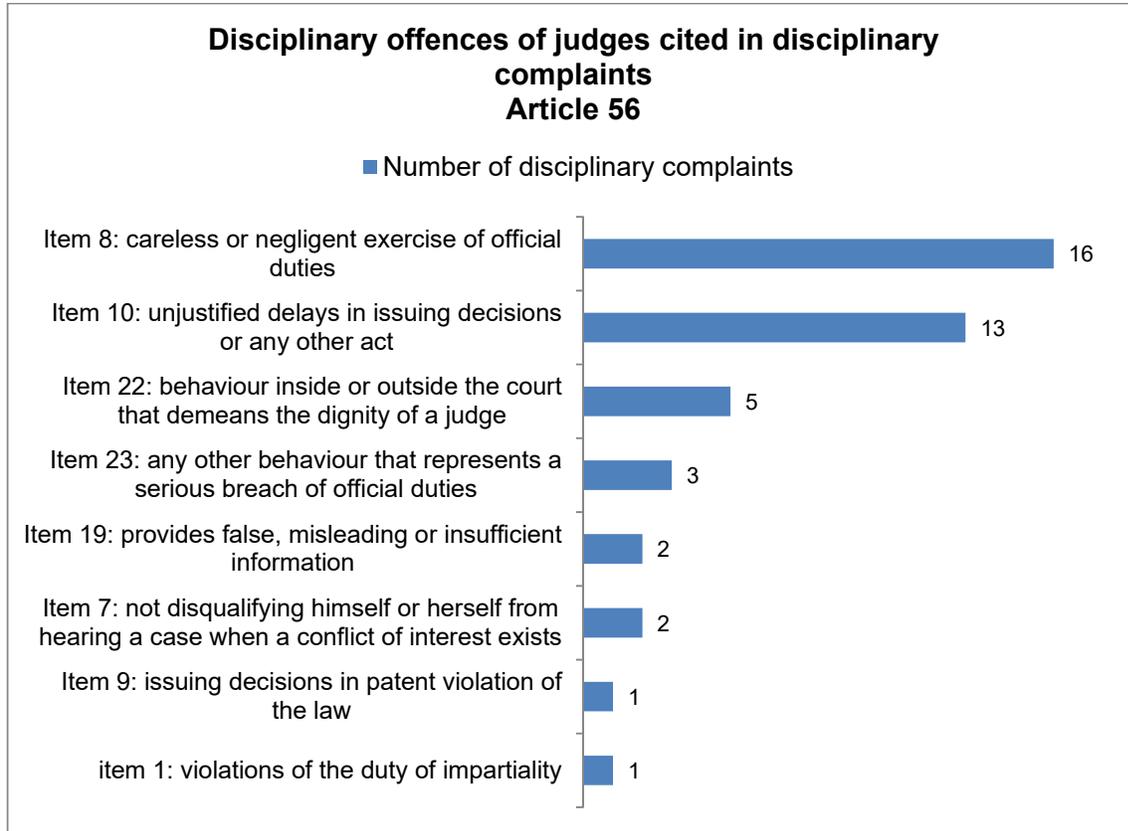
Graph 11: Disciplinary complaints in respect of judicial office holders



The most disciplinary proceedings against judges were instituted for disciplinary breach under Article 56, paragraph 8 of the Law on the HJPC: “careless or negligent exercise of official duties” (16 complaints). This is followed by offences under 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” (13 complaints).

Due to offences under item 22: “behaviour inside or outside the court that demeans the dignity of a judge,” 5 complaints were filed and due to offences under item 23: “any other behaviour that represents a serious breach of official duties or that compromises the public confidence in impartiality or credibility of the judiciary” 3 complaints were filed.

Graph 12: Disciplinary offences of judges cited in disciplinary complaints



When it comes to disciplinary proceedings against prosecutors most were instituted for disciplinary offences under Article 57 (8) of the HJPC Law: "neglect or careless exercise of official duties" (5 disciplinary complaints) and the offence under item 22: "behaviour inside or outside the court or office that demeans the dignity of a prosecutor" (3 complaints).

Graph 13: Disciplinary offences of prosecutors cited in disciplinary complaints



Most disciplinary proceedings were instituted on the basis of complaints filed by the managers of judicial institutions (15 complaints), then by parties to the proceedings (11 complaints), by official duty (10 complaints) and attorneys (7 complaints). It should be noted that the sum does not correspond to the total number of disciplinary complaints filed (46), since some disciplinary complaints were filed based on multiple complaints filed by different categories of complainants.

Graph 14: Disciplinary complaints by complainants



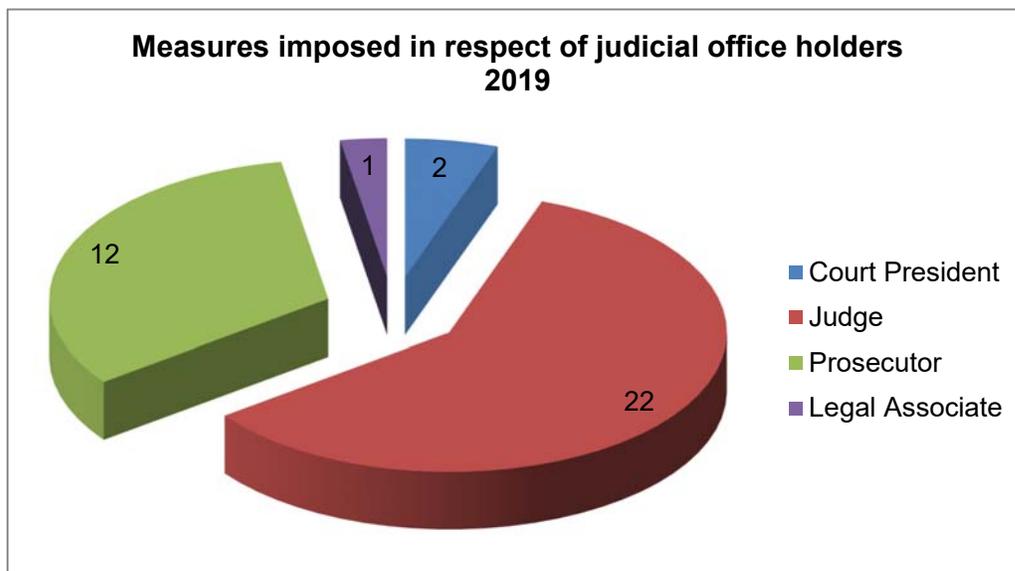
6.2.3 Completed disciplinary proceedings

In 2019, 42 disciplinary proceedings were completed. The breakdown of completed proceedings by the year of initiation is as follows: 17 completed proceedings were initiated in 2018 and 25 completed proceedings were initiated in 2019.

Disciplinary responsibility was established in 37 proceedings, a disciplinary complaint was dismissed as inadmissible in one proceedings, disciplinary complaint was rejected in three disciplinary proceedings and disciplinary proceedings were discontinued in one case due to the death of a judge during the proceedings.

Thirty-seven judicial office holders were found to have committed disciplinary breach. Disciplinary measures were imposed to one president of a basic court and one president of a district commercial court, 22 judges (9 judges of basic courts, 7 judges of municipal courts, 3 judges of cantonal courts, 2 judges of district commercial courts and one judge of a district court), 12 prosecutors (5 prosecutors of cantonal prosecutor’s offices, 4 prosecutors of the district prosecutor’s office and a prosecutor from the Prosecutor’s Office of Brcko District BiH, the Republic Public PO of RS and Prosecutor’s Office of BiH each) and one legal associate of a municipal court.

Graph 15: Measures imposed in respect of judicial office holders

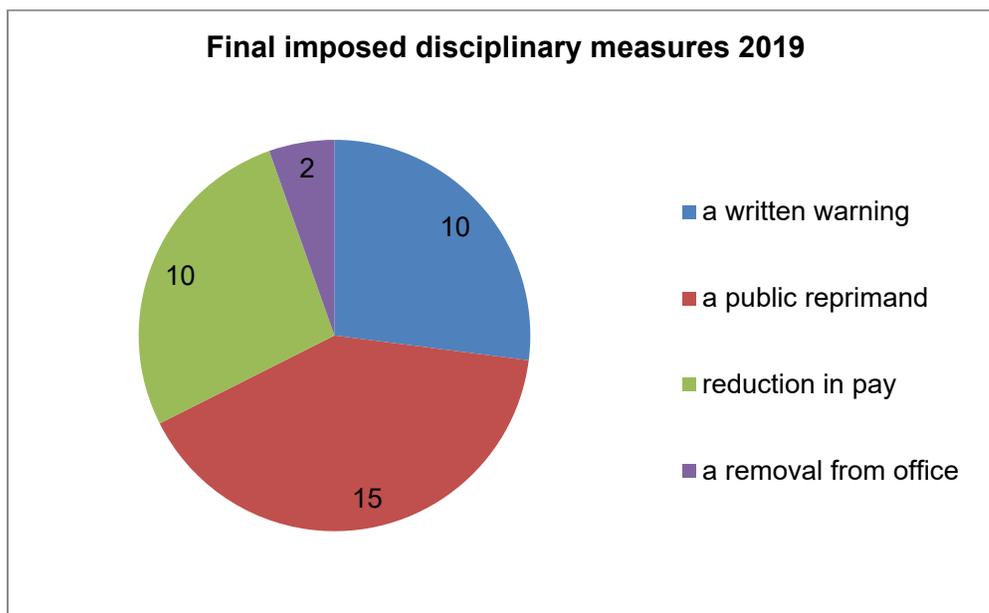


The most frequent disciplinary responsibility of judges was found for a disciplinary breach listed under Article 56, item 8 of the Law on HJPC: “careless or negligent exercise of official duties” (12 judges) and item 10 “unjustified delays in issuing decisions or any other act related to the exercise of judicial functions, or any other repeated disregard of the duties of the judicial function” (10 judges).

Prosecutors were found to have most frequently committed disciplinary breach outlined in Article 57, item 8: “careless or negligent exercise of official duties” (6 prosecutors) and item 15: “failing to carry out instructions of a superior prosecutor under whose authority they serve, unless the carrying out of such instruction would itself constitute a violation of law or provisions of this Article” (3 prosecutors).

In 37 proceedings, 37 disciplinary measures were imposed by final decisions. The breakdown of all final disciplinary measures imposed is as follows: a written warning which shall not be made public (10), a public reprimand (15), reduction in pay (10) and a removal from office (2).

Graph 16: Final imposed disciplinary measures



Disciplinary measure involving removal from office was imposed on a judge of a basic court and one prosecutor of a district prosecutor's office.

A basic court judge has been removed from office for the following disciplinary offences under Article 56, item 8 of the Law on HJPC: "careless or negligent exercise of official duties" item 9: "issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules," 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" item 17: "failure, for an unjustifiable reason, to comply with decisions, orders or requests of the Council" and item 23: "any other behaviour that represents a serious breach of official duties or that compromises the public confidence in impartiality or credibility of the judiciary".

A prosecutor of a district prosecutor's office has been removed from office for disciplinary offence under Article 57, item 19 of the Law on the HJPC: "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."

The ODC filed four appeals against first-instance measures, two appeals against first-instance decision rejecting the complaint, and one appeal against first-instance decision rejecting the complaint as inadmissible. In the second-instance proceedings, the ODC filed one appeal against the measure imposed.

The ODC appeals were accepted in two cases in which more serious disciplinary measures were imposed, including one removal from office.

6.2.4 Temporary suspension from office

In 2019, the ODC filed two requests for temporary suspension from office. One request was filed because disciplinary proceedings were initiated against a judge of a basic court. The request was rejected. The second request was filed because an indicted against a legal associate of a municipal court had been confirmed. The request was accepted.

It should also be noted that *ex officio* the first instance disciplinary panel temporarily suspended a judge of a cantonal court due to procedure for his/her removal from office being initiated.

In 2019, a total of 11 judicial office holders had the status of a temporarily suspended judicial office holder given that fact that suspensions from previous year were still in effect - one from 2015, three from 2016, four from 2017 and one from 2018. The temporary suspension of one judge ended in September 2019, because the judge was acquitted of responsibility in criminal proceedings.

At the end of 2019, ten judicial office holders were temporarily suspended: one court president, three judges, five prosecutors and a legal associate of a municipal court.

Chapter 7: DIGITAL TRANSFORMATION OF BIH JUDICIARY

7.1 Module for recording confiscated proceeds of crime

In 2019, in the implementation of the Project - Building an Effective and Citizen-Friendly Judiciary - IPA 2017, the HJPC completed creating a special Module for recording confiscated proceeds of crime (hereinafter: the Module). The Module has been created as a new functionality of the latest generation of the Case Management System in courts and prosecutor's offices (CMS / TCMS v2). To implement the Module, module user-manuals have been prepared and distributed to the users via the help portal of the BiH judicial information system. Training for module users will be carried out at the beginning of 2020.

Although the legal framework that regulates this matter has been improved long time ago, the issue of confiscation of proceeds of crime has been put aside until the necessary laws that regulate the confiscation of proceeds of crime have been adopted and the agencies in charge of that confiscation have been established. As the matter became relevant, the courts and prosecutor's offices in Bosnia and Herzegovina started receiving a growing number of requests for submission of statistical reports on the implementation of procedure for confiscation of proceeds of crime.

Due to the aforesaid reasons the Module consists of two parts:

- the prosecutorial part which is used to record key information from prosecutor's decisions that propose confiscation of illegally gained property and
- the judicial part which is used to record key information from court decisions.

Image 21: The overview of recording of confiscation of proceeds of crime in the Module

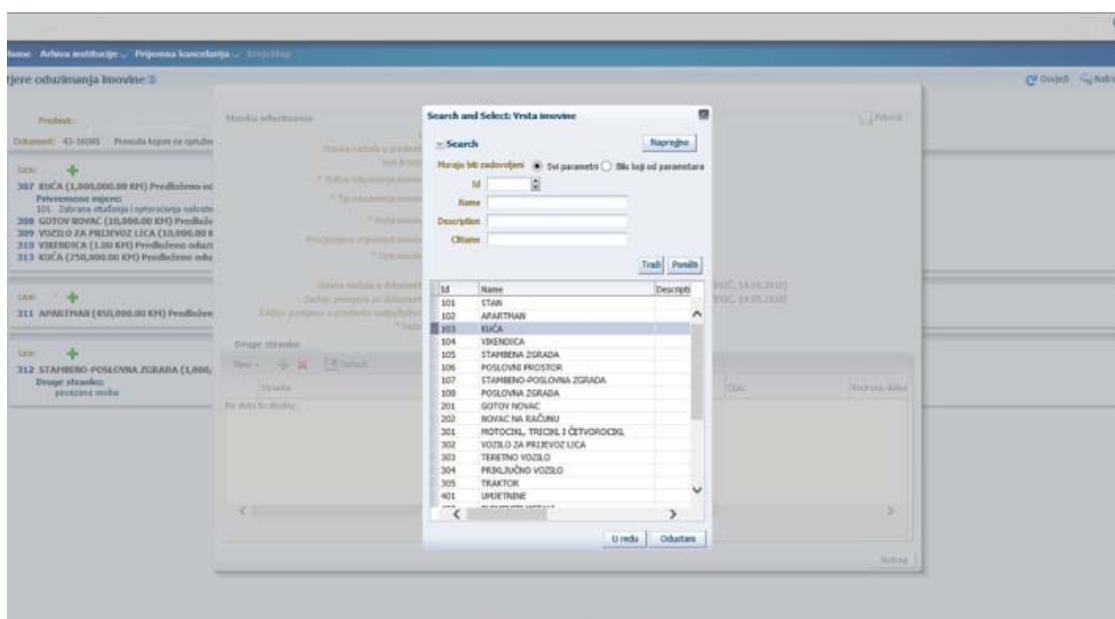


Image 22: Overview of recorded confiscation of proceeds of crime

| |
|--|
| Lice: + |
| 307 KUĆA (1,000,000.00 KM) Predloženo oduzimanje (Privremeno) Kuća se nalazi u Privremene mjere: 101 Zabrana otuđenja i opterećenja nekretnine ili stvarnih prava upisanih na nekretnini, uz zabilježbu zabrane u zemljišnim knjigama |
| 308 GOTOV NOVAC (10,000.00 KM) Predloženo oduzimanje (Trajno) Na računu u banci. |
| 309 VOZILO ZA PRIJEVOZ LICA (10,000.00 KM) Predloženo oduzimanje (Trajno) Vozilo marke audi Q5, proizvedeno 2013 |
| 310 VIKENDICA () Predloženo oduzimanje (Privremeno) 111 |
| 313 KUĆA (750,000.00 KM) Predloženo oduzimanje (Trajno) |
| Lice: + |
| 311 APARTMAN (450,000.00 KM) Predloženo oduzimanje (Trajno) Apartman se nalazi |
| Lice: + |
| 312 STAMBENO-POSLOVNA ZGRADA (1,000,000.00 KM) Predloženo oduzimanje (Privremeno) Poslovna zgrada se nalazi u Druge stranke: povezana osoba |

On the basis of information recorded in such manner it is possible to track confiscation of property chronologically and make an overview of property that the prosecutor’s office proposed to be confiscated and the overview of property that the court confiscated on the basis of its decision. By recording key information that appear in the procedure of confiscation of proceeds of crime, it is possible to get the whole picture of the actually confiscated proceeds of crime. By establishing a centralised data recording method, the HJPC guarantees uniformity in collection of data on confiscated proceeds of crime and the necessary level of transparency in these actions.

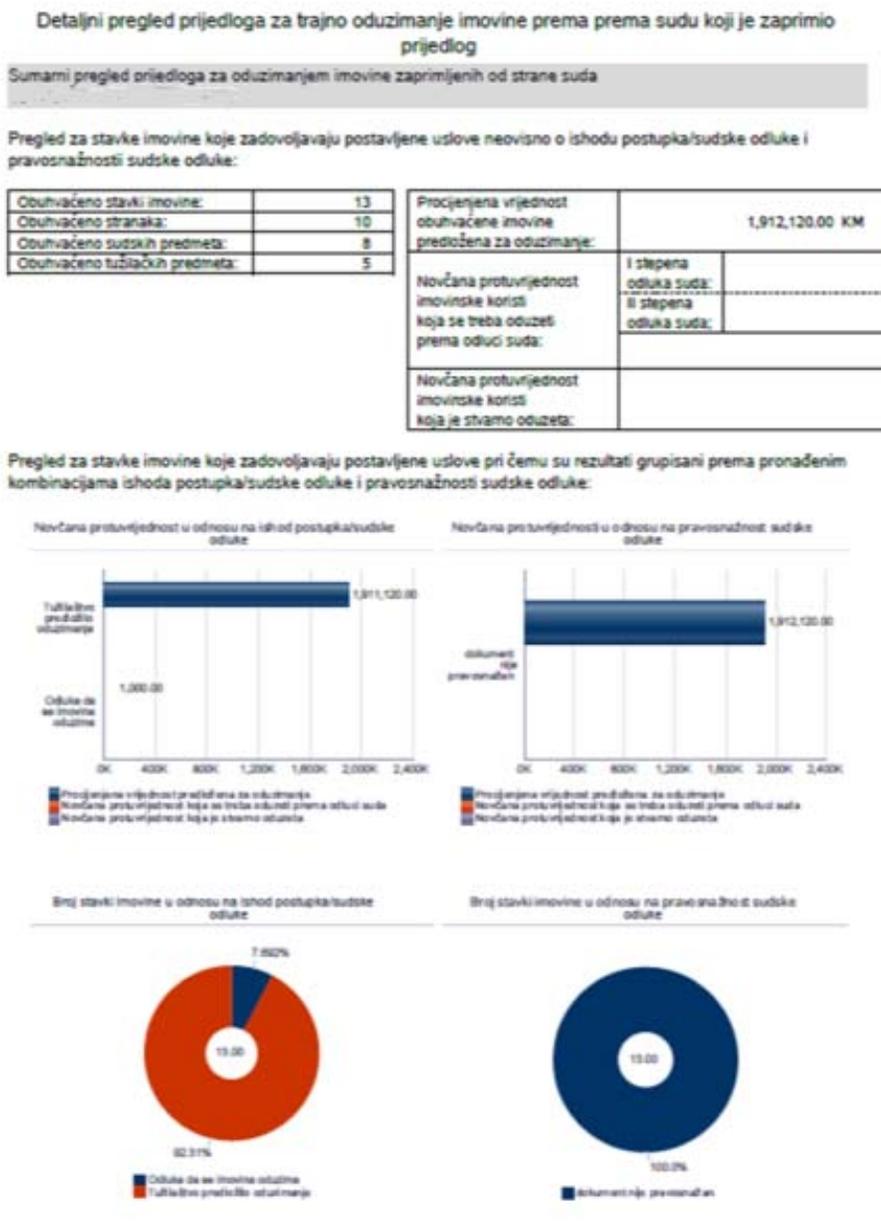
As the Module was being developed, reports were made to give an overview of all relevant information related to the confiscation of property that are recorded in the Module.

Image 23: The overview of the report on recorded confiscation of proceeds of crime

Detaljni pregled prijedloga za trajno oduzimanje imovine prema sudu koji je zaprimio prijedlog

| 12. | Ime i prezime stranke / TICMS ID stranke | Način oduzimanja / TICMS ID stranke | PRILOG ZA ODUZIMANJE / Datum prijedloga / Tužilaču predmet / Sudski predmet | POSUJ / SUDSKA ODLUKA / Ispod odluke / Datum odluke / Pravosnažnost | Klasa imovine / Opis imovine | Procijenjena vrijednost obuhvaćene imovine predložena za oduzimanje: | Novčana protivvrijednost imovinske koristi koja je stvarno oduzeta: | Novčana protivvrijednost imovinske koristi koja se treba oduzeti prema odluci suda: | I stepena odluka suda: / II stepena odluka suda: |
|-----|---|-------------------------------------|---|---|------------------------------|--|---|---|--|
| | | Trajno | 14.05.2018 | Tužilaštvo predložilo oduzimanje | [102] - apartman | 450,000.00 KM | | | |
| | [311] | | | | Apartman se nalazi na | | | | |
| | Pravni osnov vezan uz lice: BH214/1 - Kijumčević, iz člana 214/1 KZ BiH | | | | | | | | |
| 13. | Ime i prezime stranke / TICMS ID stranke | Način oduzimanja / TICMS ID stranke | PRILOG ZA ODUZIMANJE / Datum prijedloga / Tužilaču predmet / Sudski predmet | POSUJ / SUDSKA ODLUKA / Ispod odluke / Datum odluke / Pravosnažnost | Klasa imovine / Opis imovine | Procijenjena vrijednost obuhvaćene imovine predložena za oduzimanje: | Novčana protivvrijednost imovinske koristi koja je stvarno oduzeta: | Novčana protivvrijednost imovinske koristi koja se treba oduzeti prema odluci suda: | I stepena odluka suda: / II stepena odluka suda: |
| | | Trajno | 14.05.2018 | Tužilaštvo predložilo oduzimanje | [102] - kuća | 750,000.00 KM | | | |
| | [313] | | | | | | | | |
| | Pravni osnov vezan uz lice: BH214/1 - Kijumčević, iz člana 214/1 KZ BiH | | | | | | | | |

Image 24: The overview of the report on recorded confiscation of proceeds of crime



7.2 Development and implementation of the Case Management System in the work of disciplinary panels of the HJPC BiH (DKCMS).

One of the European Commission *Peer Review* recommendations to the HJPC was to introduce a system for random assignment of cases to the HJPC disciplinary panels.

At the HJPC session held on 6 September 2018, a conclusion was adopted that this recommendation should be fully implemented by the end of February 2019. According to the conclusion, the HJPC Information Communication Technology Department carried out a detailed analysis of the HJPC disciplinary panels' work processes. The analysis was carried out in cooperation with the HJPC Appointments Department that provides professional support to disciplinary panels. After the analysis was carried out, development and implementation of

the case management system in the work of disciplinary panels of the HJPC BiH (DKCMS) commenced.

Besides the random assignment of cases to disciplinary panels, the development of the module included other necessary adjustments of functionalities to have the procedure in disciplinary panels digitalised, automatized and recorded in the database and connect the DKCMS with the existing Case Management System in the HJPC Office of the Disciplinary Counsel (DCMS).

The ICT Department developed and implemented the HJPC Disciplinary Panels' Case Management System and trained the HJPC Appointments Department to use the DKCMS.

The random automatic assignment of cases to the HJPC disciplinary panels started after the Decision on Appointment and Establishment of new Disciplinary Panels was adopted in April 2019. The HJPC disciplinary panels' cases received before the implementation of the random automatic assignment are also recorded in the DKCMS database.

7.3 Digitalization of judicial archives

In 2019, we also continued the implementation of the module for the digitisation of archives in the judicial institutions in BiH. To improve and simplify indexing of the scanned material, functionalities of the Module have been improved that facilitated the option of search and use of digitised contents saved in the *Alfresco* Platform that is used as a free tool to manage the CMS. After the pilot project was successfully completed in 2018 in the Visoko Municipal Court, its implementation ended in the East Sarajevo District PO, East Sarajevo District Commercial Court and Kakanj Municipal Court.

Special and general standards for digitisation of archival material were established in courts and prosecutor's offices that will be applied in all institutions in the future. The dynamic of establishing digital archives in the judicial institutions will largely depend on the planned procurement of equipment from the IPA 2017 budget. That is primarily procurement of scanners necessary for the implementation of this activity and servers to be used for saving all the digitised materials.

Image 25: Archive digitization module

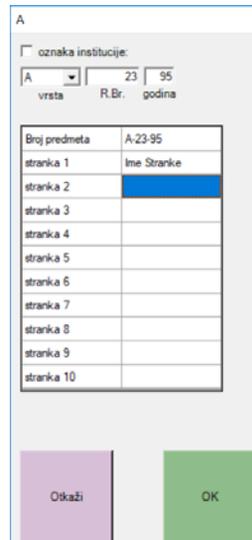
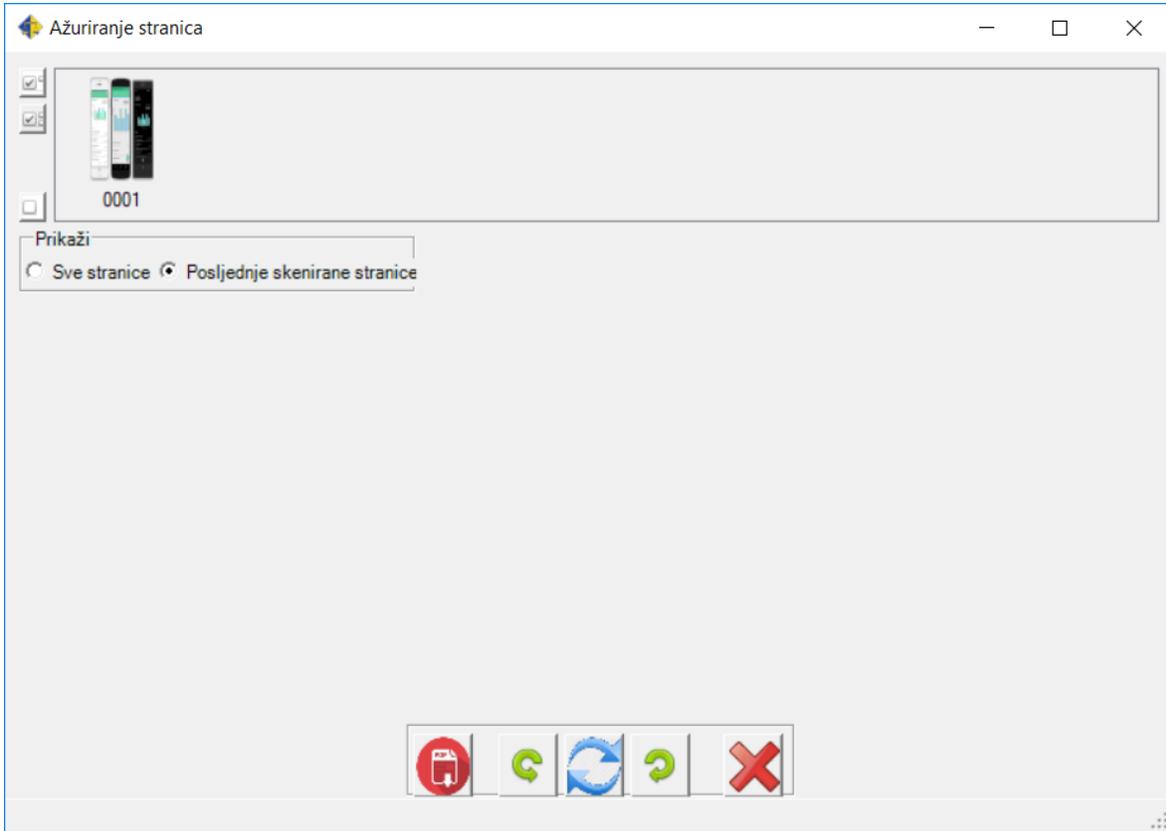
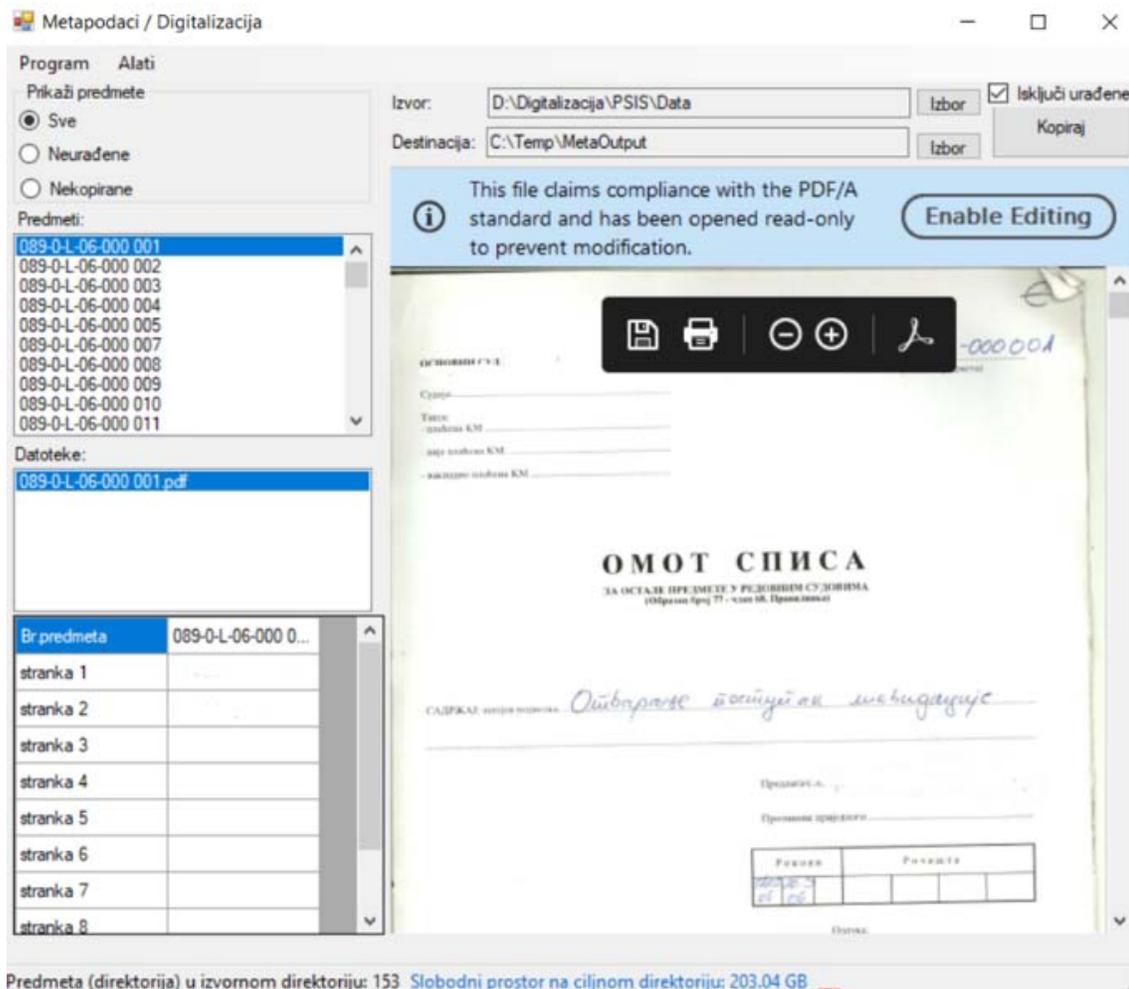


Image 26: Application for updating meta data



7.4 Activities of the Working Group for Strategic Planning and Development of the Case Management System in Courts and Prosecutor's Offices in BiH (CMS/TCMS)

In the meeting of the Working Group for Strategic Planning and Development of the Case Management System in Court and Prosecutor's Offices (hereinafter: the Working Group for CMS/TCMS), held in February 2019, there was a discussion on the activities of the Working Subgroup for drafting guidelines to implement checking of accuracy and timeliness of the data in the CMS / TCMS (hereinafter: the Working Subgroup) that prepared the Draft Guidelines to implement checking of accuracy and timeliness of the data in the CMS / TCMS, which is connected to a recommendation from the European Commission *Peer Review* to the HJPC, that suggests raising the quality of the data recorded in the CMS / TCMS.

In accordance with the aforementioned *Peer Review* recommendation, the Working Group for CMS / TCMS adopted the text of the Proposal of the Book of Rules on the CMS and the text of the Proposal for Amendments to the CMS Book of Rules, the Guidelines for implementation of checking of accuracy and timeliness of data entered into the CMS, the Guidelines for implementation of checking of accuracy and timeliness of data entered into the TCMS, the form of the report on the conducted checking of accuracy and timeliness of data entered into the TCMS, which the Subgroup proposed and forwarded the material to the HJPC for adoption.

At its session held on 27 and 28 March 2019, on the basis of the CMS / TCMS Working Group proposal, the HJPC 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. A new chapter XIIIa was

added to the aforesaid amendments to the Book of Rules. Checking of accuracy and timeliness of data entered into the CMS, meaning chapter XIIa. Checking of accuracy and timeliness of data entered into the TCMS. The amendments regulate the method of checking of accuracy and timeliness of data entered into the CMS /TCMS, define results of the checking and the procedure to take measures to remove established irregularities in the work and define the procedure to draft the report on the check performed. The chapter also regulates that the checking is to be done by the court president or the chief prosecutor at least twice a year by having insight into a certain number of randomly selected cases of judges and prosecutors in CMS/TCMS and insight into the report on the performance of a judge or prosecutor. The checking is done in accordance with the Guidelines for implementation of checking of accuracy and timeliness of entered data, which are a composite part of the Book of Rules.

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.: 34/19 of 23 April 2019.

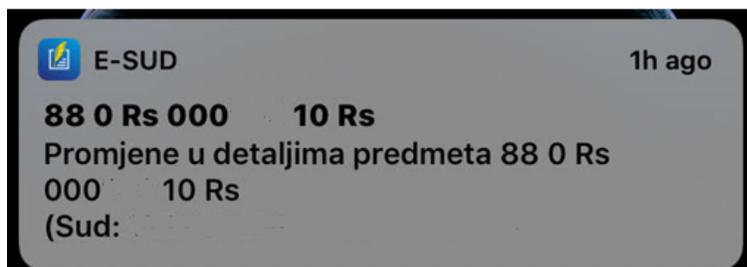
At meetings of the Working Group for CMS/TCMS, held in September 2019, there was a discussion, among other things, about the analysis to improve the CMS/TCMS and SIPO systems that was carried out by the IPA 2017 staff. The Working Group for CMS / TCMS acknowledged the presented plans and gave its support to the implementation of proposed amendments. Following the recommendation of the Auditing Office for BiH Institutions for 2018 for CMS / TCMS, the Working Group for CMS / TCMS adopted a conclusion tasking the HJPC ICT Department to conduct a detailed analysis of recording of criminal process expenses and submit the prepared analysis to the Working Group for CMS / TCMS for adoption and making of further implementation decisions. At the meeting, a proposal for amendment of Article 77 (Case Phases), paragraph 13 (Administrative Proceedings) and Article 117 (Module for Accessing Cases On line) paragraph 4 of the Book of Rules on CMS was adopted and these proposals were forwarded to the HJPC for adoption.

At its session held on 16 October 2019, on the basis of the CMS / TCMS Working Group proposal, the HJPC adopted the Book of Rules on Amendments to the CMS Book of Rules and the amendments were published in the *Official Gazette of Bosnia and Herzegovina* no.: 73/19 of 18 October 2019.

7.5 A modern approach to access to justice – mobile applications for access to court cases

To improve the system for access to court cases, an e-Court mobile application has been developed and tested, which enables parties access to court cases via the smartphones or tablets. Development of the mobile application for access to court cases continued in 2019. The development primarily focused on upgrading graphical interface and optimising meaning accelerating the work of existing functionalities of the mobile application for access to court cases. The said upgrades were done at the request and proposal of users. Besides that, a *push notifications* functionality has been introduced, which notifies users on information change that occurred in the case and enables them to see the details in the case where the change occurred. For that reason, users do not need to periodically check for changes in the cases, but they receive notifications on changes on their smartphones.

Image 27: New notification



The new version of the mobile application for access to court cases was introduced on 25 April for the iOS operational system users (iPhone) and on 22 May 2019 for the Android users. To promote the new version of the mobile application for access to court cases, promotional advertisements were published in newspapers and promotion was done on social media. In addition, a promotional video clip was recorded for the mobile application for access to court cases that can be found at: <https://youtu.be/1hNdglJJzs8>

Image 28: Promotional poster of the mobile application for access to court cases



The appropriate statistical data reflect that the users have accepted the application: in 2019, the total number of requests for the database was 513,982, meaning 1,408 per day, while the total number of reviewed documents was 77,502, meaning 212 per day. The total number of inquiries about changes in cases was 5,199,627, while the total number of cases registered for notifications to be sent was 5,123. The number of notifications sent in 2019 was 47,748.

7.6 Continued development of the Reporting and Decision Support system

The Reporting and Decision Support System (SIPO) is a combination of theory, process, architectures and technologies that transforms raw data which the judiciary produces every day into practical information that are key for decisions to be made on the basis of facts and effective management of courts and prosecutors' offices. The statistical reports that combine data from various application systems used in the BiH judiciary (CMS/TCMS, HRMIS and SOKOP/Mal) can be made in a simple way with this system.

In 2019, the SIPO system was further improved with development of new reports and introduction of single terminology for titles and markings. In addition, the principles of report drafting were harmonised, meaning the initiation and drafting of reports per established matrix after the drafting parameters were set. At the request of users, certain supplements were done in the SIPO about information on report drafting and supplements to the contents of the existing reports. Based on the indicated needs of the judiciary and request of the Working Body for Drafting Instructions for compilation of statistical reports on the performance of the prosecutor's offices, new reports were drafted and thus, at the end of 2019, a total of 53 reports were in the SIPO. Based on the aforesaid supplements to the SIPO reports, the HJPC BiH adopted the Instructions for Compilation of Statistical Reports on the performance of the prosecutor's

offices in Bosnia and Herzegovina by using the Reporting and Decision Support System (SIPO). In implementing this activity, future needs of the judicial institutions were taken into account, thus establishing the preconditions for further improvement of the SIPO system.

Image 29: Different types of reports available to the users



7.7 Support for human resource management in the judiciary and the appointments of judicial office holders – Human Resource Management Information System in BiH judiciary (HRMIS)

The 2019 saw successful implementation of the module for the personal data recording (MELP) as it was implemented in the Municipal Court in Zepce and all infrastructure preconditions were met to continue implementation in 2020 in new institutions.

By the end of 2019, development of the Module for asset declarations was completed as the result of an activity on the project “Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH” (ICEA), which had started in March 2017. The Module should provide application support to the activities that will lead to improving integrity and accountability of judicial office holders, which is in connection with the European Commission *Peer Review* recommendations to the HJPC.

The Module for On-line Application (MOA) has been installed in the production environment. This application system has been developed to improve collaboration between the candidates for the position of judicial office holders and the HJPC Appointments Department that conducts competition procedures. It is expected that in the first half of 2020, first applications will be entered through this application system.

Improving the Module for Finances and Accounting has continued, as it is used to manage public procurement process, official trips and to monitor the financial flows within the HJPC.

The Module for Appointments and Module for On-line Candidate Testing were used for entrance exams of 144 candidates for vacant positions in 2019, while detailed statistical data are shown in the following table:

Table 25: Statistical data for entrance exams carried out in 2019

| | |
|--|-----------|
| The total number of candidates tested | 144 |
| for prosecutorial posts | 20 |
| for judicial posts | 124 |
| Total number of candidates passing the examination | |
| Judges: | 94 |
| Judges entrance exam | 54 |
| Judges written exam | 40 |
| Prosecutors | 14 |
| Prosecutors entrance exam | 8 |
| Prosecutors written exam | 6 |
| Total number of candidates passing the examination (percentage) | 75% |
| The average time to complete the entrance test in minutes | 73 |
| The highest score reached | 96 |
| The lowest score reached | 39 |
| The number of appointed judicial office holders database on the tests conducted in 2019 | 34 |

Table 26: Number of entrance exams per competition

| Competition | Date of competition announcement | Number of tests |
|--------------|----------------------------------|-----------------|
| 924 | 16. 7. 2018. | 1 |
| 964 | 24. 9. 2018. | 12 |
| 944 | 16. 8. 2018. | 4 |
| 1064 | 13. 6. 2019. | 1 |
| Total | | 18 |

7.8 Ensuring long-term sustainability and security of the judicial information system

In 2019, on the basis of judicial institutions' needs, a detailed technical documentation was compiled for procurement of software and hardware within the activity "Strengthening the Infrastructure of the Judicial Information System" on the IPA 2017 Project and submitted, within deadline, to the EU Delegation that will carry out the procurement process.

Bearing in mind the trend of availability of donors' funds for procurement of licences being reduced and the failure to secure funds for procurement of licences that judicial institutions on lower administrative levels use from the budget of Bosnia and Herzegovina, through the HJPC Budget Framework Paper, an initiative to provide the lacking licences for the users of the judicial information system has commenced on the basis of a contract between renowned technology companies and the authorities on all levels in Bosnia and Herzegovina.

When it comes to *Microsoft* licences, by appointing a civil servant to contact the Ministry of Communications and Transport of Bosnia and Herzegovina and on the basis of that institution's procedure, the HJPC started the programme to provide the given centres and HJPC staff with the *Microsoft* licences. The licences are provided to the Court of Bosnia and

Herzegovina and the Prosecutor's Office of Bosnia and Herzegovina in the same manner. The entity judicial institutions have been referred to the contracts that are implemented between competent organisational units of the general secretariats of the Government of the Federation of Bosnia and Herzegovina and the Government of Republika Srpska. Lower level institutions have been referred to the budgets of executive authorities.

The existing licences have been upgraded, while the new ones for the *Oracle* database have been procured, as well as licences for virtualisation and licences for software solutions to manage backup copies in virtual environment which facilitate maximum utilisation of the hardware in the HJPC's data centres.

The risk assessment of the judicial information system has been carried out which resulted in recommendations that indicate the need to take a strategic approach in the domain of maintenance, development and management of the system, which cannot be established without a number of regulatory interventions and continued provision of the necessary resources for maintenance and development of the system.

ANNEX 1: RECOMMENDATIONS

Appointments and performance evaluation

– Through supervision and cooperation with courts and prosecutor's offices, the HJPC will ensure their uniform practices through performance evaluation of judicial office holders for 2019. The HJPC will make an analysis of the application of the new criteria and will consider the need for their further improvements.

Judicial efficiency and performance quality

Recommendations for increasing the efficiency and performance quality of courts:

– Insist on the reform of the enforcement procedure, especially the enforcement phase, in the direction of introducing private enforcement officers in the enforcement procedure in Bosnia and Herzegovina, in line with good comparative practice and the recommendations of the European Commission.

– Introduce the SOKOP-Mal system in all courts in Bosnia and Herzegovina, and continue to expand the user network of judgement debtors / plaintiffs in the enforcement / civil procedure.

– Ensure budget for the continued improvement of archiving in courts and create conditions for digitisation of court archives.

– It is necessary, in coordination with the competent ministries in BiH, to develop a strategic framework for alternative dispute resolution in BiH.

– It is necessary to use all the potentials of alternative ways of resolving disputes, through the synchronised work of the judiciary, chambers of commerce, the Association of Mediators in BiH, and the professional community, in order to bring business entities in BiH the benefits of all available alternative methods of dispute resolution.

– Insist on the professional training of bankruptcy judges on economic aspects of bankruptcy, with the aim of shortening the duration of the procedure and increasing the debt recovery for creditors.

– It is necessary for the HJPC BiH to establish stronger and continuous cooperation with the ministries of justice and court administrations with the aim of improving the work processes in the courts, and the internal organisation of courts, which would encompass, inter alia,

- improving human resources management
- consideration of necessary legislative amendments related to the work of non-judicial staff and their training;
- considering the possibility of introducing a new category of staff in the courts;
- Strengthen and uniform the role of court trainees- volunteers;
- impact on staffing of potential judicial office holders;
- enabling greater commitment to the performance quality by delegating tasks and strengthening the sense of responsibility for their realisation.

– Use the findings of the Expert Report on Rule of Law issues in Bosnia and Herzegovina when it comes to resolving administrative disputes with recommendations for improving their resolution, and launch an initiative to adopt new relevant laws at all levels of government that regulate the processing of administrative disputes.

– It is necessary to improve regional cooperation in the field of war crimes processing, as well as cooperation between prosecutors' offices and law enforcement agencies, and to adopt a Revised War Crimes Strategy, in order to set new deadlines for completing all war crimes cases by 2023.

– It is necessary for courts, prosecutors' offices and law enforcement agencies to improve operational efficiency, and for the HJPC BiH to strengthen accountability and application of the

highest ethical standards of the judicial office holders, in order to prosecute corruption cases more efficiently and to a greater extent, with the aim of strengthening the rule of law and increasing citizens' confidence in the BiH justice system.

- It is necessary for courts to strengthen procedural discipline in order to strengthen the integrity of judges and the efficiency of court proceedings by developing adequate instruments such as guidelines for management of civil litigation proceedings, establishing cooperation between courts of first and second instance, drafting preliminary hearing plans, complaint review check list, etc.
- Revise the concept and use of strategic planning as a multidisciplinary segment of quality management of work processes, human and financial resources, aimed at improving the performance of courts.
- Improve the management of courts in terms of vertical and horizontal coordination in the courts as an important part of the organisation of court operations, and strengthen communication and teamwork in court departments.
- Insist on finding financial resources to improve working conditions in judicial institutions in BiH in order to provide better services to citizens. In this regard, it is necessary to continue activities on improving the infrastructure and equipment of judicial institutions, and to pay special attention to improving the energy efficiency of judicial institutions in order to reduce emissions, remove architectural barriers and improve security in judicial institutions.
- In order to increase the quality of justice, and to establish a continuous and organised transfer of knowledge and practical skills from experienced to newly appointed judges, it is proposed to introduce of the novel system of mentoring in the courts to enable more efficient and higher quality performance, especially in the field of work organisation, conducting the proceedings and techniques for drafting court decisions.
- In order to improve the quality of court decisions in civil litigation proceedings, it is necessary to develop appropriate guidelines and a manual for drafting court decisions in civil litigation proceedings, which would encompass the best solutions of legal theory and case law.

Recommendations concerning gender equality and vulnerable groups:

- It is necessary to develop a strategy for the improvement of gender equality in the BiH judiciary, based on which individual judicial institutions will adopt and implement their own action plans, which would include activities to raise awareness of judicial office holders about gender issues and specific needs of vulnerable groups in contact with the justice system.
- 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.

As for the training of judges and prosecutors:

- The HJPC, in cooperation with the professional community and the entity JPTCs, should introduce an adequate mentoring system and ensure a systematic way of transferring knowledge in the judicial institutions;
- The activities of the HJPC should be intensified in order to improve the initial training system for newly appointed judicial office holders;
- Measures defined to improve the continuous professional development of judges and prosecutors in Bosnia and Herzegovina should be implemented;
- All open issues in the training system should be considered within the Standing Committee for Training and the Judicial Documentation Centre in cooperation with the FBiH JPTC, the RS JPTC and the Judicial Commission of BDBiH.

AS for the improvement of transparency in the work of judicial institutions:

- Court decisions should be regularly publicised through the on-line database of court decisions of the HJPC Judicial Documentation Centre, in particular all final decisions in the field of organised crime, corruption and war crimes;
- To consistently implement the activities envisaged by the Agreement on Cooperation between the HJPC and the highest courts in Bosnia and Herzegovina regarding the strengthening of the case law department (IPA 2017);
- To regularly update the War Crimes Map. As for the case law harmonisation;

The HJPC should carry out activities that will contribute to better identification of topics for harmonisation of case law:

- The HJPC should take measures to improve the work of the case law harmonisation panels.
- It is necessary that all competent institutions coordinate the implementation of the recommendations from the *Peer Review* and the Expert Report on Rule of Law issues in Bosnia and Herzegovina.
- It is necessary to intensify the work of prosecutor's offices on high-level corruption cases.
- It is necessary to continue to actively use the established forms for cooperation between prosecutors and police at the strategic and operational level.
- It is necessary to continue identifying and collecting good practices in the work of prosecutor's offices and to enable the sharing of such practices.
- It is necessary to insist on expanding and improving the systematisation in prosecutor's offices in such a way as to envisage new categories of employees who would provide expert assistance to prosecutors, such as the position of economic advisor for more efficient resolution of corruption and economic crime.
- Continue to implement the Strategy for dealing with persons in contact with prosecutor's offices, especially in the part related to motivating citizens to participate in criminal proceedings.

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.

Digital Transformation of the Judiciary in BiH

- The HJPC is committed to providing the necessary preconditions for enabling the medium- and long-term sustainability and security of the Judicial Information System (JIS).
- Initiate development and adopt a mid-term strategy for the development of the JIS, which should be harmonised with the relevant strategic documents of the HJPC and the judiciary in BiH, for the implementation of which the necessary funds should be planned and provided.

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 2019 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. Data for 2019 are compared to the data for 2018. 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.⁴⁵

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

Flow of cases – per court instances

Pending cases in courts

The total number of pending cases in 2019 was down by 10,791 cases or 3.6%, showing continuation of a declining trend in the number of pending cases in the courts in 2019. Reduction in the number of pending 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 pending cases by 226 cases or by 71.7% and in the Court of Bosnia and Herzegovina, where there was an absolute increase in the number of pending cases by 3,570 cases or by 2.2%. The largest absolute reduction in the number of pending cases was observed in municipal courts (7,367 cases or by 12.2%).

Table 27: Pending cases in courts

| COURTS | Number of pending cases | | Change in the number of pending cases | Change in the number of pending cases in percentages |
|---|-------------------------|-------------|---------------------------------------|--|
| | 1 Jan 2019 | 31 Dec 2019 | | |
| | I | II | | |
| The Court of Bosnia and Herzegovina | 2.654 | 2.502 | -152 | -5,7% |
| Supreme Court of the Federation of BiH | 6.302 | 5.483 | -819 | -13,0% |
| Supreme Court of the Republika Srpska | 2.132 | 1.810 | -322 | -15,1% |
| Appellate Court of the Brcko District BiH | 133 | 55 | -78 | -58,6% |
| Banja Luka High Commercial Court | 315 | 541 | 226 | 71,7% |
| Cantonal Courts | 48.356 | 44.712 | -3.644 | -7,5% |
| District Courts | 5.271 | 5.104 | -167 | -3,2% |

⁴⁵ Also, the data in this section of the report do not include data on the following cases: court administration, registration of business entities, preparation phases in cases of administrative disputes, execution of minor offence sanctions, lifting sanctions and security measures in various criminal cases, deprivation of liberty in minor offence cases, as well as data on minor offence cases to replace unpaid fines with imprisonment.

| | | | | |
|---------------------------------------|----------------|----------------|----------------|--------------|
| District Commercial Courts | 6.237 | 4.503 | -1.734 | -27,8% |
| Municipal Courts | 163.112 | 166.682 | 3.570 | 2,2% |
| Basic Courts | 60.179 | 52.812 | -7.367 | -12,2% |
| Basic Court of the Brcko District BiH | 4.190 | 3.886 | -304 | -7,3% |
| TOTAL | 298.881 | 288.090 | -10.791 | -3,6% |

Influx of cases

Compared to 2018, the total influx in 2019 was slightly reduced by 4,817 cases or by 1.3%. An increase in the influx by 14,879 cases or 7.8% was recorded in municipal courts, the Supreme Court of the Federation of BiH by 425 cases or 8.8%, as well as the Higher Commercial Court in Banja Luka by 72 cases or 5.5%. In other court instances, the influx of cases decreased by 2% to 27%. The largest absolute reduction in the influx of cases was observed in the cantonal courts by 3,991 or by 10.9%, and in the basic courts by 3,615 cases or by 3,9%.

Table 28: Influx

| COURTS | Number of received cases | | Change in the number of received cases | Change in number of received cases in percentages |
|---|--------------------------|----------------|--|---|
| | 2018 ⁴⁶ | 2019 | | |
| | I | II | III = II - I | IV = II / I |
| The Court of Bosnia and Herzegovina | 7.104 | 5.732 | -1.372 | -19,3% |
| Supreme Court of the Federation of BiH | 4.807 | 5.232 | 425 | 8,8% |
| Supreme Court of the Republika Srpska | 2.343 | 2.297 | -46 | -2,0% |
| Appellate Court of the Brcko District BiH | 1.125 | 824 | -301 | -26,8% |
| Banja Luka High Commercial Court | 1.318 | 1.390 | 72 | 5,5% |
| Cantonal Courts | 36.678 | 32.687 | -3.991 | -10,9% |
| District Courts | 16.092 | 15.544 | -548 | -3,4% |
| District Commercial Courts | 7.921 | 7.454 | -467 | -5,9% |
| Municipal Courts | 190.674 | 205.553 | 14.879 | 7,8% |
| Basic Courts | 92.380 | 88.765 | -3.615 | -3,9% |
| Basic Court of the Brcko District BiH | 6.221 | 6.002 | -219 | -3,5% |
| TOTAL | 366.663 | 371.480 | 4.817 | 1,3% |

⁴⁶ In accordance with the conclusion reached at the session of the HJPC BiH held on 4 - 5 March 2020, minor offence cases for replacing unpaid fines with imprisonment shall be omitted in the statistical part of the HJPC BiH Annual Report, starting with the 2019 Annual Report. Considering that the Annual Report compares current statistics with the previous year, the data for 2018 in this Annual Report have been corrected for this type of case.

Change in the number of pending cases and influx

By comparing the change in the number of pending cases (Table 1) and changes in the influx of cases (Table 2), it can be determined whether the change in the number of pending cases is caused by a change of influx or activities in the courts⁴⁷. This comparison leads to the following conclusions:

- An exceptionally positive trend (reducing the number of pending cases, despite the increased influx) was observed in the Supreme Court of the Federation of BiH, cantonal and basic courts.
- A positive trend (reduction in the number of pending cases is significantly greater than the influx reduction) 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 Basic.
- A negative trend (increase in the number of pending cases, but this increase is significantly lower than the influx increase) was observed in the municipal courts.
- An exceptionally negative trend (the increase in the number of pending cases is significantly higher than the influx increase) was observed at the Higher Commercial Court in Banja Luka.
- The change in the number of pending cases proportional to the change in influx of cases (reduction in the number of pending cases is proportional to the influx reduction) was observed in the Court of BiH, cantonal and district courts.

Disposed cases in courts

Compared to 2018 total number of disposed cases in 2019 was slightly lower, i.e. the courts disposed 6,905 cases less or less by 1.8%. A decrease in the number of disposed cases was observed at all court instances, except in the Supreme Court of Republika Srpska, where an increase in the number of disposed cases by 138 or 5.6% was observed.

A significant percentage decrease in the number of disposed cases was observed in the Court of Bosnia and Herzegovina, where the number of disposed cases in 2019 compared to 2018 decreased by 1,068 cases or 15.4%, as well as in the Appellate Court of Brčko District BiH, where the number of disposed cases decrease by 295 cases or 24.6%. A decrease in the number of disposed cases (0.7% - 6.9%) was observed in basic courts, municipal courts, district courts, cantonal courts, the Supreme Court of the Federation of BiH, district commercial courts, the Higher Commercial Court in Banja Luka and the Basic Court in Brcko District BiH.

⁴⁷ Change in the number of pending cases can be caused by the influx change or by change in the number of disposed cases in courts or by combination of these two factors. For example, increasing the influx of cases by 10% can cause an increase in the number of pending cases by 10%, which could suggest that the increase in the number of pending cases was caused by the increased influx.

If the courts make an extra effort to dispose a part of the increased case influx, the increase in the number of pending cases will then be smaller than the influx increase. For example, the influx of cases can be increased by 10% and the number of pending cases by 5%, which could be defined as a positive trend. Contrary to the above, an increase in the number of pending cases may be greater than the influx increase. For example, the influx of cases can be increased by 10% and the number of pending cases by 15%, which could be defined as a negative trend.

Table 29: Number of disposed cases in courts

| COURTS | Number of disposed cases | | Change in the number of disposed cases | Change in the number of disposed cases in percentages |
|---|--------------------------|----------------|--|---|
| | 2018 | 2019 | | |
| | I | II | III = II - I | IV = II / I |
| The Court of Bosnia and Herzegovina | 6.952 | 5.884 | -1.068 | -15,4% |
| Supreme Court of the Federation of BiH | 6.272 | 6.051 | -221 | -3,5% |
| Supreme Court of the Republika Srpska | 2.481 | 2.619 | 138 | 5,6% |
| Appellate Court of the Brcko District BiH | 1.197 | 902 | -295 | -24,6% |
| Banja Luka High Commercial Court | 1.218 | 1.164 | -54 | -4,4% |
| Cantonal Courts | 37.449 | 36.331 | -1.118 | -3,0% |
| District Courts | 16.069 | 15.711 | -358 | -2,2% |
| District Commercial Courts | 9.591 | 9.188 | -403 | -4,2% |
| Municipal Courts | 204.393 | 201.983 | -2.410 | -1,2% |
| Basic Courts | 96.781 | 96.132 | -649 | -0,7% |
| Basic Court of the Brcko District BiH | 6.773 | 6.306 | -467 | -6,9% |
| TOTAL | 389.176 | 382.271 | -6.905 | -1,8% |

Flow of cases – by case type

Pending cases by type

The number of pending cases of all case types decreased, except for the minor offence cases, where there was a significant increase in the number of pending cases by 6,885 cases or 25.8%, and the administrative cases, where the number of pending cases at the end of 2019 increased by 249 cases or 1.7% compared to the beginning of 2019. A decrease in the number of pending cases was observed in the following: Civil cases (9,1%), enforcement cases (8,6%), commercial cases (6,1%), criminal cases (5,8%) i non-litigation case (2,2%).

Table 30: Pending cases in courts - by case type

| CASE TYPE | Number of pending cases | | Change in the number of pending cases | Change in number of pending cases in percentages cases |
|---------------------|-------------------------|-------------|---------------------------------------|--|
| | 1 Jan 2019 | 31 Dec 2019 | | |
| | I | II | III = II - I | IV = II / I |
| Civil cases | 97.450 | 88.617 | -8.833 | -9,1% |
| Enforcement cases | 64.082 | 58.565 | -5.517 | -8,6% |
| Criminal cases | 19.718 | 18.569 | -1.149 | -5,8% |
| Minor offence cases | 26.721 | 33.606 | 6.885 | 25,8% |
| Commercial cases | 18.920 | 17.757 | -1.163 | -6,1% |

| | | | | |
|----------------------|----------------|----------------|----------------|--------------|
| Administrative cases | 14.519 | 14.768 | 249 | 1,7% |
| Non-litigation cases | 57.471 | 56.208 | -1.263 | -2,2% |
| TOTAL | 298.881 | 288.090 | -10.791 | -3,6% |

Influx by case type

During 2019, there was a slight increase in the influx of 1.3%. The largest influx increase was observed in minor offence cases. Specifically, 6,963 minor offence cases were received in 2019 or 14% more compared to 2018. Also, the influx of the enforcement cases increased by 1,832 or 2.7%, as well the civil cases by 1,002 or 1.3%. In other types of cases, compared to 2018, there was a reduced influx of cases from 0.5% to 3.4%. The largest decrease in influx, in absolute and percentage terms, was observed in criminal cases by 2,305 or 3.4% and non-litigation cases by 2,276 or 3.1%. The influx of commercial cases decreased by 2%, as well as administrative cases by 0.5%.

Table 31: Case influx in courts – by case type

| CASE TYPE | Number of received cases | | Change in the number of received cases | Change in the number of received cases in percentages |
|----------------------|--------------------------|----------------|--|---|
| | 2018 | 2019 | | |
| | II | II | III = II - I | IV = II / I |
| Civil cases | 79.807 | 80.809 | 1.002 | 1,3% |
| Enforcement cases | 68.125 | 69.957 | 1.832 | 2,7% |
| Criminal cases | 67.436 | 65.131 | -2.305 | -3,4% |
| Minor offence cases | 49.740 | 56.703 | 6.963 | 14,0% |
| Commercial cases | 16.736 | 16.402 | -334 | -2,0% |
| Administrative cases | 12.474 | 12.409 | -65 | -0,5% |
| Non-litigation cases | 72.345 | 70.069 | -2.276 | -3,1% |
| TOTAL | 366.663 | 371.480 | 4.817 | 1,3% |

The analysis of the influx of minor offence cases led to the conclusion that the largest increase in the number of minor offence cases was in municipal courts, particularly in the Central Bosnia Canton. The statements of the municipal courts in this area state that the increased influx of minor offence cases was due to the fact that the competent authorities (i.e. police stations under the competent Cantonal Ministry of Interior) issued a significantly higher number of traffic penalty charge notices, because the number of installed road safety cameras increased in the area under jurisdiction of the mentioned courts.

Disposed cases by type

Compared to 2018, the courts resolved fewer cases of all types but minor offence and non-litigation in 2019. In 2019, the number of disposed non-litigation cases increased by 2,788 or 4.1%. Also, the number of disposed minor offence cases increased by 1,245 or 2.6%. The largest drop in the number of disposed cases was observed in the civil cases by 3,856 cases or 4.1% and in the enforcement cases by 3,490 or 4.4%. The number of disposed criminal cases decreased by 2,347 or 3.4%, as well as commercial cases by 946 or 5.1% and administrative cases by 299 or 2.4%.

Table 32: The number of disposed cases – by case type

| CASE TYPE | Number of disposed cases | | Change in the number of disposed cases | Change in the number of disposed cases in percentages |
|----------------------|--------------------------|----------------|--|---|
| | 2018 | 2019 | | |
| | II | II | III = II - I | IV = II / I |
| Civil cases | 93.498 | 89.642 | -3.856 | -4,1% |
| Enforcement cases | 78.964 | 75.474 | -3.490 | -4,4% |
| Criminal cases | 68.627 | 66.280 | -2.347 | -3,4% |
| Minor offence cases | 48.573 | 49.818 | 1.245 | 2,6% |
| Commercial cases | 18.511 | 17.565 | -946 | -5,1% |
| Administrative cases | 12.459 | 12.160 | -299 | -2,4% |
| Non-litigation cases | 68.544 | 71.332 | 2.788 | 4,1% |
| TOTAL | 389.176 | 382.271 | -6.905 | -1,8% |

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 7 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.

The average quality of judicial decisions in all regular courts in BiH in 2019 was 88%, while in 2018 it was 90%. The average achieved collective quota in 2019 was 112%, while in 2018 it was 113%.

Table 33: Performance quality and quantity

| Court | Performance quality | Performance quantity - average collective quota achieved |
|---|---------------------|--|
| The Court of Bosnia and Herzegovina | 95% | 142% |
| Supreme Court of the Federation of BiH | - | 126% |
| Supreme Court of the Republika Srpska | - | 128% |
| Appellate Court of the Brcko District BiH | - | 138% |
| Banja Luka High Commercial Court | 88% | 90% |
| Cantonal Courts | 90% | 104% |
| District Courts | 89% | 105% |
| District Commercial Courts | 87% | 143% |
| Municipal Courts | 89% | 110% |
| Basic Courts | 84% | 106% |

| | | |
|--|-----|------|
| Basic Court of the Brcko District BiH | 86% | 138% |
|--|-----|------|

Statute of limitations

In 2019, the Courts registered in the CMS that 175 cases fell under the statute of limitations for criminal prosecution, while 61 cases fell under the statute of limitations for enforcement of criminal sanctions. Compared to 2018, the total number of cases that fell under the statute of limitations for criminal prosecution, (after the indictment) and for the enforcement of criminal sanctions was down by 105 cases, due to 236 cases falling under the statute of limitations and being registered as completed by the courts in 2019, compared to 341 such cases in 2018.

As in the past, the courts often registered the cases as completed because of the statute of limitations due to the accused being unavailable (131 cases or 56%), 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 (15 cases, 6%).

In 2019, the courts registered 116 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 41 cases or 55% more than in 2018. The relative statute of limitations was established in 63 minor offence cases, of which in 40 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 53 minor offence cases, of which 33 or 62% came after having fallen under the statute of limitations to initiate and conduct the minor offence proceedings.

Court decisions whereby criminal and minor offence proceedings were discontinued 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 disposing of the cases in such a manner.

Table 34: Statute of limitations

| Department | Case type | Relative statute of limitations | Absolute statute of limitations | Total |
|---------------------------|-----------|---------------------------------|---------------------------------|------------|
| Criminal | Iks | 2 | 59 | 61 |
| | K | 2 | 72 | 74 |
| | Kpp | 0 | 2 | 2 |
| | Kps | 1 | 52 | 53 |
| | Kv | 1 | 33 | 34 |
| | Kž | 1 | 8 | 9 |
| | Kžk | 0 | 1 | 1 |
| | Kžž | 0 | 2 | 2 |
| Total criminal cases | | 7 | 229 | 236 |
| Minor offence cases | Pr | 61 | 26 | 87 |
| | Prm | 1 | 1 | 2 |
| | Pžp | 1 | 22 | 23 |
| | Pžpr | 0 | 4 | 4 |
| Total minor offence cases | | 63 | 53 | 116 |
| TOTAL | | 70 | 282 | 352 |

ANNEX 3: REPORT ON THE PROSECUTOR'S OFFICES PERFORMANCE

Analysis of the prosecutor's offices performance

This chapter looks at the work of prosecutor's offices in 2019, through the aggregate reports on the work of the prosecutor's offices on the: criminal reports, investigations, filed indictments and judgements in Kt cases⁴⁸, 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 2019, prosecutor's offices had 30,882 criminal reports (per case) filed against 49,458 persons. Compared to 2018, the influx of criminal reports increased slightly by 0.33%. However, given that the number of unprocessed criminal reports at the beginning of 2019 was lower by 733 or 7.52% compared to the beginning of 2018, the total number of criminal reports per cases decreased by 661 or 2%, i.e. 2,215 or 4% less persons were reported. Compared to 2018, total number of processed criminal reports per case in 2019 dropped by 1,285 or 6% , i.e. 2,567 or 8% fewer criminal reports against persons were processed. However, less criminal reports were processed than received in 2019, resulting at the year end in increase in the number of unprocessed criminal reports per case by 596 or by 7%, and per person by 213 or 1%.

Out of the total number of criminal reports, observed by case, 69% of them were processed (which 2% less compared to 2017) or 31% remained unprocessed.

During 2019, a total of 21,227 criminal reports were processed in cases against 29,977 persons. From the breakdown of the processed criminal reports, which is shown in the table below, it is evident that the majority of the criminal reports resulted in order to investigate, that is 72% cases or 65% persons. A significant number of criminal reports resulted in order not to investigate, that is 24% cases or 28% persons.

Table 35: Flow of reports and breakdown of processed reports

| Prosecutor's Offices | Total number of reports in 2019 | | Processed reports in 2019 | | | | | | Unprocessed report as of 31 Dec 2019 | |
|----------------------|---------------------------------|---------|---------------------------------------|---------|-----------------------------------|---------|-----------------------|---------|--------------------------------------|---------|
| | | | 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 | 1.449 | 6.893 | 203 | 578 | 305 | 773 | 73 | 372 | 863 | 5.156 |
| | | | 35% | 33% | 52% | 45% | 13% | 22% | | |
| FBiH | 18.913 | 28.691 | 3.604 | 5.910 | 9.179 | 11.864 | 562 | 1.027 | 5.535 | 9.837 |
| | | | 27% | 32% | 69% | 63% | 4% | 5% | | |
| RS | 10.173 | 13.395 | 1.302 | 2.001 | 5.395 | 6.504 | 257 | 469 | 3.211 | 4.412 |
| | | | 19% | 22% | 77% | 73% | 4% | 5% | | |
| Brcko District BiH | 347 | 479 | 1 | 1 | 337 | 445 | 9 | 33 | 0 | 0 |
| | | | 0% | 0% | 97% | 93% | 3% | 7% | | |

⁴⁸ KT cases are the cases which the prosecutor's offices initiated against certain persons upon grounds for suspicion of them having perpetrated a criminal offence. The "KT" designation for the purposes of this report includes all types of cases against identified perpetrators: KT, KTRZ, KTK, KTPO, KTO, KTT, etc.

| | | | | | | | | | | |
|-------|--------|--------|-------|-------|--------|--------|-----|-------|-------|--------|
| TOTAL | 30.882 | 49.458 | 5.110 | 8.490 | 15.216 | 19.586 | 901 | 1.901 | 9.609 | 19.405 |
| | | | 24% | 28% | 72% | 65% | 4% | 7% | | |

Investigations

There were 19,013 cases i.e. 27,197 persons under investigation in 2018 in the prosecutor's offices. Compared to 2018, there were fewer orders to investigate, and the total number of investigations per case dropped by 863 or 4%, that is, per person by 1,242 or 4%. Compared to 2018, the total number of completed investigations in 2019 dropped by 651 cases investigated or by 4%, that is by 891 persons investigated or by 4%. However, there were 253 or 2% more investigations completed than ordered in 2019. Consequently, there was a slight decrease of 7% in the number of uncompleted investigations at the year end.

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 2019, a total of 15,469 investigations were completed in cases against 20,026 persons.

From the breakdown of the resolved investigations, which is shown in the table below, it is evident that most of the investigations resulted in indictment, i.e. in 74% of the cases or against 68% of the persons investigated. Significant number of investigations resulted in order to discontinue investigation, i.e. 24% of investigated cases or 26% of investigated persons.

Table 36: Flow of investigations and breakdown of completed investigations

| Prosecutor's Offices | Total number of investigations in 2019 | | Completed investigations in 2019 | | | | | | Uncompleted investigations as of 31 Dec 2019 | |
|----------------------|--|---------|---------------------------------------|---------|-------------------------|---------|-----------------------|---------|--|---------|
| | | | by order to discontinue investigation | | resulting in indictment | | other available means | | | |
| | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| BiH | 727 | 2.788 | 138 | 423 | 172 | 328 | 28 | 153 | 389 | 1.879 |
| | | | 41% | 47% | 51% | 36% | 8% | 17% | | |
| FBiH | 10.953 | 15.115 | 1.503 | 2.278 | 7.563 | 8.911 | 175 | 725 | 1.712 | 3.199 |
| | | | 16% | 19% | 82% | 75% | 2% | 6% | | |
| RS | 6.937 | 8.764 | 2.005 | 2.523 | 3.488 | 4.064 | 66 | 184 | 1.378 | 1.993 |
| | | | 36% | 37% | 63% | 60% | 1% | 3% | | |
| Brcko District BiH | 396 | 530 | 48 | 70 | 262 | 308 | 21 | 59 | 65 | 93 |
| | | | 15% | 16% | 79% | 70% | 6% | 14% | | |
| TOTAL | 19.013 | 27.197 | 3.694 | 5.294 | 11.485 | 13.611 | 290 | 1.121 | 3.544 | 7.164 |
| | | | 24% | 26% | 74% | 68% | 2% | 6% | | |

Indictments

During 2019, the prosecutor's offices filed 11,485 indictments against 13,611 persons. Compared to 2018, the total number of indictments reduced by 721 or 6%, meaning that in 2019 there has been 1,100 or 7% fewer persons indicted. A drop in the number of filed indictments was observed in cantonal and district prosecutor's offices and in the Brcko District Prosecutor's Office, while the number of filed indictments in the Prosecutor's Office of BiH remained the same as in the previous year.

Table 37: Indictments

| Prosecutor's Offices | Filed indictments in 2018 | | Filed indictments in 2019 | | Change in the number of filed indictments | | | |
|----------------------|---------------------------|---------------|---------------------------|---------------|---|------------|---------------|------------|
| | Cases | Persons | Cases | Persons | Cases | | Persons | |
| BiH | 171 | 336 | 172 | 328 | 1 | 1% | -8 | -2% |
| FBiH | 8.066 | 9.655 | 7.563 | 8.911 | -503 | -6% | -744 | -8% |
| RS | 3.655 | 4.332 | 3.488 | 4.064 | -167 | -5% | -268 | -6% |
| Brcko District BiH | 314 | 388 | 262 | 308 | -52 | -17% | -80 | -21% |
| UKUPNO | 12.206 | 14.711 | 11.485 | 13.611 | -721 | -6% | -1.100 | -7% |

Judgements⁴⁹

In 2019, 12,310 judgements were passed, which is 456 or 7% fewer judgements than in 2018. The number of convicting judgements in 2019 compared to 2018 was down by 445 or 4%. In 2019, the acquittals were up by 18 or 2%, while dismissing judgements were down by 29 or 15%.

Acting upon filed indictments, in 2019 the courts rendered 11,296 or 92% convicting judgements, finding 13,447 persons guilty. In 7%, or 835 cases, acquittals were passed for 1,188 persons. Dismissing judgements were rendered in 190 or 1% of cases. In 7%, or 853 cases, acquittals were passed for 1,174 persons. Dismissing judgements were rendered in 161 or 1% of cases.

Table 38: Judgements

| Prosecutor's Offices | Convictions | | Acquittals | | Dismissed judgements | | TOTAL | |
|----------------------|---------------|---------------|------------|--------------|----------------------|------------|---------------|---------------|
| | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| BiH | 161 | 298 | 16 | 59 | 0 | 1 | 177 | 358 |
| FBiH | 7.785 | 9.267 | 515 | 720 | 76 | 118 | 8.376 | 10.105 |
| RS | 3.112 | 3.611 | 311 | 383 | 85 | 110 | 3.508 | 4.104 |
| Brcko District | 238 | 271 | 11 | 12 | 0 | 1 | 249 | 284 |
| TOTAL | 11.296 | 13.447 | 853 | 1.174 | 161 | 230 | 12.310 | 14.851 |

Compared to 2018, the number of convictions was down by 445 or 4%. A drop in the number of convictions was observed in cantonal and district prosecutor's offices and in the Prosecutor's Office of Brcko District BiH, except in the Prosecutor's Office of BiH where the number of convicting judgements increased by 17 or 12%.

⁴⁹ Data on judgements includes all judgements regardless of whether they become final in the reporting period.

Table 39: Convictions

| Prosecutor's Offices | Convictions in 2018 | | Convictions in 2019 | | Change in the number of convictions | | | |
|----------------------|---------------------|---------------|---------------------|---------------|-------------------------------------|------------|-------------|------------|
| | Cases | Persons | Cases | Persons | Cases | | Persons | |
| BiH | 144 | 266 | 161 | 298 | 17 | 12% | 32 | 12% |
| FBiH | 7.977 | 9.747 | 7.785 | 9.267 | -192 | -2% | -480 | -5% |
| RS | 3.358 | 3.953 | 3.112 | 3.611 | -246 | -7% | -342 | -9% |
| Brcko District BiH | 262 | 299 | 238 | 271 | -24 | -9% | -28 | -9% |
| TOTAL | 11.741 | 14.265 | 11.296 | 13.447 | -445 | -4% | -818 | -6% |

In 2019, a suspended sentence handed down in 65% of convicting judgements, prison sentence in 21% of convicting judgements, while a fine was imposed in 14% of such judgements. Therefore, there was a 2% decrease in the number of convicting judgements with suspended sentence, while there was a 1% decrease in the number of convicting judgements with a sentence of imprisonment and in the convicting judgements with an imposed fine 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 | 70 | 152 | 2 | 11 | 89 | 133 |
| FBiH | 1.786 | 2.213 | 462 | 533 | 5.464 | 6.442 |
| RS | 471 | 578 | 1.020 | 1.176 | 1.614 | 1.850 |
| Brcko District BiH | 72 | 84 | 34 | 37 | 132 | 150 |
| TOTAL | 2.399 | 3.027 | 1.518 | 1.757 | 7.299 | 8.575 |

The analysis of suspended sentences resulted in conclusion that almost 80% of suspended sentences were imposed for the following criminal offences: possession, trafficking and enabling the use of narcotic drugs (17%), theft and robbery (12%), endangering public transport (11%), causing physical injuries (9%), domestic violence (8%), damage to other people's property (6%), forgery of documents (5%), security threats (4%), forest theft (3%), violent behaviour (3%), unauthorised possession, production and trafficking of weapons or explosive materials (2%), 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.

Pending cases⁵⁰

In 2019, the total number of the pending KT cases (pending reports and investigations) against the known persons who are suspected of committing criminal offence increased by 414 cases or 3%, and the number of suspects in pending cases dropped by 6 or 0%. An increase in the number of pending cases was observed at all instances of the Prosecutor's Offices, except in the Prosecutor's Office of BiH, where the number of pending cases dropped by 3% or 60 cases.

⁵⁰ In addition to the pending KT cases against the known perpetrators shown in Table 7, the Prosecutor's Offices as of 31 December 2019 had 248 pending KTM cases against 337 minors.

Table 41: Pending cases

| Prosecutor's Offices | Pending cases as of 31 Dec 2019 | | Change in the number of pending cases compared to 31 Dec 2018 | | | |
|----------------------|---------------------------------|---------------|---|-----------|-----------|-----------|
| | Cases | Persons | Cases | | Cases | |
| BiH | 1.252 | 7.035 | -60 | -5% | -256 | -4% |
| FBiH | 7.247 | 13.036 | 284 | 4% | 104 | 1% |
| RS | 4.589 | 6.405 | 183 | 4% | 137 | 2% |
| Brcko District | 65 | 93 | 7 | 12% | 9 | 11% |
| TOTAL | 13.153 | 26.569 | 414 | 3% | -6 | 0% |

The statute of limitations on criminal prosecution

In 2019, decisions on suspending proceedings were filed in 77 cases against 116 persons by the prosecutor's offices in the TCMS, due to falling under the statute of limitation for criminal prosecution before indictment. In 2018, prosecutor's offices made such decisions in 137 cases. This means that in 2019 the number of prosecutorial decisions on case completion due to falling under the statute of limitation was reduced by 60 cases or 44%. 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 40 cases or 52%) and also in the investigation stage (decision to discontinue investigation in 37 cases or 48%).

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 | 1 | 3 | 1 | 3 |
| FBiH | 0 | 0 | 29 | 48 | 29 | 48 |
| RS | 3 | 4 | 42 | 58 | 45 | 62 |
| Brcko District BiH | 1 | 1 | 1 | 2 | 2 | 3 |
| TOTAL | 4 | 5 | 73 | 111 | 77 | 116 |

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 2019 alleged those crimes. Just as in 2018, criminal offences listed in the Table include almost 80% of the total number of indictments filed in 2019.

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 | Description | Filed indictments in 2018 | | Filed indictments in 2019 | |
|---------------------------|--|---|---------------------------|---------|---------------------------|---------|
| | | | 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 | 94 | 106 | 85 | 116 |
| | CC BiH Chapter XVII | Criminal offences against humanity and values enshrined under international law | 68 | 109 | 55 | 93 |
| Criminal Code of the FBiH | CC FBiH Chapter XXV | Criminal offences against property | 2.144 | 2.623 | 1.958 | 2.368 |
| | CC FBiH Chapter XXI | Criminal offences against human health | 1.703 | 1.919 | 1.672 | 1.828 |
| | CC FBiH Chapter XXX | Criminal offences against public order and legal transaction | 903 | 1.156 | 806 | 1.034 |
| | CC FBiH Chapter XXVIII | Criminal offences against public traffic safety | 603 | 795 | 636 | 640 |
| | CC FBiH Chapter XVI | Criminal offences against life and limb | 757 | 762 | 619 | 747 |
| | CC FBiH Chapter XX | Criminal offences against marriage, family and youth | 617 | 644 | 612 | 628 |
| RS Criminal Code | REPUBLIKA SRPSKA CRIMINAL CODE Chapter XX | Criminal offences against property | 1.219 | 1.493 | 1.109 | 1.329 |
| | CC RS Chapter XII | Criminal offences against life and limb | 463 | 593 | 463 | 604 |
| | REPUBLIKA SRPSKA CRIMINAL CODE Chapter XVI | Criminal offences against marriage and family | 303 | 312 | 324 | 331 |
| | CC RS Chapter XXXI | Criminal offences against legal transaction | 290 | 313 | 216 | 234 |
| | CC RS Chapter XXVIII | Criminal offences against public law and order | 265 | 343 | 215 | 265 |
| | CC RS Chapter XIII | Criminal offences against freedoms and rights of citizens | 164 | 175 | 215 | 229 |

| | | | | | | |
|--|-------------------------|---|---------------|---------------|---------------|---------------|
| Criminal Code of BDBiH | CC BDBiH Chapter XXV | Criminal offences against property | 104 | 125 | 90 | 105 |
| | CC BDBiH Chapter XVI | Criminal offences against life and limb | 47 | 62 | 28 | 34 |
| | CC BDBiH Chapter XXXI | Criminal offences of corruption and criminal offences against official and other responsible duty | 15 | 29 | 26 | 29 |
| | CC BDBiH Chapter XX | Criminal offences against marriage, family and youth | 31 | 34 | 24 | 24 |
| | CC BDBiH Chapter XXVIII | Criminal offences against public traffic safety | 22 | 22 | 21 | 21 |
| TOTAL FOR THE ABOVE CHAPTERS OF CRIMINAL CODE | | | | | 9.174 | 10.659 |
| TOTAL FOR ALL CHAPTERS OF CRIMINAL CODES | | | 12.206 | 14.711 | 11.485 | 13.611 |

Performance quality and quantity

In 2019, prosecutors offices, on average, achieved their collective quotas at 102%, which is 8% lower than in 2018. In accordance with the criteria for performance evaluation of prosecutors and chief prosecutors⁵¹, 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 2019, the prosecutor's offices on average achieved the quality of indictments at 95%, which is a 1% decrease compared to 2018. The average result of prosecutor's offices as per the element quality of orders not to conduct and to discontinue investigations stood at 99.5%, which is an increase of 0.5% compared to 2018.

Table 44: Prosecutor's offices - performance quality and quantity

| Prosecutor's Offices | Performance quality | | Performance quantity - average collective quota achieved ⁵² |
|-------------------------------|---------------------|---|--|
| | Indictment quality | Quality of orders not to conduct and discontinue investigations | |
| Prosecutor's Office of BiH | 96% | 99% | 132% |
| Cantonal prosecutor's offices | 95% | 100% | 89% |
| District prosecutor's offices | 96% | 100% | 121% |

⁵¹ 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.

⁵² All or some of the prosecutors in some of the cantonal and district public prosecutor's offices and in the BDBiH Prosecutor's Office were not able to achieve an individual quota at 100% due to insufficient number of pending cases. Insufficient number of pending cases is the result of insufficient influx of cases.

| | | | |
|---|-----|------|------|
| Special Department of the RS PO | 93% | 99% | 115% |
| Prosecutor's Office of the Brcko District BiH | 95% | 100% | 80% |

