



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

### **2020 ANNUAL REPORT**

The Council prepares its annual reports in one of the official languages of Bosnia and Herzegovina, alternating the order as follows – Bosnian, Serbian and Croatian.



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## FOREWORD FROM THE HJPC PRESIDENT

Dear friends and colleagues,

Though I have only briefly been President, I am pleased to present the 2020 Annual Report of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC) containing information on the activities and performance of the HJPC and the BiH judiciary for the past year.

The year was marked by the coronavirus pandemic which affected the lives of many and also significantly changed the way judicial institutions and the HJPC operate. Unfortunately, faced with a threat that affects everyone, I regret to say that we lost a number of respected colleagues, while many judicial employees found out the hard way what it meant to be "COVID positive".

The performance of judicial institutions, in line with the decisions of the relevant crisis HQs, was to a large extent limited, especially at the very beginning of the pandemic when only urgent cases were processed, while a drop in the number of affected people and the relaxing of epidemiological measures allowed for hearings to be held while following safety measures that were put in place. Judicial institutions worked with reduced capacity which ultimately affected their efficiency, this visible from the statistical data available in the report. Numerous meetings were organised using an *on-line* platform, which to an extent facilitated work efforts and allowed for ongoing dialogue on issues of importance for the judiciary, however, at the same time this reduced the ability to have direct contacts and exchange opinions which are a major part of the decision-making process in a normal working environment.

Even with the pandemic, the HJPC has remained 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. The HJPC was equally dedicated in contributing to other areas of importance for the judiciary such as the European integration process, the independence of the judiciary, the appointment and evaluation of judicial office holders, the efficiency of courts and prosecutor's offices, the quality and integrity of judicial office holders, improving the processing of war crime cases as well as numerous other areas.

The rule of law represents one of the major challenges for Bosnia and Herzegovina on its path to EU membership while activities from chapters 23 - Judiciary and Fundamental Rights, and 24 - Justice, Freedom and Security, remain a focus of HJPC operations. In order to implement the recommendations from the *Expert Report on Rule of Law Issues in BiH*, also known as the *Priebe Report*, (findings presented in December 2019), in October 2020, the HJPC adopted the Report on the Implementation of European Commission Recommendations for the HJPC and the BiH Judiciary which also reflects on the activities and results achieved in key HJPC areas during the past period - more information available in the Report.

The HJPC contributed to the work of joint bodies of the European Union and Bosnia and Herzegovina such as the Stabilisation and Association Committee and the Sub-Committee for Justice, Freedom and Security, offering information on key areas of its operations and by participating in the preparation of documents for discussion based on which BiH institutions report to the European Commission on the fulfilment of BiH commitments to the European integration process.

The independence of the judiciary represents one of the fundamental principles for the rule of law with independence formally established with the division of powers among the three pillars of government. However, considering that no single branch of government can function separately, thus the judiciary by and large depends on the executive and legislative branches both with reference to the judicial funding process as well as through the establishment of a legislative framework that will allow for better performance by judicial institutions. To that end, the HJPC BiH has shown its commitment to reinforcing standards in all areas that were the focus of peer review missions (*Peer Review*), by implementing their recommendations and regulations within the framework of their competences. The need to amend the Law on the HJPC BiH was also emphasised with an initiative by the HJPC for the review of the Law on the HJPC, while the institution actively participated and contributed to the development of the Draft

Amendments to the Law on the HJPC which have yet to be adopted. Unfortunately, the decisions rendered by the HJPC within the framework of its competences, which focused on improving the integrity and accountability of judicial office holders, were contested before the courts, which prevented the HJPC from passing regulations to improve this segment of the judiciary, and so I again call on the executive and legislative branches to expedite their activities on improving the legislative framework in order to facilitate the necessary reforms for the judiciary.

As for the appointment of judicial office holders, peer review recommendations were implemented in 2020 which, among others, focused on improving written tests and entrance exams, differentiating between first-time appointments and promotions, as well as by prescribing separate rules on the election of court presidents and chief prosecutors. As a novelty to the current election process for judicial office holders, candidates for management level positions are required to present a work plan for the institution they apply to which will allow for the election of the best candidates and make it possible to monitor and follow the implementation of the work plan by the selected person.

As for the performance evaluation of judicial office holders to assess candidate competence within the appointment process, the HJPC passed a decision not to evaluate performances for 2020, seeing as judicial institutions encountered delays in their operations due to the coronavirus pandemic which resulted in fewer decisions rendered by the courts and prosecutor's offices. At the same time, the Court of Bosnia and Herzegovina judgement revoking the Book of Rules on the Performance Evaluation Procedure for Judicial Office Holders and the Criteria for the Performance Evaluation of Judges, prevented the HJPC from conducting the evaluation process based on criteria that were prepared in line with the recommendations from the Peer Review Mission on the Appraisal of Judges and Prosecutors, and therefore, in 2020, the HJPC passed a range of decisions concerning the re-examination of the said Court of BiH judgement, while at the same time continuing to work on new performance evaluation criteria that will be applied for 2021. More information on how to overcome this problem can be found in Chapter 3 of the Report.

The integrity and accountability of judicial office holders represents one of the strategic objectives of the overall reform of the judiciary, and is pointed out in numerous reports by international organisations, with the HJPC affirming its significance and accordingly focusing its activities on improving this area. And so, in July of 2020, the HJPC Secretariat was internally reorganised and a Judicial Integrity Department was established. The department will be in charge of the application of and compliance with the regulations on personal financial statements for judges and prosecutors, the codes of judicial and prosecutorial ethics and regulations on conflicts of interest, as well as implementing integrity plans in judicial institutions and the HJPC, and providing support to the HJPC disciplinary panels. The competences of the department with reference to processing the financial statements of judges and prosecutors will depend on HJPC competences i.e. the amendments to the Law on the HJPC with adoption expected later on. I remind you that the HJPC passed the Book of Rules on the Submission, Verification and Processing of Financial Statements for Judges and Prosecutors together with a Financial Statement Form which is in line with (*Peer Review*) recommendations, however the Personal Data Protection Agency in BiH revoked it, so the HJPC then decided that financial statements for 2019 should be sent to the HJPC using the old forms, while extending the deadline until the end of June 2020 due to the pandemic. We also emphasise that an electronic system for rendering and processing the financial statements of judges and prosecutors has been created and that the personal financial statements of consenting judges and prosecutors have been placed on the HJPC BiH website. At the same time, activities continued on overseeing the application of and compliance with the codes of judicial and prosecutorial ethics, regulations on conflicts of interest in the judiciary as well as the integrity plans of the courts and prosecutor's offices with reference to the ethical conduct of judges and prosecutors and their integrity.

Disciplinary liability of judicial office holders is another important area for establishing the rule of law which the Office of the Disciplinary Counsel and the HJPC continue to focus on in line with their competences. Accordingly, the Office of the Disciplinary Counsel registered 722 complaints against judicial office holders, which is 14.4% less than for the preceding year. The

ODC processed and resolved 886 complaints which is 15.5% less than in 2019. Throughout 2020, 31 disciplinary proceedings were initiated against 31 judicial office holders, of which 22 against judges, 6 against prosecutors, one against a court president, one against a judicial office holder who was chief prosecutor when they committed the disciplinary offence and one against a legal associate at a municipal court.

As for the efforts of the HJPC and the disciplinary panels in establishing disciplinary liability of judicial office holders, allow me to provide some numbers. In 2020, 33 disciplinary procedures were completed, with 26 procedures establishing disciplinary liability for 27 judicial office holders while 2 procedures were discontinued, one due to the death of the prosecutor against whom proceedings were initiated and one subsequent to the relevant judge resigning their position.

As for the efficiency of the judiciary, unfortunately the pandemic has had a negative effect on both case completion numbers and duration. The total number of pending cases in 2020 increased 5.2% compared to before, while the number of new cases dropped by 8.8%. The number of completed cases was 15.3% lower than last year, with more information available in the attachment to the report.

However, the HJPC successfully implemented a range of activities aimed at improving the efficiency of the courts and prosecutor's offices in Bosnia and Herzegovina. In the segment on improving the performance efficiency of the courts, activities focused on properly overseeing case processing by the courts, the achievement of performance quotas, judge performance productivity, better organisation of operations in judicial institutions and reinforcing managerial skills for court managers.

As for the efficiency of prosecutor's offices, we can see that the number of new cases against known perpetrators is 5% lower than last year. The number of pending cases compared to the previous year is up 15% while the number of indictments issued is 16% lower than in 2019. Case figures and statistical data on processing corruption, organised crime and commercial crime as well as for financial investigations is available in the report.

I would also like to mention a number of activities on improving the performance of prosecutor's offices such as the work of the Standing Committee for the Efficiency and Quality of Prosecutor's Offices with reference to reviewing the findings and recommendations of rule of law reports and developing action plans for improved prosecutor's office performance. A coordinating body was established with chief prosecutors from the Prosecutor's Office of BiH, the entity prosecutor's offices and the Prosecutor's Office of the Brcko District BiH, support was provided to the prosecutor's offices in developing their three-year strategic plans, we contributed to improving the cooperation between prosecutor's offices and law enforcement agencies, efforts continued on improving the quality of statistical reporting on the performance of prosecutor's offices, support was provided to prosecutor's offices for processing cases involving commercial crime, organised crime and corruption etc.

Furthermore, in underlining the importance of the adoption of the Revised National War Crime Strategy and by declaring its binding nature, the HJPC assumed the realisation of tasks under its competences. With that in mind, primary focus was on the realisation of the strategic imperative to reinforce disciplinary liability for judicial office holders and achieve greater efficiency in processing war crime cases. At the same time, a range of binding measures were passed focused on improving the performance quality of the courts and prosecutor's offices, all aimed at promptly and effectively implementing the specific strategic measures for which the HJPC BiH has competence.

In December 2019, the HJPC and the OSCE in BiH signed a Memorandum of Understanding based on which the OSCE officially handed over the War Crimes Map to the HJPC BiH meaning that in 2020, the HJPC continued to update the Map using the same format, while at the same time also drafting summaries of 53 legally final decisions in war crime cases which can be accessed by the public with one simple click on the map.

The HJPC also entered the corresponding judgments in the court decision database on the HJPC website to serve as a reference for informing the public on the respective case law. The database contains information on new laws, judgments of the European Court of Human Rights that are of interest for judges, prosecutors and the general public as well as other useful

information, and currently contains over 13,000 court decisions that can be searched based on number and filing date, presiding court, legal keywords and the provision applied as well as by using a general word search. The database, which in the past was only available for certain users, since 2021 is open to everyone - free of charge.

As for the performance quality of the courts and prosecutor's offices, the report offers data on decision quality according to HJPC parameters. As for the courts, statistical information is provided on the outcome of proceedings that were completed in 2020, pursuant to a legal remedy before a higher instance court, while the statistical data for prosecutor's offices shows final court decisions that were rendered based on indictments issued by prosecutor's offices in BiH.

The report also has information on HJPC efforts on strengthening the case law departments, as well as information on ongoing support for the work of the case law consistency panels. The HJPC passed decisions in line with its competences in the field of judicial and prosecutorial training while also continuing its efforts on introducing mentoring in judicial institutions.

Allow me to also mention the digital transformation of the judiciary and its results which have quite surely facilitated ongoing operations under the pandemic and which would be affected without the options offered with information technology. The *Cisco Webex* system allowed for the holding of numerous sessions, meetings, seminars and conferences, meaning that even under a partial *lockdown* and the limitations with physical gatherings, representatives of the judicial institutions were able to continue with their work. I will mention but one functionality that was established, seeing as you can find more information on this topic in the relevant chapter. The Module for Registering Seized Proceeds of Crimes was made available to the courts and prosecutor's offices in BiH by the HJPC at the start of the year. The recorded information makes it possible to track the seizure of assets and create an overview of assets seized by the court through its decision.

Seeing as the pandemic is still active, we can but hope that this unfortunate chapter in mankind's history will soon be behind us and that next year's report will not include information on circumstances that affect our society, the judiciary included.

Ultimately, I must emphasise that the achievements and results presented in this report were reached together with the judges and prosecutors as well as our domestic and international partners.

Therefore, I take this opportunity to thank our many international friends who continue to support the HJPC and the judiciary of Bosnia and Herzegovina without whose selfless support we quite definitely would not have been able to address issues vital for the establishment of the rule of law in our country. The financial support of the European Union, Sweden, Norway, Switzerland, Great Britain and the Czech Republic in 2020 not only served to support the HJPC and the BiH judiciary, rather it primarily focused on the citizens of this country who deserve to be an equal member of the European family.

We are also grateful to our local government for their ongoing support, and trust that our cooperation on all major issues concerning judicial reform will continue in the future.

And ultimately, I would especially like to thank our colleagues, the judges and prosecutors, as well as all other employees within the judicial community, without whose commitment and professionalism the HJPC would not have been able to respond to all of the challenges placed before the judiciary.

Halil Lagumdžija  
President of the HJPC

## MEMBERS OF THE HJPC

### **Milan Tegeltija, President of the HJPC**

Mandate: July 2018 - December 2020 (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.

### **Mrs Ruzica Jukic, Vice-President of the HJPC**

Mandate: June 2016 - June 2020 (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 inaugural HJPC session on 9 July, 2018.

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

### **Mrs Jadranka Lokmic Misiraca, Vice-President of the HJPC**

Mandate: November 2016 - November 2020 (2nd mandate)

The prosecutors of the Prosecutor's 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 inaugural HJPC session on 9 July, 2018.

She holds the office of Deputy Chief Prosecutor of the Prosecutor's Office of BiH.

### **Mr Selim Karamehic, member of the HJPC**

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

The Judicial Commission of the Brcko District elected judge Selim Karamehic to the HJPC in June 2017. He was elected to the position of HJPC member to work full-time at the Council at the session on 25 October 2017 and he retained such status through to the end of the mandate of the HJPC President on 16 December 2020.

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 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.

### **Mrs Jadranka Stanišić, member of the HJPC**

Mandate: September 2019 - September 2023

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

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

**Mr Slavo Lakić, Member of the HJPC**

Mandate: July 2018 - July 2022 (2nd mandate)

The prosecutors of the Federal Prosecutor's Office of FBiH re-elected prosecutor Slavo Lakić to the HJPC for a second term in May, 2018.

He holds the office of prosecutor in the Federal Prosecutor's Office of FBiH.

**Mr Mahmut Svraka, Member of the HJPC**

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

The prosecutors of the Republic Prosecutor's 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 Prosecutor's Office of Republika Srpska.

**Mrs Berina Alihodžić, member of the HJPC**

Mandate: September 2017 - September 2021

The prosecutors of the cantonal prosecutor's offices in the Federation of BiH elected prosecutor Berina Alihodžić to the HJPC in September 2017.

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

**Mrs Zeljka Radović, member of the HJPC**

Mandate: April 2019 - April 2023 (2nd mandate)

The prosecutors of the district prosecutor's offices in Republika Srpska re-elected prosecutor Zeljka Radović to the HJPC for a second term in April 2019.

She holds the office of Chief Prosecutor of the District Prosecutor's Office in Doboj.

**Mrs Duška Bogojević, member of the HJPC**

Mandate: July 2019 - July 2023

The Bar Association of Republika Srpska elected Duska Bogojević to the HJPC in July 2019.

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

**Mrs Amila Kunosić, member of the HJPC**

Mandate: January 2017 - January to 2021

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

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

**Mrs Monika Mijić, member of the HJPC**

Mandate: December 2016 - December 2020

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

She is the acting Agent of the BiH Council of Ministers before the European Court of Human Rights in Strasbourg.

**Mrs Milijana Buha, member of the HJPC**

Mandate: October 2016 - October 2020

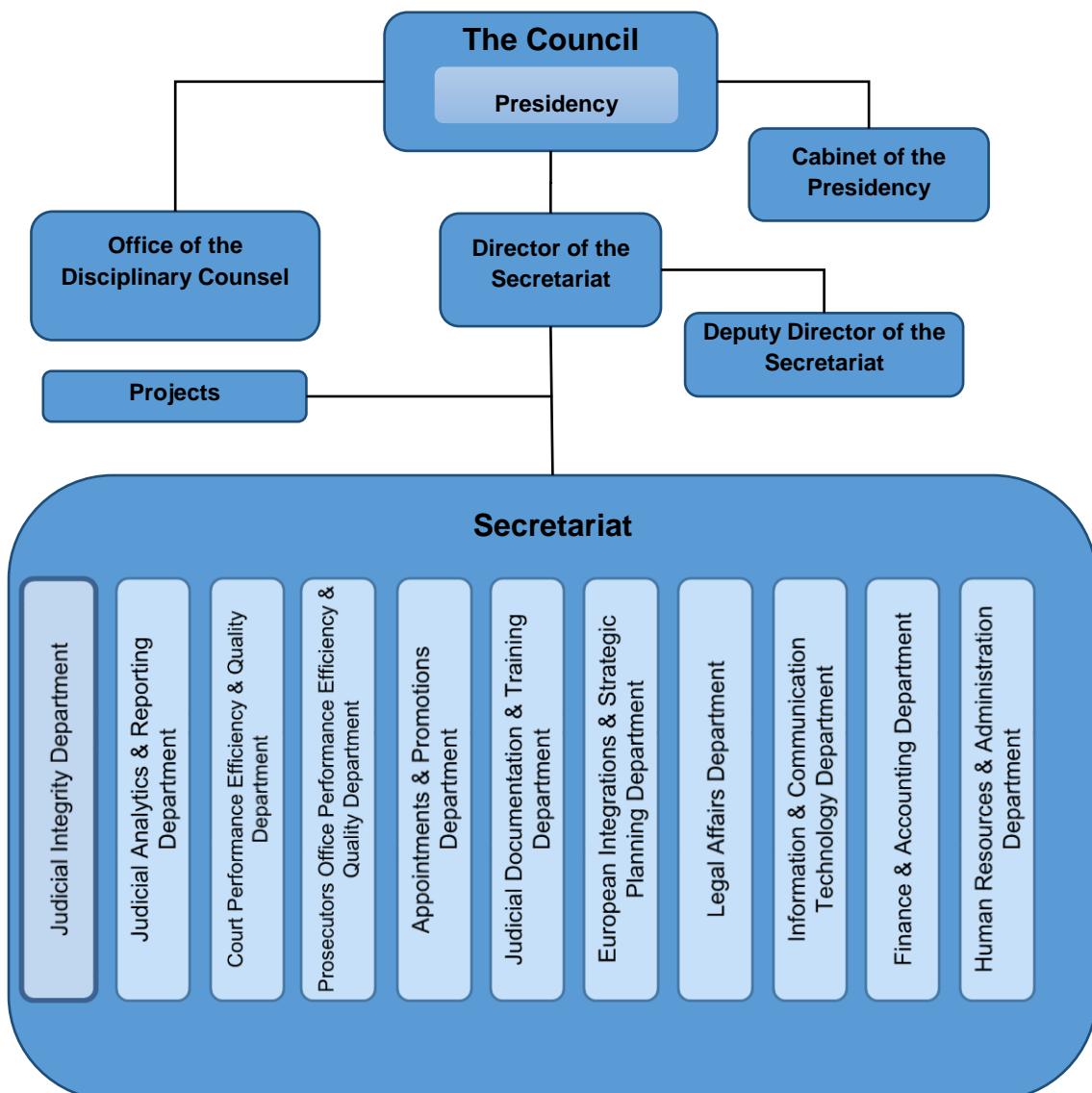
The House of Representatives of the Parliamentary Assembly of BiH elected Milijana Buha to the HJPC in August 2016.

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

**In 2020, the following changes occurred to the composition of the HJPC BiH:**

- Milan Tegeltija, a judge of the Basic Court in Banja Luka resigned as President and member of the HJPC in December 2020;
- Sanela Gorušanović Butigan, a judge of the Municipal Court in Sarajevo replaced judge Ružica Jukić, a judge of the Municipal Court in Tuzla, as representative for the municipal and cantonal courts in FBiH.
- Biljana Simeunović replaced Jadranka Lokmić Misirača as representative for the Prosecutor's Office of BiH;
- Lejla Hadžić, Chief of Cabinet of the Deputy Minister of Justice of BiH, replaced Milijana Buha, assistant professor at the Faculty of Law of the University of Banja Luka, as representative for the House of Representatives of the Parliamentary Assembly of BiH.

## HJPC BiH Organisational Chart



On 31 December 2020, the HJPC had 152 employees, with 79 financed from the HJPC budget and 73 hired for the implementation of project activities by the HJPC and financed by donors. On 31 December 2020, there were thirteen (13) competitions underway to fill vacancies (6 for budget-funded positions & 7 for projects). Competitions for budget-funded positions were announced in cooperation with the FBiH Civil Service Agency through internal announcements i.e. for six civil servant vacancies (APD, JDTD, JID, JARD & HRAD) out of the 84 positions that the HJPC is limited to employing, while seven competitions for fixed-term project positions that are financed with donor funds were publicly announced. The Book of Rules on Internal Organisation and the Systematisation of Posts of the HJPC provides for 142 posts with indefinite durations. In line with 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.

## The new Book of Rules on Internal Organisation and the Systematisation of Posts

At its session held on 29/7/2020, the HJPC BiH adopted a new Book of Rules on Internal Organisation and the Systematisation of Posts (hereinafter: Book of Rules).

Specifically, ever since the start of the reform process, the intention was for the future restructuring of the Secretariat to move towards integrating work processes that were carried out by HJPC projects, and that are of a permanent nature, under the regular secretariat set-up. This would involve the integration of project staff into the Secretariat since they are a major asset with reference to the future operations of the HJPC and its functioning. Also, the donors have expressed a clear interest in seeing the sustainability of their assistance to the BiH judiciary, as provided through the projects, and ensured by ultimately integrating the project staff into the permanent structure of the Secretariat. The recommendations of the Venice Commission and the European Union on establishing separate judicial and prosecutorial councils called on similar logic being employed which should be reflected in the new internal structure of the Secretariat.

The new Book of Rules addresses both horizontal and vertical movement of employees, taking into account legal limitations. Among others, the new Book of Rules intends to introduce flexibility in the horizontal movement of human resources across the Secretariat to increase their efficiency and potential. This has been achieved in multiple ways with the Book of Rules - from the generic definitions of job posts through to the integration of competences prescribed by the BiH Civil Service Agency which, for the first time, are further expanded with the Book of Rules.

The new Book of Rules also reinforces the financial management and controls that are prescribed with the Law on Amendments to the Law on Financing the Institutions of Bosnia and Herzegovina for 2012. This means that the Book of Rules has also been harmonised with the Decision of the Council of Ministers of Bosnia and Herzegovina on Amendments to the Decision on the Classification of Work Posts and the Criteria for Job Descriptions in Institutions of Bosnia and Herzegovina. (*Official Gazette of BiH*, no. 51/18), which prescribes liability "in accordance with the Law on Financing Institutions of Bosnia and Herzegovina, for the establishment and development of a financial management and controls system in the institution". With the new Book of Rules, all the recommendations of the Internal Audit Unit of the BiH Ministry of Justice were implemented, based on which the Unit carried out the audit of the human resources management process at the HJPC BiH in accordance with its 2019 Annual Work Plan.

Key novelties in the new Book of Rules are the three new internal organisational units: The Judicial Integrity Department, the Improving Efficiency and Quality of Courts Department, and the Improving Efficiency and Quality of Prosecutor's Offices Department. The two completely new departments (for improving the efficiency and quality of courts and prosecutor's offices) will be filled in phases. The Judicial Integrity Department will immediately be partially filled through the transformation of the Appointments Department and the dissolution of the Judicial Budgets and Donor Funds Department, as well as with additional staff reinforcements from other departments as needed. The new Book of Rules provides for a number of new positions that are not limited to the aforesaid three organisational units seeing as all enhancements are focused on improving work processes and performance results not on current employees and departments.

It should also be noted that the adoption of the new Book of Rules has not resulted in an automatic increase in the number of staff. The increase in the number of staff requires a range of prerequisites, which primarily entails an increase of the state budget earmarked for salaries and other employee payments.

The HJPC BiH, just as other institutions at the level of Bosnia and Herzegovina, is subject to a hiring moratorium pursuant to the decision of the BiH Council of Ministers, which means that our institution does not have the possibility to increase the number of staff without a new decision of the BiH Council of Ministers. Currently there are 84 permanent positions at the HJPC BiH, including interns. The previous Book of Rules envisaged 106 positions, while in the

new Book of Rules that number is 142, which is an increase of 36 positions or 25%. Of the 142 positions prescribed with the Book of Rules, the Cabinet of the Presidency has 11 systematised positions, the Secretariat has 119 while the Office of the Disciplinary Counsel has 12 positions. We believe that in terms of numbers and structure, the new systematisation is an optimal solution for the new functional internal organisational model.

The Human Resources and Administration Department of the Secretariat (HRAD) initiated, without delay, activities on applying the Book of Rules, i.e. the implementation of processes to fill vacant positions in accordance with the Book of Rules, by preparing a plan that involves filling the various vacancies in stages, based on any changes involving current positions, the employment status of a civil servant or employee, the employment limitations of the institution as well as based on available budget funds under the new conditions.

In preparing the plan and based on budget availability, the idea is to fill 79 positions. The remaining three positions will be filled subsequent to a public competition that will be announced when conditions are met.

By the end of 2020, 66 positions were filled i.e. 84% of the total number of positions planned with the projected budget. The remaining positions will be filled in 2021, when financial and administrative conditions are met.

## HJPC BUDGET

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

### Funding HJPC activities

In accordance with the Law on the Budget for Institutions of BiH and International Obligations of BiH<sup>1</sup>, the approved 2020 budget for the HJPC is 5,094,000 KM for current expenditures.

Budget expenditure in 2020 amounted to 4,917,808 KM or 97%.

**Table 1: Budget expenditure per item**

EXPENDITURES	Approved budget	Budget execution	Index
<b>I CURRENT EXPENDITURES</b>	<b>5,094,000</b>	<b>4,917,808</b>	<b>97%</b>
Gross salaries and other payments	3,570,000	3,502,261	98%
Employee reimbursements	190,000	181,068	95%
Travel expenses	120,000	108,081	90%
Telephone and postal services	45,000	43,109	96%
Power and utilities	90,000	78,042	86%
Supplies	14,000	12,732	91%
Transportation and fuel	41,000	35,983	88%
Lease and rent	1,000	24	2%
General maintenance	660,000	595,744	90%
Insurance and payment operations	6,000	3,779	63%
Contracted services	357,000	356,985	100%

### Financing project activities focused on judicial reform with donor funds

Article 15, paragraph 9 of the Law on the HJPC<sup>2</sup> stipulates the following: “*the Council may receive donations from international donors to its operational budget and for special judicial reform projects taken out of 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 2020, donor funds were used to finance seven projects dealing with judicial reform and aimed at strengthening the capacities of the judiciary.

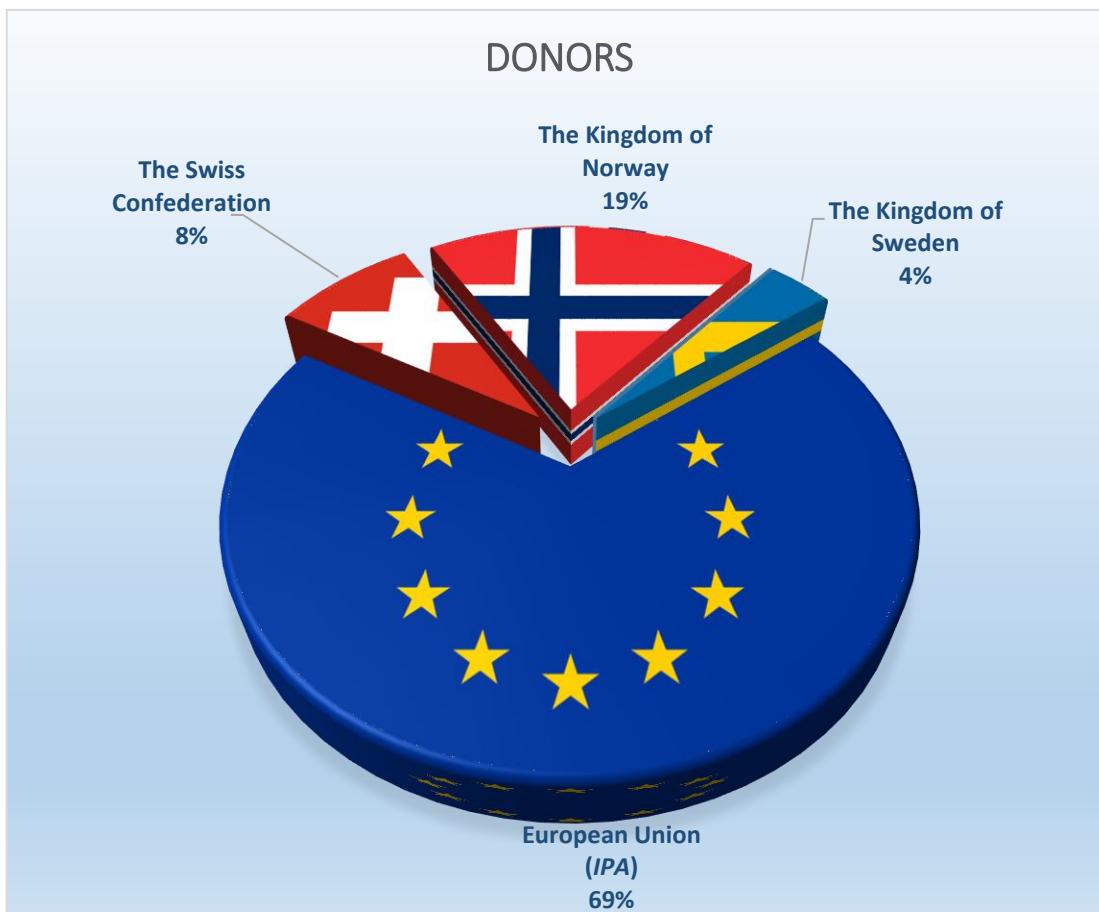
<sup>1</sup> Official Gazette of BiH, no. 46/20.

<sup>2</sup> 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 2020**

Total funds available in 2020 (KM)	Total expended in 2020 (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 Kingdom of Sweden for the Project - Improving the Efficiency of Courts and Accountability of Judges and Prosecutors in BiH phase II		
179,765	179,765	November 2016 - May 2020
EU donation ( <i>IPA 2017</i> ) for the Project - Building an Effective and Citizen-friendly Judiciary		
5,015,714	3,293,841	September 2018 - August 2021
Donation from the Kingdom of Norway for the Project - Improving Judicial Quality		
1,464,127	1,005,082	January 2019 - December 2021
EU donation ( <i>IPA 2017</i> ) for the Project - Enhancing War Crimes Case Processing		
265,236	265,236	October 2019 - November 2020
Donation from the Swiss Government for the Project: Support for the Judiciary of Bosnia and Herzegovina - Strengthening the Capacity of Prosecutors in the Criminal Justice System" phase III		
758,420	420,590	January 2020 - December 2023
Donation from the Kingdom of Sweden for the Project - Improving the Efficiency of Courts and Accountability of Judges and Prosecutors in BiH phase III		
866,594	9,626	October 2020 - March 2024

The major donors in 2020, were the European Union contributing 69% of the total expended donor funds and the Kingdom of Norway with 19%. The Swiss Agency for Development and Cooperation and the Kingdom of Sweden also provided significant funds.

**Graph 1: Donors****Investments in the Judiciary of Bosnia and Herzegovina**

Between 2004 and 2020, the HJPC BiH secured 114 million KM for project activities involving judicial institutions at all government levels.

This figure includes 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 62.8 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 14.6 million KM and the Kingdom of Sweden with 9.7 million KM.

As for the breakdown of funds, 59.2 million KM was used for the procurement of equipment, 36.4 million KM for building renovation efforts and 5.3 million KM for the maintenance of the judicial information system.

During this period, 19.3 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 for the maintenance of the judicial information system and other general expenditures for the judiciary.

## Audits

In 2020, the Audit Office for BiH Institutions (hereinafter: AO) carried out the final audit for 2019, and the preliminary audit for 2020, based on samplings of major items from current and capital expenditures, donations received and public procurements completed thus far.

In its 2019 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 31/12/2019 and the expenditure of the budget for the year ending at the aforesaid date, in accordance with the with the accepted financial reporting framework."

"In our opinion, activities, financial transactions and information of the Council for 2019, concerning all material aspects, are in accordance with the law and other relevant regulations that serve as criteria for this audit."

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 2019 is available on the website of the Office for the Audit of BiH Institutions.

In 2020, independent auditors performed audits of the following grants:

- The audit of the financial statements of the Improving Judicial Quality Project (donor - Kingdom of Norway)
- The 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)
- The audit of the financial statements of the Enhancing War Crime Case Processing Project in BiH (Donor - EU Delegation).
- The audit of the Project - Improving Court Efficiency and the Accountability of Judges and Prosecutors in BiH, phase 2 (donor - Kingdom of Sweden). A qualified opinion was given in the audit report.

During the aforesaid audits, checks were made as 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. A qualified opinion was given in the audit reports.

## Chapter 1: EUROPEAN INTEGRATIONS

### 1.1. Realisation of the recommendations of the European Commission for the HJPC BiH and the judiciary of BiH

An independent, efficient, professional and accountable judiciary is key for the functioning of any democratic society, while measures that are used to evaluate the achievement of criteria form part of the *acquis* of the European Union (hereinafter: EU), which is a French term that designates a set of laws, regulations and contracts that regulate the overall functioning of the EU. Common standards serve to ensure that the judiciary wherever it may be within the EU, treats its citizens, legal persons and institutions equally while guaranteeing the rule of law. Accordingly, as part of the accession process, the EU provides various support to EU candidate states such as BiH, by helping identify solutions in line with common standards that, at the same time, correspond with their tradition, culture and specificities.

The key moment in this process was the submission of an application by BiH for membership of the EU in February 2016, based on which, in September of the same year, the EU Council asked the European Commission to provide an analytical opinion on BiH's application. Parallel to this process, numerous *Peer Review* missions<sup>3</sup> were initiated. The European Commission Opinion on Bosnia and Herzegovina's application for membership of the EU and the Analytical Report were published in May 2019 as part of the enlargement package for 2019.

The EU also provided a list of "key priorities" and conditions for BiH to fulfil in order to move on to the next phase - acquiring candidate status and beginning negotiations on accession to the EU<sup>4</sup>. In order to achieve the priorities, an action plan was prepared for the realisation of priorities from the Analytical Report of the European Commission<sup>5</sup>, which has 14 measures for the HJPC aimed at implementing the priorities under "Rule of law and fundamental rights". By the end of May 2020, which was the deadline for realisation, the HJPC had fully realised 10 measures and 2 others partially.

To further facilitate the process of reforms for the judiciary, in April 2019, the European Commission put forward an initiative that focused on monitoring and assessing the level of success in the implementation of reforms involving the rule of law. The initiative that was led by *Reinhard Priebe*, a former German judge, currently working as a legal expert for the European Union, resulted in the document - *Expert Report on Rule of Law Issues in BiH*, with the findings presented in December 2019 (*the Priebe Report*).

Numerous recommendations of the European Commission for the HJPC and the BiH judiciary stem from *Peer Review* missions carried out in the following fields: The HJPC Rules of Procedure, disciplinary procedures in the BiH judiciary, procedures and criteria for the appointment of judges and prosecutors, the performance appraisal of judges and prosecutors, induction training and advanced training for judges and prosecutors in BiH and fighting corruption, organised crime and money laundering. In order to ensure the implementation of these recommendations, towards the end of 2018, the HJPC adopted an Action Plan for 2018-2020. The importance of executing and overseeing the action plan was pointed out in one of the recommendations of the European Commission sent to BiH institutions in May 2020, after the meeting of the Subcommittee for Justice, Freedom and Security.

Following the aforesaid recommendations, the HJPC prepared and adopted the Report on the Implementation of European Commission Recommendations for the HJPC and the BiH Judiciary<sup>6</sup> (hereinafter: Report), which apart from the Action Plan also took into account other

<sup>3</sup> As regards the judiciary, this means that judges, prosecutors and other experts from EU member states visited BiH and carried out analytical reviews of the situation in key areas which resulted in reports with recommendations designed to assist the European Commission in assessing the current situation in BiH, as well as in BiH institutions, for implementing further reforms in accordance with EU standards that are incorporated in the recommendations.

<sup>4</sup> The general practice regarding the last EU enlargement rounds was to begin negotiations with chapters 23 and 24.

<sup>5</sup> The action plan was adopted by the Council of Ministers on 15/10/2019.

<sup>6</sup> Available on the HJPC website: <https://vstv.pravosudje.ba/>

recommendations and requirements from the European Commission that refer to the judiciary in BiH. The Report has seven chapters with each containing information on the activities implemented and the results achieved in key HJPC action areas during the past period with the following being the most significant.

Regarding the **HJPC Rules of Procedure**, even though a significant number of priorities presented by the European Commission to the HJPC require amendments to the Law on the HJPC, the implementation of certain recommendations was possible by amending the HJPC Rules of Procedure. The recommendations primarily referred to the rights and duties of the members of the HJPC, the role of the HJPC Presidency, the recusal of HJPC members as well as improving the performance transparency of the HJPC. The HJPC adopted an Initiative for the review of the Law on the HJPC in June 2018, in line with the *Peer Review* mission recommendations. In the introduction of the Initiative: "... the Council considered the recommendations from the *Peer Review Report* on the HJPC BiH Rules of Procedure that refer to: increased involvement by Council members on a full-time basis, the need to define the duties of Council members in greater detail, the need to revise voting rules, the roles of the president and vice-presidents of the Council and the establishment of Judicial and Prosecutorial Departments." The Initiative was sent to the Ministry of Justice of BiH for further action in accordance with the conclusion adopted at the Ministerial meeting on 2/7/2018 organised within the framework of the Structured Dialogue on Justice between the EU and BiH.

As regards **disciplinary procedures in the BiH judiciary**, amendments were adopted to the Code of Judicial Ethics and the Code of Prosecutorial Ethics so as to harmonise them with the Guidelines on the prevention of conflict of interest in the judiciary as well as the Manual for applying the codes; training started on professional ethical standards for judges and prosecutors with the codes and the Manual serving as training materials; Instruments were adopted to oversee the application of the Guidelines for the prevention of conflict of interest in the judiciary, the Decision on the actions taken by court presidents and chief prosecutors subsequent to disciplinary measures rendered against judges and prosecutors, as well as the Manual for conducting disciplinary procedures of the HJPC which contains summary decisions of disciplinary bodies for the period 2006 – 2018; training started on disciplinary proceedings for the Office of the Disciplinary Counsel (hereinafter: ODC) and the disciplinary bodies; a report was developed on monitoring the application of the Guidelines for disciplinary measures in disciplinary procedures of the HJPC for the period 2016 – 2019; the HJPC started proactively reporting to the public on disciplinary procedures with its disciplinary hearings calendar and through press releases; amendments were adopted to the Book of Rules on Internal Organisation and the Systematisation of Posts at the HJPC which expand ODC capacities; a system was set up for the random assignment of disciplinary cases to the disciplinary panels.

As regards **the procedures and criteria for the appointment of judges and prosecutors**, amendments were adopted to the HJPC Rules of Procedure as well as amendments to the Book of Rules on Written Tests and Entrance Exams that focus on: Improving written tests and entrance exams, introducing more demanding test procedures and improving the structured interview, differentiating between first-time appointments and promotion, prescribing separate rules for the election of court presidents and chief prosecutors while following the established ranking lists; Instructions were adopted on assessing the skills and competences of candidates, while parts of the Instructions, that contain a list of candidate competences that are assessed at the interview as well as the structure and contents of the work plans, were placed on the HJPC website; Instructions on appointment procedures are applied that clearly define the criteria for assessing the work plans of candidates for management level positions; conditions have been met for introducing *online* candidate applications, testing and interviews.

As regards **personal financial statements for judges and prosecutors**, an electronic system was developed for submitting and processing financial statements by judges and prosecutors; personal financial statements of consenting judges and prosecutors were placed on the HJPC website; a new Book of Rules on the Internal Organisation and Systematisation of Posts at the HJPC was adopted which establishes a Judicial Integrity Department which, among others, is tasked with collecting financial statements.

As regards ***the performance evaluation of judges and prosecutors***, support was provided to the courts and prosecutor's offices in conducting the performance evaluations for 2019, in line with the improved performance criteria. Specifically, towards the end of 2018, new criteria were adopted for the performance evaluation of judicial office holders at the courts and prosecutor's offices which were prepared in line with the recommendations from the *Peer Review* mission on the appraisal of judges and prosecutors. The analysis offers a range of recommendations to improve the performance evaluation system for judges and prosecutors in BiH while also looking to achieve an appropriate balance between quantity and quality criteria for performance evaluation in line with the best European standards. However, in its judgement on 19/5/2020, the Court of BiH revoked the Book of Rules on the Performance Evaluation of Judicial Office Holders and the Criteria for the Performance Evaluation of Judges. The said judgment stopped the procedure for the performance evaluation of judicial office holders for 2019, preventing that each judicial office holder receives an analytical performance evaluation which would be a key improvement to the evaluation process. Under such circumstances and subsequent to the said judgment, in 2020, the HJPC rendered a range of decisions aimed at overcoming newly created problems with the evaluation of judicial office holders and the use of performance evaluations for judicial and prosecutorial appointment procedures.<sup>7</sup>

As regards ***induction training for newly appointed judges and prosecutors***, trainings were held with consultative prosecutors and new proposals were identified to improve their work; a general mentoring framework, that was approved in 2019, was trialled in the Municipal Court in Zenica and the Basic Court in Banja Luka. Parallel to the trial implementation of mentoring in the said courts, a draft legal framework was also developed to systemically regulate mentorship: Draft amendments to the Book of Rules on Internal Court Operations and the Draft Book of Rules on Mentoring for Newly Appointed Judges and Legal Associates Who are Appointed by the HJPC, which the HJPC approved in October 2020.

As regards ***fighting corruption, organised crime and money laundering***, following the conclusions on processing corruption cases from December 2019, the HJPC adopted amendments to the Book of Rules of Performance Quotas for Judges and Prosecutors in BiH which for the first time weighted high-profile corruption cases according the HJPC's definition; a two-year specialised training program was developed and implemented for prosecutors on the topic of processing corruption, organised crime and commercial crime; cantonal and district public prosecutor's offices incorporated targets and activities on processing corruption cases in their strategic plans; Guidelines for rendering mandatory instructions on additional criteria for concluding plea bargains in corruption cases, organised crime and other types of cases were adopted; a coordination body was established to deal with conflicts of jurisdiction between the Prosecutor's Office of BiH, the Federal Prosecutor's Office of FBiH, the RS Public Prosecutor's Office and the Prosecutor's Office of the Brcko District BiH; a Manual for drafting various elements of indictments involving corruption was developed; on the proposal of APIK, cooperation was established with prosecutor's offices where each prosecutor's office has a designated prosecutor for direct communication and coordination on issues involving reports that are received by APIK.

The greatest challenge for processing organised crime was that the discovery and investigation of organised crime requires a team approach, systematic and ongoing efforts from the various law enforcement agencies, as well as close cooperation between the relevant law enforcement agencies as supervised by the prosecutor's offices. We frequently see that no single segment is at the appropriate level, especially with reference to early and direct inter-agency data sharing, as well as early supervision of the work of the agencies by prosecutor's offices. Training for authorised officials in the past was carried out on the initiative of the HJPC and through various operational forums for cooperation. The HJPC introduced new oversight mechanisms which, along with regular reporting processes, require the courts and prosecutor's offices to provide information on circumstances that affected their operations on certain high-profile cases leading to protracted court proceedings and investigations. The Strategic Forum

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<sup>7</sup> More information on the decisions and their implementation can be found in Chapter 3 of the Report (Appointments and Evaluation).

for cooperation between the police and prosecutor's offices is fully operational – they meet every three months, consider current issues on cooperation and subsequently send out conclusions to all prosecutor's offices and law enforcement agencies for implementation, as are 17 other operational forums for each prosecutor's office and the respective law enforcement agency which operate as agreed upon and scheduled by the chief prosecutors and law enforcement agency heads.

Unfinished activities that were a component part of the HJPC Action Plan that have started though are yet to be completed will be integrated in the HJPC Reform Program which is being prepared..

## 1.2. Meetings between joint bodies of the EU and BiH

The Stabilisation and Association Agreement (SAA) is a new, third generation agreement on association that is offered exclusively to countries of the Western Balkans with the aim of facilitating efforts on establishing a close, ongoing relationship with the EU and prospective EU membership. The Stabilisation and Association Agreement between the European Community and its member states with BiH was signed in Luxembourg on 16/6/2008 and came into effect on 1/6/2015.

To oversee the application and implementation of the SAA, joint bodies between the EU and BiH were established, including the Stabilisation and Association Committee and the Subcommittee for Justice, Freedom and Security.<sup>8</sup> Apart from participating in the work of the joint bodies, the HJPC also participates in the preparation of documents for discussion through which BiH institutions report to the European Commission on BiH's fulfilment of obligations as part of the European integration process.

### HJPC participation at the fifth meeting of the Stabilisation and Association Committee<sup>9</sup>

Due to the COVID-19 pandemic, the fifth meeting of the Stabilisation and Association Committee was organised *online* on 26/11/2020.

For this meeting, the HJPC submitted information on the adoption of the Law on the HJPC, amendments in the field of integrity to the Law on the HJPC as well as information on the Revised National War Crimes Strategy.

### HJPC BiH participation at the fifth meeting of the Subcommittee on Justice, Freedom and Security<sup>10</sup>

For the fifth meeting of the Subcommittee on Justice, Freedom and Security (hereinafter: Subcommittee) which was held *online* on 17 & 18/12/2020, the HJPC prepared information on judicial office integrity and adherence to ethical standards in the judiciary, the implementation of EU recommendations on appointment procedures and disciplinary procedures, the performance evaluation of judicial office holders - keeping in mind the consequences from the judgment of the Court of BiH from May 2020 - processing war crime cases at the courts and prosecutor's offices as well as information on combating and processing corruption and organised crime cases. At the same time, under "Efficiency", information was sent on the decrease in the number of pending cases and the reform of enforcement procedure, including court bailiffs, while under "Quality of Justice", information was provided on trainings and improved access to court decisions and the court decision database<sup>11</sup>.

<sup>8</sup> <https://www.dei.gov.ba/bs/stabilization-agreement>

<sup>9</sup> The technical body that assists the Stabilisation and Association Council in executing its duties, was established in accordance with Article 118 of the SAA and the Decision of the Stabilisation and Association Council between BiH and the EU no. 1/2015 (Official Gazette of BiH, no. 8/16).

<sup>10</sup> Established in accordance with Article 119 of the SAA and the Decision of the EU - BiH Stabilisation and Association Committee from 17/12/2015 on the establishment of the Subcommittee and special groups no. 1/2015 (Official Gazette of BiH – International Agreements, no. 1/16 & 8/16).

<sup>11</sup> Discussion documents for the fifth meeting of the Subcommittee were adopted at the session of the BiH Council of Ministers on 3/12/2020.

### 1.3. EU support to the BiH judiciary for the implementation of the Revised National War Crimes Strategy and for processing war crime cases - realisation and ongoing support

#### Implementation of Revised National War Crimes Strategy

Through its ongoing, proactive efforts and expertise, as well as with the coordination of the work of the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy (hereinafter: Supervisory Body), the HJPC BiH has significantly contributed to the preparation of a final proposal of the Revised National War Crimes Strategy. As one of the key priorities to finalising the process for the transition of justice, the revised strategic document was adopted on 24/9/2020 by the BiH Council of Ministers. In declaring the binding nature of the Strategy, and by nominating two members to the Supervisory Body, the HJPC BiH established the duty for judicial institutions in BiH to promptly and consistently implement the strategic objectives and separate measures. In following the requirements from the strategic framework, focus was also placed on the need for more functional inter-institutional cooperation between the courts and prosecutor's offices towards achieving the various obligations. Furthermore, guidelines were adopted for chief prosecutors to pass binding instructions on the requirement to adhere with the objectives and measures set forth with the Revised National War Crimes Strategy as well as the decisions, conclusions and recommendations of the Supervisory Body. The guidelines establish a range of measures focused on the overall improvement of the qualitative and quantitative aspects for processing the cases, while also establishing disciplinary liability with regards to any conduct that contravenes the binding instructions of the chief prosecutor. At the same time, the courts and prosecutor's offices are called on to consistently follow the strategic obligation to improve cooperation between the witness support departments for which a periodic reporting mechanism has been set up to cover all relevant issues and recommendations for continued improvements.

In line with its duties and the appropriate deadlines, the HJPC BiH will, in accordance with its competences, exercise due care towards coordinating the work of the Supervisory Body as well as the implementation of relevant objectives and measures from the Revised National War Crimes Strategy.

#### EU support (IPA 2017 & 2019) *Enhancing War Crime Case Processing in BiH – implementation, effects and programming continued support*

Between 2014 & 2020, the European Union completed three financing phases for the BiH judiciary, amounting to EUR 14.8 million and aimed at improving the processing of war crime cases. As part of the third support phase implemented with the project - *Enhancing War Crime Case Processing in BiH – IPA 2017*", between 7/10/2019 & 6/11/2020, funds amounting to EUR 1.4 million were allocated covering 25 judicial institutions.<sup>12</sup> The support resulted in improved human resources and capacities as well as material resources, which represent systemic prerequisites to efficiently process war crimes cases.<sup>13</sup> As at 31/12/2020, all prosecutor's offices in BiH had 571 registered pending KTRZ cases which represents a 2%

<sup>12</sup> Beneficiaries of IPA 2017 included 14 prosecutors offices and 10 courts, the HJPC BiH and the BiH Ministry of Justice - the Sector for Assistance and Training in Criminal Matters before the Court of BiH. EU support secured funding for 97 support staff positions (legal associates, advisors, investigators, psychologists etc.).

<sup>13</sup> The general aim behind EU support that was implemented under IPA 2017 focused on improving efficiency in prosecuting war crimes by the judiciary of Bosnia and Herzegovina by reducing the number of pending war crimes cases with known suspects at the prosecutors offices (KTRZ cases) by 55% within seven years (2014 – 2020) using the figure of 1210 pending KTRZ cases as the basis. Furthermore, other specific targets of the IPA 2017 project included: ongoing professional and administrative support to the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy; reinforcing human capacities for processing war crimes cases at the judicial institutions; improving the professional capacities of judges and prosecutors for processing war crimes; improving the professional capacities of defence attorneys in war crime cases.

deviation from the target set with the project. The results that were achieved gain significance considering the fact that for the most part of 2020, judicial institutions were working under extraordinary epidemiological conditions due to the COVID-19 pandemic. Apart from this, we must also add that due to inefficient mutual assistance mechanisms involving criminal matters, the courts and prosecutor's offices in BiH are faced with a large number of cases with procedural obstacles that prevent bringing the potential perpetrators of these crimes to justice. As at 31/12/2020, some 30% of the cases with the BiH judiciary involved reported/suspected/accused persons who were unavailable to the courts and prosecutor's offices. Parallel to the above, the realisation of IPA 2017 allowed for efficient monitoring over the realisation of the objectives and measures from the National Strategy through professional and administrative support and the organisation of Supervisory Body meetings in 2020<sup>14</sup>

The initial plan was for the continuation of EU support as part of the national support program (IPA 2019) EU for the transition of justice, after the completion of IPA 2017 in November 2020. Due to the fact that various preconditions were not met on time, which did not fall under the competence of the HJPC BiH, this led to a brief break in the implementation of EU support. After the adoption of the Revised National War Crimes Strategy, in October and November 2020, BiH worked on assessing the needs of judicial institutions and programming the fourth support phase - IPA 2019, which amounts to EUR 4 million. In October 2020, the HJPC BiH adopted a proposal for the continuation of activities planned with the project - Enhancing War Crime Case Processing in BiH, IPA 2019. In drawing on the former project set-up, the plan is to complete activities in 27 judicial institutions as beneficiaries, together with the HJPC BiH project component.<sup>15</sup> The general goal of the IPA 2019 project is to reinforce the rule of law in BiH, striving for the comprehensive achievement of strategic objectives and individual measures from the Revised National War Crimes Strategy. A separate support target foresees a decrease in the number of pending KTRZ cases by at least 65% during a nine year period (2014-2022). By financing judicial institutions and hiring 96 legal and administrative staff members for a period of 24 months, the conditions will be achieved to efficiently process war crimes. Just as in the past, the Supervisory Body would have the status of a key domestic partner of the European Union. Along with providing professional and administrative support to the Supervisory Body, the HJPC BiH project component will also analyse the performance of courts and prosecutor's offices, organise periodic prosecutor forums as well as other professional gatherings for judicial office holders, all aimed at improving their knowledge and skills.

#### **1.4. Cooperation with the European Network of Councils for the Judiciary (ENCJ)**

In striving to establish a judiciary that is consistent with European judicial tradition, through its project - Improving Judicial Quality, the HJPC BiH has established cooperation with the European Network of Councils for the Judiciary (hereinafter: ENCJ), which is a special body with the general role of standardising and measuring independence, accountability and quality of the judicial systems of European states.

Since BiH has yet to receive EU candidate status, it is not a member of the ENCJ, nor can BiH apply for observer status, meaning that this cooperation will allow for insight into the lessons learned by ENCJ member states on judicial reform, by improving the general principles of judicial systems (independence, accountability, efficiency and quality) with focus on preparations for acquiring candidate status.

One of the basic objectives of ENCJ is the promotion and strengthening of judicial councils that serve to guarantee the independence of the judiciary as well as support for the development of quality management over the performance of the courts to benefit the public.

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<sup>14</sup> Nine regular supervisory body meetings were initially planned between 1/1 - 6/11/2020. However, due to the COVID-19 pandemic, 6 meetings were held - 4 regular meetings and 2 strategic meetings with members of the international community and representatives of the BiH level judiciary.

<sup>15</sup> The Ministry of Finance and the Treasury of BiH is the primary applicant for EU support through IPA 2019, while the BiH Ministry of Justice is one of its beneficiaries.

In consideration of the above, as well as taking into account the strategic objectives of the HJPC BiH for ensuring an independent, accountable and quality-based judiciary, the cooperation should contribute towards reinforcing HJPC BiH operations as an independent, transparent and accountable regulatory body for the judiciary in order to facilitate the efficient implementation of recommendations stemming from the assessment of the state of the BiH judiciary according to *ENCJ* standards.

Cooperation with *ENCJ* as established with the Improving Judicial Quality Project entails a process to assess the current state of independence and accountability on one hand and the quality of justice on the other, all according to *ENCJ* criteria.

In following European criteria, the tools for the assessment of the said parameters are questionnaires and surveys that are regularly carried out by the *ENCJ*. Accordingly, in 2020, the HJPC BiH was invited by the *ENCJ* to participate in the assessment of the independence, accountability and quality of the judiciary by completing a questionnaire on independence and accountability (second time) and a questionnaire on the quality of the judiciary.

Based on the responses given in the questionnaire on independence and accountability, external experts affirmed the improved quality and the authenticity of the indicators. To that end, the HJPC BiH hired two independent members of the academia to participate in the process of validating the responses to the said questionnaire.

An overview of the state of the judiciary based on the questionnaires offers objective, reliable and comparable data on the quality, independence and efficiency of the judicial system. Based on this data, the HJPC BiH, as the regulatory body, carried out a self-assessment of its system and an assessment of the state of the domestic judiciary according to European standards with the aim of identifying priorities for improvements.

The findings from the questionnaires, that serve to assess the general parameters for an efficient judicial system, are part of the Report on the Independence, Accountability and Quality of the BiH Judiciary that was developed by the *ENCJ*.

The report offers an overview of the state of the BiH judiciary and shows how much the HJPC BiH and the judiciary, in general, are working on improving the independence, accountability and quality of the judiciary, while also providing recommendations for improvements in areas that are not consistent with European standards.

The findings from the report show that the HJPC BiH and the courts continue to work on improving the independence, accountability and quality of operations. In general, it is evident that several aspects of formal independence have high scores and are formally well arranged e.g. legal basis, organisational autonomy, court management, HR decisions on judges and disciplinary measures. Specifically, the organisational autonomy of the HJPC BiH is in line with *ENCJ* standards and is much higher than the European average. On the other hand, funding the judiciary and the non-transferability of judges represent formal aspects of independence and require various improvements.

As for perceived independence, the report shows that there are differences between formal independence and independence as perceived by the court users and the citizens meaning that these areas require additional actions on improving public relations and external reviews of the judicial system.

**Image 1: Positive and negative aspects of the BiH judicial system according to the ENCJ Report on Independence, Accountability and Quality of the BiH Judiciary**

Improvement required	Scored highly
<ul style="list-style-type: none"><li>• Funding the judiciary</li><li>• Appointments and promotions</li><li>• Adherence to ethical standards</li><li>• Non-transferability of judges</li><li>• Improve public relations</li><li>• External review of the judicial system</li></ul>	<ul style="list-style-type: none"><li>• Legal basis</li><li>• Organisational autonomy</li><li>• Management of the courts</li><li>• HR decisions</li></ul>

As for performance quality, the report findings indicate a good formal arrangement based on the judicial quality indicators measured which generally refer to procedures and legal regulations in effect, however not to the quality of the system itself.

The findings from the report served as the basis for organising a dialogue meeting between *ENCJ* and the HJPC BiH with focus on reinforcing the accountability of the HJPC BiH as the authority responsible for the independent and accountable administration of justice. The meeting served as a platform to identify areas of weaknesses with reference to HJPC BiH actions and propose measures to address them, all with the aim of drawing the BiH judiciary closer to European judicial tradition.

Due to the coronavirus pandemic, joint activities that required the actual presence of *ENCJ* representatives were suspended and will continue in 2021.

With these activities the HJPC BiH has reaffirmed its commitment to establishing European standards and reinforcing the institutional capacities of the regulatory authority and the development of a judiciary that serves all citizens.

## Chapter 2: INDEPENDENCE OF THE JUDICIARY

### 2.1. The HJPC and the independence of the judiciary

The year 2020 presented certain challenges with reference to the principle of an independent judiciary. Relevant documents throughout the year<sup>16</sup>, identified a lack of progress in the implementation of reform activities due to political obstruction as well as obstruction from within the judiciary itself. The initiative to improve the Law on the HJPC which entailed either the adoption of a new law in line with European standards or the adoption of required amendments to the current law on the HJPC was not completed. In 2020, we continued to witness members of the judiciary disputing the legal framework that was adopted by the HJPC to reinforce professional standards in line with *Peer Review* missions focusing on appraisals and appointments<sup>17</sup>.

Furthermore, the *ad hoc* Oversight Committee of the House of Representatives of the BiH Parliamentary Assembly started work on determining the state of the judicial institutions in BiH by holding public hearings with judicial office holders also called on as witnesses. Members of the HJPC also came before the committee in 2020, thus contributing to achieving better understanding of the issues initiated with this process.

Ultimately, the HJPC was faced with re-examining its own ability to execute its duties stipulated with the law, while at the same time, the president of the HJPC was linked to various allegations of misconduct pursuant to Article 6, paragraph (1) items d) & f) of the Law on the HJPC BiH, regardless of the authenticity and legitimacy of the evidence on which the allegations were based. Critical dialogue was opened with a consensus reached in that maintaining the integrity of the judiciary and public confidence in the institution and system is indisputable, with this ultimately resulting in the president of the HJPC submitting his resignation.

This action allowed the HJPC to direct its focus on activities to reinforce the credibility of the institution and the judiciary in general. The HJPC understands the demands and expectations concerning the rule of law that stand before BiH on its path to the EU, as well as its own role in the process. To that end, we must remind that this institution has demonstrated its commitment to strengthening standards in all areas that were covered in the analyses under the *peer review* missions, at the same time implementing the recommendations through the regulatory framework under its competences, as well as by preparing a detailed initiative for the revision of the Law on the HJPC. In 2020, the HJPC contributed to the development of draft amendments to the Law on the HJPC BiH and actively participated in the operations of the working group tasked with identifying appropriate solutions to address any identified shortcomings and improve the current provisions of the Law on the HJPC BiH.

Unfortunately, the decisions passed by the HJPC to establish a system for the submission and verification of the financial statements of judicial office holders also targeting improvements for performance evaluation procedures, as well as appointment and promotion procedures for judges and prosecutors, were challenged before the court. The new Law on the HJPC was not adopted nor were the amendments to the current Law that would have allowed for significant progress with regards to integrity and accountability. The defined framework does not allow for a consistent response to all shortcomings that have been identified within the judicial system. Therefore, the HJPC again calls on the legislative and executive powers to, in line with the HJPC initiative for the revision of the Law on the HJPC from June 2018, undertake the appropriate legislative action for the successful reform of the judiciary.

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<sup>16</sup> Such as the European Commission Bosnia and Herzegovina 2020 Report and the Third Annual Report on Judicial Response to Corruption: The Impunity Syndrome of the OSCE Mission to BiH.

<sup>17</sup> In May 2020, the Criteria for the Performance Evaluation of Judges in BiH and the Book of Rules on the Procedure for the Performance Evaluation of Judicial Office Holders were revoked.

## 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 provisions of the laws on courts and prosecutor's offices, the HJPC participates in the budget preparation process for the courts and prosecutor's offices as follows:

- Courts and prosecutor's offices are sent guidelines for the preparation of their budget proposals. Separate guidelines are prepared for each court/prosecutor's office, which represent HJPC's assessment on the minimum funds required for the institution to be able to operate and function;
- The HJPC BiH provides 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 remarks to the budget drafts and proposals,

When compared with the competencies of other judicial institutions in a number of European countries, we can say that the HJPC's competencies are insufficient and do not ensure full independence of judicial institutions in terms of their funding. In a number of European countries, the HJPC's corresponding institutions are the official proponents of the budget for courts and prosecutor's offices, they negotiate with the executive and legislative branches within the process of adopting the budgets, and they also allocate funds to each of the courts and prosecutor's offices. Various international documents also point out the need to ensure the independence of the judiciary with respect to its funding (Opinion no. 10 of the Consultative Council of European Judges of the Council of Europe from 2007 etc.).

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

This problem is particularly prominent in the Federation of BiH where cantonal courts/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 levels (number of judges and prosecutors is set by the HJPC, while the salaries and other payments for judges and prosecutors, the number of courts and their seats, the criteria for the number of support staff, attorney fees that form the bulk of criminal process expenses, are all generated through decisions that are rendered on Federal level). The fragmented funding of the judiciary limits the ability to carry out strategic activities that are adopted on BiH level, as well as affecting the balanced allocation of funds with respect to caseload difficulty which is a GRECO recommendation.

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

- reducing the current financial fragmentation (14 separate funding sources), primarily by introducing a common financing set-up for the courts and prosecutor's offices in the Federation of BiH;
- increase the authorities judicial institutions have within the budgeting process whereby the HJPC would formally propose judicial budgets for the courts and prosecutor's offices and negotiate with the executive and legislative branches on the said budgets and the HJPC budget.

### 2.3. The budgets of the courts and prosecutor's offices for 2020

The following table provides an overview of approved budgets for the courts and prosecutor's offices for 2019 and 2020 as well as an assessment of the funds required for efficient operations as submitted by the courts and prosecutor's offices and agreed upon with the HJPC:

**Table 3: Budgets of the courts and prosecutor's offices for 2019 and 2020 and funds assessment**

	Budget rebalance for 2019 I	Proposals from the courts and prosecutors offices sent to the HJPC for funding in 2020 II	Approved budget for 2020 III	Budget rebalance for 2020 IV	Budget rebalance 2020/Budget rebalance 2019 V=IV/I	Budget rebalance 2020/Proposals from courts and prosecutors offices for 2020 VI=IV/II
<b>Republika Srpska</b>						
Personal income	52,681,500	59,389,320	57,839,600	55,845,300	6.0%	-6.0%
Goods & services	11,689,800	14,850,300	11,924,500	11,003,200	-5.9%	-25.9%
Expenditure on non-financial assets	2,000,500	3,174,800	1,062,300	709,100	-64.6%	-77.7%
<b>Total - non-financial assets and current expenditure</b>	<b>66,371,800</b>	<b>77,414,420</b>	<b>70,826,400</b>	<b>67,557,600</b>	<b>1.8%</b>	<b>-12.7%</b>
Other expenditures—transactions	612,500	553,900	559,500	1,095,200	78.8%	97.7%
Servicing debts	2,622,400	2,061,122	0	0	-100.0%	-100.0%
<b>Total - Republika Srpska expenditure</b>	<b>69,606,700</b>	<b>80,029,442</b>	<b>71,385,900</b>	<b>68,652,800</b>	<b>-1.4%</b>	<b>-14.2%</b>
<b>Federation BiH</b>						
Salaries & other payments	127,171,093	142,344,169	134,243,417	127,022,136	-0.1%	-10.8%
Material & services	26,398,412	33,734,567	25,878,707	23,047,320	-12.7%	-31.7%
Capital expenditure	1,684,912	12,172,556	2,575,894	1,771,044	5.1%	-85.5%
<b>Total - current and capital expenditure</b>	<b>155,254,417</b>	<b>188,251,292</b>	<b>162,698,018</b>	<b>151,840,500</b>	<b>-2.2%</b>	<b>-19.3%</b>
Current transfers	95,104	462,380	140,747	301,747	217.3%	-34.7%
New court (MC Srebrenik)	776,238					
<b>Total expenditure - Federation BiH</b>	<b>156,125,759</b>	<b>188,713,672</b>	<b>162,838,765</b>	<b>152,142,247</b>	<b>-2.6%</b>	<b>-19.4%</b>

<b>Brcko District BiH</b>						
Salaries & other payments	5,278,952	6,380,520	6,380,541	6,295,758	19.3%	-1.3%
Material & services	1,141,330	1,141,330	1,141,309	1,162,510	1.9%	1.9%
Capital expenditure	90,000	150,000	150,000	150,000	66.7%	0.0%
<b>Total</b>	<b>6,510,282</b>	<b>7,671,850</b>	<b>7,671,850</b>	<b>7,608,268</b>	<b>16.9%</b>	<b>-0.8%</b>

The key elements based on which the courts and prosecutor's offices and the HJPC make their funding assessments, as sent to the courts and prosecutor's offices within the budgeting guidelines, are:

- Salaries and other payments for judges, prosecutors and legal associates appointed by the Council are estimated according to current regulations;
- Salaries and other payments for non-judicial staff are estimated according to current regulations at the time the guidelines were prepared.

The following parameters were used to estimate funding for non-financial assets expenditure as well as for material and services:

- Detailed data on expenditure from past years.
  - expected price growth rate,
  - Data on the number of criminal cases in order to estimate criminal process costs (expenses for attorneys, expert witnesses etc.)
- An assessment was made of the funds required for the procurement of ICT equipment so that the case management system within the judicial information system can operate properly. Considering that capital expenditures are planned jointly on Brcko District level for all institutions, this assessment was not made for the judicial institutions in the Brcko District. To date, the procurement of ICT equipment was, by and large, financed with donor funds and the HJPC budget. The long-term sustainability of the system requires significant funding from court and prosecutor's office budgets. Since a reliable assessment was not possible, the guidelines did not cover judicial building construction and renovation needs.

The total budget for the judicial institutions in Republika Srpska was some 1.4% (around 1 million KM) higher than in 2019.

However, we must stress that funds for salaries and other payments in the 2020 budget increased by around 6% compared to 2019, while non-financial assets were reduced by some 1.3 million KM. Also, the 2020 budget did not account for servicing debts for courts and prosecutor's offices.

The Federation BiH saw a drop in approved judicial budgets compared to 2019 by around 2.6% (approx. 4 million KM). The budget reduction primarily accounts for a reduction in funds for material and services. On the other hand, salaries and other payments remained almost unchanged compared to 2019, while capital expenditure increased by around 5%. The budget for the judicial institutions of the Brcko District was increased by around 17% compared to the previous year and we can state that funding for the judicial institutions of the Brcko District was relatively satisfactory.

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 BiH institutions. In consideration of the specificity of the institutions, budgeting guidelines were not prepared for the Court of BiH and the Prosecutor's Office of BiH.

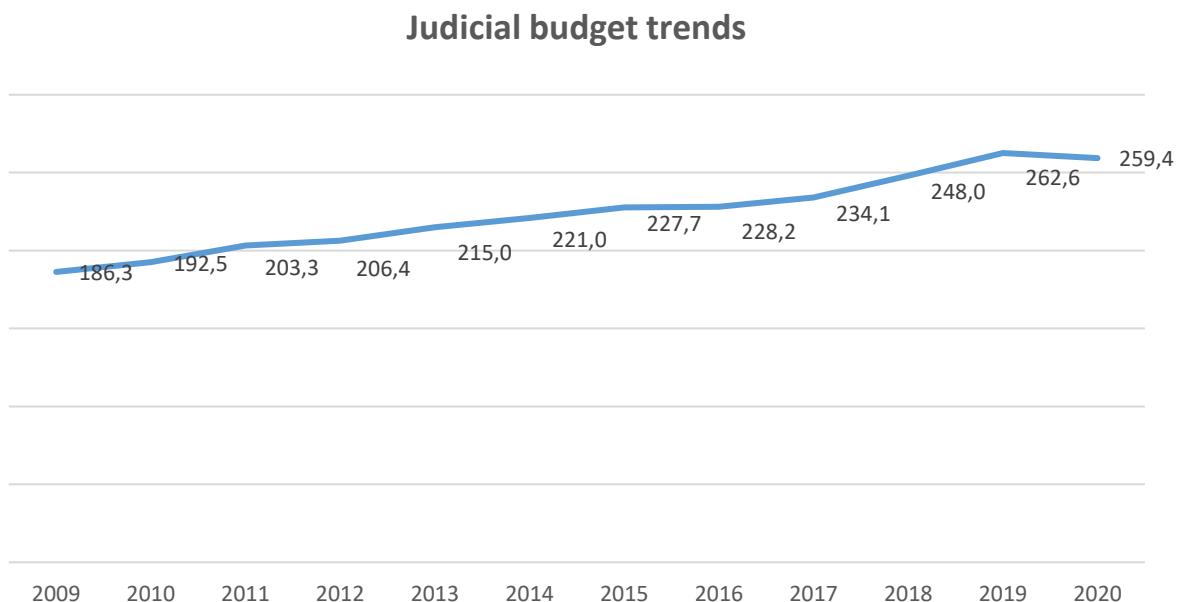
**Table 4: Budgets of the Court of BiH and the Prosecutor's Office of BiH for 2019 and 2020**

	Approved budget for 2019	Approved budget for 2020	2020 budget / 2019 budget
	I	II	III = III
Salaries & other payments	24,455,000	26,111,000	6.77%
Material & services	6,222,000	4,429,000	-28.82%
Capital expenditure	557,000	451,000	-19.03%
<b>TOTAL BUDGET</b>	<b>31,234,000</b>	<b>30,991,000</b>	<b>-0.78%</b>

The total budget for judicial institutions that are financed from the budget of BiH institutions is down 0.78% (approx. 243,000 KM) compared to 2019. At the same time, we can expect that the duty to implement the *Peer Review* recommendations on combating organised crime and corruption will require additional resources, especially for the Prosecutor's Office of BiH.

## 2.4. Budget trends

The following graph shows judicial budget developments between 2009 and 2020.

**Graph 2: Judicial budget trends**

## Chapter 3: APPOINTMENTS AND EVALUATION

### 3.1. Procedure for appointment to judicial office

#### 3.1.1. Legal framework & procedures

One of the basic competencies of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina is to conduct transparent and objective appointment procedures of judicial office holders.

Article 43 of the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (*Official Gazette of BiH*, no. 25/04, 93/05, 48/07 and 15/08) prescribes the criteria necessary to establish the candidate competence for judicial and prosecutorial 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 Exam and Written Tests). Pursuant to Article 37 of the Rules of Procedure of the HJPC of BiH, the competition procedure includes:

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

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

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

In 2020, the HJPC BiH implemented the recommendations from the Peer Review of the EU Delegation<sup>18</sup> that refer to improving written tests and entrance exams, introducing more stringent testing procedures and improving structured interviews (based on adapted criteria for assessing the competence of a candidate depending on their professional status), as well as prescribing separate rules on the election of court presidents and chief prosecutors. When electing and appointing candidates for management level positions, the candidates are required to present before the interviewing panels that is to say before the Council a work plan for the institution to which they are applying which will allow for the election of the best candidates to these offices and make it possible to oversee and monitor the implementation of the relevant work plan if elected.

Towards the end of 2020, the HJPC standing committee for appointments adopted draft amendments to the relevant regulations and legal documents that will make it possible for a candidate to electronically apply for a position with the judiciary and implementation of more efficient appointment procedures for judges, prosecutors and legal associates.

In addition, regional centres are established to conduct entrance exams, facilitating candidate interviews by video links on a regional level, which will significantly contribute to more efficient and economic appointment procedures for judges, prosecutors and legal associates.

In relation to the 2020 statistics, it has to be stressed that five competitions were held in that period, within which 139 vacancies in the judiciary were announced.

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<sup>18</sup> A total of 27 thematically divided recommendations.

**Table 5: Overview of candidate testing in 2020**

<b>Total number of applicants</b>	<b>882</b>
<b>Total number of candidates tested</b>	<b>561</b>
For prosecutor posts	145
For judge posts	416
<b>Total number of candidates who passed the testing</b>	
<b>Judges:</b>	
Entrance exam	183
Written test	166
<b>Prosecutors</b>	
Entrance exam	62
Written test	60
Total number of candidates passing	53.40%

**Table 6: Ethnic and gender breakdown of judicial office holders**

Level	Institution	Systematisation no.	No. of positions filled	Ethnic breakdown				Gender breakdown	
				B	C	S	O	M	F
State	Court	56	50	23	8	16	3	25	25
	Prosecutor's Office	63	58	27	9	17	5	30	28
Supreme Court of the Federation of BiH		58	45	26	8	9	2	13	32
Prosecutor's Office FBIH		22	11	5	3	2	1	5	6
High Commercial Court		6	6	0	1	5	0	3	3
Supreme Court RS		23	23	4	3	13	3	6	17
Republic Prosecutor's Office of RS		14	9	2	1	5	1	4	5
Cantonal	Courts	177	142	77	35	24	6	35	107
	Prosecutor's offices	210	191	112	35	30	14	92	99
District Courts		79	76	16	5	52	3	28	48
District Commercial Courts		45	37	8	3	24	2	11	26

District prosecutor's offices		102	80	13	7	55	5	37	43
Municipal Courts		451	418	226	93	68	31	151	267
Basic Courts		217	199	47	13	128	11	77	122
Basic Court of the Brcko District		20	19	7	3	7	2	11	8
Prosecutor's Office of the Brcko District		9	8	4	2	2	0	4	4
Appellate Court		8	8	2	3	3	0	4	4
<b>TOTAL</b>		<b>1560</b>	<b>1380</b>	<b>599</b>	<b>232</b>	<b>460</b>	<b>89</b>	<b>536</b>	<b>844</b>

**Table 5: Ethnic and gender breakdown of the managers of judicial institutions (prosecutor's offices include chief prosecutors and deputy chief prosecutors)**

Level	Institution	Bosniak	Croat	Serb	Others	Male	Female
Court of BiH					1	1	
Prosecutor's Office of BiH		1	1	2	0	1	3
Supreme Court of the Federation of BiH		0	0	0	0	0	0
Prosecutor's Office FBIH		1	1			1	1
High Commercial Court			1			1	
Supreme Court RS					1		1
Republic Prosecutor's Office of RS		1	1			1	1
Cantonal	Court	3	4	1	0	2	6
	Prosecutor's Office	11	8	4	3	15	11
District Courts		1	0	5	0	5	1

District Commercial Courts		2	0	3	0	2	3
District prosecutor's offices	Prosecutor's Office	4	2	6	0	9	5
Municipal	Courts	17	9	4	1	15	16
Basic	Courts	4	1	14	1	11	9
Appellate Court of the Brcko District	Appellate Court			1		1	
Basic Court of the Brcko District	Basic Court		1			1	
Brcko District	Prosecutor's Office	1				1	
<b>TOTAL</b>		<b>46</b>	<b>29</b>	<b>40</b>	<b>7</b>	<b>65</b>	<b>57</b>

## 3.2. Performance evaluation for judicial office holders

### 3.2.1. Introduction

Article 17, item (22) of the Law on the HJPC prescribes that the HJPC “determines the criteria for the performance evaluation of judges and prosecutors.” The performance evaluation of judges, court presidents and chief prosecutors is performed once a year based on 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.

### 3.2.2. Amendments to and application of the legal framework for the performance evaluation of judicial office holders in 2020

At the end of 2018, the HJPC adopted the new criteria for the performance evaluation of judicial office holders in courts and prosecutor's offices<sup>19</sup>, which were prepared based on the recommendations from the peer review analysis on the performance evaluation of judges and prosecutors, made by the experts hired by the European Commission in 2017. The analysis offers a range of recommendations to improve the performance evaluation system for judges and prosecutors in BiH while also looking to achieve an appropriate balance between quantity and quality criteria for performance evaluation in line with the best European standards.

According to the Book of Rules on Performance Evaluation of Judicial Office Holders, the 2019 performance evaluation should be completed by 31 March 2020. However, the deadline to complete the 2019 performance evaluation was extended, after the HJPC made a decision to discontinue the performance evaluation on 26 March 2020, which was preceded by the introduction of measures that restricted the work of judicial institutions due to the declaration of a COVID-19 pandemic. The new decision of the HJPC of 14 May 2020 set 15 June 2020 as the deadline to complete the performance evaluation procedures.

<sup>19</sup> The Criteria for Performance Evaluation of Judges and Criteria for Performance Evaluation of Court Presidents and Court Department Heads (*Official Gazette of BiH*, 93/18, 53/19, 76/19), the Criteria for Performance Evaluation of Prosecutors, Heads of Prosecutorial Departments, Deputy Chief prosecutors and Chief prosecutors (*Official Gazette of BiH*, no. 93/18, 53/19), Book of Rules on the Performance Evaluation of Judicial Office Holders (*Official Gazette of BiH*, no. 93/18).

In the meantime, acting upon the request to assess the legality of the Book of Rules on Performance Evaluation of Judicial Office Holders, the Court of BiH revoked the said book of rules and the Criteria for Performance Evaluation of Judges by its judgement number: S1 3 U 032644 19 of 19 May 2020, rendering the revoked documents ineffective as of the day the judgement was rendered. Bearing in mind the judgement of the Court of BiH, on 3 June 2020, the HJPC adopted a conclusion to cease all activities of the HJPC, courts and prosecutor's offices in BiH related to the completion of the 2019 performance evaluation until the Court of BiH and Constitutional Court of BiH rendered their decisions. Specifically, on 3 June 2020, the HJPC adopted a conclusion to send a request to the Court of BiH to re-examine the Court of BiH judgement and a conclusion to draft an appeal for the assessment of constitutionality of the Court of BiH judgement, that will be sent to the Constitutional Court of BiH. The request to the Court of BiH to re-examine its judgement was delivered to the Court of BiH on 4 June 2020 in a way that it was rejected as inadmissible. Besides that, on 25 June 2020, the Constitutional Court of BiH received the appeal contesting the Court of BiH judgement. On 15 July 2020, the Constitutional Court of BiH rendered a decision rejecting the appeal as inadmissible, because it was premature, bearing in mind that the procedure in the Court of BiH was ongoing upon the request for re-examination of the Court of BiH judgement.

To overcome the existing problems in evaluating the performance of judicial office holders and the use of performance evaluations for judicial and prosecutorial appointment procedures, on the HJPC session on 22 and 23 October 2020, the issue of performance evaluation of judicial office holders for 2019, 2020 and 2021 was considered.

It was decided that for 2019 the court president and chief prosecutors would carry out the performance evaluation of all judicial office holders. In order to ensure that the performance of all judicial office holders is evaluated according to the same criteria, it was decided that the evaluation would be conducted exclusively in accordance with quantitative parameters (performance target, statistical quality of decisions and attitude towards work/timeliness) which were included in the previous criteria and in accordance with the Decision on the performance evaluation of judicial office holders for 2019. Furthermore, for the purposes of implementing the previous decision of the HJPC BiH, it was decided to temporarily repeal all new criteria (adopted in November 2018), with the Criteria for Performance Evaluation of Judges in BiH and the Book of Rules on Performance Evaluation of Judicial Office Holders were previously revoked by the judgement of the Court of BiH.

The re-evaluation of performance for 2019 was conducted in all judicial institutions in accordance with the Decision of the HJPC on the performance evaluation of judicial office holders in Bosnia and Herzegovina for 2019.

For 2020, it was decided not to evaluate the performance of judicial office holders. It is considered that the evaluation would not be objective given that the corona virus pandemic caused a setback in the work of judicial institutions in the period March-April 2020; after the cessation of the stalemate, these institutions continued working with significant limitations and difficulties, as a result of which the number of prosecutorial and court decisions in cases during 2020 was significantly reduced compared to 2019, as shown in Annex 2 and Annex 3 of this report.

The letter, which was delivered to all court presidents and chief prosecutors on 30 October 2020, stated, among other things, "The HJPC BiH draws the attention of the managers of judicial institutions to the need to manage the work of these institutions in a way that will ensure that as many cases as possible are completed by the end of 2020, taking into account the prescribed performance criteria for judicial office holders." During 2020, the number of completed cases decreased significantly compared to 2019, but by reviewing the number of completed cases by months during 2020, after the notification that there will be no evaluations for 2020, the number of completed cases is not less than the monthly average of completed cases during 2020.

For 2021, the performance evaluation of all judicial office holders will be conducted according to the new criteria for performance evaluation adopted at the session of the HJPC, held on 29 December 2020. The implementation of the function of the HJPC BiH in the field of appointment of judicial office holders, as a function of crucial importance for the functioning of

the judiciary in BiH, is precluded if the performance evaluation procedure of judicial office holders is not carried out. In addition to the above, it is equally important that the adoption of new criteria is very important from the point of view that the performance evaluation of judicial office holders encourages the achievement of adequate results in judicial institutions, which contributes to improving the accountability of the judicial system and strengthening the trust of citizens.

The adopted criteria contain elements through which the results of judicial office holders are evaluated in relation to the following quantitative indicators: performance target, statistical quality of decisions and timeliness. Therefore, these are common indicators that are based on different aspects of judicial office and which are used over a longer period of time to monitor the performance of judicial institutions and judicial office holders in Bosnia and Herzegovina. Having in mind the mentioned judgement of the Court of BiH, the current criteria for performance evaluation of judicial office holders do not provide for analytical evaluation of their performance.

New criteria for performance evaluation of judicial office holders in courts and prosecutor's offices in BiH were published in the *Official Gazette of BiH*, no. 1/21 of 8 January 2021, and apply to performance monitoring and evaluation of all judicial office holders in Bosnia and Herzegovina, starting from January 2021.

## Chapter 4: EFFICIENCY OF JUSTICE

### 4.1. Efficiency of the courts

Judicial efficiency is one of the four key principles of the HJPC BiH, which contributes to strengthening the rule of law in BiH. Aspiring to European integration, it is very important that the justice in BiH is as efficient as possible. In this regard, the HJPC BiH is seeking to continuously improve the efficiency of the courts and bring the justice in BiH closer to CEPEJ standards. Guided by this principle, in the past year the HJPC BiH carried out a series of activities aimed at adequate monitoring of court cases, meeting the performance target, increasing the productivity of judges, better work organisation in judicial institutions and strengthening management skills of court managers in the strategic planning segment.

It is important to note that 2020 was a special challenge in terms of maintaining the court efficiency, given the state of emergency was declared due to the outbreak of a pandemic caused by the COVID-19 virus. The emergence of the pandemic has negatively affected the work of the courts, which in turn has affected their efficiency. As a result, in accordance with the decisions of the competent pandemic response teams, the work of the courts was significantly limited in such a way that in the initial period of the pandemic only urgent cases were dealt with, and later trials and hearings were held in cases for which compliance with epidemiological measures could be ensured, taking into account the spatial capacity of each individual court.

The courts operated under the special work regime, which had a negative impact on both the length of proceedings and the number of disposed cases in the courts, as shown in the the statistics.

#### 4.1.1. Court Management

The courts in Bosnia and Herzegovina undoubtedly face daily challenges in terms of providing adequate material and human resources, necessary for their efficient and quality operations. Incomplete financial independence of the judiciary and decentralised funding of judicial institutions have a negative impact on the functioning of the system. However, court presidents, by actively performing the role of institution head, can significantly contribute to providing the necessary working conditions and overcoming systemic problems. In addition, as leaders within the institution, they are the ones who must actively participate in establishing and promoting quality standards. Their role and requirements for the position of court president are also written about in the Expert Report on Rule of Law issues in Bosnia and Herzegovina.<sup>20</sup> Pursuant to relevant laws and bylaws, court presidents, within their managerial powers and competencies, have the obligation and responsibility to adequately plan and spend budget funds, which confirms the importance of their managerial role.

In legal theory, there is a dilemma whether it is enough for a court president to be a judge, as *primus inter pares*, or whether a qualified manager should be found in that position, who does not necessarily have to be a judicial office holder. Proceeding within the existing legal framework, according to which court presidents are elected from among the judges of a particular court, the HJPC BiH recognised the importance of investing in the development of managerial skills. For many years, the HJPC BiH has been implementing measures to provide court presidents with specialised training and tools for better and simpler court management. In such a way awareness of the importance of quality within judiciary is raised.

In 2020, the implementation of activities in 18 target courts of the project *Improving Judicial Quality* continued. With the support of the Government of Norway, the HJPC BiH has been implementing this project since 2019. In cooperation with the Norwegian Courts Administration and the the Council for the Judiciary of Netherlands, target courts have been implementing measures by which they fully meet the requirements set in the Expert Report on the Rule of Law Issues in BiH. Court presidents take an active role and coordinate institutional cooperation between first and second instance courts, in order to address issues important for day-to-day

<sup>20</sup> Expert Report on Rule of Law Issues in Bosnia and Herzegovina, para 89 and 90

work, such as the application of new regulations, the emergence of new types of cases or greater number of the same type of cases, consideration of current legal positions, familiarisation with available positions of other courts, the exchange of observations in the work of both courts and other issues to be delegated. Litigation department judges of the first and second instance courts are also informed about the outcome of these meetings.

The first phase of this activity involved working with the Basic Court and the District Court in Bijeljina, the Municipal Court and the Cantonal Court in Tuzla, the Basic Court and the Appellate Court of the BDBiH, which ended in 2019, but the practice of mutual cooperation between these courts continued in 2020. In the second phase, which was implemented in 2020, all first instance courts of Zenica-Doboj Canton and the Cantonal Court in Zenica, all courts of the Central Bosnia Canton and the Cantonal Court in Novi Travnik, as well as the Basic Court and the District Court in Doboj were involved. Finally, during the third phase, the activities involved the municipal and cantonal courts in Mostar and Široki Brijeg, as well as the Basic Court in Trebinje and the District Court in Trebinje.

Their focus is on promoting a more productive organisational culture that implies better communication and teamwork, as well as standardised proceeding and insisting on the authority and reputation of the court and professionalism. At the level of litigation departments of first and second instance courts, court presidents develop a model for court organisation. Specialised trainings were provided under the Project, in partnership with the Institute for the Training of Judges from the Netherlands.

#### **4.1.2. Proactive court management**

Courts, as institutions, represent a complex organisational structure, which requires well-developed management skills of the heads of judicial institutions. The day-to-day challenges that courts face in their work require a proactive and systematic approach from the heads of judicial institutions, which is reflected in the establishment of strategic planning practices and the establishment and monitoring of efficiency standards. In this context, relying on its legal competencies, the HJPC BiH is a key factor in comprehensive monitoring and creating of adequate policies and measures and the promotion of quality management.

##### **I Efficiency standards**

In recent years, the HJPC BiH has developed numerous tools for court management and monitoring the work of courts, which have helped in the adoption of certain management policies. These are, first of all, performance criteria, which are reflected in the weighting of disposed cases, then monitoring the implementation of the backlog reduction plan, defining and monitoring of the optimal and predictable deadlines for processing of cases, calculating predictable court costs, etc. However, so far in the judiciary there have been no established efficiency standards, i.e. defined uniform criteria that would serve to be compared against the actual results of individual courts and determine the degree of their deviation from the defined standards. Through these activities, the HJPC BiH seeks to ensure that BiH courts are as close as possible to European standards when it comes to court productivity, the number of cases processed before the courts, the lengths of proceedings and the financial parameters of case processing.

In contrast, all individual parameters, on the basis of which the efficiency of the court is measured (length of proceedings, performance targets, implementation of the backlog reduction plan, number of disposed and pending cases) derive from court efficiency standards and rely on standards developed by the European Commission for the Efficiency of Justice (CEPEJ), but they were analysed individually. It has been observed that the mere existence of management tools does not contribute to the efficient management of the system.

In previous years, all these data were observed in fragments. This way of monitoring is good if the focus is only on achieving one goal. However, from the point of view of the HJPC BiH, it is necessary to comprehensively monitor the work of the courts and get a comprehensive idea of the judicial operations. Therefore, there is a need to change the approach and improve the application of management tools, which requires a more proactive management of courts. This

implies bringing all measurable results into mutual correlation, and drawing overall conclusions about the efficiency of the court, after considering all indicators.

Looking at the data partially, it often happens that courts record timeliness or satisfactory result according to one criterion (e.g. reduction in the number of pending cases), and at the same time record non-timeliness or partial timeliness or unsatisfactory result based on another observed criterion (e.g. increase in the length of proceedings).

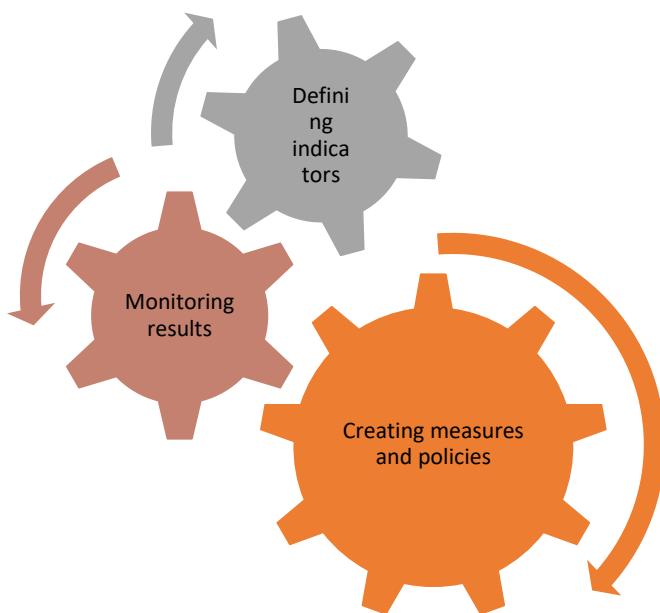
With this in mind, in 2020, the HJPC BiH sought to identify the most important indicators on the court operations. The entire activity was supported by the European Union through the project *Building an Effective and Citizen-friendly Judiciary - IPA 2017*, of which the main objectives were to enhance the overall effectiveness of the BiH judiciary and increase public trust in the country's justice system in order to provide better services to citizens and businesses.

At its session held on 23 October 2020, the HJPC BiH adopted 9 efficiency indicators:

- 1) Flow coefficient
- 2) Time required to resolve the case
- 3) Pendency of cases (pending and disposed)
- 4) Age breakdown of the cases (change coefficient of the age breakdown)
- 5) Implementation of the backlog reduction plans expressed as a percentage
- 6) Pure collective court quota achieved (the number of cases expressed through the quota system) and collective court quota achieved
- 7) Number of judicial office holders (filled and systematized positions), and average number of disposed and pending cases per judicial office holder
- 8) Case cost / average cost and
- 9) Statistical quality.

In order for the HJPC BiH and the courts to be able to monitor the results of efficiency indicators in a pragmatic way, and to draw adequate conclusions and create adequate management policies, all reports were created in the Reporting and Decision Support System (hereinafter: SIPO system). After the final testing of the SIPO reports, efficiency indicators will be available to the public through the judicial web portal, in order to inform the public about the existence of actual problems faced by the courts.

**Graph 2. Graphic presentation of the process of creating measures and policies aimed at improving efficiency**



The aim of creating and applying efficiency indicators is to identify specific problems in specific courts based on the set indicators. Consequently, the HJPC BiH will have the opportunity to adopt appropriate measures, with the aim of providing support and instructions for the court / courts in which a particular problem has been identified, with the ultimate goal of increasing the efficiency and productivity of the courts in BiH. This will ensure a more proactive role of the HJPC BiH in court management, as well as a more productive role of court presidents in court management, because the presidents of courts, based on the overall situation in the court, will be expected to take a more proactive strategic approach to addressing identified problems.

## II Strategic planning

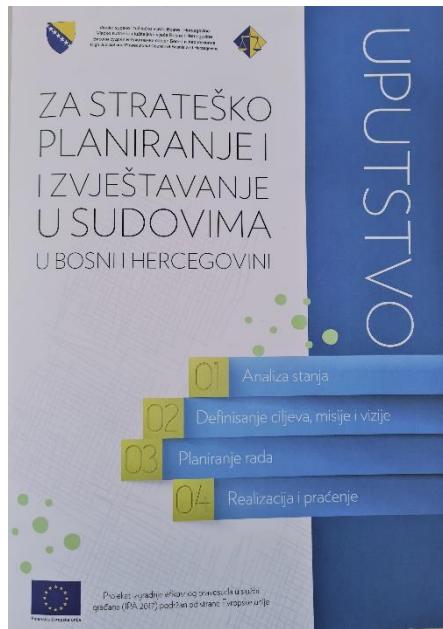
In addition to efficiency standards, one of the management tools that helps the heads of judicial institutions in achieving the mission and vision of the institution, as well as providing adequate financial resources, is the strategic planning of the institution. The HJPC BiH, like many other institutions in BiH, following the examples from the EU, has a long-standing practice of drafting multi-annual strategic plans. Through strategic plans, the HJPC BiH sets and determines priorities in its work and goals of key importance, both for the institution and for the judiciary as a whole, and accordingly, on an annual basis, monitors their implementation.

The courts so far have not had the practice of making strategic plans. Therefore, this tool will enable them to set strategic goals in individual segments and systematically manage the way the court operates in a longer period. This type of planning and action will enable court presidents to adequately manage court resources and the process of dealing with cases, which will certainly reduce the possible negative impacts of those factors that can be foreseen.

In the previous period, the courts in BiH were required to prepare an annual work programme and submit annual reports to the HJPC BiH. However, the practice of multi-year strategic planning in the courts did not exist. Courts often face long-term problems, without identifying strategic measures to overcome them or address them to the relevant institutions. Strategic planning in the courts is the key activity, so that court presidents take a proactive instead of reactive role in the court management. As this is a new process in the judiciary, the HJPC BiH will provide full support to the courts in implementing the strategic planning process.

Given the positive experiences of this method of planning, and with the aim of strengthening management capacity in the courts, the HJPC BiH at its session held on 12 May 2020 adopted the Guide for Strategic Planning and Reporting in the Courts in Bosnia and Herzegovina (hereinafter: the Guide).

**Image 3: Cover page of the Guide for Strategic Planning and Reporting in the Courts in Bosnia and Herzegovina**



One of the essential roles of strategic planning is to ensure the consistent application and implementation of the mandate and the exercise of the competence of the court, which are prescribed by laws and other relevant regulations. By planning and implementing concretely defined activities, the institution provides strong arguments for securing the support of the competent ministries and a better understanding of the needs of the institution.

Such an approach to work contributes to improving the transparency of the court operations and directs the courts to make their work as oriented as possible to responding to the needs of citizens. Ultimately, the purpose of this activity is to provide better services to citizens and restore their trust in the BiH judiciary.

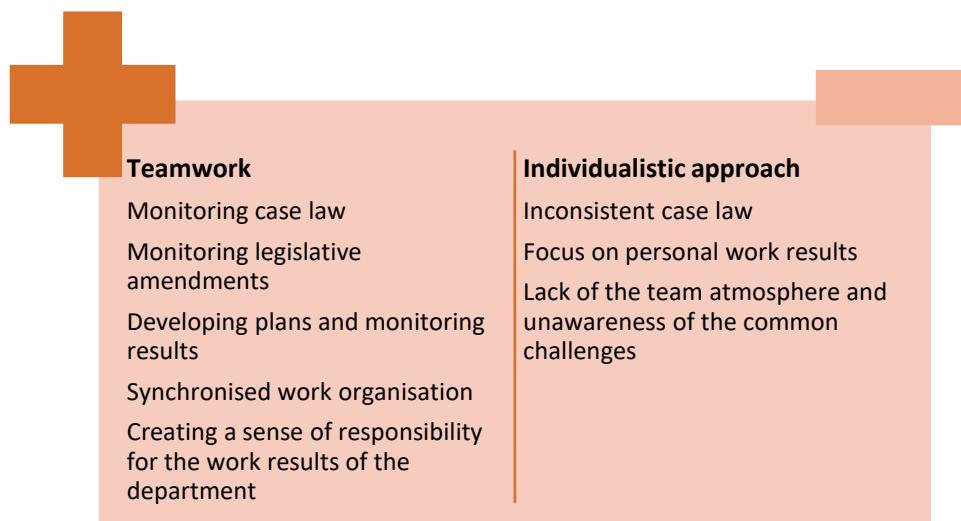
In 2021, the HJPC BiH will organise regional workshops, with the aim of practical training of court presidents on the process and the manner of drafting strategic plans. After the adoption of strategic plans, the courts will publicise them on their websites, in order for the public to get familiar with the strategic goals of each specific court and thus be informed of their work.

### III Management of court departments

The success of the work of the court department reflects the success of the functioning of the court. The individualistic approach to work of a judge has dominated the work practice of BiH courts, which probably stems from the principles of autonomy and independence of judges. The work results of the department are often viewed as a simple sum, i.e. the average of individual judges' work, and there is no collective goal setting, planning, work organisation and responsibility for the results.

As is the case with the activities undertaken to strengthen the managerial role of court presidents, the HJPC BiH implements measures aimed at strengthening court departments, as well as the basic organisational units of the court. It was previously established that the individualistic approach cannot meet the requirements of efficiency and quality at work. Quality standards inevitably have to be established at institution level, by members of that institution, as this is the only way to ensure individual responsibility for work goals and results. In addition, the work of a judge goes beyond dealing exclusively with cases and requires the organisation and distribution of workload in the court. Monitoring case law, amending regulations, drafting plans, monitoring performance and all other aspects of work that are important to all judges can be carried out more efficiently and better if teamwork and distribution of workload replace an individualistic approach.

**Image 4: An overview of the positive effects of teamwork in court and the negative aspects of the judges' individualistic approach**



Since 2015, the HJPC BiH has been cooperating in this segment with the Norwegian Courts Administration and the the Council for the Judiciary of Netherlands. The role of the head of the court department, which in everyday practice was deprived of a true managerial character, is sought to be strengthened by the activities under the IJQ Project. Project activities in practice seek to embody and promote all the competencies of the heads of court departments, prescribed by the Book of Rules on Internal Court Operations, and the skills and characteristics that a successful head of the court department should possess, in accordance with the Guidelines for the Appointment of Heads of Court Departments<sup>21</sup>. In 18 target courts, a number of measures have been taken in the civil/litigation departments of the courts. The heads of departments attend specialised training, which, under the IJQ Project is conducted by the training institute of Dutch judicial system and through peer-to-peer activities, with colleagues from Norway and the Netherlands, they implement measures to establish quality standards within departments and practice an active managerial role.

In 2020, training was organised for elected heads of departments of municipal and cantonal courts in Zenica, Mostar and Široki Brijeg, and the Municipal Court in Travnik and the Cantonal Court in Novi Travnik, as well as in the basic and district courts in Doboj and Trebinje.

## IV Monitoring

### Plans and Reporting

The HJPC BiH, pursuant to the competencies prescribed by the Law on the HJPC BiH<sup>22</sup>, is required and given possibility to monitor the work of courts and prosecutor's offices. Thanks to the regulatory and managerial role of the HJPC BiH, some progress has been made in the judiciary pertaining to court efficiency. Although numerous reforms have been implemented in the BiH judiciary, it is very important for their sustainability that they have a developed mechanism for monitoring the achieved results and exercising continuous supervision over the ongoing processes. The HJPC BiH monitors the work of courts by analysing numerous statistical indicators, such as the percentage of implementation of the backlog reduction plans, the percentage of achievement of the performance targets, the average duration of disposed and pending cases. In addition, a mechanism has been introduced for designating corruption cases in courts with the aim of more efficient monitoring of influx and processing of corruption cases, both by the courts and the HJPC BiH. In order to inform citizens about the corruption

<sup>21</sup> In 2018, the HJPC BiH adopted the Guidelines for the Appointment of Heads of Court Departments, no. 12-08-5-3900-1/2018

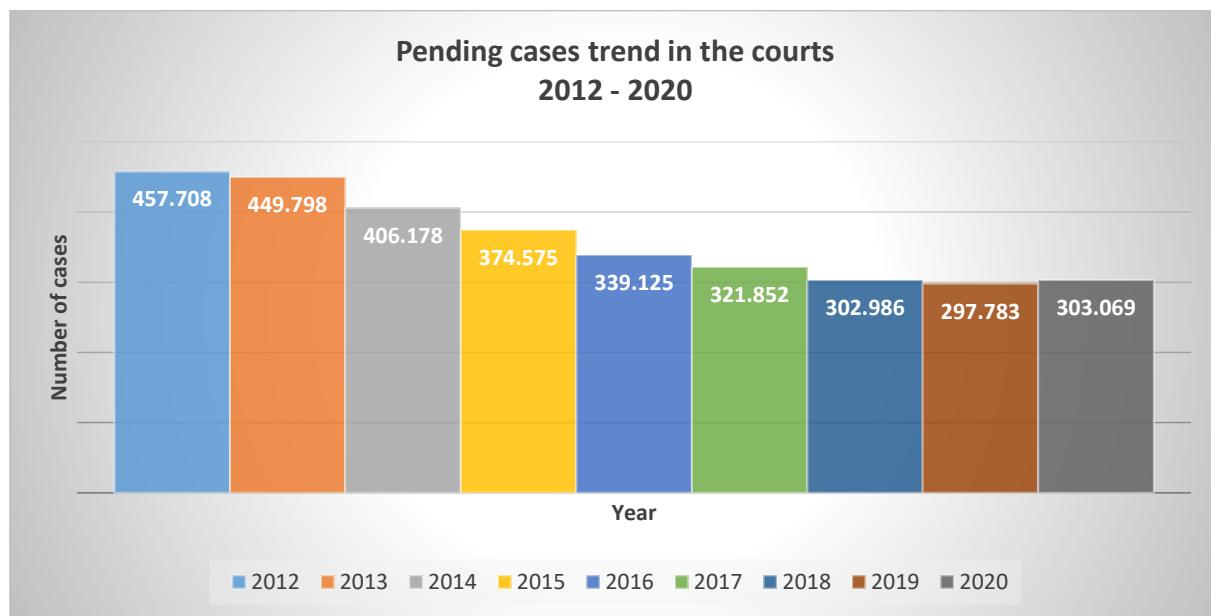
<sup>22</sup> Official Gazette of BiH, 25/04, 93/05, 15/08 and 48/07.

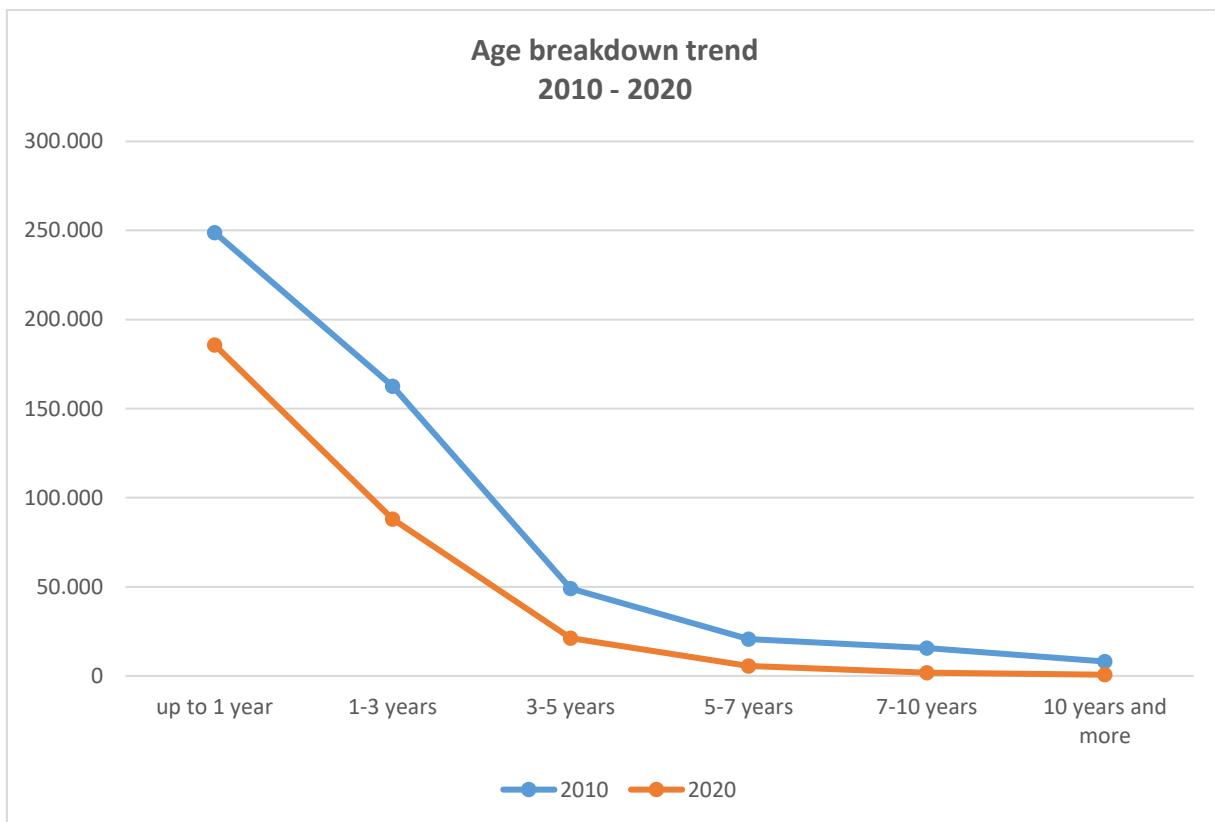
cases before the courts in 2020, an interactive map on the website of the HJPC BiH was upgraded, which showed basic statistics on the corruption cases before the courts.

The introduction of more active monitoring of the oldest cases processing in the courts through backlog reduction plans and the introduction of a new way of weighting the cases contributed to the increased court efficiency. The practice of developing backlog reduction plans has existed for many years. The courts draft their plans based on uniform Instructions for drafting backlog reduction plans in the courts. The main purpose of these plans is to ensure the processing of cases based on their initial filing date, and to enable equal access to justice for all parties. Thanks to continuous monitoring of the implementation of plans in the past ten years, in the period from 2010 to the end of 2020, the courts disposed 1,254,557 oldest cases, which greatly affected both the reduction in the number and length of pending cases before the courts.

The implementation of the backlog reduction plans in the courts has led to a reduction in the number of pending cases as well as to a change in their age breakdown, as shown in the chart below.

**Graph 3: Pending cases trend in the courts for the period 2012-2020**



**Graph 4: Age breakdown trend for the period 2010-2020**

In 2020, the courts accounted for 176,669 pending cases in their backlog reduction plans. Of that number, they completed 140,452 cases by 31 December 2020, or 80% of the plans. The implementation of the plan decreased by 10% compared to the previous year. Such results were certainly due to the declared state of emergency in Bosnia and Herzegovina, caused by the outbreak and spread of the COVID-19 virus, during which the courts operated under special regime of work.

Despite the imposed measures and reduced working hours due to the COVID-19 pandemic, the courts sought to implement their plans at a largest percentage possible, which can be seen from the table below.

**Table 8: Implementation of plans by institutions<sup>23</sup> and entities**

	Total number of cases	Disposed cases	Remain pending	% disposed	% pending
All courts in BiH	176,669	140,452	36,217	80%	20%
By entity	174,711	138,842	35,869	79%	21%
BDBiH courts	3,192	2,049	1,143	64%	36%
FBiH courts	121,470	95,317	26,153	78%	22%
RS courts	50,049	41,476	8,573	83%	17%
By instance					
First instance	145,561	111,135	34,426	76%	24%
BDBiH Courts	2,975	1,832	1,143	62%	38%

<sup>23</sup> The third instance includes the Appellate Court of Brcko District BiH

	Total number of cases	Disposed cases	Remain pending	% disposed	% pending
FBiH courts	101,418	76,223	25,195	75%	25%
RS courts	41,168	33,080	8,088	80%	20%
<b>Second instance</b>	<b>26,299</b>	<b>24,907</b>	<b>1,392</b>	<b>95%</b>	<b>5%</b>
FBiH courts	18,224	17,317	907	95%	5%
RS courts	8,075	7,590	485	94%	6%
<b>Third instance</b>	<b>2,851</b>	<b>2,800</b>	<b>51</b>	<b>98%</b>	<b>2%</b>
BDBBiH courts	217	217	0	100%	0%
FBiH courts	1,828	1,777	51	97%	3%
RS courts	806	806	0	100%	0%
<b>The Court of BiH</b>	<b>1,958</b>	<b>1,610</b>	<b>348</b>	<b>82%</b>	<b>18%</b>

In addition to developing of the backlog reduction plans and monitoring of their implementation, the HJPC BiH regularly monitors the quotas achieved in the courts in BiH. The current standardisation method was introduced in 2012 with the adoption of the Book of Rules on Performance Quotas for Judges and Legal Associates in Courts in BiH<sup>24</sup>. This way of standardisation resulted in the uniform application of rules in the performance appraisal of all judicial office holders.

The HJPC BiH monitors the performance quotas achieved through CMS reports that are available to every judge and legal associate who deals with cases assigned to them. In that way, every judicial office holder, at any time, can check their quota achievement percentage. Thanks to the implementation of the Book of Rules, the courts reduced the number of pending cases by 154,639 in the period from 2012 to the end of 2020.

It is important to emphasize that the performance results in the courts were significantly affected by the COVID-19 pandemic, due to which the courts operated under special work regime and with significantly reduced capacity, in line with the decisions of the competent pandemic response teams. The special work regime of the courts has undoubtedly reflected on the final results of the courts in 2020.

In addition to measures aimed at the entire judiciary in BiH, the HJPC BiH has previously focused on processing of specific types of cases, such as corruption and organised crime, which are one of the biggest challenges in BiH. It is crucial that the entire justice system is committed to addressing this problem, which is recognised through the recommendations given in the European Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union but also in the Expert Report on the Rule of Law Issues in BiH.

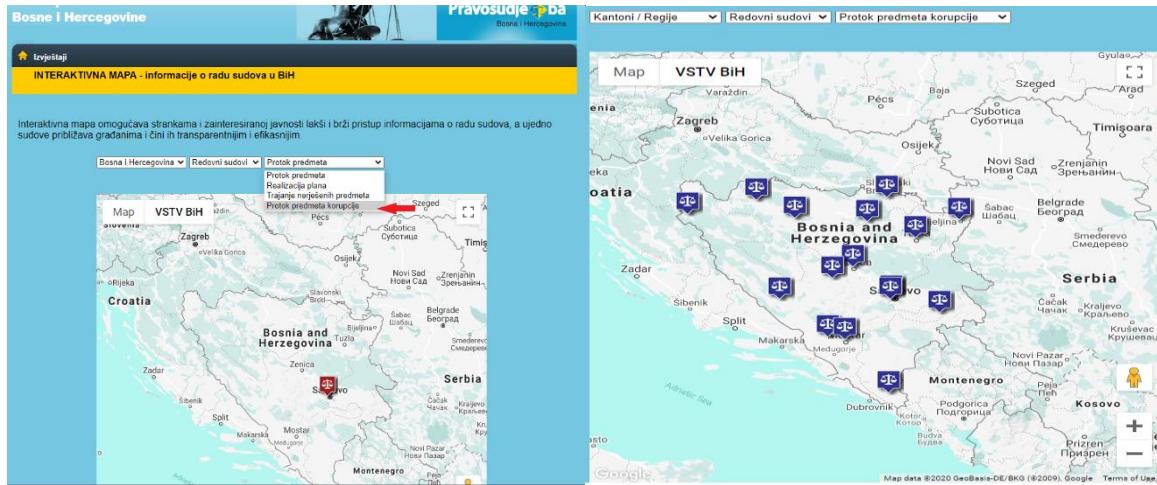
In 2020, the HJPC BiH developed a new CMS functionality, which enabled statistical monitoring of corruption cases in the courts. So far, statistics on the flow of corruption cases in the courts have been recorded manually. Thanks to the development of this functionality, courts have been enabled to monitor basic information on corruption cases, such as data on the level of corruption, on the flow of corruption cases and data on the allocation of cases per judges, in order to better plan resources for processing cases and more transparent dealing of the judiciary with this type of cases.

In addition to the development of a mechanism for monitoring corruption cases in courts, during 2020, activities were undertaken to improve the web display of statistics on corruption cases in order to inform citizens about processing corruption cases before courts. Thanks to this

<sup>24</sup> Official Gazette, 43/12

novelty, citizens will have the opportunity to get basic statistics on corruption cases for each court individually through the website of the HJPC BiH.

**Images 5 & 6: Screen shot of the current interactive map that is in the upgrading and testing phase**



Any interested visitor to the HJPC BiH website will thus have the opportunity to obtain basic statistics on corruption cases in the courts, by selecting from the offered list of courts the court for which he/she wishes to check the statistics, as well as the type of report he/she is interested in.

### Monitoring the processing of war crime cases at courts

In parallel with the implementation of the objectives and strategic measures of the Revised National War Crimes Strategy, the HJPC BiH has adopted a number of measures to improve the quality and efficiency of processing the war crime cases before the competent courts. Declaring the war crime cases as priority for processing, the HJPC BiH reminded of the obligation of increased transparency in processing the war crime cases, and called on court presidents to, within the existing capacities, provide adequate preconditions for dealing with the war crime cases.

Complementary to the establishment of a normative mechanism for efficient processing of cases in the prosecution phase, a specific decision established a framework for stronger procedural discipline and dynamics of adjudication in this type of cases, in order to overcome an increase trend in the length of proceedings, which among other things was a consequence of the COVID-19 pandemic and the special work regime of judicial institutions. In this regard, in order to achieve efficiency, the need to use the available functionalities of ICT equipment and the use of evidence database of the International Residual Mechanism for Criminal Tribunals was explicitly emphasised.

The issue of the functioning of the mutual legal assistance was treated as separate issue and, in addition to guidelines for judicial institutions, the HJPC BiH addressed the executive branch calling for stronger engagement in resolving specific issues.

## V Cooperation among courts

### Horizontal communication of judicial institutions

Under the *Improving Judicial Quality Project*, in cooperation of the HJPC BiH, the Norwegian Courts Administration and the Council for the Judiciary of the Netherlands, litigation / civil departments of the target first instance courts sought standardisation and harmonisation of their actions, in mutual coordination and with previously established internal cooperation. In this respect, thanks to the cooperation among first instance courts in the area of jurisdiction of one cantonal / district court, a regular professional dialogue has been established, which is usually conducted among the heads of departments and judges directly in charge of a specific issue within the court department. All these activities take place in the presence of representatives of the competent second instance court - as a rule, the head of department, which enables the standardisation of actions. In 2020, these activities took place in the first instance courts of Tuzla Canton, Zenica-Doboj Canton and Central Bosnia Canton, and the implementation of identical measures in all target courts of the Project creates a basis for harmonised case law in the entire judiciary.

### Vertical communication of judicial institutions

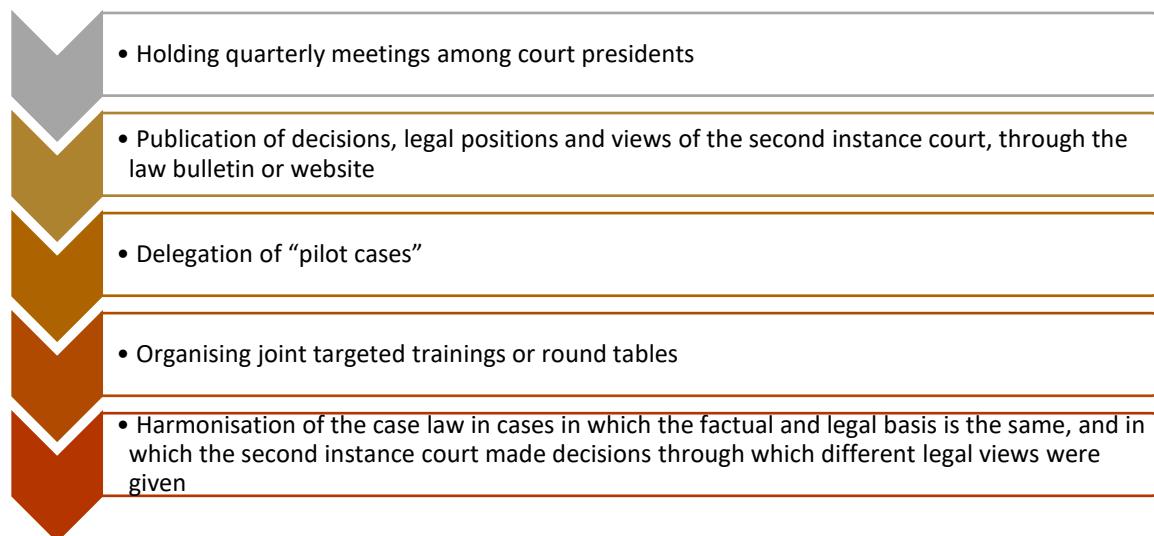
In practice, it is widely accepted that the only way for lower and higher courts to communicate is through legal remedies and that any other action can be problematic in terms of the independence and autonomy of the judiciary.

However, heads of judicial institutions and judges know that the day-to-day work of the court opens up a number of strategic and operational issues, for which it is necessary to find an appropriate forum. The cooperation of court presidents, prescribed by the Book of Rules on Internal Court Operations, points to the fact that the judicial community must find a way for professional dialogue, which will meet its needs, but also the limitations that must be kept in mind during such communication.

Under the *Improving Judicial Quality Project*, formalised mechanisms for such communication are established. The target first and second instance courts have established the practice of joint meetings at which issues of common interest are addressed, with the aim of faster and harmonised court decision making. This does not mean that the subject of this communication are or should be individual cases. On the contrary, it is about organisational issues pertaining to more efficient case processing or professional talks on harmonisation of case law, and pointing out problematic points in the chain of case processing. In this way, courts get the perspective of a lower / higher court instance and strive to improve the quality of their actions.

The courts that established cooperation in the described manner agreed that the cooperation between the first and second instance courts takes place in the following, but also in any other convenient way, while respecting each other's views: holding quarterly meetings among court representatives appointed by the court president and heads of civil departments; publication of decisions, legal positions and views of the second instance court, through the law bulletin or website; delegation of "pilot cases"; organising, as appropriate, joint targeted trainings or round tables; harmonisation of the case law in cases in which the factual and legal basis is the same, and in which the second instance court made decisions through which different legal views were given and the first instance cases were adjudicated differently on appeal.

**Image 7: Aspects of cooperation between first and second instance courts, through vertical communication of the above judicial institutions**



In 2020, the activities covered all courts from the Zenica-Doboj Canton, all municipal courts from the Central Bosnia Canton, the Basic Court in Doboj and the District Court in Doboj, the Municipal Court in Mostar and the Cantonal Court in Mostar, the Municipal Court in Široki Brijeg and Cantonal Court in Široki Brijeg, the Basic Court in Trebinje and the District Court in Trebinje. The general goals of the established cooperation are more efficient and economical way of exercising the rights of the parties before the first and second instance courts, reducing the overall duration of proceedings, reducing the number of cases, and improving the quality of services provided by these courts to citizens.

Under the project *Building an Effective and Citizen-friendly Judiciary - IPA 2017*, there is also an activity of vertical harmonisation of case law in 4 (four) courts: Basic Court in Bijeljina, District Court in Bijeljina, Municipal Court in Ljubuški and Cantonal Court in Široki Brijeg. Legal experts have been appointed in the courts in question with the task of analysing the causes of inconsistent case law between lower and higher court instances, and ultimately drafting a Book of Rules to address the causes. The aim of the activity is to identify good and bad actions, the causes of such actions, and on the basis of the conducted research to detect optimal measures for the case law harmonisation. In 2020, under this activity, more than 200 cases were analysed, and the causes of inconsistent actions of courts were analysed. Also, in 2021 this activity will result in the development of a Manual for addressing the causes of inconsistent case law.

#### **4.1.3. Improving business processes in the courts**

The activities of the HJPC BiH, aimed at improving the efficiency of the justice system, have created the need for a different organisation of work processes in the courts, and consequently the need for improving the performance of staff that provides technical and administrative support to judges.

Taking this into account, the HJPC BiH, through its long-standing strategic partner the Government of the Kingdom of Sweden, addressed the issue of improving business processes in courts under the project *Improving Court Efficiency and Accountability of Judges and Prosecutors - ICEA II*, implemented in the period from 2017 to 2020 in eight target courts.

In order to effectively respond to all challenges and see the positive practices of different courts, the HJPC BiH has established cooperation with the Swedish National Courts Administration (hereinafter: SNCA), as a state body that provides support and develops the court system in Sweden, a country that has gone through the reorganisation of courts in terms of personnel, organisation and training.

The main objective of the activities, addressed through the ICEA II Project, is to improve the internal organisation of the courts in BiH by delegating administrative tasks from judges to non-judicial staff, including trainees / volunteers, so that judges can effectively perform their primary

duties. In addition, this activity has resulted in the establishment of mechanisms for the organisation of work in the courts that allow for the improvement of expertise and the rational use of available human resources in accordance with the actual needs of the court.

Given that during the previous phase of the ICEA II Project significant positive changes were accomplished in the eight target courts, which were reflected in the changed and improved work processes under the existing legislative framework, there was a need to establish a new model of work in other courts, along with improving the conditions for its strategic sustainability. In this regard, during 2020, objectives were defined for the continuation of cooperation between the HJPC BiH and the SNCA, with the aim of establishing a new model of work in ten new target courts, with a tendency for the new model to become a *modus operandi* in all courts in BiH.

The objectives, defined through the third phase of the project *Improving Court Efficiency and Accountability of Judges and Prosecutors* (hereinafter: the ICEA III Project), refer to:

***Image 8: Objectives of improving business processes in courts, defined under the ICEA III Project***

- 
- More efficient organisation of work and higher quality of dealing with cases in newly selected courts
  - Strengthening the conditions for the development and sustainability of the competencies of non-judicial staff
  - Establishing cooperation and coordination with relevant institutions / bodies, in order to ensure the sustainability of the positive results of the new method of work in the courts

The initial step in the process of implementation of activities in ten new target courts was submitting the Blueprint document, as the initial working material. This document, as the final product of the ICEA II Project, is the result of the efforts of eight target BiH courts, in cooperation with SNCA and the Swedish sister courts. The Blueprint serves as a kind of guideline and initial working material for all new courts when establishing a new model of work. In order to facilitate the process of establishing the new model of work in the courts, the Blueprint was made available to the courts in BiH. It outlines the steps needed to introduce the new working methods, the positive practices of courts that have gone through the reorganisation process, and a set of documents created as a result of meetings and study visits.

In 2020, in addition to submitting the initial working material, a two-day workshop was held with the presidents and judges of the target courts and representatives of the SNCA and Swedish sister courts in order to present to the courts the results achieved during the ICEA II Project, objectives, methodology and activity plan and to open a discussion regarding the above.

The initial workshop served as a platform for establishing dialogue, exchange of experiences and positive practices between the target courts in BiH and the Swedish sister courts, and the conclusions adopted during the workshop represent the initial steps that will be implemented in early 2021.

**Image 9: Initial workshop for implementation of activities in 10 new target courts**

Since the methodology of these activities is mainly based on open dialogue and exchange of experiences between courts, in 2020 the HJPC BiH started organising and conducting a set of meetings with each of the target courts.

Due to the COVID-19 pandemic, the meetings were organised using an online platform. Thus, the HJPC BiH, through discussion and dialogue, brought closer to different categories of court staff the manner and purpose of the new organisation of work. As the main purpose of the new work model is to preserve the rule of law, increase public confidence, achieve the greatest possible economy and provide the best legal staff to be appointed judges, the HJPC BiH will in the coming period cooperate with the competent ministries of justice that have a strategic role in creating sustainability of the new model of work in the courts.

In addition, this will create conditions for the creation of competent non-judicial staff, with clearly defined roles and status, which, in addition to judges and legal associates, is an essential prerequisite for the efficient judicial system.

#### **4.1.4. Amicable dispute resolution**

The BiH Justice Sector Reform Strategy for the period 2014 -2018 defined the improvement of the alternative dispute resolution system as one of the strategic development programmes. Also, the HJPC BiH sees alternative dispute resolution as one of the important ways to improve the efficiency of the judiciary, but also to relieve the judicial system.

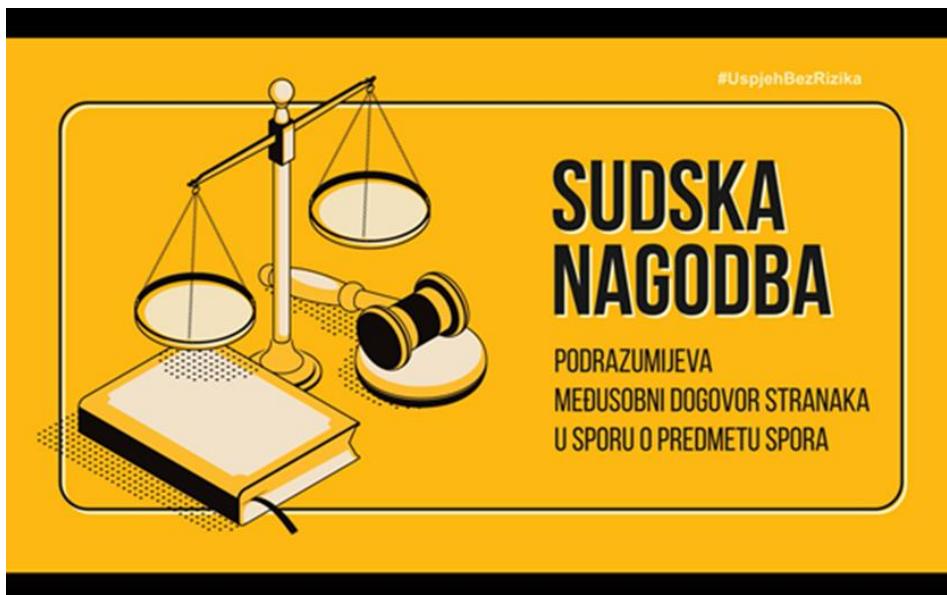
The special focus of the HJPC BiH in all previous years has been on promoting and increasing the use of the court settlement concept. Through a series of activities undertaken in the previous period, the HJPC BiH sought to bring closer to the citizens and businesses the advantages that the conclusion of a court settlement has compared to regular court proceedings. Also, through regular annual trainings organised by the Entity judicial and prosecutorial training centres in previous years, it has been tried to encourage judicial community to actively use the opportunities defined under the laws on civil procedure.

Trying to encourage the courts in Bosnia and Herzegovina, as well as the parties to court proceedings, to consider the possibility of reaching an amicable dispute resolution, in 2020 the HJPC BiH organised the seventh *Court Settlement Week*. The total number of court settlements concluded during the implementation of this activity was certainly affected by the special work regime during pandemic. However, these activities continued due to the commitment of the HJPC BiH to popularize this way of resolving court disputes.

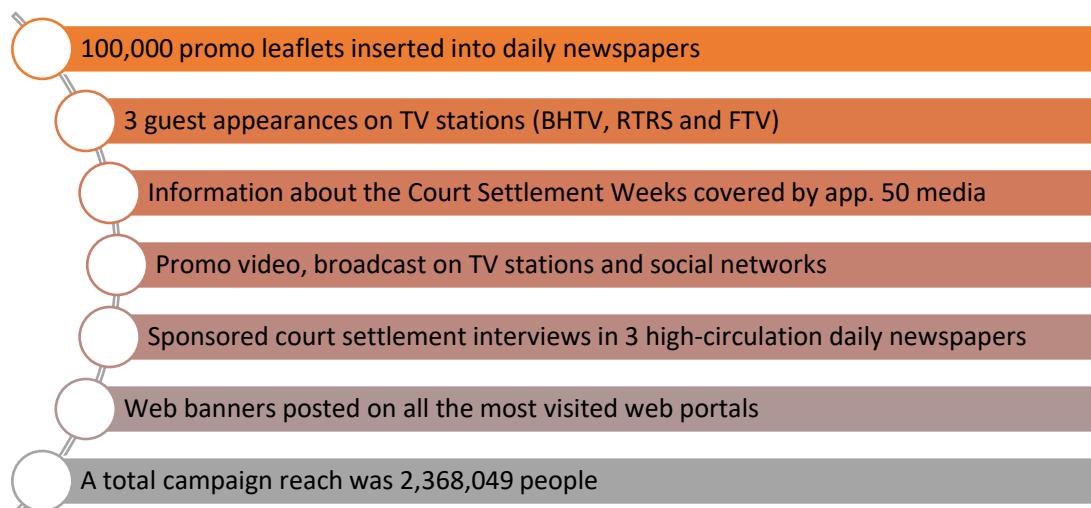
In an effort to bring the court settlement closer to the parties in the proceedings before the courts in BiH, the HJPC BiH conducted a comprehensive marketing campaign. The campaign

included the production of video material, which aimed, in a clear and citizen-friendly way, to point out all the advantages that a court settlement has compared to regular court proceedings. The video material was broadcast on national TV channel frequencies, but it was also made available to the public through the HJPC BiH website, as well as through the official YouTube channel and the institution's Facebook page.

**Image 10: Excerpt from the court settlement promo video**



Within the campaign, there were three guest appearances of the HJPC BiH representatives, as well as of the judicial and legal community, in TV shows with remarkable viewer ratings on BHTV, FTV and RTRS, during which the court settlement concept was tried to get closer to the public. The media campaign also included the newspaper articles on the topic of the court settlement, which were published in high-circulation daily newspapers, but also 100,000 promotional leaflets inserted in daily newspapers. In addition, through the organisation of info days on the *Court Settlement Weeks*, about fifty digital media published information about this event, and banners with a link to the HJPC BiH website were published and sponsored on all the most popular web portals, where the parties could get information about the court settlement and its advantages for the parties. The described activities within the conducted media campaign achieved a cumulative reach of 2,368,049 people.

***Image 11: Presentation of the results of the court settlement promo campaign***

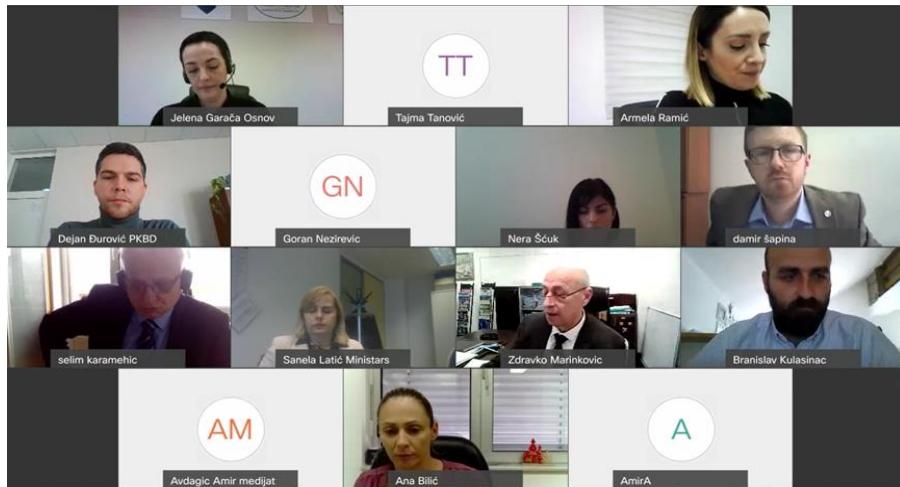
Since, in order to increase the use of court settlement, it is necessary to cover both the judicial community and the parties to court proceedings, in 2020 the HJPC BiH developed special Guidelines for concluding a court settlement - on one hand intended for judges and on the other for citizens who have a dispute before BiH courts. The aim of the guidelines for judges is to remove possible dilemmas from practice, and to point out the possibilities offered in this regard by the current civil procedure legislation. When it comes to the guidelines intended for the parties, they are in the form of posters printed in a total circulation of 30,000 copies and aim to provide citizens with information on the court settlement in a comprehensive and concise manner.

***Images 12 & 13: Cover page of the Guidelines for Court Settlement, intended for parties to court proceedings on the one hand and judges on the other hand***

However, the field of alternative dispute resolution is significantly broader than the court settlement itself, and includes dispute resolution methods such as mediation, arbitration and other forms of out-of-court amicable dispute resolution. Recognising the need for systemic improvement of this segment, in 2019, the HJPC BiH, under the IPA 2017 Project, initiated the issue of adopting a strategy for alternative dispute resolution and formed the Working Group for developing the strategy with all competent ministries of justice, the Judicial Commission of the BDBiH, representatives of the judicial community, the Association of Mediators in BiH, the

Foreign Trade Chamber of BiH, the Ombudsman for Consumer Protection, and the Association "Arbitri" from Sarajevo.

**Image 14: Webex meeting of the Working Group for developing the alternative dispute resolution strategy**



Although the COVID-19 pandemic significantly affected the planned dynamics of the WG's activities in 2020, after analyses to identify shortcomings in the current system of mediation, arbitration, court settlement and amicable resolution of consumer disputes, and research of comparative legal solutions and good practices in EU member states, the first draft Alternative Dispute Resolution Strategy has been developed. Currently, the proposal of measures and activities from this strategic document is being considered within the institutions that are key stakeholders gathered in the Working Group. The adoption of this strategic document and an action plan for its implementation is expected in 2021.

#### 4.1.5. More efficient enforcement procedure

##### Legislative initiatives

In accordance with the recommendations of the European Commission, contained in a number of relevant documents<sup>25</sup>, the HJPC BiH undertook a number of activities in 2020, with the aim of improving the enforcement procedure in BiH. Activities regarding the initiated legislative amendments were implemented through the participation of the HJPC BiH in the Working Group for Improving the Enforcement Procedure and revising the Law on Enforcement Procedure in BiH<sup>26</sup> (hereinafter: the Working Group for Enforcement Procedure). The support of the HJPC BiH to the activities of the Working Group for Enforcement Procedure was provided through the implementation of the ICEA II Project, funded by the Government of the Kingdom of Sweden.

One of the tasks of the Working Group for Enforcement Procedure includes the preparation of a set of proposals for amendments to the legislative framework for enforcement procedure in BiH and the launch of appropriate legislative initiatives. After a detailed analysis of the laws on enforcement procedure and defining a set of amendments to the legislative framework, an official legislative initiative was launched through the BiH Ministry of Justice, submitting proposals for amendments to the Entity ministries of justice and the Judicial Commission of Brcko District BiH.

<sup>25</sup> Conclusions of the Subcommittee on Justice, Freedom and Security, the Peer Review Report and the Expert Report on Rule of Law Issues in BiH dated 2019.

<sup>26</sup> The Working Group was founded by the Decision of the BiH Ministry of Justice, number 06-07-28-129 5/18 of 15 March 2018, and consists of representatives of the judicial community, the HJPC BiH, the BiH Ministry of Justice, the Entity ministries of justice and the Judicial Commission of the Brcko District BiH.

As far as the Federation of BiH is concerned, the HJPC BiH, in accordance with the competences under the law, in July 2019 gave an opinion on the draft Law on Amendments to the Law on Enforcement Procedure of the FBiH. In 2020, the HJPC BiH, with the aim of efficient continuation of the legislative procedure, took the initiative and defined a supplementary conclusion to the previously submitted positive opinion.

In addition, in March 2020, the Judicial Commission of the BDBiH submitted to the HJPC BiH for an opinion the proposal of the Law on Amendments to the Law on Enforcement Procedure of the BDBiH, on which the HJPC BiH gave its opinion, after which the legislative procedure continued, with certain amendments to the proposal of Amendments in connection with Article 130, paragraph 9 of the Law on Enforcement Procedure of the BDBiH (pursuant to the Decision of the Constitutional Court of BiH from 2016).

The procedure of legislative amendments at the level of the FBiH and the BDBiH is underway, in accordance with the proposal of the Working Group for Enforcement Procedure. These amendments propose to eliminate the identified shortcomings and ambiguities of the existing laws on enforcement procedure. Legislative amendments are, among other things, aimed at encouraging judgement creditors to more actively participate in the enforcement procedure and at preventing delays of the enforcement. In addition, the proposed amendments are aimed at harmonising the existing Entity legislation and the legislation of the BDBiH, with the aim of implementing the decisions of the Constitutional Court of BiH and the European Court of Human Rights, as well as to harmonise the enforcement legislative framework with other laws. The Working Group for Enforcement Procedure also focused on the provisions expected to reduce the number of court proceedings, as well as on the standardisation of a wider range of documents that are to be considered as an authentic document and on more precise standardisation of certain procedural situations, in order to limit the possibility of different practices of courts in the enforcement procedure.

Regarding the legislative initiative in the RS, the Working Group formulated a set of amendments to the RS Law on Enforcement Procedure. However, during the activities of the Working Group in 2020, no formal procedure for amending the legislative framework was initiated.

### **SOKOP-Mal system and other tools**

SOKOP-Mal is the system for electronic filing and processing of small value cases - so called "utility cases". As of 31 December 2020, 1,391,111 cases (opened and recorded in SOKOP-Mal system) were processed through the SOKOP-Mal system, which represents 77% of the total number of utility cases in BiH.

In 2020, the HJPC BiH carried out significant activities regarding the expansion of the user network and development of the second generation SOKOP-Mal system. These activities were carried out in accordance with the plan for development and implementation of the system and in accordance with the Decision<sup>27</sup> of the HJPC BiH on mandatory implementation of SOKOP-Mal system for all first instance courts in BiH.

### **Expanding SOKOP-Mal user network**

The declaration of a state of emergency due to the COVID-19 pandemic significantly affected the planned dynamics of expanding the user network of SOKOP-Mal system by introducing new courts and judgement creditors as users of the system.

In 2020, three new first instance courts (Municipal Court in Kakanj, Municipal Court in Travnik and Municipal Court in Jajce) joined SOKOP-Mal system.

Also, four new judgement creditors (Utility company "Radovina" Gornji Vakuf, Utility company "Čistoća" Bugojno, "Grijanje" Kakanj and Communal company "Breza") joined and started using SOKOP-Mal system.

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<sup>27</sup> Decision of the HJPC BiH, no. 12-02-2-1306/2017 of 22 March 2017

**Image 15: Overview of courts and judgement creditors that joined SOKOP-Mal system in 2020**

At the end of 2020, activities were undertaken to prepare the implementation of the SOKOP-Mal system in the newly joined courts and judgement creditors, which is planned for 2021.

### **Second generation of SOKOP-Mal system**

Significant activities were undertaken in 2020 regarding the development of the second generation of SOKOP-Mal system, which includes four modules:

1. SOKOP public module, which was finalised in 2019,
2. utility companies module,
3. courts module and
4. verification module (module for validation and verification of scanned documentation).

The purpose of the new generation is the transition to new technologies, which will enable the current shortcomings of the system to be overcome, facilitate the introduction of new functionalities, increase security and data protection, and increase the speed of the system and its applications.

In 2020, in cooperation with the selected external service provider, the development of a module for utility companies (module 2) was provided, with the aim of upgrading the existing module for public utility companies with new functionalities and advantages, which will facilitate the work of judgement creditors. At the end of the year, the utility companies module was successfully completed and delivered, followed by the process of testing new functionalities. By changing the complete application code, using the latest technologies, the loading speed of the web page has been increased. The main change that will be noticeable to users is the optimised page display where such a method of HTML programming is used that allows proportional scaling and dynamic arrangement of web page elements, so that users, regardless of device monitor size, always see well-arranged web page elements.

**Image 16: Overview of cases in SOKOP-Mal (large screen display)**

The screenshot shows a complex web-based application for managing legal cases. On the left, there's a sidebar with sections like 'Predmeta', 'Izvršenika/tuženih', 'Sudske pismene', etc. The main area is titled 'Pregled predmeta' and contains several tabs: 'Predmet' (with fields for Broj, Stari broj, CMS broj, Sudija, Stručni saradnik, Broj prijedloga/tužbe, Datum prijedloga/tužbe), 'Izvršenik' (with fields for Broj, Tip, Ime, Adresa, Adresa usluge, JMBG, PIB, Datum smrti), 'Treća lica' (empty), 'Privremeni zastupnik' (empty), 'Troškovi' (empty), 'Pomoćnik' (empty), and 'Takse' (with sub-sections for Dokumenti, Izvršenici/tuženi, Paketi, Izvještaji, Info, Administracija). Below these tabs is a table for 'Skrinirani dokumenti' with columns for Naziv, Tip, Datum kreiranja, Status, Prilog, and Akcije. At the bottom right is a button labeled 'Odjava'.

**Image 17: Overview of cases in SOKOP-Mal (small screen display)**

This screenshot shows a simplified view of the same application, likely for mobile devices. It has a similar layout but lacks some of the detailed tabs and tables seen in the larger version. The main focus is on the 'Predmet' section, which lists various case details in a grid format. The 'Povratak na pretragu' button is visible at the top right.

In addition to the development of modules for utility companies, the development of the remaining two modules of the second generation SOKOP-Mal system began in 2020 - modules for courts and verification of scanned documentation (modules 3 and 4). In that view, the public procurement procedure was initiated and in November 2020 the winning bidder was selected, who started developing new applications within these two modules.

#### **4.1.6. Improving working conditions in judicial institutions**

Insufficient work space in judicial institutions is a problem that the BiH judiciary has been facing for many years, which directly reflects on the efficiency of the judicial system. Although the provision of optimal conditions for the functioning of judicial institutions is the responsibility of the executive branch, the fact is that infrastructural interventions require significant financial allocations, and that in all previous years there has been a lack of adequate initiative from relevant ministries. Also, there is a noticeable lack of a systematic approach to solving this problem on the part of the courts themselves, through their role in adequate budget planning, especially in terms of capital investment and maintenance costs, which is an issue to which the HJPC BiH will pay close attention in the future.

That is why, in recent years, through the engagement of the HJPC BiH and with the help of international donors, a significant number of court and prosecutor's buildings in BiH have been completely renovated or constructed, while a number of buildings of judicial institutions have undergone emergency interventions and adaptations. The expansion of work space has, among other things, enabled the engagement of additional staff, both judicial office holders and other professional and support staff, which was not possible in certain judicial institutions before, despite objective and justified needs. This fact has additionally contributed to the continuous reduction of the backlog, i.e. to the increased efficiency of courts in BiH.

Nevertheless, a number of judicial institutions in Bosnia and Herzegovina still have a strong need for additional work space, and do not meet basic standards in terms of building security, access for people with disabilities, energy efficiency and the like.

#### **Preparation of project and technical documentation for the reconstruction of Miljacka Prison in Sarajevo in order to expand work space of the Cantonal Court in Sarajevo and the Municipal Court in Sarajevo**

The Miljacka Prison in Sarajevo has not met the necessary spatial and functional standards for the accommodation of prisoners and detainees for a long time, since there have been no major infrastructural investments for more than 30 years. This is reflected in the lack of prison cells and space for appropriate out-of-cell activities, as well as in the limited security. There is a general consensus that conditions need to be radically improved and that the Miljacka Prison should be relocated outside the city centre, as the existing facility does not allow for capacity expansion at the existing location. Thus, the FBiH Ministry of Justice, in order to address the occupant capacity of the Miljacka Prison, initiated its relocation from the Palace of Justice in Sarajevo to the Igman location, for which it was necessary to resolve complex proprietary relationships. Therefore, in order to find a solution for expanding the occupant capacity of judicial institutions in the Sarajevo Canton, but also to provide adequate conditions for the Miljacka Prison, the HJPC BiH and the FBiH MoJ prepared the documents required to apply for EU donor funds.

This project should be implemented in two phases. The first phase involves the relocation of the Miljacka Prison to the Igman location, which will be supported by the EU Delegation to BiH, through the IPA 2017 programme and within which the necessary construction works would be carried out in one part of the entire complex.

The second phase, which will be implemented under the IPA 2019 programme, will fully cover this initiative and increase the overall capacity, but also improve the conditions in this prison. Through the second phase, therefore, appropriate security and functional conditions will be provided, both for the staff and for the persons serving the prison sentence, which would enable the relocation of the Miljacka Prison from the city centre.

In the initial phase of this complex project, the staff of the Secretariat of the HJPC BiH, in cooperation with representatives of institutions currently occupying the Palace of Justice (Cantonal Court in Sarajevo, Municipal Court in Sarajevo and Judicial Police), developed design that defined internal spatial and functional organisation.

In this context, it is important to point out that the relocation of the Miljacka Prison is a precondition for the start of reconstruction of the Palace of Justice in Sarajevo, which will expand the occupant capacities of the Cantonal Court in Sarajevo and the Municipal Court in

Sarajevo, but also improve the functional organisation and conditions for the staff and users of court services. Furthermore, the construction works will improve the access for people with disabilities, but also the energy efficiency of the facility, which will result in significant savings.

This project, in addition to increasing the occupant capacity of the mentioned courts, will also address the issue of accommodation of the judicial police. Taking into account the previously developed Guidelines for Standards and Security Measures of Judicial Institutions and Judicial Office Holders in BiH, it is necessary for the judicial police to provide sufficient capacity for detention facilities and to ensure an adequate level of security.

As in previous years, the Government of Norway has proven to be a reliable partner to the HJPC BiH in the process of improving the working conditions of judicial institutions in BiH, and will, under the *Improving Judicial Quality Project* fund development of project documentation for the reconstruction of the Miljacka Prison in order to expand the occupant capacities of the Cantonal Court in Sarajevo and the Municipal Court in Sarajevo, and of which reconstruction and adaptation are planned through donor funds under IPA 2019. Completion of the project documentation is expected in November 2021.

### **Preparation of project and technical documentation for construction / reconstruction of judicial buildings in BiH**

Preparation of project and technical documentation for the reconstruction and construction of judicial buildings in BiH, which are implemented through the ICEA II Project, funded by the Government of Sweden, began in 2019 and ended in the summer of 2020.

In the previous period, the project staff of the HJPC BiH performed a qualitative review of the project and technical documentation for the reconstruction of the buildings of the Basic Court in Mrkonjić Grad and the Basic Court in Prnjavor, and the construction of a new building of the Municipal Court in Žepče and the District Public Prosecutor's Office in Bijeljina. Based on the mentioned project and technical documentation, the competent institutions, as partners in these projects, provided the necessary construction permits, which created the conditions for the implementation of tender procedures by the EU Delegation to BiH, which will fund construction / reconstruction under IPA.

In 2021, the tender procedure for the selection of contractors and supervision of works on the mentioned judicial buildings is expected to be completed, which will be reconstructed or built with donor funds under IPA 2017 programme, followed by a brief overview of planned infrastructure interventions.

**Image 18: Overview of infrastructure works on individual judicial buildings under IPA 2017****Construction of the Municipal Court in Žepče**

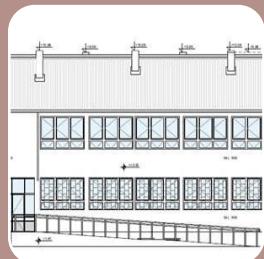
- New building, basement + ground floor + first floor, with a total area of 800 m<sup>2</sup>
- Energy efficient building
- Building adapted for people with limited mobility

**Reconstruction of the Basic Court in Mrkonjić Grad**

- Installation of thermal insulation facade on the entire building
- Indoor moisture in the archives cured
- Installation of outdoor metal hardware and replacement of old indoor joinery
- Repair and replacement of old parquet flooring in offices
- Reconstruction of sanitary facilities, electrical installations, water supply and sewerage installations
- Installation of video surveillance and fire alarm systems
- Installation of a new pellet furnace

**Reconstruction and extension of the Municipal Court in Zenica**

- Construction of an annex, basement + ground floor + 4 floors, with a total area of about 2400 m<sup>2</sup>
- Energy efficient building
- Building adapted for people with limited mobility
- Reconstruction of part of the basement and ground floor of the existing building of the Municipal Court, with an area of about 700 m<sup>2</sup>

**Reconstruction of the Basic Court in Prnjavor**

- Adaptation of the ground floor to build courtrooms
- Replacement of existing floor coverings, joinery and metal hardware
- Solving moisture problem in the basement archives and installing ventilation system
- Installation of thermal insulation facade
- Reconstruction of sanitary facilities and the roof of the building, and installation of video surveillance and fire alarm systems
- Installing new electrical, plumbing and sewerage installations

**Construction of the District Public Prosecutor's Office in Bijeljina**

- Construction of an annex (basement + ground floor + 4 floors) with a total area of about 2400 m<sup>2</sup>
- Energy efficient building
- Building adapted for people with limited mobility
- Building adapted to the work of the Prosecutor's Office, with a registry office, rooms for detainees, interrogation and identification, offices for prosecutors and legal associates, a meeting room and the office of the Chief Prosecutor

## 4.2. Efficiency of the Prosecutor's Offices

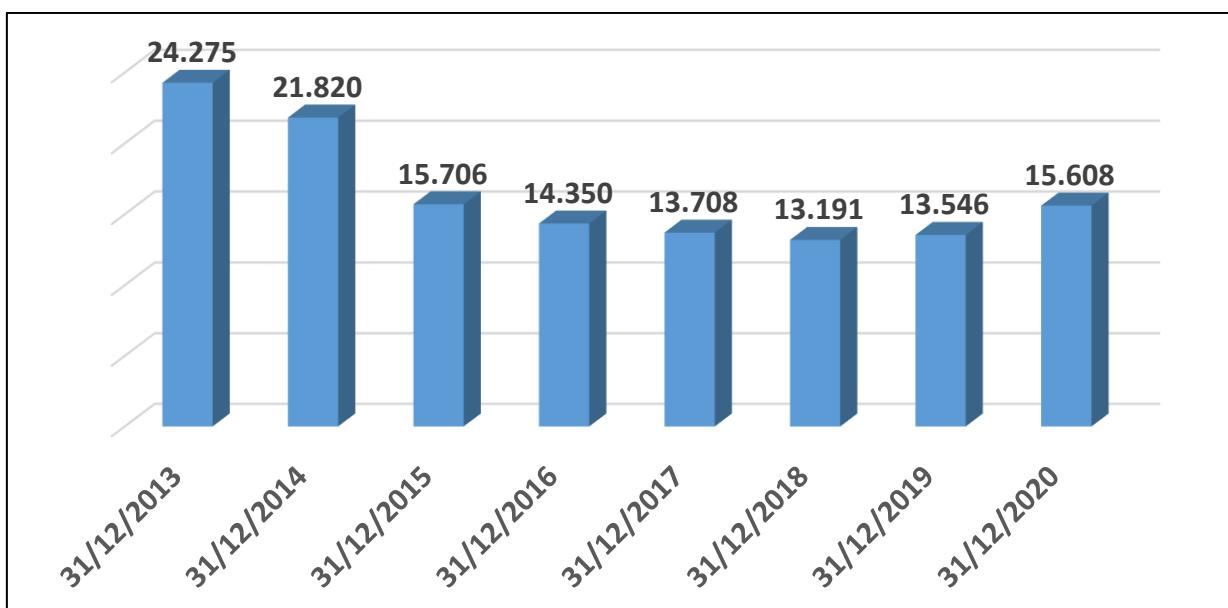
Within its competences and based on statistical data, the HJPC regularly monitors the situation regarding the performance efficiency of all prosecutor's offices in Bosnia and Herzegovina.

In view of the COVID-19 pandemic and the Decision of the HJPC BiH to deal with priority cases, in 2020, prosecutor's offices had significantly less working days due to both lockdown and sick leaves, which significantly affected the dynamics of processing of all types of crime.

According to data from 2020, the prosecutor's offices in BiH received a total of 21,288 cases against known perpetrators, which is 5% less cases received compared to the number of cases received in 2019.

There was 15,608 pending cases as of 31 December 2020, which is 15% more compared to 31 December 2019 (13,546).

**Graph 5: Backlog in prosecutor's offices in BiH**



In 2020, prosecutor's offices issued 9,678 indictments, which is 16% more than the number of indictments issued in 2019 i.e. 11,485.

### 4.2.1. Prosecution of corruption

In 2020, prosecutor's offices issued 126 indictments involving corruption offences, which is 44% less than the number of indictments issued for corruption offences in 2019 i.e. 225.

In 2020, prosecutor's offices issued 499 orders not to conduct investigations into corruption offences, which is 9% less than the number of orders issued not to conduct investigation in 2019, i.e. 548 cases.

In 2020, prosecutor's offices issued 107 orders to discontinue investigation into corruption offences, which is 27% less than the number of orders to discontinue investigation issued in 2019 i.e. 147.

Out of the total 253 ordered corruption investigations in 2020, 14 ordered investigations or 6% related to high-profile corruption.

Out of the total 126 filed indictments for corruption offences in 2020, the prosecutor's offices filed 8 indictments related to high-profile corruption or 6% of the total number of corruption indictments filed.

#### **4.2.2. Prosecution of organised crime**

In 2020, prosecutor's offices filed 26 indictments for organised crime, as many as in 2019.

In 2020, prosecutor's offices issued 24 orders not to conduct investigation into organised crime, which is 9% more than the number of orders not to conduct investigation issued in 2019, i.e. 22.

In 2020, prosecutor's offices issued 28 orders to discontinue investigation into organised crime, which is 27% more than the number of orders to discontinue investigation issued in 2019 i.e. 22.

Out of the total 52 ordered organised crime investigations in 2020, 3 ordered investigations or 6% related to high-level organised crime.

Out of the total 26 filed indictments for organised crime in 2020, the prosecutor's offices filed 5 indictments related to high-level organised crime or 6% of the total number of organised crime indictments filed.

#### **4.2.3. Prosecution of economic crime and financial investigations**

In 2020, prosecutor's offices issued 433 indictments involving economic crimes, which is 12% more than the number of indictments issued for economic crime in 2019 i.e. 387.

In 2020, prosecutor's offices issued 748 orders not to conduct investigation into economic crime, which is 3% more than the number of orders not to conduct investigation issued in 2019, i.e. 728.

In 2020, prosecutor's offices issued 226 orders to discontinue investigation into organised crime, which is 20% more than the number of orders to discontinue investigation issued in 2019 i.e. 282.

In 2020, there were a total of 47 financial investigations in progress in Bosnia and Herzegovina, of which 33 investigations were ordered in 2020.

#### **4.2.4. Activities of the Standing Committee on the Efficiency and Quality of Prosecutor's Offices**

In 2020, the Standing Commission on the Efficiency and Quality of Prosecutor's Offices held 19 meetings at which current issues of importance for the work of prosecutor's offices in Bosnia and Herzegovina were discussed. Although 2020 was marked by COVID-19 pandemic, and the work was carried out in accordance with the recommendations and measures issued by the competent pandemic response teams, the Standing Committee on the Efficiency and Quality of POs did not interrupt its work. When they could not meet in person due to epidemiological situation, they met through the Cisco Webex online platform, respecting measures imposed to prevent the spread of coronavirus. Following the epidemiological situation and recommended measures, the POs in BiH made decisions on the organisation of work in each PO, with the aim of organizing the work of employees in such a way as not to jeopardise timely performance of tasks and duties but also to enable compliance with epidemiological measures. The POs regularly informed the Standing Committee on the Efficiency and Quality of POs about the mentioned decisions.

Guided by the fact that one of the priorities of the judiciary in BiH is the fight against corruption and organised crime, the Standing Committee on the Efficiency and Quality of Prosecutor's Offices in its working meetings in 2020 gave priority to domestic and international reports on the high-profile corruption, organised and economic crime processing in the BiH judiciary. With the aim of implementing the recommended measures, the Standing Committee has taken a number of steps aimed at improving the quality of criminal investigations, and processing particularly those types of cases that are in the public focus.

Thus, among the priorities of the Standing Committee in 2020 was the consideration of the Expert Report on the Rule of Law issues in Bosnia and Herzegovina, and drafting of an action plan with proposed measures and activities for the implementation of individual recommendations from the report.

The Standing Committee on the Efficiency and Quality of POs in 2020 also considered the findings and recommendations from the Third Annual Report of the OSCE Mission to BiH, as well as the index result for the response of the judiciary to corruption in 2019, presented in the report. The Standing Committee has made an action plan aimed at improving the prosecution of corruption, and it is planned that measures and activities aimed at implementing the recommendations given to the prosecution system in BiH, contained in the action plan, will be presented to the Council and offered for adoption.

At the proposal of the Standing Committee, the HJPC BiH, at its session held on 22 and 23 October 2020, adopted Guidelines for drafting a list of categories of registry / documentary material with retention periods in prosecutor's offices in Bosnia and Herzegovina and proposed their submission to all POs for use.

At the proposal of the project *Strengthening Prosecutors in the Criminal Justice System*, the Standing Committee agreed to continue implementing activities to support prosecutor's offices in reducing the backlog of cases through the engagement of additional staff.

In 2020, a lot of efforts of the Standing Committee was related to monitoring the performance evaluation process in prosecutor's offices, i.e. the application of the Performance Evaluation Criteria for Prosecutors. The Standing Committee gave its consent to the proposal of Performance Evaluation Criteria for Prosecutors, and the HJPC BiH, at its session held on 29 December 2020, adopted the Criteria.

#### **4.2.5. Establishment and provision of support to the Coordinating Body of Chief Prosecutors from the PO BiH, Entity POs and PO BDBiH**

The project *Strengthening Prosecutors in the Criminal Justice System* initiated the establishment of the Coordinating Body of Chief Prosecutors from the Prosecutor's Office of Bosnia and Herzegovina, the RS Public Prosecutor's Office, the FBiH Prosecutor's Office and the BDBiH Prosecutor's Office, to consider the conflict of jurisdiction between the prosecutor's offices in Bosnia and Herzegovina in situations when the law does not prescribe the manner of resolving the conflict of jurisdiction and when all previous methods of resolving the conflict of jurisdiction have been exhausted. Among the competencies of the Coordinating Body is the exchange of information and coordination of ongoing investigations, which are conducted in several prosecutor's offices that are signatories to the Agreement on the Establishment of the Coordinating Body, with the aim of improving efficiency, but also cooperation and resolving other issues that fall within the competence the prosecutor's offices in Bosnia and Herzegovina.

On 11 December 2020, the Coordinating Body of Chief Prosecutors held a meeting to discuss the issue of conflict of jurisdiction between the Prosecutor's Office of BiH and the RS Public Prosecutor's Office in a specific case, and other issues important for the work of this body. It is particularly important that at the meeting a conclusion was reached which regulates the issue of initiating proceedings before the Coordinating Body when there is a conflict of jurisdiction between prosecutor's offices in BiH, in situations when the law does not prescribe conflict resolution and when all the methods of conflict resolution have been exhausted.

#### **4.2.6. Strategic planning in the prosecutor's offices in BiH**

*Strengthening Prosecutors in the Criminal Justice System* project in partnership with USAID Justice Project continued to provide support to the FBiH prosecutorial system, the RS prosecutorial system, the BDBiH Prosecutor's Office and the BiH Prosecutor's Office in the development of three-year strategic plans for the period 2020 through 2022, preparation of annual plans for 2020 and annual reports for 2019 for all individual prosecutor's offices, as well as holding regular collegiums of the chief prosecutors in the Federation of BiH and collegiums of chief prosecutors in Republika Srpska.

In 2020, the project *Strengthening Prosecutors in the Criminal Justice System* insisted on capacity building of staff in prosecutor's offices to increase individual responsibility and improve internal communication in prosecutor's offices and within the prosecution system, as well as to

achieve self-reliance in strategic planning and preparation of annual work plans and annual reports on implementation of strategic framework of the prosecution system and set targets.

#### **4.2.7. Situation analysis and backlog reduction measures for the prosecutor's offices**

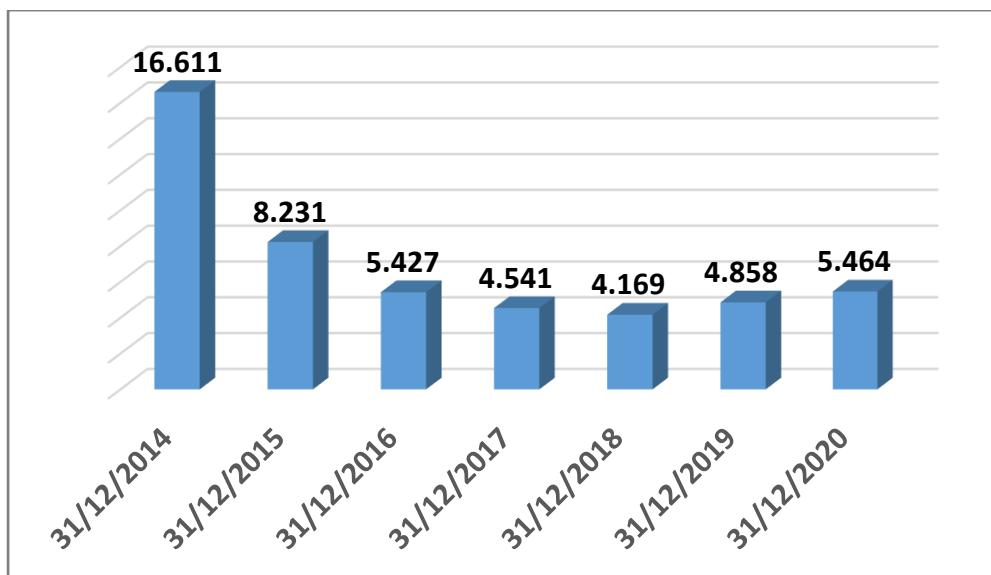
All prosecutor's offices that have backlog of cases (cases pending more than 2 years) made backlog reduction plans in early 2020, as prescribed with the current Instruction for drafting backlog reduction plans in prosecutor's offices in BiH.

At the end of 2020, the overall plan realisation rate of the prosecutor's offices in BiH was 68%. Throughout 2020, the prosecutor's offices in BiH completed 2,655 oldest cases.

The total number of pending old cases in the prosecutors offices in BiH as of 31/12/2020 (5,464) was 67% less than the total number of pending old cases as of 31/12/2014 (16,611), and 12% more than the total number of pending old cases as of 31/12/2019 (4,858).

Comparing the 2020 data with that from 2019, the impact of COVID-19 pandemic on prosecutor's offices is evident, as it caused significant delays and difficulties in their work. In view of these difficulties, the Standing Committee on the Efficiency and Quality of POs decided to hire additional staff of 20 legal advisers and 10 associates in 9 prosecutor's offices to assist prosecutors in reducing the backlog of cases.

**Graph 6: Backlog in prosecutor's offices**



#### **4.2.8. Improving cooperation between prosecutor's offices and law enforcement agencies**

##### **Regular meetings of heads of the prosecutor's offices and the law enforcement agencies**

As for the effective cooperation between prosecutor's offices and law enforcement agencies, the HJPC, under the project *Strengthening Prosecutors in the Criminal Justice System* works on two levels, strategic and operative. Given that this type of cooperation is a key factor for the efficient operations of prosecutor's offices in BiH, cooperation is constantly improving.

In 2020, two meetings of heads of prosecutor's offices and police agencies were held at the strategic level (Strategic Forum) with participation of the chief prosecutors of the PO BiH, the PO FBiH, the PO RS, the PO BDBiH 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).

The Strategic Forum addresses important issues for efficient work and cooperation between prosecutor's offices and police. In 2020, the forum addressed the following topics:

- Current situation related to difficulties in work during the coronavirus pandemic (COVID-19), and improvement of performance and cooperation between prosecutors' offices and law enforcement agencies;
- Monitoring the implementation of adopted measures aimed at improving performance and cooperation between prosecutor's offices and law enforcement agencies in prosecuting corruption and organised crime and presenting POs' statistics and qualitative indicators on prosecuting corruption and organised crime;
- Insisting on the consistent application of the provisions of the Instruction on Cooperation between prosecutors and law enforcement officers;
- Cooperation between prosecutor's offices and law enforcement agencies in investigating war crimes;
- Making extra efforts to prosecute crimes related to trafficking in persons;
- Support to prosecutor's offices by law enforcement agencies.

The meeting of the Strategic Forum adopted the Standardised Rules and Guidelines of the Strategic Forum of Heads of Prosecutor's Offices and Law Enforcement Agencies for dealing with situations if the epidemiological situation worsens or recurs. These Rules regulate actions during receipt and dispatch of mail, then regular consultations of law enforcement officers and prosecutors on case progress, deprivation of liberty and organisation of detention units, demonstration of an emergency, coordination in actions and organisation of work of heads of institutions, as well as procurement and use of protective equipment. The text of the Standardised Rules and Guidelines was, through conclusions, submitted to prosecutor's offices and law enforcement agencies in order to discuss them in operational forums and agree on their application.

When it comes to cooperation between prosecutor's offices and law enforcement agencies at the operational level, 17 operational forums in BiH are currently established and functioning independently.

Through the project *Strengthening Prosecutors in the Criminal Justice System*, the HJPC continued to advocate the practice of establishing permanent joint investigation teams that consist of representatives of the prosecutor's offices and law enforcement agencies. The practice of the teams established so far within the four prosecutor's offices, i.e. the District Public PO in Doboj, the District Public PO in Banja Luka, the Cantonal PO of Zenica-Doboj Canton and the Cantonal PO of Sarajevo Canton, is being analysed as to make a proposal to improve their performance and to further implement that improved model of work in prosecutor's offices.

#### **4.2.9. Improving quality of statistical reporting on the performance of prosecutor's offices**

In the past two years, the HJPC has developed a system of statistical reporting that is capable of providing timely and reliable statistical indicators needed to plan and monitor the work of prosecutor's offices.

The project *Strengthening Prosecutors in the Criminal Justice System* continued with the training of registrars in prosecutor's offices on the use of the Reporting and Decision Support System (SIPo) for reporting on the work of prosecutor's offices in 2020. Due to the COVID-19 pandemic, instead of joint training for registrars, Project staff conducted individual training of registrars in 6 prosecutor's offices.

Considering that technical capabilities of the SIPo system are continuously improved, the Project staff cooperate on a daily basis with the registrars in all prosecutor's offices in BiH. In order for the registrars in the prosecutor's offices to be timely acquainted with the new functionalities of the SIPo system, the training of registrars is continuously conducted in the prosecutor's offices themselves.

During 2020, special reports on final and non-final court decisions were created in the SIPO system.

In 2020, activities were undertaken in compiling an analysis of available data on the gender structure of perpetrators of crimes and victims of crimes in order to create reports on gender-based violence and present that aspect of POs' work.

#### **4.2.10. Supporting POs in prosecuting economic crime, organised crime and corruption**

The EU-funded IPA 2017 project provided significant support to prosecutor's offices in prosecuting economic crime, organised crime and corruption, by hiring 11 financial advisers in 10 prosecutor's offices over a period of 24 months. Financial advisers are involved at the earliest phase of criminal procedure and the results of their engagement are reflected in shortened documentation collection time, not collecting unnecessary documentation, faster handling of current influx, more efficient communication with expert witnesses and law enforcement agencies, assistance in drafting orders for expert witnessing, examination of witnesses and defendants. A significant contribution was reflected in recognising the need to conduct financial investigations, providing expert assistance in analysing cash flows and identifying illegally obtained income.

The number of indictments filed for economic crimes in 2020 increased by 12% (46 cases) compared to 2019. In addition, the number of financial investigations increased by 60% (28 cases).

In their work so far, most of the cases involved complex economic and organised crime, corruption, tax evasion, abuse of position, fraud in obtaining loans, concluding harmful contracts, making false balance sheets, privatization, abuse on the capital market, money laundering and other crimes. In the period from May 2019 to the end of December 2020, financial advisers made an analysis of 550 cases, of which the largest number of cases involved economic crime (312), corruption (83), organised crime (15), and financial investigations (9 ), and other cases (131).

In addition to actively dealing with cases, a large number of working hours in prosecutors' offices they spent on consulting with prosecutors and holding short trainings on the financial issues/dilemmas. Financial advisers met periodically to exchange knowledge and experience obtained in prosecutor's offices, but also to discuss the dilemmas they face in dealing with cases involving economic crimes. Financial advisers actively participated in drafting the Manual on economic crimes and financial investigations, guided by the experience obtained during their engagement in the prosecutor's offices. The Manual will be finalised and distributed to prosecutors, investigators and associates in POs in 2021, and aims to help understand financial transactions and concepts that occur in economic crime cases.

#### **4.2.11. POs' public relations and cooperation with the non-governmental sector**

The Strategy for Dealing with Persons who Come into Contact with Prosecutor's Offices (hereinafter: the Strategy) was developed as a result of the commitment of the HJPC BiH and prosecutor's offices in BiH to open the work of prosecutor's offices to the public, as far as possible, and create clear channels of communication and cooperation with citizens, NGOs, media and other segments of society. The Strategy is continuously implemented by all prosecutor's offices in BiH.

There has been an upward trend in implementation of the activities envisaged under the Strategy, and so far 70% of the activities have been implemented. Insufficient conditions, as well as the inability to fill the vacancies prescribed under the systematisation, are some of the aggravating circumstances during the implementation.

The HJPC continuously monitors the level of implementation of the activities under the Strategy, individually by prosecutor's offices, analyses each individual standard and the manner of its implementation in prosecutor's offices, and coordinates in the form of exchange of best praxis.

One of the implemented activities under the Strategy is an integrated mechanism for surveying the satisfaction of citizens at the local level, on the websites of prosecutor's offices that are located at domain *pravosudje.ba*. The aim of this survey is to obtain feedback from the local community, users of POs' services and the judicial community on the availability of information on the work of POs, dealing with users and the quality of work of POs. The survey has been available on POs' websites since October 2020. The first results breakdown was made at the end of the year and submitted to the prosecutor's offices for analysis of responses and further action with the aim of future work improvements.

The Public Relations Monitoring and Evaluation Plan is based on a model of a complementary approach to the monitoring and evaluation process, through two groups of indicators, a group of quantitative indicators and a group of qualitative indicators. It aims to create a model for systematic and continuous monitoring and evaluation of public relations performance on common grounds for all POs and it has been implemented since 2017. Evaluation for 2019 was made in 2020, and the overall score was 18.7, which is an increase of 13.4% compared to 2018.

One of the long-term objectives of the project *Strengthening Prosecutors in the Criminal Justice System* is to bring benefits to citizens through quality performance of activities within the competence of prosecutor's offices and in accordance with the Strategy. Therefore, in November 2020, the HJPC BiH together with partner organisations started the implementation of activities aimed at establishing cooperation with NGOs and professional associations active in the justice sector. The implementation of the Small Grants Programme implies the establishment of a small grants scheme in order to support these organizations, with the financial assistance of the Embassy of Switzerland in BiH.

The Standing Committee on the Efficiency and Quality of POs agreed to start the implementation of these activities aimed at awarding grants from financial resources approved by the donor (the Embassy of Switzerland in BiH) for the engagement of NGOs, associations of prosecutors in BiH and the Association of Spokespersons of POs in BiH.

The involvement of NGOs will be aimed at establishing a platform for continuous cooperation between civil society organizations and the judiciary, as well as development of a plan of activities to motivate citizens to contribute to the work of prosecutor's offices.

The involvement of professional associations of prosecutors in BiH will be conducted with a view to implementation of project proposals aimed at resolving identified problems encountered by the prosecutorial system, which seeks to strengthen the advocacy capacity of associations of prosecutors with the ultimate aim of affirming prosecutors as active participants in all processes pertaining to issues of position and work of prosecutors and POs in BiH.

The goal of cooperation with the Association of Spokespersons of POs in BiH is to develop basic principles and standards from the public relations segment for chief prosecutors and prosecutors, and to strengthen the awareness of chief prosecutors about the importance of a proactive approach of prosecutor's offices to public relations.

#### **4.2.12. Activities on enhancing war crimes processing**

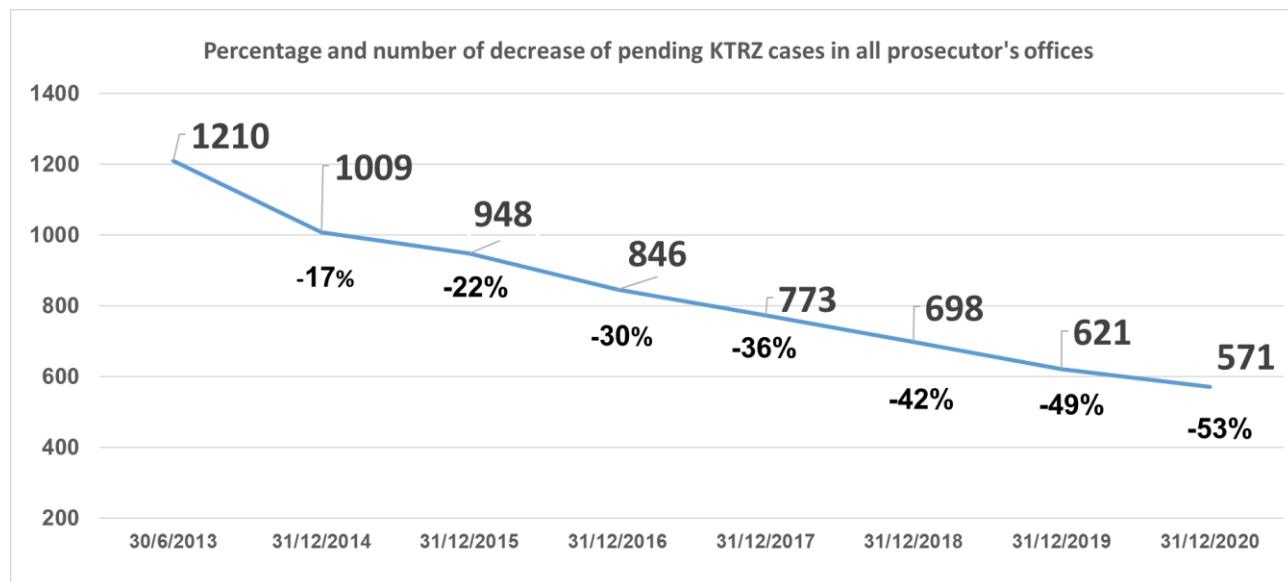
As previously pointed out, in 2020, the HJPC BiH implemented the project *Enhancing War Crime Case Processing in BiH* under the IPA 2017 seeking to improve work efficiency. In parallel with the implementation of the objectives and measures of the Revised National War Crimes Strategy, the HJPC BiH has issued a number of systemic and individual decisions that address issues of quality and efficiency in dealing with this type of cases. Among other things, the bylaws have been improved, which provides priority planning of processing the most complex and priority war crime cases.

In addition, through the continuous advocacy of the HJPC BiH, a total of 19 judges and prosecutors, previously funded by the European Union under IPA 2012 and IPA 2013, were transferred to domestic judicial budgets starting from January 2020. This provides adequate capacity to deal with this type of cases. In June 2020, the HJPC BiH coordinated the activities of the Court of BiH and the Prosecutor's Office of BiH regarding the functioning of the mechanism for distribution of cases among different levels of judiciary. With adequate

distribution, the capacities of the Court of BiH and the Prosecutor's Office of BiH are relieved to be able to deal with the highest priority and most complex cases, while at the same time the distribution ratio served as a platform for programming continued EU support, under the state programme (IPA 2019) - *EU for Transitional Justice* - in the amount of EUR 4 million.<sup>28</sup> Individual decisions of the HJPC BiH stipulate the requirement to more promptly deal with war crime cases in prosecutor's offices, with the aim of timely implementation of the Revised National War Crimes Strategy. To that end, the issues of the initial policy of criminal prosecution, efficient work, additional efforts in cases involving unavailable persons as well as the obligation of continuous training of prosecutors were addressed.

At the end of 2020, the number of pending KTRZ cases decreased by 53%<sup>29</sup>. As of 31 December 2020, all prosecutor's offices in BiH had a total of 571 KTRZ cases pending.

**Graph 7: Dynamics of processing KTRZ war crime cases in the period from 30 June 2013 to 31 December 2020.**



<sup>28</sup> More information in Chapter 1 "European integration"

<sup>29</sup> 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 (IPA 2017 & 2019) *Enhancing War Crime Case Processing in BiH – implementation, effects and programming continued support*.

## Chapter 5: QUALITY

### 5.1. Indicators for the performance quality of the courts in 2020

This section of the annual report shows data on the quality of court decisions for 2020, as calculated in previous years in line with the HJPC BiH parameters. Apart from the said data, the report in this part separately shows statistical indicators on the outcomes of proceedings in 2020, that were finalised upon a legal remedy with higher instance courts (data on appealed decisions). The said indicators on appealed decisions are not enough to gain complete insight into the quality of court performance. However, they do allow the reader to gain more information on the percentage of upheld decisions and other types of decisions and which parties in the proceedings filed the legal remedies.

#### 5.1.1. Decision quality and statistical indicators for appealed decisions

##### Court decisions quality according to the HJPC BiH parameters

The quality of decisions by judicial office holders in the courts is calculated on the basis of 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 2020, the courts in Bosnia and Herzegovina achieved the following performance quality results:

**Table 9: Quality of courts performance**

Court <sup>30</sup>	Performance quality for 2019	Performance quality for 2020
The Court of BiH	95%	93%
High Commercial Court in Banja Luka	88%	90%
Cantonal Courts	91%	91%
District Courts	91%	93%
District Commercial Courts	90%	87%
Municipal Courts	90%	89%
Basic Courts	85%	83%
Basic Court of the Brcko District BiH	86%	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 BiH

569 (84%) appealed decisions were upheld, 41 (6%) were modified, 37 (6%) reversed, while 27 (4%) were reversed in part. Statistical indicators for appealed decisions are shown in the table below according to the internal organisational setup of the Court of Bosnia and Herzegovina:

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<sup>30</sup> The quality of court decisions is not calculated for the Supreme Court of the Federation of Bosnia and Herzegovina, the Supreme Court of Republika Srpska and the Appellate Court of the Brcko District of Bosnia and Herzegovina.

**Table 10: The Court of BiH**

Division	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Criminal	87%	88%	8%	6%	4%	5%	1%	1%
Administrative	85%	82%	8%	6%	4%	6%	3%	6%
Appellate	87%	80%	4%	8%	3%	8%	6%	4%

**High Commercial Court in Banja Luka**

67 (73%) appealed decisions were upheld, 13 (14%) were modified, 10 (11%) reversed, while 2 (2%) were reversed in part. Statistical indicators for appealed decisions are shown in the table below:

**Table 11: High Commercial Court in Banja Luka**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Decisions on appeals filed against first instance decisions of district commercial courts	74%	73%	11%	14%	12%	11%	3%	2%

**Cantonal and District Courts**

2,367 (81%) appealed decisions of cantonal courts were upheld, 283 (10%) were modified, 231 (8%) reversed, while 26 (1%) were reversed in part.

934 (66%) appealed decisions of district courts were upheld, 375 (26%) were modified, 96 (7%) reversed, while 18 (1%) were reversed in part.

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

**Table 12: Cantonal courts**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Civil	87%	87%	9%	9%	3%	3%	1%	1%
Criminal	68%	75%	6%	5%	24%	19%	2%	1%
Administrative	73%	75%	17%	16%	10%	9%	0%	0%

**Table 13: District courts**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Civil	57%	63%	22%	19%	16%	12%	5%	6%
Criminal	84%	85%	3%	4%	12%	11%	1%	0%
Administrative	69%	61%	25%	35%	6%	4%	0%	0%

**District commercial courts**

773 (78%) appealed decisions of district commercial courts were upheld, 95 (10%) were modified, 119 (12%) reversed, while five were reversed in part. Statistical indicators for appealed decisions are shown in the table below according to case type:

**Table 14: District commercial courts**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Commercial	80%	78%	10%	11%	10%	11%	0%	0%
Enforcement Department	79%	79%	2%	5%	19%	16%	0%	0%
Non-litigation	75%	57%	0%	14%	25%	29%	0%	0%
Registration of business entities	67%	69%	11%	0%	22%	31%	0%	0%

**Municipal and Basic Courts**

16,901 (78%) appealed decisions of municipal courts were upheld, 2,061 (9%) were modified, 2,534 (12%) reversed, while 285 (1%) were reversed in part.

5,070 (71%) appealed decisions of basic courts were upheld, 739 (10%) were modified, 1,313 (18%) reversed, while 82 (1%) were reversed in part.

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

**Table 15: Municipal courts**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Civil litigation	75%	77%	14%	12%	9%	9%	2%	2%
Commercial	78%	82%	11%	8%	10%	9%	1%	1%
Criminal	67%	70%	15%	13%	17%	16%	1%	1%
Enforcement	83%	78%	5%	3%	12%	18%	1%	1%
Other	86%	85%	5%	8%	9%	7%	0%	0%

**Table 16: Basic courts**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Civil litigation	68%	67%	14%	15%	16%	17%	2%	1%
Criminal	60%	64%	15%	13%	25%	22%	0%	1%
Enforcement	73%	76%	6%	3%	20%	20%	1%	1%
Other	70%	76%	11%	6%	18%	17%	1%	1%

### Basic Court of the Brcko District Bosnia and Herzegovina

478 (74%) appealed decisions were upheld, 61 (10%) were modified, 106 (16%) reversed, while none reversed in part. Statistical indicators for appealed decisions are shown in the table below according to case type:

**Table 17: Basic Court of the Brcko District Bosnia and Herzegovina**

Case type	Upheld decisions		Modified decisions		Reversed decisions		Partially reversed decisions	
	2019	2020	2019	2020	2019	2020	2019	2020
Civil litigation	79%	76%	9%	7%	12%	17%	0%	0%
Commercial	69%	86%	6%	0%	25%	14%	0%	0%
Criminal	65%	78%	26%	11%	9%	11%	0%	0%
Enforcement	73%	70%	2%	3%	25%	27%	0%	0%
Other	74%	71%	10%	17%	16%	12%	0%	0%

## 5.2. Performance quality indicators for prosecutor's offices in 2020

This section of the annual report shows data on the quality of prosecutorial decisions for 2020, as calculated by prosecutor's offices in line with the HJPC BiH parameters. Apart from the said data, this section separately shows the statistical indicators for final court decisions rendered in 2020, based on the indictments filed by the prosecutor's offices in Bosnia and Herzegovina. The indicators are insufficient to calculate the performance quality of the prosecutor's offices, but they provide the reader with additional information on the types of court decisions rendered based on the indictments.

### 5.2.1. Quality of prosecutorial decisions according to the HJPC BiH criteria

#### Criteria for calculating the performance quality for prosecutor's offices

The quality of prosecutorial decisions is calculated, as in the previous years, based on the 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 2020, 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 2019	Indictment quality 2020
Prosecutor's Office of BiH	96%	95%
Cantonal prosecutor's offices	95%	96%
District prosecutor's offices	96%	96%
Special Department of the RS PO	93%	69%
Prosecutor's Office of the Brcko District BiH	95%	96%

### **Quality of orders not to conduct and discontinue investigations**

In 2020, 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 and discontinue investigations in 2019	Quality of orders not to conduct and discontinue investigations in 2020
Prosecutor's Office of BiH	99%	99%
Cantonal prosecutor's offices	100%	100%
District prosecutor's offices	100%	100%
Special Department of the RS PO	99%	100%
Prosecutor's Office of the Brcko District BiH	100%	100%

### **5.2.2. Statistical indicators on court decisions<sup>31</sup>**

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

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<sup>31</sup> In cases involving juvenile perpetrators of criminal offences (KTM), courts granted 98% of filed motions for developmental measures and juvenile imprisonment.

## Prosecutor's Office of Bosnia and Herzegovina

Of the total number of legally binding court decisions in 2020, 132 (89%) were convictions, 17 cases (11%) were acquittals and there were no dismissals and decisions rejecting indictments in 2020. 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 of judgements	No./ percentage of convictions		No./ percentage of verdicts rejecting charges		No./ percentage of acquittals		No./ percentage of other decisions	
KT	40	38	95%	0	0%	2	5%	0	0%
KTK	6	5	83%	0	0%	1	17%	0	0%
KTO	16	11	69%	0	0%	5	31%	0	0%
KTPO	76	70	92%	0	0%	6	8%	0	0%
KTRZ	7	5	71%	0	0%	2	29%	0	0%
TTT	4	3	75%	0	0%	1	25%	0	0%

## Cantonal prosecutor's offices

Of the total number of legally binding court decisions in 2020, 6,076 (96%) 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 by the courts in 284 (4%) cases. The following table shows the breakdown of court decisions per case type alleged in indictments:

**Table 21: Statistical indicators for court decisions pursuant to indictments from the cantonal POs**

Case type	Total number of judgements	No./ percentage of convictions		No./ percentage of verdicts rejecting charges		No./ percentage of acquittals		No./ percentage of other decisions	
KT	6,133	5,886	96%	33	1%	188	3%	26	0%
KTK	84	70	83%	0	0%	14	17%	0	0%
KTO	3	3	100%	0	0%	0	0%	0	0%
KTPO	137	114	83%	1	1%	22	16%	0	0%
KTRZ	3	3	100%	0	0%	0	0%	0	0%

## District prosecutor's offices

Of the total number of legally binding court decisions in 2020, 2,296 (94%) 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 by the courts in 138 (6%) cases. The following table shows the breakdown of court decisions per case type alleged in indictments:

**Table 22: Statistical indicators for court decisions pursuant to indictments from the district POs**

Case type	Total number of judgments	No./ percentage of convictions		No./ percentage of verdicts rejecting charges	No./ percentage of acquittals		No./ percentage of other decisions		
KT	2,211	2,082	94%	22	1%	102	5%	5	0%
KTK	18	16	89%	0	0%	2	11%	0	0%
KTPO	201	196	98%	2	1%	3	1%	0	0%
KTRZ	4	2	50%	0	0%	2	50%	0	0%

**Special Department of the RS Prosecutor's Office**

Of the total number of final court decisions in 2020, 12 (75%) were convictions, while dismissals and decisions rejecting indictments accounted for 4 decision (25%). 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 of judgments	No./ percentage of convictions		No./ percentage of verdicts rejecting charges	No./ percentage of acquittals		No./ percentage of other decisions		
KT	8	4	50%	0	0%	0	0%	4	50%
KTK	4	4	100%	0	0%	0	0%	0	0%
KTO	4	4	100%	0	0%	0	0%	0	0%

**Prosecutor's Office of the Brcko District BiH**

Of the total number of legally binding court decisions in 2020, 189 (96%) were convictions. Acquittals as well as decisions rejecting indictments, denying motions for developmental measures and juvenile imprisonment and the discontinuance of Ktm procedures were rendered by the courts in 8 (4%) cases. 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 of judgments	No./ percentage of convictions		No./ percentage of verdicts rejecting charges	No./ percentage of acquittals		No./ percentage of other decisions		
KT	173	166	96%	0	0%	6	3%	1	1%
KTK	8	7	88%	0	0%	1	13%	0	0%
KTPO	16	16	100%	0	0%	0	0%	0	0%

Besides the information on the performance quality of judicial institutions, the HJPC BiH continuously takes a number of measures and activities to raise judicial quality, primarily in the area of judicial and prosecutorial training and harmonisation of the case law and raising transparency of the court system by publishing court decisions.

### 5.3. The information system of the HJPC BiH for publishing court decisions

According to the legal competence from Article 17, item 24 of the Law on the HJPC BIH to "manage, coordinate and monitor the utilisation of information technologies in courts and prosecutor's offices in order to achieve and maintain uniformity in courts and prosecutor's office throughout the country...", since 8 May and in agreement with the competent institutions, the HJPC BiH is updating the database of court decisions that is available at: <https://www.pravosudje.ba/csd/>. In years of work on the publication of court decisions, the HJPC BiH has dedicated significant resources to make the database as updated and operational as possible, meaning easier to use. The highest courts in Bosnia and Herzegovina also participated in the development of the database as partner courts, which selected the decisions to be entered in the database and indexed them for better searchability. At the moment of writing this attachment, the database contained 13,488 court decisions that are searchable by the number and date of rendering, the court which rendered the decision, legal term and applied regulation, but also by free text search. Initially created only for the judicial office holders, the access to the database of court decisions has been gradually provided to the other categories of users with certain restrictions.<sup>32</sup>

The database has been continuously enriched by the current final decisions of the highest courts and related lower instance decisions. In 2020, 704 new decisions were entered, while the database also made available, among other things, decisions published in the informer of the High Commercial Court in Banja Luka for the period between 2018 and 2019, decisions published in the 2018 bulletin of the Supreme Court of the Federation of Bosnia and Herzegovina, most of the decisions from the bulletin of the Appellate Court of Brčko District BiH for the period between 2018 and 2019, decisions on disputed legal issues of supreme courts and decisions that were highlighted in two issues of the *Legal Chronicle* magazine, published in 2020. The collect and publish the highest possible number of decisions in the database and per the conclusion of the HJPC BiH from September 2020, the Judicial Documentation and Training Department (previous JDC) will establish cooperation with the courts that in the upcoming period wish to publish their decisions represented in the database. That principle excludes decisions in cases of war crimes, corruption and organised crime, terrorism and similar, which are taken and published regardless of the selection done by the courts, because in those cases there is a justified interest of the public for the integral text of the court decisions<sup>33</sup>.

To harmonise the case law of domestic courts with European standards, in 2020, the HJPC BiH intensified informing the judicial and general public on the case law of the European Court of Human Rights (ECHR), by preparing and publishing information on over 1,000 cases. The judiciary of Bosnia and Herzegovina is informed about the cited standards on a regular basis by two types of information. The first type is the weekly overview of the development of the ECtHR practice, whose basis is made of the information distributed through the Network of the European Court for Human Rights with the highest national courts. Information are received through the Court of Bosnia and Herzegovina, which is a member of the network. That type of information focuses only on the legal aspects of the ECtHR decisions, meaning it draws the readers' attention to the reason why the training is specific, which principles of the case law were applied in relation to what article of the Convention, whether it was a new legal issue that the Court did not encounter so far, meaning whether the legal interpretation of the Convention

<sup>32</sup> In 2012, the HJPC BiH decided to provide access to the database to attorneys with a seat in Bosnia and Herzegovina. The access was provided with annual subscription in the amount of BAM 100 that was introduced by a decision of the Council of Ministers of BiH. Besides that, in 2014, the access was provided to all the interested legal and natural persons under the same conditions, meaning the annual subscription.

<sup>33</sup> The anonymisation of the court decisions that are published in the database is currently being done in accordance with the Instruction for the anonymisation of court decisions, which was approved by the Standing Committee of the HJPC BiH on 14 February 2008. Per the cited instruction, the data are rigorously anonymised, both of natural and legal persons, including institutions and similar, which in the end leads to too much information being hidden and frequently affects the comprehension of a decision.

was upheld or it evolved. Thus, it is a comprehensive review of the case law. That type of information reviewed decisions and judgements of the European Court for Human Rights rendered in the period between 2017 and 2020.

The second type of information is being prepared since May 2020 in cooperation with the Constitutional Court of Bosnia and Herzegovina, Department of Constitutional Law Practice. So every week information are prepared about the latest decisions and judgements of the European Court of Human Rights which are of interest to the judges and prosecutors and general public of Bosnia and Herzegovina. Besides the legally relevant information there is also a review of the factual basis of a case, so that the readers would have more information about the case context as well and the interpretation of the convention law by the Court. Their importance is particularly reflected in the fact that the interested readers are provided with verified and reliable information on the latest practice of the ECtHR in languages of the peoples of BiH, with a statement of key arguments, only a day or two after a decision was rendered.

**Image 19: A part of the web page where the information on the latest decisions and judgements of the European Court of Human Rights are published**

The screenshot shows a web page titled "Sudska praksa ESLJP". The left sidebar contains links to "Predmeti protiv BiH", "Lista predmeta protiv BiH", "Sudska praksa ESLJP", "Sedmični izvještaji ESLJP", "EHR DATABASE", "Publikacije", and "Ostale informacije". The main content area displays a list of judgments with thumbnails, titles, and dates. The first judgment listed is "Odluke Evropskog suda za ljudska prava od 3. i 5. novembra 2020. godine" dated 06.11.2020. The second is "Odluke Evropskog suda za ljudska prava od 27. i 29. oktobra 2020. godine" dated 29.10.2020. The third is "Odluke Evropskog suda za ljudska prava od 20. i 22. oktobra 2020. godine" dated 23.10.2020. The fourth is "Odluke Evropskog suda za ljudska prava od 13. i 15. oktobra 2020. godine" dated 15.10.2020. The page includes a navigation bar at the top with links to "Biblioteka", "Zakoni", "Vijesti", "Pomoć za korištenje", "Kontakt", "Vaša pitanja", and "Sudska praksa u BiH", "Paneli", "Praksa Evropskog suda za ljudska prava", "Praksa sudova u okruženju", and "Praksa međunarodnih sudova".

**Image 20: Display of news on the latest decisions and judgements of the ECtHR**

The screenshot shows a web page with a dark blue header containing the HJPC logo and navigation links: Sudska praksa, Biblioteka, Zakoni, Vijesti, Pomoć za korištenje, Kontakt, and Vaša pitanja. Below the header is a purple navigation bar with links: Sudska praksa u BiH, Paneli, Praksa Evropskog suda za ljudska prava, Praksa sudova u okruženju, and Praksa međunarodnih sudova. The main content area has a light blue background. On the left, there's a sidebar with links: Predmeti protiv BiH, Lista predmeta protiv BiH, Sudska praksa ESLJP, Sedmični izvještaji ESLJP, EHR DATABASE, Publikacije, and Ostale informacije. The main content includes a title 'Odluke Evropskog suda za ljudska prava od 3. i 5. novembra 2020. godine' with a date '06.11.2020.', a text block about the judgments, and two sections on the right: 'Prateći dokumenti' (with a link to 'ECHR 03 i 05 11 2020') and 'Prateće fotografije' (with a thumbnail image of the European Court of Human Rights building).

On 9 December 2019, together with the OSCE Mission in Bosnia and Herzegovina, the HJPC BiH signed a Memorandum of Understanding by which the OSCE officially handed over the War Crimes Map to the HJPC BiH. Since 2020, the Map has been updated, as it is foreseen in the Memorandum of Cooperation. Indeed, the Judicial Documentation and Training Department tracks on a regular basis when the judgements in war crimes cases become final and makes a summary of cases to be entered in the Map in the languages of the peoples of BiH and in English. In 2020, a summary of 53 legally final decisions in war crime cases were done. As the summaries are done, suitable judgements are entered in the database of court decisions, as the best reference material to inform the public, which implements the vision of the HJPC BiH to make all legal information, that are relevant both for the judiciary and public, available at one place. The War Crimes Map is published on the web site: <https://maparz.pravosudje.ba/bhs>. Continued work on the War Crimes Map also continued the long-standing cooperation between the OSCE and the HJPC BiH.

Apart from that, in 2020, other categories of the web site <https://www.pravosudje.ba/csd/> were being continuously enriched by information on the newly adopted laws at the level of Bosnia and Herzegovina, the entities and the Brcko District and by other information useful for both the judiciary and wider professional public. At the end of December 2020, a total of 663,876 visits to the web sites were registered since the beginning of monitoring statistics by utilising the Google Analytics tool, while a total of 148,637 visits to the court decisions database were registered. All the cited contents and reliable legal information are delivered to all the users in the judiciary on a regular basis, but to other users as well via an e-leaflet (Court Case Law and Laws). Thus once again the commitment of the HJPC BiH to improve access to legal information and selected case law in a simple and quick way was demonstrated.

In 2020, the HJPC BiH continued co-publishing the *Legal Chronicle* magazine in cooperation with the AIRE Centre from London. Two issues of the magazine have been published, that are available both in print and on-line version on the web site <http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=65295>.

The content of the web site and the database of court decisions and the search option were presented in March and December 2020 to the newly appointed judicial office holders during their regular trainings in the entity judicial and prosecutorial training centres. In addition, on 28 October 2020, a presentation of the content was done for 14 students of the law faculties from the University in Sarajevo and East Sarajevo, when via a WebEx platform the students had the opportunity to familiarise themselves with the work of the Judicial Documentation and

Training Department of the HJPC BiH, the training system of the newly appointed judges and prosecutors, as well as the work process of the panel for harmonisation of case law. The activity is implemented in the *Building an Effective and Citizen-Friendly Judiciary Project* funded by the European Union and implemented by the HJPC BiH. Both law faculties got permanent access to the database of court decisions and laws and expressed their satisfaction with the established cooperation. They also proposed that these activities continue in the future, i.e. to familiarise the highest possible number of students with the database of court decisions and its options for legal research.

Analysing the increasingly frequent requests for access to the database of court decisions for the users outside of the judiciary, as well as the international standards for publishing court decisions on the internet, in 2020, the HJPC BiH considered the option of easier access to court decisions in Bosnia and Herzegovina. In relation to that, on the session on 16 September 2020, it was decided that the database of court decisions should be opened for the public free of charge and in that direction the necessary actions were taken to repeal the Decision of the Council of Ministers of Bosnia and Herzegovina on access to the database of court decisions for all interested persons outside the judiciary with an annual subscription. The final opening of the database is expected in the first quarter of 2021.

The HJPC BiH took the mentioned steps according to the requests of the European Commission from the report on Bosnia and Herzegovina for 2020<sup>34</sup>, in order to bring the publication of court decisions closer to the standards in the European Union, which stipulate that states should provide free access to all final court decisions.

Bearing in mind that the database will soon become accessible to the public without any restrictions and that besides the professional public the general one will use it more and more, the simplification of the anonymisation process of court decisions was considered in 2020 with the aim to make it as comprehensible as possible to the ones it is intended for and to establish an equal balance between the public interest and the need for privacy protection. In addition, when considering the new way of anonymisation, the Guidelines for the publication of court and prosecutorial decisions on the websites of judicial institutions, adopted by the HJPC BiH in 2014, and international standards in this area, as suggested by the Agency for Protection of Personal Data of Bosnia and Herzegovina, will be taken into account.

By opening the court decision database without any restrictions its purpose will no longer be just educational, as originally intended, although it will continue to be used for the preparation for the bar exam, entrance exam for judicial and prosecutorial positions, research, seminar and master theses, doctoral dissertations and various other research.

The European Commission strongly supports the above activities of the HJPC BiH because of their importance for strengthening the rule of law, transparency and trust of the citizens in the work of the judiciary in Bosnia and Herzegovina.

#### **5.4. Strengthening the case law departments in highest courts in Bosnia and Herzegovina**

Within the *Building an Effective and Citizen-Friendly Judiciary Project - IPA 2017*, funded by the European Union, a component "Strengthening the Case Law Department/Case Law Records is being implemented." Within the component, the HJPC BiH worked intensely on the implementation of the Agreement on Cooperation with the partner courts, signed on 24 April 2019. The agreement defined in detail the support the HJPC BiH provided to the department. In 2020, five case law experts were engaged in the highest courts to support the systematisation of positions from the court decisions, while two advisers were engaged in the HJPC BiH to improve the contents of the court decision database.

The component's objectives are an increase in the number of highest courts' decisions in the database from 1% to 15% of database decisions, establishment of a system for identifying the

<sup>34</sup> From the report: "The HJPC case law database, which contains over 12,500 decisions, needs to be systematically populated with key rulings from all jurisdictions to foster consistent case law across the country. The database also needs to become accessible to all citizens without charges..."

most common mistakes in the work of lower instance courts for the purpose of nominating training programmes and the identification of inconsistent case law among the four jurisdictions in Bosnia and Herzegovina to be nominated for consideration by the panels for case law harmonisation. In accordance with the Agreement, several meetings were held with the highest courts to form a Team for the Coordination of Project Activities. At the end of December, the method of making professional publications about the most current topics in the judiciary was discussed, which will continue in 2021.

In the project implementation, a development of a software for registration of court positions was agreed (*E-sentences*), given that the existing information system is insufficient for the highest courts to collect and systematise the positions from their own court decisions. The systematisation of positions will be done according to pre-established criteria (descriptors), on which the courts have been working intensely since the establishment of the Department for Case Law/Records of Case Law.

In relation to that, the HJPC BiH has supported the establishment of the new information system for recording of court positions (*E-sentence*) and provided financial support from the European Commission within the (IPA 2017) *Building an Effective and Citizen-Friendly Judiciary Project* and the AIRE Centre from London. In 2020, the HJPC BiH coordinated the development of the accompanying software and initiated the process of development of descriptors to be used for data search in this database. After the technical specification for the development of the software was completed, the development of the software itself is in progress, which will be installed and put into use and available to the courts in the next year (expected in April 2021), when the initial filling and testing of the court decision database will begin.

Thus, in the same way as more than thirteen years ago, they worked on the development of an information system for the publication of court decisions, today they are working on the development of an information system for recording the positions of court decisions, noting that both processes require a longer negotiations, financing, development of technical specification and system, its initial filling, testing and final commissioning.

Once it becomes fully operational, the new system will facilitate the identification of inconsistent positions and their analysis for the initiation of a process of case law harmonisation through the Case-Law Harmonisation Panel.

## **5.5. Coordination of the work of the panel for harmonisation of case law in Bosnia and Herzegovina**

As it is cited in the European Commission 2020 Report on Bosnia and Herzegovina of 6 October 2020: "Case law lacks consistency. The legal status and effectiveness of the judicial panels for the harmonisation of case law in civil, criminal and administrative matters need to be significantly strengthened. Only the harmonisation panel on criminal law met in the reporting period, adopting guidelines on two issues. Ultimately, Bosnia and Herzegovina needs to establish a judicial body to ensure the consistent interpretation of the law and harmonisation of case law across the four legal orders in the country."

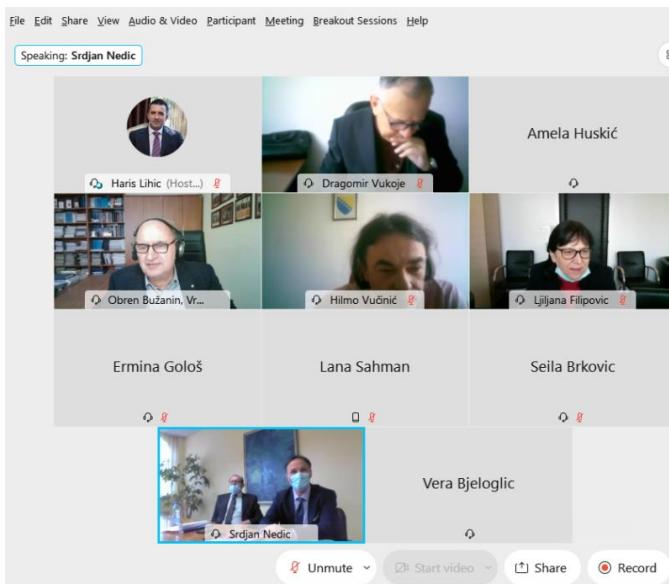
The panels for harmonisation of case law in Bosnia and Herzegovina are the mechanisms to harmonise the case law across the four highest court instances and those are: the Court of Bosnia and Herzegovina (Appeals Department), the Supreme Court of Republika Srpska, the Supreme Court of the Federation of Bosnia and Herzegovina and the Appellate Court of the Brcko District BiH. Although the highest courts had met before to harmonise certain positions, since 2014, the panels have been working according to the rules that had been harmonised between the cited courts and the HJPC BiH and that had been published on the web site <http://www.pravosudie.ba/vstv/faces/vijesti.jsp?id=50694>.

Therefore, the panel is a mechanism through which the courts harmonise the case law by consensus on issues that have been regulated in a similar or legal way, while the role of the HJPC BiH in this process is only to coordinate meetings and disseminate materials, compile minutes and publish and promote harmonised legal understandings. The harmonisation of the case law is primarily done in the process of court adjudication in specific cases following

regular and extraordinary legal remedies, and the process of deciding on “disputed legal issues” on the level of all four jurisdictions in Bosnia and Herzegovina, while the work of the panels for harmonisation of case law is a supplementary mechanism when a wider debate needs to be opened on matters that are important for the entire Bosnia and Herzegovina.

After the Panel for harmonisation of criminal case law adopted in 2019 certain legal understandings related to the application of the principle “ne bis in idem”<sup>35</sup>, and “sentencing in war crime cases”<sup>36</sup>, the panel continued working in 2020 as well. With the coordination by the HJPC BiH, the Panel met twice in the last quarter of 2020 to consider the issues: “*The application of the concept of command responsibility in light of the Criminal Code of SFRY and Criminal Code of BiH*” and “*Replacing the prison term with a fine in the context of war crimes and beyond.*” For the first topic the Panel decided that no conditions were met for adoption of a harmonised legal understanding, because three of the four courts - members of the Panel, do not have the practice of deciding in cases with command responsibility, while for the second issue the current legal framework leaves no room for the harmonisation of case law, with a note that meanwhile the concept has been abandoned in Republika Srpska. Thus, the panel meetings were used only as a platform for exchange of information and court opinions - panel members. The debate on the cited issues will resume if and when the said circumstances change.

**Image 21: Participants of the Panel for harmonisation of the criminal case law**



To identify the existence of inconsistent case law, in June 2020, the HJPC BiH polled the judicial community in Bosnia and Herzegovina. The response received was in 30 topics nominated by nine courts. On the basis of analysis of the submitted topics, the HJPC BiH established that there was already the panel’s understanding for two topics and the courts which nominated them and all other courts were additionally informed in a memo to all judicial managers<sup>37</sup>. The legal understanding of the Panel for harmonisation of civil case law of the expenses of attorneys outside the court’s seat is used as an argument in the explanation of the domestic courts’ decisions and was cited in the practice of the Constitutional Court of Bosnia and Herzegovina, while the European Court of Human Rights recognised the strength of the positions the Panel took. Indeed, in the case Fajkovic and others v. Bosnia and Herzegovina, the Court referred to the position of the Panel related to the expenses of the attorney whose office seat is located outside the court’s seat.

<sup>35</sup> <http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=81096>

<sup>36</sup> <http://www.pravosudje.ba/vstv/faces/vijesti.jsp?id=81094>

<sup>37</sup> Topics related to "awarding the costs of litigation related to the cost of transporting attorneys coming from outside the seat of the court" and "factual expropriation."

The panel courts were also informed about the results of the poll, which will assess in relevant departments whether there were conditions to harmonise case law on other nominated topics i.e. whether the legal issue was legally regulated in the same way on the state, entity and Brcko District level and whether the panel courts have the case law on specific issues.

Additionally, the Appellate Court of the Brcko District, as a panel court, directly nominated a topic on the issue "*Does the bank have the right to charge a fee for loan processing costs from the borrower, when the contractual provision regarding the reimbursement of these costs is contained in the contract form and when the amount of processing costs is only specified in a fixed amount, i.e. in a percentage related to the approved loan funds.*" The topic was accepted by the panel courts and the Appellate Court of Brcko District of BiH will prepare a paper and the relevant material for a discussion, while the meeting is expected to be held at the beginning of 2021.

The entity judicial and prosecutorial training centres have been informed about the nominated topics (JPTCs) in order to cover those topics in their trainings in 2021. Primarily, the nominated topics will be covered in discussions in several round tables on case law, which are organised every year in the JPTCs and their programmes for professional development.

Besides the said activities, at the end of 2020, the HJPC BiH was considering the report of judge Joanna Korner about the implementation method for recommendations in relation to consideration of existing differences between the BiH CPC and SFRY CPC by the Panel for harmonisation of case law and in the context of transferring the proceedings of less complex war crime cases. The recommendation is that the HJPC BiH should as soon as possible delegate the subject issue to the Panels for harmonisation of case law in criminal matters and request their position on it.<sup>38</sup>

In that relation, the competent working bodies of the HJPC BiH were informed in October and November 2020 that the Panel for harmonisation of the criminal case law had considered thus far three topics related to processing war crime cases: 1) sentencing in war crime cases, 2) the *ne bis in idem* principle and 3) change of the concept of command responsibility in the light of Criminal Code of SFRY and Criminal Code of BiH. No legal understanding was adopted on the third topic, because of the fact that the three panel courts do not have the case law on that matter.

In the continuation, in November 2020, the OSCE Mission to BiH presented its third annual report on the judicial response to corruption: The impunity syndrome, which was produced on the basis of monitoring the BiH judiciary processing the corruption cases in 2019. The report cited a steep fall in the conviction rate, pointing out a number of shortcomings in the judicial system and suggesting that the law was applied differently with respect to those who hold power and influence in society, as well as unclear and unpredictable application of the law by the courts. In the context of recommendations to the HJPC BiH and the courts, the potential role of the Panel for harmonisation of case law was mentioned in harmonisation of standards of action and "development of harmonised case law." At the meeting held on 22 December 2020, the HJPC BiH Standing Committee on Training and Judicial Documentation acknowledged the information that the Panel for harmonisation of criminal case law in its work had not considered the issues cited in the OSCE Report and thus the HJPC BiH was proposed to deliver the OSCE Report to the courts, the Panel members, and request their position on "unclear and unpredictable application of the law by the courts" and on the possibility to hold a meeting of the Panel to discuss issues of inconsistent case law in processing corruption.

## 5.6. Training of judicial office holders

In 2020, the HJPC BiH took measures and made decisions within its competence in the part of training of judges and prosecutors, as well as person intending to practice judicial and

<sup>38</sup> Recommendation 6.5: "Aiming to transfer the conduct of proceedings in a high number of cases without delay, the Panel for harmonisation of case law should consider the differences between the Criminal Code of BiH and Criminal Code of SFRY or consider the option of holding a meeting of the Panel to implement the recommendation."

prosecutorial profession. The possibilities of implementing the Peer Review recommendations that the Peer Review Mission gave in May 2017 for initial and professional development, have been considered on a regular basis. Thus, in 2020 meetings of the Standing Committee on Training and Judicial Documentation were held<sup>39</sup> with the representatives of the JPTCs and Judicial Commission of the Brcko District on a regular basis.

In the conditions of pandemic measures, with a delay of several months, the reports on the work of these public institutions were considered, as well as the training programmes for the next year. In relation to the aforementioned, the reports on the work and implementation of the initial training and professional development programmes in 2019 were adopted at the November session along with suitable recommendations. At the same session, in relation to the appointment of the JPTC Director in the Federation of BiH, the HJPC BiH gave its positive opinion to the Steering Board of the Judicial and Prosecutorial Training Centre of the Federation of the Federation of BiH about their proposal to appoint Arben Murtezic as the director of that public institution.

In raising ethical standards in the judiciary of Bosnia and Herzegovina, the HJPC BiH has been continuously considering the ways to improve trainings on the topic of ethics, integrity and prevention of conflict of interest, and introduced the mandatory training for all judicial office holders on the cited topics. Specifically, the HJPC BiH made those topics mandatory for all newly appointed judges and prosecutors within their initial training programme. Furthermore, aware of the inability for all judicial office holders to attend the traditional training on these topics in one year and considering the way to conduct that training systematically for all judicial office holders, the HJPC BiH proposed to the USAID to help in the development of an adequate model for on-line training, given that the USAID had been involved in the work of the Working Group for Integrity for a number of years, that had been established by the HJPC BiH.

In that relation, the USAID Judiciary Against Corruption Project has prepared a proposal of an on-line module, with active participation of the HJPC BiH Standing Committee for Training and Judicial Documentation in such a way that the training is first conducted in target judicial institutions. According to the decision of the HJPC BiH, the participation of judicial office holders as attendees of the pilot phase will be recognised as one day of mandatory training. The pilot phase will be utilised to improve the module and apply it in all judicial institutions in BiH. The proposal was approved in the October session of the HJPC BiH and conveyed to the JPTCs for the purpose of including the pilot phase in the training programme in 2021. In accordance with its competence to provide independent and accountable judiciary, the HJPC BiH will pay due attention to the implementation of the decision and secure the necessary resources to oversee the implementation of the pilot phase in 2021 in close cooperation with the USAID, the JPTCs and the Judicial Commission of Brcko District BiH.

While advising the JPTCs in development of the training programme in 2021, in September 2021, the HJPC BiH delivered a set of current topics to the JPTCs and Judicial Commission of Brcko District BiH. Those were primarily the topics that are covered every year in the JPTCs regarding the use of the HJPC BiH database of court decisions and IT training on the application of the CMS/TCMS. Apart from that, the HJPC BiH proposed a set of topics that the Appellate Court of the Brcko District nominated related to the most frequent mistakes in the work of the lower instance courts, as the product of the activities of the Case Law Department in that court (IPA 2017). The topics that the HJPC BiH collected following the survey on the lack of consistency in case were also delivered, along with a significant number of questions about the enforcement case type issues, acknowledgement and enforcement of foreign court decisions in criminal cases, legal interests of an illegitimate wife to file a complaint to establish common law marriage in order to claim survivors' pension, labour disputes and other topics for which the panels for harmonisation of case law cannot give opinions.

A significant number of topics for training in 2021 was nominated within the projects that operate under the HJPC BiH, with a special reflection on training methodology. Besides a number of trainings on the topics related to the civil litigation procedure, bankruptcy and liquidation, the enforcement procedure, contemporary communications with the public and specialised training about organised crime, corruption, cyber crime, money laundering and

<sup>39</sup>Standing Committee on Education and the Judicial Documentation Centre before.

similar, topical trainings are planned for court presidents and heads of court departments, chief prosecutors and deputy chief prosecutors and heads of prosecutorial departments to improve managerial skills, change management and the implementation of monitoring and evaluation.

Through the work of the Standing Committee for Training and Judicial Documentation, JPTCs and Judicial Commission of the Brcko District of BiH, the HJPC BiH paid significant attention to the introduction of a multi-year specialised training programme for judges processing organised crime and corruption cases and to continued specialised training for prosecutors on the same topics. Both specialised programmes have been prepared by the USAID Judiciary Against Corruption Project in close cooperation with the Standing Committee on Training and Judicial Documentation, the Strengthening the Capacity of Prosecutors in the Criminal Justice System Project and in coordination with other relevant working bodies, while engaging the best practitioners from the cited areas. All the delivered topics were considered again with JPTCs and Judicial Commission of Brcko District BiH at the meeting held on 22 December 2020, when the option of improving the initial training for newly appointed judges and prosecutors was considered as well.

In 2020, a certain number of judges and prosecutors who are entering the judiciary for the first time has been appointed. The tables with the data on previous work experience of the newly appointed persons, the judicial institutions to which they were appointed and the mandate start dates have been delivered to the JPTCs on a regular basis to include the newly appointed ones in the initial training intended for this category of attendees. Parallel to the training in the JPTCs, the HJPC BiH worked intensely on introducing and improving the professional support to the newly appointed judicial office holders in judicial institutions.

In 2020, in cooperation with the Institute for the Training of Judges of the Netherlands, specialised trainings for court department heads were organised in the activities of the Improving Judicial Quality Project on the topic of changing the organisational culture by developing team work, which a certain number of judges of the target courts attended (the Municipal Court in Zenica, Cantonal Court in Zenica, Basic Court in Doboj, District Court in Doboj, Municipal Court in Travnik and the Cantonal Court in Novi Travnik).

In March 2020, a training was held in cooperation with the JPTC of the Federation of BiH titled "Training for group intervention leaders," aimed at enabling judicial office holders to develop the culture of common problem solving, while developing the culture of communication and encouragement to all the staff members to present their own opinion and give a different perspective in problem solving. The training objective is to strengthen team work and improve mutual understanding of all team members.

**Image 22: Training for the leaders of group intervension, Sarajevo, March 2020**



### 5.6.1. Introducing mentoring in judicial institutions

#### The work of consultative prosecutors with the newly appointed prosecutors

In 2020, the support to the newly appointed prosecutors in Bosnia and Herzegovina was ongoing according to the Book of Rules of the HJPC BiH on the procedure for selection and work of consultative prosecutors for newly appointed and other prosecutors, adopted in November 2017. After three years of the book of rules being applied, it has been noticed that prosecutor's offices in Bosnia and Herzegovina had a number of inconsistent actions in the selection and appointment of consultative prosecutors and also in working with the newly appointed prosecutors. In order to harmonise the practices and pursuant to the conclusion of the HJPC BiH session from November 2020, amendments to the said book of rules were prepared in the first quarter of 2020 in close cooperation with the OSCE and Strengthening Prosecutorial Capacities Project.

In the period between 13 and 15 March 2020, an OSCE representative participated in a two-day workshop organised by the JPTCs and the *EU4Justice Project*, which was held in Mostar. All elected consultative prosecutors in BiH participated in the Workshop and the Workshop conclusions were taken into account to further improve the existing legal framework. In that regard, in the conditions of pandemic measures caused by the COVID-19, in May 2020, an on-line meeting was held between the HJPC BiH standing committees on training and judicial documentation and efficiency and quality of prosecutor's offices and the representatives of the *EU4Justice Project* to consider the option of including the Workshop conclusions and new ideas and best practices in the draft amendments to the Book of Rules.

It was also agreed to develop a manual/guidelines for the application of the Book of Rules, which will be prepared by an international expert hired by the *EU4Justice Project* who was also the moderator of the Workshop. Due to the quantity and significance of the amendments, in September 2020, the HJPC BiH standing committees proposed a new book of rules be passed instead of the existing one amended.

The adoption of the new book of rules and its publication in the *Official Gazette of BiH* will enable uniform institutional assistance to the newly appointed prosecutors, as one of the reform measures in the BiH judiciary. The system of initial training of newly appointed judicial office holders will also be harmonised with the recommendations for the judiciary in Bosnia and Herzegovina in this part (the *Peer Review* recommendations). The draft manual for consultative prosecutors is also being prepared and it will assist all the participants in the process of professional support to the newly appointed prosecutors, because certain situation cannot be regulated in detail in the Book of Rules due to the specific nature of the organisation, i.e. the size of some prosecutor's offices in Bosnia and Herzegovina. The HJPC BiH will consider all the above mentioned in the first half of 2021.

### **Mentoring in the courts**

Basically, mentoring should enable development of judge craft for newly appointed judges, which includes everything that cannot be found in legal literature and refers to the manner in which 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.

Given that this is an issue of strategic importance for the judiciary, the HJPC BiH provided support to the process through the IJQ Project in 2020 as well. Specifically, in 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, the HJPC BiH and judges from the Netherlands and Norway who have significant experience in implementing mentorship (partner countries in the project implementation).

In 2020, the Working Group coordinated the implementation of the pilot project of introducing mentoring in courts, which is being implemented in two target courts since February: the Municipal Court in Zenica and the Basic Court in Banja Luka. The activities were implemented by the judges from Norway and the Netherlands, following the Mentorship Framework Programme that the HJPC BiH approved in December 2019 for the pilot phase. The Framework Mentorship Programme includes the following areas: work organisation, skills to conduct hearings and court decision drafting skills. The individual mentoring programme has been developed for every newly appointed judge/legal associate, a participant in the project, depending on their work experience and according to the department's needs. Due to the inability of the Working Group members to visit the target courts and implement activities on the ground, the activities were conducted by a video conference.

**Image 23: Start of the pilot project Introducing Mentoring in Courts, Zenica, February 2020**



Apart from that, during the reporting period, with the support of the Project, the Working Group made a Draft of the legal and programme framework with concomitant documents to introduce the mentoring system to the entire BiH judiciary, which is in the procedure of public consultations.

### **5.6.2. Managing proceedings**

#### **Procedural discipline**

The civil judicial system in Bosnia and Herzegovina is burdened with a high number of unresolved cases and is therefore the focus of the measures that the HJPC BiH has been undertaking through various projects for a number of years now. Findings from the field largely support the findings of the Experts' Report on Rule of Law Issues in Bosnia and Herzegovina<sup>40</sup>, one of the most important of which is the lack of procedural discipline.

A high number of cases undoubtedly affects the timely and thorough preparation of a judge for a trial. Such an approach reflects on the judge's ability to manage the hearing efficiently in order to complete the case as soon as possible. In such cases, the judge is unable to adequately respond to various requests of the parties and focus the hearing on arguing disputed facts, which are essential for deciding. Excessive delays and postponements of hearings, no selection in approving evidence presentation, extension of court deadlines (for example, to deliver the opinion and findings of an expert witness) are the most frequent ways how the lack of procedural discipline manifests. Due to the lack of the aforementioned, the court's authority is undermined and the parties do not become only "the masters of the litigation" (*dominus litis*), but also "the masters of the courtroom."

The first phase of this activity included the Basic Court in Bijeljina and District Court in Bijeljina, Municipal Court in Tuzla and Cantonal Court in Tuzla and the Basic Court of the Brcko District BiH and Appellate Court of the Brcko District BiH. The second phase of the activity included

<sup>40</sup> Paragraphs 32–38

all the first instance courts of the Zenica Doboj Canton<sup>41</sup> and the Cantonal Court in Zenica, all courts from the Central Bosnia Canton<sup>42</sup> and the Cantonal Court in Novi Travnik and Basic and District Court in Doboj. Finally, during the third phase, the activities involved the municipal and cantonal courts in Mostar and Siroki Brijeg, as well as the Basic and the District Court in Trebinje.

In 2020, the activities were conducted in the Project Phase II and III courts with the participation of the Expert Team composed of Norwegian and Dutch judges. Although the pandemic caused the planned visits of the Expert Team to target courts be replaced by on-line meetings, the activities were implemented in a suitable way.

***Image 24: Meetings of the Expert Team of the Improving Judicial Quality Project with the representatives of the Municipal Court in Travnik and Cantonal Court in Novi Travnik in February 2020***



In cooperation with the competent second instance court, all first instance courts developed and adopted the material for better management of civil litigation proceedings. Those materials are adopted with the aim to harmonise interpretations of the provisions of the civil procedure codes, which affect the duration and quality of the proceedings (postponing and adjourning hearings, presentation of evidence...) and proved to be an efficient mechanism to reach the said objective in the earlier phase. They are the internal documents of the courts and non-binding positions of the majority of judges of specific courts, which in the end affect the legal security and equality of citizens before the law.

The litigation / civil departments of the target first instance courts continued working on the standardisation of their own actions. For that purpose, the departments adopted and started using the so-called check lists for examination of complaint and response to a complaint and the form for the preparation and conduct of civil proceedings, following the courts that participated in previous phases of implementation of project activities. The mentioned tools affect the efficiency of the court proceedings and better preparation of judges for the trials in multiple ways.

<sup>41</sup> Although only the Municipal Court in Zenica and Municipal Court in Travnik were planned to be the project target courts, the first instance courts on the level of Zenica-Doboj and Central-Bosnia Cantons got included in the activities at their own initiative.

**Image 25: Overview of courts included in the phases of activities aimed at improving procedural discipline**

Phase one	Phase two	Phase three
<ul style="list-style-type: none"> <li>•The Basic Court in Bijeljina</li> <li>•The District Court in Bijeljina</li> <li>•The Municipal Court in Tuzla</li> <li>•The Cantonal Court in Tuzla</li> <li>•The Basic Court of the Brcko District of BiH</li> <li>•The Appellate Court of the Brcko District of BiH</li> </ul>	<ul style="list-style-type: none"> <li>•The Municipal Court in Zenica</li> <li>•The Municipal Court in Tesanj</li> <li>•The Municipal Court in Zepce</li> <li>•The Municipal Court in Zavidovici</li> <li>•The Municipal Court in Kakanj</li> <li>•The Municipal Court in Visoko</li> <li>•The Municipal Court in Travnik</li> <li>•The Municipal Court in Kiseljak</li> <li>•The Municipal Court in Bugojno</li> <li>•The Municipal Court in Jajce</li> <li>•The Cantonal Court in Zenica</li> <li>•The Cantonal Court in Novi Travnik</li> <li>•The Basic Court in Doboj</li> <li>•The District Court in Doboj</li> </ul>	<ul style="list-style-type: none"> <li>•The Municipal Court in Mostar</li> <li>•The Cantonal Court in Mostar</li> <li>•The Municipal Court in Siroki Brijeg</li> <li>•The Cantonal Court in Siroki Brijeg</li> <li>•The Basic Court in Trebinje</li> <li>•The District Court in Trebinje</li> </ul>

## Quality of court decisions

Within the Improving Judicial Quality Project and the established cooperation between the HJPC BiH, the Norwegian Courts Administration and the Council for the Judiciary of the Netherlands, an activity is conducted to improve the quality of court decisions. In the period between March and October 2020, the analysis of the quality of judgements in civil litigation proceedings was conducted for the first time on the level of the entire BiH judiciary.

The objective of this activity is to identify the most common shortcomings in drafting of court decisions and to recognise and adopt the best practices and establish the quality standards in this domain. In the end, the objective is to provide the parties to the proceedings with a concise and comprehensible court decision, with an explanation that is in accordance with European standards.

In that relation, the HJPC BiH established a panel of experts that conducted the analysis. The panel is made of the highest court instances in Bosnia and Herzegovina 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 the civil litigation was limited to the drafting techniques and methodology and did not delve into evaluating the fairness of deciding. After stratifying the sample, the HJPC BiH staff, in consultation with experts, by random selection method, identified 100 cases, taking into account the fact that sample should encompass as many large courts as possible and disputed with various legal grounds.

The panel worked on anonymised materials, all the while not knowing the data on the court or the judge who had rendered the decision. The operative method was the *Peer Review* analysis of court decisions based on the criteria adopted by the expert panel. The agreed criteria were shaped into an evaluation form and all of it was done before the evaluation of specific cases.

Upon the completion of the evaluation of decisions, the experts started on the manual and guidelines for drafting court decisions with forms of court decisions, which will be completed in the first half of 2021. The materials will be used for specialised training of judges and legal associates handling civil litigation cases, in cooperation with the JPTCs.

### **5.6.3. The forum for improvement of practical mechanisms of cooperation and information exchange between judicial, security and intelligence institutions in Bosnia and Herzegovina.**

The training-coordinating forum for improvement of practical mechanisms of cooperation and information exchange between judicial, security and intelligence institutions in Bosnia and Herzegovina has held four meetings, where the Forum members discussed the implementation plan for joint activities and trainings. The Forum members agreed that the issue of corruption and the implementation of training called "Criminal Intelligence in Support of Prosecutor's Office in Fighting Corruption" would remain a priority. It was concluded that the training would be held in the first half of the next year, because the training could not be implemented in 2020 due to the epidemiological situation regarding the COVID-19 pandemic and therefore 2020 was utilised for the preparation of the materials, identification of authors for the manual and definition of technical preconditions.

In March 2020, in cooperation with the RS JPTC, the "Legality of Evidence" training was held with 54 participants, judges, prosecutors and law enforcement officers. In May 2020, in cooperation with the JPTC of the Federation of BiH, the training about the same topic was held on the *WebEx* platform, with a total of 37 participants.

A new cycle of specialised two-year trainings, included in the JPTC plans about the topic of cyber crime, corruption and organised crime, started in October and November 2020, by trainings being held on the *WebEx* communication platform, while the rest of the specialised programme will be conducted in 2021.

The Strengthening the Capacity of Prosecutors in the Criminal Justice System Project and JPTCs have developed an on-line e-learning module for the newly appointed prosecutors, which was offered to all the prosecutors, legal associates and law enforcement officers in Bosnia and Herzegovina in 2020. Five on-line learning modules have been offered on the topics: "Detention and other measures of securing the suspect and cooperation with the police," "Evidentiary actions in criminal proceedings and legality of evidence," "Special investigative actions" and "Drafting techniques for prosecutorial documents" that 296 participants attended in 2020 and 74 completed successfully. "The main hearing" module will be included in the distance learning platform in the JPTCs as of 2021.

## **5.7. Strategies**

### **5.7.1. The Strategy for Improving Gender Equality in the Judiciary in BiH**

At the end of October 2020, by adopting the Strategy for Improving Gender Equality in the Judiciary in BiH (hereinafter: the Strategy), the HJPC BiH again confirmed its commitment to promote gender equality. The Strategy was prepared in the *Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH Project - Phase II*, financed by the Government of Sweden, in cooperation with the Swedish National Courts Administration, as the coordinator of the activity to introduce gender equality in the judicial administration of Sweden and long-standing partner of the HJPC BiH.

Although a significant legislative framework has been established in BiH, it is not necessarily a guarantee of achieving gender equality. Therefore the intention in the Strategy is to draw the attention of the judicial community in BiH to the importance of gender equality and improve the level of gender equality in the BiH judiciary.

For the first time, the Strategy has set strategic objectives to improve gender equality in the judiciary in BiH and they are the following:

1. The managers of judicial institutions and other employees set, as one of institutional priorities, the improvement of knowledge and level of awareness about the notions of gender, gender norms, gender mainstreaming method, gender equality and the right of equal access to justice.

2. Managers of judicial institutions and other employees ensure that the issues of gender equality and equal access to justice are included in the work processes in judicial institutions, as part of the objectives of institution's work processes.
3. Managers of judicial institutions and other employees ensure that all persons coming in contact with judicial institutions are treated equally and given equal access to justice regardless of their sex and/or gender.
4. All persons (parties, witnesses, professional parties and others) coming in contact with judicial institutions, whether that contact is oral, written or through the social media, believe that the judicial institutions are based on the principles of gender equality. Both men and women have a high level of trust in the judiciary.

Apart from that, the roles of the HJPC BiH and judicial institutions in the implementation of the Strategy have been determined. In that sense, it was determined for the HJPC BiH to coordinate the process in which the judicial institutions adopt their action plans and provide support to the overall process with the final aim of facilitating equal access to justice and equality of all citizens before the law.

It was also determined for the HJPC BiH to provide professional support to the judicial institutions in the process of preparing action plans to implement the Strategy and approve the prepared action plans, after which it will monitor their implementation on a regular basis and regularly include the information on the gender equality in the BiH judiciary in its annual report.

As for the role of judicial institutions, it was stated the managers of the judicial institutions were responsible for the implementation of the Strategy and obliged to inform the HJPC BiH on the regular basis on all the activities taken for that purpose. It was also determined that the managers of judicial institutions would include the staff of both sexes on all levels within the institution in the process of the Strategy implementation, i.e. adoption and application of action plans.

Given that the issue of improving gender equality is a novelty for the BiH judiciary, the Strategy includes the issue of drafting a manual for the implementation phase of the Strategy, which should make this process easier for the judicial institutions.

Through the *Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH Project - Phase III*, financed by the Government of Sweden, which started in November 2020, in cooperation with judicial institutions and Swedish experts, the HJPC BiH started implementing activities in order to implement the Strategy.

## 5.8. Publications

### 5.8.1. The judiciary and vulnerable groups

The efforts of the HJPC BiH to improve the position of vulnerable groups in contact with the judiciary have continued by giving recommendations to judicial institutions, that had been prepared on the basis of the report on the architectural accessibility of the judicial buildings for the disabled persons.

Apart from that, in cooperation with the OSCE Mission to BiH, the CMS code list has been updated for discrimination cases, with the aim to facilitate collection of all necessary data on these cases. In that regard, the instruction on the use of updated code list has started being prepared, which is meant for the judges and registry clerks, based on which adequate trainings will be developed.

Endeavouring to contribute to the efforts of the BiH judiciary to improve the position of children and youth in contact with the judiciary, the HJPC BiH prepared and delivered an illustrated publication "My Guide to Criminal Procedure" to the competent courts, as to provide the best possible support to the minors.

*Image 26: The cover page of the publication “My Guide to Criminal Procedure”*



The publication is intended for children between 12 and 18, who are victims/witnesses of a crime, as well as their parents/guardians, in order to familiarise this vulnerable group with their rights during the initiation and duration of the criminal proceedings. The publication is a comprehensive guide detailing the course of criminal proceedings, participants in the proceedings and their role, the role of the child, and the child's rights and obligations during the proceedings, as well as additional notes for parents/guardians, in order to provide the best possible protection of the child.

Besides the previously described activities, based on the Analysis of the extent of application of provisions of the law on protection and dealing with children and minors in criminal proceedings in courts in BiH, which was prepared by the HJPC BiH, the courts were given recommendations for improvement of established situation and the cooperation with UNICEF continued in that direction.

Related to that, the HJPC BiH has, on the initiative of the UNICEF BiH, formed a Working Group to establish standards for equipping rooms for hearing children in contact with the law, which has held several working meetings to create the aforementioned standards. Upon development and adoption of the said standards by the HJPC BiH, the equipping of the rooms for hearing children in judicial institutions will start.

The system of collection of data on gender-based violence and domestic violence has been improved in cooperation with the Agency for Gender Equality in BiH. In that sense, a new option “The relationship between the victim and perpetrator” has been added to the attributes of the CMS cases, which enabled a comprehensive collection of data on the aforesaid cases, as suggested by the Istanbul Convention.

Improving processing of the aforementioned cases is the purpose of the survey on the actions of judicial office holders in cases of gender-based violence, that was conducted by the HJPC BIH. The survey included questions about the classification of criminal offences in cases of gender-based violence, pronouncing protective measures, sentencing, assessment of mitigating and aggravating circumstances, duration of proceedings, processing restitution claims, etc., while the plan of activities to improve the established situation will be created based on the survey results.

According to the newly established practice, this year, the HJPC BiH joined the international campaign - 16 Days of Activism against Gender-Based Violence and in cooperation with the Atlantic Initiative Association, organised initial training for the newly appointed advisers for the prevention of sexual and gender-based harassment in judicial institutions in BiH. At the suggestion of the HJPC BiH, the entity JPTCs included appropriate seminars/workshops on

gender equality and rights of vulnerable groups in their 2020 programmes of training and professional development.

## Chapter 6: INTEGRITY AND ACCOUNTABILITY

### 6.1. Integrity

For the purpose of strengthening integrity and accountability in the judiciary, bearing in mind the accepted obligations and determined objectives of importance for further process of BiH integration in the EU that were stressed in the recommendations of the European Commission (EC) Expert Mission Peer Review (PR) and GRECO recommendations, throughout 2020, the HJPC continued implementing planned priority activities aimed at development of the capacity to prevent and detect conflict of interest in corruptive behaviour in judicial office holders in BiH.

Implementing activities in issues of integrity and accountability of judicial office holders is one of the strategic objectives in the overall judicial reform and it is implemented within the working bodies of the HJPC with technical and professional support of the USAID's Justice Project.

With the aim to unify the integrity and accountability processes, in July 2020, the HJPC restructured the internal organisation by establishing the Integrity Department, as a separate organisational unit that is competent for the implementation and compliance with the regulations on personal financial statements of judges and prosecutors, the codes of judicial and prosecutorial ethics and regulations on conflicts of interest, as well as implementing integrity plans in judicial institutions and the HJPC and providing support to the disciplinary panels of the HJPC. To define and differentiate these activities the HJPC formed the Standing Committee for Ethics, Integrity and Accountability of Judges and Prosecutors, as a professional body of the HJPC, competent to consider all issues in this domain and initiated the procedure to staff the work posts in the Integrity Department.

#### 6.1.1. Financial statements of judges and prosecutors

After the HJPC adopted the Rulebook on the Submission, Verification and Processing of Financial Statements of Judges and Prosecutors in 2018 (hereinafter: the Book of Rules) with the Form for Submission of Financial Statements of Judges and Prosecutors to the HJPC, which regulates the procedure of submission, verification, keeping and processing of financial statements that include the data relating to the assets of judges or prosecutors, their spouse and children living in the same household, the Agency for the Protection of Personal Data in BiH (hereinafter: the Agency) in March 2019, upon the request submitted by the association of judges in BiH, rendered a decision that in its Book of Rules the HJPC had exceeded its authority from Article 86 of the Law on HJPC and prohibited its application.

Acting on the basis of the Court of BiH judgement, rendered in January 2020, which rejected the HJPC complaint against the Agency as ungrounded and fully upheld the Agency's decision, in February 2020, the HJPC rendered the Book of Rules ineffective and made a decision that the financial statements of judges and prosecutors for 2019 are submitted to the HJPC on the previously used forms, while extending the deadline for submission by 30 June 2020 due to the extraordinary circumstances caused by the COVID-19 pandemic.

According to the records, of 1,444 judicial office holders in BiH, seven judicial office holders failed to submit their financial statement for 2019, of which four were on long-term medical absence and three under suspension. As for voluntary disclosure of their financial statement, six judicial office holders consented to disclosure of statements for 2018 and 2019 and they were published on the HJPC BiH website.

A total of 252 additional activities, reported by 176 judges and prosecutors, were recorded within the total number of submitted personal financial statements of judges and prosecutors in the reporting period. In relation to the permitted activities paid in the amount of up to 40% of annual judge's or prosecutor's income, two judicial office holders charged an amount higher than the one predicted, of which the Office of the Disciplinary Counsel (ODC) was informed. The highest number of paid additional activities is about providing training services, membership in panels for passing the bar exam, author fees and similar. As for reported additional activities with incomplete data, additional explanations were requested, while for the participation in certain working bodies and committees that are established by the competent authorities (electoral committees, independent boards for election of police officers and similar)

the HJPC made a decision that they are incompatible with judicial or prosecutorial office. In 2020, the HJPC gave 17 opinions, of which 11 on office compatibility, two on incompatibility of office and four on requests for protection of independence in holding office.

In order to continue working on defining questions in personal financial statements of judges and prosecutors, in February 2020, the HJPC sent a reminder to the Ministry of Justice of BiH and Parliamentary Assembly of BiH to urgently initiate the procedure to amend the law on the HJPC in the provisions referring to this domain and as proposed in its initiative to amend the Law on HJPC in 2018.

### **6.1.2. Ethics, integrity and conflict of interest**

To further strengthen professional conduct and integrity of judges and prosecutors, the HJPC took additional steps to improve prevention, supervision and sanctioning policy, aimed at implementing the document that the HJPC had adopted in this domain.

In February 2020, the implementation of additional training for judges and prosecutors was initiated, which has been developed in an on-line module for testing in partner courts and prosecutor's offices within the USAID pilot project to get feedback for further improvement of its scope and content. In October 2020, the HJPC approved the training as mandatory one-day training that is implemented through the judicial and prosecutorial training centres in BiH.

At the same time, activities continued on overseeing the application of and compliance with the codes of judicial and prosecutorial ethics, regulations on conflicts of interest in the judiciary as well as the integrity plans of the courts and prosecutors offices with reference to the ethical conduct of judges and prosecutors and their integrity. The activities are continuous collection and analysis of data that are submitted to the HJPC by the application of "Institutional mechanisms and records for implementation of the Guidelines for the Prevention of Conflict of Interest in the Judiciary," that the HJPC had adopted in September 2019. For the purpose of overall improvement of ethics, conflict of interest and integrity, the initiative was started for adoption of code of ethics for the employees of courts and prosecutor's offices in BiH.

As for the implementation of integrity plans in judicial institutions, which are preventive internal anti-corruption documents that contain an overview of identified and analysed risks for disruption of integrity in the judiciary, in 2020, the second cycle of collecting reports of judicial institutions on the implementation of integrity plans in 2019 started, on the basis of which the Annual Report was made for 2019, that the HJPC had adopted in December 2020. Within the report, the Recommendations to judicial institutions for application were adopted in further process of implementing integrity plans and executive and legislative bodies at all levels in BiH were called upon to express their understanding and the willingness to cooperate with judicial institutions for the purpose of implementation of measures from integrity plans, the implementation of which depends on the cooperation with those bodies.

## **6.2. Disciplinary Proceedings**

To improve the disciplinary procedure, the activities in analysing the current practice in disciplinary offences and imposed sanctions continued and in that regard the practice of confidential counselling has been established.

To inform the judicial community and the public on disciplinary proceedings, anonymised final disciplinary decisions are published on the HJPC web site, while the activities on development and adoption of the rules that will regulate in detail the issue of publication of all decisions rendered in these proceedings are ongoing.

In relation to the imposed disciplinary sanctions and taking preventive measures, the managers of all judicial institutions in BiH are obligated to inform all the other judicial office holders in their institution about the rendered disciplinary measures/imposed disciplinary sanctions to the judicial office holders in their institution and inform the HJPC about the implementation of this obligation in their regular reporting on the performance.

## 6.2.1. Complaints against judicial office holders for breach of duty

In 2020, the Office of the Disciplinary Counsel (ODC) registered in 722 complaints, or 14.4% less than in 2019. In 2020, the ODC completed 886 complaints, which is 14.5% less than the number of completed complaints in 2019 (1,036 complaints).

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

The largest share of complaints relates to the length of the proceedings: 32% of complaints referred to the duration of the proceedings before the court, and 9% referred to the length of proceedings before the prosecutor's office. In addition, complainants complained about careless or negligent exercise of official duties by judges (9%) and by prosecutors (7%) and in 11% 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 of official duties. However, this immunity does not refer to disciplinary responsibility of judges (and legal associates with adjudicative powers) in case of disciplinary offence provided for in Article 56, item 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: 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.

It is necessary to highlight the data that 7% of complaints were about the behaviour of the judges towards the parties and 6% about any other behaviour of judges that is a grave violation of official duties.

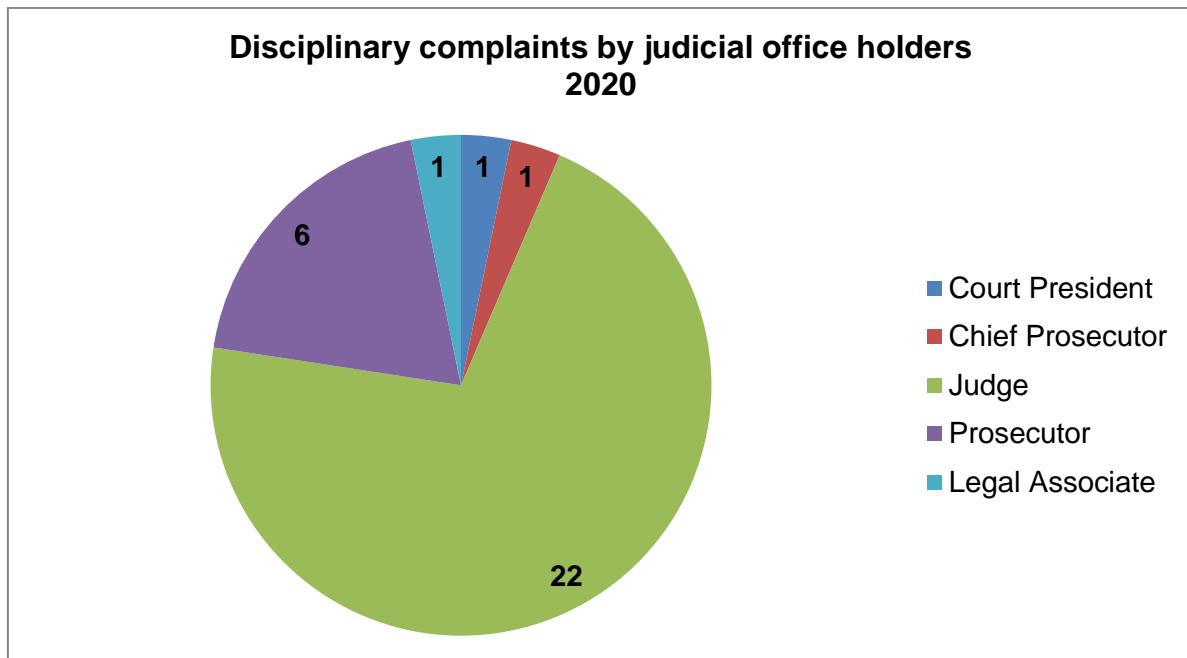
In 2020, the average disposition time was 276 days, which is considerably less compared to the statutory deadline under which the ODC is required to resolve the complaint within two years from the date of receipt.

## 6.2.2. Initiated disciplinary proceedings

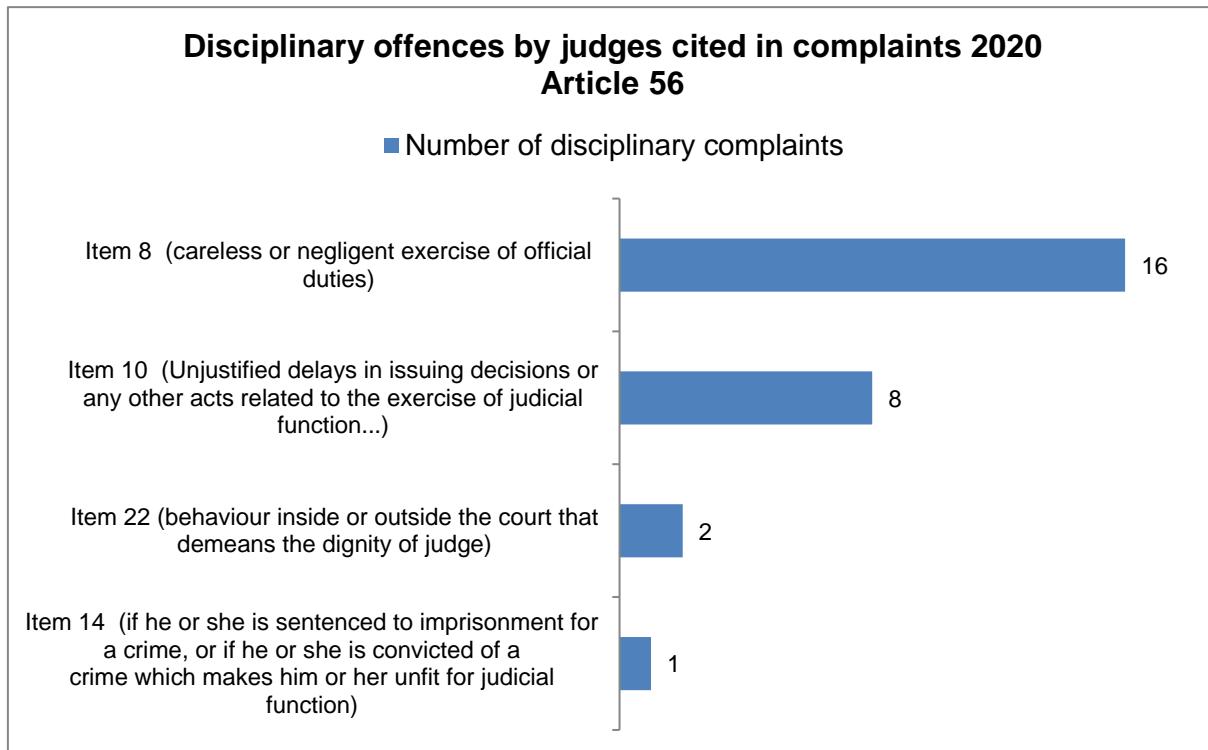
In 2020, the ODC initiated 31 disciplinary proceedings against 31 judicial office holders.

In one disciplinary complaint, the ODC requested the disciplinary panel to impose to a judge the measure of removal from office.

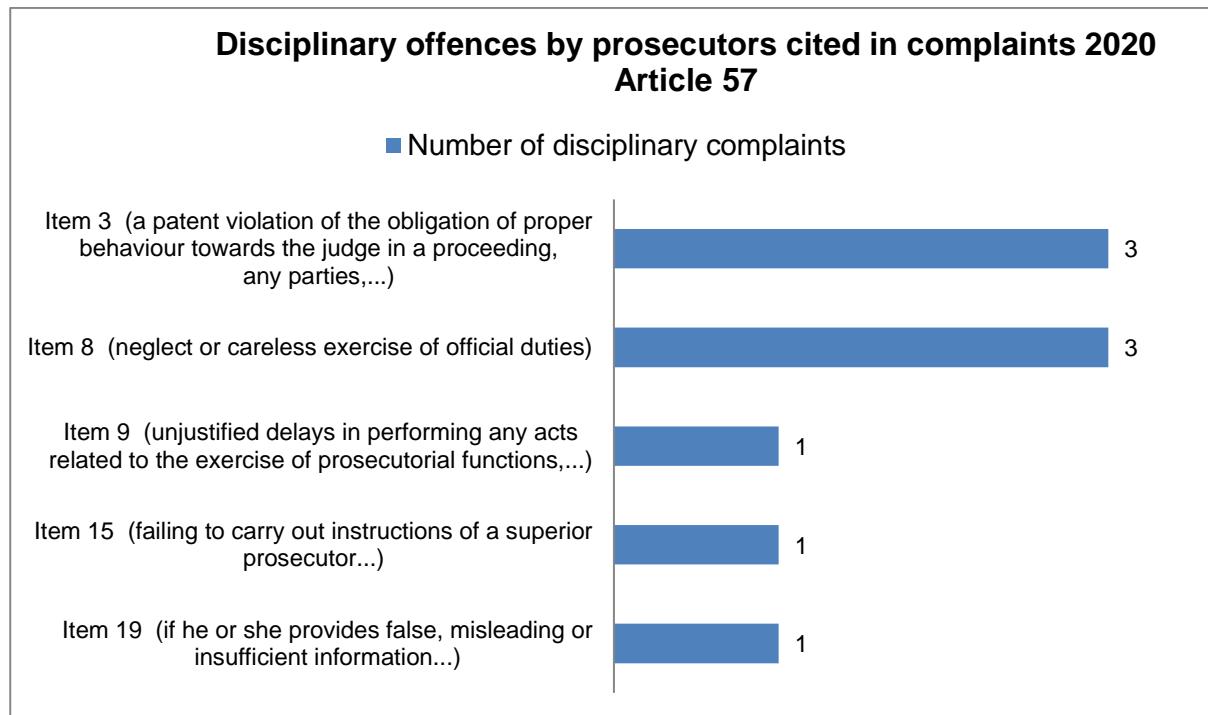
Most of the proceedings were instituted against judges (22). Six proceedings were initiated against prosecutors. Proceedings were also initiated against one president of a cantonal court, one judicial office holder who, at the time the disciplinary violation was committed was the chief prosecutor of a cantonal prosecutor's office and against one legal associate of a municipal court.

**Graph 8: Disciplinary complaints in respect of judicial office holders**

The highest number of disciplinary proceedings against judges were instituted for disciplinary breach under Article 56, item 8 of the Law on 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” (8 complaints).

**Graph 9: Disciplinary offences of judges cited in disciplinary complaints**

When it comes to disciplinary proceedings instituted against prosecutors, the most complaints were about the disciplinary offences under Article 57, item 3 of the Law on HJPC “a patent violation of the obligation of proper behaviour towards parties, their legal representatives, witnesses and other parties” (3 complaints) and item 8, “careless or negligent exercise of official duties” (3 complaints)

**Graph 10: Disciplinary offences of prosecutors cited in disciplinary complaints**

Most disciplinary proceedings were instituted on the ex officio basis (16 complaints) and on the basis of complaints filed by the managers of judicial institutions (12 complaints), then by parties to the proceedings (7 complaints), and attorneys (5 complaints). It should be noted that the sum does not correspond to the total number of disciplinary complaints filed (31), since some disciplinary complaints were filed on the basis of multiple complaints filed by different categories of complainants.

**Graph 11: Disciplinary complaints by complainants**

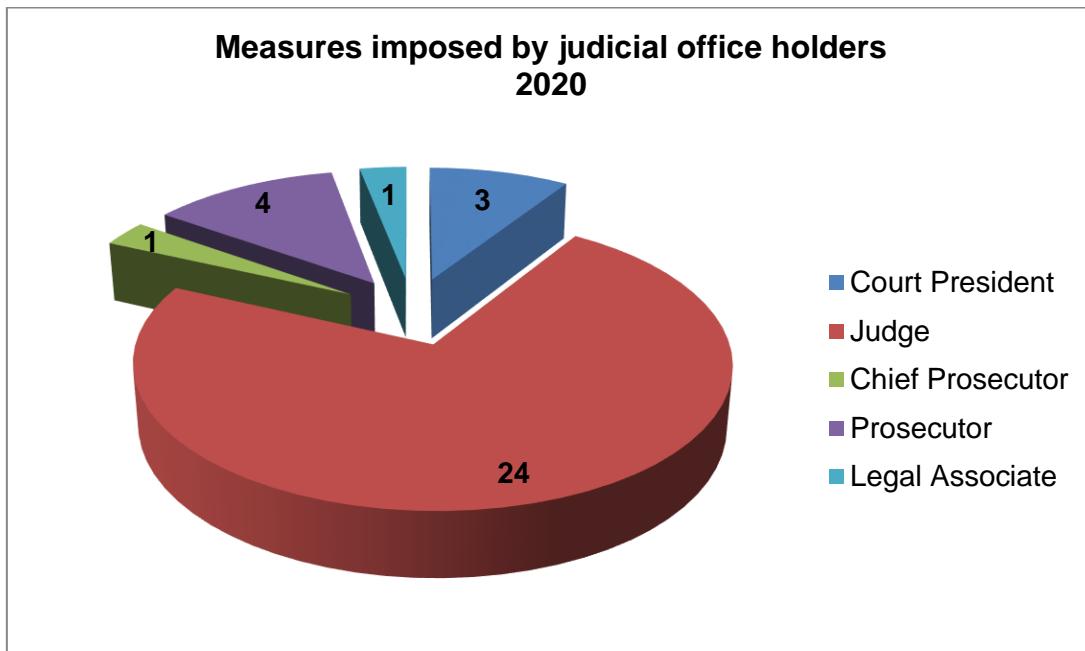
### **6.2.3. Completed disciplinary proceedings**

In 2020, 33 disciplinary proceedings were completed. Breakdown of completed proceedings by the year of initiation is as follows: one completed case was initiated 2018, 18 initiated in 2019 and 14 initiated in 2020.

Disciplinary responsibility of 27 judicial office holders was established in 26 proceedings. Disciplinary complaints were rejected against 5 judicial office holders (2 judges and 3 prosecutors) and two proceedings were discontinued due to the death of a prosecutor during the disciplinary proceedings and resignation of a judge.

Disciplinary measures were imposed to one chief cantonal prosecutor, one court president and two presidents of a municipal court, 22 judges (9 judges of a basic court, 9 judges of a municipal court, one judge from cantonal court, district court, district commercial court and Supreme Court of the Federation of BiH each) and one legal associate of a municipal court.

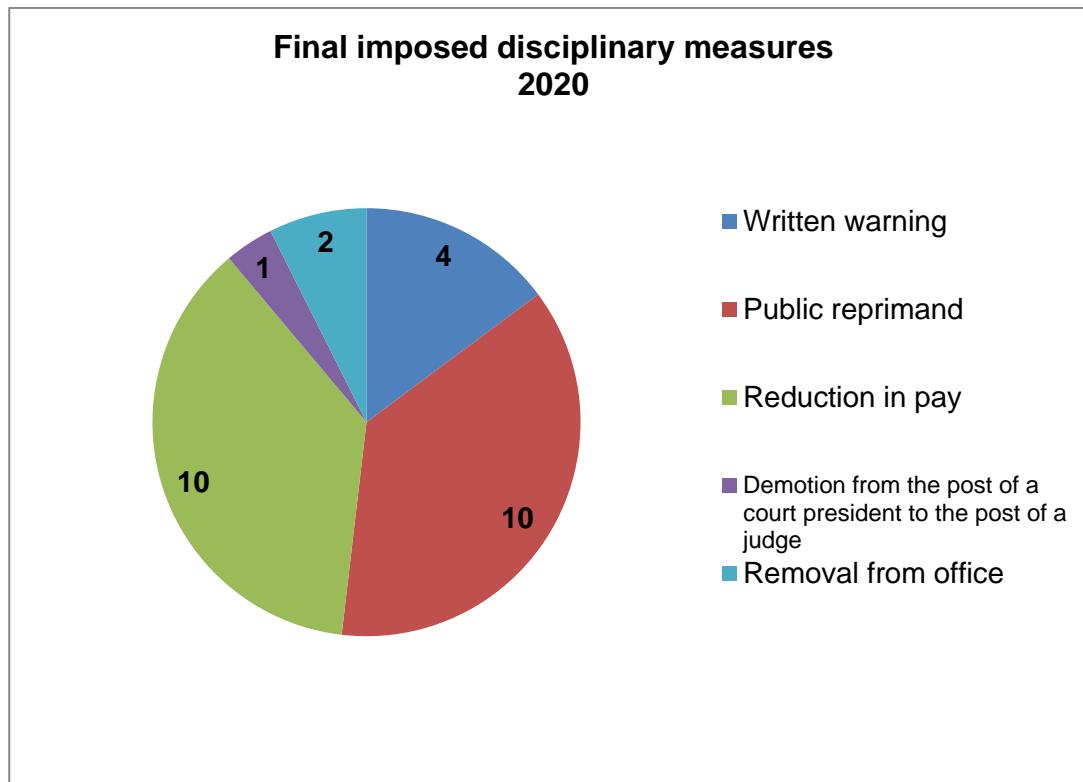
**Graph 12: Measures imposed in respect of judicial office holders**



Judges were found to have most frequently committed disciplinary violation under Article 56 of the Law on the HJPC, item 8 "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).

Disciplinary responsibility was established for the chief cantonal prosecutor following disciplinary violation outlined in Article 57 of the Law on the HJPC, Item 9 "unjustified delays in performing any acts related to the exercise of prosecutorial functions, or any other repeated disregard of the duties of the prosecutor", item 22 "behaviour inside or outside the court or office that demeans the dignity of the prosecutor" 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."

In 26 proceedings, 27 disciplinary measures were imposed against 27 judicial office holders. The breakdown of all final disciplinary measures imposed is as follows: removal from office (2), a written warning which shall not be made public (4), a public reprimand (10), reduction in pay (10) and a demotion from the post of a court president to the post of a judge (1).

**Graph 13: Final imposed disciplinary measures**

Disciplinary measure involving removal from office was imposed to two judges of a municipal court.

One judge was removed from office due to the disciplinary offence from Article 56, item 8 of the Law on HJPC “careless or negligent exercise of official duties” and the other judge was removed from office due to disciplinary offence from item 14 “if he or she is sentenced to imprisonment for a crime, or if he or she is convicted of a crime which makes him or her unfit for judicial function.”

The ODC appealed seven first instance decisions: 3 appeals against first-instance measures and 4 against the first instance decision dismissing the complaint. In the second-instance proceedings, the ODC filed one appeal against the measure imposed.

The ODC appeals were accepted in 3 cases in which strict serious disciplinary measures were imposed, including one removal from office.

#### **6.2.4. Temporary suspension from office**

In 2020, the ODC filed 4 requests for temporary suspension from office. Two requests were filed due to the initiation of criminal investigation against a judge of a municipal court and president of a cantonal court. The request for a temporary suspension of a judge was accepted and the request for a temporary suspension of a court president was rejected. Also a request was filed against an indictment raised against a judge and due to disciplinary proceedings being initiated against a president of a cantonal court. Both requests were granted.

In 2020, a total of 13 judicial office holders had the status of a temporarily suspended judicial office holder given the fact that suspensions from previous year were still in effect - one from 2015, three from 2016, four from 2017, two from 2019 and three from 2020. Temporary suspensions were discontinued in 2020 for one prosecutor and three judges due to a resignation in two cases (1 judge and 1 prosecutor) and 2 decisions on the removal from office (two judges).

At the end of 2020, nine judicial office holders were temporarily suspended: one court president, three judges, four prosecutors and one legal associate of a municipal court.

## Chapter 7: JUDICIAL TRANSPARENCY

### 7.1. Introduction

The HJPC has continued pursuing its mission of ensuring institutional transparency as can be seen from the activities it carries out from within the scope of its competences, as well as from its existing practices that are regularly improved with a view to restoring confidence in the work of both the institution and the judiciary as a whole. The HJPC is aware that public confidence depends not only on efforts made to improve the system, but also on the openness and availability of information on the work of the judiciary to the general public. Non-transparency of the justice system is not a policy followed or embraced by the HJPC, quite the opposite, it maintains that transparency of judicial institutions and the availability of data has a positive effect on understanding the functioning of courts and prosecutor's offices, and thus on the public perception that everyone has the right of equal access to justice.

The 2020–2022 HJPC Mid-Term Work Plan, its specific objective - *Improving the independence, efficiency, quality, accountability and transparency of the BiH judiciary*, unequivocally confirms the institution's commitment to pay due attention to the transparency equally as to other segments of work.

The HJPC is continuously working to improve the transparency of judicial institutions in Bosnia and Herzegovina, in compliance with all relevant laws and regulations, as evidenced by the numerous activities that this institution implements with its own capacities, but also in cooperation with its international partners. Information on certain segments of work related to institutional transparency and the improvement of this area are presented throughout the Report, and more information can be found in the chapters indicated in the footnotes.

### 7.2. Proactive and reactive transparency

The HJPC seeks to ensure a proactive dimension of transparency by making available to the public as many information as possible about the work of the HJPC and BiH judiciary in a timely manner, both through press releases, which are regularly sent to the media outlets, and through websites, social media and other available communication channels.

To this end, the HJPC regularly updates the website <https://vstv.pravosudje.ba> which, in addition to information about the latest activities of the HJPC, contains other useful information about the work of judicial institutions. So, in 2020, 194 press releases, information or data relevant for both the judicial community and the general public were published. There were 61 press releases sent to the media related to the most important areas falling within the remit of the HJPC, such as appointments, cooperation with various stakeholders in society, activities on systemic improvement of the judiciary and relevant information related to functioning of judicial institutions in times of pandemic.

The HJPC also actively uses social media to promote its work, so in 2020, over a hundred news items were published on the official Facebook page of HJPC.

To increase its institutional transparency, in 2015 the HJPC opened its sessions to the public and enabled journalists and all other interested citizens to follow the sessions from a separate room via a video link. The HJPC Rules of Procedure permit taking photographs and video footage at the session, and the session closes only in exceptional cases, specifically during the voting, when the Council decides on appeals against decisions of second instance disciplinary panels or when the Council otherwise decides to close the session. In 2020, 24 sessions were held, of which 9 were held by telephone and 2 online because of pandemic and restrictions in force during the partial lockdown, which were enabled with the adoption of the Book of Rules on e-Sessions. Agenda for the Council sessions is available on the website, as well as the conclusions of the sessions which are published in the form of a short report immediately after the session, while the minutes of the sessions are published after being approved by the HJPC.

Due to the pandemic, interviews with journalists have been reduced to a minimum, which is why they have largely been made in writing. There were no classic press conferences held, instead, during the regular Council sessions, the President, Vice-Presidents or other

authorised persons from the HJPC were giving statements to journalists and answered questions related to topics that were in the spotlight.

In 2020, the updating of the court decisions database continued, which is available at <https://www.pravosudje.ba/csd> containing over 13,000 selected court decisions of courts in Bosnia and Herzegovina, as well as the case law of the European Court of Human Rights, which is important for harmonisation of case law of domestic courts with European standards. The updating of the BiH War Crimes Case Map, handed over by the OSCE Mission to BiH at the end of 2019, which contains summaries of final judgements rendered in war crime cases in official languages of Bosnia and Herzegovina and in English, has also continued. It is important to mention that pursuant to the decision of the HJPC from September 2019, the database of court decisions is to be made publicly available from 2021, and not only to specific categories subject to annual subscription, as was previously the case<sup>43</sup>.

When it comes to disciplinary proceedings against judicial office holders, which are also in the public and media spotlight, the HJPC has continued publishing final disciplinary decisions, anonymised, on the institution's website. Journalists and interested public are now enabled to follow disciplinary proceedings in the premises of the HJPC with mandatory prior registration. Also, information on disciplinary hearings is regularly published on the HJPC website including the number of a disciplinary case, while the interested public is informed at the beginning of the hearing whether it is to be open for the public or not and of the name of the judicial office holder who is subject to disciplinary action. To improve transparency in this area, activities are underway to develop and adopt rules that will regulate in detail disclosure of all disciplinary decisions.

Disclosure of asset declarations of judicial office holders has been in the public spotlight for a long time and the HJPC is committed to develop an adequate legal framework that will regulate the submission, verification, keeping and processing of asset declarations and access to them<sup>44</sup>. Since the HJPC is prohibited from applying the by-laws that were intended to regulate this matter, until adequate laws and by-law are in place that will regulate this matter in detail, the HJPC has given judicial office holders the option to voluntarily disclose their asset declarations on the institution's website.

Since the HJPC website is the most important platform for proactive transparency of the institution, being aware of the fact that the existing web portal cannot meet the challenges associated with modern technology, the activities undertaken in 2020 on the development of the Judicial Information System were focused on developing a new web portal of BiH judicial institutions, which should ultimately improve the design and functionality of the website so as to enable citizens to quickly and easily search the website and find information they are looking for<sup>45</sup>.

Also, in 2020, the HJPC launched a marketing campaign aimed at bringing the court settlement closer to the parties, which included the production of video footage, newspaper articles, leaflets, banners, guest appearances of HJPC representatives on public broadcasting services, etc.<sup>46</sup>.

Important activities are also carried out by the HJPC in the field of prosecutorial capacity building for public relations and cooperation with the non-governmental sector,<sup>47</sup> thus, the monitoring of the implementation of the Strategy for Dealing with Persons who Come into Contact with Prosecutor's Offices seeking to improving communication with citizens, non-governmental organisations, the media and other segments of society, continued.

The HJPC also continued with development and distribution of publications aimed at raising public awareness of the judicial system, and the rights and obligations that citizens have in contact with the judiciary. For this purpose, an illustrated publication "My Guide to Criminal Process" has been developed and distributed to the competent courts, which is intended for

<sup>43</sup> More information in Chapter 5.3.

<sup>44</sup> More information in Chapter 6.1. 1.

<sup>45</sup> More information in Chapter 8.7.

<sup>46</sup> More information in Chapter 4.1. 4.

<sup>47</sup> More information in Chapter 4.2.11.

child victims / witnesses of criminal offences, as well as their parents / guardians in order to inform them with their rights in criminal proceedings<sup>48</sup>.

When it comes to reactive transparency, it can be observed through the HJPC compliance with the Law on Free of Access to Information and response time to media and citizen inquiries. In 2020, the HJPC received 67 requests for access to information which were all answered in accordance with law. For the total number of requests received, the statistical indicators are as follows: 39 requests were fully granted, 13 requests were partially granted, 9 requests were denied, 2 requests were outside the scope of competences of the HJPC and there were 4 appeals against first instance decision on the request for access to information, where in 2 cases the appeal was upheld and access granted, 1 appeal was partially upheld and 1 appeal was dismissed and first instance decision upheld. The HJPC also made effort to respond to all letters received from citizens, where the number of such letters received in the previous year was 134.

The interest of the media in the work of the HJPC in 2020 was somewhat lower than in the previous year, so that in contrast to 2019, when 249 media inquiries were received, in 2020 that number was 173. The HJPC makes effort to respond to all inquiries the same day they are received, and deviations from this practice are minimal and caused by objective circumstances.

### 7.3. HJPC Communication Strategy

In 2020, the HJPC was actively working to develop the HJPC Communication Strategy, the primary purpose of which is to determine the manner of communication of the HJPC with various target audiences for the period 2021–2025, and to provide a framework and guidelines for answering questions related to strategic communication for both the courts and prosecutor's offices in BiH. Having in mind that strategic communication in judicial institutions has not been extensively used so far, especially not in the courts, the HJPC's intention is to provide the judicial community with a document that will be the basis for creating own communication strategies, taking into account all differences between HJPC and other judicial institutions.

In 2020, the Working Group tasked with developing the HJPC Communication Strategy held five meetings at which the structure and content of the document were agreed, as well as specific communication goals and target groups identified, including the persons tasked with developing specific parts of the document. In a time of pandemic, many meetings were held online, and as due to the partial lockdown at the beginning of the year many processes slowed down, the work on the Strategy was also significantly delayed. So, regardless of the fact that the document was to a large extent finalised at the end of the year, due to objective circumstances it could not be presented to the members of the HJPC in its final form and it is expected to be adopted only in 2021.

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<sup>48</sup> More information in Chapter 5.8.

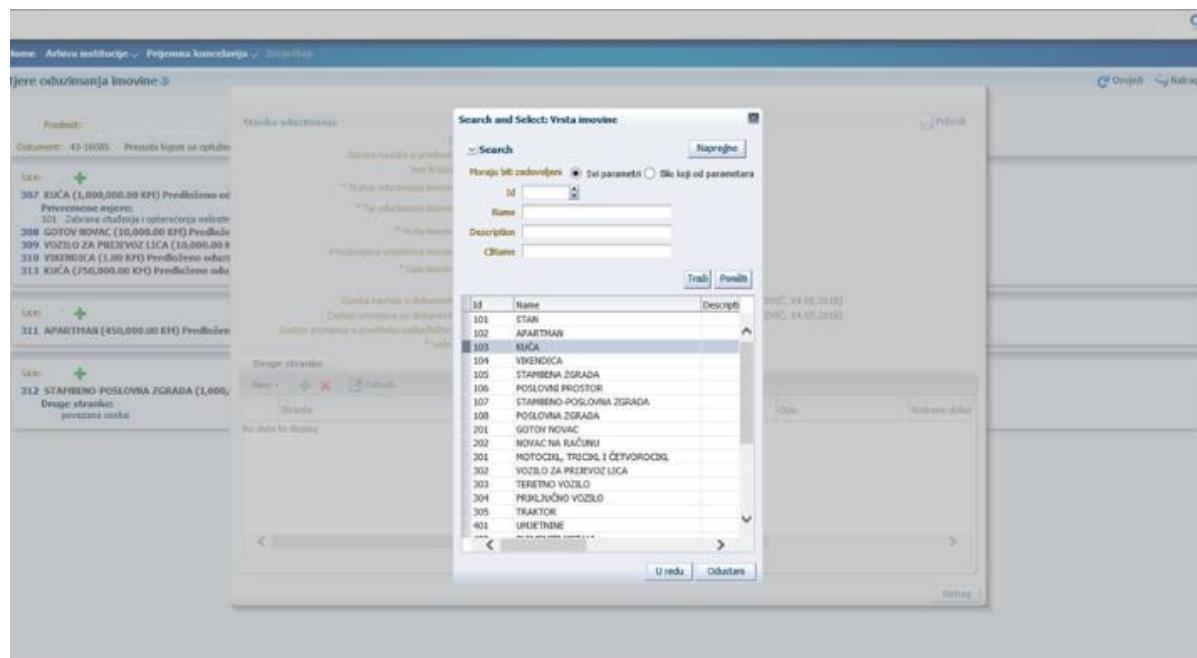
## Chapter 8: DIGITAL TRANSFORMATION OF BIH JUDICIARY

### 8.1. Development and implementation of the Module for Recording Confiscated Proceeds of Crime

At the beginning of 2020, within the framework of the *Building an Effective and Citizen-friendly Judiciary - IPA 2017* project, (hereinafter: the Project), the HJPC BiH has made available to the courts and prosecutor's offices in Bosnia and Herzegovina the Module for Recording Confiscated Proceeds of Crime (hereinafter: the Module). Further to this, in February and March, user training was organised in Sarajevo, Banja Luka, Mostar and Tuzla for CMS / TCMS administrators from courts and prosecutor's offices (based on the train-the-trainer principle). The training was attended by more than a hundred staff members from BiH judicial institutions. After the completion of the regional trainings, the task of the CMS / TCMS administrators was to conduct user training in their respective institutions and to monitor the entry of data into the Module. The Module has been programmed and implemented as a new functionality of the latest generation of the CMS/TCMS system in courts and prosecutor's offices (CMS / TCMS v2).

The Module consists of two parts, the part in which the prosecutor's offices are entering key information by copying them from the prosecutor's decision proposing the confiscation of proceeds of crime and the part in which the courts are entering key information from court decisions.

**Image 27: The illustration of recording of confiscation of proceeds of crime in the Module**



**Image 28: Overview of recorded confiscation of proceeds of crime**

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

The information recorded in such a manner makes it is possible to track confiscation chronologically and make an overview of property that the prosecutor's office proposed to be confiscated and an overview of property confiscated on the basis of a court decision. By recording key information related to 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 the uniformity of data on confiscated proceeds of crime.

Various reporting forms have been developed as part of the Module showing all relevant information on confiscated assets.

**Image 29: The overview of the report on recorded confiscation of proceeds of crime**

Detaljni pregled prijedloga za trajno oduzimanje imovine prema prema sudu koji je zaprimio prijedlog																																		
						Nevčana protvrijednost imovinske koristi koja je stvarno oduzeta:																												
						Procijenjena vrijednost obuhvaćene imovine predložena za oduzimanje: 450,000.00 KM																												
						I stepena odluka suda: II stepena odluka suda:																												
						Nevčana protvrijednost imovinske koristi koja se treba oduzeti prema odluci suda:																												
						Nevčana protvrijednost imovinske koristi koja je stvarno oduzeta:																												
<table border="1"> <tr> <td>12. Ime i prezime stranke / TCMS ID stranke</td> <td>Način oduzimanja / TCMS ID stranke</td> <td>PRIJEDOL ZA ODUZIMANJE: Datum prijedola / Tubilažni predmet / Sudski predmet</td> <td>POSLJ. SUĐSKA ODLUKA: Ishod odluke / Datum odluke / Pravosnažnost</td> <td>Klasa imovine / Opis imovine</td> <td></td> <td></td> </tr> <tr> <td>Trajno</td> <td>14.05.2018</td> <td>Tubilaživo predložilo oduzimanje</td> <td>[102] - apartman</td> <td>Apartman se nalazi na</td> <td></td> <td></td> </tr> <tr> <td>[311]</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Prauni osnov vezan uz lice:</td> <td>BH214/I - Krijumčarenje iz clana 214/I KZ BH</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>						12. Ime i prezime stranke / TCMS ID stranke	Način oduzimanja / TCMS ID stranke	PRIJEDOL ZA ODUZIMANJE: Datum prijedola / Tubilažni predmet / Sudski predmet	POSLJ. SUĐSKA ODLUKA: Ishod odluke / Datum odluke / Pravosnažnost	Klasa imovine / Opis imovine			Trajno	14.05.2018	Tubilaživo predložilo oduzimanje	[102] - apartman	Apartman se nalazi na			[311]							Prauni osnov vezan uz lice:	BH214/I - Krijumčarenje iz clana 214/I KZ BH						
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## 8.2. 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)

The Working Group for Strategic Planning and Development of the Case Management System in Courts and Prosecutor's Offices (CMS/ TCMS) (hereinafter: the CMS / TCMS Working Group) is responsible for preparing and proposing implementing regulations related to the development, use and functioning of CMS / TCMS; monitoring and supervising the development, testing and implementation of a new generation of CMS / TCMS; provision of assistance in developing a new generation of CMS / TCMS; consideration of proposals and suggestions received by the courts, prosecutor's offices and the HJPC Secretariat regarding the development and use of CMS / TCMS; preparation of opinions, analyses and proposals regarding the functioning of CMS / TCMS for Council sessions; analysing the work processes in courts and prosecutor's offices related to the CMS / TCMS and proposing changes to improve them.

In the reporting period, the CMS / TCMS Working Group held 4 meetings to discuss issues within its remit. Below is a brief overview of the most important conclusions adopted at the meetings.

At the CMS/TCMS WG meeting held on 20 February 2020, among other things, information regarding the quality control of data entered into the CMS / TCMS and analysis of the possible use of video-conferencing in civil cases was presented. The analysis found that applicable legislation does not provide for the use of video-conferencing in civil cases when presenting evidence, therefore the civil procedure codes in Bosnia and Herzegovina would need to be amended to allow for it and regulate in detail the conditions for and the manner of using video-conferencing.

At the CMS / TCMS WG Cisco Webex meeting held on 26 June 2020, among other things, information on user training for the Module for recording confiscated proceeds of crime was presented, as well as information on cooperation with UNICEF within the framework of the *Justice for Every Child* project.

Also, information on the preparation of the CMS / TCMS user satisfaction survey was presented to the CMS / TCMS WG. The survey was previously agreed with the EU Delegation to Bosnia and Herzegovina. The main purpose of the survey is to learn about attitudes of CMS / TCMS users, assess needs and identify shortcomings which will serve as a basis for further development and upgrading of CMS / TCMS, and possible additional training.

The CMS / TCMS WG also held a meeting on 9 November 2020, through Cisco Webex application. Among other things, amendments to the Book of Rules on CMS / TCMS were discussed at the meeting.

The proposed amendments to the Book of Rules seek to enable exporting of documents from the CMS / TCMS for the purpose of organising work from home in emergency situation, preparation of documents during duty roster and preparation of documents in urgent cases, all of which will significantly facilitate the organisation of work processes and the handling of cases for both judges and prosecutors, as well as for court presidents and chief prosecutors in all the above circumstances.

The amendments to the Book of Rule on CMS related to the Law on Protection of the Right to Trial within a Reasonable Time of Republika Srpska, which enters into force on 1 January 2021, were discussed at the meeting. The amendments have introduced new designations for certain case types and phases (Request to expedite procedure Zup - Zup for first instance procedure; Zup - Zupž for appeal procedure; Srr - Srr for violation of the right to trial within a reasonable time), and appropriate documents for a specific type and phase have also been added.

The way of improving the entry and monitoring of discrimination cases was discussed at the meeting and the relevant codebook was amended, which was implemented on 31 December 2020 and made available to CMS users from 1 January 2021. These amendments are accompanied with an appropriate manual for judges and registry clerks, which will result in a

significant improvement in recording data for this type of cases and significantly facilitate the reporting process.

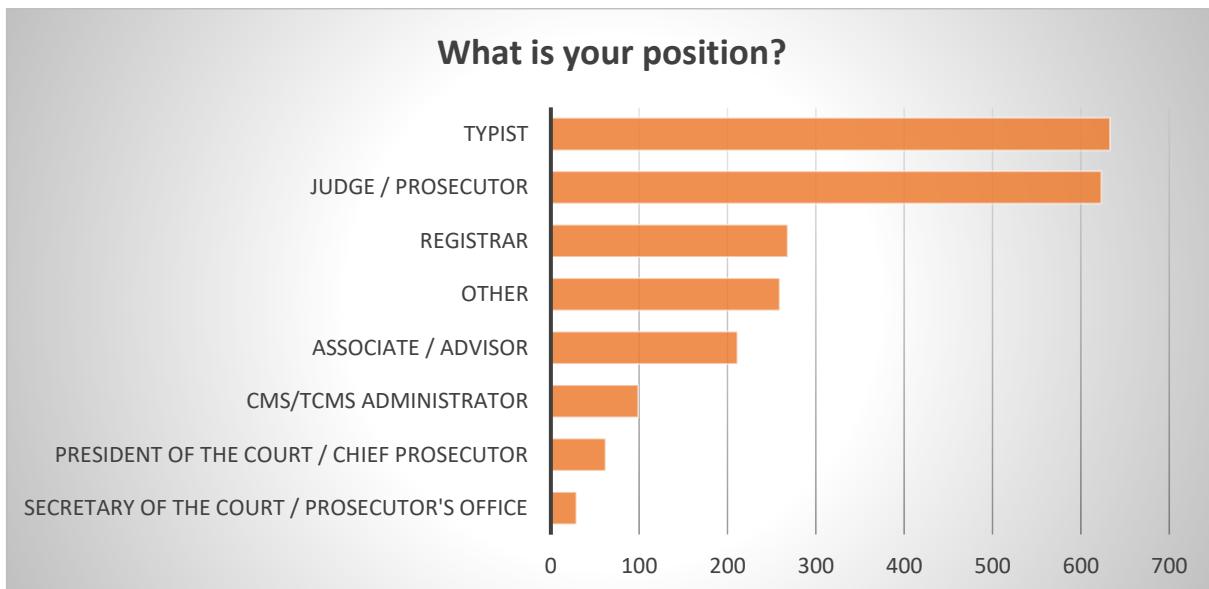
The CMS / TCMS WG also held a meeting on 30 December 2020 to discuss the election of a member to the European Cyber Justice Network (hereinafter: the Network), which is part of CEPEJ, from among the WG members. The task of the network will be to exchange information on good practices and challenges faced by member states concerning the use of new and improvement of existing technologies in judicial systems.

### 8.3. CMS / TCMS User Satisfaction Survey

As part of the IPA 2017 project - *Building an Effective and Citizen-friendly Judiciary*, the HJPC conducted a user satisfaction survey among CMS/TCMS users. The ICT Department of the HJPC Secretariat created a survey that was voluntary and anonymous. All CMS / TCMS users in all courts and prosecutor's offices in Bosnia and Herzegovina had access to the survey.

The survey was conducted between 28 September to 9 October 2020, that is in the period of 10 working days. In that period, an average of 3,946 users logged in to the CMS / TCMS database daily. A total of 2,184 CMS / TCMS users answered the survey, which is 55% of the average number of daily users. CMS / TCMS users were able to access the survey via a link that was made available to them on the CMS / TCMS home screen. Given that the survey was voluntary and anonymous, no data on user accounts was recorded when starting the survey.

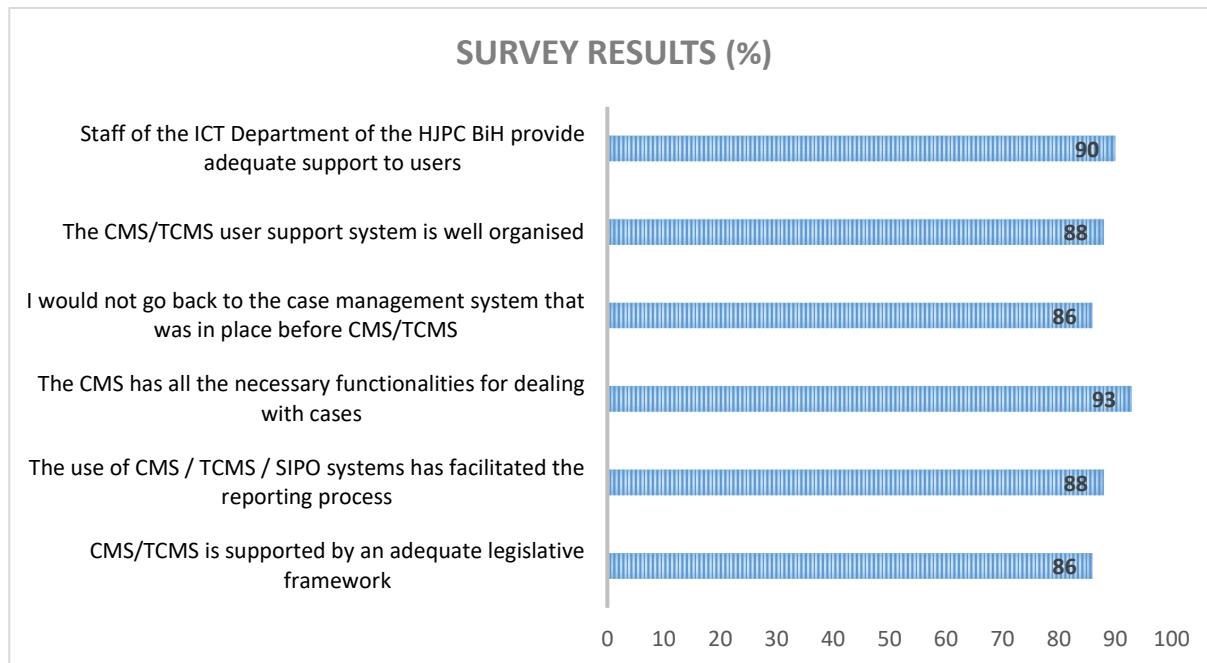
**Graph 3: Graphical representation of the structure of employees who answered the survey**



The survey consisted of 21 questions and was divided into the following 5 sections:

- general questions about CMS / TCMS,
- use of CMS / TCMS / SIPO functionalities,
- quality of services offered through the Judicial Information System,
- training and user support,
- proposals, suggestions and comments of CMS / TCMS users.

The survey has shown that CMS / TCMS users are to a large extent satisfied with the CMS / TCMS. Thus, 86% of respondents positively rated the adequacy of the CMS / TCMS legal framework. Eighty-nine percent of respondents believe that the use of the CMS / TCMS / SIPO has facilitated the reporting process, while 93% of respondents believe that the CMS has all functionalities necessary for handling cases. As many as 86% respondents said they would not go back to the case management system that was in place before CMS / TCMS. A total of 88% of respondents believe that the CMS / TCMS user support system is well organised, while 90% of respondents said that the HJPC ICT Department provides adequate user support.

**Graph 4: Graphical representation of survey results**

Survey results provide a genuine insight in the attitudes of CMS / TCMS users. Since the survey was completely voluntary and anonymous, the users had the opportunity to express their opinion freely and openly. Also, the results of the survey will serve as a good basis for further improvement and development of new CMS / TCMS functionalities.

#### **8.4. Support for human resource management in the judiciary and the appointments of judicial office holders– Human Resources Management Information System (HRMIS)**

In 2020, the implementation of the Personal Data Records Module and the Own Personal Data Access Module in the Municipal Court in Zepce and the Municipal Court in Kakanj was completed, and preparations were made for the implementation in the Municipal Court in Sarajevo and the FBiH Judicial Police. The preparations for implementation in these two institutions required some modifications of the application to adapt it to the organisational structure of these institutions and their large number of employees. Also, several new institutions have shown interest in implementing these two modules, and they have received instructions for preparatory activities for implementation.

At the beginning of 2020, the Online Application Module was tested, where a number of actual candidates used the module to apply for vacant positions of judges and prosecutors. Candidates gave their feedback confirming that the Module was ready for use and very useful in the application process, but also for monitoring candidate testing by competition. As early as the beginning of 2021, after the publication in the Official Gazette, this application method is expected to become widely used.

In 2020, work continued on improving the Finance and Public Procurement Module, with the new reporting forms being added. In addition, the new Vehicle Records Module, which is linked to the Finance and Public Procurement Module through the part related to invoice records, has been implemented.

The Asset Declarations Module was released, and in 2020, corrections to the application were completed enabling the use of the module.

In 2020, an improved version of the Online Testing Module was completed, made using new technologies and with new functionalities. In addition, a version of the new Essay Assessment Module was delivered, and in the previous year these two modules were tested and together with the contractor work was done to eliminate the observed errors.

In the past year, the HRMIS team has provided support to the Appointments Department in preparing and conducting testing. Six competitions were announced, with 119 positions announced and 882 applications processed. Detailed statistics is shown below:

**Table 25: Competitions for the positions of judges and prosecutors announced in 2020**

Competition	Date of announcement
1124	05/02/2020
1144	17/02/2020
1164	28/02/2020
1184	07/07/2020
1224	07/12/2020
1204	12/10/2020

**Table 26: Tabular presentation of competition results**

<b>Total number of applicants</b>	<b>882</b>
<b>Total number of candidates tested</b>	<b>561</b>
For prosecutor posts	145
For judge posts	416
<b>Total number of candidates passing</b>	
<b>Judges:</b>	
Entrance exam	183
Written test	166
<b>Prosecutors</b>	
Entrance exam	62
Written test	60
Pass rate	53.40%
The average time to complete the entrance exam in minutes	74
The highest score reached	97
The lowest score reached	44
The number of appointed judicial office holders based on the tests conducted in 2020	52

**Table 6: Vacancies for which entrance exams were conducted in 2020**

Competition	Number of entrance exams per competition	Date of announcement
1004	26	11/02/2019
1044	7	15/03/2019
1064	25	13/06/2019
1084	14	13/11/2019
1124	18	05/02/2020
1184	1	07/07/2020
1144	6	17/02/2020
1204	1	12/10/2020
<b>Total test rounds in 2020</b>	<b>98</b>	

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

In order to ensure long-term sustainability and optimal operation of the HJPC primary data centre, an extended warranty and regular preventative maintenance has been contracted for all infrastructure systems that support the operation of the HJPC primary data centre, including air conditioners and air con units, UPS devices, an electric generator, a fire alarm and a burglar alarm, fire protection system, and technical protection and video surveillance systems.

Maintenance of infrastructure devices that support the operation of the backup centre and regional data centres of the HJPC continued.

Maintenance of key hardware components has been contracted, including servers, data storage systems, backup and replication systems, and network and video conferencing equipment. Preventative maintenance of key devices ensures high availability of services of the BiH Judicial Information System (hereinafter: JIS), and reduces the possibility of failures. Any fault will prompt the corrective action and will be eliminated without delay.

The existing virtualisation licences, antivirus licenses, and licenses for web traffic control were renewed, ensuring the continuity in optimising the JIS hardware and software resources and a high level of security of services and use of ICT in the BiH judiciary.

In 2020, the Microsoft Premiere support service has been provided for the JIS key software infrastructure based on Microsoft Architect Technologies. This support enables prompt response to any fault of this infrastructure, regular reporting of security risks and actions to be taken, training of HJPC staff in the field of Microsoft solutions and technologies and more.

In view of declining availability of donor funding for procurement of licences and the inability to secure funds from the BiH budget for procurement of licences used by judicial institutions at lower levels of administration, the activities to secure the needed JIS licenses have continued on the basis of contractual arrangements between leading technology companies and the authorities at all levels in Bosnia and Herzegovina. As part of this initiative, the Government of Republika Srpska has procured 800 Microsoft Office licences for judicial institutions based in this Entity. In addition, some of the cantons in the Federation of Bosnia and Herzegovina have allocated budget for the procurement of these licences.

The compliance check of the Judicial Information System with the applicable security policy was carried out in five randomly selected judicial institutions throughout BiH. The compliance check provided a detailed overview of the situation, and resulted in additional information and recommendations for further security upgrade of the JIS.

In 2020, a new Book of Rules on Internal Organisation and the Systematisation of Posts has been adopted, which increasing the number of posts in the ICT Department from the previous 14 to 33. Given that more than half of the employees in the ICT Department is project staff, the new Systematisation and gradual transition of project staff to permanent staff should ensure long-term sustainability of the JIS and its services and human resources necessary for further upgrade of the existing and development of new functionalities.

## **8.6. Functioning of the Judicial Information System in emergency situation caused by COVID-19 pandemic**

In order to ensure the functioning of the institution in emergency situation caused by the COVID-19 pandemic, official laptops were configured and made available to Council members and staff of the HJPC Secretariat.

Timely intervention on the network equipment enabled remote access for the staff of the HJPC Secretariat and ICT officers in judicial institutions. In this way, the users were enabled to work from home in full capacity, using all application systems, including CMS / TCMS, and having access to shared content of the judicial network.

Owing to the status the HJPC BiH enjoys with Cisco, the ICT Department, in cooperation with a local Cisco partner, provided for the use of Cisco Webex collaboration tools.

They have been integrated into the existing video conferencing system, which is also based on Cisco equipment. To test the functionality of this tool and train users, a number of test conferences were held involving different participants.

Cisco Webex user instructions for JIS users (for Chrome, Internet Explorer, and Edge on PCs, and iPhones and Android devices) have been developed. The instructions are distributed to all new participants in Cisco Webex meetings organised by the HJPC BiH.

Test three-day conferences were held to prepare the environment for Cisco Webex calls so as to enable the participation of heads of judicial institutions in conferences of court presidents and chief prosecutors as instructed by the HJPC President. The ICT Department provided

ongoing support during the mentioned activities, with 6-7 staff members of the ICT Department engaged.

Numerous conferences of the HJPC President with court presidents and chief prosecutors, meetings of the HJPC BiH standing committees, meetings with donors, staff meetings of the HJPC Secretariat and other were held using Cisco Webex tools. The HJPC ICT Department provided significant support to all departments of the HJPC Secretariat, Council members and other judicial institutions. The first e-meeting of the Council was held on 30 April 2020 via this collaboration platform.

Also, the entity Judicial and Prosecutorial Training Centres have been enabled to use the Cisco Webex for online seminars, with the technical support provided.

Pursuant to the Council decision of 23 March 2020, judges of second and third instance courts were sent to work from home, and the ICT Department developed and implemented a CMS functionality that allowed the export of all documents and their attachments from case files. At a telephone meeting held on 23 April 2020, the Council passed a Decision amending the Decision on the organisation of work of courts and prosecutor's offices in BiH, which enabled work from home for first instance judges and prosecutors, as well as an Instruction on export of documents from CMS / TCMS. All first instance courts and prosecutor's offices were duly notified of it. Following this decision, this functionality was made available to all first instance courts and prosecutor's offices, and the ICT Department was tasked with maintaining records on the number of exported documents. This functionality enables all judges and prosecutors to generate documents they need without having to come to their courts or prosecutor's offices.

## **8.7. Development of a new web portal of BiH judicial institutions**

With a view to improving the transparency, design and user experience with a particular focus on the content search of the judicial web portal, an upgrade of the judicial web portal has been launched within the framework of the IPA 2017 project. The procedure for selecting the best bidder was completed in February 2020.

The ToR envisages that the project will be implemented in 5 phases, of which the following are planned for 2020:

- Completion of all activities from phase 1 of the project (analysis of requirements, development of a work plan, selection of project management methodology and setting up a test IT environment on the HJPC infrastructure) and
- Starting activities to carry out the tasks from phase 2 (iterative and incremental development and functional testing).

Phase 1 of the project was completed on time and the implementation of phase 2 has begun. During the implementation of phase 2, all planned activities were completed on time, including:

- Iterative and incremental development of system functionalities based on functional requirements,
- Regular weekly meetings of project teams: HJPC and the contractors,
- Delivery and testing of functional versions of the web portal every two weeks.

The judicial web portal is upgraded using state-of-the-art web technologies that will provide end users with a better user experience (access to content on mobile devices: tablets and mobile phones), easier navigation through system menus and significantly improved content search options. In addition, the development and implementation of new web portal functionalities are planned, including: A chatbot functionality (directory of judicial institutions) and a Corruption Reports Management Functionality for judicial institutions.

The images below show some of the developed pages of the judicial web portal.

**Image 30: Home page**

The screenshot shows the homepage of the High Judicial and Prosecutorial Council. At the top, there are several tabs: 'VSTV | Back Office Light', 'TESTNA INSTITUCIJA | pravosudje.ba', '10.1.837/elastic/news/\_search/', and 'Tužilački portal Bosne i Hercegovine'. The main header includes the logo of the Testna institucija, Testni sud, and the text 'Službi za testiranje portala na nivou suda'. The language selection bar offers Bosanski, Hrvatski, Srpski, Crnogorski, English, and Prijava. Below the header is a search bar with 'Pretraži portal' and 'Napredna pretraga' buttons. A red navigation bar at the bottom contains links for 'Rad suda', 'Oglasna ploča', 'Vaša pitanja', 'Odnosi s javnošću', 'Javne nabavke', 'Kontakt', and 'Mapa stranice'. The main content area has sections for 'Aktuelnosti' (featuring a large EU flag image) and 'Kalendari' (showing a calendar for February 2021). There are also 'Adresari' and 'OGLASNA' sections.

**Image 31: Advanced search options**

The screenshot shows the 'Napredna pretraga' (Advanced search) page. The URL in the address bar is '10.1.837/vstvfo/B/999/napredna-pretraga'. The page layout is identical to the home page, with the same header, navigation bar, and sections for news and a calendar. The main focus is the 'Napredna pretraga' search form. It includes fields for 'Sadržaj' (Content) containing 'test', 'Institucija' (Institution) set to 'TESTNA INSTITUCIJA', 'Arhivirana' (Archived) set to 'Ne', 'Datum od' (From date), 'Datum do' (To date), and 'Sortiraj po' (Sort by). Below the form is a dropdown menu for 'Napredne stavke' (Advanced filters) and a prominent dark blue 'Pretraži' (Search) button.

**Image 32: Search and review of court auctions**

The screenshot shows the 'Sudske prodaje' (Court Auctions) section of the website. At the top, there are search filters for 'Institution' (dropdown: 'Sve institucije'), 'Datum objave od' (date from), 'Datum objave do' (date to), 'Vrsta' (dropdown: 'Odaber...'), 'Datum prodaje od' (date from), and 'Datum prodaje do' (date to). Below the filters is a grid of auction items. The first item is a logo for 'Visoko sudsko i tužilačko vijeće Bosne i Hercegovine'. The second item is a display of various mobile phones. The third item is a white hatchback car. The fourth item is a white SUV.

**Sudske prodaje**

Institucija <input type="button" value="Sve institucije"/>	Datum objave od <input type="text"/>	Datum objave do <input type="text"/>
Vrsta <input type="button" value="Odaber..."/>	Datum prodaje od <input type="text"/>	Datum prodaje do <input type="text"/>

**Rezultati pretrage****Image 33: Chatbot – Directory of judicial institutions**

The screenshot shows a chatbot interface. On the left, a sidebar lists 'Pronađene institucije:' with several entries: KANTONALNI SUD U SARAJEVU, KANTONALNO TUŽILAŠTVO KANTONA SARAJEVO, MINISTARSTVO PRAVDE I UPRAVE ARAJEVSKOG KANTONA, OKRUŽNI PRIVREDNI SUD ISTOČNO ARAJEVO, OKRUŽNI SUD U ISTOČNOM SARAJEVU, OKRUŽNO TUŽILAŠTVO U ISTOČNOM SARAJEVU, and OPĆINSKI SUD U SARAJEVU. In the main area, it shows the profile for 'Apelacioni sud Brčko Distrikta BiH' with address, phone numbers, fax, email, website, working hours, and contact person. Below this is a search bar with placeholder 'Upišite redni broj ili naziv institucije' and a 'Pošalji' button. At the bottom, there are buttons for 'Zatvori' (Close) and a numeric keypad.

## ANNEX 1 RECOMMENDATIONS

### Judicial independence

#### The legislative and executive branches of government in BiH:

- Based on the HJPC initiative for amendments to the Law on the HJPC BiH from June 2018, carry out the legislative activities indispensable for successful implementation of judicial reform through the adoption of an improved Law on the HJPC BiH.

### Appointments and performance evaluation

- Through its supervision over and cooperation with courts and prosecutor's offices, the HJPC will ensure their consistency in performance evaluation of judicial office holders for 2021.
- The HJPC will prepare an analysis of the application of the new criteria and will consider the need for their further improvement, especially through possible reintroduction of analytical performance evaluation in line with the recommendations issued by the Council of Europe and the European Commission experts.

### Efficiency of justice

#### Recommendations pertaining to court efficiency

- The HJPC BiH should adopt measures to mitigate the impact of COVID-19 on courts and their performance.
- The HJPC BiH and the courts should focus their activities and measures on shortening court proceedings in the context of the right to a trial within a reasonable time.
- Courts need to fully implement their backlog reduction plans with a particular focus on longest pending cases.
- It is necessary for the courts to develop and adopt strategic plans, with specific and realistic three-year goals and activities. Strategic plans should ensure equal access to justice for all citizens and timely decision-making.
- Based on the applicable efficiency standards, identify problems in individual courts and based on that take measures to improve their performance, but also develop a policy to improve the overall efficiency of justice.
- The courts handling corruption and organised crime cases should prioritise these cases. The HJPC BiH, in cooperation with the courts, should consider reorganising the criminal departments, with particular emphasis on improving procedural discipline.
- Following the recommendations of the European Union, continue to advocate for the enforcement reform in BiH through the Working Group for Improvement of Enforcement Procedure in BiH.
- Expand the user network of judgement debtors/judgement creditors through the SOKOP-Mal system in first instance courts in Bosnia and Herzegovina with a view to increasing the efficiency in handling enforcement cases based on authentic documents and small claims.
- In coordination with the competent ministries in BiH, continue working on the strategic framework for alternative dispute resolution in BiH.
- All the potentials of ADR need to be fully utilised through coordinated efforts of the judiciary, the Association of Mediators in BiH, chambers of commerce, and the legal community, in order to bring all available ADR methods closer to citizens and businesses in BiH.

#### Recommendations for improving court quality

- Courts need to establish quality standards for the services they provide to citizens.
- The quality of court decisions needs to be improved.

- A quality approach to capacity building of newly appointed judges needs to be ensured, which will contribute to the improvement of induction training and strengthen the professionalism, independence and autonomy of the judicial function.
- Focus on the implementation of the recommendations from the Report on the situation in the BiH judiciary, which refers to the strengthening of procedural discipline in civil and criminal proceedings. The courts are recommended to develop and apply adequate tools and measures, such as guidelines for consistent application/ interpretation of procedural provisions, cooperation between courts of first and second instance, hearing plans, checklists, etc.
- Courts should make continuous efforts towards improving the organisation of work through the teamwork, setting collective work goals and responsibility for joint results, thus contributing to greater efficiency and quality of work.
- The HJPC BiH needs to establish closer cooperation with courts and ministries of justice in order to ensure the sustainability of improved work processes in courts, thereby ensuring their greater efficiency, effectiveness and quality.
- The adopted Gender Equality Strategy for the BiH Judiciary needs to be implemented and activities undertaken to raise awareness of judicial office holders about gender issues and specific needs of vulnerable groups in contact with the judiciary.
- Adequate activities need to be undertaken to ensure equal and non-discriminatory access to justice for all, and to provide vulnerable groups with the necessary support in exercising their rights.

### **Efficient processing of war crime cases**

- Consistent efforts need to be undertaken to accomplish relevant goals and implement strategic measures from the Revised National War Crimes Strategy.
- Consistently apply the normative framework adopted by the HJPC BiH with respect to planning and efficiency of courts and prosecutor's offices in war crimes cases.
- Consistently monitor the application of general binding instructions issued by chief prosecutors in war crimes cases, where the chief prosecutors play a critical role.
- Find adequate modalities for ensuring effective war crime trials in order to mitigate the impact of COVID-19. Where legally and epidemiologically permitted, organise the trials on a day-to-day basis, which is a prerequisite for an efficient trial.
- Systematic and strategic action needs to be taken by the judiciary and the executive to resolve war crimes cases with suspects / accused remaining out of reach.
- Assure equitable distribution of caseload among judicial office holders handling war crime cases.
- Improve coordination and communication arrangements between witness and victim support units.
- Effectively utilize the support of provided by the European Union under the IPA 2019 project *Enhancing War Crime Case Processing in BiH* by hiring additional (professional and administrative) staff to work on war crime cases.

### **Prosecutor's offices and efficiency**

- Intensify cooperation between prosecutor's offices and law enforcement agencies in high profile corruption and organised crime cases.
- All relevant institutions need to coordinate their efforts in implementing the recommendations from peer review reports, the Experts' Report on Rule of Law Issues in BiH, the OSCE Third Annual Report on Judicial Response to Corruption and the USAID's Judiciary Against Corruption Activity.
- Human resource capacity building of law enforcement agencies needs to be undertaken to ensure efficiency and quality in fighting corruption and economic crime.

- It is necessary that the established forums for cooperation between prosecutors and law enforcement officers at the strategic and operational level continue to be actively used.
- It is necessary to insist on expending and improving the systematisation of posts in prosecutor's offices through the introduction of a new category of employees that would provide assistance to prosecutors, such as financial advisers, in order to more effectively address corruption and commercial crime.
- Insist on capacity building of staff in prosecutor's offices to increase individual responsibility and improve internal communication in prosecutor's offices and within the prosecution system, as well as to achieve self-reliance in strategic planning and preparation of annual work plans and annual reports on implementation of strategic framework of the prosecution system and set targets.

### **Training of judges and prosecutors**

- Intensify activities to improve the e-training system for newly appointed judicial office holders, as well as for all judges and prosecutors;
- Continue with joint trainings for judges, prosecutors and law enforcement officers.

### **Quality**

#### **HJPC and the highest-instance courts in Bosnia and Herzegovina:**

- Regularly publish court decisions through a database of court decisions and use other information systems to increase transparency of judicial institutions;
- Make database of court decisions publicly available, without any restrictions;
- Regularly update the database of judgement summaries and use it for horizontal and vertical harmonisation of case law;
- Fully implement the Cooperation Agreement to strengthen the case law departments.

#### **HJPC, JPTCs and BDJC**

- Organise and conduct trainings for judicial office holders based on the analysis of most common mistakes made by courts;
- Introduce a functional mentoring system in all judicial institutions;
- Advance the induction training system for all newly appointed judicial office holders within the JPTCs and BDJC;
- Improve trainings that are of particular importance for the judiciary, and implement other measures envisaged by the HJPC Reform Agenda and other strategic documents.

### **Integrity and accountability**

- Consistently implement all pending peer review recommendations on disciplinary proceedings, in particular as regards an increase in the number of employees in the ODC.
- Build the capacity of the Judicial Integrity Department, primarily by filling vacant positions envisaged in the Book of Rules on Internal Organisation and the Systematisation of Job Positions of the HJPC BiH.

## ANNEX 2 COURT PERFORMANCE REPORT

### Analysis of court performance

This section of the report presents the work of regular courts in 2020 through the analysis of the aggregate statistical data on the performance of regular courts with respect to: case flow, quantity and quality of court performance, statute of limitations in criminal and minor offence cases and enforcement of criminal sanctions. The 2020 data are compared with that from 2019, where, especially when it comes to number of completed cases, the impact of COVID-19 pandemic on courts is evident, as it caused significant delays and difficulties in the work of courts. Performance data for individual courts are available at [vsts.pravosudje.ba](http://vsts.pravosudje.ba).

Please note that statistics do not show data for the so-called "utility" cases – debt collection for provided utility services and collection of subscription fees where the claimants are the public service broadcasters.<sup>49</sup>

Also, for complete information about the flow of cases in courts, please see the following statistical tables: pending cases, case influx and the number of completed cases.

### Case flow – per court instance

#### Pending cases

The total number of pending cases in 2020 increased by 14,942 cases or 5.2%, which is opposite to a declining trend in the number of pending cases in the courts in the 2011-2019 period. An increase in the number of pending cases was recorded in the Court of Bosnia and Herzegovina, the Supreme Court of Republika Srpska, district courts, and municipal and basic courts, as well as in the Brcko District Basic Court. The largest absolute increase in the number of pending cases was recorded in municipal courts by 16,834 cases or 10.1% and basic courts by 4,227 cases or 8.0%, while the largest percentage increase of 32.2% was recorded in the Court of Bosnia and Herzegovina.

A decrease in the number of pending cases from 5% to 30% was recorded at other court instances. The largest absolute decrease in the number of pending cases was recorded in the cantonal courts by 7,034 cases or 15.7%, while the largest percentage decrease in the number of pending cases was recorded in the High Commercial Court in Banja Luka (30.7%) and the Brcko District Court of Appeal (29.1%).

**Table 7: Pending cases**

COURTS	Number of pending cases		Change in number of pending cases	Change in number of pending cases in percentages
	01/01/2020	31/12/2020		
	I	II		
Court of Bosnia and Herzegovina	2,502	3,307	805	32.2%
Supreme Court of the Federation of BiH	5,482	4,839	-643	-11.7%
Supreme Court of Republika Srpska	1,810	1,918	108	6.0%
Appellate Court of the Brcko District BiH	55	39	-16	-29.1%
Banja Luka High Commercial Court	541	375	-166	-30.7%

<sup>49</sup> Also, the data in this section of the report do not include data on the following cases: court administration, registration of business entities, preparation phase in administrative disputes, enforcement of minor offence sanctions, expunging of sanctions and safeguard measures in various criminal cases, detention and the arrest in minor offence cases, as well as data on minor offence cases involving substitution of unpaid fines with imprisonment.

Cantonal courts	44,671	37,637	-7,034	-15.7%
District courts	5,105	5,304	199	3.9%
District commercial courts	4,504	4,283	-221	-4.9%
Municipal courts	166,764	183,598	16,834	10.1%
Basic courts	52,810	57,037	4,227	8.0%
Basic Court of the Brcko District BiH	3,883	4,732	849	21.9%
<b>TOTAL</b>	<b>288,127</b>	<b>303,069</b>	<b>14,942</b>	<b>5.2%</b>

## Inflow of cases in courts

Compared to 2019, the total influx in 2020 was reduced by 32,809 cases or 8.8%. An increase of 1,899 cases or 33.1% in the number of cases received was recorded in the Court of Bosnia and Herzegovina (mostly election challenge cases, as 1,475 more cases were received in 2020 than in 2019), as well as in the BD Basic Court, with an increase of 285 cases or 4.7%. In other court instances, the influx decreased from 5% to 32%. The largest absolute reduction in the number of pending cases was recorded in municipal courts by 17,411 or 8.5% and in basic courts by 7,188 cases or 8.1%, while the largest percentage increase of 32.2% was recorded in the Court of Bosnia and Herzegovina.

**Table 8: Influx**

COURTS	Number of received cases		Change in the number of received cases III = II - I	Change in number of received cases in percentages IV = II / I
	2019	2020		
	I	II		
Court of Bosnia and Herzegovina	5,732	7,631	1,899	33.1%
Supreme Court of the Federation of BiH	5,232	4,963	-269	-5.1%
Supreme Court of Republika Srpska	2,297	2,170	-127	-5.5%
Appellate Court of the Brcko District BiH	824	761	-63	-7.6%
Banja Luka High Commercial Court	1,390	943	-447	-32.2%
Cantonal courts	32,687	27,034	-5,653	-17.3%
District courts	15,544	13,045	-2,499	-16.1%
District commercial courts	7,454	6,118	-1,336	-17.9%
Municipal courts	205,553	188,142	-17,411	-8.5%
Basic courts	88,765	81,577	-7,188	-8.1%
Basic Court of the Brcko District BiH	6,002	6,287	285	4.7%
<b>TOTAL</b>	<b>371,480</b>	<b>338,671</b>	<b>-32,809</b>	<b>-8.8%</b>

## Change in the number of pending cases and change in influx

By comparing the changes in the number of pending cases (Table 1) and changes in the case influx (Table 2), it is possible to determine whether the change in the number of pending cases is resulting from a change in the influx or from the activities of the courts<sup>50</sup>. This comparison leads to the following conclusions:

<sup>50</sup> Change in the number of pending cases can be caused by change in influx or by change in the number of cases completed by the courts or by combination of these two factors. For example, a 10% increase in influx may result in a 10% increase in backlog, which leads to the conclusion that increased backlog is caused by increased influx. If the courts make an extra effort to dispose a part of the increased

- No court instance recorded a highly positive trend, that is a decrease in the number of pending cases despite increased influx.
- A positive trend, a decrease in the number of pending cases significantly higher than a decrease in influx, was recorded in the Appellate Court of the Brcko District and the Supreme Court of the Federation of BiH.
- A negative trend, a decrease in the number of pending cases, but significantly lower than a decrease in influx, was recorded in the Court of Bosnia and Herzegovina.
- An extremely negative trend, increase in the number of pending cases despite decrease in influx, was recorded in the Supreme Court of Republika Srpska, district, municipal and basic courts, as well as in the Basic Court of Brcko District, where the increase in the number of pending cases is much higher than increase in influx.
- The change in the number of pending cases proportional to the change in influx, the decrease in the number of pending cases proportional to the decrease in influx, was recorded in the High Commercial Court in Banja Luka and cantonal courts, while the Court of Bosnia and Herzegovina recorded increased influx.

## Completed cases in courts

Compared to 2019, the total number of cases completed in 2020 was slightly lower, i.e. the courts completed 58,542 or 15.3% less cases. A decrease in the number of completed cases was recorded at all court instances, except in the Court of Bosnia and Herzegovina, where there was an increase in the number of completed cases by 942 or 16.0% (mostly election challenge cases, as 1,471 more such cases were completed in 2020 than in 2019). The largest absolute reduction in the number of completed cases was recorded in municipal courts by 30,675 cases and in basic courts by 18,782.

A significant percentage decrease in the number of completed cases was recorded in district commercial courts where the number of cases completed in 2020 compared to the number of cases completed in 2019 decreased by 2,849 or 31.0%, as well as in the Supreme Court of Republika Srpska with 557 or 21.3% less cases completed. A decrease in the number of completed cases (from 14% to 20%) was recorded in basic courts, municipal courts, district courts, the Appellate Court of the Brcko District, as well as the Basic Court of the Brcko District, while a decrease in the number of completed cases (from 4% to 7%) was recorded in the Supreme Court of the Federation of BiH, cantonal courts and the High Commercial Court in Banja Luka.

**Table 9: Number of completed cases in courts**

COURTS	Number of completed cases		Change in the number of completed cases III = II - I	Change in the number of completed cases in percentages IV = II / I
	2019	2020		
	I	II		
Court of Bosnia and Herzegovina	5,884	6,826	942	16.0%
Supreme Court of the Federation of BiH	6,051	5,606	-445	-7.4%
Supreme Court of Republika Srpska	2,619	2,062	-557	-21.3%

case influx, the increase in the number of pending cases will then be smaller than the increase in influx. For example, if the influx increases by 10%, and the number of pending cases by 5%, this could be considered a positive result.

Contrary to the above, the increase in the backlog may be higher than the increase in influx. For example, if the influx increases by 10%, and the number of pending cases by 15%, this could be considered a negative result.

Appellate Court of the Brcko District BiH	902	777	-125	-13.9%
Banja Luka High Commercial Court	1,164	1,109	-55	-4.7%
Cantonal courts	36,331	34,068	-2,263	-6.2%
District courts	15,711	12,846	-2,865	-18.2%
District commercial courts	9,188	6,339	-2,849	-31.0%
Municipal courts	201,983	171,308	-30,675	-15.2%
Basic courts	96,132	77,350	-18,782	-19.5%
Basic Court of the Brcko District	6,306	5,438	-868	-13.8%
<b>TOTAL</b>	<b>382,271</b>	<b>323,729</b>	<b>-58,542</b>	<b>-15.3%</b>

## Flow of cases per case type

### Pending cases by type

There was a significant increase of 11,580 or 34.5% cases in the number of pending minor offence and 9,377 or 16.7% in the number of pending non-litigation cases. Also, there was an increase in the number of pending enforcement cases by 1,106 cases or 1.9%, as well as in pending administrative cases by 507 or 3.4%. Reduction of backlog was recorded in: commercial (7.1%), civil (6.6%) and criminal cases (2.7%).

**Table 10: Court backlog – by case type**

CASE TYPE	Number of pending cases		Change in the number of pending cases	Change in number of pending cases in percentages
	01/01/2020	31/12/2020		
	I	II		
Civil cases	88,597	82,743	-5,854	-6.6%
Enforcement cases	58,627	59,733	1,106	1.9%
Criminal cases	18,568	18,060	-508	-2.7%
Minor offence cases	33,603	45,183	11,580	34.5%
Commercial cases	17,765	16,499	-1,266	-7.1%
Administrative cases	14,766	15,273	507	3.4%
Non-litigation cases	56,201	65,578	9,377	16.7%
<b>TOTAL</b>	<b>288,127</b>	<b>303,069</b>	<b>14,942</b>	<b>5.2%</b>

### Influx by case type

In 2020, there was a decrease in the influx of all cases, except for minor offence and administrative cases. So, in 2020, the influx of minor offence cases increased by 2,664 cases or 4.7% and administrative cases by 888 or 7.2%, while in other types of cases the influx decreased between 5% and 15%.

The decrease in inflow was recorded in civil cases by 12,138 cases or 15%, enforcement cases by 9,893 cases or 14.1%, as well as in criminal cases by 8,078 or 12.4%. Also, compared to the previous year, 2020 saw a decrease in influx of non-litigation cases by 3,717 or 5.3% and commercial cases by 2,535 cases or 15.5%.

**Table 11: Case influx in courts – by case type**

CASE TYPE	Number of received cases		Change in the number of received cases	Change in number of received cases in percentages
	2019	2020		
	II	II	III = II - I	
Civil cases	80,809	68,671	-12,138	-15.0%
Enforcement cases	69,957	60,064	-9,893	-14.1%
Criminal cases	65,131	57,053	-8,078	-12.4%
Minor offence cases	56,703	59,367	2,664	4.7%
Commercial cases	16,402	13,867	-2,535	-15.5%
Administrative cases	12,409	13,297	888	7.2%
Non-litigation cases	70,069	66,352	-3,717	-5.3%
<b>TOTAL</b>	<b>371,480</b>	<b>338,671</b>	<b>-32,809</b>	<b>-8.8%</b>

As in the previous year, the increase in the influx of minor offence cases was caused by the increase in the number of cases associated with traffic offences detected by traffic cameras, while the increase in the influx of administrative cases is associated with election challenge cases received by the Court of BiH.

### Completed cases by type

Compared to 2019, in 2020, the courts completed less cases across all case types, except for administrative cases. In 2020, 630 more administrative cases or 5.2% were completed. The largest decrease in number of completed cases 16,516 cases or 21.9% was recorded in enforcement cases, followed by decrease in civil cases by 15,117 or 16.9% and non-litigation cases by 14,357 or 20.1%. The number of completed criminal cases decreased by 8,719 or 13.2%, followed by a decrease in completed commercial cases by 2,432 cases or 13.8% and minor offence cases by 2,031 or 4.1%.

**Table 12: The number of completed cases– by case type**

CASE TYPE	Number of completed cases		Change in the number of completed cases	Change in the number of completed cases in percentages
	2019	2020		
	II	II	III = II - I	
Civil cases	89,642	74,525	-15,117	-16.9%
Enforcement cases	75,474	58,958	-16,516	-21.9%
Criminal cases	66,280	57,561	-8,719	-13.2%
Minor offence cases	49,818	47,787	-2,031	-4.1%
Commercial cases	17,565	15,133	-2,432	-13.8%
Administrative cases	12,160	12,790	630	5.2%
Non-litigation cases	71,332	56,975	-14,357	-20.1%
<b>TOTAL</b>	<b>382,271</b>	<b>323,729</b>	<b>-58,542</b>	<b>-15.3%</b>

## Performance quality and quantity

The quantity of court performance is expressed through the collective quota achieved in a calendar year, where the HJPC establishes the criteria for its calculation. The actual collective quota achieved by a court is calculated by dividing the sum percentage of the quota achieved by each judge, court president, and legal associates in the municipal courts with a number of judges and legal associates appointed to the respective courts. Table 7 shows the achieved collective quota for all court instances where the HJPC set the criteria based on which the courts calculate their performance results.

The average quality of judicial decisions in all regular courts in BiH in 2020 was 88%, the same as in 2019. The average collective quota in 2020 was 93%, while in 2019 it amounted to 112%.

**Table 13: Performance quality and quantity**

Courts	Performance quality	Performance quantity – average collective quota achieved
Court of Bosnia and Herzegovina	93%	121%
Supreme Court of the Federation of BiH	-	116%
Supreme Court of the Republika Srpska	-	123%
Appellate Court of the Brcko District BiH	-	117%
Banja Luka High Commercial Court	90%	100%
Cantonal courts	91%	96%
District courts	93%	86%
District commercial courts	87%	108%
Municipal courts	89%	91%
Basic courts	83%	86%
Basic Court of the Brcko District BiH	86%	111%

## Statute of limitations

In 2020, there were 178 cases registered in the CMS that fell under the statute of limitations, as well as 60 cases in which the enforcement of criminal sanctions fell under the statute of limitations. The total number of cases that fell under the statute of limitations (after the indictment), including also the enforcement of criminal sanctions, increased by 2 cases, as in 2020, 238 cases were registered as completed by the courts as they fell under the statute of limitations, compared to 236 such cases in 2019.

As in the past, the courts often registered the cases as completed because of the statute of limitations running out due to the accused being unavailable (145 cases or 61%), while in a number of cases such decisions were rendered because the case arrived to a court after the statute of limitations ran out (6 cases, 3%).

In 2020, the courts registered 93 minor offence cases as completed in the CMS as they fell under the statute of limitations. This is 23 cases or 20% less than in 2019. The relative statute of limitations was found in 24 minor offence cases, of which 19 cases were received after having fallen under the statute of limitations to initiate and conduct the minor offence proceedings. The absolute statute of limitations was found in 69 minor offence cases, out of which 21 or 30% were received after having fallen under the statute of limitations to initiate and conduct the minor offence proceedings.

Court decisions terminating criminal prosecution or minor offence proceedings due to the statute of limitations are submitted to the Office of the Disciplinary Counsel to determine the potential liability of judges for such outcome in these cases.

**Table 14: Statute of limitations**

Case type	Case type	Relative statute of limitations	Absolute statute of limitations	Total
Criminal	Iks	0	60	60
	K	0	84	84
	Kps	0	48	48
	Kv	1	40	41
	Kž	0	4	4
	Kžk	0	1	1
Total criminal cases		1	237	238
Minor offence cases	Pr	20	42	62
	Prm	0	1	1
	Pžp	4	26	30
Total minor offence cases		24	69	93
<b>TOTAL</b>		<b>25</b>	<b>306</b>	<b>331</b>

## ANNEX 3 PERFORMANCE OF PROSECUTOR'S OFFICES

### Analysis of the work of prosecutor's offices

This chapter presents the work of prosecutor's offices in 2020, through the aggregate performance reports with respect to: reports, investigations, indictments and judgements in Kt cases<sup>51</sup>, Kt cases which fell under the statute of limitations, as well as the results in terms of quality and quantity in accordance with the general regulations of the HJPC. The 2020 data are compared with the 2019 data, where, especially when it comes to the number of reports and investigations finalised, the consequences of delays in the work of prosecutor's offices due to the COVID-19 pandemic are evident.

Performance data for individual prosecutor's offices is available at [vstv.pravosudje.ba](http://vstv.pravosudje.ba)

### Criminal reports

In 2020, there were 30,353 reports or cases in the prosecutor's offices against 48,220 persons. Compared to 2019, the number of crimes reported decreased by 1,127 or 5.2%, but, given that at the end of 2019 there were 598 pending reports or 6.6% more than at the beginning of 2019, the total number of reports or cases decreased by 529 or 1.7%, or 1,238 or 2.5% less persons were reported. Compared to 2019, the total number of reports or cases completed in 2020 was lower by 2,630 or 12.4%, meaning that there were fewer reports against 4,329 or 14.4% persons. In 2020, fewer reports were resolved than received during the year, and there was an increase in the number of pending reports or cases by 2,125 or 22.1%, or observed by persons by 3,075 or 15.8%.

Out of the total number of reports, observed by cases, 61% were resolved, which is 9% less than in 2019, where 39% remained pending.

In 2020, 18,597 reports or cases against 25,648 persons were resolved. When it comes to resolved reports, the table below shows that most reports resulted in a decision to investigate, that is 71% of reports or cases against 64% of reported persons. A significant number of reports resulted in an order not to investigate, that is 26% of reports or cases against 30% of persons.

**Table 15: Flow of reports and breakdown of resolved reports**

Prosecutor's offices	Total number of reports in 2020		Resolved reports in 2020						Pending reports as at 31/12/2020	
			order not to investigate		order to investigate		other			
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
BiH	1,466	6,908	206 38%	528 31%	247 45%	699 42%	90 17%	454 27%	918	5,220
FBiH:	18,574	27,626	3,326 29%	5,383 34%	7,855 69%	9,641 62%	283 2%	562 4%	7,092	12,020
RS	10,048	13,351	1,256 20%	1,772 22%	4,828 76%	5,847 73%	241 4%	427 5%	3,726	5,312
BD BiH	265	335	0 0%	0 0%	262 99%	328 98%	3 1%	7 2%	0	0
<b>TOTAL</b>	<b>30,353</b>	<b>48,220</b>	<b>4,788 24%</b>	<b>7,683 28%</b>	<b>13,192 72%</b>	<b>16,515 65%</b>	<b>617 4%</b>	<b>1,450 7%</b>	<b>11,736</b>	<b>22,552</b>

<sup>51</sup> KT cases are cases in prosecutor's offices that are initiated against known persons when there are grounds for suspicion that they have committed a criminal offence. For the purposes of this report the KT designation covers all types of cases against known perpetrators: KT, KTRZ, KTK, KTPO, KTT, etc.

## Investigations

In 2020, there were 16,755 ongoing investigations or cases against 23,751 persons. Compared to 2019, there were fewer orders to investigate, and the total number of investigations, observed by cases, dropped by 2,258 or 11.9%, that is by 3,446 persons or 12.7%. Compared to 2019, the total number of completed investigations in 2020 dropped by 2,559 cases or 16.5%, that is by 4,003 persons investigated or 20%. In 2020, 282 investigations were completed or 2% less than ordered, and the number of investigations completed increased by 8% at the end of the year.

Unlike the previous year, when 81% of the total number of investigations observed by cases were completed, in 2020, 77% of investigations were completed, meaning that 23% of investigations remained pending.

In 2020, a total of 12,910 investigations were completed against 16,023 persons. The breakdown of investigations completed, presented in the table below, shows that most investigations resulted in an indictment, that is 75% of investigations or cases against 70% of persons. A significant number investigations resulted in an order not to investigate, that is 24% of investigations or cases against 26% of persons.

**Table 16: Flow of investigations and breakdown of completed investigations**

Prosecutor's offices	Total number of investigations in 2020		Completed investigations in 2020						Pending investigations as at 31/12/2020	
			order to discontinue investigation		indictment		other			
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
BiH	645	2,612	111	302	167	286	32	231	335	1,788
			36%	37%	54%	35%	10%	28%		
FBiH:	9,582	12,875	1,221	1,755	6,309	7,292	82	196	1,969	3,632
			16%	19%	83%	79%	1%	2%		
RS	6,201	7,841	1,686	2,148	3,022	3,422	42	94	1,452	2,179
			35%	38%	64%	60%	1%	2%		
BD BiH	327	423	39	53	180	213	19	31	89	126
			16%	18%	76%	72%	8%	10%		
<b>TOTAL</b>	<b>16,755</b>	<b>23,751</b>	<b>3,057</b>	<b>4,258</b>	<b>9,678</b>	<b>11,213</b>	<b>175</b>	<b>552</b>	<b>3,845</b>	<b>7,725</b>
			24%	27%	75%	70%	1%	3%		

## Indictments

In 2020, the prosecutor's offices filed 9,678 indictments against 11,213 persons. Compared to 2019, the total number of indictments decreased by 1,807 or 16%, where the number of persons indicted decreased by 2,398 or 18%. A decrease in the number of indictments was recorded across all instances.

**Table 17: Indictments**

Prosecutor's offices	Indictments filed in 2019		Indictments filed in 2020		Change in the number of filed indictments			
	Cases	Persons	Cases	Persons	Cases	Persons		
BiH	172	328	167	286	-5	-3%	-42	-13%
FBiH:	7,563	8,911	6,309	7,292	-1,254	-17%	-1,619	-18%
RS	3,488	4,064	3,022	3,422	-466	-13%	-642	-16%
BD BiH	262	308	180	213	-82	-31%	-95	-31%
<b>TOTAL</b>	<b>11,485</b>	<b>13,611</b>	<b>9,678</b>	<b>11,213</b>	<b>-1,807</b>	<b>-16%</b>	<b>-2,398</b>	<b>-18%</b>

## Judgments<sup>52</sup>

In 2020, 9,792 judgments were rendered, which is 2,518 or 20% less compared to 2019. The number of convictions in 2020 compared to 2019 was reduced by 2,245 or 20%. The number of acquittals was lower by 247 or 29%, as well as the number of judgments rejecting charges by 26 or 16%.

In 2020, the courts rendered 9,051 or 93% judgments of conviction against 10,538 persons. In 606 cases or 6%, 863 persons were acquitted. Judgments rejecting charges were rendered in 135 or 1% of cases.

**Table 18: Judgements**

Prosecutor's offices	Convictions		Acquittals		Judgments rejecting charges		TOTAL	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BiH	117	187	16	52	0	0	133	239
FBiH:	6,254	7,277	369	521	59	70	6,682	7,868
RS	2,506	2,872	212	277	75	100	2,793	3,249
BD BiH	174	202	9	13	1	2	184	217
<b>TOTAL</b>	<b>9,051</b>	<b>10,538</b>	<b>606</b>	<b>863</b>	<b>135</b>	<b>172</b>	<b>9,792</b>	<b>11,573</b>

Compared to 2019, the number of convictions decreased across all instances. The largest absolute decrease in the number of convictions was recorded in the cantonal prosecutor's offices by 1,531 or 20%, as well as in the district prosecutor's offices by 606 or 19%. In the Prosecutor's Office of Bosnia and Herzegovina and the Prosecutor's Office of the Brcko District, the number of convictions decreased by 27%, that is by 44 and 64 convictions, respectively.

**Table 19: Convictions**

Prosecutor's offices	Convictions in 2019		Convictions in 2020		Change in the number of convictions			
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BiH	161	298	117	187	-44	-27%	-111	-37%
FBiH:	7,785	9,267	6,254	7,277	-1,531	-20%	-1,990	-21%
RS	3,112	3,611	2,506	2,872	-606	-19%	-739	-20%
BD BiH	238	271	174	202	-64	-27%	-69	-25%
<b>TOTAL</b>	<b>11,296</b>	<b>13,447</b>	<b>9,051</b>	<b>10,538</b>	<b>-2,245</b>	<b>-20%</b>	<b>-2,909</b>	<b>-22%</b>

In 2020, 64% of convictions were suspended sentences, 22% imprisonments and 14% fines. This means that the share of suspended sentence was reduced by 1%, while the share of imprisonments increased by 1%. At the same time, the fine rate remained at previous year's level.

<sup>52</sup> Data on judgments includes all judgments regardless of whether they become final in the reporting period.

**Table 20: Breakdown of criminal sanctions**

Prosecutor's offices	Prison sentences		Fines		Suspended sentences	
	Cases	Persons	Cases	Persons	Cases	Persons
BiH	39	76	1	7	77	104
FBIH:	1,538	1,865	310	345	4,342	4,995
RS	336	424	881	989	1,283	1,452
BD BiH	62	78	23	26	89	98
<b>TOTAL</b>	<b>1,975</b>	<b>2,443</b>	<b>1,215</b>	<b>1,367</b>	<b>5,791</b>	<b>6,649</b>

The analysis of suspended sentences shows that 85% of suspended sentences were imposed for the following criminal offences: possession, sale and enabling enjoyment of narcotic drugs (21%), theft and aggravated theft (13%), endangering public transport (10%), inflicting bodily injuries (8%), domestic violence (7%), damaging someone else's property (4%), forgery of documents (4%), illegal possession, manufacturing and trade of weapons or explosives (4%), endangering security (3%), forest theft (3%), violent behaviour (3%), as well as evasion and fraud (2% each). For other crimes, the percentage of imposed suspended sentences per offence is less than 1% of the total suspended sentences imposed.

### Backlog<sup>53</sup>

In 2020, the total number of pending Kt cases (pending reports and investigations) against known perpetrators suspected of committing a criminal offence decreased by 2,430 cases or 18%, and the share of suspects in pending cases dropped by 3,710 persons or 14%. An increase in the number of pending cases was recorded across all instances, with the Prosecutor's Office of BiH noting a slight increase in the number of pending cases by only 2 cases, while the number of suspects in these cases slightly decreased by 26 persons.

**Table 21: Backlog**

Prosecutor's offices	Number of pending cases as at 31 December 2020		Change in the number of pending cases compared to 31 December 2019			
	Cases	Persons	Cases	Persons	Cases	Persons
BiH	1,254	7,009	2	0%	-26	0%
FBIH:	9,062	15,653	1,815	25%	2,617	20%
RS	5,178	7,491	589	13%	1,086	17%
BD BiH	89	126	24	37%	33	35%
<b>TOTAL</b>	<b>15,583</b>	<b>30,279</b>	<b>2,430</b>	<b>18%</b>	<b>3,710</b>	<b>14%</b>

### The statute of limitations on criminal prosecution

In 2020, there were 113 cases against 163 persons registered in the TCMS in which decisions to discontinue investigation were rendered as they fell under the statute of limitations on criminal prosecution before indictment. In 2019, the prosecutor's offices rendered such decisions in 164 cases. This means that in 2020 the number of prosecutorial decisions to terminate the prosecution as it became time barred was reduced by 51 cases or by 31%. Just as in the previous period, prosecutorial decisions on time-bar relating to prosecution were also rendered in the report phase (79 decisions not to investigate or 70% of cases) and also in the investigation phase (34 decisions to discontinue investigation or 30% of cases).

<sup>53</sup>In addition to pending Kt cases against known perpetrators shown in table 7, as at 31 December 2020, the prosecutor's offices had 299 pending Ktm cases against 395 minors.

Prosecutorial decisions to discontinue investigation due to statute of limitations on criminal prosecution are submitted to the Office of Disciplinary Counsel to determine possible accountability of prosecutors for such outcome in these cases.

**Table 22: Statute of limitations prior to indictment**

Prosecutor's offices	Relative statute of limitations		Absolute statute of limitations		TOTAL	
	Cases	Persons	Cases	Persons	Cases	Persons
BiH	0	0	0	0	0	0
FBiH:	44	70	33	44	77	114
RS	22	30	13	18	35	48
BD BiH	0	0	1	1	1	1
<b>TOTAL</b>	<b>66</b>	<b>100</b>	<b>47</b>	<b>63</b>	<b>113</b>	<b>163</b>

## Breakdown of crimes

The following table presents data on the number of indictments filed per chapters of the criminal codes in BiH, since the crimes under these chapters account for most indictments filed in 2020. As in 2019, the crimes listed in the table account for 80% of the total number of indictments filed during 2020.

Complete data on the breakdown of crimes and data on all chapters and articles of criminal codes are available at [vsts.pravosudje.ba](http://vsts.pravosudje.ba)

**Table 23: Breakdown of crimes**

Law	Chapter	Description	Indictments filed in 2019		Indictments filed in 2020	
			Cases	Persons	Cases	Persons
BiH Criminal Code	CC BiH Chapter XVIII	Criminal offences against the economy and market integrity and in the area of customs	85	116	72	86
	CC BiH Chapter XVII	Criminal offences against humanity and values protected by international law	55	93	60	106
FBiH Criminal Code	CC FBiH CHAPTER XXI	Criminal offences against human health	1,672	1,828	1,841	1,964
	CC FBiH CHAPTER XXV	Criminal offences against property	1,958	2,368	1,436	1,798
	CC FBiH CHAPTER XXX	Criminal offences against public order and legal transactions	806	1,034	641	775
	CC FBiH CHAPTER XXVIII	Criminal offences against traffic safety	636	640	457	462
	CC FBiH CHAPTER XVI	Criminal offences against life and limb	619	747	475	589

	CC FBiH CHAPTER XX	Criminal offences against marriage, family and youth	612	628	507	522
RS CRIMINAL CODE	CC RS CHAPTER XX	Criminal offences against property	1,109	1,329	927	1,081
	CC RS CHAPTER XII	Criminal offences against life and limb	463	604	375	453
	CC RS CHAPTER XVI	Criminal offences against marriage and family	324	331	317	327
	CC RS CHAPTER XIII	Criminal offences against freedom and rights of citizens	215	229	207	220
	CC RS CHAPTER XXXI	Criminal offences against traffic safety	191	196	211	212
	CC RS CHAPTER XVII	Criminal offences against human health	164	196	169	197
	CC BDBiH XXV	Criminal offences against property	90	105	55	67
Criminal Code of BDBiH	CC BDBiH XXI	Criminal offences against human health	15	29	31	37
	CC BDBiH CHAPTER XXVIII	Criminal offences against traffic safety	26	29	16	16
	CC BDBiH CHAPTER XVI	Criminal offences against life and limb	24	24	15	19
	CC BDBiH CHAPTER XXXI	Criminal offences of bribery and offences against official and other responsibility	21	21	15	24
	<b>TOTAL FOR THE ABOVE CHAPTERS OF CRIMINAL CODES</b>		<b>9,085</b>	<b>10,547</b>	<b>7,827</b>	<b>8,955</b>
<b>TOTAL FOR ALL CHAPTERS OF CRIMINAL CODES</b>			<b>11,485</b>	<b>13,611</b>	<b>9,678</b>	<b>11,213</b>

## Performance quality and quantity

In 2020, prosecutor's offices, on average, achieved their collective quotas at 94%, which is 8% less than in 2019. In accordance with the criteria for performance evaluation of prosecutors and chief prosecutors<sup>54</sup>, the quality of prosecutorial decisions is measured based on two parameters: quality of indictments and quality of orders not to investigate and orders to discontinue investigation. In 2020, the prosecutor's offices on average achieved the quality of

<sup>54</sup>At its session on 7 July 2016, the HJPC adopted the Criteria for Performance Evaluation of Prosecutors in BiH. Also, at its session on 29 November 2016, the HJPC adopted the Criteria for Performance Evaluation of Chief Prosecutors, Deputy Chief Prosecutors and Heads of Departments 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 held on 25 and 26 October 2017, the HJPC adopted amendments to the above criteria.

indictments at 94%, which is a 1% less compared to 2019. The average result the prosecutor's offices in terms of quality of orders not to investigate and to discontinue investigation in 2020 was 99.6%, which is an increase of 0.1% compared to the previous year.

**Table 24: Performance quality and quantity**

Prosecutor's offices	Performance quality		Performance quantity—average collective quota achieved <sup>55</sup>
	Indictment quality	Quality of orders not to conduct and to discontinue investigations	
Prosecutor's Office of BiH	95%	99%	109%
Cantonal prosecutor's offices	96%	100%	81%
District prosecutor's offices	96%	100%	116%
Special Department of the RS PO	69%	100%	108%
Prosecutor's Office of BD BiH	96%	100%	57%

<sup>55</sup> All or some prosecutors in a number of cantonal and district prosecutor's offices and the Prosecutor's Office of the Brcko District of BiH were not able to meet 100% of their respective quotas due to the insufficient number of cases. The insufficient number of cases is the result of insufficient case influx.