



Visoko sudsko i tužilačko vijeće Bosne i Hercegovine
Visoko sudbeno i tužiteljsko vijeće Bosne i Hercegovine
Високи судски и тужилачки савјет Босне и Херцеговине
High Judicial and Prosecutorial Council of Bosnia and Herzegovina



STRATEGIC PLAN 2010 – 2013

HIGH JUDICIAL AND PROSECUTORIAL COUNCIL BiH

STRATEGIC PLAN

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PROSECUTORIAL COUNCIL BiH
2010 – 2013**

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Chapter 1 INTRODUCTION

In order to progress its planned approach to strategic reforms based on issues which had been identified in the judicial sector, the High Judicial and Prosecutorial Council of BiH (HJPC) prepared its first strategic plan for the period between March 2005 and December 2006.

Based on results achieved by implementing this first strategic document, and having in mind requirements set before Bosnia and Herzegovina institutions by European integration process, the current Strategic Plan of the HJPC was developed, which covers the period from July 2007 to December 2012. It includes activities which continue the reform in the judicial sector commenced in the previous period and to solve actual problems obstructing the success of the judicial sector. This Plan also envisages that the HJPC gives its contribution to the drafting of the National Justice Sector Reform Strategy.

The adoption of the Justice Sector Reform Strategy for BiH for the period 2009 – 2013, which has the objective of creating a joint reform framework for the institutions in the BiH Justice Sector and which contains harmonized priorities for the development of the judicial sector as a whole, has put forward the need to revise the Strategic Plan for the HJPC, and to adjust it to comply with the Justice Sector Reform Strategy.

Chapter 2

STRATEGIC FRAMEWORK

Within the framework of reform processes, Bosnia and Herzegovina has undertaken numerous obligations, including those relating to strengthening the rule of law.

Since the HJPC is one of the institutions which have a key role in fulfilling these obligations, the revised Strategic Plan included requirements set in strategic documents relevant for justice sector as follows:

1. Justice Sector Reform Strategy for BiH for period 2009-2013¹
2. State War Crime Strategy²
3. Bosnia and Herzegovina European Partnership³
4. European Partnership Action Plan⁴.

Justice Sector Reform Strategy for BiH (JSRS) includes 5 pillars⁵:

1. Judicial system,
2. Execution of Criminal Sanctions,
3. Access to Justice,
4. Support to Economic Sector Growth and
5. Coordinated, well-managed and accountable sector.

For each key pillar of reform, one strategic objective is defined as follows:

Pillar 1 – strategic objective: Further strengthen and maintain the independence, accountability, efficiency, professionalism, and harmonization of the judicial system which ensures the rule of law.

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- 1 Adopted by Council of Ministers on June 23, 2008. The Strategy was developed by BiH Ministry of Justice, the HJPC, FBiH Ministry of Justice, RS Ministry of Justice, JCBD and cantonal ministries of justice.
 - 2 Adopted by Council of Ministers on December 29, 2008. The Strategy was developed by the Working group established by Ministry of Justice in September 2007.
 - 3 Council Decision (2008/211/EC) on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC from February 18, 2008, OJ L 80
 - 4 Adopted by Council of Ministers on October 6, 2008.
 - 5 HJPC has responsibilities in all pillars, except pillar 2.



Pillar 2 – strategic objective: Develop a more harmonized system of criminal sanctions in BiH which by respecting European standards ensures humane and legal treatment and effective re-socialization in prisons in BiH.

Pillar 3 – strategic objective: Advance the system of international legal assistance and establish, strengthen, and maintain systems and processes that guarantee equal access to justice in BiH.

Pillar 4 – strategic objective: Define and implement measures through which the justice sector will contribute to the creation of a more favorable environment for sustainable economic development in BiH.

Pillar 5 – strategic objective: Coordinate and make the roles and responsibilities of key justice sector institutions more efficient, with the aim of achieving a more effective, transparent, and accountable justice system in BiH.

Due to the lack of a consensus, some of the most important strategic issues for the justice sector remained unresolved, among which also:

- fragmented financing of the judiciary and
- harmonization of material and procedural laws for criminal and civil cases.

It was decided that these issues would be considered within the set of issues to be resolved as part of the process for constitutional reform in BiH.

The State War Crime Strategy emphasizes the commitment of BiH that the most complex war crime cases be processed before the BiH Court and BiH Prosecutor Office, and the cases determined as less complicated be processed before cantonal and that district courts and prosecutor offices.

European Partnership is a mechanism through which the European union supports the establishment of European perspective for western Balkan countries. It determines priorities based on findings contained in Bosnia and Herzegovina's progress report. Priorities are defined as short term for a period of up to one to two years and medium term for a period of up to three to four years. Two short term priorities from the European Partnership directly relate to HJPC competences, i.e.:

1. To strengthen the independence and accountability of the judicial system and to advance its efficiency, including the reduction of backlogs.
2. To ensure appropriate training for the judiciary, especially in human rights related legislation, as well as in issues linked to the implementation of the Stabilization and Accession Agreement.

Chapter 3

VISION, MISSION, MANDATE, AND KEY PRINCIPLES

3.1 Vision

The HJPC continuously contributes to strengthening the rule of law in BiH.

3.2 Mission

By ensuring an independent, impartial and professional judiciary in BiH, the HJPC provides for equal access to justice and equality of all before the law.

3.3 HJPC Mandate

Competences of the HJPC are defined in the Law on the High Judicial and Prosecutorial Council of BiH⁶ and relate to:

- appointments of judicial function holders at all levels in BiH, except for entity constitutional courts,
- disciplinary accountability of judges and prosecutors,
- judicial and prosecutorial training,
- proposal of annual budgets for courts and prosecutors' offices,
- judicial administration and overseeing,
- coordination and supervision of information and communication technology in courts and prosecutors' offices,
- provision of opinions on draft laws, regulations and important issues that can have an impact on judicial sector.

6 „Official Gazette BiH“, number 25/04, 93/05, 48/07, 15/08.



3.4 Key Principles

Strategic Plan of the HJPC defines four key principles: independence, accountability, efficiency, and quality.

The need for further strengthening and maintaining the independence, accountability, efficiency, professionalism, and coordination of the judicial system that ensures the rule of law in BiH, is also recognized in the JSRS.

Strengthening the independence and accountability of the judicial system, as well as improving its effectiveness are also priorities established in European Partnership.

Chapter 4

STRATEGIC OBJECTIVES AND STRATEGIC PROGRAMS

Strategic Objective 1

INCREASE THE EFFICIENCY OF COURTS AND PROSECUTORS' OFFICES IN BiH

Increasing the efficiency of the judiciary represents one of the priorities in the process for accession to the European Union. Dedication to the establishment of an efficient judiciary, being a major segment in the implementation of judicial reform, has in the past been defined as one of the four basic principles of operations and strategic direction for HJPC BiH. Neglecting this segment of the reform would not only impede the advancements achieved thus far, it would also carry the risk that the reasons why the courts and prosecutors' offices are behind with their caseloads would be linked to the basic

principles of the reform. (E.g. A reduction in the number of courts and judges, but not the number of unresolved cases might contribute to the inception of a negative view of the measures carried out so far, as well as impede the efforts for completing the reforms).

Therefore, the HJPC shall invest additional effort in strengthening the efficiency of courts and prosecutors' offices in BiH, with a focus on reducing the backlog, further automation of working processes, and undertaking other measures to rationalize the organization and operations of judicial institutions in BiH.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- European Partnership with Bosnia and Herzegovina (political criteria, judicial system, short term and mid term priority).
- European Partnership Action plan.
- State War Crime Strategy.
- Justice Sector Reform Strategy (strategic programs 1.2.1, 1.2.3, 1.2.5, 1.2.7, 1.2.8, 1.3.1, 1.3.2, 1.3.7, 3.3.2, 4.1.1, 4.1.2, 4.1.4 and 4.2.5).

STRATEGIC PROGRAMS:

Strategic program 1.1: REDUCE THE BACKLOG

Program background: The greatest barrier for the establishment of an efficient judiciary in BiH continues to be the large number of unresolved cases. Figures show that at year end 2008, the total number of unresolved cases was approximately 1.8 million. The data clearly indicates the significance of the problem. Its resolution will be sought jointly by the HJPC, ministries of justice and other relevant bodies.

Also, this program includes the strategic program 1.2.1: *“Conduct an analysis of the required changes to legislation, to decrease the number of backlog cases in the enforcement procedure initiated on the basis of the “authentic documents” (such as unpaid utility bills, and recommend appropriate measures”* from the Justice Sector Reform Strategy in BiH, the responsibility for which lies with the HJPC, relevant state, Entity and Cantonal Justice Ministries of BiH and Judicial Commission of Brcko District. The HJPC will also continue to implement this program, which relates to unresolved utility cases and cases in the enforcement procedure, by undertaking measures aimed at ensuring a more efficient collection of the required information on debtors and their assets, introducing separate automated processing of utilities cases, enhancing the system for the service of subpoenas and improving capacities of court enforcement services and officers in accordance with Council of Europe recommendations.

Deadline: December 2013

Program outcome: Reduced number of backlog cases. Improved efficiency of court operation.

Strategic program 1.2: COMPUTERIZE THE BIH JUDICIARY

Program background: The program is harmonized with strategic program 1.2.5: *“Implement in full the measures relating to the computerization of the judiciary as foreseen by the HJPC Strategic Plan”* from the Justice Sector Reform Strategy of BiH and represents the continuation of many years of effort by the HJPC to computerize the BiH judiciary. The role of the HJPC in achieving this can be seen as managing, coordinating and overseeing the introduction and utilization of information technology in the courts and prosecutors’ offices in BiH in order to achieve and maintain uniformity in this field.

To this day, a local area network (LAN) has been set up as well as a wide

area network (WAN) which now links all courts and prosecutors' offices in BiH. The networks and related services are continuously administered and maintained. Over the next few years, the HJPC will focus on further development of this network and connecting the branch offices of courts and prosecutors' offices to the network.

An automated case management system (CMS) is applied in 66 of the 67 courts, and over the course of 2010 the CMS will be applied in the Court of BiH. A CMS version has also been developed for prosecutors' offices (T-CMS) which has been fully implemented in all prosecutors' offices, except in Prosecutor Office of BiH and Special Prosecutor Office Banja Luka where the implementation of T-CMS is not foreseen at all.

Work reports of courts and prosecutors' offices are a significant indicator of efficiency of individual courts and prosecutors' offices, as well as of the overall efficiency of the judicial system, and serve the purpose of decision-making. Through the introduction of the CMS to all courts and prosecutors' offices, the HJPC will facilitate the process of gathering of relevant and highly accurate information. The advancement of the system for reporting and gathering of data regarding the functioning of the BiH judiciary is also important when it comes to responding to CEPEJ⁷ requirements. Since 2006, the HJPC has been actively involved in the activities of the CEPEJ. This membership requires the availability and gathering of even more detailed and more accurate data which need to be presented in line with specific requirements in order to allow the comparison of our judicial system with the systems of other European countries for specifically defined parameters.

Deadline: December 2013

Program outcome: Improved efficiency and transparency of courts and prosecutors' offices.

***Strategic program 1.3: INITIATE APPROPRIATE LEGISLATION,
TO REGULATE THE ADMINISTRATION OF COURTS AND
PROSECUTOR'S OFFICES***

Program background: The program is taken from the Justice Sector Reform Strategy, Strategic Program 1.2.7: *“Develop policy and issue appropriate legislation, to regulate the courts and prosecutors' offices administration”*. The HJPC

7 The European Commission for the Efficiency of Justice

shares responsibility for the implementation of the program with the ministries of justice of BiH and the entities and the Judicial Commission of the Brcko District. Rights and duties, status, training, disciplinary accountability, and other relevant issues in regards to administrative and technical staff in courts and prosecutors' offices (including secretaries and land registry staff), are not fully regulated and harmonized. Therefore, the HJPC will initiate the issuance and/or amendments to regulations to improve and harmonize the status of the said staff, to potentially introduce a position of "court administrator" in selected courts in BiH, and to provide the managers in the judiciary with more flexibility in terms of managing judicial institutions. The HJPC BiH will undertake all necessary actions in order to upgrade the performance of land registries and strengthen the administration of land registries.

Deadline: December 2013⁸

Program outcome: Improved efficiency in the courts and prosecutors' offices in BiH.

***Strategic program 1.4: IMPLEMENT THE HJPC DECISION ON
NEW SYSTEMATIZATION OF THE APPROPRIATE NUMBER OF
JUDGES AND PROSECUTORS***
.....

Program background: The Program also includes strategic program 1.2.8 taken over from the Justice Sector Reform Strategy in BiH: *"Conduct analysis of the number of judges and prosecutors needed"*.

In June 2009, the HJPC discussed and approved the analysis regarding the appropriate number of judges that was conducted by the HJPC Working Group which was established in 2008. Similar analysis in the next phase included the figures gathered from prosecutors' offices, and the final proposal with recommendations was, after consultations, adopted at the Council's Session. The HJPC will fully implement the new systematization in all courts and prosecutors' offices.

Deadline: December 2010

Program outcome: Adequate judicial and prosecutorial capacities in courts and prosecutors' offices established.

8 Strategic program 4.2.5 „Strengthen capacities of land registry offices in terms of the land registry administration needs“

Strategic program 1.5: DEVELOP AND FINILIZE THE APPLICATION OF TIME MEASUREMENTS IN ALL COURTS AND PROSECUTOR'S OFFICES.

Program background: The Program has been carried over from the BiH Justice Sector Reform Strategy (Strategic Program 1.3.1) as a continuation of activities of the HJPC on the reform of performance standards and judicial performance follow-up system with a view to harmonizing them with EU standards. To that end, in 2006 the Council rendered a decision introducing a time measurement system for judges, which should replace the current system measuring the judges' quantity of work. The first version of time measurements have been completed and tested in some BiH courts. Based on the experiences of these courts, the Council has prepared a Book of Rules on Time Measurements for Judge Performance, which will be tested in a number of identified courts. It is foreseen that the implementation will start in 2010.

In 2009 the HJPC also initiated the development of time measurements for prosecutors.

Deadline: December 2010

Program outcome: A more efficient and more responsible judicial system.

Strategic program 1.6: THE DETERMINATION OF A SYSTEM OF FORESEEABLE DEADLINES FOR THE RESOLUTION OF CASES IN THE COURTS IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE COUNCIL OF EUROPE (CEPEJ).

Program background: The Program has been carried over from the BiH Justice Sector Reform Strategy (Strategic Program 1.3.2). The purpose of the program is to upgrade the performance monitoring system for courts and judges and its harmonization with the CEPEJ standards through the introduction of optimal and foreseeable timeframes for processing of cases. The HJPC is solely responsible for the implementation of this program.

Deadline: December 2010

Program outcome: Improved efficiency, transparency and accountability of judges.

Strategic program 1.7: STRENGTHEN CAPACITIES OF PROSECUTOR'S OFFICES

Program background: The program is aimed at further strengthening the capacities of prosecutors' offices through:

- providing technical equipment and infrastructure, harmonizing records and statistics and providing conditions for access to criminal records,
- care of prosecutors' offices users and developing communication

strategy for prosecutors' offices (strategic program 3.3.2: *"Increase the level of information accessible on organization and work of the courts and prosecutors' offices in BiH to the wider BiH public"*),

- developing mechanisms for advancing cooperation with police agencies, as well as introducing new measures for criminal prosecution (Strategic Program 1.2.3 of the JSRS: *"To introduce new measures for criminal prosecution"*).

The program also covers strategic program 1.3.7 of the BiH Justice Sector Reform Strategy: *"Harmonize records and statistics, as well as provide conditions for accessing criminal records"*. The HJPC shares responsibility for implementation of the program with the State, entity and cantonal ministries of justice, the Judicial Commission of the Brcko District, the Ministry of Security and the entity police administrations.

Deadline: December 2013

Program outcome: Improved efficiency of prosecutors' offices in BiH. Enhanced coordination and cooperation between police and prosecutors' offices.

Strategic program 1.8: ENSURE STRATEGIC GUIDELINES FOR DEVELOPMENT OF ALTERNATIVE DISPUTE RESOLUTION AND PROMOTE THE USE OF MEDIATION AMONG JUDGES IN BIH.

Program background: The Program includes strategic programs 4.1.1: *"Ensure strategic guidelines for development of alternative dispute"*, 4.1.2: *"Promote benefits of ADR at the level of executive authorities in BiH"* and 4.1.4: *"Define clear mechanisms and activities of promoting and encouraging the use of mediation among the judges in BiH and promote the use of mediation"* from the JSRS. Since the Alternative Dispute Resolution is a relatively new concept in BiH judiciary, the BiH Minister of justice has made a Decision on establishing a Working group for mediation and alternative dispute resolution. It is given the tasks of conducting a research and evaluation of the existing mediation practices, gathering data on experiences from other countries in this area and providing recommendations for appropriate measures. This working group is represented by BiH and FBiH ministries of justice, Judicial Commission of Brcko District, Association of Mediators and the HJPC. The HJPC has the sole responsibility to develop a plan of long-term promotion and encouragement of the use for mediation among the judges in BiH.

Deadline: December 2013

Program outcome: Greater utilization of mediation and improved efficiency of courts.

Strategic program 1.9: ESTABLISH INSTITUTIONAL CAPACITIES FOR SUPERVISION.

Program background: Pursuant to Article 17, paragraph 23 of the Law on BiH HJPC, the HJPC has competence to set criteria for the operation of courts and prosecutors' offices and to initiate investigations in to the administration and finance areas.

So far, the HJPC has had no developed capacities for carrying out supervision under this provision of the law. The HJPC should develop its own capacities in the area in order to evaluate and establish whether the operation of courts and prosecutors' offices is compliant with laws and regulations in the management area issued by the HJPC (e.g. Book of Rules on Internal Court Operations).

Deadline: December 2013.

Program outcome: Developed supervision capacities of the HJPC in the area of administration and finance.

Strategic Objective 2

IMPROVE AND MAINTAIN INDEPENDENCE AND STRUCTURE OF BiH JUDICIARY

An independent judiciary represents a pre-condition for rule of law and legal safety of citizens. According to Article 3, Paragraph 1 of the Law on HJPC, it is the Council's responsibility to ensure an independent judiciary. However, the judicial authority, as an independent third branch of government, has not been recognized in the BiH Constitution. Thus, the HJPC will ensure its participation in the constitutional reform process and thereby

advocate for issues of interest for the independence of the judiciary.

Judicial reform is a continuous process and assumes certain structural changes, such as a unified organization of prosecutorial offices in the FBiH and the establishment of separate war crimes departments in courts and prosecutors' offices where such departments do not exist (according to the recently adopted State War Crime Strategy).

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- European Partnership with Bosnia and Herzegovina (political criteria, judicial system, mid term and short term priority).
- State War Crime Strategy.
- Justice Sector Reform Strategy (strategic program 1.1.5).

STRATEGIC PROGRAMS:

Strategic program 2.1: ENSURE THE ACTIVE PARTICIPATION OF THE HJPC IN THE CONSTITUTIONAL REFORM PROCESS.

Program background: The principle of judicial independence is normally embedded in the constitution of any democratic country. To that end, the recommendations⁹ specifically referring to the principle of judicial independence have been made. In Bosnia and Herzegovina judicial independence is not embedded in the Constitution of BiH, neither are the Court of BiH and the Prosecutors' Office of BiH, nor the HJPC as an institution legally mandated to ensure and protect judicial independence. In the constitutional reform process, the HJPC will also advocate for the protection of the status and the material position of judicial office holders, as well as issues within the framework of the Justice Sector Reform Strategy that have remained unresolved, such as the fragmented financing of the judiciary and the harmonization of procedural law. Also, the HJPC shall insist on

9 According to the fundamental principles of the United Nations, judicial independence should be "guaranteed by the state and embedded into constitution...". Recommendation No. R(94) 12 further states that "the independence of judges should be guaranteed pursuant to the provisions of the European Convention on Human Rights and constitutional principles ...".

constitutional inclusion of provisions which would provide the HJPC, as a representative of judicial authority in BiH, power to initiate constitutionality procedures before the Constitutional Court of BiH. Currently, this power is granted to executive and legislative authorities, but not judicial.

The HJPC will keep on participating in consultations with relevant bodies on issues related to the establishment of the Supreme Court of BiH.

Strategic program 2.2: PROPOSE AMENDMENTS TO THE LAW ON HJPC

Program background: Practice has clearly shown a need for further improvement of the Law on HJPC. Therefore, the HJPC has established a working group tasked with conducting the analysis of and drafting amendments to the Law on the HJPC in order to improve its work and operations.

Deadline: December 2010

Program outcome: More efficient functioning of the HJPC in ensuring independent judiciary.

Strategic program 2.3: ADVOCATE THE RENDERING OF A LAW ON PROSECUTORS' OFFICES IN FBiH, AND DRAFT AND RENDER RELEVANT REGULATIONS.

Program background: The Program partially includes Strategic Program 1.1.5 from the BiH Justice Sector Reform Strategy: *“Enact single law on prosecutors’ offices in the Federation of BiH”*, and represents continued activities of the HJPC regarding this matter. The implementation of strategic program 1.1.5 is a shared responsibility of the HJPC, the BiH Ministry of Justice and cantonal ministries of justice.

The HJPC has drafted and submitted a draft law proposing numerous changes aimed at enhancing the functioning of prosecutors’ offices in the Federation of BiH. Following the submission of the draft law to the FBiH Ministry of Justice in September 2008, in December 2008, the HJPC organized a consultative meeting with the FBiH Ministry of Justice. Bearing in mind the foreseen transfer of responsibilities from the cantons to the Federation of BiH, it was agreed that a series of consultative meetings should be organized with relevant ministries and legislative bodies at the cantonal level.

The drafting of relevant regulations is underway and it is expected that the adoption and implementation of the aforementioned regulations will start immediately after the adoption of the relevant law.



Deadline: June 2010¹⁰

Program outcome: Uniform organization of prosecutors' offices throughout FBiH.

Strategic program 2.4: REVISE THE EXISTING ORGANIZATIONAL STRUCTURES OF THE COURTS AND PROSECUTORS' OFFICES (WITH REFERENCE TO PROCESSING WAR CRIMES)

Program background: The Program has been taken over from the State War Crime Strategy and the responsibility for its implementation is shared among the HJPC, line ministries, courts and prosecutors' offices and relevant police bodies. Following the cost-benefit analysis of war crimes processing, the existing organizational structures of courts and prosecutors' offices will be reviewed and war crimes departments will be established in those courts and prosecutors' offices at entity level where they have not been established yet. Within the organizational structures of courts and prosecutors' offices at entity level, the positions of judicial associates, advisors and investigators will be established, where required, to assist in processing of war-crime cases.

Deadline: June 2011¹¹

Program outcome: Appropriate organizational structure for efficient processing of war crimes established.

10 Deadline for implementation of the program established in JSRS is december 2009. All deadlines that are not realistically established in the JSRS will be changed in the process of revising JSRS Action Plan.
11 Deadline for implementation of this program set out in the State War Crime Strategy is December 2009.

Strategic Objective 3

CONTINUOUSLY IMPROVE THE SYSTEM FOR THE SELECTION AND APPOINTMENT OF JUDICIAL POSITIONS

Responsibility for the verification and appointment of judicial position holders is one of the basic competences of the HJPC as determined by the law.

The task of the HJPC is to continuously work towards improving the current appointment process, identifying weaknesses, and establishing optimum ways to overcome them.

With a view to promoting the appointment and selection procedure for judicial office holders, the HJPC has already undertaken certain measures and adopted the Book of Rules on Selection and Appointment to Judicial Positions in BiH. This also governs the criteria for selection

and appointment and entering into force on 1 September 2009. To address the complaints made by court presidents and chief prosecutors with respect to appointment procedure, in particular in terms of the length of the procedure and the quality of selected candidates, the HJPC established a working group in 2008 tasked with examining the procedure of selection and appointment of candidates and proposing extra measures aimed at ensuring better quality and more efficient procedure. The HJPC BiH will continue to take into account the matter of career promotion as part of its procedure for the selection of judicial office holders.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- Justice Sector Reform Strategy (strategic program 1.1.4).

STRATEGIC PROGRAMS:

Strategic program 3.1: PROPOSE THE HARMONIZATION OF THE PROCEDURES FOR THE SELECTION OF JUDGES TO THE CONSTITUTIONAL COURT OF BIH WITH CURRENT PROCEDURES FOR THE SELECTION OF JUDGES TO THE RS AND FBiH CONSTITUTIONAL COURTS

Program background: The Program has been adjusted to strategic program 1.1.4 from the BiH Justice Sector Reform Strategy: *“Investigate the possibility of harmonizing the procedure for the selection of the BiH Constitutional Court judges with the existing procedures for the selection of judges for the RS and FBiH Constitutional Courts”*, and it represents an effort towards harmonizing the practice of appointment of judges to the BiH Constitutional Court with the appointment of judges to the two entity constitutional courts. Even though the implementation of this Program is the shared responsibility of the HJPC and the BiH Ministry of Justice and it involves mutual cooperation, the HJPC has exclusive responsibility for the preparation of relevant analysis. At the second ministerial

conference¹² which was held towards the end of May 2009, it was agreed that the relevant analysis needs to be finalized by December 22 when the third ministerial meeting is set, at which occasion the ministers and presidents will take a position on the issue.

Deadline: December 2010¹³

Program outcome: Improved judicial independence and a more transparent process of appointing BiH Constitutional Court judges.

Strategic program 3.2: INTRODUCE WRITTEN TESTS FOR CANDIDATES

Program Background: According to the Law on the HJPC (Article 39), the HJPC may introduce written tests for candidates, which would contribute to greater objectivity in evaluating candidates, as well as speeding up the selection process.

To date, the HJPC has not applied this legal possibility, although the practice has proved that additional verification of candidates' qualifications would largely contribute to selection of appropriate and quality candidates.

Deadline: December 2013

Program outcome: Improved independence, quality, and transparency of appointment procedure.

Strategic program 3.3: CONTINUOUSLY MAINTAIN ETHNIC BALANCE IN THE JUDICIARY

Program background: According to the Law on the HJPC, the Council applies the appropriate constitutional provisions regulating equal rights and representation of constituent peoples and others. Even though a satisfactory level of ethnic balance has been achieved in judicial institutions in BiH, maintaining the principle of ethnic balance of constituent peoples and the category of others according to the 1991 census is becoming more and more difficult. Regarding the selection and appointment of candidates for various positions and in certain areas of BiH, there is a general lack of either interested candidate or a lack of good qualified individuals from the

12 Ministerial conferences are established to ensure a coordinated monitoring of key reform initiatives, which are of common interest of Justice Sector in BiH and to ensure a harmonized effort to resolve those issues, exchange of experience and better utilization of domestic and other potentials.

13 Deadline established in the JSRS is December 2009

relevant constituent peoples or others, who could be appointed in line with the 1991 census. Judges and prosecutors who have held office outside the place of their residence, are reapplying so as to be appointed to positions in their place of residence or close by, while in the event of the long term inability to move to such a position, they frequently decide to resign their posts for reasons of separation from family and other difficulties connected to separated living and its expenses.

In order to resolve the ethnic structure issue systematically and to retain the quality staff in the judiciary throughout all of BiH, it is necessary to introduce compensation for separated living, transportation, and accommodation for judges and prosecutors who have been appointed to positions that are a distance from their place of residence.

Deadline: December 2013

Program Outcome: Constitutional and legal obligations of equal representation of constituent peoples and others in the judiciary met. Improved efficiency in the judiciary.

Strategic program 3.4: IMPROVE INTERVIEW PROCEDURE

Program Background: Exchange of experiences with other countries from the region in regards to appointment procedure has been of great significance for the HJPC. Therefore, certain practices of those countries will be considered for potential introduction in the practice of BiH. This mainly relates to improving the interview procedure, which can largely contribute to more objective evaluation of candidates.

Deadline: December 2013

Program outcome: Improved independence, quality, and transparency of appointment procedure.

Strategic Objective 4

DEVELOP A BASE FOR FUTURE CANDIDATES FOR JUDICIAL AND PROSECUTORIAL OFFICE

Since the HJPC is responsible for appointments of judicial and prosecutorial office holders, it is also its responsibility to attract adequate candidates to join the judiciary. Therefore, it is necessary to take number of actions, such as the reform of the system for taking bar exams

as a way to build a respectable base of future candidates for judicial and prosecutorial functions, strengthening the cooperation with law universities in order to determine and/or regulate the internships in courts and prosecutors' offices etc.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- European Partnership Action Plan.
- Justice Sector Reform Strategy (strategic programs 1.3.4 and 1.3.5).

STRATEGIC PROGRAMS:

Strategic program 4.1: PARTICIPATE IN THE REFORM AND DEVELOPMENT OF THE SYSTEM FOR TAKING BAR EXAMS IN BIH

Program background: The Program has been carried over from the BiH Justice Sector Reform Strategy, Strategic Program 1.3.4: *“Reform and improve the system of taking bar exams in BiH”*. The HJPC shares responsibility for the reform and development of the system for taking bar exams with the BiH and entity ministries of justice.

The Appointment Policy Working Group of the HJPC has made recommendations pertaining to the harmonization and modernization of the systems in order to enable it to follow dynamic changes in national legislation, as well as those in national and international legal practice. To that effect, all aspects of the existing legislative and *de facto* situation with respect to passing of bar exams in BiH will be taken into account as the preparation and passing of bar exams is an inseparable part of the development of adequate human resources potential for the recruitment of future judicial office holders.

Deadline: December 2010¹⁴

Program outcome: Harmonized bar exam standards throughout BiH and improved quality in the judiciary.

14 Deadline established in JSRS is December 2009

Strategic program 4.2: DETERMINE THE LEGAL DUTY TO EMPLOY TRAINEES, TRAINEE-VOLUNTEERS AND JUDICIAL ASSOCIATES IN ALL COURTS AND PROSECUTOR'S OFFICES, IN PROPORTION TO THE SIZE OF THE COURT OR PROSECUTOR'S OFFICE.

Program background: The Program has been carried over from the BiH Justice Sector Reform Strategy (Strategic Program 1.3.5). It aims at attracting young legal professionals to work in the judiciary and benefiting from trainees, trainee-volunteers and judicial associates. The responsibility for implementation of the program is shared among the HJPC, BiH and entity ministries of justice, and the Judicial Commission of Brcko District.

Also, according to the European Partnership Action Plan, the HJPC is obliged to analyze a possibility for the more comprehensive engagement of judicial associates in courts of BiH and eventually initiate necessary changes of their status in second and third instance courts. This will require the promotion of amendments for the entity laws on courts in order to transfer the competencies for appointment and disciplinary liability of judicial associates in second and third instance courts to the HJPC.

A particular problem lies in the fact that prosecutors' offices do not have judicial associates who could perform less important tasks that are currently being performed by prosecutors, as is the case with judicial associates working in municipal courts. In view of that, the HJPC will conduct research and, pending its findings, initiate legal amendments required for the appointment of this category of judicial associates in all prosecutors' offices in BiH.

Deadline: December 2010

Program outcome: A base for future candidates for the judiciary will be established.

Strategic program 4.3: STRENGTHEN COOPERATION WITH LAW UNIVERSITIES THROUGH THE INTRODUCTION OF INTERNSHIPS FOR LAW STUDENTS IN THE COURTS AND PROSECUTOR'S OFFICES.

Program Background: Even though the HJPC has already initiated cooperation through the signing of the Memorandum of Understanding on Long Term Cooperation in the Field of Professional and Practical Development of Law Faculty Students with the Deans of five law faculties in BiH, it is very important to expand the cooperation to cover all law faculties in BiH as well as to systematically design it and thus establish a base for future candidates for positions in the judiciary.

Deadline: December 2013

Program outcome: A base for future candidates for the judiciary will be established.

Strategic Objective 5

IMPROVE DISCIPLINARY PROCEDURE

Based on the Law on the HJPC, the Council is responsible for conducting disciplinary proceedings against judicial position holders who do not adhere to professional and ethical standards and who contribute to the partiality of the judiciary.

Considering that the resources of the Office of the Disciplinary Counsel were, to a large extent, engaged in reviewing unfounded complaints, the HJPC has been dedicating its efforts towards better informing the public of the work of the Office of the Disciplinary

Counsel in order to try to reduce the number of unfounded complaints as well as to strengthen public confidence in the work of judicial position holders and achieve greater transparency of HJPC operations in this area. In the near future, the HJPC intends to advance disciplinary proceedings and to continue the development of practices that would primarily ensure a just and transparent system and secondly raise the discipline of judicial position holders as well as public confidence in the judiciary in general.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- European Partnership with Bosnia and Herzegovina (political criteria, judicial system, short term priority).
- European Partnership Action Plan.
- Justice Sector Reform Strategy (strategic programs 1.3.3).

STRATEGIC PROGRAMS:

Strategic program 5.1: ADVANCE DISCIPLINARY PROCEDURE THROUGH APPROPRIATE AMENDMENTS AND BY PASSING REGULATIONS COVERING THIS FIELD.

Program background: The Program includes the strategic program 1.3.3 from the BiH Justice Sector Reform Strategy: *“Improve provisions pertaining to disciplinary responsibility of the judges and prosecutors in the Law on HJPC BiH”*, and it is defined as a response to the need for improved practice pertaining to disciplinary liability of judges and prosecutors, which is still at its beginning in BiH, and the need to ensure a fair and transparent system.

The HJPC has established a working group tasked with drafting amendments to the Law on the HJPC, which will *inter alia* include the improvement of disciplinary procedure. In addition, the HJPC will intensively work on the adoption of a Book of Rules regulating disciplinary procedure, as well as on the amendments to the relevant section of the HJPC Rules of Procedure.

Deadline: December 2010¹⁵

Program outcome: A more efficient and more accountable judiciary. Simpler and more efficient conduct of formal disciplinary proceedings.

***Strategic program 5.2: ADVANCE TRAINING OF JUDICIAL POSITION
HOLDERS IN THE APPLICATION OF THE CODE OF ETHICS.***

Program background: In November 2005, the HJPC adopted the Code of Ethics for Judges and the Code of Ethics for Prosecutors. These documents represent a concise, yet comprehensive set of principles pertaining to a number of ethical issues that judges and prosecutors are faced with in their daily work. These codes of ethics have been printed and distributed along with the pertinent explanatory notes among all judges and prosecutors in BiH.

The HJPC will, in cooperation with the Judicial and Prosecutorial Training Centers and within the scope of its activities on education of judges and prosecutors, continually improve and implement the training programs for judges and prosecutors in the area of ethical and professional standards in such a way that each judicial office holder attends training at least once in two years.

Deadline: December 2013

Program outcome: Improved accountability in the judiciary.

***Strategic program 5.3: STRENGTHEN CAPACITIES OF
THE OFFICE OF DISCIPLINARY COUNCIL***

Program background: Since 2004, the ODC, with the support of the Council, has achieved tremendous progress in the organizational, personnel, and professional segment of its operations, as well as in building professional and ethical standards for judges and prosecutors. However, the ODC capacities, as a whole, have not yet reached an optimum level in order to meet the needs of the social and professional community. The work of ODC has been variously evaluated (ranging from positive to negative opinions). It is clear that the ODC is continuously facing a large number of complaints that are to be processed in a quality and timely manner. To become an efficient and operational body, executing its legal mandate in

¹⁵ While the BiH Justice Sector Reform Strategy has envisaged that amendments to the Law on the HJPC be adopted by the end of 2009, the deadline set in this Plan is also referring to the adoption of relevant by-laws.

full capacities, the ODC needs to be further strengthened. The ultimate goal is to reduce the number of unresolved complaints and focus on timely processing of valid and serious complaints by the ODC and the Council. This assumes a provision of a specialized training for ODC staff, redefinition of working processes and provision of adequate material and technical resources.

Deadline: December 2011

Program outcome: Improved efficiency of disciplinary proceedings.

***Strategic program 5.4: INTRODUCE CASE MANAGEMENT SOFTWARE IN ODC,
IN LINE WITH THE CMS IMPLEMENTED IN THE COURTS***

Program background: Case Management System (CMS) has been developed since 2006 and was rated as very successful upon its implementation. The CMS provides opportunities that greatly increase the efficiency of work organization and case processing. CMS introduction in the ODC is a rational step towards harmonizing the work of ODC with that of the work of courts and prosecutors' offices. This harmonization will contribute to easier utilization of the software by lawyers and other staff, reduce maintenance and improvement costs as far as ICT is concerned, and will provide for better data exchange between compatible systems of the ODC and courts/prosecutors' offices.

Besides the harmonization, CMS provides other opportunities that will improve the functioning of the ODC. This system will enable a new automated system of registering cases, assigning cases to disciplinary councils, keeping books of performed activities as well as maintaining books of upcoming tasks and activities. Introduction of the CMS will also provide a systematic mechanism for monitoring the work on each case and ensure work efficiency as per plans, without unnecessary delays or interruptions.

Deadline: December 2011

Program outcome: Improved efficiency of ODC operations and increased public trust in the disciplinary system of the BiH judiciary.

Strategic Objective 6

ADVANCE THE PROCESS FOR THE PREPARATION, LOBBYING, ADOPTION, AND EXECUTION OF ADEQUATE BUDGETS FOR JUDICIAL INSTITUTIONS IN BIH

The HJPC has a range of responsibilities that refer to drafting budgets for courts and prosecutors' offices. Even though it does not have ultimate competence to decide on budgets, the HJPC was given a relatively important role in the budgeting process prior to budget approval by the legislative powers. This role should help HJPC in establishing and maintaining a functional judiciary seeing as the judiciary can only be functional if

adequately financed. Financing should also be independent from the executive and legislative powers and cannot be dependent on political individuals who have an interest in the possible outcome of courts cases.

Therefore the matter of adequate funding of judicial institutions and strengthening the role of the HJPC in the budgeting process is of key importance for the adequate funding of the judicial system.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- European Partnership with Bosnia and Herzegovina (political criteria, judicial system, mid term priority).
- European Partnership Action Plan.
- State War Crime Strategy.
- Justice Sector Reform Strategy (strategic programs 1.1.1, 1.1.2, 1.1.3, 1.2.4 and 3.3.1).

STRATEGIC PROGRAMS:

Strategic program 6.1: DRAFT AND IMPLEMENT FORMAL MECHANISMS FOR THE PREPARATION, ADOPTION, AND EXECUTION OF THE BUDGETS FOR JUDICIAL INSTITUTIONS IN BIH WHICH ENSURE THE INDEPENDENCE OF THE JUDICIARY

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Program background: The Program has been carried over from the BiH Justice Sector Reform Strategy (strategic program 1.1.1); The responsibility for its implementation lies with the HJPC, BiH, Entity and Cantonal Ministries of Justice, as well as with the Brcko District Judicial Commission.

With regard to the budget of courts and prosecutors' offices, the HJPC, *inter alia*, „advocates for the continuous and adequate financing of courts and prosecutors' offices“ and „participates, based on its own assessment, in the process of preparing annual budgets for courts and prosecutors' offices“.

The current process of preparing and executing judicial budgets could potentially be vulnerable to undue political pressure, and as such, the role of the HJPC as an intermediary between the judiciary and the executive authorities in the budgeting process needs to be strengthened

(strategic program 1.1.2 of the JSRS: “*Strengthen capacities of the Justice Ministries and HJPC in preparation and execution of their budgets, in accordance with competencies as defined by law*”). To achieve greater independence of courts and prosecutors' offices from the legislative and executive authorities, the HJPC will initiate, in cooperation with the justice ministries at all levels and the Brcko District Judicial Commission, a legal analysis of current laws governing the budgets of courts and prosecutors' offices. It will also propose relevant legal solutions to harmonize laws and strengthen the HJPC role in each stage of the budgetary process. Furthermore, the introduction of the program budgeting concept, as a part of budget projection, decision-making and budget execution processes, will be in focus in all judicial institutions.

Deadline: December 2013.

Program outcome: Efficient system for preparing budgets of judicial institutions.

Strategic program 6.2: DRAFT A STUDY OF REAL FINANCIAL NEEDS FOR JUDICIAL INSTITUTIONS IN BIH TAKING INTO ACCOUNT THE PRIORITIES OF THE JUDICIARY.

Program background: The Program has been carried over from the BiH Justice Sector Reform Strategy (strategic program 1.1.3) and the responsibility for its implementation lies with the HJPC and BiH, Entity and Cantonal Justice Ministries, as well as with Brcko District Judicial Commission. Given that the current judicial budget plans and projections are frequently based on information that does not reflect the current reality, responsible institutions need to identify judicial strategic guidelines and priorities and accordingly produce the assessments of the realistic financial needs of the judiciary.

Deadline: December 2011.

Program outcome: Efficient system for the realistic budgetary projection of judicial institutions that is in line with the agreed strategic directions of action.

Strategic program 6.3: DRAFT A PROPOSAL FOR REQUIRED INVESTMENTS IN MATERIAL AND STAFFING CAPACITIES OF JUDICIAL (AND POLICE) BODIES IN ORDER TO EFFECT THE PROCESSING OF WAR CRIMES WITHIN 15 YEARS (7 YEARS FOR HIGHEST PRIORITY CASES).

Program background: The Program has been carried over from the BiH War Crimes Strategy; the responsibility for its implementation lies with the HJPC, relevant ministries, courts, prosecutor offices, and relevant police bodies.

Concerning the processing of war crimes cases in BiH, it is necessary to continuously and systematically invest in material and human capacities, taking into account that current capacities at all levels of the judiciary cannot significantly increase the case processing. Thus, the HJPC will, in cooperation with relevant ministries, courts and prosecutor offices and relevant police agencies, and on a basis of financial estimation and dynamics of completing war crime cases, recommend necessary investments in material and staffing capacities of judicial and police bodies to process war crime cases within 15 years (7 years for highest priority cases).

Deadline: June 2011¹⁶

Program outcome: Efficient system for preparing realistic budgets of judicial institutions that are in line with the agreed strategic directions of action.

***Strategic program 6.4: IMPROVE PHYSICAL CONDITIONS AND SPACE
MANAGEMENT OF COURTS AND PROSECUTOR'S OFFICES***
.....

Program background: The Program also includes a program from the Justice Sector Reform Strategy in BiH (strategic program 1.2.4: *“Develop and adopt a plan for funding the reconstruction of the courts from domestic, credit and donor resources, based on the architectural and technical plan of the HJPC”*) and the responsibility for its realization lies with the HJPC, BiH, Entity and Cantonal Ministries of Justice, and Judicial Commission of Brcko District. The program also addresses implementation of strategic objective 3 of the Care of Court Users Strategy¹⁷ *“Improve physical layout of courts so to provide all court users and employees with adequate safety, conformity and privacy”*.

The state of the courts and prosecutors' buildings and their adaptation to meet with the needs courts and prosecutors' offices have is of crucial importance for the efficiency of the judiciary. The majority of buildings are in a very bad state. Buildings were not planned to facilitate the performance of judicial functions, while the courts generally have one court room each, regardless of the number of judges or other court staff. Hearings should be held in courtrooms constructed for such a purpose and not in judges' offices. This is especially important when viewed from the aspect of processing war crimes and other serious crimes. Specificity of those cases requires major reconstruction of courtrooms as well as securing separate rooms for witness accommodation (the role of

16 Deadline established in State War Crime Strategy is June 2009.

17 „Ensure full implementation of the Care of Court Users Strategy in BiH” is strategic program 3.3.1 of the JSRS.



witnesses in processing crimes, who themselves are often victims of the crimes, is crucial to the outcome of proceedings held for such crimes) and the accommodation of support staff during testimony.

In the course of 2005, the HJPC assessed the current state of court buildings in the Federation of BiH and in Republika Srpska including the assessment of renovation costs for the buildings. The assessment included 55 of 62 first and second instance courts in total, whereas the estimated costs would amount up to 24 million KM. Some courts are not included in the assessment since they are in good condition or their renovation has previously been initiated by another project.

The assessment needs to be updated and an analysis should be prepared as to the condition of courts and prosecutorial buildings in BiH as well as of needed funds for their renovation. The HJPC will, together with the justice ministries at all levels and Brcko District JC, initiate the drafting of a common strategy for financing reconstruction projects for courts and prosecutors' offices.

Deadline: December 2013

Program outcome: Improved physical conditions for the operation of courts and prosecutors' offices.

Strategic Objective 7

ADVANCE TRAINING FOR JUDICIAL POSITION HOLDERS.

The issue of appropriate training for judicial position holders is one of two short-term priorities of the European Partnership for which the HJPC has direct competence. The basic principles guiding training are found in the Opinion of the Advisory Council of European Judges,¹⁸ according to which the right to training needs to be guaranteed for all judges. This Opinion also advises that the authority in charge of training curriculum quality control needs to be independent from

the executive and legislative powers (HJPC), while the authority that implements the training does not need to be the authority that appoints judges (Training Centers). The task the HJPC has, in cooperation with the Training Centers, is to continue with the current activities aimed at introducing new training curricula for judicial position holders and advancing existing ones, with everything being fully harmonized with the needs of the justice sector.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- European Partnership with Bosnia and Herzegovina (political criteria, judicial system, short term priority).
- State War Crime Strategy.
- Justice Sector Reform Strategy (strategic programs 1.2.6, 1.3.6, 3.1.1, 4.1.7).

STRATEGIC PROGRAMS:

Strategic program 7.1: ENSURE SUPPORT AND ASSISTANCE TO TRAINING CENTERS IN PLANNING, AS WELL AS IN DEVELOPMENT, IMPLEMENTATION AND IMPROVEMENT OF EDUCATIONAL PROGRAMS IN SPECIFIC AREAS.

Program background: The HJPC, in accordance with the Law, inter alia supervises training of judges and prosecutors and advises entity training centers and the Judicial Commission of Brcko District on the matters relating to adoption of educational programs. To that extent, the HJPC will provide support to Training Centers and Judicial Commission of Brcko District in implementing, improving, and upgrading their strategic plans (JSRS – strategic program 1.3.6: “*Implement the adopted medium-term strategic plans for training of the judges and prosecutors of JPTC FBiH, JPTC RS and BDJC and enhance these plans in order to satisfy current and future needs of judges and prosecutors*”). This especially relates to trainings and educational programs in the following areas:

18 Opinion of Consultative Council of European Judges (CCJE) no: 4, Strasburg, 27.11.2003.

- European law,
- implementation of SSA,
- war crimes and organized crime,
- management (JSRS - strategic program 1.2.6: *“Provide ongoing training in management for managerial staff in the institutions of the BiH judiciary”*),
- international legal aid and cooperation (JSRS-strategic program 3.1.1: *“Establish mechanisms that ensure targeted professional development programmes in international legal aid and cooperation for judges and prosecutors in BiH, as well as for civil servants in the bodies that have a role in providing international legal aid and cooperation”*),
- mediation (JSRS-strategic program 4.1.7: *“Conduct continuous training on the successful referral of cases to mediation, as part of the professional development for judges and induction training”*), training programs in CMS etc.

Deadline: December 2013.

Program outcome: Improved system of a continuous professional education for judges and prosecutors.

Strategic program 7.2: SPECIALIZATION OF JUDGES IN LARGER COURTS.

Program background: Courts that have introduced the specialization of judges in certain areas like commercial disputes, civil law, criminal law, labor disputes, damage compensation, family disputes etc., have obtained positive results in terms of better quality of rendered decisions and greater resolution-related efficiency.

Bearing in mind that the specialization for certain areas may be carried out exclusively in larger courts, the HJPC will determine the size of a court that enables specialization in areas in which personal interest is expressed or according to some other principles. This will be followed by the actual specialization that will be carried out in cooperation with the training centers in a form of educating the judges and court managers in all courts exceeding the determined court size.

Deadline: December 2010.

Program outcome: Improved efficiency and quality of court decisions.

Strategic program 7.3: CONTINUOUSLY IMPROVE COURT DECISIONS' DATABASE

Program background: The Government of the Kingdom of Spain has funded the establishment of the Judicial Documentation Center within the HJPC, which basic function is to establish and keep updated a database of major court decisions available to all judicial office holders in BiH. Use of this database will undoubtedly contribute positively in improving the education of judicial office holders and in facilitating a harmonized understanding and equal application of laws in BiH. Such a database is necessary for the functioning of the judiciary to be in accordance with European standards.

The court decisions' database needs to be continuously updated to develop better systems for searching relevant court practice and improving software solutions for maintenance and use of the database. The services of the Center will, in time, be expanded to include laws and comments relating to important laws and to enable access to the court decisions' database to the wider professional community.

Deadline: December 2013.

Program outcome: Better education of judicial office holders. More equal application of legislation in BiH.

Strategic program 7.4: SECURE ON-LINE ACCESS TO LEGISLATION

Program background: The HJPC is of the view that all courts and prosecutors' offices should have free on-line access to all regulations of BiH, RS, FBiH and Brcko District of BiH.

The HJPC has already started consulting Entity Justice Ministries and Official Gazettes to find the way how the access of courts and prosecutors' offices to the valid regulations could be enabled and how financial matters could be regulated. A free of charge access to the regulations of all courts and prosecutors' offices via the Internet would result in significant savings given that they are currently being subscribed to an enormous number of official gazettes. Time savings may be measured by estimating the time necessary for researching and studying legal regulations contained in the Book of Rules on Time Measurements in Courts, which is currently being drafted. Savings for the annual official gazette's subscriptions are immeasurable, whereas the activity of providing funds for making a unique software application by the HJPC would be compensated by the long-term free-of-charge users' codes for courts and prosecutors' offices.

Deadline: December 2013.

Program outcome: Better access to the laws, court practice and other legal information for the improved quality in the judiciary.



Strategic program 7.5: INTRODUCE ON-LINE TRAINING

Program Background: Realization of the program is initiated through the IPA 2010 Project Proposal and covers the development and implementation of information technology solutions for distance learning (on-line training), in cooperation with the judicial and prosecutorial training centers. The solutions will be utilized by judicial office holders and by other employees in judicial institutions and will serve for training and professional advancement in all fields of law, information-communication technology, etc.

Deadline: December 2013

Program Outcome: More efficient and cost effective training for judicial office holders.

Strategic objective 8:

IMPROVE THE RELATIONSHIP OF JUDICIAL INSTITUTIONS WITH PARTNERS AND THE PUBLIC

Generally speaking, to establish a relationship with partners and the public is not a simple task at all. One of the conditions for accession of BiH to the European Union is a successful judicial sector. However, a successful judicial

sector may not be truly successful if the perception of the public is different and if strong connections are not established with partners on which the success of the entire judicial reform depends.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- Justice Sector Reform Strategy in BiH (strategic programs 3.3.1, 3.3.2, 3.3.3, 5.1.1, 5.1.2, 5.2.1, 5.2.2, 5.3.1).

STRATEGIC PROGRAMS:

Strategic program 8.1: ESTABLISH AN EFFICIENT COORDINATION SYSTEM AMONG THE KEY JUSTICE SECTOR INSTITUTIONS, DONORS AND EXECUTIVE AND LEGISLATIVE AUTHORITIES

Program background: The program also includes strategic programs 5.1.1: „Organize and hold conferences of ministers with the attendance of the BH HJPC and the BDJC Presidents“, 5.1.2: „Enhance the coordination role of the BH Justice Ministry“, 5.2.1: „Establish institutional capacities for strategic planning and policy development“, 5.2.2: „Develop and maintain a system for collecting, analysing and exchanging of relevant information among key institutions in the Justice Sector“ and 5.3.1: „Establish and maintain coordination mechanisms of the Justice Sector institutions aimed at achieving effective coordination with donors“, of the Justice Sector Reform Strategy in BiH.

The success of the Justice Sector reforms fully depends on the extent and quality of the cooperation among the judicial institutions and the cooperation of judicial institutions with the executive and legislative authorities and donors, especially from the point of view of the provision of appropriate support.

Deadline: December 2013.

Program outcome: Improved communication and cooperation among the Justice Sector institutions. Unified approach to the Justice Sector reforms.

Strategic program 8.2: GAIN AND MAINTAIN CONFIDENCE OF THE CITIZENS IN JUDICIAL INSTITUTIONS

Program background: The program also includes strategic programs 3.3.1: „Ensure the implementation of the Strategy for Care of Court Users in BiH“, 3.3.2: „Increase the information access level to the organization of operations of courts and prosecutors' offices in BiH to the wider public“ and 3.3.3: „Check modalities for a proactive engagement of the NGO Sector in BiH in monitoring BiH Justice Sector performance“ of the Justice Sector Reform Strategy in BiH.

The official complaints of citizens against courts are growing in number. There are essential differences among the public and judicial representatives in understanding various judicial processes. Therefore, the program focuses on the setting and implementing of standards for professional relationships with citizens, advanced access to justice through transparent courts and informing citizens and other measures taken to increase confidence and trust in BH courts.

Further, civil society organizations are currently inactive in the Justice Sector, which affects the successful resolution of many issues of importance for the Justice Sector and especially for the development process of policy-making and legislation drafting. Thus, it is important to ensure the proactive participation and engagement of all elements of society.

Deadline: December 2013.

Program outcome: Greater confidence of citizens in the operation of judicial institutions.

Strategic objective 9:

FURTHER ENHANCE COORDINATION AND AID EFFECTIVENESS IN THE JUSTICE SECTOR

The International community has invested significant funds in projects representing support to BiH in the implementation of justice sector reform, which is one of the key requirements that BiH has to fulfil in the accession process to the European Union. In line with this, the HJPC, in accordance with its competences to initiate, oversee, and coordinate projects aimed at enhancing issues regarding the management of courts and prosecutors' offices¹⁹, has had the lead role in the realisation of projects in the judiciary. Projects that have been implemented thus far or those which are underway have resulted in the informatization of the judicial system, a transfer towards the informatization of the prosecution, the advancement of the professional capacities of judges and prosecutors, the renovation of court buildings, and the creation of better working conditions in judicial institutions, more efficient internal procedures, as well as the advancement of access to justice for all citizen in BiH.

Even with these positive experiences that the HJPC has had in coordinating donor assistance, the BiH Justice Sector Reform Strategy has identified the lack of a coordinated approach by BiH institutions and coordinated dialogue with the donor community as the biggest general weakness regarding the use of donor funds in the BiH justice sector. The identified weaknesses highlight the need to invest additional effort in coordinating donor assistance in the justice sector on all levels in BiH. Such an approach will ensure the utilisation of donor assistance throughout the whole of the justice sector in accordance with priorities determined with the strategies relevant for the justice sector. The HJPC will contribute to the achievement of this comprehensive strategic objective in the justice sector through its participation in common coordination mechanisms for donor assistance, as well as through continued activity in the field of coordination and the implementation of projects in the judiciary.

REFERENCE TO OTHER STRATEGIC DOCUMENTS:

- Justice Sector Reform Strategy in BiH (strategic programs from the Action Plan of the Report on monitoring and evaluating aid effectiveness in the BH justice sector.

STRATEGIC PROGRAMS:

Strategic program 9.1: ENSURE A CONTINUED HIGH LEVEL OF INVESTMENTS BY INTERNATIONAL DONORS IN THE BIH JUDICIARY

Program background: There is a tendency to presume that the judiciary in BiH has been “over-prioritized” by donors over the last years. While significant progress has been made in the judiciary thanks to international assistance, huge further efforts are needed to bring the BiH judiciary up

¹⁹ Law on HJPCBiH, Article 17, paragraph (21).

Report on Monitoring and the Evaluation of the Efficiency of Assistance in the BiH Justice Sector with the Action Plan for the Implementation of the Report adopted at the First Conference of BiH Ministers of Justice, the President of the HJPCBiH and the President of the Judicial Commission of the Brcko District, held on 17.12.2008.

to basic European standards and up to a level necessary for EU accession. Building a strong judiciary in Bosnia and Herzegovina is not only a matter of institution building; it is a matter of nation building. Only by establishing a strong, independent, and efficient judiciary can the citizens realize their human rights that any country aspiring to the EU family must provide. To make this possible, the judiciary in BiH will need strong support from the international community for many years to come. Due to the enormous number of backlog cases – many which originates from the war and the consequences of war – it will be necessary to have a higher than normal number of judges and prosecutors in BiH over the next 20 years. This will require significant funds from local budgets for salaries and operational expenses. As the total funds are limited, international donors should focus on investments in equipment, reconstruction of buildings, and capacity building of judges and prosecutors through training and other means. Therefore, the HJPC will continue to insist on a partnership with the international community for a gradual and determined improvement of the BiH judiciary.

Deadline: Ongoing

Program outcome: Ensured a continuous inflow of funds for BiH judicial reform.

***Strategic program 9.2: PROMOTE JUSTICE SECTOR COORDINATION AND
HARMONIZATION OF DONOR FUNDS***

Program background: The chain of justice cannot function unless all of its components parts are upgraded and developed in a harmonized manner. For example, if prisons are not available it is of little use to have efficient courts convicting criminals to sentencing to non-existent prisons. Thus, while the HJPC is responsible for prioritization of donor funds within the judiciary (for example which courts should be renovated first), the Ministry of Justice of BiH should be the main body responsible for the sector wide prioritization of donor funds (for example ensuring that prisons are being upgraded in accordance with increased capacities in the judiciary). The HJPC will continue to participate and actively promote sector wide coordination of donor funds through participation in suitable mechanisms that are established for this purpose; e.g. the mechanisms related to implementation of the National Justice Sector Strategy and the War Crime Strategy.

Deadline: Ongoing

Program outcome: Harmonized development of the entire justice sector in BiH

Strategic program 9.3: SECURE EFFICIENT AND EFFECTIVE USE OF DONOR FUNDS ALLOCATED TO THE JUDICIARY

Program background: According to Article 17(21) of the HJPC Law, the HJPC is responsible for *“Initiating, overseeing and coordinating projects related to improving all aspects of the administration of courts and prosecutors’ offices, including seeking national and international funding therefore”* and in accordance with Article 15(9) of the HJPC Law: *“The Council may receive donations from international donors to its operational budget and for special judicial reform projects outside the operational budget of the Council. Such funds shall be transferred to a special purpose account with the Central Bank of Bosnia and Herzegovina. The funds shall be spent upon the order of the Director of the Secretariat in accordance with regulations for execution of donor funds issued by the Council and in accordance with the conditions of the grant agreement with the donor.”*

Donor funds prioritized for the judiciary must be utilized efficiently, transparently and in accordance with the priorities in the National Justice Sector Strategy, the War Crime Strategy and the HJPC Strategy. Through its communication with international donors the HJPC will – as far as possible – ensure that donor funds are not used outside these priorities. The HJPC will also ensure that an appropriate and transparent prioritization is made between the various needs mentioned in the strategies so that a balanced development of capacities may be implemented across all jurisdictions and in particular between courts and prosecutors’ offices. The HJPC will also continue to develop its strategic capacity to formulate judicial policy and to design programs and action that can contribute to achieving agreed goals and international standards. In this respect, the HJPC will continue to engage in a particular close dialogue with the ministries of justice and the ministries of finance at all levels.

Deadline: ongoing

Program background: Efficient and effective utilization of international aid in the justice sector.

Strategic program 9.4: ENHANCE RESPONSIBILITY AND ENSURE RESULT-ORIENTED UTILIZATION OF AID

Program background: Activities envisaged by the programs are focused on maintaining a system for collecting, analysing, and exchanging relevant information among key institutions and the donor community in the BiH Justice Sector. The program will also develop the managing and reporting



systems in accordance with the result-oriented principle as well as enhance the mechanisms of mutual responsibility in using donors aid in the BiH justice sector.

Deadline: ongoing

Program background: Utilization of donors aid in accordance with the result-oriented principles, responsibility, and transparency.

Chapter 5

IMPLEMENTATION PLAN FOLLOW-UP

The institution's course of action has been set for the aforesaid period by this Strategic Plan and the identified strategic programs will be elaborated in greater detail by the Implementation Plan and Annual Action Plans developed by all organizational units in the institution. The Implementation Plan will also encompass, in addition to particular activities, responsibilities, and deadlines, the financial assessment of the implementation of assigned tasks. As regards the preparation of annual action plans, it is necessary to insure that activities specified by the Action Plans for the implementation of the Justice Sector Development Strategy in BiH, that is the responsibility of the HJPC, be included regardless of the fact that they have not been envisaged by this Strategic Plan as follows:

1. “Develop an analysis as to the immediate application of detention alternative measures by all jurisdictions”;
2. “Identify measures and conditions for a greater use of alternative measures in cases allowed by the current legal framework”;
3. “Develop an analysis of other detention alternative measures”;
4. “Ensure a complete and consistent application of Article 13 of the Law on Court of BiH in criminal matters”;
5. “Initiate the development and adoption of the Law on International Legal Aid and Cooperation in civil matters”;
6. “Adopt laws on court fees at cantonal level”;
7. “Organize a coordination meeting with all relevant institutions and donors in order to provide final agreement regarding the role of the SKOZA”.

The achieving of reform objectives, identified by the Strategic Plan, requires regular progress follow-up in the course of their implementation. This task is assigned to the Planning and Policy Department of the HJPC Secretariat. The Department will analyze certain stages in the implementation of objectives and prepare monthly reports for the Secretariat management, that is, quarterly reports for the Council as specified in the HJPC Rules of Procedure.

The Strategic Plan needs to be regularly revised in the course of its implementation. It is an integral part of the institution's strategic management process and is also

closely related to the annual action plans of the institution as well as with its budget requests. Therefore, it is necessary to ensure that the institutional strategic objectives are harmonized with the constantly changing environment. Objectives and programs should be revised once a year through a formal review process of the Strategic Plan, at the time when annual action plans are made and budgets are projected in order for them to remain relevant. Therefore, the overall process of strategic, operational and budgetary planning as well as the process of follow-up and evaluation should comply with the following timeline:

Activity	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
A. Preparation of plans and budget												
Compiling data on the Strategic Plan implementation for the previous year.	■											
Drafting and reviewing of the Report on Strategic Plan implementation for the previous year.		■										
Based on the implementation review, carry out necessary modifications for a three-year period and establish key priorities for the next year.			■									
Issue instructions on the development of action plans for the next year.				■								
Drafting and delivering of the annual action plans together with the evaluation of funds required for their implementation.				■	■							
Submission of the framework budget document to the Ministry of Finance and Treasury.						■	■					
MFT forwards the Instruction to the budget users with initial budget limitations for the next year.							■					
The Administration and Finance Department considers action plans in light of initial limitations and, upon the consultation with the management, prepares a budget request.							■					
Adoption of the budget request at the Council session.							■					
Submission of the final and harmonized budget request to the MFT.								■				
Discussions regarding the budget with the MFT.									■			
B. Implementation of institution plans and budget execution												
Feedback as to the adopted budget for the current year ; communicate the information to the Heads of Departments.	■											
Review of action plans in light of adopted budget		■										
Development of monthly implementation plans and corresponding budget execution plans			■									
Delivery and approval of monthly implementation plans			■									
C. Follow-up and evaluation												
Follow-up of monthly implementation plans and monthly financial plans		■	■	■	■	■	■	■	■	■	■	■
Follow-up as to the realization of strategic objectives by effectiveness indicators in the SP			■			■			■			■

