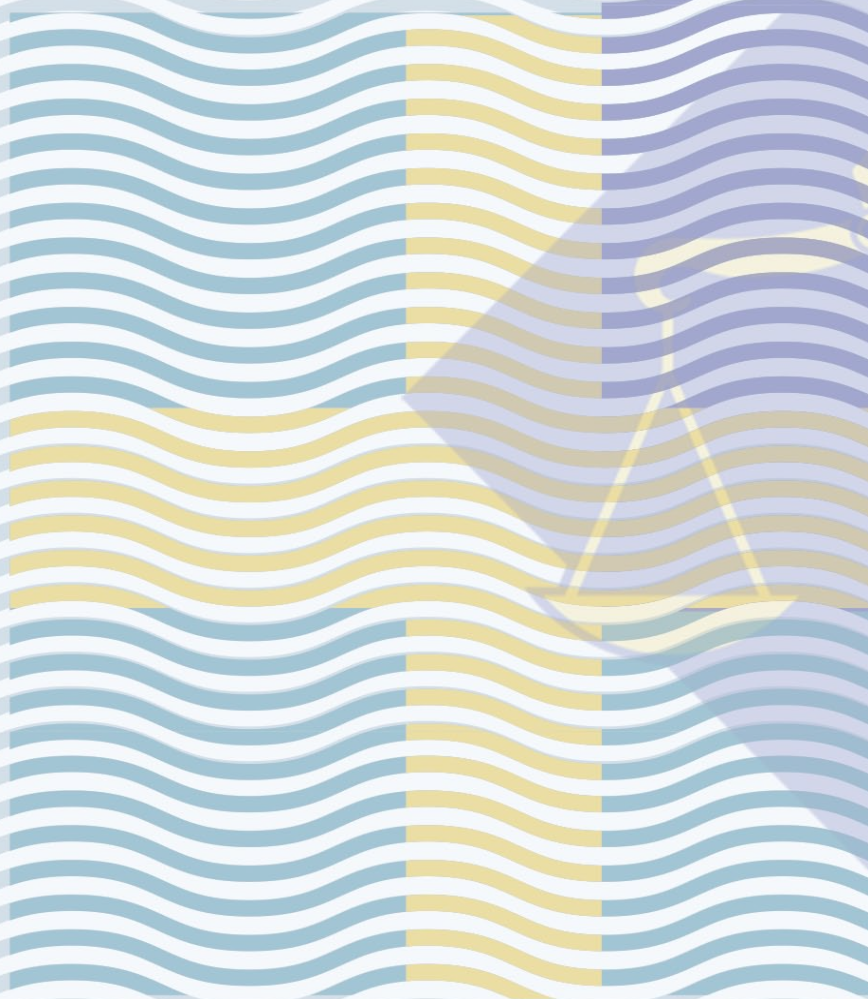


MY GUIDE TO CRIMINAL PROCESS



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If you are a witness between 12 and 18 years old, then this is for you!

It will clarify how criminal proceedings at the courts work and introduce you to the main participants of the process as well as the people who are there to help and support you throughout the process.

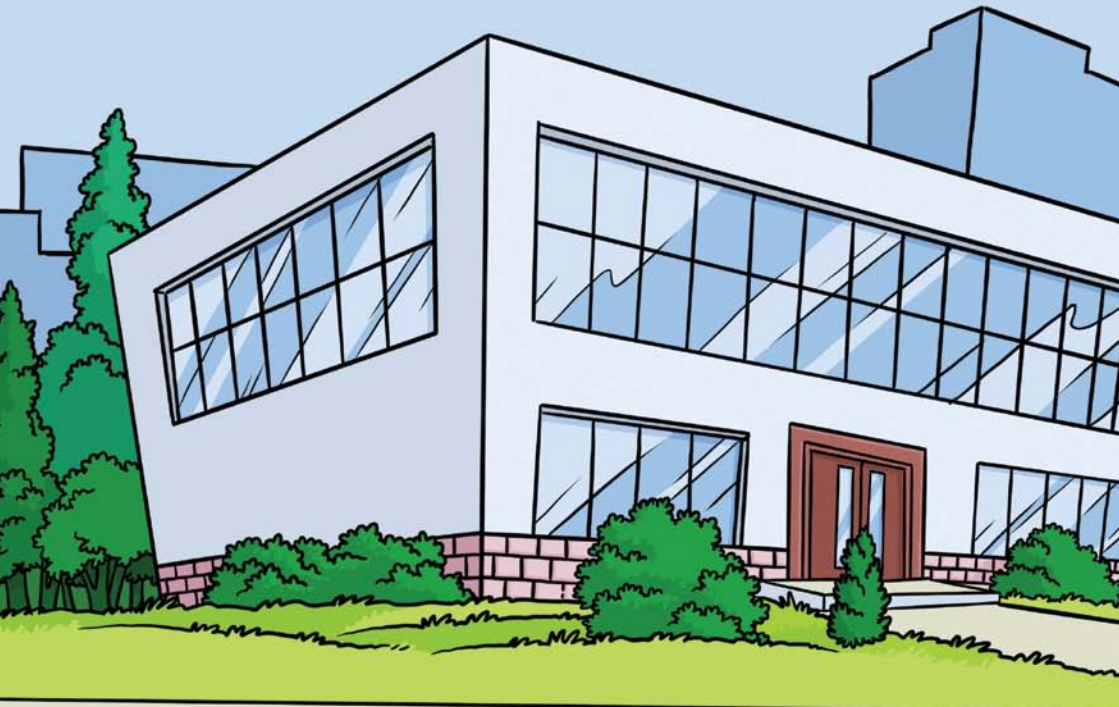


Criminal proceedings at the court are held against the defendant because they allegedly either injured or brought you or someone else into danger, and by doing so committed a criminal offence.

You are called to court to tell the judge what happened and who hurt or brought you or someone else into danger. This is called giving testimony and you are a witness and you have the duty to speak the truth on what you heard, saw and encountered.

If the defendant has injured you or brought you into danger, then you are an injured party, though you are also a witness since you will be telling the judge what happened and who injured you.

If the defendant neither injured you nor brought you into danger but did injure or endanger someone else, then you are only a witness and will tell the judge only what you know about the defendant and what happened.



You can show this to your parents or your guardians or any other person you trust so that they can give you the best possible help and support.

If you want to, then your parents or your guardians or any other person you trust can come with you to court and be with you for as long as and whenever you want.

Throughout the proceedings you will meet a professional advisor, a prosecutor and a judge and you have the right to ask them anything that you don't understand.



Parents & guardians:

Summoning minors under the age of 16, as witnesses, can only be done through the parents or a legal representative, unless this is not possible due to reasons of urgency or various other circumstances.





I am a professional advisor

and I am here to help you and support you throughout the criminal proceedings.

I will be with you from the beginning to the end of your testimony and will explain how proceedings at the court go, what your role is and the roles of other participants in the trial. At the same time, it is also my duty to inform the judge of any requirements for your testimony.

You can ask me anything you want.

All of us who are involved in the trial have to take your best interests into consideration, to help maintain your dignity, to respect your right to life, existence and development and to adapt to you so that you can best understand us.

You have the right to express your opinion on anything you think is important and you have the right to have your parents or guardians with you or close to you during the trial and during your testimony.

Remember, all children have equal rights and no one is allowed to treat you differently because of your gender, language, faith, ethnicity or any other reason, and you can tell me if you think that someone is acting that way.

If you don't understand the language that is spoken at the trial, you can ask for an interpreter who will help you to understand anything that is unclear. If you do not understand what others involved in the trial are saying because they use unfamiliar words, then please tell us and we will explain everything to you.

If you have a speech or hearing disability, don't be afraid because we will talk to you in the way that suits you.

You should know that you are also entitled to special assistance, protection and support if you do not have parents or a home, if you are a member of an ethnic minority or if for any other reason your life is more difficult than other children.

Now, let's see who else is involved in the trial!

This is the prosecutor

His task is to collect evidence during an investigation so that the person who committed the crime against you or someone else can be charged, so that the court can punish that person for their crime. The prosecutor understands children's rights and also possesses various skills and knowledge which is exactly why this very prosecutor participates in proceedings that involve children.

You have probably met him during the investigation when you were questioned for the first time.





The next time you testify will also be your last because they are not allowed to question you more than twice. You will be with me in a separate room, while the prosecutor, the judge, the defendant and their defence counsel will be in the courtroom. Only the judge will be asking you questions and we can see her on the screen just below us.

There will be no other person there, except for myself and the judge. The judge will ask you questions, and if you don't understand a question, I will be there to help and explain things so that you can understand the question and answer it.

The judge can also decide that I ask the questions if they think it is better for you.

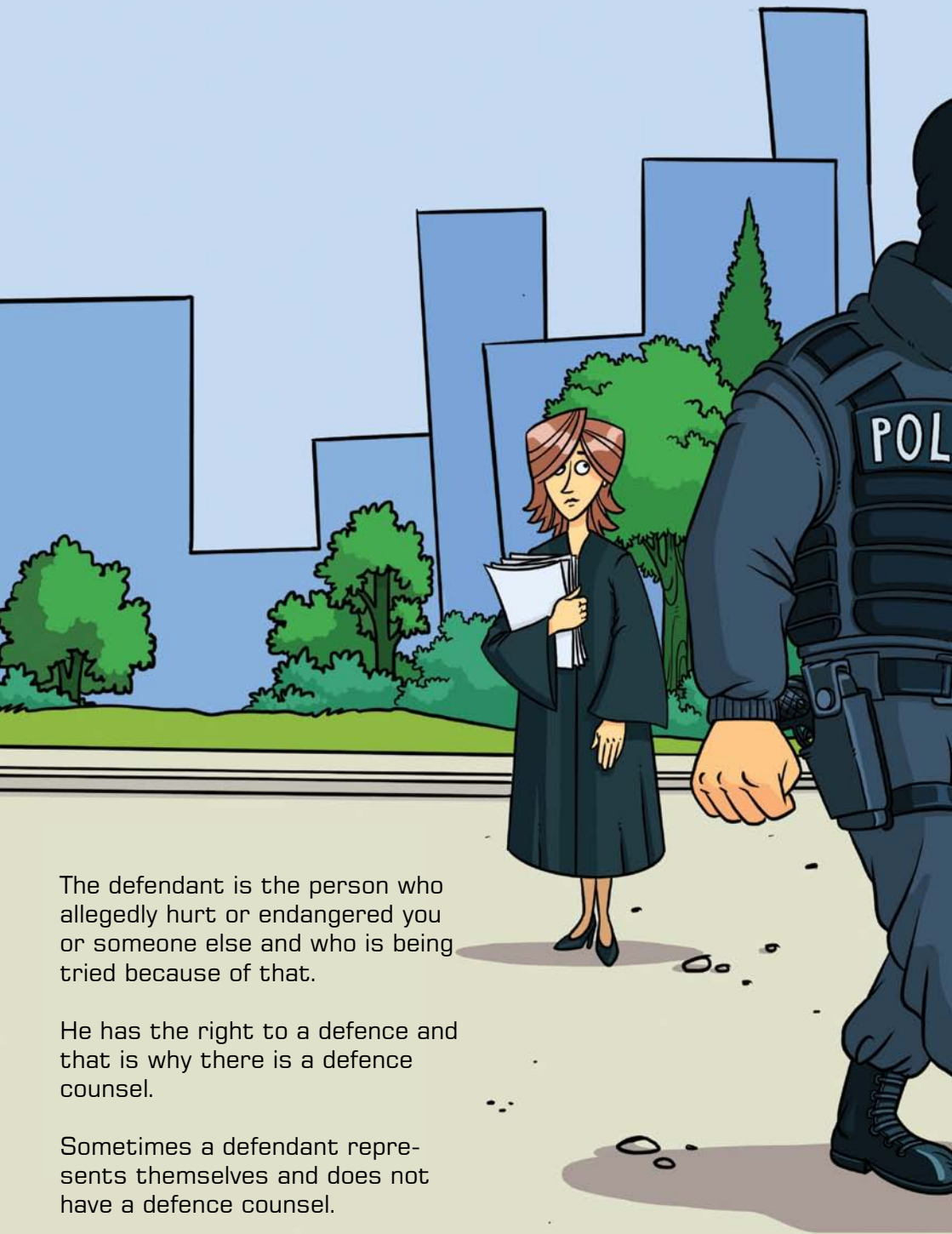






If the court does not have a separate room for you to be in, you can testify in the courtroom where the judge, the prosecutor and the defence counsel of the defendant are – but not the defendant because the judge will remove him from the courtroom before we enter.



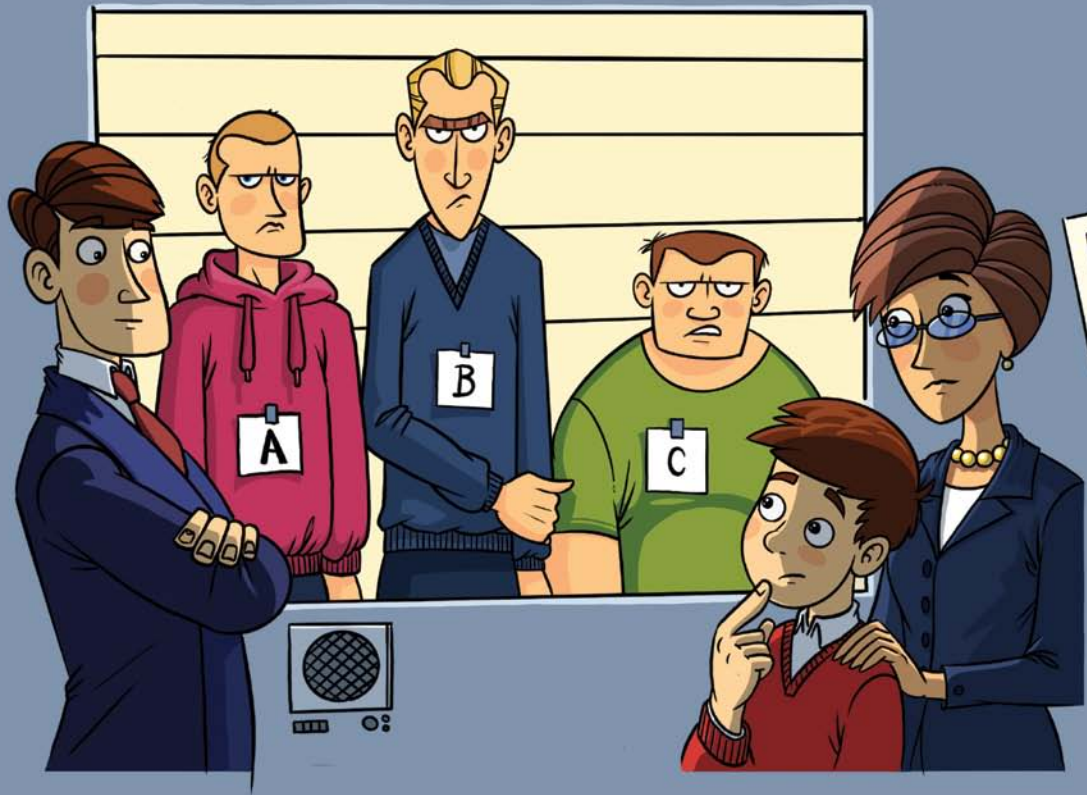


The defendant is the person who allegedly hurt or endangered you or someone else and who is being tried because of that.

He has the right to a defence and that is why there is a defence counsel.

Sometimes a defendant represents themselves and does not have a defence counsel.





It is quite possible that the judge decides you do not have to testify a second time. If that happens, a recording of your first testimony as carried out by the prosecutor will be used or a transcript of your testimony will be read out and we will not have to move to a separate room or the courtroom.

I want you to know that no one is going to force you to face the defendant because we all know that you suffered a difficult experience and that you are feeling very vulnerable.



It is possible though, that you may be asked by the judge to try to recognise the defendant, that is, to point out the person who either hurt or endangered you or someone else.

You do not have to worry because the defendant cannot see you during this process.

If you happen to see the defendant in the hallway or in front of the court building, do not worry because he is not allowed to approach you or talk to you.

Parents & guardians:

Criminal proceedings for crimes against children and minors are urgent by definition.

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ZAŠTITI DJECE
I MALOLJETNIKA

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KONVENCIJA
O PRAVIMA
DJETETA

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And here comes the judge!!

She is in charge of the trial and decides on whether the defendant is guilty or not. Just like the prosecutor, the judge also understands children's rights and possesses various skills and knowledge which is why she is in charge of the proceedings.

The judge will make sure that the trial is as short as possible and that no one threatens your rights.

To protect you even more, the judge may decide to remove people who are not involved in the criminal proceedings so that they can't hear what goes on during the trial. Everyone else who remains at the trial must keep secret everything they hear and find out during the trial and can be punished if they disclose any secret.

The judge must follow your testimony.

You can be completely open with her and say what happened to you and what you saw or heard. She must make sure that you testify in a completely safe environment and that your testimony does not cause you further injury, pain or discomfort.

You should know that due to your age you are a special witness and that means you are entitled to special treatment and protection.



Parents & guardians:

Children and minors automatically have the status of vulnerable witnesses in criminal proceedings. Apart from that, the court may grant a child the status of a witness under threat. The court will do so when it finds that, because of the child's participation in the trial, their personal safety or the safety of their family is endangered due to threats, intimidation or similar actions linked to their testimony.

Furthermore, the court may decide to hear testimony from a child under special rules for protected witnesses. The court will do so if it finds that there is a clear danger to the personal safety of the witness or their family and that the danger is so serious that the court believes it will not diminish after the witness has testified and that the danger will in fact increase due to the testimony. In any event, the court will order special measures to protect such witnesses.

This can mean that the judge may hear you before the other witnesses so that you don't have to wait and she will make sure to notify a special institution called a guardianship authority (social welfare centre) who are also required to help you.

If the court decides that you are a protected witness, you won't have to come to the court anymore and your personal information will remain secret from everyone except the person keeping minutes and the judge who takes your testimony.

In any event, you will be told what type of protection you are entitled to receive.



Parents & guardians:

Based on the Law on the Protection of Witnesses under Threat and Vulnerable Witnesses as well as the laws on the protection of and conduct with children and minors in criminal proceedings, the prosecutor and the court will, prior to, during and upon the conclusion of criminal proceedings, notify the social welfare authority to facilitate any necessary assistance and psychological support to a witness as well as establish any other conditions, as required, for their recovery and unaffected return and integration into their community.

If you suffered any damages as the result of a crime, you are entitled to receive compensation.

The compensation can be pecuniary (if something of yours was taken, destroyed or damaged in the commission of a crime) and non-pecuniary (for pain and suffering because of the crime).

The judge will, of course, explain your rights and ask you, do you want compensation for damages.

This is how you declare a restitution claim.



Parents & guardians:

In accordance with the Criminal Procedure Code, an authorised person has the right to file a petition in such proceedings for a restitution claim due to the commission of a crime, under the condition that deliberation on the matter does not significantly prolong proceedings.

The claim can refer to compensation for damages, the recovery of property or the cancellation of a legal transaction.

A petition for a restitution claim in criminal proceedings is submitted with the prosecutor or the court up to the end of the trial.

The court may decide not to deliberate the restitution claim in criminal proceedings rather instruct the authorised person to submit and resolve their petition in civil proceedings before another court. At the same time, the petitioner may also waive their petition to pursue a restitution claim in criminal proceedings and petition the claim in civil proceedings.

The prosecutor is required to collect evidence for a restitution claim in connection with a crime that has been committed.





Things don't look as bad as you thought anymore, do they?

At the end of the trial, the judge will make a decision based on what you said, the evidence presented by the prosecutor and the evidence presented by the defendant. . If the judge finds the defendant is guilty of the crime, she will pronounce a punishment.

If the judge finds the defendant is not guilty, the prosecutor can file an appeal with the higher court if he believes there is enough evidence to support the appeal.



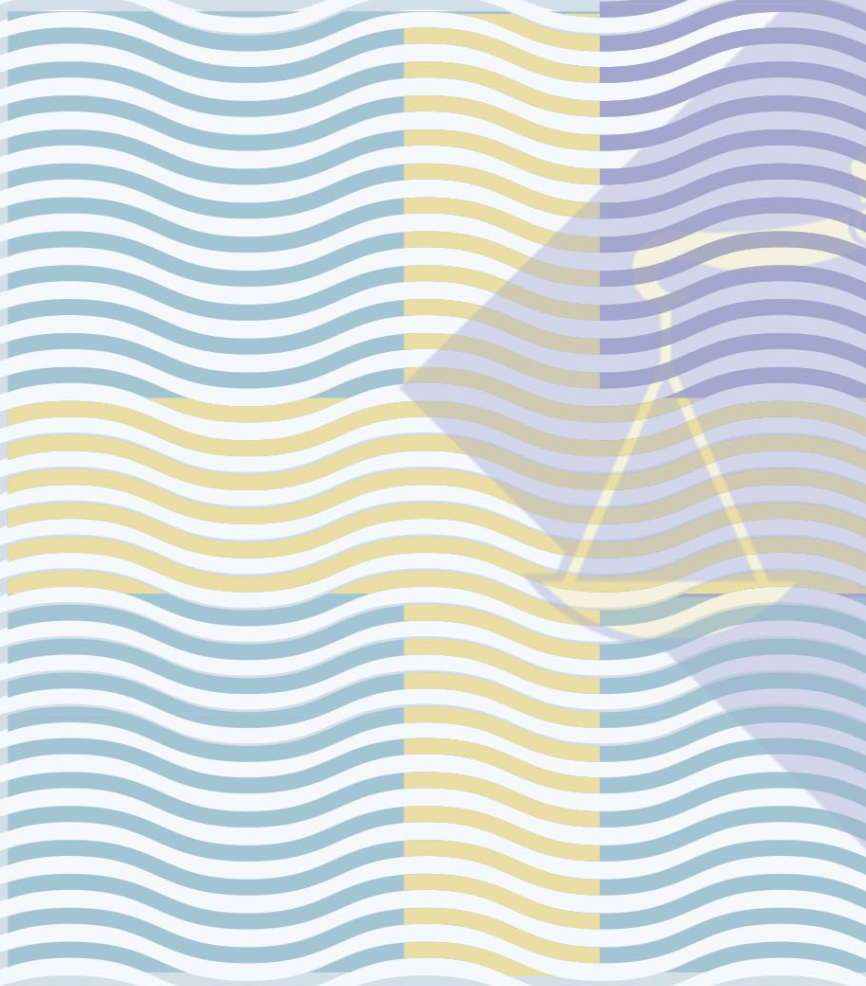


Parents & guardians:

The law also provides for something called “mediation”. This is a process that involves mediating, where a third party (a mediator) helps the injured party and the perpetrator of the crime by facilitating communication so that they can reach an agreement on how to reverse the damaging consequences that were created through the commission of the crime.



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Visoko sudsko i tužilačko vijeće Bosne i Hercegovine
Visoko sudbeno i tužilačko vijeće Bosne i Hercegovine
Високи судски и тужилачки савет Босне и Херцеговине
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The general objective of the Project is to improve the efficiency of the judiciary from the aspect of the courts by strengthening the rule of law, democracy, human rights, improving the position of vulnerable groups in contacts with the courts, strengthening gender equality among judicial office holders, providing organisational and material support to judicial institutions, fighting corruption, providing support for case management, training for judicial office holders, court staff and support staff as well as through the reform of enforcement procedures in the BiH judiciary.

The HJPC BiH implements activities within the framework of the Project with the aim of improving the position of vulnerable groups, including children and minors, in contacts with the judiciary, as a specific Project target.

The views and opinions expressed in this brochure are those of the HJPC BiH and do not necessarily reflect the official policy or position of the Government of Sweden.

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