|  |  |  |
| --- | --- | --- |
| Bosna i Hercegovina | data:image/png;base64, | Босна и Херцеговина |
| MINISTARSTVO PRAVDE | МИНИСТАРСТВО ПРАВДЕ |

**REPORT**

**ON IMPLEMENTATION OF THE JUSTICE SECTOR REFORM STRATEGY IN BOSNIA AND HERZEGOVINA AND THE ACTION PLAN FOR THE PERIOD 1 JANUARY – 31 DECEMBER 2020**

Sarajevo, December 2020

**TABLE OF CONTENTS**

[INTRODUCTION 3](#_Toc78532146)

[1 STRATEGIC AREA 1 - JUDICIARY 5](#_Toc78532147)

[1.1 Independence of judicial office holders and harmonisation of laws and case law in BiH 5](#_Toc78532148)

[1.2 Efficiency and effectiveness of judicial institutions in BiH 12](#_Toc78532149)

[1.3 Responsibility and professionalism of judicial office holders in BiH 32](#_Toc78532150)

[1.4 Openness in the work of judicial institutions in BiH 38](#_Toc78532151)

[2 STRATEGIC AREA 2 - EXECUTION OF CRIMINAL SANCTIONS 41](#_Toc78532152)

[2.1 Management of the BiH system for execution of criminal sanctions 41](#_Toc78532153)

[2.2 Improvement of alternative sanctions application in BiH 48](#_Toc78532154)

[2.3 Improvement of international standards application in BiH 53](#_Toc78532155)

[3 STRATEGIC AREA 3 - ACCESS TO JUSTICE 55](#_Toc78532156)

[3.1 International legal aid and cooperation 55](#_Toc78532157)

[3.2 Free legal aid in BiH 58](#_Toc78532158)

[3.3 Access to justice 60](#_Toc78532159)

[4 STRATEGIC AREA 4 – SUPPORT TO ECONOMIC GROWTH 63](#_Toc78532160)

[4.1 Land administration in the FBiH 63](#_Toc78532161)

[4.2 Commercial judicature in BiH 65](#_Toc78532162)

[5 STRATEGIC AREA 5 – WELL-MANAGED AND RESPONSIBLE SECTOR 68](#_Toc78532163)

[5.1 Coordination and EU integration 68](#_Toc78532164)

[5.2 Capacity building for analysis and policy making in BiH justice sector 72](#_Toc78532165)

[5.3 Donor coordination in BiH justice sector 76](#_Toc78532166)

[CONCLUSIONS 78](#_Toc78532167)

# INTRODUCTION

BiH Justice Sector Reform Strategy 2014-2018 (BiH JSRS) was adopted in 2015 by the Council of Ministers of Bosnia and Herzegovina (CoM BiH), Entity governments and the Judicial Commission of the Brčko District of Bosnia and Herzegovina (JC BD BiH), after which the Action Plan (BiH JSRS AP) was developed and adopted.

Procedure of adoption of the BiH JSRS AP was completed at 94th session of the CoM BiH, held on 15 March 2017, after the Entity governments and the JC BD BiH agreed on it.

At the second Ministerial Conference (MC), held on 6 June 2017, the Rules of Procedure of the Ministerial Conference and its working bodies (the Rules of Procedure) were adopted, establishing the instruments provided by the BiH JSRS for monitoring and evaluation of its implementation.

The following was established by the Rules of Procedure:

1. The MC, which provides coordinated monitoring of the most important reform activities that are of common interest for the justice sector and harmonised solution of those issues, exchange of experiences and better use of domestic and other potentials,
2. The Technical Secretariat (TS), which provides technical and professional assistance in the preparation and holding of the MC, meetings of the functional working groups (FWGs) and preparation of reports on monitoring and evaluation of the BiH JSRS AP implementation,
3. Five FWGs, by strategic areas from the BiH JSRS, which meet semi-annually to monitor and implement joint measures and initiatives, and to provide opinions and proposals for resolving the most important reform issues of the justice sector,
4. Quarterly progress reports, which monitor and evaluate the BiH JSRS AP implementation.

During 2018, in the process of consultations among the competent justice sector authorities and civil society organisations, a revised BiH JSRS AP was prepared for 2019 and 2020. The revised BiH JSRS AP was supported and adopted by the conclusion of the fourth MC, held on 10 July 2018, and sent to the procedure of approving by the authorities in BiH. The Entity authorities in BiH and the JC BD BiH supported this plan, after which it was submitted for providing relevant opinions, and later to the CoM BiH for adoption. At its 19th session held on 29 October 2020, the CoM BiH passed the Decision on the adoption of the revised Action Plan.

The report refers to the period from 1 January to 31 December 2020 and, in addition to the introduction, contains an overview of progress in the implementation of the BiH JSRS AP by strategic areas and sub-areas.

During the preparation of the report, the following documents were used: the minutes from the meetings of FWG, TS and MC[[1]](#footnote-1) from the previous years, report for the previous period and data submitted by justice sector institutions in BiH,[[2]](#footnote-2) international organisations and donors, which monitor implementation of the BiH JSRS AP etc.

Please note that the information provided by the justice sector institutions in BiH for the purpose of drafting this report is of poor quality and deviates from the recommendations provided in the Guidelines for monitoring the BiH JSRS implementation. In the reporting period, a state of emergency was declared throughout BiH due to the Covid-19 virus pandemic, which greatly affected the work and functioning of the mechanisms for monitoring and implementing the BiH JSRS and its Action Plan. For the same reason, the FWG meetings were cancelled, while one meeting of the BiH JSRS TS was held in April 2020.

Implementation of the activities from the BiH JSRS AP for the period 1 January - 31 December 2020, monitored by civil society organisations (CSO) signatories to the Memorandum on establishment of mechanisms for monitoring and evaluating the BiH JSRS implementation, was also limited due to the virus pandemic. Representatives of the association *Vaša prava* and other CSO presented the CSO report live, via video conference on 11 November 2020.

**For the sake of clarity, the terms in a single grammatical gender in this report refer to both men and women, without any discrimination.**

**BiH JSRS AP implementation status**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Strategic area** | **Number of planned strategic programmes** | **Number of planned activities** | **Activity status** | | | | | | | |
| **Completely implemented** | | **Partially implemented** | | **Postponed** | | **Not implemented** | |
| **Number** | **%** | **Number** | **%** | **Number** | **%** | **Number** | **%** |
| 1 | 23 | 45 | 27 | 60.0 | 15 | 33.3 | 0 | 0 | 3 | 6.7 |
| 2 | 14 | 41 | 17 | 41.5 | 13 | 31.7 | 8 | 19.5 | 3 | 7.3 |
| 3 | 11 | 21 | 12 | 57.1 | 8 | 38.1 | 0 | 0 | 1 | 4.8 |
| 4 | 6 | 13 | 4 | 30.8 | 5 | 38.5 | 4 | 30.8 | 0 | 0 |
| 5 | 9 | 27 | 4 | 14.8 | 10 | 37.0 | 11 | 40.7 | 2 | 7.4 |
| **TOTAL** | **63** | **147** | **64** | **43.5** | **51** | **34.7** | **23** | **15.6** | **9** | **6.2** |

# 1 STRATEGIC AREA 1 - JUDICIARY

In the strategic area 1 - Judiciary, based on the collected information, we can conclude that activities were carried out without significant delays in a certain part of strategic programmes. Please note that the exception are the priority activities of a normative character, which record delays in the implementation, as well as delays in implementation in relation to the set deadlines. This primarily refers to the activities of drafting the Law on Amendments to the Law on the High Judicial and Prosecutorial Council (HJPC) of BiH, the Law on Courts of BiH, the Law on the Prosecutor's Office of BiH and the Law on the Constitutional Court of BiH. Namely, back in 2019, in both rounds of meetings of FWG 1 and TS, the need for accelerated implementation of activities was underlined, given that these activities are of great importance for reforms in the sector, and that there are significant delays in the implementation. During 2020, although quite limited due to the Covid 19 virus pandemic, certain activities were undertaken and their final implementation is expected in the following period. Priorities for additional financing should support creation of preconditions for implementation of deadlock activities, which mostly relate to professionalism and accountability, and the judicial quality.

Due to the restrictions on physical meetings during the pandemic and technical constraints, FWG 1 meetings were not held in 2020. Members of FWG 1 were sent an electronic request for information on the implementation and evaluation of strategic programmes and activities under the competence of the institutions they represent.

Since the meeting of the TS, held on 6 December 2019, assessing the need to extend the deadline for these programmes and accompanying activities, which required an agreement on the principles of legislative drafting, some activities were initiated, but they were not completed.

In accordance with the submitted information of the competent institutions for all four quarters in 2020, a tabular report on implementation for the strategic area 1 Judiciary has been prepared. For the mentioned tabular report, in accordance with the methodology, and on the basis of submitted and available information, evaluation proposal of the implementation of this strategic area was made and accordingly out of a total of 23 strategic programmes and 45 strategic activities, 13 programmes were completed with 27 activities, seven strategic programmes were partially completed with 15 partially implemented activities. The three strategic programmes have been significantly delayed with the three associated activities and are therefore assessed as not being implemented, significantly breaking the deadlines.

## 1.1 Independence of judicial office holders and harmonisation of laws and case law in BiH

Strategic programmes concerning the judicial functions independence and harmonisation of laws and case law in BiH relate to:

1. consolidation of the HJPC functions,
2. reform of the appellate system of the Court of BiH in accordance with the European Convention on Human Rights and Fundamental Freedoms (Article 2 of the Protocol) and the opinion of the Venice Commission,
3. enactment of the Law on the Constitutional Court of BiH,
4. enactment of amendments to the Law on the Prosecutor's Office of BiH,
5. enactment of amendments to the BiH Criminal Procedure Code,
6. harmonisation of the Law on Salaries and Allowances of the Judicial Office Holders,
7. improving the system of financing judicial institutions in BiH and
8. holding of panels in the civil, criminal and administrative areas.

### 1.1.1 Consolidation of the HJPC functions[[3]](#footnote-3)

During the BiH JSRS implementation in the period from 2008 to 2012, the need was expressed to amend the Law on HJPC to consolidate the HJPC functions and to ensure balance between its independence and accountability, notwithstanding the HJPC unity and competence, as well as the role that the HJPC has in establishing and strengthening the rule of law in BiH, and to further improve the procedure of electing judicial office holders in BiH, including the right to appeal and judicial protection. Amendments to the Law on the HJPC need to further regulate issues related to other sub-areas of justice, such as issues raised in the peer review of the European Union (mission) in the HJPC, which provided a number of recommendations related to: a) prevention and suppression of conflicts of interest of judicial office holders in BiH and their disciplinary responsibility, b) work of the Office of the Disciplinary Counsel, including its powers, c) role of the disciplinary prosecutor, etc. which was previously underlined in the Opinion of the Venice Commission[[4]](#footnote-4).

On 6 November 2019, the Minister of Justice of BiH amended the decision of the Working Group for drafting the Law, according to which the existing working group was extended to representatives of the Court of BiH and the Prosecutor's Office of BiH, Entity supreme courts, FBiH and RS prosecutors’ offices, and relevant institutions of the Brčko District of BiH. The Working Group held the meeting, but did not reach an agreement on a solution, considering it necessary to reach a political agreement on the principles of legislative drafting, which was previously concluded from the recommendations of the Structured Dialogue.

In the first half of 2020, meetings of the Working Group for the preparation of the draft Law on HJPC BiH were held on 23 January 2020 and 19 February 2020, with the first subsequent meeting scheduled for 18 March 2020, but it was cancelled due to the declaration of a state of emergency caused by the pandemic.

The MoJ BiH started drafting amendments to the Law on HJPC BiH, which would specifically improve certain chapters of the Law that need to be finalised as soon as possible.

The draft Law on Amendments to the Law on HJPC BiH, prepared by the Ministry of Justice of BiH, was in the process of public consultations in the period from 3 to 18 September 2020. The draft Law on Amendments to the Law was submitted for opinions in accordance with the CoM BiH Rules of Procedure. Submission for adoption is expected in 2021.

### 1.1.2 Reform of the appellate system of the Court of BiH in accordance with the European Convention on Human Rights and Fundamental Freedoms (Article 2 of the Protocol) and the opinion of the Venice Commission

MoJ BiH has previously prepared a draft Law on Courts of BiH, establishing an independent Court of Appeal of BiH, separate from the first instance Court of BiH and it more precisely defines the criminal jurisdiction of the Court of BiH. The draft of this law seeks to ensure consistency of the provisions with the relevant provisions of the Law on HJPC BiH, especially those that determine the HJPC competence for the selection, appointment, dismissal and evaluation of judicial office holders in BiH. In July 2017, a TAIEX workshop on determining the criminal jurisdiction of the Court of BiH was held, followed by a ministerial meeting within the Structured Dialogue on Justice and Other Rule of Law Matters between the EU and BiH.

The approach proposed by experts from EU Member States was accepted by all participants as a basis for further discussion, while clarification of certain provisions will be the subject of further work on reform.

Particular emphasis is placed on the intention to reach an agreement on criminal jurisdiction pursuant to Article 83 of the Treaty on the Functioning of the EU, which includes, inter alia, serious crimes such as terrorism, organised crime and corruption.

Minister of Justice of BiH established a Working Group for the preparation of the draft Law on Courts of BiH, but the meeting planned for October 2020 was cancelled due to the impossibility of the presence of a larger number of members. In the meantime, the chairman of the Working Group submitted to the members a proposal of "General Provisions" for comments and suggestions as a starting point for further work.

### 1.1.3 Enactment of the Law on the Constitutional Court of BiH

BiH JSRS 2014-2018 envisaged that the activities of this strategic programme would be implemented by the end of the period of validity of the strategic framework, which due to political risk should have been resolved within the Structured Dialogue, which did not meet again because of which the programme and related activities were not implemented. The revised BiH JSRS AP for 2019 and 2020 included the extension of work on the programme and accompanying activities with the deadline of 2020. During consideration and adoption of the revised BiH JSRS AP, the JC BD BiH made a reservation on the programme and its implementation, although it had previously supported it at the MC. Approach to resolving this issue at the state level is also not harmonised, which is why the CoM BiH excluded it from the part of normative-legal activities during consideration of its Medium-Term Programme of Work (MTPW) 2020-2022, at its178th session, held on 12 November 2019. Drafting of the Law on the Constitutional Court of BiH was planned by the MoJ BiH Programme of Work for 2019 and 2020. During 2019 and 2020, no further activities were initiated on the implementation of this programme due to political risks.

### 1.1.4 Enactment of amendments to the Law on the Prosecutor's Office of BiH

Amendments to the Law on HJPC, as well as the Law on Courts of BiH, affect the outcome of the provisions of the Law on the Prosecutor's Office of BiH.

This programme and related activities were included in the MoJ BiH Programme of Work for 2019, and after its non-fulfilment, it was included in 2020 as well. Due to interconnectedness and serious delays in the preparation of the previous two laws, the strategic programme has not been launched.

### 1.1.5 Enactment of amendments to the BiH Criminal Procedure Code

The main intention of the amendments to the BiH Criminal Procedure Code was to harmonise legislation at all levels of government and precisely regulate the issue of reopening the criminal procedure according to the decisions of the European Court of Human Rights and the BiH Constitutional Court. On the other hand, it is necessary to observe the connection of pieces of legislation with the systemic laws on the courts of BiH and the Prosecutor's Office of BiH.

Please note that in 2017 the MoJ BiH appointed a working group and started drafting the Law on Amendments to the BiH Criminal Procedure Code to implement the decision of the BiH Constitutional Court, number U-5/16, related to special investigation actions.

The BiH Parliamentary Assembly discussed and adopted the mentioned law in 2018.[[5]](#footnote-5) In line with domestic and international commitments, primarily EU integration, monitoring and evaluation of progress on this issue was continued.

As a result of monitoring the implementation of legislation and initiatives from the international and domestic environment, on 19 September 2019, a new working group was established for the analysis and drafting of criminal legislation in BiH at the initiative of the Minister of Justice of BiH. Previously collected initiatives for amendments were discussed at several meetings and their justification was assessed.

So far, five meetings of the working group were held, while the last one was held in the first half of 2020, i.e. on 4 and 5 March. Because of the emergency caused by the virus pandemic since the middle of the third month, the process has stalled due to difficult conditions for holding the working group meetings.

The plan is that after drafting amendments to the CPC, the same working group continues with drafting of amendments to the CC BiH.

In the FBiH, the determined and harmonised amendments to the Criminal Procedure Code were sent to the adoption procedure. At its 168th session, held on 25 July 2019, the FBiH Government established the proposal of amendments to the law and submitted it to the parliamentary procedure.

In the RS, the proposal of amendments to the Criminal Procedure Code passed the adoption procedure and was published in 2017 in the Official Gazette.[[6]](#footnote-6) According to the international initiatives concerning the organised crime and terrorism in the RS, additional amendments to the law in 2018 were adopted and published in the Official Gazette.[[7]](#footnote-7) Based on the conclusion of the National Assembly,[[8]](#footnote-8) a new analysis of the implementation of legislation and the preliminary draft law was made at the end of 2019, which was sent to the adoption procedure in 2020. At its 59th session held on 21 February 2020, the RS Government adopted the draft Law on Amendments to the RS Criminal Procedure Code, which was sent for further procedure. At 10th regular session, held on 2 July 2020, the RS National Assembly passed a conclusion to submit the draft Law for public discussion.

In the Brčko District, the law was drafted and adopted at the beginning of 2019[[9]](#footnote-9), while in 2020,[[10]](#footnote-10) the amended law was drafted and adopted.

### 1.1.6 Harmonisation of the Law on Salaries and Allowances of the Judicial Office Holders

In 2019, the draft Law on Amendments to the Law on Salaries and Other Allowances in Judicial and Prosecutorial Institutions at the State Level was prepared. The HJPC assessed the necessary funds for the implementation of the proposed amendments to the law, and the opinion was submitted to the MoJ BiH. At its 3rd session, held on 30 January 2020, the CoM BiH established the proposal of the Law on Amendments to the Law on Salaries and Other Allowances in Judicial and Prosecutorial Institutions at the State Level, which was submitted to the PA BiH on 25 February 2020, with the proposal to be considered under the regular legislative procedure.[[11]](#footnote-11) At 12th session of the House of Representatives, held on 15 September 2020, and at 13th session of the House of Peoples, held on 24 November 2020, the PA BiH adopted the Law.[[12]](#footnote-12)

In the FBiH, the last amendments to this law were adopted in 2013.[[13]](#footnote-13) Following the implementation of the strategic programme, and at the proposal of members from the FBiH, it was assessed that due to the prescribed, but not adopted, regulation at the FBiH and cantonal level, judicial office holders differently apply the institute of compensation for overtime, non-working days, night work and work on public holidays, primarily prosecutors. The MC should have considered this issue and provide recommendations to the FBiH Government to consider and resolve the issue of Article 6c as soon as possible. - Compensation for overtime work, work on non-working days, night work and work on public holidays of the Law on Salaries and Other Allowances of Judges and Prosecutors in the FBiH[[14]](#footnote-14), but the MC was not held in 2020.

Salaries of judges and prosecutors in the RS are regulated by the Law on Salaries and Allowances of Judges and Prosecutors in the RS.[[15]](#footnote-15) At its 19th session, held on 10 May 2019, the RS Government adopted the proposal of the Law on Amendments to the Law on Salaries of Employees in the Judicial Institutions of the RS, under urgent procedure. The RS National Assembly adopted this law on 13 June 2019, under urgent procedure, at 5th regular session.

Adoption of the law harmonised the status and established equal position of police officers in the Ministry of Internal Affairs and authorised officers in the RS judicial institutions[[16]](#footnote-16). Acting in accordance with the requests for salary increase, the RS National Assembly, at its 8th session, held on 27 November 2019, adopted the law under urgent procedure, which was published in the official gazette.[[17]](#footnote-17)

In the Brčko District of BiH, the salaries of judges and prosecutors are regulated by the Law on Salaries and Other Allowances of Judges and Prosecutors in the BD BiH.[[18]](#footnote-18) The JC BD BiH drafted and approved the draft Law on Amendments to the Law on Salaries and Other Allowances of Judges and Prosecutors in the BD BiH, and referred it to the adoption procedure. In the continuation of 54th session, held on 30 October 2019, the BD BiH Assembly adopted this proposal of the law.[[19]](#footnote-19) At the same time, the JC BD BiH established the proposal of the Law on Salaries and Allowances of Employees in the Judiciary of the BD BiH (Administration) and its two amendments, which were adopted by the Assembly and published in the Official Gazette[[20]](#footnote-20). During the first half of 2020, the Law on Salaries and Other Allowances of Judges and Prosecutors was once again amended and adopted by the Assembly and published in the Official Gazette on 1 July 2020[[21]](#footnote-21), and later on for the employees[[22]](#footnote-22). The JC BD BiH regulated the issue of night work and work during holidays and weekends with the Rulebook on the right to a salary supplement for night work, work on Saturdays and Sundays and work during holidays in JC BD BiH[[23]](#footnote-23), for which corrections were made later on[[24]](#footnote-24). During 2020, the Law on Amendments to the Law on Salaries and Other Allowances of the Attorney General and Deputy Attorney General in the Office of the Attorney General of the BD BiH was adopted[[25]](#footnote-25).

In 2017, the Ministry of Justice and Administration (MJA) of the Sarajevo Canton prepared a preliminary draft Law on Salaries and Allowances in the Authorities of the Sarajevo Canton, which regulates salaries and allowances for civil servants and non-civil servants of the Municipal and Cantonal Court in Sarajevo. In accordance with the Sarajevo Canton MJA Programme of Work for 2019, the proposal of this Law was in the procedure and it was adopted[[26]](#footnote-26).

During the first six months of 2018, the salaries of administrative staff in the judicial institutions of Zenica-Doboj Canton (ZDC) were analysed and the Law on Salaries and Allowances in ZDC Authorities was adopted,[[27]](#footnote-27) as well as implementing acts arising from this Law, applying to the administrative staff employed in the ZDC judicial institutions.

During the second half of 2020, the Ministry of Justice of the Herzegovina Neretva Canton harmonised the rulebooks and decisions prescribing certain allowances of the judicial office holders not covered by the Law.

### 1.1.7 Improving the system of financing judicial institutions in BiH

The Law on HJPC prescribes the competence of the HJPC to adopt guidelines for the preparation of budget of judicial institutions in BiH, which was made in 2020.

According to the previous data from the HJPC, for several years now, there has been a tendency to increase budget allocations for financing the judicial institutions in BiH, which indicates further challenges in terms of implementing the programme.

Trainings in the area of budget preparation are part of the continuous training programme for judicial institution managers conducted by the JPTC. Most of the judicial institution managers attended at least one training in this area.

In the RS, the Ministry of Finance conducts trainings for heads and managers of accounting departments of judicial institutions regarding the budget and use of budget improvement programmes.

In the BD BiH, training in the area of programme budget is carried out, both for managers and employees of judicial institutions.

In the process of budget preparation, the HJPC carries out activities of involving representatives of the executive and legislative authorities in BiH.

At the state level, the budget for 2019 was adopted at the end of that year[[28]](#footnote-28), while the process of adopting the budget for 2020 was carried out at the beginning of the second half of 2020[[29]](#footnote-29).

During 2020, due to the state of emergency, the FBiH adopted the budget rebalance in April.

Sarajevo Canton adopted the budget for 2020 in March, and the rebalance at the beginning of May. The ZDC adopted the budget for 2020 in the regular procedure at the end of 2019, and its rebalance at the beginning of April. The CBC adopted the budget for 2020 in the regular procedure at the end of 2019, while due to the state of emergency it adopted the budget rebalance at the beginning June.

The RS adopted the budget for 2020 in the regular procedure at the end of 2019. Due to the state of emergency, the budget for 2020 was rebalanced at the end of May.

The Brčko District Government adopted the budget for 2020 at the end of March, and due to the state of emergency, the rebalance was adopted in the second half of June.

In the reporting period, the HJPC continuously monitored the budgeting process, including the preparation of key parameters and guidelines for individual courts and prosecutor's offices and the analysis of proposals prepared by courts and prosecutor's offices.

During the budget preparation, intensive consultations were conducted at certain levels, while in some cases there were no opportunities for interventions of judicial institutions. The processes of drafting and adopting the budget in different time periods, outside the prescribed dynamics of budget adoption, complicate the process of regular financing of the judiciary. Accordingly, there is a need for a more intensive dialogue between judicial institutions and the executive authorities, in order to improve budget proposals and thus financing of judicial institutions.

In the RS, the laws on courts and public prosecutor's offices stipulate that funds for the work of courts and public prosecutor's offices are provided in the RS budget, at the proposal of the RS MoJ, which is submitted to the HJPC for suggestions.

Cooperation between the JC BD BiH, which is responsible for preparing and proposing the budgets of all judicial institutions, and the legislative and executive bodies of the BD BiH is at the satisfactory level.

Cantonal levels of government cooperate with the HJPC in drafting the budgets of the cantonal judicial institutions, in accordance with the legislation on financing the institutions of the relevant level.[[30]](#footnote-30)

In line with the dynamics of budget preparation, the budget for 2020 was prepared at the end of 2019. The HJPC invited the competent ministries of justice and finance to participate in the consultation process regarding the budget adoption process. One of the results in 2019 is takeover of financing of salaries and allowances of prosecutors and judges from domestic budgets, which have so far been financed from the IPA funds to help war crimes cases processing. The HJPC continuously monitored the budgeting process, including the preparation of key parameters and guidelines for individual courts and prosecutor's offices and the analysis of proposals prepared by courts and prosecutor's offices.

### 1.1.8 Holding of panels in the civil, criminal and administrative areas

During 2020, despite the Covid 19 virus pandemic, two panel meetings were held to unify criminal case law in 2020. The first meeting was held on 1 October 2020, on *Application of the institute of command responsibility in the light of the Criminal Code of the SFRY and the Criminal Code of BiH*.

The second panel in the same area was held on 23 November 2020, on *Replacement of prison sentence with a fine*. Representatives of the highest courts in BiH, judges of the Appellate Division of the Court of BiH, judges from the Criminal Division of the Supreme Court of the FBiH, the Supreme Court of the RS and the Appellate Court of Brčko District of BiH took an active part in the Panel. Considering that the current legal framework does not leave room for harmonisation of case law at the level of these four courts, and that the institute for harmonisation of case law has since been abandoned in the RS, the panel meeting was used exclusively as a platform for exchanging information and opinions of courts - panel members.[[31]](#footnote-31)

During 2020, the collection of papers of the conference of the highest courts in BiH at the panel held in Jahorina, on 14 and 15 November 2019, was published under the title *Right to a trial within a reasonable time*.[[32]](#footnote-32)

The RS Supreme Court, as part of the RS JPTC programme, holds regular sessions of the case law departments and participates in panel meetings with other courts, as the highest instances for harmonising the case law, thus providing greater legal certainty for citizens. This activity is continuously carried out at the RS Supreme Court.

## 1.2 Efficiency and effectiveness of judicial institutions in BiH

Strategic programmes on the efficiency and effectiveness of judicial institutions in BiH relate to the implementation of appropriate measures to:

1. reduce the number of backlog of cases in the enforcement procedure,
2. increase the efficiency of criminal investigations in BiH,
3. improve the system of alternative dispute resolution in BiH,
4. unburden the judicial institutions in BiH by relocating certain procedures and transferring powers,
5. monitoring application of laws on courts, prosecutor's offices and all procedural laws,
6. ensure organisational, infrastructural and material-technical preconditions for the work of judicial institutions in BiH,
7. improve the skills of managing judicial institutions in BiH,
8. improve the system for monitoring the efficiency and quality of work of judges, prosecutors and judicial expert associates and
9. improve and harmonise the status of the staff employed in the judicial institutions in BiH.

### 1.2.1 Implement appropriate measures to reduce backlogs in enforcement procedure[[33]](#footnote-33)

In January 2020, the first-instance courts prepared annual plans, and the second-instance and supreme courts prepared quarterly plans, in accordance with the provisions of the Instruction for preparing the case resolution plans in courts. Please note that at the end of 2019, the Instruction for preparing the case resolution plans was amended and the courts were informed on that.

It is pointed out that regardless of the epidemiological situation caused by the Covid 19 virus, there were no deviations in the manner of making the mentioned plans.

The courts regularly submit reports on the implementation of the plans to the HJPC. This is published every three months on the HJPC website.

During the first quarter of 2020, courts in BiH resolved over 53,000 of the oldest cases. Compared to the same period in 2019, the number of resolved cases from the plans was reduced, taking into account the fact that during the second half of March, the courts worked in a special regime caused by the pandemic.

For 2020, the plan envisages resolving of 162,716 oldest cases, of which 33% were resolved in the first quarter, i.e. a total of 53,616 oldest cases.

However, despite the virus pandemic, in the first nine months, in the three quarters of 2020, courts in BiH resolved 113,260 of the oldest court cases.[[34]](#footnote-34)

The number of resolved cases is lower by 11% compared to the same period last year. Achievement of the expected results was affected by the declared state of accident/emergency situation. During that period, the courts operated in a special regime in accordance with the decisions of the HJPC and the decisions of the competent crisis headquarters.[[35]](#footnote-35)

The HJPC Standing Committee for the Efficiency and Quality of Courts regularly monitors the case resolution process within the case resolution plans. All courts in BiH are obliged to make a case resolution plan in accordance with the provisions of the Instruction for preparing the case resolution plans.

Over the past few years, the HJPC has taken various measures to improve the efficiency of courts in order to reduce duration of court proceedings. Despite all efforts, the length of bankruptcy procedure remains a major problem, especially having in mind the economic importance of these cases for the whole of BiH. According to the data from CMS, on 30 November 2019, there were 905 unresolved bankruptcy cases in the courts, and their average duration was 961 days. Having in mind the importance of reducing the number of unresolved cases and duration of court procedures, the HJPC engaged through the project *Building an efficient judiciary in the service of citizens*, five economic experts with relevant knowledge in finance and accounting to support capacity building of courts to deal with bankruptcy and liquidation cases. In this regard, on 13 November 2020, the project representatives held a working meeting in Teslić with the mentioned experts, where they discussed the ways of working and providing support to the courts.

The case resolution plan of the Municipal Court in Zenica for 2020 covered a total of 6,553 cases. Out of that number, 5,101 cases were resolved. The court achieved the plan implementation percentage of 77.84% on 9 November 2020, thanks to the continuous monitoring of the plan implementation at the sessions of the court department and analysing the implementation of the case resolution plan. In the Cantonal Court in Zenica, plans were regularly made and implemented 100%. Plan for resolving old K cases for 2020, Plan for resolving old U cases for 2020 and Plan for resolving old K cases in the first quarter of 2020 were adopted on 10 January 2020. According to the information received for this report, the plans were implemented 100%. In addition to that, the Cantonal Court in Zenica is obliged to adopt at the beginning of each quarter a new Plan for resolving old cases for that quarter. Implementation of the case resolution plan is reviewed every three months by the court expert collegium.

Every year, the BD BiH adopts case resolution plans of the courts and the BD BiH Prosecutor's Office. Their implementation is monitored in line with the HJPC instructions, according to which reporting is made. Head of the institution is responsible for implementation of plans regarding old and other unresolved cases, as well as their monitoring. At the end of the reporting period, the head of the judicial institution submits to the HJPC data regarding the resolution of old and other cases. All statistical data related to the above mentioned are in the possession of the head of the institution and the HJPC. Within the Basic and Appellate Court of the BD BiH, all measures and activities have been taken to establish an efficient enforcement procedure in resolving utility cases (e.g. increased number of bailiffs, larger number of judges and judicial associates engaged in the enforcement matters).

Each cantonal court is obliged to adopt the backlog resolution plan in accordance with the HJPC instructions.

In accordance with the recommendations of the Subcommittee on Freedom, Justice and Security, a Working Group was established to improve the enforcement procedure and revise the laws on enforcement procedure.

The Working Group members are the competent Entity ministries and the MoJ BiH, as well as the JC BD BiH, and the work is supported by the HJPC. The Working Group analysed two models of enforcement - the system of private and the system of public bailiffs, in order to propose possible relocation of enforcement cases from the courts, in the enforcement phase. The operational goal of the Working Group is to make proposals for amendments to the existing laws on enforcement procedure to improve the efficiency of enforcement procedures.

During 2019, the Working Group prepared a set of amendments to the relevant provisions of the laws on enforcement procedure, which were found to affect the length of the procedure and which should contribute to more efficient processing of enforcement cases. Based on the Working Group proposal, the legislative procedure of amendments to the FBiH Law on Enforcement Procedure was initiated by the FMoJ. Besides that, amendments to the BD BiH Law on Enforcement Procedure were prepared, in order to initiate a legislative procedure.

At its 23rd session in 2018, the RS National Assembly adopted the draft Law on Amendments to the Law on Enforcement Procedure of the RS, which prescribes as authentic documents invoices or statements for telecommunication services and RTV fees, as well as decisions and bookkeeping statement for membership fees of the RS Bar Association.

As part of the Professional Development and Initial Training Programme for 2020, the JPTC RS, with the support of IRZ Foundation from Germany, organized a seminar on *Certain legal aspects of consumer protection in connection with the utility service of heat supply*, which was held on 16 November 2020, online via the Cisco Webex platform. The participants had the opportunity to get more acquainted with the conclusion of the contract for the supply of thermal energy, determination of its existence, as well as termination of the contract for the supply of thermal energy. The seminar was attended by nine participants from the RS judicial institutions.

According to the information published on the HJPC BiH website, about two million utility cases are awaiting resolution in the courts in BiH.[[36]](#footnote-36)

In order to provide more efficient processing of cases of this type, the HJPC, with the support of the Government of Norway, developed a special information system for electronic submission and processing of low value cases - SOKOP-Mal[[37]](#footnote-37) which is applied in first instance courts in BiH. The system is used for automatic case processing and provides numerous advantages over the manual mode of operation in courts, and currently this form of digitization is used in 35 out of a total of 59 first instance courts in BiH and 23 external users. Over the previous period, the project team successfully implemented the system in nine new courts.

The number of cases currently registered in the SOKOP-Mal system is close to 1.5 million cases, i.e. 75% of all cases of this type are processed through the SOKOP-Mal system. The FMoJ submitted amendments to the Law on Enforcement Procedure twice, resulting from the work of the working group with the HJPC. Although submitted to the adoption procedure, the mentioned amendments were not supported in the FBiH Parliament.

At its 152nd session, held on 24 July 2019, the FBiH Government adopted a conclusion on withdrawal of the FBiH Law on Amendments to the Law on Enforcement Procedure, established in 2018 and sent to the procedure, requesting further revision in accordance with the agreement of the Working Group for drafting and harmonisation of legislation in BiH. At 185th session of the FBiH Government, held on 4 July 2019, the Government established the draft Law and submit it to the parliamentary procedure under shortened procedure.

In the first half of 2020, due to the virus pandemic, the FBiH Government adopted proposal of the Law on Deadlines and Procedures in Court Proceedings during the State of Accident in the FBiH.[[38]](#footnote-38)

This law, with certain exceptions when it comes to the urgency, stipulates that the deadlines for filing a lawsuit in civil procedure, a proposal to initiate a non-litigation or document enforcement procedure, as well as other submissions related to the deadline, cease to run during the state of accident. It is also prescribed that the statute of limitations, prescribed by the laws in the area of civil law, does not run during the state of accident.

In addition to that, one of the previous problems is the application of Article 104 of the FBiH Law on Minor Offences, governing the fine enforcement procedure and it cannot be implemented, as well as the problem of applying the provisions of Articles 33 and 40 of the FBiH Law on Bankruptcy Procedure following the publication of the judgment of the FBiH Constitutional Court, which determined that these Articles are not in accordance with the FBiH Constitution. FMoJ prepared a draft Law on Amendments to the FBiH Law on Minor Offences, which, inter alia, regulates the issue of forced collection of fines and prescribes the competence of the FBiH Tax Administration to carry out forced collection activities. Considering that the consent of the FBiH Ministry of Finance was not obtained in terms of providing additional funds for the implementation of this Law, the draft Law, with this information, was submitted to the FBiH Government for a decision on the proposed legal solution.

Sarajevo Canton allocates gradually increasing funds for the enforcement of the BiH Constitutional Court decisions on the appeals of citizens filed for the duration of procedures before the courts in Sarajevo Canton, obliging the Sarajevo Canton Government to pay compensation for non-pecuniary damage for violating the right to a court decision within a reasonable time (procedures last over 10 years, even in employment disputes that are of urgent character).

There is also a growing trend in the number of BiH Constitutional Court decisions regarding enforcement. In 2017, 42 decisions of the BiH Constitutional Court and in 2018, 45 decisions[[39]](#footnote-39) of the BiH Constitutional Court, in a significant financial amount, were submitted to the Sarajevo Canton Government for enforcement. For the same reason, procedures were initiated before the ECHR, which, in addition to causing large financial obligations for the Sarajevo Canton, directly damages the reputation of BiH. In 2017, the liabilities of the Sarajevo Canton Government amounted to BAM 27,383, in four cases. For example, in one case submitted by the European Court, a friendly settlement was proposed for the payment of 52 applicants in the amount of EUR 1,800 each for non-pecuniary damage and EUR 250 each for costs and expenses. For this purpose, the budget of the Sarajevo Canton for 2018 provided a total of BAM 200,000, BAM 293,000 in 2019, and BAM 257,890 in 2020.

Although not provided by the strategic framework in 2018, the Law on Amendments to the Law on Enforcement Procedure of the RS, as well as the Law on Amendments to the Law on Court Fees of the RS were adopted by the NA RS at its 28th special session, held on 4 July 2018, and they were published in the official gazette.[[40]](#footnote-40)

During 2020, there were new changes in court fees, namely in Article 8 on the Tax Tariff, which exempts from paying fees the party's requests for the issuance of a certificate, issued certificate, unique access code for inspecting a court case and issued code[[41]](#footnote-41).

There is currently no need to increase the number of regular and additional judges in the BD BiH.

In 2018, there was no need in the Posavina Canton to increase the number of regular and additional judges in terms of dealing with the reduced number of cases, compared to the situation from the previous year, while in 2019 and 2020 no data were available.

In the part related to monitoring the implementation of activities according to the Action Plan for the enforcement of decisions of the Constitutional Court and expediting the court procedures, it is necessary to emphasise that regarding the resolution of backlog cases a Working Group was established the WG meeting was held on 26 November 2019. The WG worked on the text of the draft Law on Protection of the Right to Trial within a Reasonable Time, which is included in the MoJ BiH Programme of Work for 2020.

BiH Law on Trial within a Reasonable Time is planned in 2021 by the MoJ BiH Medium-Term Plan of Work. During 2020, a draft law was prepared, consultations were conducted and it was submitted to the procedure of obtaining opinions in accordance with the CoM BiH Rules of Procedure, dated 20 October 2020. At its 13th extraordinary session, held on 16 April 2020, due to the COVID-19 pandemic, the Council of Ministers adopted the proposal of the Law on Temporary Measures in the Work of Judicial and other Bodies of BiH during a Natural or other Disaster and sent it to parliamentary procedure for adoption under the urgent procedure. The Law was considered in the BiH Parliament at 11th session of the House of Representatives on 23 July 2020, where it was adopted in the first reading, and at 11th session of the House of Peoples on 1 September 2020, where it was considered and concluded to be considered in the regular procedure.

At its 207th session, held on 23 January 2020, the FBiH Government adopted the proposal of the Law on Protection of the Right to Trial within a Reasonable Time and sent it to the parliamentary procedure under the urgent procedure, where it is still in the procedure. Besides that, due to the pandemic and declaration of protection against infectious diseases caused by the CoVID-19 virus, the FBiH Government, at its 219th session, held on 16 April 2020, determined the proposal and sent it to the FBiH Parliament for adoption under the urgent procedure, and it it was adopted.[[42]](#footnote-42)

The RS also prepared a draft Law on Protection of the Right to a Trial within a Reasonable Time in 2019 and sent it to the adoption procedure. During the first half of 2020, the Law was considered by the RS National Assembly and it conducted an expert discussion procedure. At its 12th regular session, the RS National Assembly adopted the Law on Protection of the Right to a Trial within a Reasonable Time[[43]](#footnote-43). Besdes that, due to the outbreak of the pandemic and declaration of a state of protection against infectious diseases caused by the virus, the RS government passed a Decree with legal force on deadlines and court proceedings during the state of emergency for the RS territory at 12th special session of the National Assembly on 20 May 2020, which terminates the deadlines for filing a lawsuit in civil procedures, a proposal for initiating a non-litigation procedure or document enforcement procedure or other submissions related to the deadline.[[44]](#footnote-44)

During the first half of 2020, the BD BiH JC drafted the Law on Protection of the Right to a Trial within a Reasonable Time.

### 1.2. 2 Increasing the efficiency of criminal investigations in BiH

As a part of the project *Strengthening the prosecutorial capacity in the criminal justice system,*[[45]](#footnote-45) implementation of the Instruction on cooperation of prosecutors and authorized officers in conducting evidentiary activities during the investigation was monitored. As a part of these activities, the project initiated establishment of joint teams of prosecutors' offices and competent police agencies, which have already been established in the area of Banja Luka, Doboj, Zenica and Sarajevo.

Strategic Forum of Heads of Prosecutor's Offices and Police Bodies has taken over monitoring of the implementation of the Instruction on cooperation between authorized officers and prosecutors, and within its mandate gives an assessment of the application and proposes the validity of the Instruction or its amendment accordingly.

Within the Project of Strengthening Prosecutorial Capacities in the Criminal Justice System, on 13 March 2020, the BiH Prosecutor's Office signed an agreement on the establishment of a coordination body of the chief prosecutors of BiH, Entities and BD BiH to consider conflicts of jurisdiction. Eighteenth meeting of the heads of prosecutor's offices and police bodies at the strategic level was held via video conference on 18 May 2020. On 28 May 2020, the HJPC, in cooperation with JPTC FBiH, organized a joint training of judges, prosecutors and authorized officers on *Legality of Evidence* through the Cisco Webex communication platform.

Through the IPA 2017 *Project for Building Efficient Justice in the Service of Citizens*, the HJPC BiH held a two-day working meeting of economic experts employed in ten prosecutor's offices in BiH. The purpose of the working meeting, organised within the project activity aimed at establishing the capacity to strengthen prosecutors' offices for conducting financial investigations in cases of economic crime and related crimes, was to exchange experiences and best practices. During the working meeting, economic experts presented the previous activities regarding economic crime cases through the case studies, and discussed the advisory role they provide in selected prosecutor's offices.

Joint meeting of economic experts with selected prosecutors' offices was held on 15 October 2020. Economic experts contributed to speeding up the collection of evidence, improving the quality of indictments, resolving old cases, better communicating with court experts and law enforcement agencies, and improving efficiency in cross-examination and conducting financial investigations.

From January 2019 to August 2020, economic experts worked on the analysis of a total of 436 cases, 29 of which required financial investigation.

Analysis of the statistical data for the period January-September 2020 compared to the same period last year showed that in cases of economic crime, organized crime and corruption there was an increase in the number of indictments by 7% (or 26 cases), in the number of confirmed indictments by 4% (or 16 cases), as well as in the number of ongoing financial investigations from 54 to 100 cases.

Economic experts are preparing a *Manual for more efficient processing of economic crime, organized crime and corruption cases*, which will focus on the course of financial investigations from the prosecutor's perspective.

As part of the EU4Justice project, on 12 February 2020, a three-day Round Table was held in Trebinje on: *Strategies and key investigative tools in complex financial and economic crime cases*, which gathered about 30 prosecutors and investigators from various prosecutors' offices, as well as representatives of law enforcement agencies and tax administrations.

EU4Justice project, together with other partners - Lucid Links d.o.o., as a part of the Support Project to the HJPC BiH and the Prosecutor's Office of BiH, as well as with the Embassy of the United Kingdom and the UNDP Regional Project, provided support to holding of a two-day Prosecutorial College in Mostar. The college was attended by about 130 participants, including about 110 prosecutors, investigators and support staff from the Prosecutor's Office of BiH. Within the panels *Prosecution of organized crime and corruption cases, with special emphasis on international legal assistance* and *Criminal prosecution of money laundering cases*, the participants exchanged their experiences and practices on everyday prosecutorial work in various specific areas.

Prosecutors of the BD BiH Prosecutor's Office were trained on the application of the Instruction on cooperation of prosecutors and authorized officers in conducting evidentiary activities during the investigation, and they participate in monitoring its implementation through the strategic forum of chief prosecutors and heads of police agencies and determine measures to improve cooperation between prosecutors and authorized officers.

On 25 July 2020, *EU4Justice* held the online workshop *Investigations in cybercrime cases*, attended by 20 participants. The aim of the workshop was to present the methodology for investigating cybercrime and to discuss best practices.

Meetings and joint expert conferences of representatives of courts, prosecutors' offices and the police are held in the RS. Representatives of the Police Training Directorate are lecturers at the trainings of judges and prosecutors in the JPTC RS.

Memorandum of Cooperation was signed between the institutions dealing with education in the judiciary (JPTC RS and JPTC FBiH) and security (MIA FBiH, MIA RS and the Agency for Education and Professional Training). Education and Coordination Forum was established, which created preconditions for continuous cooperation of institutions dealing with the education of authorized officers and prosecutors, as well as for the organization of joint trainings.

Training programmes of JPTCs of RS and FBiH for 2020 planned the trainings which improve the efficiency of investigations. The following topics have been covered: Initial training - Module III - Criminal area (November), Investigation and joint investigation teams (June), Prosecutorial acts drafting techniques (September), Corruption in public procurement (March), Analysis of the criminal justice system response - trafficking in human beings (June), Confiscation of the proceeds of crime (April, May, October), Identification and investigation of cases of trafficking in human beings for the forced labour (March, April), Corruption (April, October), Organized and economic crime (May, September, December), Financial investigation of corruption offenses, Effective management of war crimes trials (April), Sexual exploitation and abuse of children in the digital environment (May, June, September), Money laundering (November), Investigation in forensic criminal investigations (September), Round table - Strategies and key tools in the areas of complex financial investigations (February, June, October), Hate crimes (September), Cybercrime (May, September, November).

As a part of the joint EU/CoE programme *Horizontal Facility for the Western Balkans and Turkey 2019-2022*, on 19 and 20 October 2020, a mixed workshop on media coverage of war heritage, war crimes trials and reconciliation processes in BiH was organized, which gathered media professionals and representatives of the judiciary. The aim of the workshop was not only to improve understanding of professional and ethical standards and obligations of journalists in reporting on war heritage, war crimes trials, as well as the media contribution to dealing with the past, reconciliation and building a society of tolerance, but also to improve information exchange between professional communities.

Trainings were held according to the plan until the middle of March, while all trainings after that were postponed or limitedly organized via video conferences due to the declaration of a state of emergency caused by a virus pandemic.

As a part of cooperation with the Project *Strengthening prosecutorial capacities in the criminal justice system*, JPTC FBiH, RS and JC BD BiH developed online e-learning modules for newly appointed prosecutors. It was assessed that due their advanced production and high quality of materials, as well as very well prepared professional contents, the modules should be available to all prosecutors in BiH, as well as judicial associates/advisors in prosecutor's offices. Accordingly, five online learning modules for prosecutors and judicial associates have been developed and put into operation: 1) Detention and other security measures of the suspect and cooperation with the police; 2) Evidentiary actions in criminal procedures and legality of evidence; 3) Special investigative actions; 4) Techniques for drafting prosecutorial acts and 5) Main trial.

On 27 and 28 October 2020, JPTC FBiH, in cooperation with the Council of Europe, held a two-day training, as a part of the implementation of the JUFREX II project, on *Criminal aspects of hate speech* in the area of human rights and criminal law.

The JPTC RS, as part of a joint activity with the JPTC FBiH and BiH Ministry of Security, and with the support of UNODC and the US Department of State, this year organized, in the period from 27 to 29 October 2020, continuation of multisector training on : *Identification and investigation of cases of trafficking in human beings for the forced labour in BiH*, intended for judges, prosecutors and representatives of police law enforcement agencies in BiH. On 17 November 2020, the JPTC RS organized a seminar in the area of criminal law on: *Assessment of witness statement credibility through non-verbal signals in the investigation* via the platform - Cisco Webex. As a part of the Professional Development and Initial Training Programme for 2020, the JPTC RS, organized a seminar in the area of criminal law on: *High-tech crime*, which took place on 30 November 2020, via the Cisco Webex platform.

In accordance with the agenda, the seminar participants were informed about the Budapest Convention and legal regulations, about the role of prosecutors in high-tech crime investigations and about detecting and proving criminal offences of fraud with special reference to the so-called BEC scams, Military Romance scams and other most common forms of scams (SMS scams, scams related to "secure alerts", etc.).

### 1.2.3 Improving the system of alternative dispute resolution (ADR) in BiH

Within the HJPC Project *Improving the efficiency of the judiciary* in 2020, as in previous years, a court settlement was promoted as a way of alternative dispute resolution, although with restrictions caused by declaring a state of emergency caused by a virus pandemic. The court settlement is periodically promoted through the media.[[46]](#footnote-46)

The HJPC carried out a number of activities on the court settlement affirmation, starting from the engagement of a professional marketing agency for the promotion of the court settlement, through the organization of the Court Settlement Week, to issuing guidelines for concluding a court settlement, and the issuance of an expert publication on the court settlement is in preparation.

Court Settlement Weeks aimed at promoting the use of the court settlement in 2019, were held in May. The aim of organizing the court settlements weeks is to make a positive impact on the efficiency of court proceedings, and to change the approach of the court and the parties to resolving disputes. During the court settlement weeks in 2019, the first and second instance courts in BiH concluded 427 court settlements.

Most court settlements were concluded in the Municipal Court in Tuzla (66), Municipal Court in Kakanj (48), Basic Court in Sokolac (40), Municipal Court in Banovići (31), Basic Court in Prijedor (31), Basic Court in Banja Luka (22) and District Commercial Court in Banja Luka (21). By the middle of 2019, a total of 4,723 court settlements were concluded within the institute of court settlement. In the same period in 2018, it amounted to 5,838 cases. This indicates that in 2019, compared to 2018, the number of cases resolved by court settlement decreased by 19%. Accordingly, a campaign plan was developed, with the aim of promoting the court settlement benefits.

The court settlement week in 2020 was planned for the period from 11 to 22 May, but due to the emergency work regime caused by the pandemic virus, it was postponed and organized in the period from 21 September to 2 October 2020, in internet video format. The court settlement week was conducted in all courts of BiH, first instance and second instance ones.

Therefore, the parties are provided with the opportunity to resolve their case by a court settlement in a shortened procedure, in a faster and cheaper way, which implies mutual agreement of the parties to the dispute.[[47]](#footnote-47) Support for the court settlement organization is provided through the IPA project *Building an efficient judiciary in the service of citizens*.

In the RS, affirmation of court settlement, mediation and arbitration, as alternative ways of resolving disputes, is also carried out within the planned court settlement week, which each year shows a positive trend in resolving disputes, especially in commercial and property disputes. This year, it was also postponed. Foreign trade arbitration was established at the RS Chamber of Commerce, where the parties agree to resolve their disputes through arbitration, and one party can be a natural or legal person.

Educational modules in the area of alternative dispute resolution, including court settlement, are also included in the JPTC training programmes in 2020.

Initial training module: III - Alternative dispute resolution, mediation and arbitration was scheduled for the end of March, which was postponed due to the virus pandemic. The *Arbitration* seminar scheduled for the end of March and May was also postponed.

The EU - IPA 2017 project initiated activities on the development of the Alternative Dispute Resolution Strategy (ADR). In the context of drafting the ADR Strategy, on 14 May 2019, the HJPC issued a Decision on establishment of a working group for drafting the ADR Strategy and the accompanying Action Plan. Besides the HJPC representatives, the working group is comprised of the competent ministries of justice from the state and Entity levels, the JC BD BiH, as well as BiH Association of Mediators, Association of Arbitrators, BiH Foreign Trade Chamber, BiH Ombudsman for Consumer Protection and court representatives. In 2019, the working group held two meetings (10 July and 11 October 2019).

At its session held on 23 and 24 January 2020, the HJPC adopted the Decision amending the Decision on establishment of a working group for drafting the ADR Strategy, number: 12-07-2-1971-1/2019, dated 28 May 2019. The third meeting was planned in the first quarter of 2020, but was postponed due to the outbreak of the pandemic.

The working group began with an analysis of the current situation in the area of mediation, court settlement and arbitration. In addition to that, the analysis of the comparative law of the EU member states was made, as well as the analysis of the impact of mandatory mediation on the right to access to justice.

Analysis of the CEPEJ documents, prepared by the Working Group of the mentioned body, is currently being completed, which will be used in drafting the ADR Strategy.

MoJ RS, in cooperation with the Ministry of Health and Social Welfare, developed a training programme, along with educational material, for relevant experts on acquiring additional knowledge and skills to conduct the procedure of mediation, application and enforcement of educational recommendations *personal apology to the injured party* and *compensation of damage to the injured party*. After the completed trainings, in all centres for social work conditions are created for implementing the process of mediation in cases where these two types of educational recommendations are imposed.

Mediation, as one of the forms of alternative dispute resolution in BiH, is under the jurisdiction of the BiH Association of Mediators (AM). In 2019, mediators had 485 mediation procedures, of which 95.5 percent were successfully completed. Agreement on mediation successfully completed 108 court procedures, i.e. cases that were already conducted in court, because even such procedures (until the conclusion of the main hearing) can be resolved in the mediation. In the mentioned mediation procedures, BAM 22,124,100.90 of funds were released.

During 2018 and 2019, AoM BiH, with the help of donors, but also by self-financing, implemented the initial training programme Mediation 1 and 2, as well as specialized training programmes. Mediation training programme is an integral part of the BiH Civil Service Agency programme for 2019, while in 2020 it was planned for May, but was postponed due to the pandemic.

Special dimension of mediation is legal disputes resolution. This area is regulated by the legal framework in the Entities, cantons and Brčko District. This year, the Decree on the peaceful settlement of disputes in the CBC, adopted in 2019, entered into force[[48]](#footnote-48). In the RS, the Agency for Peaceful Settlement of Labour Disputes is responsible for enforcing the legislation.

As a part of the EU and CoE regional project Horizontal Facility II, a phase in the Western Balkans, a two-part training on Mediation of self-regulatory and regulatory bodies prior to the court procedures and hate speech was held on 5 and 6 November 2020. The aim of the event was to strengthen legal expertise and understanding of freedom of media reporting and develop the best mechanisms to protect the right of citizens to object to inaccurate and unprofessional media reporting, but also to report freely and responsibly in the best public interest.

Arbitration is one of the alternative ways of resolving disputes in which the decision on the dispute is made by a single arbitrator or an arbitration council. The number of arbitrators must be odd. The arbitrators are appointed from the list of arbitrators. The list is led by the president and vice presidents of the Foreign Trade Chamber of BiH (FTC). The parties may arrange arbitration before the FTC, or other forums. The costs are regulated by the Decision on determining the tariff of arbitration costs before the FTC. The parties shall also bear the costs of accommodation, food, etc. to the arbitrators, if they have such costs. Also the costs of the parties vary depending on whether the arbitrator is a single arbitrator or an arbitral council (3 or 5 arbitrators).

In the area of arbitration, promotion and education are mostly provided by chambers of commerce in BiH and civil society organisations. Thus, on 15 February 2019, the Arbitration Court at the Foreign Trade Chamber of BiH and the Faculty of Law of the University of Zenica organized an international conference on arbitration law on: *Arbitration in BiH - domestic and comparative experiences*, while the Chamber of Commerce of FBiH with the association *Arbitrators* organized on 7 February 2019 the training *Arbitration in business - advantages and characteristics*.

The Arbitration Court at the Foreign Trade Chamber of BiH, in cooperation with the faculties of law and other chambers of law, organized a training on *Dispute Resolution by Arbitration* in January and May.

The HJPC BiH has established cooperation with the chambers of commerce in BiH (Foreign Trade Chamber, RS Chamber of Commerce, FBiH Chamber of Commerce and BD BiH Chamber of Commerce), as well as with selected judges with relevant knowledge and experience in ADR, in terms of organizing 4 workshops for promotion of alternative ways of resolving commercial disputes, which, in addition to mediation and arbitration, would also discuss the advantages of court settlement in disputes conducted by economic entities in BiH.

During the pandemic, an International Conference on Mediation - 2020, Mediation and Justice in the Western Balkans - Strengthening Ties, was held on 29 and 30 October 2020. A representative of the HNC Ministry of Justice, Administration and Local Self-Government attended the conference and participated as a panellist. At the mentioned conference, useful information about the experience of the surrounding countries was shared. It was pointed out that this way of resolving disputes is also used by many countries as a way to fight corruption.

### 1.2.4 Unburdening the judicial institutions in BiH by relocating certain procedures and transferring powers

BiH Minister of Justice issued on 15 March 2018, the Decision establishing the Working Group for improvement of enforcement procedure and revision of the laws on enforcement procedure in BiH.

At its session held on 12 and 13 February 2020, the HJPC adopted the recommendation of the working group to amend the laws on enforcement procedure of the FBiH and BD BiH as soon as possible with regard to Articles 29 and 37 of the FBiH and the 33 of the BD BiH.

Regarding the draft Law on Amendments to the Law on Enforcement Procedure of the FBiH, the HJPC issued an additional Conclusion number 12-07-8-204-2/​​2020, dated 24 February 2020, and in connection with the previously defined Opinion number 08-02-1-2492-2/2019, dated 30 September 2019, which supports continuation of the legislative initiative, and submitted the Conclusion to the FBiH Ministry of Justice.

Two analyses of various aspects for improving the enforcement procedure in BiH were made, namely the Analysis of regulations on the work and status of bailiffs[[49]](#footnote-49), which contains a proposal of recommendations necessary for improving the status and work of bailiffs and can serve the competent institutions in preparing relevant documents and acts, and the Analysis of the possibility to establish a register of debtors in BiH.

Since the WG members failed to hold meetings due to the CoVID-19 pandemic, in the continuation of the WG work, activities will be undertaken to implement the presented analyses.

In the RS, the Law on Amendments to the Law on Enforcement Procedure was adopted,[[50]](#footnote-50) prescribing engagement of the bailiff on the basis of a contract, for the purpose of enforcing monetary claims based on invoices or business book excerpts for the price of utilities, water supply, heat, garbage collection and RTV fees, at the proposal of the enforcement seeker, who is hired by the court and carries out enforcement on movable property. The analysis proved this provision to be much more efficient than the institute of public bailiffs. The Law on Amendments to the Law on Non-litigation Procedure of the RS stipulates that the succession proceedings are conducted before a court or a notary as a court commissioner. These amendments to the Law regulate that the court entrusts the notary to conduct succession proceedings, all in order to make the proceedings more efficient and faster, and to relieve the court in these cases.

The Law on Inheritance was adopted in the BD BiH, which entered into force in April 2018. Regulations arising from the Law were also adopted. Observing the working group recommendations for improvement of the enforcement procedure, a proposal for amendments to the Law on Enforcement Procedure of the BD BiH was drafted and submitted to the JC BD BiH. At 205th session of the JC BD BiH, held on 29 April 2019, a decision was made to form a working group for drafting the text of amendments to the Law on Enforcement Procedure of the BD BiH with a deadline of two months. At 207th session of the JC BD BiH, held on 8 July 2019, the proposal of the Law on Amendments to the Law on Enforcement Procedure of the BD BiH was considered and adopted.

On 11 March 2020, the JC BD BiH submitted to the HJPC the proposal of the Law on Amendments to the Law on Enforcement Procedure of the BD BiH for the opinion.

### 1.2.5 Monitoring application of laws on courts, prosecutor's offices and all procedural laws

During 2019, working groups were formed to analyse and prepare amendments to the Law on HJPC, Criminal Code, Criminal Procedure Code and Law on Civil Procedure of BiH.

On 24 September 2020, the draft Law on Amendments to the Law on Civil Procedure before the Court of BiH was submitted for providing opinions in accordance with the CoM BiH Rules of Procedure.

At 12th session of the House of Representatives, held on 15 September 2020, and at 12th session of the House of Peoples, held on 8 October 2020, the PA BiH adopted the Law on Amendments to the Law on Minor Offences, and it was published in the Official Gazette of BiH 65/20.

In the FBiH, the last amendments to the Law on Enforcement Procedure were made in 2016,[[51]](#footnote-51) the Law on Civil Procedure[[52]](#footnote-52) in 2015 and the Law on Non-litigation Procedure[[53]](#footnote-53) in 2014. The Criminal Code[[54]](#footnote-54) was last amended in 2018, while the last adopted amendments were in 2017. The last adopted amendments to the Criminal Procedure Code[[55]](#footnote-55) were in 2014, as well as the Law on Minor Offences[[56]](#footnote-56) and the Law on Confiscation of Proceeds of Crime.[[57]](#footnote-57) At its 185th session, held on 4 July 2019, the FBiH Government determined and sent to the parliamentary procedure the draft Law on Court Police of the FBiH, which comprehensively regulates the status, position and role of the FBiH Court Police, as well as the President of the FBiH Supreme Court.

At the same session, the draft Law on Amendments to the Law on Minor Offences was adopted and sent to the parliamentary procedure, in order to eliminate obstacles in the work of inspection bodies and initiate the procedure of harmonization of decisions in the area of minor offences in the FBiH with valid regulations on minor offences at BiH and RS level. In the previous period, the FBiH Government established the draft Law on the Constitutional Court of FBiH, which elaborates the issue of independence and administrative-material independence of the Constitutional Court of FBiH, and the draft Law on Suppression of Organized Forms of Criminal Offences, Organized Crime, Terrorism and Inter-cantonal Crime, which prescribes the establishment, organization, jurisdiction and activities of special departments of the Supreme Court of the FBiH and the FBiH Prosecutor's Office. The proposal of the Law on Amendments to the Law on Bankruptcy Procedure was established and sent to the parliamentary procedure under the shortened procedure, where it was adopted.[[58]](#footnote-58)

The draft Law on Amendments to the Law on Companies, draft Law on Registration of Business Entities, draft Law on Amendments to the Law on Notaries of the FBiH, proposal of the Law on Amendments to the Law on Advocacy of the FBiH, prescribing that the amount of remuneration for lawyers for ex officio defence is set out by the FBiH Minister of Justice, and the draft Law on Amendments to the Law on Enforcement Procedure of the FBiH were developed.

Regarding the ex officio defence issues, the FMoJ worked on amendments to the FBiH Law on Advocacy. The reason for passing the law is to determine legal basis for enacting a special regulation which would regulate the issue of remuneration for the work of ex officio lawyers. In the FBiH, the FBiH Law on Advocacy is in force, which provides adoption of the Tariff on remuneration and reimbursement of attorneys' costs, but it does not contain provisions that would regulate the work of ex officio lawyers. As the application of the current tariff produces significant financial burdens on budgets, it was necessary to amend the FBiH Law on Advocacy and define the legal basis for regulating this area by a regulation, which would be adopted by the FBiH Minister of Justice.

The proposed solution is similar to the legal solution in Croatia and Serbia, where the remuneration for the work of the ex officio lawyer is prescribed by a regulation issued by the competent minister, while the current legislation in the RS stipulates that the amount of remuneration and compensation for the ex officio defence is determined by the RS Government, on the proposal of the Minister of Justice. In accordance with that, the drafted proposal of the Law on Amendments to the Law on Advocacy of FBiH was sent to the FBiH Government, which adopted it at 148th session, held on 24 July 2018. The proposal was sent to the parliamentary procedure under urgent procedure. An urgent procedure was decided in order to reduce the financial burden on the respective budgets due to the payment of remuneration. During 2019, the Law was twice withdrawn from the procedure, and in the implementation of the conclusion of the House of Peoples of the FBiH Parliament, dated 14 November 2019, the FMoJ changed the tariffs on remuneration and compensations of notaries and lawyers, and within 30 days, adjusted their amount to the standards and property circumstances of the citizens of the FBiH, reducing the amounts of tariffs in the appropriate percentage, according to which a new proposal of the law was made. At its 206th session, held on 16 January 2020, the FBiH Government sent a new proposal of the law in the parliamentary procedure under the shortened procedure. The proposal of the law was withdrawn from the parliamentary procedure.

During the reporting, MJALS HNC proposed that analyses be made at the level of each court (coordinated by cantonal ministries of justice) on the importance of application of procedural laws, i.e. causes and consequences of violations of procedural laws (especially from the aspect of budget spending as a public good of all citizens) for the purpose of implementation of this strategic program.

In 2016, the RS adopted the Law on Public Prosecutors’ Offices, and in 2017 the Law on Suppression of Corruption, Organised and the Most Serious Forms of Economic Crime, the Criminal Code, the Law on Amendments to the Criminal Procedure Code, the Law on Amendments to the Law on Suppression of Corruption, Organised Crime and the Most Serious Forms of Economic Crime, the Law on Confiscation of Proceeds of Crime, the Law on Amendments to the Law on Courts, the Law on Amendments to the Law on Minor Offences and the draft Law on Amendments to the Law on Enforcement Procedure, which was adopted in 2018. During 2019, the following laws were drafted and adopted: Law on Liquidation Procedure,[[59]](#footnote-59) Law on Amendments to the Law on Registration of Business Entities in the RS,[[60]](#footnote-60) Law on Amendments to the Law on Bar Exam in the RS,[[61]](#footnote-61) Law on Amendments to the Law on Inheritance,[[62]](#footnote-62) as well as the Law on Amendments to the Law on Notaries.[[63]](#footnote-63)

In the Republic of Srpska, continuous activities are being undertaken to draft new amendments to the laws under the competence of the Ministry of Justice. In the reporting period, a state of emergency was declared in the Republic of Srpska due to the COVID 19 virus pandemic.

The RS National Assembly, at 10th regular session held on 2 July 2020, adopted the conclusion to send the draft Law on Amendments to the Criminal Procedure Code of the RS and the draft Law on Amendments to the Criminal Code of the RS to the public discussion. During 2020, the RS adopted the Law on Protection of the Right to Trial within a Reasonable Time, the Law on Amendments to the Law on Court Fees[[64]](#footnote-64), the Law on Amendments to the Law on Protection and Treatment of Children and Juveniles in Criminal Procedure[[65]](#footnote-65) and the Law on Exercising the Right to Free Legal Aid in the RS[[66]](#footnote-66).

Law on Civil Procedure of BD BiH was adopted in 2018,[[67]](#footnote-67) and the Law on Amendments to the Law on Non-Litigation Procedure of BD BiH was adopted in September 2017.[[68]](#footnote-68) At the beginning of 2020, the Law on Amendments to the Criminal Procedure Code of the BD BiH[[69]](#footnote-69), the Law on Courts of the Brčko District[[70]](#footnote-70), the Law on the Attorney General's Office of the BD BiH[[71]](#footnote-71), and the Criminal Code of the BD were adopted[[72]](#footnote-72).

The JC BD BiH, as authorised proponent of the legislation related the organization and work of judicial institutions, analyses adopted laws and in accordance with the results of the analysis, if necessary, prepares draft amendments to the legislation. In 2019, the Decision establishing the working group was issued, which initiated drafting of the Law on Enforcement Procedure.

### 1.2. 6 Ensuring organisational, infrastructural and material-technical preconditions for the work of judicial institutions in BiH

During the past years, buildings for priority judicial institutions in BiH were continuously renovated or constructed. In 2016, the HJPC BiH prepared an analysis of the situation and needs for the renovation or construction of buildings of judicial institutions in BiH, and a list of priorities was made.

In the RS, an analysis of the situation and needs for renovation of judicial institutions was made.

JC BD BiH undertakes planning activities to build a new building for the needs of judicial institutions in BD BiH. In the second half, the JC BD BiH rearranged the internal organisation by adopting the Rulebook on amendments to the Rulebook on internal organisation and systematisation of jobs in the JC BD BiH administrative service, as well as in the office for legal aid of the BD BiH[[73]](#footnote-73).

In accordance with the available funds, the renovation and construction of buildings of judicial institutions in BiH is being carried out. Reconstruction funds are mostly provided from donor sources.

Works on the construction of building of the Cantonal Court in Bihać have been completed.

A report on the adaptation of the facilities of judicial institutions to persons with disabilities is being prepared.

In the HNC, activities are continuously carried out by planning funds in the budget of ZDC in the annual or three-year planning of funds in the budget.

All judicial institutions in the Posavina Canton are situated in adequate buildings, which are properly maintained and renovated when the necessary.

During 2020, preparation of the project documentation for the construction of a new DPP building in Bijeljina and project documentation for the reconstruction of the Basic Court in Mrkonjić Grad was completed. Works on the building of the Prison in Bijeljina are in progress. Completion of external works on the building of the Municipal Court in Mostar is also underway. A new space for the archive of the Land Registry Office were also provided.

Reporting and Decision-Making Support System (SIPO) is continuously developed through the implementation of new reports that serve the heads of judicial institutions to improve the quality and openness of judicial institutions, and for more efficient management. CMS/TCMS v2 is improved by programming and commissioning new functionalities, and by improving existing ones. One of the novelties is the launch of the mobile application e-Court, which enables the parties to access court procedures via mobile devices.

MoJ RS cooperates with the HJPC in its role of coordination, use of information technology in courts and public prosecutors’ offices, including all case monitoring systems. Rulebook on internal organisation and systematization of workplaces and the budget of the RS courts provide for the workplace of ICT officers, who maintain the information system in courts and public prosecutors’ offices.

In the past period, a new centre for processing and archiving data of judicial information system was built, and the necessary infrastructure was provided, in accordance with the information security international standards, supported by the EU and the Kingdom of Sweden. The service was moved to a new data centre and a backup centre was established.

In the previous period, information and communication equipment necessary for the functioning of local (LAN) networks, as well as wide area networks (WAN) in judicial institutions in BiH was renewed. The operating system was upgraded from Windows 7 to Windows 10. Process of needs analysis related to the implementation of tender procedure for the procurement of ICT, audio and video equipment for the needs of judicial institutions and the HJPC was finalised. During 2019, a backup data centre was established. Regular monitoring of the work of the judicial information system components was carried out. Activities are underway to implement the recommendations of the IT audit.

The process of ICT equipment procurement for data centres of the judicial information system and procurement of ICT, audio and video equipment for the needs of judicial institutions and the HJPC BiH, supported by IPA 2017, is underway.

Regular monitoring of the work of the judicial information system components and improvement of the PIS security are carried out. Public procurement procedure for conducting security IT audits in a maximum of five judicial institutions has been completed. Possibility of conducting an audit regarding the situation caused by the Covid-19 virus pandemic is being examined.

The process of evaluating aid funds began in early 2020 at the request of the European Commission. At the end of October, evaluation of the HJPC grant assistance from 2004 to 2019 was presented, with special emphasis on supporting IT development. The evaluation highlighted the need for better aid planning and focusing on aid sustainability.

CMS/TCMS v2 is improved by programming and commissioning new modules and functionalities. The new module implemented in the judiciary is the Module for recording proceeds of crime. A new version of the automatic case management system for the Office of the Disciplinary Counsel (DCMS) is being developed.

Reporting and Decision-Making Support System (SIPO) is continuously developed by adding new reports that serve the heads of judicial institutions to improve the quality and openness of judicial institutions.

The Municipal Court in Zenica continuously acts in the application of the automatic case management system (CMS) and thus ensures improvement of the efficiency of the work of the court. Access to the judicial internet portal is enabled, providing faster access to data upon request. The available version 2 of the CMS system is partially used. As development, implementation and maintenance of all applicative solutions of the judicial information system is within the competence of the HJPC, more information can be found on the HJPC website. The application solutions that the court uses in its business process are: CMS v2, SIPO system, Module for records of proceeds of crime, editing of the web portal of the Cantonal Court in Zenica, digitisation of the court archives. Also in the Cantonal Prosecutor's Office of Zenica, the SIPO system (connected to the TCMS system) is applied to support reporting and business decision-making.

The data centre with its infrastructure is in the exclusive administration of the HJPC. In ZDC, renovation of obsolete audio video equipment in court is planned in the budget request every year, but due to the specifics of the equipment, this activity has not yet been implemented. Upgrading of the system and application software, under the jurisdiction of the Cantonal Court in Zenica, is carried out regularly through annual purchases of IT equipment, i.e. the latest versions of system and application software for user workstations in the court are always procured.

The HJPC established the backup data centre. The system software upgrade is continuously carried out in accordance with the procurement plans. The process of procurement of ICT and audio-video equipment for the needs of judicial institutions and the HJPC BiH, financed by the DEU, has been prolonged due to the situation caused by the CoVID-19 pandemic and should be implemented through IPA III support. Regular monitoring of the work of the judicial information system components is carried out. Activities are underway to implement the recommendations of the IT audit in five judicial institutions. Also, preparatory activities related to the ICT strategy development of the HJPC are underway. The new Rulebook on the organisation and systematisation of jobs systematises the position of employees the job description of whom is to monitor security of the judicial information system.

Decisions were made in the ZDC by applying the provisions of the Judicial Information System Security Policy of Bosnia and Herzegovina number: 09-29-1-3231/2016 dated 10.11.2016, which are applied and about which all users of the CMS system were informed. The security of the Judicial Information System is regulated by the Judicial Information System Security Policy at the level of the HJPC, as well as at the level of judicial institution, with all accompanying documents related to the Judicial Information System Security Policy: Catalogue of Judicial IS Service, List of resources in the Cantonal Court in Zenica, Procedure for accessing the protected premises, Decision on mandatory backup data storage, Decision determining the list of authorized persons for data carriers, Memorandum of cooperation with the ZDC Court Police.

The last activity to improve the security of Judicial IS was the introduction of the LAPS system in the judicial information system. Besides that, in the Zenica Cantonal Prosecutor's Office, the activity is carried out according to the instructions and initiative of the HJPC ICT Department.

This year, MJALSG HNC provided funds for necessary licenses for the program used in judicial institutions, which have so far been provided through the HJPC. Continued support in that direction is also planned in the 2021 budget.

### 1.2.7 Improving the skills of managing judicial institutions in BiH

HJPC annually adopts JPTC training programs, with certain recommendations, of which management staff training is an integral part. As a part of the Justice Improvement Project II and cooperation with the court administrations of Norway and the Netherlands, a training program was developed and training of trainers for management training in judicial institutions was carried out and these trainings were included in the JPTC training program for 2019.

Practice of organising an annual conference, gathering court presidents and chief prosecutors, has been developed at the annual level, with the support of JPTCs. At this informal forum, one of the main topics are organisation management and work effects evaluation.

In cooperation with JPTCs and JC BD, the HJPC is considering introduction of improved forms of training for management staff in judicial institutions. Peer review recommendation (PR recommendation) is that this training should include persons who intend to apply for managerial positions in the judiciary. At the session held in November 2019, the HJPC adopted conclusions for improvement of training in judicial institutions. During 2020, the HJPC, in cooperation with domestic and international partners, was dedicated to the development of management training, through needs analysis (TNA) and existing training, obligation and its duration, especially observing the new competition procedures and required competence.

In the RS, it is prescribed that the training of employees in courts and public prosecutors’ offices is carried out by the MoJ RS. The trainings are provided by the Integrated Education Plan of the RS Administration for Geodetic and Property Affairs and the MoJ RS. Trainings provide professional development of staff from the judicial sector who work on real estate registration according to the applicable laws, regulations and procedures, as well as other participants from the private and public sector. The training plan is implemented from World Bank loan funds, under the real estate registration project. The training implies continuous training of participants in land administration reform within the RS judicial administration.

The training process includes court employees related to the registration process, notaries, employees of the Attorney General's Office and spatial planning services, bailiffs and bankruptcy trustees. The planned training should enable participants to use modern technologies and approach the work in accordance with the needs of a market economy, as well as assistance in the interpretation and application of substantive and procedural laws related to civil law area, in accordance with European standards, computer technology, and especially customer service. Trainings were organised in the area of law, human resources management and ICT.

JPTC RS continuously conduct trainings for judges and public prosecutors in various areas, in order to improve the work of judges and public prosecutors as presidents and heads of departments to improve their role in managing the work of departments and courts. JPTC RS in a joint organization with JPTC FBiH organised on 11-13 March 2020, in Mostar, a workshop on: *Mentoring skills and optimisation of individual mentoring capacities*. The aim of the workshop was to enrich the initial training of newly appointed judges and prosecutors, and to improve the tools that mentors use in performing their tasks. The workshop was attended by 13 judges and prosecutors. Due to the COVID-19 pandemic, other planned activities were delayed or implemented through online training.

### 1.2.8 Improvement of the system for monitoring the efficiency and quality of work of judges, prosecutors and judicial expert associates

Courts and prosecutors’ offices adopted decisions on predictable deadlines for resolving cases in 2020.

MoJ RS is not responsible for monitoring the application of the Rulebook on time frames for resolving cases in the RS judicial institutions. The RS National Assembly adopted the Law on Protection of the Right to a Trial within a Reasonable Time,

Courts in BiH make decisions annually on predictable deadlines and compile a report on the implementation and compliance with optimum and predictable deadlines. For now, the predictable deadlines are used only as a tool for analysing the work of courts and prosecutors’ offices. In January 2019 and in July 2018, the courts and prosecutors’ offices submitted semi-annual reports to the HJPC on compliance with optimum and predictable deadlines. In October 2018, the EC submitted comments on the draft Rulebook on the evaluation procedure and the draft Criteria for performance evaluation of judicial office holders in courts and prosecutors’ offices (hereinafter: the drafts). After consideration of these comments by the HJPC standing committees, the drafts were corrected and submitted to the HJPC for consideration and adoption. The HJPC adopted the drafts in November 2018, so that their application in monitoring and evaluating the results of the work of judicial office holders could begin on 1 January 2019. In accordance with the adopted criteria, on 20 February 2019, a meeting of the HJPC was held with the presidents of the courts (district courts, cantonal courts, the Appellate Court of the BD BiH and the Higher Commercial Court) on: Application of new criteria for performance appraisal of judges in BiH.

Instruction for the application of new criteria for performance appraisal of prosecutors in BiH was submitted to all prosecutors’ offices and courts in BiH. In order to provide additional support to courts and prosecutors’ offices regarding the application of the new criteria, since 1 April 2019, meetings of the HJPC members have been held with the representatives of courts and court departments in individual courts.

In early 2019, the HJPC drafted and submitted to the courts the list of indicators for monitoring the quality of judges' performance. Court presidents and heads of departments monitor the work of judges to determine their respective analytical performance scores.

Also, when deciding on appeal, the appellate courts regularly fill in the forms in which they give their observations concerning the quality of individual first-instance decisions and first-instance proceedings. On the basis of these observations, the appellate courts will prepare and submit to the presidents of lower courts the opinion on the quality of work of judges of these courts, in order that this opinion be taken into account when determining the analytical performance scores.

During the first half of 2020, although planned, the activities related to the improvement of the new performance appraisal system in prosecutors’ offices and courts were not carried out. During this period, focus of the activities was on monitoring the implementation of the new performance appraisal system, which is implemented through the appraisal process in the first quarter of 2020 by monitoring the evaluation, by court presidents and chief prosecutors, of the results achieved in courts and prosecutors’ offices in 2019.

The HJPC BiH, through the Standing Commission for Efficiency and Quality of Courts, continuously monitors application of the Rulebook.

In principle, orientation norms are calculated on an annual basis. They serve to determine the achieved collective norms for the court/prosecutors’ office, and the fulfilment of the orientation norm is one of the parameters for appraising the work of judges and prosecutors. Within the various activities of the HJPC, an evaluation of the need to change the orientation norms is made, followed by the decision to change the orientation norms.

In the RS, courts and public prosecutors' offices submit quarterly reports on backlogs, received, resolved and unresolved cases.

Decisions on predictable deadlines are made annually in the courts and the Prosecutor's Office of the BD BiH, their implementation was monitored and reports on the implementation were sent twice a year to the HJPC.

Courts and prosecutors’ offices have adopted decisions on predictable deadlines for resolving cases in 2020. The Court of BiH, by a judgment of 19 May 2020 repealed following regulations adopted by the HJPC in November 2018: Criteria for performance appraisal of judges and the Rulebook on the procedure for performance appraisal of judicial office holders. Regarding the judgment of the Court of BiH, the HJPC issued a conclusion on the suspension of performance appraisal for 2019 under the new legal framework adopted in November 2018 based on peer review recommendations.

Procedure in the Court of BiH initiated by the HJPC on 4 June 2020 by submitting a Request for review of the judgment of the Court of BiH is in progress.

At the HJPC session (22 and 23 October 2020), it was concluded that the performance appraisal for 2019 will be conducted again in the courts and prosecutors’ offices to ensure that, in the context of promotion through the competition procedures, the performance of all judicial office holders is evaluated under to the same criteria. This evaluation was being carried out until 11 December 2020 in accordance with the parameters provided by the old criteria, which were in force until the adoption of the new criteria in November 2018, and in accordance with the peer review recommendations. At the same session, it was decided that the performance appraisal for 2020 would not be carried out, as it was considered that the appraisal would not be objective given the delays and limitations in the work of judicial institutions due to the COVID-19 pandemic.

Amendments to the Rulebook on orientation standards in the courts in BiH are made as needed, and analyses of its implementation effects are continuously conducted.

Through the IPA 2013, a report was prepared on cases where the predictable deadline was violated, as well as on the stages of the procedure in which the deadline was violated.

The RS Law on Public Prosecutors’ Offices stipulates that the work of district prosecutors and deputy chief district prosecutors is evaluated by the chief district prosecutor, and the performance of chief district prosecutors, republic prosecutors and deputy chief republic prosecutor is evaluated by the chief republic prosecutor, while the chief republic prosecutor is evaluated by the HJPC. Decisions on the performance appraisal may be objected to the HJPC.

The cantons also act in accordance with the Rulebook on time frames for resolving cases in judicial institutions in BiH, according to the information received from the Ministry of Justice of the Posavina Canton, based on reports it receives from judicial institutions. In some cantons, for example in the Herzegovina-Neretva Canton, the work of courts and judges is analysed and available to them in order to improve the quality of court work.

The court presidents monitor application of evaluation criteria in Zenica-Doboj Canton through development and adoption of the Plan of visits to municipal courts, while the application of the Rulebook on orientation criteria is monitored through reports of court department sessions.

Rulebook on orientation norms in the courts of BiH is in force and its application is monitored in accordance with what is being improved.

Analysis of the effects of the application of the Rulebook on time frames for resolving cases in judicial institutions in BiH for 2017 was made, and certain changes in the Rulebook were proposed.[[74]](#footnote-74) In accordance with the analysis recommendations, growing demands of the public and growing trend of the number of lawsuits for trial within an unreasonable time frame, in 2019 activities began on drafting regulations that will regulate resolving cases within deadlines.

Reports were developed showing at what stage of the procedure there were delays. Reports called Time Management Lists are available in the CMS system.

Within the Judicial Quality Improvement Project, the HJPC BiH, with the support of the Government of Norway and in cooperation with the Norwegian Court Administration and the Judicial Council of the Netherlands, developed a number of methodologies and tools for more efficient work of courts, which are intensively applied in some of them.

Regarding the judicial work quality, the HJPC BiH representatives and experts from the Netherlands visited in the period from 16 to 18 November 2020, the courts in Mostar, Trebinje and Široki Brijeg and discussed methodologies for improving the work of judicial institutions.

Draft memoranda of cooperation between courts were prepared and guidelines for civil procedures have already been drafted in some courts. Topics of the meetings also included court and department management, organisational culture and teamwork.

As additional tools and in order to achieve more efficient and quality work, the checklists for preliminary examination of lawsuits and the plan of the preparatory hearing were applied.

The new methodologies and tools aim to facilitate the work of judges, and then of all other court staff, speed up court procedures, reduce the backlog of cases and, ultimately, contribute to the creation of a judicial system gaining the trust of the citizens.

During the meetings, the achieved results were analysed and plans of work for the following period were made, because, as concluded during the meetings, only continuous action can achieve visible changes.

The process of applying new working methods and mechanisms was initially started in the courts in Sarajevo and Banja Luka, and after achieving applicable and sustainable results, it was extended to other courts throughout BiH.

On 23 and 24 November 2020, the HJPC BiH, in cooperation with the Swedish Court Administration and Swedish courts, organised a working meeting with BiH court presidents and judges to present a model for improving business processes in the courts, through reorganization of their work and human resources. The main objective of the meeting was to present new methodologies that will improve the work of courts. Model of improving business processes in courts, through reorganization of the courts’ work and human resources, is being implemented within the *Project for Improving the Court Efficiency and Accountability of Judges and Prosecutors - Third Phase*, funded by the Government of Sweden. At this stage, the first instance courts from Sarajevo, Zenica, Travnik, Konjic, Široki Brijeg, Ljubuški, Banja Luka, Prnjavor and Doboj have already started to improve business processes in the courts with the support of the courts from Bijeljina, Tuzla and Prijedor that already applied new methods in their work.

In the previous phase of the project, new work methodologies were introduced in eight courts in BiH, which resulted in positive changes reflected in the changed and improved process of their work, increased productivity, increased quality of judges, introduction of training for trainees and volunteers, reduced workload of judges in terms of administrative matters.

### 1.2.9 Improvement and harmonisation of the status of the staff employed in judicial institutions in BiH

Improvement and harmonisation of the status of the staff employed in judicial institutions in BiH was the subject of requests for additional funds. In the observed period, a compilation of materials was made, which implies partial reorganization of the work of trainees/volunteers and other non-judicial staff in eight pilot courts, including development of individual training programs for trainees/volunteers.

At the level of BiH, the status of employed staff is resolved by the rules of procedure and rulebooks issued by the heads of these institutions without mandatory consultations or opinion of the MoJ BiH.

At the session held on 30 September and 1 October 2020, the HJPC adopted new Criteria for determining the required number of employees in prosecutors’ offices. These criteria enable prosecutors’ offices to increase the number of employees in workplaces which provide functional support to the work of prosecutors on cases (associates/advisors to the prosecutors, economic advisors, psychologists, etc.). Application of new criteria will depend on the needs of prosecutors’ offices and the availability of financial resources.

In Sarajevo Canton, this issue is regulated by the Law on Civil Service in Sarajevo Canton, which was adopted in 2016, as well as implementing regulations adopted in 2017, while the FBiH Law on Employees in Civil Service Bodies applies to non-civil servants. In the previous period, the Law on Salaries and Allowances in the Authorities of the Sarajevo Canton was adopted and published in the Official Gazette,[[75]](#footnote-75) and the Decree on allowances not having the character of a salary of the Sarajevo Canton, which was published in the Official Gazette.[[76]](#footnote-76) The PC Ministry of Justice and Administration does not have the necessary capacity to develop such plans, while one part of these activities is also under the authority of the heads of judicial institutions (evaluation), which is why they expect initiative and cooperation at the Entity or even state level in cooperation with the HJPC BiH. The procedure of appraisal and training of persons who are not judicial office holders in the USC courts is regulated by the regulations that apply to civil servants and non-civil servants in the USC.

The Law on Public Prosecutors’ Offices of the RS stipulates that the performance appraisal of employees in the Public Prosecutor's Office is performed on the basis of the Rulebook issued by the Chief Republic Prosecutor. According to the RS Law on Courts, supervision over proper performance of judicial administration tasks in the courts is performed by inspectors of the MoJ RS and accounting tasks are performed by authorized employees in the financial area.

The JC BD BiH has started drafting long-term plans for the development of employees in the BD BiH judiciary, following the adoption of the Law on Civil Servants and Non-Civil Servants in the BD BiH Judiciary in October 2018.[[77]](#footnote-77) The JC BD BiH, as the proponent of the laws related to the organization and work of judiciary in the BD BiH, adopted and sent to the parliamentary procedure the proposal of the Law on Salaries and Allowances of Employees in the Judiciary of the BD BiH. The BD BiH Assembly adopted the Law and it was published in the official gazette.[[78]](#footnote-78) The Law regulates salaries, and it entered into force on 1 July 2019.

Nine rulebooks related to the area of judicial organisation in the BD BiH were also adopted, as well as the program of professional training of civil servants and non-civil servants for 2019. The JC BD BiH adopted amendments to the Rulebook on professional development of civil servants and non-civil servants in the BD BiH judiciary[[79]](#footnote-79).

The JC BD BiH adopts the annual Plan of professional development of employees in the BD BiH judiciary on the basis of expressed needs for education by judicial institutions. The education plan for 2020 was adopted at the session of the JC BD BiH, held on 20 December 2019. The annual appraisal of employees in the judiciary is performed in accordance with the Rulebook on performance appraisal of employees in the BD BiH judiciary.[[80]](#footnote-80)

Activities on the implementation of this program in 2019 should have resulted from the recommendations of the IPA project *Capacity Building for Judicial Reform in BiH* component II, which did not occur partly due to the lack of implementation capacity. The program has been nominated as a priority for funding from donor funds in 2020.

## 1.3 Responsibility and professionalism of judicial office holders in BiH

Responsibility and professionalism of judicial office holders in BiH includes:

1. improvement of compliance with the standards of professional ethics and integrity,
2. improvement of disciplinary accountability of judicial office holders in BiH,
3. modernisation and harmonisation of bar exam programs in BiH,
4. improvement of internal organization of judicial institutions in BiH, procedures, knowledge and skills for consistent application of the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures in BiH and
5. improvement of trainings for judicial office holders in BiH.

### 1.3.1 Improvement of compliance with the standards of professional ethics and integrity

The HJPC is a body that has been monitoring, since 2018, implementation of integrity plans in all judicial institutions in BiH. In addition to that, the HJPC adopted Guidelines for prevention of conflict of interest in the BiH judiciary, with the aim of improving the integrity and strengthening the accountability of judicial office holders. In March 2017, a working group was established to deal with these issues and to establish a functional system for collecting data on the property and activities of judicial office holders. In accordance with the recommendations of the Expert Mission, the HJPC adopted a new financial statement form for judges and prosecutors. At the September session of the HJPC in 2018, the Rulebook on monitoring and publishing data from personal financial statements was adopted, as well as the new form of personal financial statement of a judge/prosecutor, which entered into force on 1 January 2019. Regarding the mentioned Rulebook, in March 2019, the BiH Personal Data Protection Agency issued a decision prohibiting the disposition of personal data of judges and prosecutors during the preparation of financial statements, which temporarily postponed the application of the Rulebook, using old forms and applying the old system of personal data collection. In the middle of 2019, the HJPC initiated procedure before the Court of BiH against the mentioned decision of the BiH Personal Data Protection Agency.

Rulebook on submission, verification and processing of financial statements of judges and prosecutors was repealed in February 2020.

The competent institutions of executive and legislative power were urged to initiate, under urgent procedure, the procedure for amending the current legislation (Law on HJPC) in the part of the provisions related to financial statements, after which drafting and adoption of this Rulebook would be initiated. Activities were continued on the establishment of an electronic system for submitting and verifying data from financial statements.

Annual report on implementation of integrity plans in courts and prosecutors’ offices was prepared and presented at the HJPC session. Several recommendations were adopted regarding further process of monitoring integrity plans, which were submitted to the courts and prosecutors’ offices in BiH. The HJPC called the executive and legislative bodies at all levels for understanding and readiness to cooperate with judicial institutions to enable implementation of measures from integrity plans, the implementation of which depends on cooperation with these bodies.

At the session held in September 2019, the institutional mechanisms and records for the implementation of instruments for monitoring the implementation of the Guidelines for the prevention of conflict of interest in the judiciary were adopted.

Test version of the IT tool for monitoring the implementation of plans has been developed, the long-term purpose of which is to develop integrity plans through an online platform, and this tool is in the testing phase. The codes of ethics for judges and prosecutors were amended with the previously adopted Guidelines on the prevention of conflict of interest in the judiciary. At the beginning of 2019, reports on the implementation of plans were received. As a support to the integrity plans implementation, a Manual for implementation of the Code of Judicial Ethics and a Code of Prosecutorial Ethics were developed. They were published on the portal [www.pravosudje.ba](http://www.pravosudje.ba).

During 2019, surveys of judicial office holders on ethics and disciplinary responsibility were prepared and conducted, the results of which were published on the judicial portal.[[81]](#footnote-81)

The HJPC, with the support of USAID, is developing an online training module on ethics, integrity and conflict of interest, which should be mandatory for all judicial office holders.

The EU4Justice project, in cooperation with JPTC FBiH, organised an exchange of views on 7 July 2020 on *Ways to spread ethics and integrity in the judiciary*, with the aim of exchanging good practices. The event gathered 24 judges and judicial associates from various judicial institutions throughout BiH.

On 29 and 30 September 2020, the JPTC BiH, in cooperation with the Council of Europe, held a two-day training within the implementation of the JUFREX II project on *Application of the Law on Protection against Defamation*, in the area of civil law, where the target group were judges. This training was attended by 26 judges from the FBiH.

On 5 and 6 November 2020, the JPTC FBiH, in cooperation with the Council of Europe, held a two-day training within the implementation of the JUFREX II project on *Protection of whistle-blowers*, in the area of human rights and criminal law. This cascade training was attended by judges and prosecutors from the FBiH.

During 2020, the JC BD BiH adopted the Rulebook on the implementation of the Law on Personal Data Protection in the JC BD BiH[[82]](#footnote-82):

Regarding the Integrity Plan of the Cantonal Court in Zenica number: 004-0-SuDp-17-000 796, dated 30 June 2017, in order to achieve the expected results from the Risk Management Plan, the Decision on the implementation of measures to improve the integrity of the Cantonal Court in Zenica was adopted.

In the Cantonal Prosecutor's Office of Zenica, the activity is carried out within the implementation of the Integrity Plan measures.

### 1.3.2 Improvement of disciplinary accountability of judicial office holders in BiH

The HJPC Standing Committee for Legislation prepared a working version of the draft Law on the HJPC, in the part that regulates the disciplinary responsibility of judicial office holders and disciplinary procedure.

The Standing Committee continued to analyse and monitor the provisions related to disciplinary procedure, in accordance with the Peer Review recommendations. In addition to the need for legal changes to the peer review process, it is also recommended to amend the implementing acts regulating the disciplinary procedure, initiating preparation of the Rulebook for conducting the disciplinary procedure.

During 2019, with the support of EU projects, the Manual for conducting disciplinary procedure was prepared, adopted and published on the website [www.pravosudje.ba](http://www.pravosudje.ba).[[83]](#footnote-83) Preparation of the Rules for publishing disciplinary decisions was also initiated.

As a part of the EU4Justice project, on 26 November 2019, a round table was organized for employees of the Office of the Disciplinary Counsel of BiH with Béatrice Del-Volgo, Chief Inspector and Anne Coquet, Inspector in the General Inspectorate for Justice - Ministry of Justice of France. The purpose of the round table was to exchange views on good practices, experiences in the European Union and in BiH on disciplinary issues, including organization, methodology, investigation of allegations of disciplinary matters and case law. During 2020, the mission of the General Inspectorate for Justice was cancelled due to restrictions caused by the virus pandemic.

During 2020, the disciplinary commission issued 18 decisions.

In case of a complaint against the work of a judge of the Cantonal Court in Zenica, the procedure is conducted in accordance with Article 60, paragraph 2 of the Law on Courts in the FBiH (Official Gazette of the FBiH, 38/05, 22/06, 63/10, 72/10, 7/13 and 52/14), and the case is submitted without delay to the Office of the Disciplinary Counsel of the HJPC.

### 1.3.3 Improvement of internal organization of judicial institutions in BiH, procedures, knowledge and skills for consistent application of the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures in BiH

Prosecutors’ offices in BiH amended rulebooks on internal organisation, in order to consistently apply the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures in BiH. Vacancies required for law enforcement were filled depending on the available budget.

Having in mind the fact that UNICEF announced the possibility of financing from donor funds the positions of psychologists in the first instance courts, in accordance with the mentioned law, the HJPC recommended to the municipal/basic courts to include these positions in the systematization.

According to the available information of the HJPC, 31 psychologists/social workers are currently employed in judicial institutions, who are engaged to implement provisions of the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures in BiH.

Besides that, in order to improve position of this population and achieve a higher level of rights, the HJPC BiH has so far developed an illustrated guide through criminal procedure for child victims/witnesses of criminal acts and their parents/guardians. Analysis of the degree of application of the provisions of the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures in BiH was made, on the basis of which recommendations were issued to the courts for improvement of their work.

Activities aimed at strengthening the rule of law, democracy, human rights and improving the position of vulnerable groups in contact with the court were implemented by the HJPC BiH, as a part of the project *Improving the efficiency of courts and accountability of judges and prosecutors in BiH*, with the support of the Swedish Government. Marking of 20 October 2020, as the International Children's Day, will determine commencement of the project’s third phase.

In September this year, the HJPC, in cooperation with UNICEF, initiated the process of drafting standards for equipping interrogation rooms for children in contact with the law.[[84]](#footnote-84)

Rulebook on internal organisation and systematisation of workplaces was amended in the Basic Court of BD BiH, and the position of specialist for witness support was filled. If necessary, the associate also acts before the Appellate Court. The Prosecutor's Office of BD BiH did not systematise this position due to relatively small number of cases of this type and for this purpose uses a support witnesses specialist employed in the BD BiH Police, on the basis of specially concluded protocol. In the previous period, vacancies related to dealing with juveniles were not filled.

CMS and T-CMS have built-in fields that enable entry of information on new types of cases and actions provided by the Law and adjusted to the new provisions and procedures in the management cases of juvenile offenders.

At its 35th session, held on 29 August 2019, the RS Government approved the draft Law on Amendments to the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures, defining the provisions related to the actions of judicial advisors employed at court or public prosecutor's office, as well as educational measures that were referred to the further adoption procedure.

Accordingly, the RS National Assembly adopted at the 6th regular session, held on 10 October 2019, the draft Law on Amendments to the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures, which improves educational measures in the RS. During mid-2020, the RS National Assembly adopted the Law on Amendments to the RS Law on Protection and Treatment of Children and Juveniles in Criminal Procedure.[[85]](#footnote-85)

At its 186th session, held on 25 July 2019, the FBiH Government established and sent to the parliamentary procedure the proposal of the Law on Amendments to the Law on Protection and Treatment of Children and Juveniles in Criminal Procedure, according to which it is provided that the costs of enforcing the criminal sanctions against a juvenile is borne by the founder of the institution where the criminal sanction is enforced. The Law was adopted in early 2020[[86]](#footnote-86). During 2019, the FBiH Government also established the proposal of amendments to the Law on Minor Offences, which introduced the measure of juvenile reprimand as an educational measure. The JPTC program also includes a program of specialist training of judges and prosecutors under the laws on protection and treatment of children and juveniles in criminal procedures, and the work programs of JPTCs contain topics for improving knowledge and skills for the consistent application of the Law on Protection and Treatment of Children and Juveniles in Criminal Procedure in BiH.

On 14 May 2020, JPTC FBiH, within the Specialist Training Program for Juvenile Justice and in cooperation with UNICEF, organized an online video training on *Child Support*, via Zoom application, intended for all judges and prosecutors who apply the Law on Protection and Treatment of Children and Juveniles in Criminal Procedure.

According the programs of work for 2016, 2017, 2018 and 2019, JPTC RS held several seminars on treatment of children and juveniles in criminal procedures in the application of the RS Law on Protection and Treatment of Children and Juveniles in Criminal Procedures.

As a part of the Vocational and Initial Training Program for 2020, JPTC RS, with the support of UNICEF, organized a seminar on *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and its compliance with domestic legislation*, which was held on 16 October 2020.

Topics of the seminar were *International standards incorporated into the RS Law on Protection and Treatment of Children and Juveniles in Criminal Procedure, as well as amendments to the RS Law on Protection and Treatment of Children and Juveniles in Criminal Procedure* and *Application of international standards and new legal solutions in the RS case law* .[[87]](#footnote-87)

Within the Vocational and Initial Training Program for 2020, JPTC RS organised, as a part of a joint activity with JPTC FBiH and JC BD BiH, supported by the project *Prevention and work on prevention of sexual exploitation and abuse of children in the digital environment in Bosnia and Herzegovina*, implemented by SAVE THE CHILDREN, UNICEF and EMMAUS, a specialist workshop for judicial office holders on: *Sexual exploitation and abuse of children in the digital environment*. The workshop was held from 1 to 3 December 2020, via Cisco Webex platform, and consisted of three Modules.

### 1.3.4 Improvement of disciplinary accountability of judicial office holders in BiH

At the proposal of the JPTCs and the Standing Committee on Education, the HJPC reviewed and approved the Strategy for Initial Training and Professional Development 2017-2020, which contains measures to improve the training of judicial office holders in BiH. In accordance with the Strategy, annual training programs, improvement of initial training for newly appointed judges/prosecutors, updating the list of educators, e-learning, training of trainers, etc. are developed. Training plans are continuously improved in accordance with the recommendations and analyses related to training improvement. Areas where training needs to be improved are defined by the Peer Review Recommendations. The HJPC adopted the action plan for implementation of the recommendations. Priority area for improvement is initial training for newly appointed judicial office holders. Among other things, the process of introducing the institute of mentoring for newly appointed judges has been initiated. Implementation of the rulebook on the work of consultative prosecutors with newly appointed prosecutors is regularly monitored through performance appraisals and work reports. JPTCs of FBiH and RS published the Vocational and Initial Training Program for 2019. The programs were developed on the basis of expressed interest of the judicial community and the proposals of judicial institutions, educators, judges and public prosecutors, international institutions, the HJPC, ministries of justice, in order to improve training of judicial officials.

A solution is being prepared for improving the initial training of the newly appointed persons, which will be reconsidered by the HJPC in the coming period. Special attention was paid to improving the framework for the work of consultative prosecutors, while the pilot phase of introducing mentoring in courts is underway, which will be considered by the HJPC Working Group established to define the best mentoring framework adapted to the BiH legal system. In February 2020, the working group held a series of meetings with selected mentors and judges in the pilot courts. Activities of the working group in this segment were postponed during the state of emergency caused by COVID-19, while activities are underway to define a proposal for a legal framework to introduce a mentoring system in courts (amendments to POUSP, issuance of the Rulebook on election and work of mentor judges, etc.).

In the period from 11 to 13 March 2020, in Mostar, a round table was held, organised by the EU4Justice project, on: *Mentoring skills and optimization of personal mentoring skills*. The aim of the workshop was to enrich the initial training of newly appointed judges and prosecutors, and to improve the tools that mentors use in performing their tasks. The workshop was attended by thirteen judges and prosecutors who were already appointed by judicial institutions across the country as mentors for newly appointed judicial office holders.

Pilot mentoring project is underway in two target courts. The Council accepted the draft Rulebook on amendments to the Rulebook on internal court operations adopted by the HJPC, the Rulebook on mentoring for newly appointed judges and expert associates appointed by the HJPC, and the framework content for the strategic document. The HJPC initiated a dialogue with professional associations of judges and judicial associates. Initiative was sent to the RS Ministry of Justice to amend the RS Rulebook on internal court operations.

In accordance with the FBiH Government measures to prevent spreading of the COVID-19 pandemic, JPTC FBiH during 2020, intensified its work on finding appropriate solutions to ensure efficiency and continuity in its work and performing its significant and irreplaceable role in continuous improvement of judicial office holders and strengthening the judiciary that can cope with EU standards and challenges.

In addition to the online training module for prosecutors, newly appointed prosecutors and judicial associates in prosecutor's offices, set up on the distance learning platform of the Centre, interested participants were enabled to follow online training in real time via video communication platforms and Cisco Webex and Zoom applications.

In cooperation with the Atlantic Initiative, and within the Vocational and Initial Training Program for 2020, on 10 April 2020, via web application Zoom, a seminar was held for judges and prosecutors dealing with criminal cases on *Analysis of judicial practice - criminal offense of rape*. The following seminar was held on 29 April 2020, via the web platform - Cisco Webex application, and brought together two topics: *Practice of the Supreme Court and cantonal courts in the civil area* and *Current issues in labour disputes*. After this training, JPTCs, in cooperation with the Council of Europe in BiH, as a part of the project *Initiative for legal security and efficient judiciary in Bosnia and Herzegovina*, carried out an online seminar on *Skill of writing a verdict in criminal matters with a focus on its reasoning*, which was held on 7 and 8 May 2020. JPTC and the World Bank, within the implementation of the project *Improving the business climate through faster resolution of economic disputes in BiH*, which the World Bank is implementing in cooperation with the HJPC, with the financial support of the United Kingdom Government, organised on 12 May 2020 an online training, via the Cisco Webex platform, a seminar on *Preparation for civil procedure*. On 14 May 2020, the JPTC organised a seminar on *Child Support*, via Zoom application within the Specialist Training Program for Juvenile Justice in cooperation with UNICEF. The seminars that followed were online trainings on: *Skills of writing and reasoning a verdict in civil procedure* - 18 and 19 May 2020, *Sexual harassment - legal solutions and judicial framework* - 22 May 2020, *Legality of evidence* - 28 May 2020, and *Communication in Crisis Situations* - 3 and 4 June 2020.

JPTCs have put into operation online distance learning modules developed for newly appointed prosecutors as part of the HJPC project *Strengthening Prosecutorial Capacities in the Criminal Justice System*. Legal framework for conducting mentoring for newly appointed prosecutors is also being improved.

Annual reports of JPTCs are being prepared. In addition to that, activities have started on gradation of trainings in the area of application of the ECHR, in accordance with the HJPC conclusion from November 2019. As a part of the JPTCs consultation process, areas were identified in development of initial training and professional development programs for 2021 (e.g. specialist training on corruption and organized crime for judges and prosecutors, ethics and integrity, etc.).

In order to strengthen the capacity of judicial training institutions in the Western Balkans to ensure the effective implementation of the European Convention on Human Rights at the national level, on 17 September 2020, the action *Judicial Training Institutes for Quality and Sustainability (JA-NET)* started making recommendations for improving the existing e-library resources for 7 judicial education institutions in the Western Balkans, including BiH. For that purpose, a descriptive assessment of available e-library resources and existing human rights training materials and other legal publications in judicial education institutions in the Western Balkans is being carried out.

On 17 and 18 September 2020, JPTC FBiH together with the Council of Europe held a two-day training of trainers within the implementation of the JUFREX II project on *Freedom of Expression - Article 10 of the European Convention on Human Rights, Training of Trainers*. This training increased the fund of judges and prosecutors working as trainers in the area of criminal law with 13 participants.

Centre for Public Law Foundation (FCJP), Judges and Prosecutors Training Centre of the FBiH (JPTC FBiH) and FBiH Association of Judges organised an expert conference on the education of lawyers for the judicial/prosecutorial function in Bosnia and Herzegovina on 2 October 2020. The conference was attended by 16 participants, members of the academic community, the HJPC BiH and the competent state bodies.

## 1.4 Openness in the work of judicial institutions in BiH

Openness in the work of judicial institutions in BiH includes:

1. improvement of communication of judicial institutions in BiH with the media, service users and the public and
2. improvement of availability of information on the work of judicial institutions in BiH to the professional and general public.

### 1.4.1 Improvement of communication of judicial institutions in BiH with the media, service users and the public

Development and testing of priority functionalities for improvement of web sites of judicial institutions is carried out continuously, with the support of donor projects. In this context, a specification of functional and non-functional (visual, etc.) requirements for developing an updated version of the platform hosting the websites of judicial institutions was prepared.

In September 2018, started the HJPC grant project on *Building an efficient judiciary in the service of citizens - IPA 2017* with a duration of three years. Several activities of this project are aimed directly at the implementation of this program, namely to promote transparency of the judiciary (e.g. by increasing the number of publicly available judgments), improve the media skills of the judiciary and establish contact with citizens (for example by organizing primary school visits, lectures of judges and prosecutors for high school students, as well as a workshop with students).

One of the project activities in the form of an open door of the judiciary, held on 25 February 2020, enabled about thirty students of the Primary School "Drežnica" to visit the renovated Cantonal Court in Mostar. The visit was carried out in order for the students to get acquainted with the tasks of judges, prosecutors, judicial associates and other professions in court during the court procedure, and to gain insight into what it is like to be an employee of a judicial institution for one day.

As a part of the project, a public campaign was launched through social media called "I am for justice, tailored to the citizens!" with a target group of people aged 18 to 30, which lasted until 7 December 2020. The European Day of Civil Justice was marked, where on 23 October 2020, the workshop was organised for law students on *Independence of the judiciary! Independence of whom, independence from whom and independence from what?*

In addition to the mentioned project, in October 2020, started the third phase of the project *Improving the efficiency of courts and accountability of judges and prosecutors in BiH*, funded by SIDA and implemented by the HJPC Secretariat. One of the activities of this project was to improve the capacity of courts for proactive communication with the media and the public, as well as to increase transparency of the work of courts.

In addition to that, judicial institutions in BiH use other channels of communication with the media, service users, as well as the professional and general public. Websites of judicial institutions were merged into the internet portal pravosudje.ba.

Content standardization of the web sites of judicial institutions will be continued in the implementation of the new version of the judicial web site. Testing of priority functionalities for improving the sites of judicial institutions is in the final phase.

New visual identity as well as the required website content will be available during 2021.

### 1.4.2 Improvement of availability of information on the work of judicial institutions in BiH to the professional and general public

The HJPC continuously publishes information on the website on the percentage of implementation of case resolution plans in courts.

Statistical report on work of courts and prosecutor's offices for the period 1 January-30 June 2020, was prepared and considered on 15 and 16 September 2020, at the session of the HJPC BiH.

After entry into force of the amendments to the HJPC Rules of Procedure, the HJPC sessions are open to the public.[[88]](#footnote-88)

Websites and database of court decisions are continuously updated by publishing court decisions of the highest courts, agreed legal opinions of the panels and other relevant information.

Observing the security measures introduced by BiH, as well as other countries of the world, to prevent spreading of the COVID-19 pandemic, the HJPC provided the service of organizing and holding up to a hundred simultaneous meetings on judicial issues via the Cisco WebEx videoconferencing system.

Taking into account the importance of daily communication with courts and prosecutor's offices from all over BiH, the HJPC BiH Secretariat, in cooperation with the European Union, through the implementation of the IPA project *Building an efficient judiciary in the service of citizens*, procured a videoconferencing system for a period of one year.

As a part of the same project, an infographic was made on the possibilities of using the e-Court mobile application.

Database of court decisions contained, on 30 November 2020, a total of 13,272 decisions, out of which 7,917 decisions were from the civil area, 4,085 from the criminal area, and 1,270 from the administrative area.

Among other things, processing of information on decisions and case law of the European Court of Human Rights, as well as information on newly adopted laws, was intensified.

Regarding the quality and openness of the work of judicial institutions, the website of the Centre for Judicial Documentation www.csd/pravoudje.ba was regularly supplemented during the reporting period with information on the case law development of the European Court of Human Rights (ECtHR), by publishing information on new cases and weekly review of the case law.

In this regard, it contains data on cases initiated against BiH, and there were a total of 16 cases in 2019 and 6 in 2020, as well as the case law of the ECtHR, a weekly review of the ECtHR case law and the ECtHR reports that available to the judicial and the professional legal public through the network of higher courts, so all weekly reports during 2019 and 2020 are available. It is also possible to access the regional database of ECtHR judgments for the Western Balkans, review the list of useful websites and other publications such as the review of ECtHR practice from 2014 until now, by years.

Since 2010, the centre has been regularly publishing information on newly adopted laws with accompanying texts, various professional publications, etc. All of the above is regularly delivered to the judicial community and other users of the CSD IS via an electronic leaflet. Database of court decisions is regularly updated with selected decisions of the highest courts in BiH, as well as the Higher Commercial Court in Banja Luka, but also with decisions concerning organized crime and corruption.

During 2020, the database was opened to the public, free of charge. Elaboration of the methodology for updating and improving the War Crimes Map,[[89]](#footnote-89) which was taken over from the OSCE Mission to BiH by the HJPC in December 2019, is being prepared.

Meeting of the expanded Working Group for improving the HJPC Communication Strategy was held on 5 February 2020. Most of the material has been produced and there are currently activities on harmonising and compiling the text.

According to the MJA ZDC, during 2020, conditions were provided for improvement of the website of the Municipal Court in Zenica. The Cantonal Court of Zenica regularly updates its website. Besides that, the website of the ZDC Prosecutor's Office has been significantly improved within the framework of taking measures from the Strategy for dealing with persons who come into contact with the prosecutor's offices.

# 2 STRATEGIC AREA 2 - EXECUTION OF CRIMINAL SANCTIONS

In the strategic area of ​​Execution of criminal sanctions, based on the collected information and taking into account that the FWG 2 meeting in 2019 was not held due to lack of quorum, and in 2020 due to the virus pandemic, it can be concluded that activities were mainly carried out with certain and reversible delays, with the exception of strategic programs 2.1.2 *Establishment of administrations for the execution of criminal sanctions in BiH*, 2.2.4 *Improvement of the pardon procedure in BiH* and 2.2.5 *Establishment of the probation service in BiH*. Out of a total of 14 strategic programs and 41 strategic activities, 7 programs and 17 activities were implemented, 4 programs and 13 activities were partially implemented, while two programs and 8 activities were postponed, and one program and 3 activities were not implemented. In that context, the conclusion is that at several levels of government there is no possibility (political assumptions, material and technical conditions, etc.) to establish administrations for execution of criminal sanctions or to establish a probation service in BiH, while institutions should do their best to promote the institute of pardon.

Regarding the establishment of administrations, the MC decided to support further implementation of this activity at the levels where it was assessed that there are possibilities for that, in accordance with the revised BiH JSRS AP for 2019 and 2020, and to re-examine the issue for other levels and to consider it as content for a new strategic framework.

At the level of BiH, after the State Prison was put into function, in the period of at least two years of operation of the State Prison, it will be possible to assess the need and justification for introducing the probation service, i.e. in the period 2022-2023 at the earliest. Priority for donor support should still be the support for the analysis of the needs of establishing a probation service and further digitization with the training of institutions.

## 2.1 Management of the BiH system for execution of criminal sanctions

Strategic programs of management of BiH system for execution of criminal sanctions relate to:

1. harmonization of standards and legislation pertaining to the execution of criminal sanctions in BiH,
2. establishment of administrations for execution of criminal sanctions in BiH,
3. improvement of the data collection system in the area of execution of criminal sanctions in BiH,
4. improvement of prison infrastructure and conditions in prisons in BiH,
5. systematization and implementation of trainings for prison staff in BiH and
6. improvement of the health care system for convicts in BiH.

### 2.1.1 Harmonization of standards and legislation pertaining to the execution of criminal sanctions in BiH

Mutual compliance of legislation in this area, as well as compliance with the European standards, is continuously analysed, with the assessment that a high level of compliance has been achieved. BiH Law on the Execution of Criminal Sanctions, Detention and other Measures (LECS) was amended several times over the previous period, with the aim of compliance with the European standards. Consolidated text of this Law was drafted earlier. Proposal for the Law on Amendments to the LECS BiH was made, which in the meantime passed the regular procedure and was adopted by the CoM BiH at 139th session, held on 16 April 2018, and on 5 July 2018, it was submitted to the PA BiH for further procedure. At the end of 2019, the Law entered the parliamentary procedure. The CoM BiH received a notification, dated 20 May 2020, that the Law did not gain the parliamentary majority and was therefore rejected. In the meantime, it was corrected and on 8 December 2020, it was sent to the public consultation procedure with the deadline of 23 December 2020.

LECS FBiH was also amended several times. A new draft LECS FBiH was made, but was rejected by the FBiH Parliament. Based on the analysis of compliance of the existing LECS FBiH with European and international standards, a draft of the new LECS FBiH was made, which was harmonized with the LECS BiH and international standards. FMoJ established the Working Group that prepared the draft LECS FBiH, pursuant to Article 78, paragraph (1), point b) and Article 83, paragraph (2), point c) of the FBiH Rules and procedure for legislative drafting.[[90]](#footnote-90)

Regarding the text of the draft, all institutes were consulted, and it was referred to the procedure for obtaining opinions.

In 2017, a new draft of the LECS RS was made, which was in the procedure of adoption in the RS National Assembly until 21 June 2018, when it was adopted at the 25th session. The new LECS RS[[91]](#footnote-91) is fully harmonized with international standards. LECS RS entered into force on 19 July 2018, with the deadline for drafting and adopting regulations until 19 July 2019. Revised RS Law on Amnesty was also adopted.[[92]](#footnote-92)

The working group was established in the BD BiH to draft the LECS, in order to harmonize it with the state level law. The current Law was previously harmonized with the state level legislation and international standards. Amendments to the Law at the state level are applied until adoption of a new regulation at the BD BiH level.

Based on the mentioned laws, a number of amendments to the regulations was made in the past period, which regulate in more detail the issues related to the execution of criminal sanctions, detention and other measures at the level of BiH, FBiH, RS and BD BiH.

In the previous period, the MoJ BiH established the Coordination Body for harmonisation of laws and regulations in the area of execution of criminal sanctions in BiH. Coordination Body analysed legal solutions on the execution of criminal sanctions, detention and other measures in BiH and concluded that the legal solutions are mostly harmonized, especially when it comes to the norms that regulate the rights of prisoners. Coordination Body also determined that the laws on pardoning convicts in BiH are mutually harmonized, with the finding and opinion that there is harmonization of regulations in the area of execution of criminal sanctions, detention and other measures. Provisional Coordination Body for harmonization of laws and regulations in the area of execution of criminal sanctions in BiH completed its work with the conclusion that the mandate of the Coordination Body for harmonization of laws and regulations in the area of execution of criminal sanctions, detention and other measures should be extended and have the competence for mutual informing on the state of legislation in the area of execution of criminal sanctions, detention and other measures. The mandate of the Coordination Body was not extended.

### 2.1.2 Establishment of administrations for execution of criminal sanctions in BiH

Institutes for execution of criminal sanctions in BiH have an independent legal status, while in the FBiH only after the request of the FMoJ in 2020, the preconditions were provided for all seven institutions to be independent budget users. It was assessed that there is a need for the institutes to be administrative organizations within the ministries of justice at different levels in BiH. It was also assessed that there is a need to improve the legal status and operation of economic units and economies within the institutes.

Law on Establishing the Institute for Execution of Criminal Sanctions, Detention and other Measures of BiH stipulates that upon its commissioning, the Institute will be an administrative organization within the MoJ BiH, which was done.

Establishment of the administration in the FBiH was resolved through amendments to the LECS. Draft of this piece of legislation was sent to the procedure and it was returned for revision. It is currently in the process of obtaining the opinion of the FBiH Ministry of Finance, after which it will be sent to the session of the FBiH Government, in order to adopt the proposal and send it to the parliamentary procedure. At the end of 2019, a request was sent to the FBiH Government for seven prison institutions to receive the status of budget user. At 211th session of the FBiH Government, held on 28 February 2020, a conclusion was received that all seven institutions were entered in the FBiH Register of Budget Users.

In BiH, there is no management level between penitentiaries and ministries of justice, nor operational staff within ministries of justice responsible for individual functional areas, such as security, health care or treatment programs for prisoners that could provide guidance and consistency to the penitentiaries in their work.

For this program, it was assessed that there are no technical, organizational and other conditions for establishment of administrations, but that where possible the competent institutions implement it, and to make a new assessment of the possibility of establishing in a new planning cycle.

### 2.1.3 Improvement of the data collection system in the area of execution of criminal sanctions in BiH

Based on analysis, the MoJ BiH amended the Rulebook on house rules in the institutes for serving criminal sanctions, detention measures and other measures in BiH[[93]](#footnote-93), which defined the data collection procedure and requested staff strengthening with one new civil servant for this type of activities. During 2020, a new Rulebook was drafted, followed by its amendments[[94]](#footnote-94). BiH Ministry of Justice signed the Agreement with the judiciary of the Republic of Serbia on takeover of the prison information system, which has been taken over and installed in the State Prison. Complete software solution and training in this area were not provided, but the analysis of the system of execution of criminal sanctions conducted by the Council of Europe (CoE) identified the needs of the system and the scope of automation of the management process. Based on it, the future work plan of the CoE was defined, which concerns the computerisation and digitalization of the system of execution of criminal sanctions, which is supported by the project *Horizontal Facility for the Western Balkans (HF) - first and second phase*.[[95]](#footnote-95)

During 2018, through the Ministry of Foreign Affairs, a redefined plan of work was sent and the CoE was requested to support adoption of the Action Plan for BiH. Besides that, in September 2018, a TAIEX[[96]](#footnote-96) expert assessment mission was carried out in the area of the prison system in BiH, as a part of the preparation of the EC opinion on BiH's application for EU membership, according to which the area of ​​the prison system was positively assessed.

On 28 July 2020, the CoE HF II project donated equipment and licenses in the amount of EUR 175,000 to the FBiH institutes. On 27 November 2020, a working group of BiH experts and CoE consultants met to discuss development of software for Entity institutes, which consists of 4 modules (treatment, insurance, health and reporting module). The last module is currently being developed.

Due to limitations in its own resources, the FMoJ did not proceed with an individual analysis of the capacity to collect data in the area of ​​execution of criminal sanctions in the FBiH, but relied on the support of the CoE. Data in the form of daily and monthly reports based on the valid regulation are regularly obtained from the penitentiaries. Frameworks and procedures for data collection and processing will be provided by regulations, once the revised FBiH LECS is adopted. Software solutions and training in this area were not provided from own funds, which is why they rely on already mentioned analyses and support that should result from the HF II project.

Based on the analysis, the MoJ RS defined data collection in the revised RS LECS. Article 9, paragraph 2 of the LECS provides for the introduction of an integrated information system with a single database. In the previous period, the MoJ RS worked on drafting the Rulebook on the types and manner of keeping records on prisoners, detainees and juveniles, and after that on drafting the Rulebook on functioning of the integrated information system. The RS Minister of Justice is obliged to adopt a Rulebook which will prescribe in more detail functioning of the unified RS information system. Data are obtained from penitentiaries in the form of daily and monthly reports based on the valid regulation. Training on data collection and analysis was partly performed in the earlier period, and after commissioning of the integrated information system, additional training is planned through the EU and CoE projects.

JC BD BiH has limited resources and therefore did not initiate the analysis of data collection capacity in the area of ​​execution of criminal sanctions in BD BiH. Data in the form of daily and monthly reports based on valid regulation are regularly obtained from the penitentiaries of both Entities. Software solutions and training in this area were not provided, but, as for other levels of government, rely on support from the CoE project *Horizontal Facility for the Western Balkans*.

### 2.1.4 Improvement of prison infrastructure and conditions in prisons in BiH

Works on construction of the State Prison were completed at the end of September 2017. In the first half of September 2017, the Project Implementation Unit (PIU) submitted a request for technical takeover of the facility to the Municipality of Istočna Ilidža to speed up the process. During the works, but also after that, public procurement procedures were carried out and the facility was equipped with furniture and other specialized equipment (medical equipment, kitchen and laundry equipment, sports and ICT equipment).

The PIU filed an appeal against the decision on appointment of the commission and the amount of technical admission costs, issued by the municipality of Istočna Ilidža, due to the extremely high fee that was calculated. However, the contract provided for the Supervisory Body to issue a certificate of acceptance of works. Works on the construction of the State Prison were completed and the technical admission was carried out within 60 days from the day of signing the contract (28 September 2018). In parallel with the technical admission, the MoJ BiH has taken all steps to draft the necessary regulations for the formal commissioning of the State Prison. Although with significant delays, which were caused by unfulfilled assumptions regarding the implementation of further activities of putting the prison into operation, and additional construction works, as well as the transfer of archives owned by the PIU, the CoM BiH at its 175th session, held on 23 July 2019, at the proposal of the Minister of Justice, passed the Decision on determining the date of the beginning of the work of the Institute for the Execution of Criminal Sanctions, Detention and Other Measures of BiH as of 1 August 2019. In addition to this Decision, the CoM BiH adopted the Decision on termination of the work of the PIU, Management and Supervisory Board at the same session, whereby the MoJ BiH is in charge of their implementation and publication in the official gazette.[[97]](#footnote-97) On 12 August 2019, BiH Minister of Justice appointed the acting Governor of the Institute, with the mandate of three months, i.e. until the completion of the procedure for election of the governor.

In addition to that, the MoJ BiH is in charge of preparing all necessary regulations (rulebook on internal systematization, as well as other accompanying acts) by 15 September 2019, necessary for commissioning of the Institute for Execution of Criminal Sanctions, Detention and Other Measures of BiH, and to submit them to the CoM BiH for confirmation. Although it was included and discussed at 177th session of the CoM BiH, held on 19 September 2019, at the extraordinary session held on 15 October 2019, the CoM BiH approved the proposal of the Rulebook on internal organization of the Institute for Execution of Criminal Sanctions, Detention and Other Measures of BiH. Public competition for the admission of employees was announced on 29 November 2019, while the public competition for the admission of civil servants was announced on 28 December 2019.

At the beginning of 2020, the procedure of hiring prison officers and administrative staff was completed. The State Prison was officially put into function on 22 July 2020.

Considering that the competitive procedure of hiring a new director was not completed, and the acting director was appointed to another position, a competition was held for the admission of a new acting director appointed by the BiH Minister of Justice by a decision for the new acting director of the Institute for a term of office starting from 10 August 2020 for three months, i.e. until the end of the procedure for the election of the director. The process of receiving convicts began in October, while the transfer from the Entity prisons is already underway.

FMoJ regularly monitors condition of prison facilities in the FBiH and plans financial resources for the reconstruction of existing and construction of new facilities. During 2018, the construction of the 9th pavilion in the Zenica Prison was carried out, with a capacity of 200 places, which was put into operation, and then the 3rd pavilion was also put into operation. In addition to that, the Orašje Prison was built and put into operation, which increased the accommodation capacity for convicted and detained persons by 97 places. The new facility in the Bihać Prison was put into operation, while the admission and discharge department, capacity of 30 places, has not yet been put into operation, while the Busovača Prison hired new staff and put into operation a new facility with a capacity of 50 places for convicted persons. Financing of construction/reconstruction activities is largely made from IPA funds. Construction of a gym, school and ancillary facilities in the Department for Minors of the Orašje Prison was carried out, financed from the IPA funds.

The analysis of the situation in the area of ​​prison infrastructure showed an overload of the capacities of certain institutes, especially in the detention unit of the Sarajevo Prison, and therefore the FMoJ redistributed accommodation places, in cooperation with the competent courts, i.e. detainees were sent to detention units of other institutions. In order to unburden the detention unit of the Sarajevo Prison, the detention unit in the Zenica Prison has been expanded by another 50 places. Activities of relocating the Sarajevo Prison to a new location on Igman also began, where a new facility will be built with the help of IPA funds, for which a project application was submitted in the previous period and preparations for project documentation were made.

During 2019 and 2020, the FBiH Government adopted several regulations on internal organization (Mostar, Tuzla, Sarajevo, Zenica, Orašje).

In the RS, plans for the reconstruction of prison facilities have already been largely implemented. Activities are underway on the reconstruction of existing and construction of new facilities for the accommodation of convicted persons, as well as other contents under the convict standard. MoJ RS is reconstructing the prison facilities on the basis of analysis of the condition of the prison facilities and the available material possibilities. In Banja Luka, the floors of the pavilions of convicted and detained persons were upgraded, the facility for the execution of the educational measure of sending to the correctional facility was adapted, the registration office, the admission and discharge department, the health department were upgraded, and the water supply and sewerage system were completely repaired, the facility for the accommodation of convicted persons in the semi-open department was adapted, and the facility of the administrative building was adapted and reconstructed. In Doboj, the complete ground floor of the building was completely renovated, which was destroyed in the 2014 floods. The opportunity was used to adapt the first floor of the building. The premises for the accommodation of convicts in the semi-open ward were also renovated. In Istočno Sarajevo, all rooms for the accommodation of convicted and detained persons were adapted. Facility for accommodation of juveniles for serving a juvenile prison sentence was reconstructed, as well as the facility for accommodation of female convicts. Complete reconstruction of the existing and construction of new facilities of the semi-open department "Kula" was made. In Trebinje, the complete facility for accommodation of convicted and detained persons was reconstructed and adapted, as well as the existing facility for accommodation of convicted persons in the semi-open ward "Duži", and the construction of a new registration department for the needs of the security service. In Bijeljina, a new institution was built at the location of "Patkovača", where the complete fencing of the complex was completed, and the facility for detention and walks of detainees was equipped. On 21 February 2019, EU Delegation to BiH announced a tender for construction of a prison, which will be financed with around five million marks within the IPA program for BiH. The existing facilities and space for accommodation of convicted and detained persons at the old location of the prison were renovated and adapted.

In Foča, a new facility of the Department of the special regime for serving prison sentence was built and fully equipped. The existing premises for accommodation of convicts have been largely adapted, in order to provide basic conditions of the convict standard. Construction of new and adaptation of existing facilities of the semi-open department "Brioni" was completed. Continuation of works on the new institute in Bijeljina depends on the available funds of IPA funds. Reconstruction of existing and construction of new facilities for accommodation of convicted persons, as well as other contents under the convict standard depend on scarce budget and available donor funds, primarily IPA funds.

### 2.1.5 Systematization and implementation of trainings for prison staff in BiH

Competence for the training of prison staff is prescribed by the laws on execution of criminal sanctions, detention and other measures of BiH and the Entities. Framework plans and training programs for prison officials are adopted by the ministries of justice of BiH and the Entities, and training plans and programs are issued by the Entity prisons.

Through the project of CoE, USA and EU *Support to the Reintegration of Violent and Extreme Prisoners in BiH*, the staff of the Sector for Execution of Criminal Sanctions of MoJ BiH, FMoJ, MoJ RS, Entity prisons and MoJ BiH Detention Unit were trained to work with violent and extreme convicts. As a part of the project activities, continuation of activities was agreed and defined through the new project *Structured sentence management for convicted persons with violent and extremist behaviour*,[[98]](#footnote-98) which became operational in 2019 with an opening conference held on 21 January 2019 and duration of 24 months. In 2019, three meetings of Project Steering Committee were held. As a part of the project, study visit to Denmark and Northern Ireland was carried out as an educational activity, and Training Manual for Case Management Systems for Prisoners with Violent and Extremist Behaviour was developed and became an integral part of the training program.

A seventeen-member group of law enforcement officers, forensic and prison officers was certified to conduct training on human rights in Bosnia and Herzegovina, on 29-30 January 2020, within the HF II. They attended the 4-month training for which they will compile material and held the training by May 2022. A working group composed of prison officers and law enforcement officers met via video call on 3 April 2020 to draft a protocol for inter-agency cooperation in BiH. Purpose of the protocol is to complement good existing practice and institutional training programs with the CPT recommendations. On 15, 20 and 24 April 2020, a training team composed of prison and law enforcement officers held a video coordination meeting with the project team in order to continue drafting a manual for inter-agency cooperation in the treatment of persons deprived of liberty in BiH. The second session of the regional working group on *Strengthening the capacity and training of prison and probation staff in facing radicalism and violent extremism* opened the discussion on the needs and benefits of training programs, currently implemented in all six project beneficiaries in the Western Balkans. During this session, which was organized online, on 6 and 7 July 2020, the resources that can be used to improve leadership and access to training were discussed. The second session of the Regional Working Group (RWG) on *Preparation for Release and Post-Penal Support to VEPs* discussed the needs and possibilities of current practice, as well as challenges in the process of providing appropriate post-penal support to released violent extremist perpetrators. During the RWG meeting, held on 4 and 6 November 2020, in the form of series of bilateral online sessions, the RWG members shared their experiences and suggestions on how to better prepare the VEPs and other radicalized prisoners for release.

MoJ RS adopted the framework plan and program for professional development and training of employees in the RS prisons. Training programs are composed of activities, which will be largely supported by CoE, EC and US projects, while the planned ones are implemented from own funds.

### 2.1.6. Improvement of the health care system for convicts in BiH

Financing of health care of the prison population in BiH is made from the budget of the competent levels of government in BiH. Funds for the health care service of the State Prison are also provided in the budget of BiH institutions. The State Prison received a significant donation in medicines from Bosnalijek.

Regarding improvement of health care through the project activities *Horizontal Facility for the Western Balkans*, three manuals were developed. In April 2018, the following were published: Manual on evaluation and rehabilitation of violent extreme prisoners in BiH, Manual on training of trainers in law enforcement agencies, and in October the protocols for dealing with perpetrators of criminal offences having mental disorders in forensic institutions, which, with the above mentioned three rulebooks, presents over 14 manuals in the mentioned areas. A project supported by the Swiss government "Mental Health" is ongoing in BiH[[99]](#footnote-99). It is the project that covers the entire spectrum of mental health care needs, and in this context the health care of persons referred to compulsory psychiatric treatment.

A working group composed of prison and law enforcement officers met via video call on 25 June 2020, to compile a manual for inter-agency cooperation regarding the treatment and resocialization of forensic patients in BiH.

The purpose of the manual is to complement good existing practice and institutional training programs with the CPT recommendations.

In the RS, health care in RS prisons has been significantly improved by new LECS provisions prescribing health care. Improvement of health care is carried out continuously.

## 2.2 Improvement of alternative sanctions application in BiH

Strategic programs for improvement of the application of alternative sanctions in BiH relate to:

1. providing application of community service for adult and juvenile convicts in BiH,
2. implementation of the sanction of house arrest with electronic surveillance in BiH,
3. improvement of implementation of the conditional release in BiH,
4. improvement of the pardon procedure in BiH and
5. establishment of the probation service at the state level.

### 2.2.1 Providing application of community service for adult and juvenile convicts in BiH

At the state level, the institute of community service was previously legally regulated and is continuously implemented.

In the FBiH, the community service under the competence of the cantonal ministries of justice, judiciary and administration. Application of the educational recommendation to work, without compensation, in humanitarian organizations or activities of social, local or environmental content for juveniles is also under the competence of the cantonal ministries of justice, judiciary and administration. In 2019, courts in the FBiH replaced imprisonment with community service in 53 cases.

In Sarajevo Canton, community service has been in place since November 2011 and is continuously implemented. Sarajevo Canton was among the first to provide the necessary capacities and in 2012 began implementing an alternative criminal sanction of community service, and today we can see the effects related to unburdening the prison system in the FBiH, as well as savings in the FBiH budget, considering that in average, 40 convicted persons in the Sarajevo Canton are referred to the execution of this sanction by the competent court each year.

Also, in 2017, conditions were provided for effective application of the educational measure of special obligation - involvement in the work of humanitarian organizations or activities of social, local or environmental content, imposed on a juvenile perpetrator in accordance with the Law on Protection and Treatment of Children and Juveniles in the Criminal Procedure. Provided legal and other conditions for the application of educational recommendation of inclusion in work, without compensation, in humanitarian organizations or activities of social, local or environmental content for juveniles by signing an agreement with three associations of citizens, starting from 1 December 2017. On 15 May, the SC Ministry of the Interior signed contracts with "Rad", "GRAS", "Park", "Pokop", and humanitarian organizations - the Association Pomozi.ba, which provides for a total of 30 jobs for the execution of an alternative criminal sanction - community service, and on 15 July 2020, the contract was signed with the Public Institution Therapeutic Community of the Sarajevo Campus.

In the Bosnian Podrinje Canton, community service has been in place since 2011 and is continuously implemented.

In the West Herzegovina Canton, in 2013, all necessary regulations were adopted with the aim of implementing this alternative criminal sanction, as follows: 1) Rulebook on type and conditions of the execution of criminal sanction of community service, 2) Rulebook on selection, manner of work, responsibility, training and records of commissioners for the execution of criminal sanction of community service and 3) Rulebook on criteria for determining compensation to the commissioners in the execution of criminal sanction of community service. In the West Herzegovina Canton, the courts did not impose this alternative criminal sanction due to the fact that the legal entities where this alternative criminal sanction was supposed to be executed refused to extend the contract for implementing the community service in those legal entities.

In the Posavina Canton, activities for the implementation of the institute of community service are still ongoing. Preliminary drafts of the necessary rulebooks were developed and sent for opinion to the Legislative Office. After receiving the opinion, it was necessary to make corrections and adopt the rulebooks.

Ministry of Justice and Administration of Una-Sana Canton has been using the institute of community service since 2011 and since then it has had 436 final verdicts where imprisonment sentence of up to one year has been replaced by the community service. According to the number of enforced verdicts in the last few years, it is among leading cantons in the FBiH. One day of accommodation of a convicted person in the prison and financing of food costs from BAM 80-100, while in 2019, there were 2,666 days of community service imposed, saving over BAM 250,000, and there were 61 court decisions. Public company *FBiH Naftni terminali*, branch office in Bihać, is the nineteenth legal entity in Una-Sana Canton which expressed interest to be involved in the process of implementing the institute of alternative criminal sanctions - community service. Thus, a contract was concluded with the Ministry of Justice and Administration of Una-Sana Canton, which will educate certain number of commissioners who will control convicts serving their sentences by community service.

In Herzegovina-Neretva Canton, legal conditions for the application of this alternative criminal sanction were provided several years ago. The institute of community service for adult and juvenile convicts in BiH has been applied since May 2014.

In Zenica-Doboj Canton, community service for adult and juvenile convicts in BiH has been carried out for adults since 2014, while for juveniles it has not yet been implemented.

In Central Bosnia Canton, in the interest of developing this type of alternative criminal sanction during 2019, a study visit was conducted to the colleagues of the Una-Sana Canton who are very successfully implementing this type of sanction.

Data on the institute of community service in other cantons for the purpose of this report were not available.

Data on application of the educational recommendation for inclusion in work, without compensation, in humanitarian organizations or activities of social, local or environmental content for juveniles in other cantons were not available for the purposes of this report.

In the RS, newly adopted LECS RS, in accordance with the Criminal Code (CC) RS, prescribes the institute of community service. Execution of the sanction of community service prescribed by the new CC RS and LECS RS, the Rulebook for determining conditions for selection of legal entities, manner of mutual cooperation, compiling the list of interested legal entities, as well as the Rulebook on the manner of performing community service, thus creating all legal preconditions for starting the application of this sanction.

In the RS, legal conditions for implementation of this educational recommendation are provided. Implementation of the institute started in June 2020, while data on the application are not available.

In the BD BiH, the community service was introduced in 2014 and is being continuously implemented. During 2019, the competent court of the BD BiH replaced imprisonment sentence with community service in 11 cases.

At the levels where the institute of community service was introduced, statistical monitoring of the application of the institute of community service for adults was provided, in accordance with the competencies.

An average of 110 people in BiH serves the community service every year, which makes the prison system more efficient and unburdens the prison capacity.

### 2.2.2 Implementation of the sanction of house arrest with electronic surveillance in BiH

The FMoJ prepared an analysis and made recommendations for improving execution of the prison sentence in the form of house arrest with electronic surveillance, which has been implemented since 2014. Application of the house arrest with electronic surveillance has significantly reduced the number of convicts waiting to serve their sentences.

During 2018, 864 verdicts with a prison sentence of up to one year were pronounced, of which 422 people are serving a prison sentence in the house arrest with electronic surveillance. Out of this number, 23 persons violated legal provisions of the imposed sanction, which is why they spend the rest of their sentences in prison. In 2019, 400 convicts were serving house arrest with electronic surveillance. Data for 2020 were not available.

Current capacity of the FBiH prisons is 1,995 places, of which 1,630 are for convicts and 365 for detainees, of which over 65% are filled.

In the RS, execution of a prison sentence in the form of house arrest with electronic surveillance is provided in the new LECS RS, and is in line with the RS Criminal Code. Article 36, paragraph 5 of the CC prescribes the possibility of house arrest, which can be applied under electronic or telecommunication supervision or under police supervision. There are currently six prisons with the capacity of 1,089 places, which is more than 50% full.

JC BD BiH prepared a plan to conduct analysis of introducing the institute of house arrest in the coming period, and based on the results of the analysis will proceed to the possible change in legal solutions for introducing execution of prison sentence in house arrest with electronic surveillance. During 2020, a working group was formed to analyse the need to introduce a house arrest sanction.

### 2.2.3 Improvement of implementation of the conditional release in BiH

At the state level, supervision over implementation of conditional release is performed by police agencies, inspectors and other bodies and organizations in accordance with Articles 196, 197, 207, 209 and 235 of the BiH LECS, based on the decision of the Conditional Release Commission, while the Court of BiH is authorized by law to revoke the conditional release (Article 196, paragraph 5 of the BiH LECS and Article 45 of the CC BiH).

In 2019, the BiH Conditional Release Commission held 12 sessions and considered 133 applications, proposals or requests for early approval of submitting the request for conditional release, of which 42 applications of prisoners, 62 proposals of the prison governor and 29 requests for early approval of submitting the request for conditional release.

There were 34 prisoners who were released on conditional release, of which 7 persons based on the request for conditional release, 14 persons based on proposal of the prison governor and 13 persons based on the request for early approval of submitting the request for conditional release.

In 2019, out of the total number of received cases, 35 applications for conditional release were rejected, then 48 proposals of the prison governor, as well as 16 requests for early approval of submitting the request for conditional release, which means that the Commission issued a total of 99 decisions rejecting applications, proposals or requests for conditional release.

In 2 cases, the commission forwarded the submitted applications for conditional release to the FBIH Ministry of Justice, as well as 8 cases submitted at the end of December 2019, which were transferred for work in 2020, i.e. for the session of the commission in January 2020, and it follows that in 2019 there were a total of 143 cases in progress, which is 12% more cases (17) compared to 2018, when the total number was 126 cases.

For mandatory conditional release under Article 201 of the LECS BiH, according to current data, 6 mandatory conditional releases for up to two years in prison was recorded, which is granted by the force of law after serving two thirds of the sentence, which makes a total of 40 approved conditional releases in 2019.

In the FBiH, the supervision and revocation of conditional release is legally defined. Supervision is performed by the FBiH Ministry of Interior and centres for social work. Revocation is ordered by the court if the convicted person is at large, and if the convicted person is in the prison, the revocation is ordered by the Conditional Release Commission, at the proposal of the prison governor.

In the FBiH, in 2019, a total of 460 cases were submitted to the FBiH Conditional Release Commission, of which 301 cases were negatively resolved, while in 152 cases conditional release was granted, for 2 cases the competent court revoked conditional release, in 4 cases the proposal was rejected and in 1 case the procedure was suspended due to the expiration of the imposed imprisonment sentence.

In the FBiH, regarding the conditional release provided by the prison governor, out of a total of 517 applications submitted, the prison governor accepted 365 applications, rejected 150 applications and in the meantime revoked the conditional release in 2 cases.

In the RS, supervision and revocation of conditional release are defined by law. The supervision is carried out by the RS Ministry of Internal Affairs in the place of residence.

In BD BiH, supervision and revocation of conditional release are prescribed by law.

Statistical records of persons on conditional release are kept by conditional release commissions at the level of BiH, Entities and the BD BiH.

### 2.2.4 Improvement of the pardon procedure in BiH

Analyses at the state and Entity level on the application of the pardon institute find that the pardon policy is based on the relevant legal framework and that the pardon institute functions without significant difficulties. In this regard, BiH Presidency held sessions on 10 May and 25 October 2018, where requests for pardon were discussed. BiH Presidency, in its new convocation, discussed pardoning at the 1st regular session, held on 12 December 2018.

In 2018, BiH Pardon Commission had 11 cases, of which nine were submitted to the BiH Presidency. BiH Ministry of Justice had a total of 22 cases in 2019, of which 18 cases were resolved, with the remaining 4 requests were resolved by the Pardon Commission and sent to the BiH Presidency for decision-making and the decision is still pending. In 5 cases, the received requests were submitted to the competent procedure at the FBiH Ministry of Justice. In that year, the BiH Presidency rejected, by its decisions, requests for pardon in 7 cases.

In 2017/2018, the draft amendments to the BiH Law on Pardon was submitted to the CoM BIH, regarding the possibility of limited pardoning for war crimes, which was returned to the proposer.

In 2018, the FBiH President pardoned five persons, the sentence were changed to milder one for three persons, the conviction was deleted for two persons and proposal for pardon was rejected to 27 persons, while 69 new cases were received.

In the FBiH, a total of 79 cases were received during 2019, 3 requests were resolved positively, 29 requests were resolved negatively, currently 12 more cases are pending with the FBiH President, with 21 cases pending before the Pardon Commission, and in 13 cases the proceedings were suspended due to the fact that in the meantime the prison sentence was replaced by a fine, the sentence of imprisonment was served or the convicted person withdrew the request for pardon.

In the RS, in 2018, 28 reports on requests for pardon were submitted, according to which three decisions were made pardoning seven persons. In the RS, in 2019, the RS President did not make decisions on pardon.

In the BD BiH, activities have started to improve the pardon procedure by preparing an analysis and recommendations on the basis of which further steps will be taken. The mayor has the power to pardon. After adoption of the new law, the public will be acquainted with the principles of the institute and the provisions of the BD BiH Law on Pardoning. In 2019, a total of 7 requests for pardon were submitted to the BD BiH Judicial Commission, for which the Basic Court of the BD BiH gave opinions, where no specific decision was made in 2019.

Activities of informing the public with the principles of the institute and the law on pardoning are carried out within the work plans of the competent institutions in accordance with the competencies of the relevant levels of government in BiH. There is no available information on the activity of informing the public about the pardon institute for the Entities and state level because they were not conducted.

### 2.2.5 Establishment of probation services at the state level

System of alternative criminal sanctions requires further construction, in order to unburden overcrowded and budget-limited prison system in BiH. In this regard, preparation of the legal framework for gradual introduction of probation in BiH has already been done, through drafting the BiH Law on Probation. In this context, further advocacy of introducing and promoting the probation service is needed.

At the state, Entity and BD BiH level, the probation service has not been established. Regarding the probation service at the state level, it was assessed that, considering that after the establishment of the Institute, it will have only one prison institution, there are no objective reasons for the probation service.

This assessment relies on the legal tradition of criminal law and execution of criminal sanctions, as well as the fact that a great part of prison sentences are successfully completed with alternative criminal sanctions, and regarding the very competence of the state level which regulates the most serious crimes, so that the program of treatment and re-education takes place in prisons in order to re-socialize and rehabilitate, and thus to reduce recidivism.

The conclusion is that BiH, after putting the State Prison into function, in the period of at least two years from commencement of the work of the State Prison, will assess the need to introduce the institute of probation in the period 2022-2023.

## 2.3 Improvement of international standards application in BiH

Strategic programs of the application of international standards relate to:

1. improvement of the detention conditions and treatment of detainees in BiH,
2. improvement of the treatment of the convicts and creation of conditions for adjusted treatment of juvenile convicts BiH and
3. putting into operation the Institute for Forensic Psychiatry Sokolac.

### 2.3.1 Improvement of the detention conditions and treatment of detainees in BiH

Analysis of the application of relevant standards on detention was made at the state and Entity level and recommendations were provided.

Legal, material, financial and infrastructural conditions were provided at the state and Entity level, and recommendations from the analysis on detention were implemented.

In the previous period, through the Project *Horizontal Facility for the Western Balkans*, manuals were developed (Guidelines for treatment of persons deprived of liberty in a closed environment and Manual for guiding prisoners and promoting human rights in a closed environment), covering the latest international standards, whit the training in all prisons in BiH. Protocols for the improvement of health care and human rights in a closed environment were also developed.

Shortly after the pandemic was declared, the CPT issued a Statement on principles for the treatment of persons deprived of liberty in the context of a Covid-19 pandemic.

The project *Strengthening the principles of treatment of detainees based on human rights, European standards and best practices in Bosnia and Herzegovina* responded in a timely manner to the new circumstances in order to support BiH authorities in better protecting the rights of persons deprived of their liberty. With the support of this project, the Statement on principles for the treatment of persons deprived of liberty in the context of a Covid-19 pandemic, published by the CPT, was translated into the official languages ​​of BiH and distributed to the local authorities and experts in BiH.

In the RS, new Criminal Procedure Code, the LECS, as well as the new Rulebook on house rules for execution of detention measures created conditions for implementation of recommendations.

### 2.3.2 Improvement of the treatment of the convicts and creation of conditions for adjusted treatment of juvenile convicts BiH

At the state and Entity level, legal and other conditions have been provided for improvement of the treatment of the convicts and creation of conditions for adjusted treatment of juvenile convicts in BiH. In all prisons in BiH, prison staff training is being carried out, in accordance with training plans and programs, as well as through the activities of CoE projects.

Analysis of the possibility to expand the treatment program is made in accordance with the regulations through regular activities of the competent units at the state and Entity level, and the recommendations are implemented in accordance with the provided financial resources.

Special treatment programs and security regimes for special categories of convicts are implemented at the state and Entity level.

In the RS, treatment programs were significantly improved following the activities of the CoE projects on planning, management and promotion of human rights of prisoners, while Articles 34 and 35 of the LECS provided the legal obligation to apply the program framework based on the application of international standards, conventions, norms and other acts adopted in this area. Special treatment programs are already being implemented for certain categories of prisoners (women, drug addicts, etc.).

In the FBiH, Educational-Correctional Facility was established with the status of a ward within Orašje Prison, where a juvenile prison is located. In Orašje Semi-Open Prison, the works began on 22 July 2019, with the deadline of 12 months, on the construction of an educational facility and a sports hall within Orašje Juvenile Correctional Facility. Value of the construction works is EUR 750,000.

RS Prison Department for Execution of Juvenile Imprisonment and Educational Measures of Referral to a Correctional Facility was renovated and it meets all conditions for execution of the sentence of juvenile imprisonment and educational measures of referral to a correctional facility.

Institutions for implementation of measures of compulsory psychiatric treatment and compulsory outpatient treatment at large for juveniles are under the jurisdiction of the Entity ministries of health.

Institute for Forensic Psychiatry Sokolac meets the conditions for implementation of measures of compulsory psychiatric treatment and compulsory outpatient treatment at large for juveniles, in accordance with the jurisdictions of all levels of government in BiH. In the period from 20 to 26 September and 6 to 8 December 2020, in the hotel "Bord", Jahorina, an education was held with the aim of strengthening mental health services in the community. The aim of the training was to strengthen the capacity of professionals in mental health centres and social work centres, improve the quality of services for children and adolescents and apply modern techniques to prevent development of severe disorders and their recovery, which were lacking in formal education of mental health professionals. The training was conducted by RS Ministry of Health and Social Welfare, with the support of RS Psychological Association, UNICEF Bosnia and Herzegovina and a partner of the Swedish Government.

### 2.3.3 Putting into operation the Institute for Forensic Psychiatry Sokolac

The Institute for Forensic Psychiatry Sokolac was put into operation by the Agreement on Accommodation and Reimbursement of Costs for the Execution of Criminal Sanctions,[[100]](#footnote-100) at the end of 2016. The institute then received the first prisoners with mental disorders and continuously receives those who have committed the most serious crimes. During 2019, 105 patients were accommodated in the Institute, while during 2020, there were 107 patients.

In September 2019, the Institute for Forensic Psychiatry Sokolac equipped the laboratory with donor funds from the Government of Sweden, as a part of the project for reconstruction of the facility for commencement of the work of forensics. On 17 June 2020, the laboratory was opened in the Institute for Forensic Psychiatry Sokolac, for equipping of which about BAM 12,000 were invested. The laboratory should have started working earlier, but due to the epidemiological situation, the opening was delayed, reducing the possibility of infecting the patients with the corona virus.

At the beginning of 2018, the CoE initiated the project activities of drafting the Protocol with updated international standards regarding the treatment and access to psychiatric persons as perpetrators of criminal offenses, and completed them in October. The activities also included development of a staff training program. The psychologist of the Institute for Forensic Psychiatry successfully completed the e-training and received a certificate from the World Health Organization QualityRights on mental health and human rights within the project *Mental Health*. Within the workshop "Strengthening the capacity of staff to expand rehabilitation services within occupational therapy", additional training of occupational therapists in the development of cosmetics and hygiene products was carried out to strengthen the competencies of occupational therapists in working with clients with severe mental disabilities. This workshop was held in the period from 22 to 24 January 2020.

# 3 STRATEGIC AREA 3 - ACCESS TO JUSTICE

In strategic area 3 - Access to justice in BiH, it can be concluded, based on the collected information, that most activities are carried out with less difficulty or without delay, with the exception of strategic program 3.1.7 "Improvement of cooperation and exchange of information between IDDEEA and relevant institutions in area of international legal assistance". The program depends on establishing cooperation with institutions that are not the main partners for the implementation of justice sector policies, as well as on own capabilities and resources.

Out of a total of 11 programs and 21 activities, six programs and 12 activities are being implemented, while four programs and eight activities have implementation difficulties, and one program and one activity with certain delay was previously mentioned.

In 2020, due to the virus pandemic and restrictions on work, as well as resources, FWG meetings were not held. Based on the submitted information and monitoring the implementation of activities of the coordinator of the area, it can be concluded that the capacities in the area of international legal assistance in all institutions are weak and insufficient for the scope of work performed, and that cooperation between the competent BiH justice sector institutions, but also the partner institutions in this issue, is unsatisfactory. In accordance with the previous conclusions, the MC recommends issuing a conclusion that initiated activities should be urgently completed and that proposal for the implementation of activities of the program 3.1.7 should be submitted in order to fulfil the program. Priority of donor funding should be the establishment of a sustainable legal aid system and development of international legal assistance in the context of EU integration.

## 3.1 International legal aid and cooperation

Strategic programs of international legal assistance (ILA) and cooperation relate to:

1. development of a unified analysis of challenges and needs in the area of ILA,
2. improvement of actions of BiH courts in ILA cases with the aim of harmonising and improving the ILA in civil and criminal matters,
3. improvement of the unique manner of registration of BiH citizens who were not born in BiH and have been convicted abroad and in BiH,
4. strengthening the capacity of the Entity ministries and JC BD BiH in the area of ILA, organizing joint training with the MoJ BiH and coordinating efforts in this area,
5. further improvement of the information system, management of the electronic registry, collection and monitoring of statistics in the area of ILA by the competent authorities and
6. improvement of cooperation and exchange of information between IDDEEA and competent institutions in the area of ILA.

### 3.1.1 Development of a unified analysis of challenges and needs in the area of ILA

At the working meeting of members of the FWG and BiH JSRS TS with representatives of CSOs, held on 22 and 23 January 2018, in Fojnica, it was concluded that the MoJ BiH will initiate establishment of a working group for development of a unified analysis that will identify problems, good practices, challenges, obstacles and provide recommendations for improvement in the area of ILA, where besides the MoJ BiH, representatives of the HJPC, Entity ministries of justice and the JC BD BiH will participate. In the previous period, there was no implementation of the initiative in terms of development of a unified analysis, which is partly a consequence of weak and insufficient capacities and resources for its implementation in the MoJ BiH. For these reasons, the ILA unit continued the activities on the annual analysis of the ILA process implementation and development of annual plans based on the findings of the analysis. During 2019, the ILA proposals were included in the MoJ BiH Program of Work for 2020, which were more concise and precise than in the previous period. During 2020, the proposals were further specified and included in the proposal of the MoJ BiH Program of Work for 2021.

As a part of the *EU4Justice* IPA 2017 project, a Guide to Mutual Legal Assistance (MLA) in Criminal Matters was developed. It sets out general key principles underpinning the concept of international legal assistance, together with information tables on international legal assistance with the Republic of Serbia and the Republic of Croatia, with relevant annexes. The Guide was expanded with information tables on international legal assistance with China, Germany and the USA. As a part of the activities to improve the area of ​​ILA, activities to join EUROJUST were initiated in the previous period.

### 3.1.2 Improvement of actions of BiH courts in ILA cases with the aim of harmonising

Regarding the hierarchy of application of legal regulations applied in the procedures of providing international legal assistance, the CoM BiH issued the conclusion, which, by adopting the Information on implementation of the Agreement between BiH and the Republic of Croatia on legal assistance in civil and criminal matters, recommended the BiH judicial authorities to consistently apply the European Convention on Mutual Assistance in Criminal Matters, European Convention on Transfer of Criminal Proceedings, which are the most important source and basis for providing international legal assistance in criminal matters, the Law on International Legal Assistance in Criminal Matters and the Agreement between BiH and the Republic of Croatia on legal assistance in civil and criminal matters, as regulations adopted in the parliamentary procedure, and to use protocols and other regulations of lower legal force exclusively for the purpose of facilitating the implementation of the above mentioned legislation.

BiH justice sector institutions proposed topics for annual training programs for judges and other participants in the ILA, in accordance with the previously established analysis of training needs, and they were included in the work programs of JPTCs for 2019 and 2020. During 2019, two trainings were held on *International legal cooperation in civil and criminal matters*. The JPTC training plans provide the professional upgrading of judges and other participants in the ILA process, the effects of which are reported annually by the MoJ BiH. On the basis of the Initial and Professional Development Program for 2020, JPTC RS in cooperation with JPTC FBiH, and with the support of the Geneva Centre for the Democratic Control of Armed Forces - DCAF, organized a seminar in the area of criminal law on *International Legal Assistance in Criminal Matters*, on 14 December 2020, through the online platform - Cisco Webex. Due to the virus pandemic, regular trainings were postponed.

MoJ BiH defines and constantly improves solutions for submitting information to courts and other participants in BiH, regarding new legal instruments in the procedures of providing ILA. New legislation is regularly updated and published on the MoJ BiH website.

### 3.1.3 Improvement of ILA in civil and criminal matters

Resolving the issue of recognition and enforcement of foreign court judgments in criminal matters is made individually on a case-by-case basis, due to the specific nature of the work. Previous assessment of monitoring the subject area was that there is a need to improve cooperation between the HJPC and MoJ BiH and it was proposed to launch an initiative towards the HJPC to establish cooperation in discussing the recognition and enforcement of foreign court judgments in criminal matters, in order to harmonise the court practice. MoJ BiH Program of Work for 2020 and 2021 provides conclusion of bilateral and multilateral agreements with countries of the region, and more broadly with EUROJUST.

In the MoJ BiH Program of Work for 2021, it is planned to draft the Law on ILA in Civil Matters, as well as changes in criminal matters. Considering the high political risk, an alternative to drafting the Law on ILA in Civil Matters is to incorporate the provisions of that law into existing civil procedure laws at all levels.

### 3.1.4 Improvement of the unique manner of registration of BiH citizens who were not born in BiH and have been convicted abroad and in BiH

Meetings were held between representatives of the MoJ BiH and the Ministry of Security of BiH, regarding the information on implementation of the obligation of the Ministry of Security arising from the Law on ILA in Criminal Matters, and related to maintaining a single data register, i.e. criminal records for BiH citizens who are not born in BiH, but are convicted abroad and in BiH. The Ministry of Security adopted the Rulebook on recording sentences imposed by foreign courts on BiH citizens who were not born in BiH.[[101]](#footnote-101)

### 3.1.5 Strengthening the capacity of the Entity ministries and JC BD BiH in the area of ILA, organizing joint training with the MoJ BiH and coordinating efforts in this area

In the FMoJ, one person is employed to work on the ILA, while in the RS MoJ, one person is assigned to the ILA. In the JC BD BiH, ILA affairs are not specifically delegated to certain persons. In terms of the capacity to carry out the ILA activities, the FMoJ is in the most unfavourable situation, which requires undertaking of additional measures to provide resources for work.

Training on *International Legal Assistance* was not included in the framework plan of the BiH Civil Service Agency. Annual plans of the competent Entity civil service agencies for 2020 also did not include targeted training in the ILA. JPTC programs for 2020 included training that was postponed due to the pandemic. With the help of the DCAF centre, an online training was held on 14 May 2020.

During 2019, individual meetings were held between the ministries of justice in BiH and the JC BD BiH with the aim of discussing and overcoming the challenges in the ILA, while due to limitations caused by the virus pandemic in 2020, no meetings took place.

### 3.1.6 Further improvement of the information system, management of the electronic registry, collection and monitoring of statistics in the area of ILA by the competent authorities

Information system of judicial institutions (CMS system) has the mark for ILA cases, and it is possible to generate statistics on the number of cases of this type. These data are satisfactory in terms of the needs of judicial institutions in BiH.

In the second generation of the case management document (DMS) application of the MoJ BiH, it is possible to generate certain data and information, but the system needs to be further upgraded to improve the quality of data and their accuracy, for which a list of recommendations was made.

### 3.1.7 Improvement of cooperation and exchange of information between IDDEEA and competent institutions in the area of ILA

During 2019 and 2020, there was no progress in establishing and improving the cooperation of the MoJ BiH with IDDEEA representatives in order to find ways to exchange data to be used abroad. Proposed method of cooperation was not accepted in the IDDEE, so that each body that is originally a data carrier provides data from its records.

## 3.2 Free legal aid in BiH

Strategic programs of free legal aid (FLA) in BiH relate to:

1. assessment of the need to adopt the Law on FLA in Procedures Before the Institutions of BiH,
2. establishment of legal and institutional framework for providing FLA in BiH.

### 3.2.1 Assessment of the need to adopt the Law on FLA in Procedures before the Institutions of BiH

Law on FLA before the Institutions of BiH was adopted and published in Official Gazette of BiH, 83/16. Establishment of the FLA Office required an amendment to the MoJ BIH Rulebook on internal organization (Rulebook) and staffing. MoJ BiH sent the proposal of the Rulebook to the CoM BiH for approval. At its 139th session, held on 16 April 2018, the CoM BiH approved the Rulebook on amendments to the MoJ BiH Rulebook on internal organization, establishing the FLA Office. Until the establishment and commissioning of the FLA Office, the Minister of Justice of BiH has temporarily authorized five civil servants of the MoJ BiH to perform the tasks of FLA. The FLA Office started working at the beginning of 2019, when one of the three planned persons was employed, and in 2020, the second of the three planned persons to perform those tasks. An acting head of the office was appointed to the position. The Office has partly received donor support for training, while further training follows from IPA 2018 funds.

### 3.2.2 Establishment of legal and institutional framework for providing FLA in BiH

Legal framework for providing FLA before BiH institutions was previously adopted, while establishment of the institutional framework came in 2018.

During 2019, Rulebook on manner of registering, maintaining and updating the list of free legal aid providers was prepared and published in the official gazette in March 2019.[[102]](#footnote-102) In addition to that, the Decision on tariff and reimbursement of criminal procedure costs was made according to the Law on Providing the FLA, which was adopted at 166th session of the CoM BiH, held on 12 February 2019, at the proposal of BiH Minister of Justice, and published in the official gazette.[[103]](#footnote-103)

In the RS, the FLA is regulated by the Law on FLA adopted in 2008.[[104]](#footnote-104) The Centre for Free Legal Aid and its regional offices have been providing FLA since 2009. The Law on FLA was amended in 2013 and 2014. The RS Government established, at 72nd session, held on 22 May 2020, in Banja Luka, the proposal of the Law on Exercising the Right to Free Legal Aid in the Republic of Srpska, and the National Assembly adopted it at 10th regular session, held on 2 July 2020[[105]](#footnote-105).

In its Program of Work for 2018, the FBiH MoJ planned to work on the Law on the FLA Principles in the FBiH. After consultations, it was assessed that the matter is sufficiently legally regulated by the adoption of legislation at the cantonal level and that at this time there is no need for standardization at the FBiH level. This was confirmed by the conclusion of the FBiH Government number: 211/2019, at 174th session, held on 13 March 2019, after which the initiative of the MC was submitted to exclude the FBiH MoJ as the holder of activities from further monitoring of the strategic program 3.2.2 *Establishment of legal and institutional framework for providing FLA in BiH*.

In the BD BiH, providing of FLA is regulated by the adoption of the Law on the Legal Aid Office.[[106]](#footnote-106)

Law on FLA of Tuzla Canton was adopted in November 2008,[[107]](#footnote-107) and the Institute for Providing FLA has been functioning since 2009.

Law on FLA of Bosnian Podrinje Canton was adopted in 2013.[[108]](#footnote-108) FLA is provided by the Cantonal Institute for FLA, which was established by law and started operating in 2014.

In Canton 10, the Law on FLA was adopted in 2016.[[109]](#footnote-109) During 2018, the procedure of filling the position of the managerial civil servant - director of the Institute for Providing Free Legal Aid, which is not in function, was conducted.

Law on FLA of Posavina Canton was adopted in 2010.[[110]](#footnote-110) FLA is provided by the Cantonal Institute, which in 2017 opened a regional office. There were two amendments to the Law on FLA in 2012 and 2013, and during 2018, the third amendment was made, which further expands the number of users entitled to FLA.

Legal and institutional framework for free legal aid was established in Canton Sarajevo. Law on Free Legal Aid was adopted in 2012.[[111]](#footnote-111) Since 2013, the Cantonal Institute for Free Legal Aid has been operating in the full capacity, enabling the Canton Sarajevo to provide its citizens a fair trial and equal access to justice before the court and other bodies in accordance with the principles of the European Charter on Human Rights and Fundamental Freedoms. At the same time, human and material resources are continuously professionally upgraded.

Law on Free Legal Aid of Zenica-Doboj Canton was adopted in 2014.[[112]](#footnote-112) Cantonal Institute for Legal Aid in Zenica started its work on 7 November 2015.

The area of FLA in the West Herzegovina Canton is regulated by the Law on the Cantonal Institute for Providing FLA, which was adopted in 2008.[[113]](#footnote-113) The Law was amended in 2009, 2013 and 2017. The Law established an institute that provides FLA.

Law on FLA of Herzegovina-Neretva Canton was adopted in 2013.[[114]](#footnote-114) The Institute for Providing FLA was opened at the end of 2014. The HNC Government has not yet completed the competition for the appointment of the director of the Institute for Free Legal Aid in the HNC, which began several years ago through the FBiH Civil Service Agency, which is why it is not in function.

Law on FLA of Una-Sana Canton was adopted in 2012.[[115]](#footnote-115) Institute for FLA in the USC has been working since 2013. Free legal aid was provided to eight thousand citizens.

The FLA is not yet legally and institutionally regulated in the Central Bosnia Canton.

Training for persons working on FLA is not systematically organized or is organized occasionally.

In addition to that, in this sub-area, there is still the problem of inconsistency of normative-legal framework and handling of cases in the entire country, and FLA is also provided by the non-governmental sector, through legal clinics and civil society organizations.

Free legal aid is also provided with the assistance of civil society organizations that carry out their activities in accordance with their statutes, and are financed mainly by donations. One of the most important free legal aid providers is the association "Vaša prava", which operates in almost the entire territory of BiH, but there are other providers who are often specialized in certain areas and groups of people (vulnerable groups).

## 3.3 Access to justice

Strategic programs of access to justice relate to:

1. treatment adjusted to vulnerable and marginalized groups in all procedures,
2. witness support improvement in BiH judicial institutions.

### 3.3.1 Treatment adjusted to vulnerable and marginalized groups in all procedures

Within the project *Improving the efficiency of courts and accountability of judges and prosecutors*,[[116]](#footnote-116) funded by Sweden, cooperation of the HJPC with the judicial community on training for dealing with vulnerable and marginalized groups was agreed. Under the project, an illustrated guide through criminal procedure was developed for child victims/witnesses of criminal offences and their parents/guardians. Analysis of the degree of application of the provisions of the Law on Protection and Treatment of Children and Juveniles in Criminal Procedures in BiH was made, on the basis of which recommendations were issued to the courts for improvement of their work. The third phase of the project *Improving the efficiency of courts and accountability of judges and prosecutors* has begun and will end in October 2023, and will continue to provide support to vulnerable and marginalized groups. In September, in cooperation with UNICEF, the process of drafting standards for equipping interrogation rooms for children in contact with the law was initiated.

In order to identify areas where the HJPC can operate, with a view to improving the position of vulnerable groups in contact with the judiciary, and considering that the NGO sector and relevant state bodies/agencies were identified as significant actors in this area, the HJPC called for cooperation of the relevant civil society organization and the competent state bodies/agencies.

In terms of activities to promote gender equality in the judiciary, the Project of Judicial Efficiency Strengthening implemented by the HJPC continued cooperation with the BiH Agency for Gender Equality, primarily related to improving the collection of data on gender-based and domestic violence, and expert groups to establish multisectoral cooperation in the area of gender-based violence.

In addition to that, a publication has been prepared, intended for judges, on prejudices and stereotypes, and the ways in which they can affect decisions in court procedures, which were distributed to the courts in July 2019. Besides that, preparatory activities were carried out with the aim of drafting the Strategy for Promotion of Gender Equality in BiH Judiciary.

Analysis of the application of the Guidelines for Prevention of Sexual and Gender-Based Harassment in Judicial Institutions in BiH for 2018 were prepared, and initial training for newly appointed advisors for the prevention of sexual and gender-based harassment in judicial institutions in BiH was held.

The project provided support in marking the International Campaign *16 days of activism against gender-based violence* from 25 November to 10 December 2020 by organizing a round table on dealing with cases of gender-based violence and advanced training for advisors for the prevention of sexual violence and gender-based harassment, appointed by BiH judicial institutions.

On 29 October 2020, the HJPC adopted the Strategy for Promotion of Gender Equality in BiH Judiciary, on the basis of which all judicial institutions will develop their own action plans.

Regarding the activities of improving the position of vulnerable groups, the Analysis of cases of discrimination in the courts of BiH was prepared, and it was adopted by the HJPC. In addition to that, several analyses are underway regarding hate crimes and juvenile justice procedures.

At the end of 2019, reports on architectural and urban accessibility to the facilities of judicial institutions to the persons with disabilities were prepared. During 2019 and 2020, international days important for vulnerable groups were marked (20 November - International Children's Day and 3 December - International Day of Persons with Disabilities) and an illustrated publication was made, intended for child victims/witnesses of crimes, aimed at their informing about the course of criminal procedure, their rights and obligations, and the roles of all participants in the procedure.

The UNICEF Justice for Children project[[117]](#footnote-117) supports the protection and provision of the highest quality services for all children in BiH who come into contact with the justice system in any way, whether as offenders, protected witnesses, victims of violence or in any way in need for institutional support through the security sector (police and judiciary) and the social welfare sector. The project is funded by the Government of Switzerland and the Swedish International Development Agency (SIDA). In February 2020, the UNICEF Regional Office for Europe and Central Asia (ECARO), in cooperation with the UNICEF Office for BiH and the BiH Ministry of Justice, hosted a three-day regional conference in Sarajevo on *Children's Access to Justice*, which was attended by more than 150 participants.

### 3.3.2 Witness support improvement in BiH judicial institutions

In most prosecutor's offices, the rulebooks are harmonised with the need to provide witness support, i.e. the positions of graduated psychologists/social workers who would work on witness support are provided. Most of the positions were filled, and some were funded by donors.

There are 24 experts in the positions of expert associates for witness support and advisors at the level of district/cantonal courts and prosecutor's offices in BiH, as well as basic courts, of which 22 are graduate psychologists. Besides that, the Witness Support Department of the Court of BiH employs five psychologists, and the Prosecutor's Office of BiH employs two psychologists.

Within the activities of the project *Strengthening institutional capacity to improve psychosocial support for children and juveniles in criminal procedures*[[118]](#footnote-118) over a period of 18 months, 23 psychologists and one special pedagogue employed in BiH judiciary, BD BiH Police and certain centres for social work in BiH underwent specialist training to work with children and juveniles in criminal procedure, as well as special types of training for working with children, such as training through the mentioned project. Through specialist training, expert advisors/associates acquired special knowledge for applying various areas of work with children, which can be of multiple benefits to the legal system. As a part of the above mentioned project and the OSCE project, numerous meetings and various trainings for witness support staff were organised.

UNPD, within the project *Introducing the victim/witness support services* in CBC and USC, which has been active since 2008, provides support for introducing and training of support services. As a part of the countrywide EU IPA 2019 assistance program, support to the BiH judiciary in the amount of four million euros is planned to support witnesses in the context of supporting the implementation of a strategy for resolving war crimes cases. Support is also provided within the regional, multi-beneficiary, IPA project *Witness Protection Support*, which has been active since 2016 and ends in 2020 in the amount of 5 million euros.

JPTCs work programs include trainings that directly or indirectly relate to witness protection and are intended for staff dealing with these issues in courts and prosecutor's offices: security of the judiciary in BiH, cultural awareness, psychology of minors and crimes committed to the detriment of children.

Witness Support Department was established in the BD BiH Basic Court and employee training activities are being carried out continuously.

The Ministry of Justice and Administration of Posavina Canton is of the opinion that, given the size of the Cantonal Court in Odžak, to which this issue primarily relates, and the number of cases, it is not rational to form a special witnesses support department. They believe that this part of the work could be entrusted to social work centres or similar institutions. As a last resort, if a new systematization was to be decided and witnesses support position to be employed, this position would apply to all judicial institutions in Posavina Canton.

In Zenica-Doboj Canton, due to the small number of cases with the Cantonal Court in Zenica, a Memorandum was signed until 2021, which stipulates that the expert advisor of the Support Department of the Cantonal Court in Zenica will provide professional assistance to vulnerable witnesses and juveniles in criminal procedures before the Municipal Court in Zenica.

In Central Bosnia Canton, the Witness Support Department was established - the position of expert associate - psychologist, within the Cantonal Court of Novi Travnik and the Cantonal Prosecutor's Office of Travnik.

In the Una-Sana Canton, continuous training of employees in the Department for Assistance and Support to Witnesses was provided in the reporting period, which was established in the Cantonal Court in Bihać in 2013.

# 4 STRATEGIC AREA 4 – SUPPORT TO ECONOMIC GROWTH

In the strategic area 4 Support to economic growth in BiH, based on the collected information, it is estimated that the activities were carried out with less delays. Out of a total of six programs and 13 activities, two programs and four activities were fulfilled, two programs and five activities were partially fulfilled, while two programs and four activities were delayed due to connection with other activities.

Given the importance of program activities in terms of achieving the priorities of the authorities in the area of economic development, it is necessary to urgently complete initiated activities, especially of a normative nature, which is recommended to the MC when adopting conclusions. Programs in this strategic area are supported by donors and do not require prioritization for additional funds.

## 4.1 Land administration in the FBiH

Strategic programs of land administration in the FBiH relate to:

1. completion of the land administration legal framework in the FBiH and
2. development and implementation of continuous training programs for employees in the land administration bodies.

### 4.1.1 Completion of the land administration legal framework in the FBiH

There are currently two active projects in the area of land administration in BiH: the project financed by the World Bank *Real Estate Registration*[[119]](#footnote-119) and the project funded by the Swedish Government *Capacity Building for Improving Land Administration and Procedures in BiH (CILAP)*.[[120]](#footnote-120) The Real Estate Registration Project started its activities in 2012 and ended in 2020.

Authorities in BiH requested an extension of the project and an additional loan for that purpose. Following the successful completion of domestic procedures in 2020 and the approval of the project, and the ratification of the loan agreement (additional financing for the Real Estate Registration Project) between Bosnia and Herzegovina and the International Bank for Reconstruction and Development - IBRD in the amount of EUR 20 million, the World Bank declared, on 17 December 2020, the effectiveness of additional funding for the Real Estate Registration Project, which will last until July 2022.

The CILAP project started in 2016 and ended in 2019. With the help of the Real Estate Registration project, analyses in the area of land administration were made, which led to the preparation of legal initiatives in the subject area, and the focus of the CILAP project is capacity building.

In accordance with the FBiH MoJ Program of Work 2018, activities of amendments to the FBiH Law on Real Rights of and the FBiH Law on Real Estate Cadastre were carried out. FBiH Law on Real Rights was the subject of several initiatives by the FBiH Parliament. Regulations arising from the Law on Real Rights were previously adopted. Preparation of the necessary regulations of the Law on Real Estate Cadastre will be made successively after its adoption.

During 2019, due to the process of establishing the government as a political risk in the adoption and completion of the legal framework of land administration, there were no normative activities envisaged by the program. In 2019, the FBiH Law on Real Rights[[121]](#footnote-121) was amended by the decision of the Constitutional Court number: U-22/16, dated 6 March 2019, in order to harmonize it with the FBiH Law on Notaries.

During 2020, the FBiH Government rejected the proposals of the FBiH Parliament, but at 236th session, held on 17 September 2020, it established the proposal of the Law on Real Rights and the Law on Land Registry to comply with the judgments of the FBiH Constitutional Court and sent them to the parliamentary procedure.

### 4.1.2 Development and implementation of continuous training programs for employees in the land administration bodies

Initial training for employees in the land registry offices of municipal courts in the FBiH was conducted within the mentioned projects. Implementation of training programs developed within the project activities is in progress, and professional training is being carried out in accordance with the needs and results of the work of land registry offices. Based on the progress report of the World Bank project until 30 September 2019, the training was conducted for 8,320 persons, and as of 1 October 2020, that number was 8,954 persons. With the CILAP project, there were activities on the development of human resources management programs, and thus on the development of training programs.

## 4.2 Commercial judicature in BiH

Strategic programs of commercial judicature in BiH relate to:

1. analysing and implementing the business entities registration system in BiH,
2. establishment and improvement of electronic data exchange for business entities registration,
3. amendments to the Law on Business Entities, establishment of a portal providing all public data of business registers and
4. amendments to the Law on Bankruptcy and Liquidation Procedure.

### 4.2.1 Analysing and implementing the business entities registration system in BiH

In the RS, an extensive reform of business entities registration was carried out in 2013, through the introduction of a one-stop registration system and a single information system. On 26 May 2016, the RS Government adopted the terms of reference for the business entities registration in the RS electronically (on-line), which is funded by the Embassy of the United Kingdom of Great Britain and Northern Ireland, and implementation is under the jurisdiction World Bank/IFC[[122]](#footnote-122). As a part of this project, the HJPC prepared an analysis of the effects of the establishment of district commercial courts in the RS, according to which they justified their existence. In the District Commercial Court in Banja Luka, as the court with the largest number of cases, the number of employees has been increased to enhance efficiency and achieve more quality work of the court.

Draft Law on Amendments to the Law on Registration of Business Entities of the FBiH was adopted by the FBiH House of Representatives at 30th extraordinary session, held on 20 June 2018, but was additionally amended in 2019 with several amendments and sent to the House of Peoples. On 19 December 2019, the House of Peoples of the FBiH Parliament adopted the draft Law on Amendments to the Law on Registration of Business Entities in the FBiH. This legal solution provides establishment of a one-stop shop system for registration of business entities in the FBiH, based on the principle of electronic connection of the registration court with other relevant entities in the process of registration of business entities. Therefore, registration procedure is shortened and simplified. Registration of business entities would still be in court, i.e. in the competent registration department, but it is possible to receive an electronic proposal for registration and electronic collection of necessary data. At 236th session of the FBiH Government on 17 September 2020, the proposal of the Law on Registration of Business Entities of the FBiH was established for complying with the judgment of the FBiH Constitutional Court and was sent to the parliamentary procedure. At 238th session of the FBiH Government on 1 October 2020, the proposal of the Law on Amendments to the Law on Registration of Business Entities was established and sent to the parliamentary adoption procedure. In order to remove the existing barriers in starting business, the FBiH Government identified the basic objectives in this area, and they relate to the simplification and cost effectiveness of the business entities registration procedure, through establishment of a single information system for electronic registration, so-called JIB.

In the past period, as a set of business entities registration regulations, a draft Law on Business Entities was prepared, which was adopted by the House of Representatives and is in the process of adoption in the FBiH House of Peoples.

In the RS, process of digitization of the business entities register is underway, the amount of which needs to be confirmed by the district commercial courts. A meeting of the RS Government Implementation Team for the project of e-registration of business entities in the RS /online reg/ was held in Banja Luka on 16 October 2020, and objective of the project is to provide faster, cheaper and more transparent services to entrepreneurs and citizens.

Registers of business entities and entrepreneurs was improved with additional functionalities, primarily in the area of support to the online registration and automation of the requests flow, which is immediately forwarded to the registration authority, without retention in APIF, which further shortens the registration process, which is important for ranking at the World Bank Doing Business List. Then, unification of the tax system was made and the registration process was simplified at the level of the entire RS, in all municipalities and cities, with changes in regulations of the competent authorities, the Ministry of Finance and the Official Gazette.

In BD BiH, project activities *Establishment of a one-stop shop system for business entities registration*  were carried out, from the above-mentioned project, within which work on amendments to the Law on Registration of Business Entities is envisaged. Working group was formed to amend the regulations, which prepared a draft regulation and sent it to the adoption procedure. The Law on Registration of Business Entities in BD BiH was adopted and published in the Official Gazette of BD BiH, 11/20. Application of the Law starts on 1 January 2021. Drafting of regulations is in progress.

### 4.2.2 Establishment and improvement of electronic data exchange for business entities registration

Precondition for the activities from this strategic program implies changes in legal regulations within the competence of another ministry (Law on Electronic Signature). HJPC does not currently have the authority to link to other registers. Notaries are provided with insight into the cases assigned to them.

In BiH, access to the register is provided through [www.bizreg.pravosudje.ba](http://www.bizreg.pravosudje.ba). Notaries can electronically access the data of the court register, which is unofficial but updated.

Article 7 of the amended Law on Registration of Business Entities of the FBiH provides the introduction of a court register website, which is part of the register system, through which it is possible to search and view public data from the general register, as well as publicly published data on the content of entries, i.e. publicly announced decisions for which it is determined by law or decisions of the registration court that they will be published in the manner in which entries in the court register are published. The registry website is accessed via Internet and the data is searched via menu. Data from public announcements published on the website of the register must remain available for search for one year. Access to public data of the general register as well as publicly published data via the court register website is free of charge. Support to the drafting and implementation of the amended law is provided by the project to improve the business environment in BiH.

### 4.2.3 Establishment of a portal providing all public data of business registers

A web portal [www.bizreg.pravosudje.ba](http://www.bizreg.pravosudje.ba) was established, which contains data from the business registers of the FBiH and BD BiH. Real Estate Registration Project is carrying out activities to improve the registration of business entities by automating the process, where it is planned that the register will be established on the established platform. Establishment of a one-stop registration system supported by the project of improving the business environment will enable establishment of Internet site for insight into public data of business registers.

### 4.2.4 Amendments to the Law on Bankruptcy and Liquidation Procedure

In the FBiH, the FBiH MoJ obtained the necessary opinions from the Legislative Office and the FBiH Ministry of Finance for the pre-draft Law on Bankruptcy Procedure, after which the draft Law was sent to the adoption procedure. At its 139th session, held on 26 April 2018, the FBiH Government adopted the proposal of the Law on Amendments to the Law on Bankruptcy Procedure.

The FBiH Parliament considered and adopted the Law under urgent procedure at 29th extraordinary session of the House of Representatives, held on 22 May 2018, and in the House of Peoples at 19th extraordinary session, held on 6 June 2018.[[123]](#footnote-123) The FBiH Government reconsidered and at its 154th session on 30 August 2019, established the proposal of the Law on Amendments to the Law on Bankruptcy Procedure, which was sent to the FBiH Parliament for further procedure.

Also, for the draft Law on Liquidation Procedure, the opinions of the Legislative Office and the FBiH Ministry of Finance were obtained, which the FBiH Government adopted at 154th session, held on 30 August 2018, and sent to the adoption procedure.

In 2016, the amended Bankruptcy Law was adopted in the RS[[124]](#footnote-124). It prescribes the restructuring procedure and the bankruptcy procedure. The new restructuring institute encourages reorganization of companies before the opening of bankruptcy proceedings, in order to prevent insolvency and to continue business operations of companies.

During 2019, an amended Law on Liquidation Procedure was prepared and adopted.[[125]](#footnote-125) This Law introduced the institute of shortened liquidation procedure.

In 2017 and 2018, the RS MoJ conducted three trainings for bankruptcy trustees on restructuring and bankruptcy proceedings. The training plan was made for 2019 with three trainings that were conducted, while the plan for 2020 was not published.

JC BD BiH formed the Working Groups for drafting the laws on bankruptcy, compulsory settlement and liquidation, with the conclusion that the laws should be harmonized with the Entity legislation.

# 5 STRATEGIC AREA 5 – WELL-MANAGED AND RESPONSIBLE SECTOR

In the strategic area 5 Coordinated, well-managed and responsible sector, based on the collected information, it is estimated that the activities are mostly carried out with smaller delays or certain delays which cannot be affected. Some programs the activities of which are not implemented were postponed due to the restrictions imposed by the pandemic and due to insufficient technical and human resources for implementation.

Out of a total of nine programs and 27 activities for 2020, two programs and four activities are in progress (fulfilled or implemented without delay), five programs and ten activities are partially fulfilled, two programs and 11 activities were postponed, while two activities have delays in implementation. Activities address the need to develop a review of statistical indicators and launch a dialogue in the justice sector on donor coordination. The activities that were postponed should be implemented as soon as possible by creating preconditions for opening, and they relate to the dialogue on the functionality of the sector, commissioning of the Common Policy Forum and developing of Guidelines on policies in the sector.

It should be noted that the quality of the entire Report during the entire implementation monitoring period was significantly affected by the lack of precise, substantiated and confirmed information and data of competent institutions that would be in line with the MC Rules of Procedure and Guidelines for monitoring BiH JSRS implementation. In addition to that, FWG meetings were not held due to lack of quorum, which is contrary to the MC Rules of Procedure and in the reporting period there was a restriction due to the emergency situation caused by the pandemic and restrictions on physical meetings and technical opportunities to meet through IT technologies. The MC recommends that the commitment to the next reforms be an investment in capacity building of institutions, i.e. training for the processes of management and implementation of the reform, and that the lessons of this planning cycle be learned in the next cycle, especially related to the results management framework.

## 5.1 Coordination and EU integration

Strategic programs of coordination and EU integration relate to:

1. improvement of coordination and cooperation in BiH justice sector,
2. development of uniform framework for a system of planning, coordination and communication,
3. strengthening the capacity of the body responsible for monitoring and evaluating BiH JSRS implementation and
4. strengthening coordination and cooperation in BiH justice sector in the process of harmonization of BiH legislation with the *EU acquis*.

### 5.1.1 Improvement of coordination and cooperation in BiH justice sector

Program provides initiating the process of establishment of a system of coordination and communication in BiH justice sector. In 2017, the BiH JSRS AP was adopted, which enabled establishment of mechanisms for managing implementation, monitoring and evaluation. In 2017, two MCs were held (8 March and 6 June), which established a mechanism for managing the process of implementation, monitoring and evaluation of BiH JSRS implementation. Based on the conclusion of the second MC, BiH Minister of Justice, by decisions of 26 October 2017, appointed members of five FWG and TS, but not all members of the MC responded. FWG meetings were held in the period from 18 to 22 December 2017, and TS meeting on 28 December 2017. The third MC was held on 2 March 2018. Based on the conclusions of the third MC, on 10 and 11 May 2018, a workshop was organized for the revision of the BiH JSRS AP 2019-2020. Meetings of FWGs and TSs were held in the period from 4 to 6 June 2018 for FWGs and 8 June 2018 for TS.

The fourth MC was held on 10 July 2018, and the semi-annual report was adopted and the proposal of the revised BiH JSRS AP was supported, with the conclusion that it should be sent to the competent institutions for adoption. In the period from 27 November to 3 December 2018, the second round of meetings of FWGs and TSs was held on 11 December 2018. Although planned at the end of 2018, the fifth MC was held on 8 March 2019 and it adopted the annual report, calendar of activities for 2019 and confirmed that the strategy monitoring under the revised BiH JSRS AP will continue, although it is not supported by all levels of government in BiH. Meetings of FWGs and TSs were held in the period from 27 to 28 May 2019 for FWGs and 12 June 2019 for TSs. Second round of meetings of FWGs and TSs was held in the period from 27 to 28 November and on 3 December 2019 for FWGs and 6 December 2019 for TS. Organisation of the sixth and seventh MC was postponed due to the procedure of establishing the government, which continued in 2020, and was additionally affected by the restrictions caused by the need for protection against infectious diseases and declaration of the accident. Failure to hold the MC affected decisions concerning the calendar of activities and the list of priorities, as well as initiation of activities on the revision of existing strategic framework and development of a new BiH JSRS and the accompanying AP for implementation. Consequently, an extraordinary online meeting of the BiH JSRS TS was held on 17 April 2020, when the procedure of further monitoring of BiH JSRS 2020 and steps on development of a new BiH JSRS were discussed. FWG meetings were planned in May and December in the form of internet video conferences, due to restrictions on physical meetings, but most of the institutions were not technically able to participate, which is why the meetings were postponed.

According to the conclusion of the fourth MC, all institutions were called upon to improve communication and coordination, especially between FMoJ and the cantonal ministries of justice and administration in order to improve management, joint analysis and resolution of important issues of BiH justice sector. Lack of resources and limitations in work affected implementation of this conclusion. During 2020, the FMoJ led an initiative to improve donor assistance management process. At 175th session of the CoM BiH, the Report on BiH JSRS implementation for 2018 was adopted. After the meetings of FWGs and TSs, a summary tabular Report on BiH JSRS implementation for 2019 was prepared, and at the beginning of 2020 the Report on BiH JSRS implementation for 2019 was finalized and sent to the CoM BiH for consultation and adoption. The report was considered at 10th session on 18 June and returned for approval by the Committee on Internal Policy, and it was adopted at 13th session, held on 23 July 2020, when the preliminary draft of the annual Report on BiH JSRS implementation for 2020 was prepared.

The revised BiH JSRS AP is in the adoption procedure by the CoM BiH. At 175th session, held on 23 July 2019, the CoM BiH considered adoption of BiH JSRS AP, but postponed the consideration in order to agree the text until the next session. The agreed AP, i.e. the Decision on adoption of the revised BiH JSRS AP was discussed at 8th regular session of the CoM BiH on 11 June 2020, according to which a conclusion was made that no decision can be made since it is impossible to reach consensus. The decision on the adoption of the revised JSRS AP was made at 19th session on 29 October 2020. Due to non-establishment of authorities and lack of capacity, the organization of TAIEX was postponed.

Assessment of the status of all JSRS programs and activities in BiH is a proposal of the chairing and coordinating institution based on available information.

### 5.1.2 Development of uniform framework for a system of planning, coordination and communication

With the help of several projects, preparation of an analysis for introducing strategic planning at all levels of government has begun, with education and the establishment of practitioners’ communities. Reform activities are being implemented in BiH judiciary, through projects to strengthen management capacity.

During 2020, as in previous years, the Medium Term Plan of Work (MTPW) of the MoJ BiH and HJPC was updated, and it was developed for the FMoJ, while the MoJ RS developed it only within the MTPW of the RS Government. The cantons worked on development of strategic planning strategies and capacities with the support of UNDP strategic planning support projects.

The MTPWs were aligned with the Budget Framework Paper (BFP). Part of each MTPW and APW is a financial plan that is aligned with the budget and consulted with the Ministry of Finance and Treasury. The MTPW and the APW are in line with the proposal of the revised BiH JSRS AP for the period 2019 and 2020. The activities of drafting the Program of Work for 2021 are ongoing, while the activities of drafting and adopting the programs of work of most institutions for 2020 were made in the current year, which is a delay in relation to the dynamics, but indicates the need for capacity development. During 2020, communities of practitioners were held for the level of BiH (10 and 15 September) and participated in the work of the community for the level of RS (3 and 4 September).

Establishment of a planning system in the Entities and the Brčko District is supported by GiZ projects at UNDP. GiZ project of support to the BiH authorities supported the analysis/impact assessment of introducing the legal framework for long-term planning and analysis of the medium-term planning process in the BiH institutions. On 10 September 2019, a workshop of the community of practitioners for strategic planning in BiH was held in Sarajevo, presenting recommendations for assessing the impact of long-term planning and further steps in introducing a normative solution. Comprehensive impact assessment was sent during 2020 to the CoM BiH for consideration. Accepting the risk of delayed preparation and consideration of both analyses, the MoJ BiH carried out activities of revision of operational planning regulations due to increased pressure to implement its own program of work and conclusions of the CoM BiH to improve the methodology for reporting to the CoM BiH. After consultations with key competent institutions, further drafting was postponed until an agreement is reached on the revision of the medium-term planning acts and the coherence of the process. Activities are therefore continuing in the coming period, which is in line with the public administration reform strategy. The UNDP project ReLOAD (Regional Local Democracy Program) and ILDP (Integrated Local Development Project) are intensively involved in development of strategic planning systems, especially at the Entity and cantonal levels.

In 2017, the FBiH Government adopted a new Law on Development Planning with the support of public administration reform projects, and in 2019 it adopted implementing regulations,[[126]](#footnote-126) the implementation of which will begin in 2021. The process of support to law enforcement institutions and implementing acts by the FBiH Institute for Development Programming has begun with the technical support of the UNDP project. As a part of it, online trainings for users were organized at the end of November, which was also attended by the MoJ BiH. During the first half of the year, an intensive procedure of public consultations and finalization of FBiH development strategy 2021-2027 was conducted, while the competent institutions of justice contributed to the strategic objective 4-Transparent, efficient and responsible public sector.

At 59th session, held on 21 February 2020, the RS Government considered and adopted the final report on regulatory impact assessment in the area of strategic planning. At 73rd session, held on 28 May 2020, it considered and adopted the proposal of the Decision for drafting the text of the Law on Strategic Planning. At 75th session, held on 11 June 2020, the RS Government gave its consent to the RS Operational plan for improvement of development planning and management system. Draft of the RS Law on Development Planning was completed in the middle of the year and presented to the RS Strategic Planning Community of Practitioners in early September.

At the state level, on-demand training on strategic planning, impact assessment and gender responsive budgeting is available, while at the FBiH level, integrated development management and gender responsive budgeting are available, while no modules were developed in the RS. At the beginning of March, training on medium-term planning, monitoring and reporting was held, while training on regulatory impact assessment was held at the end of May.

Training of soft skills and management important for development of skills and abilities of strategic planning was available in the organization of CSAs, and DEI trainings on strategic planning/reporting in aid programming and EU integration were also available. Until March, the trainings were mostly conducted in the classroom, and from March video conferences were held to restrict indoor gatherings with prescribed measures for protection against infectious diseases.

Sector institutions were encouraged to actively monitor available trainings and their attendance.

HJPC submitted data on implementation of the National War Crimes Strategy, after a request was officially sent to the Supervisory Body for monitoring the strategy implementation in 2019, which will be made at the end of 2020 for the current one. According to the institutions, an invitation was sent to submit an overview of sub-sectoral strategies for which they are activity holders if it refers exclusively to their administrative level and concerns the area of ​​the justice sector (e.g.National War Crimes Strategy etc.) and strategies in which institutions are responsible for carrying out activities within their competence (e.g. Development Strategy, Public Administration Reform Strategy, EU Integration Strategy, Anti-Corruption Strategy).

### 5.1.3 Strengthening the capacity of the body responsible for monitoring and evaluating BiH JSRS implementation

Due to delays in establishing the mechanisms for monitoring and evaluating BiH JSRS implementation, program activities in 2017 were not carried out. With the support of the Government of the Netherlands and CSOs, the first working meeting of FWGs and TS members was held on 22 and 23 January 2018. In addition to the mentioned meeting, on 10 and 11 May 2018, the second working meeting was held, along with the workshop of the BiH JSRS AP revision for 2019 and 2020. In order to implement the Memorandum of Cooperation on monitoring and evaluation of the BiH JSRS implementation and its AP by CSOs, on 29 December 2018, a meeting was held with the signatories of the Memorandum, at which a plan of cooperation activities in 2019 was agreed. At the end of February (27 and 28 February 2019), a workshop was organized with CSO representatives on evaluation and next steps in revising the strategic framework. The program is related to the previous one, especially in the part of training for strategic planning, whereas skills relate to the process of analysing, reporting, evaluating and self-assessing as parts of the planning system. Along with the restrictions due to the declaration of the state of protection against infectious diseases, and previously limited resources and commitment to self-assessment and development of a new strategic framework, there were no organized activities to improve skills. Instead, the focus of capacity development was on joint work in the implementation of the self-assessment plan and analysis of the state of the justice sector, and part of the resources were focused on training in the area of EU integration, which was intensified during the reporting period. Cooperation with civil society organizations proved to be useful and necessary, and 2020 proved to be extremely challenging for cooperation between the institutions and civil society organizations, relying only on electronic means of communication, where they managed to develop and present a report of civil society organizations at the Hills Hotel, on 11 November 2020, which was organized as a combination of online presentations and presentations in the premises. Given the expiration of the support of the Dutch Government to civil society organizations, the MoJ BIH called for support to the continuation of assistance, enabling further development of the partnership.

### 5.1.4 Strengthening coordination and cooperation in BiH justice sector in the process of harmonization of BiH legislation with the *EU acquis*

Activities of the program largely depended on DEI initiatives and coordination functionality in the context of the Decision on the system of coordination of EU integration processes in BiH[[127]](#footnote-127), and involvement of justice sector institutions in the SAA implementation and the work of bodies defined by the Decision, as well as implementation of BiH JSRS obligations undertaken from the agreement, which are at the standstill in key parts, as indicated in the Reports, as well as the EC Opinion for BiH, conclusions and recommendations of the working bodies of the Agreement.

During April, the EU Integration Board tasked the EU Integration Commission to draft the Action Plan for implementation of key priorities from the Opinion and to define the Methodology for drafting the Integration Program, while guidelines for aligning were drafted in early April, the consultation process of which involved the competent institutions. At the beginning of October, the Methodology for drafting the Integration Program was submitted to the competent institutions, after which an information meeting was held, followed by meetings of the WG for EU integration to define alignment priorities, starting development of the Integration Program with deadlines in the first half of 2021.

In 2017, 2018, and 2019, there were no activities on development of the plan for aligning BiH legislation with the *acquis*.

In the FBiH, the Decree on the Office of the FBiH Government for Legislation and Compliance with EU Regulations entered into force[[128]](#footnote-128). At the request of the EU Integration Office, the FMoJ provided detailed information and overview of all laws and regulations under the Ministry's competence that are fully or partially aligned with the *EU acquis*.

For answering the EC Questionnaire, a list of laws was made that make up so-called systemic legislation that will accompany all chapters of the *acquis* in the further course of European integration. MoJ BiH started and completed the list of legislation in Chapters 23 and 24, which will require alignment.

During 2017, 2018, 2019 and 2020, institutions at all levels of government in BiH participated in the work of the EU integration coordination bodies (Committee and Subcommittee), which was held twice a year.

DEI invited the competent institutions to attend trainings in the area of EU integration in accordance with the Decision on trainings in the area of EU integration[[129]](#footnote-129). MoJ BiH forwarded this invitation to all competent institutions for consideration and attendance of the planned trainings. In accordance with the training plan and their organization by DEI, in the context of legislation alignment, general trainings on EU law were organized. Information on training attendance statistics can be found on DEI website within the list of trainees. Until March, trainings were held regularly, and after declaration of the accident caused by the DEI pandemic, no trainings were organized, except for workshops to support the processes of programming, coordination and monitoring of the IPA assistance implementation.

## 5.2 Capacity building for analysis and policy making in BiH justice sector

Strategic programs of capacity building for analysis and policy making in BiH justice sector relate to:

1. operationalization of the Common Policy Forum (CPF) of the MoJ BiH and the HJPC, and associated members in accordance with the constitutional competence,
2. development of guidelines on methodology and manner of policy development in BiH justice sector and
3. improvement of statistical data quality in BiH justice sector.

### 5.2.1 Operationalization of the Common Policy Forum (CPF) of the MoJ BiH and the HJPC, and associated members in accordance with the constitutional competence,

The program refers to the initiative of establishing a body that works on defining policies of interest to two or more institutions. Lack of resources and initiative of the institutions, as well as the lag in policy dialogue at the political level is the reason for slow implementation of the program, but its importance is assessed as great, especially considering policy development and introduction of impact assessment procedures.

There are several initiatives to establish communities of practitioners for strategic planning and impact assessment. These communities are umbrella bodies of the planned institute for strategic planning and impact assessments in the justice area. Limitations in resources and conditions of interdepartmental work due to the pandemic additionally affect launching of program activities.

Due to insufficient funds, available staff, engagement in EU integration tasks, as well as the late establishment of mechanisms for monitoring and evaluation of the BiH JSRS implementation, a decision was made within the FWG to conduct research on the possibility of establishing the CPF. During 2019, an assessment of the possibility of operationalizing the CPF was carried out and it was concluded that currently the institutions do not have the possibility to establish it, but that it is necessary to request additional funds and develop technical capabilities to work in the digital environment. In BiH, a number of initiatives were currently being conducted to support policy development and strategic planning, as a part of public administration reform, which is closely related to the forum operationalization. In the previous period, a draft Strategy for Improving BiH Legislation Quality was prepared, the SIGMA supported a regional comparative study of policy impact assessment, contribution was provided to the implementation of GiZ mentoring support for comprehensive impact assessment and report was made on implementation of Uniform Rules for Legislative Drafting in 2019. CPF operationalization is a candidate for seeking support from donors that are already working on policy development (GiZ Strengthening public institutions, Support to CSOs for monitoring and evaluating the JSRS implementation, etc.).

### 5.2.2 Development of guidelines on methodology and manner of policy development in BiH justice sector

The program is closely related to the previous program and implementation of activities depends on the implementation of the previous program activities.

In mid-2017, the BiH PA adopted Amendments to the Uniform Rules for Legislative Drafting in BiH Institutions, with Annex I, prescribing the methodology for impact assessment when drafting policies/legislation in BiH institutions. Activities on introducing the impact assessment system of the adopted methodology are underway through the establishment of bodies for implementation, monitoring and evaluation and training of civil servants organized by the BiH Civil Service Agency from its own resources and through various projects. In 2018, amendments to the Instruction on manner of preparation of the annual program of work and report on work in the institutions of BiH was made on two occasions and sent to the procedure, in order to prescribe the format for introducing the obligation of impact assessment.[[130]](#footnote-130)

In the FBiH, the Decree on regulatory impact assessment procedure and the Rules and procedures for legislative drafting in FBiH are in force.[[131]](#footnote-131) In the RS, the Decision on implementation of the regulatory impact assessment in the process of legislative drafting is in force.[[132]](#footnote-132) In 2017, BD BiH developed the impact assessment methodology when drafting policies/legislation.

These data indicate that policy development is in its inception and that it is necessary to continue working on development of guidelines that rely on policy development system in BiH, bearing in mind the assistance projects (GiZ) that will further support the policy development practitioners community, with the assistance of which or other modality it is necessary to start establishing a common policy forum.

Institutions are currently not able to deal with the complex requirements of policy development, impact assessment and budgeting that would be consistent with long-term, medium-term and annual planning, which is one of the preconditions for policy development. Accordingly, it is necessary to strengthen capacity. There is currently no legal basis for long-term strategic planning, and thus no methodology for alignment, as indicated by the performance audit reports.

Regarding the availability of training for policy development during 2019, with the help of donors, an online course was developed, which is attended upon request and upon activation of the CSA BiH on Impact Assessment and Gender Responsible Budgeting. Impact assessment consists of three modules. From 2020, these trainings are also available to the general public as MOOC.[[133]](#footnote-133) This year proved to be extremely challenging in terms of further capacity development given the limitations of working indoors or in classrooms, which is why the open course proved to be an exceptional tool that was active twice in 2019 and once in 2020.

Total number of trainings in 2019 in the area of regulatory impact assessment was sixteen (16), which were organized by CSA BiH and SIGMA. Number of participants was 492, and the number of institutions was 237.

For 2020, the current number of trainings is five (5) organized by CSA BiH and the Program of Strengthening Public Institutions of BiH, with a total of 66 participants and 46 institutions that participated in trainings in the area of regulatory impact assessment.

State level of government is conducting the process of harmonizing the budget with medium-term and annual planning, in accordance with the Decisions on medium-term and annual planning, while the Entity level and BD BiH are just at the beginning of the process, as stated in the findings of previous public reform projects.

### 5.2.3 Improvement of statistical data quality in BiH justice sector

Activities have begun on the preparation of analysis of existing statistical data in BiH justice sector, which included a survey of data available to BiH justice sector institutions. Feedback was of unsatisfactory quality and content, and it was assessed that a framework should be prepared, an overview of justice sector indicators in BiH and submitted to the institutions as a starting point for the analysis of existing statistical data. It is assessed that the institutions need additional clarification on data sets, as well as the importance and use of statistics for policy implementation processes in BiH justice sector, for which it is necessary to organize a thematic workshop with representatives and experts in the area of statistics, CEPEJ, SIGMA and other domestic and international institutions dealing with development and monitoring of policies in the area of justice. This is one of the activities for which organization of an additional meeting with the support and cooperation with partner civil society organizations was considered, concerning the quality of statistical data and development of an overview of indicators. During 2019 and 2020, the Council of Europe's Horizontal Facility II project for the Western Balkans[[134]](#footnote-134) launched data collection activities to better measure results of reforms. Within the same period, the relevant justice institutions were contacted, which contributed, through the questionnaire, to the development of a comparative table of indicators and achieved results (Western Balkan Dashboard). On 3 November 2020, the HF II Unit for WBD organized a meeting with institutions to analyse capacity needs and collect statistics.

HJPC, within the IPA 2013 project, developed a system for reporting and decision support. Using this system, statistical reports are produced that combine data from different databases (CMS/TCMS, HRMIS, SOKOP-Mal).

Furthermore, a joint activity of APIK, HJPC and USAID is being implemented on the adoption of Memorandum of Cooperation in the area of electronic retrieval of statistics on corruption cases from T-/ CMS, according to which APIK would download data through the privileged part of the judicial web portal. HJPC continuously monitors and analyses statistical data on the work of courts and prosecutor's offices through an automated case management system (CMS and TCMS), which is continuously upgraded.

Ministry of Human Rights and Refugees is establishing a Central Database on Discrimination Cases in BiH, which will be used and filled in by all judicial institutions in BiH. HJPC and MoJ BiH plan to review the existing software solutions and determine the appropriate software solution.

MoJ BiH uses a case management IT solution (DMS) in its work. For the purposes of monitoring and implementation of the BiH JSRS 2008-2012, an information and documentation system for monitoring BiH JSRS implementation was developed and established. The system was an IT solution that automates the process of data collection and processing. Upon expiration of the test time, it was determined that the system does not meet all functional requirements. At the end of 2017 and during 2018, a conversation was held with the GiZ project on further development and upgrade of the mentioned system, for which a cost estimate was made. GiZ assessed that currently there are no preconditions for financing such an activity, and that it remains open for support as soon as the preconditions are met. Accordingly, during 2019, other possibilities of supporting development of IT solutions were explored. One of these possibilities is the use of open, free of charge, and ready-made solutions at other institutions to manage development and monitoring of the implementation of strategies. At the end of 2019, meetings were held with the representatives of APIK, considering that they have IT solutions for monitoring the implementation of the Anti-Corruption Strategy. After the meeting and presentation of the IT solution in 2020 with APIK, it was assessed that the mentioned application could be used and adjusted to the needs of the justice sector, but for that it is necessary to provide additional funds for the transfer and adjustment of the application.

## 5.3 Donor coordination in BiH justice sector

Strategic programs of donor coordination in BiH justice sector relate to:

1. creation of preconditions for implementing a sectoral approach in accordance with constitutional competence,
2. strengthening coordination and cooperation in BiH justice sector in the preparation of donor projects.

### 5.3.1 Creation of preconditions for implementing a sectoral approach in accordance with constitutional competence

The DEI letter, dated 19 April 2017, initiated the process of drafting a sectoral planning document (SPD) for the Rule of Law sector, justice and fundamental rights sub-sector, after which a sectoral working group (SWG) and a coordinating institution were established. The programming process took seven months. Development of further steps is carried out with the initiative and coordination with the DEI. During 2018, the Action Document for 2018 was developed and the SPD for the justice and fundamental rights subsector was revised, which was submitted to the DEI for further procedure, and it participated in the work of supervisory and administrative bodies for project implementation, as well as in the implementation of projects. At the end of 2018, the programming process for 2019 began. Within the mentioned activities, a Roadmap for establishing a sectoral approach was made and priorities for financing in the justice sector in the next period were defined. In addition to the above, during 2018, began the process of joining the EU program "Justice". During the year, two donor updated meetings and one thematic meeting in the area of justice were organized. During 2019, the SWG worked on the operationalization of the priorities for IPA previously defined through the SPD. In the meantime, IPA 2017 project has started, while implementation of the IPA 2015 project, which was completed in 2019, is in the process. Office of the National IPA Coordinator informed the sectoral coordinating institutions that the CoM BiH at its 175th session, held on 23 July 2019, considered and adopted the proposals of IPA 2019 and IPA 2020 state aid packages for BiH, i.e. ADs that they are composed of ,which the SWG is also aware of.

During 2020, the Sectoral Working Group was sent information on the operationalization of IPA II priorities previously defined through the SPD. In the context of IPA III programming given the many uncertainties, IPA Coordinator's Office provided guidelines for IPA II coordinating institutions to continue their activities and support the IPA III programming process. Therefore, an overview of strategic documents was prepared and submitted to DEI. Prior to that, the working groups for EU integration were invited to identify priorities for IPA III funding. During 2020, IPA 2017 projects were implemented and the implementation was monitored through the Steering Committees organized in February, July, September and October and the Supervisory Board organized in November. The NIPAC Office informed the sectoral coordinating institutions that the EC adopted IPA 2019 package and forwarded it to BiH for ratification.

Regarding the Single list of sectoral priority projects of the Investment Framework for the Western Balkans in the area of social sector, it has not been adopted yet, information on implementation and a call for applications were submitted. Suggestions were given on the proposals of the Multi-National IPA programs, and consultations have begun for 2021.

In the second half of 2019, after a meeting with NIPAC, preparatory activities of mapping the needs within this sector began, through which an agreed list of priorities will be developed. In agreement with DEI, it was assessed that the activities to improve the sectoral approach are focused and detailed during the introduction of the new financial IPA III framework, which is the conclusion of IV meeting of the Supervisory Board of IPA 2019, which was not initiated due to non-adoption of the strategic IPA III framework, as well as the lack of agreement within the institutions in BiH on its implementation.

Regarding donor coordination activities, project databases and donor contact persons for the justice sector were updated. As a tool for better effectiveness and management of donor aid, the Map of coverage of strategic programs from BiH JSRS with donor assistance projects was updated, which aims to inform institutions, donor organizations and other interested public about the share of donor aid in implementing key strategic reform programs in BiH justice sector. During 2019 and 2020, due to non-establishment of government and accompanying risks, and later restrictions imposed by the inability to hold meetings except through IT technologies, and for which institutions have limited resources, it was decided to postpone the donor update meeting. HJPC organized a thematic donor coordination meeting for the judiciary and initiated coordination on the project of building a penitentiary institution on Igman. Discussions between the MoJ BiH and HJPC were intensified concerning the elimination of technical possibilities and organization of donor update meetings. Donors were consulted on acts prepared by BiH justice sector institutions regarding donor coordination, as well as on the implementation of aid projects. Monitoring of IPA assistance projects implementation contributed to the preparation of the annual Report on implementation of IPA in 2018 and 2019, and the report for 2020 is under preparation.

During drafting of the SPD 2018-2020, with the technical assistance of DEI, two workshops were organized (15 and 11-12 October 2017), where, through work, training of appointed members of the SWG was carried out. In 2019, several workshops were held on the lessons learned from IPA programming, monitoring and reporting, and preparation for IPA III programming cycle, and in 2020 a new DEI technical support project organized online trainings for programming and reporting process. Institutions were also provided with mentoring support in development of SPD throughout the development process. A systematic training plan was not developed. There is DEI General Training Plan in the area of IPA programming, available to the institutions at all levels of government, and the list of participants can be found on the DEI website. During 2018, Decision on compulsory training was amended, which enabled more flexible access to training at all levels of government in BiH, and the MoJ BiH, at the invitation of the DEI, submitted it to BiH justice sector institutions.

### 5.3.2 Strengthening coordination and cooperation in BiH justice sector in the preparation of donor projects

During the reporting period, there was no systematic analysis of issues in the area of donor coordination and communication in BiH justice sector, but through the evaluation process, mostly EU projects, monitoring of EU projects and SPD programming, analysis of issues in BiH justice sector was conducted. Donor coordination issues were partially mapped in the sectoral planning document or its appendix regarding development of the sectoral approach and updated for the needs of programming cycle in 2019 and 2020. During 2018, the UNDP and Switzerland project for improving donor coordination in BiH was launched, which was postponed in 2019 due to technical reasons. In agreement with the DEI, it was assessed that improvement of the sectoral approach should be left for the period of introduction of the new financial IPA III framework. In order to improve coordination of assistance, it was planned to hold a TAIEX workshop, which was postponed due to resource constraints and prioritization of obligations in BiH JSRS implementation and donor assistance management.

Activities related to development of guidelines on methodology and ways of coordination and communication in BiH justice sector in the preparation of donor projects were not carried out due to the lack of project management capacity, as indicated by the institutions' responses to the report. As a part of the activities of the sectoral approach to the development of SPD and aid programming, guidelines were developed for the process of programming projects from IPA funds in 2017, 2018, 2019-2020 and 2021-2022.

# CONCLUSIONS

Sixth Ministerial Conference of the ministers of justice in Bosnia and Herzegovina, presidents of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the Judicial Commission of the Brčko District of Bosnia and Herzegovina, held on \_\_\_\_\_ 20\_\_, after considering the Report on the Implementation of BiH JSRS and the AP for 2020, adopted the following

**CONCLUSIONS**

1. **The following documents are adopted:**

* Reports of BiH justice sector institutions and CSOs on BiH JSRS AP implementation for 2020, and it is sent to the competent governments for consideration,
* Information on the Report for monitoring and evaluation of donor aid effectiveness in BiH justice sector for 2020,
* Framework proposals of priorities for funding from donor funds in BiH justice sector for the upcoming period.

1. **The following proposals are adopted:**

* Proposal of the Report on self-assessment of the JSRS and the action plan for its implementation for the period 2014-2018 and the revised action plan 2019-2020,
* Proposal of analysis of the situation in BiH justice sector,
* Information on the steps in development of BiH JSRS and the action plan for its implementation for the period 2021-2027 and development of a financial plan.

1. **In the following period, attention should be focused on the following activities from BiH JSRS AP:**

**Strategic area 1 - Judiciary**

* In accordance with the findings of the report, it is necessary to complete all initiated activities that have difficulties in implementation, for which BiH justice sector institutions are responsible, as well as to implement measures to eliminate risks and challenges in implementation,
* In order to specify and harmonize the disputable issues, it is necessary to take urgent steps and activities on finalization of all legislative activities provided by BiH JSRS AP, but not fulfilled by the end of the Strategy validity,
* Priorities for additional financing should support creation of preconditions for the implementation of deadlock activities, which mostly relate to professionalism and accountability, and the quality of the judiciary,
* An invitation is sent to the FBiH Government to adopt as soon as possible regulations prescribed by the Law on Salaries and other Compensations of Judges and Prosecutors in the FBiH to eliminate shortcomings in the efficiency of judicial institutions.

**Strategic area 2 - Execution of criminal sanctions**

* In accordance with findings of the report, it is necessary to complete all initiated activities that have difficulties in implementation, for which BiH justice sector institutions are responsible, as well as to implement measures to eliminate risks and challenges in implementation,
* Regarding the strategic program 2.1.2 *Establishment of administrations for the execution of criminal sanctions in BiH*, the competent institutions need to submit information on implementation and information on the status of establishment of the administrations, as well as proposed steps for further development, while the levels that assessed the impossibility should be prepared to consider issues for the next cycle of strategic planning,
* When it comes to the strategic program 2.2.4 *Improvement of the pardon procedure in BiH*, the competent institutions are invited to submit information on the lack of implementation of promotion activities and proposal of steps for implementation,
* When it comes to the strategic program 2.2.5 *Establishment of the probation service in BiH*, it is necessary to take into account the previous conclusion of the MC and assess the need and justification for introducing this legal institute, in the period 2022-2023 and include it in the new strategic framework
* Priority for donor support should still be the support for the analysis of the needs of establishing a probation service and further digitization with the training of institutions.

**Strategic area 3 – Access to justice**

* In accordance with the findings of the report, it is necessary to complete all initiated activities that have difficulties in implementation, for which BiH justice sector institutions are responsible, as well as to implement measures to eliminate risks and challenges in implementation,
* Priority of donor funding should be the establishment of a sustainable legal aid system and development of international legal assistance in the context of EU integration.

**Strategic area 4 – Support to economic growth**

* In accordance with findings of the report, it is necessary to complete all initiated activities that have difficulties in implementation, for which BiH justice sector institutions are responsible, as well as to implement measures to eliminate risks and challenges in implementation
* Programs in this strategic area are supported by donors and do not require prioritization for additional funds.

**Strategic area 5 – Well-managed and coordinated sector**

* In accordance with findings of the report, it is necessary to complete all initiated activities that have difficulties in implementation and/or implement the postponed ones, for which BiH justice sector institutions are responsible, as well as to implement measures to eliminate risks and challenges in implementation,
* Regarding BiH JSRS implementation, it was assessed that delivery and quality of information is very poor, and are not in line with the MC Rules of Procedure and the Guidelines for monitoring and evaluating BiH JSRS implementation, and the training of members of the monitoring and evaluation mechanism in terms of analysing and reporting on progress should be a priority,
* Improvement of coordination, communication and cooperation of institutions is a precondition for quality approach to strategic management in decentralized environment of Bosnia and Herzegovina. Seriousness and professionalism should be the features of the next cycles of strategic planning, implementation and monitoring of BiH JSRS implementation.

1. The MC members are: ministers of justice of BiH, Entities and cantons, presidents of the High Judicial and Prosecutorial Council of BiH and the Judicial Commission of the Brčko District of BiH. [↑](#footnote-ref-1)
2. The justice sector institutions, besides judicial institutions, include: ministries of justice of BiH, Entities and cantons, HJPC BiH and JC BD BiH, judges and prosecutors training centres, legal aid institutions, associations for alternative dispute resolution, penitentiaries, institutions for the implementation of alternative sanctions and similar institutions. [↑](#footnote-ref-2)
3. For more information on the previous implementation of this strategic programme, please find earlier reports on the BiH JSRS implementation. They were published on the MoJ BiH website - www.mpr.gov.ba. [↑](#footnote-ref-3)
4. Opinion of the Venice Commission on legal certainty and the independence of the judiciary, dated 16. 07. 2012. [↑](#footnote-ref-4)
5. Official Gazette of BiH, 65/18. [↑](#footnote-ref-5)
6. Official Gazette of RS, 91/17 [↑](#footnote-ref-6)
7. Official Gazette of RS, 66/18 [↑](#footnote-ref-7)
8. Conclusion of the RS National Assembly regarding the Law on Amendments to the RS Criminal Procedure Code, dated 4 July 2018, Official Gazette of RS, 66/18. [↑](#footnote-ref-8)
9. Official Gazette of BD BiH, 03/19 [↑](#footnote-ref-9)
10. Official Gazette of BD BiH, 16/20 [↑](#footnote-ref-10)
11. Regarding the programme, it is concluded that the activities have been implemented and it is assessed that this strategic programme has been fulfilled. However, given that the state level law was sent for adoption only at the end of the year, the possibility of revision should be taken into account and therefore it is necessary to monitor adoption of the law in the BiH CoM and the BiH Parliamentary Assembly. [↑](#footnote-ref-11)
12. Official Gazette of BiH, 77/20 [↑](#footnote-ref-12)
13. Official Gazette of FBiH, 55/13. [↑](#footnote-ref-13)
14. Official Gazette of FBiH, 72/05, 22/09 and 55/13. [↑](#footnote-ref-14)
15. Law on Salaries and Allowances of Judges and Prosecutors in the RS (Official Gazette of RS, 66/14, 60/15 and 66/18) stipulates that salaries will not increase as long as the average monthly net salary in the RS calculated for a calendar year does not reach or does not exceed BAM 1,000.00. [↑](#footnote-ref-15)
16. Official Gazette of RS, 54/19 [↑](#footnote-ref-16)
17. Official Gazette of RS, 105/19 [↑](#footnote-ref-17)
18. Official Gazette of BD BiH, 1/06 and 21/14. [↑](#footnote-ref-18)
19. Official Gazette of BD BiH, 27/19 [↑](#footnote-ref-19)
20. Official Gazette of BD BiH, 8/19, 10/19 and 13/19. [↑](#footnote-ref-20)
21. Official Gazette of BD BiH, 26/20 [↑](#footnote-ref-21)
22. Official Gazette of BD BiH, 39/20 [↑](#footnote-ref-22)
23. Official Gazette of BD BiH, 21/20 [↑](#footnote-ref-23)
24. Official Gazette of BD BiH, 23/20 [↑](#footnote-ref-24)
25. Official Gazette of BD BiH, 40/20 [↑](#footnote-ref-25)
26. Official Gazette of Canton Sarajevo, 5/19. [↑](#footnote-ref-26)
27. Official Gazette of ZDC, 1/18 [↑](#footnote-ref-27)
28. Official Gazette of BiH, 89/19 [↑](#footnote-ref-28)
29. Official Gazette of BiH, 46/20 [↑](#footnote-ref-29)
30. E.g. In the process of drafting the budget of judicial institutions in Posavina Canton, there is cooperation of all institutions participating in this process, primarily the Ministry of Finance. [↑](#footnote-ref-30)
31. Information taken from the website [www.vstv.pravosudje.ba](http://www.vstv.pravosudje.ba), notification, *Panel for harmonisation of criminal judicial practice*, dated 23 November 2020. [↑](#footnote-ref-31)
32. The collection of papers can be downloaded from the website of the Constitutional Court of BiH (<http://www.ustavnisud.ba/admin//public/down/Pravosudni_forum_2019_Zbornik_radova.pdf>) [↑](#footnote-ref-32)
33. Average duration of court procedures in 2018 was 444 days, while the clearance rate was 105%. The average duration of unresolved litigation cases before the first instance courts is 464 days, but it has decreased compared to 2017 when it was 494 days and 2016 when it was 502 days.

    During 2019, the courts covered 174,389 cases with the plans for resolving cases, of which 157,145 cases were resolved by 31 December 2019, with the plan implementation percentage of 90 percent.

    In 2019, there was an increase in the number of unresolved KT cases in the prosecutor's offices. There were 13,546 unresolved KT cases on 31 December 2019, which is 3% more than the number of unresolved cases on 31 December 2018, when that number was 13,191.

    During 2019, 2,289 old cases were resolved in the prosecutor's offices in BiH. As of 31 December 2019, the total number of unresolved old cases in the prosecutor's offices in BiH was 4,858 cases.

    The prosecutor's offices also filed 11,485 indictments, of which 225 indictments for corruption offenses, which is 3% more than the number of indictments filed for corruption offenses during 2018, when 218 indictments were filed. [↑](#footnote-ref-33)
34. The most efficient were the courts of higher instances, the percentage of achievable results of which was 86%, while the first instance courts - municipal, basic and district courts, resolved on average 62% of the envisaged cases. Regarding Entities, the courts in the FBiH resolved 76,415 cases, in the RS 33,953 cases, and in the BD BiH 1,626. The Court of BiH resolved a total of 1,266 cases. [↑](#footnote-ref-34)
35. Information taken from [www.vstv.pravosudje.ba](http://www.vstv.pravosudje.ba), news, *More than 100,000 court cases resolved,* dated 14 October 2020. [↑](#footnote-ref-35)
36. Information taken from [www.vstv.pravosudje.ba](http://www.vstv.pravosudje.ba), news, *Digitization to reduce the number of unresolved cases,* dated 27. 10. 2020. [↑](#footnote-ref-36)
37. *Application of SOKOP-Mal system provides a unique electronic database of all utility cases, their more efficient and economic processing, a unique way of processing utility cases throughout the BiH judiciary, reducing the space required for storing cases, recording all cases of this type in SOKOP database and control of system application by the HJPC BiH, and provides the case handlers to resolve greater number of cases at the same time*, information taken from the HJPC BiH website. [↑](#footnote-ref-37)
38. Official Gazette of FBiH, 28/20. [↑](#footnote-ref-38)
39. Source: Database on the BiH Constitutional Court website, (http://www.ccbh.ba/odluke/). [↑](#footnote-ref-39)
40. Official Gazette of RS, 66/18 [↑](#footnote-ref-40)
41. Official Gazette of the RS, 67/20. [↑](#footnote-ref-41)
42. Official Gazette of FBiH, 28/20. [↑](#footnote-ref-42)
43. Official Gazette of the RS, 99/20 [↑](#footnote-ref-43)
44. Official Gazette of RS, 35/20 [↑](#footnote-ref-44)
45. Project title: *Support to the Judiciary in BiH - Strengthening Prosecutorial Capacities in the Criminal Justice System*, adopted at the session of the HJPC, held on 24 and 25 September 2014, lasting from December 2014 to November 2018. Source: <http://www.pravosudje.ba/projekti>. The project continued its the second phase, supported by the governments of Switzerland and Norway. Source: <https://www.swissinbih.ba/ba/project/7/podrska-pravosudu-bosne-i-hercegovine-jacanje-uloge-tuzilaca-u-sistemu-krivicnog-pravosuda>. [↑](#footnote-ref-45)
46. HJPC website, press releases on the activities and results of courts in concluding court settlements, posters and informative publication "Court Settlement". [↑](#footnote-ref-46)
47. Information taken from [www.vstv.prvosudje.ba](http://www.vstv.prvosudje.ba), news, “Court settlement week from 21 September to 2 October in the courts of BiH”, dated 21 September 2020. [↑](#footnote-ref-47)
48. Official Gazette of CBC, 12/19 [↑](#footnote-ref-48)
49. A draft Rulebook on the status, work, responsibilities and costs of field visits of bailiffs and Rulebook on the requirements necessary for performing the duties of the bailiff and the head of the bailiff service have been prepared. [↑](#footnote-ref-49)
50. Official Gazette of RS, 66/18 [↑](#footnote-ref-50)
51. Official Gazette of FBiH, 46/16 [↑](#footnote-ref-51)
52. Official Gazette of FBiH, 98/15 [↑](#footnote-ref-52)
53. Official Gazette of FBiH, 80/14 [↑](#footnote-ref-53)
54. Official Gazette of BD BiH, 75/17 [↑](#footnote-ref-54)
55. Official Gazette of FBiH, 59/14 [↑](#footnote-ref-55)
56. Official Gazette of FBiH, 63/14 [↑](#footnote-ref-56)
57. Official Gazette of FBiH, 71/14 [↑](#footnote-ref-57)
58. Official Gazette of FBiH, 52/18 [↑](#footnote-ref-58)
59. Official Gazette of RS, 82/19 [↑](#footnote-ref-59)
60. Official Gazette of RS, 84/19 [↑](#footnote-ref-60)
61. Official Gazette of RS, 82/19 [↑](#footnote-ref-61)
62. Official Gazette of RS, 82/19 [↑](#footnote-ref-62)
63. Official Gazette of RS, 82/19 [↑](#footnote-ref-63)
64. Official Gazette of the RS, 67/20. [↑](#footnote-ref-64)
65. Official Gazette of the RS, 68/20. [↑](#footnote-ref-65)
66. Official Gazette of the RS, 67/20. [↑](#footnote-ref-66)
67. Official Gazette of BD BiH, 28/18 [↑](#footnote-ref-67)
68. Official Gazette of BD BiH, 36/17 [↑](#footnote-ref-68)
69. Official Gazette of BD BiH, 16/20 [↑](#footnote-ref-69)
70. Official Gazette of BD BiH, 18/20 [↑](#footnote-ref-70)
71. Official Gazette of BD BiH, 18/20 [↑](#footnote-ref-71)
72. Official Gazette of BD BiH, 19/20 [↑](#footnote-ref-72)
73. Official Gazette of BD BiH, 39/20 [↑](#footnote-ref-73)
74. Official Gazette of BiH, 25/17. [↑](#footnote-ref-74)
75. Official Gazette of Canton Sarajevo, 5/19. [↑](#footnote-ref-75)
76. Official Gazette of Canton Sarajevo, 7/19. [↑](#footnote-ref-76)
77. Official Gazette of BD BiH, 48/18 [↑](#footnote-ref-77)
78. Official Gazette of BD BiH, 8/19 [↑](#footnote-ref-78)
79. Official Gazette of BD BiH, 5/20 [↑](#footnote-ref-79)
80. Official Gazette of BD BiH, 13/19 [↑](#footnote-ref-80)
81. The results of the survey can be found at: <https://vstv.pravosudje.ba/vstv/faces/vijesti.jsp?id=81890>. [↑](#footnote-ref-81)
82. Official Gazette of BD BiH, 5/20 [↑](#footnote-ref-82)
83. The manual can be downloaded from the web site: <https://vstv.pravosudje.ba/vstv/faces/vijesti.jsp?id=82073&vijesti_jezik=B>. [↑](#footnote-ref-83)
84. Information taken from the website [www.vstv.pravosudje.ba](http://www.vstv.pravosudje.ba), news, “International Children's Day: position of children and juveniles in contact with the judiciary must be better”, dated 20 November 2020. [↑](#footnote-ref-84)
85. Official Gazette of RS, 68/20 [↑](#footnote-ref-85)
86. Official Gazette of FBiH, 74/20. [↑](#footnote-ref-86)
87. Information taken from the website of JPTC RS, www.rs.cest.gov.ba. [↑](#footnote-ref-87)
88. Official Gazette of BiH, 27/15. [↑](#footnote-ref-88)
89. The war crimes map is available on the following website: <https://maparz.pravosudje.ba/>. [↑](#footnote-ref-89)
90. Official Gazette of FBiH, 71/14 [↑](#footnote-ref-90)
91. Official Gazette of RS, 63/18. [↑](#footnote-ref-91)
92. Official Gazette of RS, 61/18. [↑](#footnote-ref-92)
93. Official Gazette of BiH, 18/16 [↑](#footnote-ref-93)
94. Official Gazette of BiH, 15/20 and 65/20 [↑](#footnote-ref-94)
95. Implementation of the EU and CoE project started in 2016, with duration of three years. [↑](#footnote-ref-95)
96. TAIEX workshop on *Prison system and abuse prevention in BiH*, held on 24-28. 09. 2018. [↑](#footnote-ref-96)
97. Official Gazette of BiH, 54/19. [↑](#footnote-ref-97)
98. More about the project can be found on the CoE website: <https://www.coe.int/bs/web/sarajevo/structured-sentence-management-for-violent-and-extremist-prisoners-in-bosnia-and-herzegovina>. [↑](#footnote-ref-98)
99. More about the project at: <https://www.swissinbih.ba/ba/project/16/projekat-mentalnog-zdravlja-u-bih>. [↑](#footnote-ref-99)
100. Official Gazette of BiH, 89/09. [↑](#footnote-ref-100)
101. Official Gazette of BiH, 19/11. [↑](#footnote-ref-101)
102. Official Gazette of BiH, 17/19. [↑](#footnote-ref-102)
103. Official Gazette of BiH, 25/19. [↑](#footnote-ref-103)
104. Official Gazette of RS, 120/08 [↑](#footnote-ref-104)
105. Official Gazette of RS, 67/20. [↑](#footnote-ref-105)
106. Official Gazette of BD BiH, 19/07 [↑](#footnote-ref-106)
107. Official Gazette of Tuzla Canton, 10/08. [↑](#footnote-ref-107)
108. Official Gazette of Bosnian Podrinje Canton, 2/13. [↑](#footnote-ref-108)
109. Official Gazette of Canton 10, 9/16. [↑](#footnote-ref-109)
110. Official Gazette of Posavina Canton, 3/10. [↑](#footnote-ref-110)
111. Official Gazette of Canton Sarajevo, 1/12. [↑](#footnote-ref-111)
112. Official Gazette of Zenica-Doboj Canton, 1/14 [↑](#footnote-ref-112)
113. Official Gazette of West Herzegovina Canton, 5/08 [↑](#footnote-ref-113)
114. Official Gazette of Herzegovina-Neretva Canton, 7/13. [↑](#footnote-ref-114)
115. Official Gazette of Una-Sana Canton, 22/12 [↑](#footnote-ref-115)
116. The project "Improving the efficiency of courts and accountability of judges and prosecutors” – component 1. Further improvement of judicial efficiency - area 4 - Gender equality, vulnerable groups and cooperation with non-governmental organizations - funded by the Government of Sweden (available on the justice portal - https://vsts.pravosudje.ba/vstv/faces/kategorije.jsp?ins = 141 & module = 1206 & floor = 1207 & column = 115096) [↑](#footnote-ref-116)
117. More information available at: https://j4c.ba/. [↑](#footnote-ref-117)
118. Source: Recommendations on the work of expert advisors/associates performing psychological activities in BiH judicial institutions, 2017, with the support of UNICEF. [↑](#footnote-ref-118)
119. Source: http://projects.worldbank.org/P128950/real-estate-registration-project?lang=en&tab=overview [↑](#footnote-ref-119)
120. Source: http://www.cilap-project.org/ [↑](#footnote-ref-120)
121. Official Gazette of FBiH, 32/19 [↑](#footnote-ref-121)
122. Project for improving the business environment and market access in BiH, 2016-2019,

     Source: https://disclosures.ifc.org/#/projectDetail/AS/601646 [↑](#footnote-ref-122)
123. Official Gazette of FBiH, 52/18 [↑](#footnote-ref-123)
124. Official Gazette of RS, 16/16 [↑](#footnote-ref-124)
125. Official Gazette of RS, 82/19 [↑](#footnote-ref-125)
126. Official Gazette of FBiH, 74/19, dated 09.10.2019: Decree on drafting strategic documents in BiH, Decree on evaluation of strategic documents in the FBiH (enter into force on the 8th day from the day of publication) and Decree on three-year and annual work planning, monitoring and reporting in the FBiH (applied from 1.1.2021). [↑](#footnote-ref-126)
127. Official Gazette of BiH, 72/16. [↑](#footnote-ref-127)
128. Official Gazette of FBiH, 26/20. [↑](#footnote-ref-128)
129. Official Gazette of BiH, 50/18. [↑](#footnote-ref-129)
130. Official Gazette of BiH, 64/18. [↑](#footnote-ref-130)
131. Official Gazette of FBiH, 71/14 [↑](#footnote-ref-131)
132. Official Gazette of RS, 56/15 [↑](#footnote-ref-132)
133. MOOC – mass online open courses (training). [↑](#footnote-ref-133)
134. More information about the project on the website: <https://pjp-eu.coe.int/bs/web/horizontal-facility>, and about the activity at: <https://www.coe.int/en/web/cepej/towards-a-better-evaluation-of-the-results-of-judicial-reforms-in-the-western-balkans-dashboard-western-balkans->. [↑](#footnote-ref-134)