

ASSESSING NEEDS OF JUDICIAL RESPONSE TO CORRUPTION
THROUGH MONITORING OF CRIMINAL CASES (ARC)

THIRD ANNUAL REPORT
ON JUDICIAL RESPONSE
TO CORRUPTION:
THE IMPUNITY SYNDROME



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EXECUTIVE SUMMARY

This is the third public report by the OSCE Mission to Bosnia and Herzegovina (“the Mission”) based on the monitoring of corruption cases in the country. This report has been produced as part of the Mission’s Project on *Assessing Needs of Judicial Response to Corruption through Monitoring of Criminal Cases* (“ARC”), launched in October 2016 with the support of the US Department of State’s Bureau of International Narcotics and Law Enforcement Affairs (“INL”). The main objective of the Project is to identify and analyse problems in the effectiveness of the judicial response to corruption, as well as to propose adequate and feasible measures to address these problems. Comprising four chapters, this report draws on and continues the work presented in the two previous ARC reports issued in February 2018 and April 2019 (hereinafter: “1st ARC report” and “2nd ARC report” respectively).

CHAPTER 1 presents the Mission’s trial monitoring findings based on the analysis of 302 corruption cases monitored in 2019. This large sample includes all serious and complex corruption cases tried on the territory of BiH, as well as a sizable number of minor corruption cases. According to the criteria adopted by the Mission, 21 of these cases were categorized as high level, 108 as medium level, and 173 as low level. **The general picture offered by the monitoring of serious cases of corruption (i.e. those categorized as high and medium level) can be simply described as a failure of the criminal justice system, resulting in *de facto* impunity for the perpetrators of many serious offenses.** A comparison of the results and findings for 2017–2018 (presented in the 2nd ARC report) with those of 2019 reveals an overall worsening of the performance of both judges and prosecutors with regard to the processing of serious cases of corruption.

The negative trend in 2019 becomes apparent when considering several factors:

- 1) **The dramatic drop in the number of new indictments** in high and medium level cases filed by prosecutors in 2019, with only one high level and 15 medium level cases, compared with the 10 high and 35 medium of 2017 and the one high and the 33 medium of 2018. An in-depth evaluation of the causes behind the general failure of the prosecutors’ offices (“POs”) in BiH to effectively fight corruption would require the monitoring of the investigation stage of the proceedings, which is currently outside the scope of this project. The Mission’s findings are concerning and call attention to the lack of oversight into the work of individual POs in corruption cases, including the almost exclusive discretion of chief prosecutors during the investigation stage.
- 2) **The steep fall in the conviction rate**, which dropped from 80 per cent in 2017 to 57 per cent in 2019 for medium level cases, and from 100 per cent in 2017 to an abysmal 12 per cent in 2019 for high level cases. In absolute numbers, only 13 defendants were declared guilty, while 23 were acquitted in high and medium level cases finalized in 2019. **The unlikelihood of conviction in serious and complex cases indicates numerous shortcomings in the judicial system, suggesting a failure to enforce the law with respect to those who hold power and influence in society.** One cluster

of problems relates to deficiencies in case preparation by the prosecution, while another points to the unclear or unpredictable application of the law by the courts. While legal uncertainty is a routinely observed negative feature of the legislative and judicial system in BiH, the effects of this systemic disorder are particularly acute in the processing of high and medium level cases. This is not surprising, since it is in these cases that the law is more at risk of being interpreted according to the wishes of the powerful rather than the methods of legal interpretation envisaged in democratic societies governed by the rule of law.

- 3) **The increasing length of proceedings.** The average length of completed high level cases has been steadily increasing since 2017, with the total length of a trial from indictment to final and binding verdict reaching 1351 days for trials concluding in 2019. The average length for medium level cases from indictment to final and binding verdict is 939 days, which is also longer than in the previous two years. This and related problems in the management of trials seriously undermine the efficient and effective processing of corruption cases in BiH, with some high profile trials ongoing for years with no end in sight.

CHAPTER 2 attempts to contextualize the negative results depicted in the first chapter by looking at instances of undue conduct by judicial institutions in 2019. These episodes indicate an increasing and concerning lack of professionalism and integrity by key judicial actors and point to the unwillingness of the High Judicial and Prosecutorial Council (“HJPC”) to uphold ethical standards and ensure accountability within the judiciary.

The connection between the crisis of ethics in the BiH judiciary and the failure to ensure accountability for corruption cannot be ignored. A judiciary that is not able to ensure accountability and demonstrate integrity within its own ranks cannot reasonably be expected to tackle sensitive and politically charged cases impartially and effectively.

CHAPTER 3 presents the methodology and results of the Index of Effectiveness of Judicial Response to Corruption for 2019. The Index, presented here for the first time, comprises a set of measurable indicators tailored to the specificities of the problems and features of the judicial response to corruption in BiH as identified through the lens of trial monitoring. Its goal is to measure the four main factors determining the effectiveness of the judicial response to corruption: productivity, capacity, fairness, and efficiency. The Index results are consistent with the qualitative analysis and findings presented in chapters 1 and 2 of this report, as well as in the two previous ARC reports. Specifically, in the three dimensions of judicial response to corruption where, based on trial monitoring, the results have been assessed as poor, the scores are clearly in the lower range of the 1–10 scale (with 10 being the highest), namely: 3.72 for the productivity dimension; 3.50 for the capacity dimension; and 3.59 for the efficiency dimension. Only the fairness dimension demonstrates a positive score, i.e. 7.46. These calculations will be explained in the body of this report.

CHAPTER 4 follows up on the 24 recommendations proposed by the Mission in the previous two ARC reports. While domestic authorities have generally endorsed the Mission's recommendations, they have been slow in translating these endorsements into concrete actions. In particular, the Mission did not notice any progress in 12 of the recommendations, while it did observe that eight recommendations are in progress, three were partially implemented, and only one was fully implemented. Brief explanations of the progress are contained in Annex B.

On the basis of this report, it can be concluded that re-establishing integrity, impartiality and accountability within the judiciary is a necessary precondition for a more effective judicial response to corruption. While the vexing topic of judicial reform is outside the scope of this report, here it will suffice to point out some measures (presented in Chapter 2) which the Mission believes would represent a first step in re-establishing a certain level of trust in the judiciary while ensuring both its *de jure* and *de facto* independence from other branches of power:

- 1. All branches of government, as well as non-governmental actors and donors, should strive for the preservation and encouragement of independent investigative journalism and the role of civil society in scrutinizing the work of the judiciary.**
- 2. The HJPC, the prosecution, and the courts should make available to the public meaningful and more detailed information on the investigation, prosecution, and adjudication of cases, particularly those with particular importance for the public interest.**
- 3. The legislature should prioritize the adoption of an amended Law on the HJPC to introduce reforms aimed at strengthening judicial integrity and disciplinary processes - including ensuring full functional independence of the Office of the Disciplinary Counsel (ODC) from the HJPC and introducing an external adjudication mechanism - in order to ensure accountability while preserving the role of the institution as a safeguard of judicial independence.**
- 4. Finally, all branches of government should work to establish, as a matter of priority, an effective system for checking the integrity of judges and prosecutors, including through the verification of their asset declarations.**

1.

OVERVIEW OF JUDICIAL RESPONSE TO CORRUPTION IN 2019

This chapter presents the main trial monitoring findings for judicial response to corruption in 2019. The analysis is based on a large sample of the corruption cases¹ processed in BiH.

From 1 January to 31 December 2019, the OSCE Mission to BiH (“the Mission”) has monitored, from the moment of indictment filing, a total of 302 cases, including 232 ongoing cases and 70 cases which were finalized with a final and binding verdict. Following the ARC trial monitoring methodology, the Mission categorized these cases as high, medium, or low level in terms of their overall seriousness. This was done by assessing two main criteria: the status of the accused² and the gravity of the (alleged) conduct.³

- 1 The definition of corruption cases adopted by the Mission is broader than the definition adopted by domestic institutions. Specifically, the Mission’s methodology refers to both international and national standards for the identification of corruption cases. Namely, when selecting cases for monitoring, the very nature of the alleged offenses (being symptomatic of corruption practices) rather than the official categorization of the case under the domestic system is considered. The application of strict and formal criteria would not be consistent with the goals of the Project, which requires that all relevant criminal proceedings are monitored regardless of the categorization of cases according to the domestic criteria. It is important to underline, for example, that cases involving corruption charges are sometimes not officially categorized as corruption cases but as economic crime or organized crime, as these categories can overlap and are inter-related. For more details see Chapter 1.2, 1st ARC Report, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/373204>.
- 2 Specifically, the status of the accused is defined according to their status as public figures and to the degree of power they are in the position to effectively exercise. Accordingly, a case is ranked “high” when the defendants are high-profile elected and appointed officials at the State or entity level, heads of public companies at the entity level, or the highest ranking civil servants/members of the judiciary. A “medium” ranking is given when the defendants are low-profile elected officials, senior civil servants from public institutions, and members of the judiciary not evaluated as highest ranking. A “low” ranking is given when the defendants are civil servants at various levels of government with no or minimal supervisory authority, for example, employees of health, law enforcement, education, or employment public institutions. See Chapter 1.2, 1st ARC Report, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/373204>.
- 3 The second criterion aims at assessing the gravity of the consequences of the offense for victims and society in general. In this sense, cases are ranked as “high” when the economic gain or damage resulting from the criminal conduct is quantified as more than 200,000 BAM (approximately 100,000 Euro); or when non-quantifiable harm to victims or society in general is of such gravity that citizens’ trust in public institutions may be radically undermined by the alleged crimes (for example, cases of corruption linked to sexual exploitation). Cases are ranked as “medium” when the economic gain or damage is quantified between 200,000 BAM and 10,000 BAM; or, when non-quantifiable, harm to victims or society is of significant gravity or related to sensitive areas of public administration (for example, corruption linked to the health or education system). Cases are ranked as “low” when economic gain or damage is quantified as less than 10,000 BAM; or when non-quantifiable harm, harm to victims or to society is of low gravity. See Chapter 1.2, 1st ARC Report, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/373204>.

On the basis of this categorization, the Mission has monitored all high and medium level corruption cases initiated in BiH since the start of the ARC Project in January 2017. The Mission also monitored significant numbers of low level cases in accordance with available resources.⁴

Accordingly, out of the 232 ongoing cases in 2019, 19 were categorized as high level, 94 as medium level, and 119 as low level. Out of the 70 finalized cases, two were categorized as high level, 14 as medium level, and 54 as low level. The overview offered in this chapter focuses exclusively on the analysis of high and medium level cases, while a more general assessment encompassing the processing of all corruption cases in BiH is the objective of the subsequent chapter.

The general picture offered by the monitoring of serious cases of corruption (i.e. those categorized as high and medium level) shows a general failure of the criminal justice system which results in *de facto* impunity for many responsible for serious offenses.

The situation depicted and analysed here is broadly consistent with the critical assessment already offered by the Mission in the 1st and 2nd ARC reports,⁵ which together cover criminal proceedings from 2010 to 2018. This said, a comparison of the results and findings for 2017–2018 (presented in the 2nd ARC report) with those of 2019 reveals a general worsening of the performance of both judges and prosecutors in the processing of serious corruption cases.

The following three key indicators of the effectiveness of the judicial response to corruption in high and medium level cases illustrate this three-year negative trend: 1) number of indictments filed by prosecutors; 2) rate of conviction; and 3) length of proceedings. Each of these indicators is linked to one of the three (of a total of four) dimensions of the judicial response to corruption identified in the ARC methodology, respectively: productivity, capacity, and efficiency.⁶ With regard to the fourth dimension – namely fairness of proceedings and the respect of the rights of the accused – only a few concerns have been observed in a limited number of cases, although they do exist. This reflects a similar observation made in the 2nd ARC report.⁷

The following paragraphs present the results of trial monitoring findings linked to these four key indicators. In adherence to the principle of non-interference in the course of justice which guides all OSCE trial monitoring programs, this report mentions the names of cases only

4 The Mission lacks sufficient staff to follow every low level case initiated across the country, but endeavors to follow every trial possible given its limitations. This means, in practice, that this category of cases is monitored mainly in jurisdictions where no high or medium level corruption cases are identified by the Mission.

5 The 1st ARC report is available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/373204>; the 2nd ARC report at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>.

6 See the 2nd ARC report and Chapter 2 of this report for a detailed description of the four dimensions.

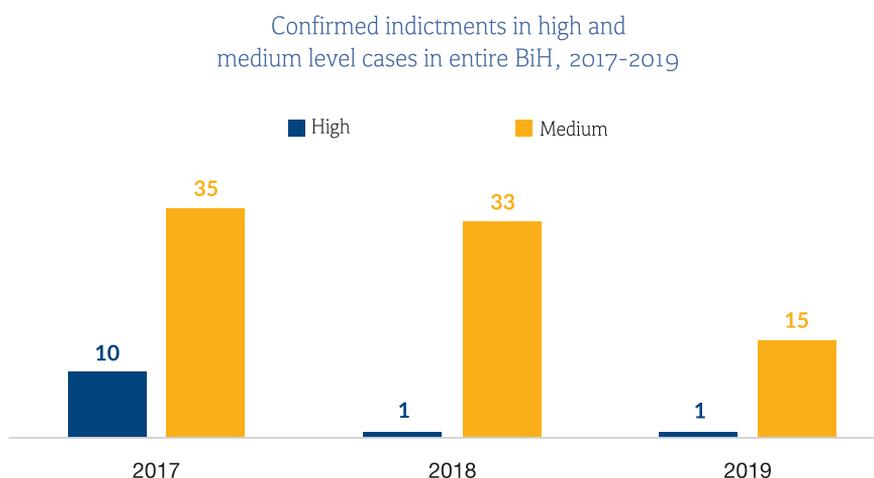
7 See the 2nd ARC report pp. 53–64.

when they have been finalized.⁸ When referring to ongoing cases, this report excludes case details (names, court location, or other information) which could lead to the identification of the case. With this policy, the Mission intends to avoid prejudicing the outcome of any ongoing criminal proceeding.

1.1. Number of indictments in high and medium cases

As shown in Figure 1, the results from 2019 show a dramatic drop, throughout BiH, in the number of indictments in high and medium level cases. In 2019, the prosecution filed just one high level indictment; although this was the same as in 2018, both years saw a stark fall compared to 2017, when 10 high level indictments were filed. The same trend held for medium level cases, with 15 indictments filed for this category of cases in 2019, compared with 2018 (33 indictments) and 2017 (35 indictments).

Figure 1



As shown in Figure 2 below, the Mission has observed this drop in all four BiH jurisdictions, namely at the state, entity (Federation of BiH (FBiH) and Republika Srpska (RS)) and Brčko District (BD) levels.

Of further concern, the performance of the specialized POs at the state and RS level – assessed in the 2nd ARC report as unsatisfactory⁹ – fell even further, as the PO BiH and the RS PO Special Department (established under the RS Law on Fighting Corruption, Organized

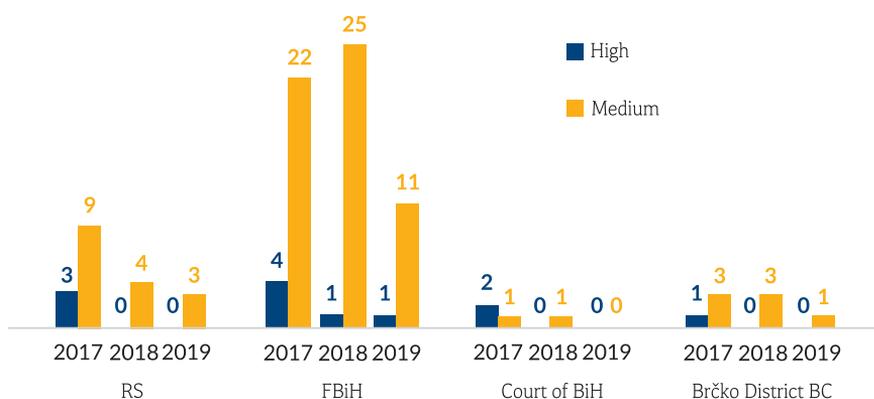
⁸ Namely finalized either by a binding verdict or closed for procedural reasons such as the death of a defendant.

⁹ See 2nd ARC report, pp. 36–39, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>.

and Most Severe Forms of Economic Crime) raised zero indictments in high and medium level cases in 2019.¹⁰ Even compared with the 2017–2018 period, in which the PO BiH filed two high and four medium level indictments, and the RS PO Special Department raised just two high and one medium level indictment, the work of these specialized offices in 2019 can only be assessed as below any acceptable standard.

Figure 2

Confirmed indictments in high and medium level cases per jurisdiction, 2017–2019



In addition to the worsening of an already negative trend in those two institutions, even those POs with a positively assessed performance in previous years experienced a decline in tackling high level corruption cases. This is the case in particular for the Sarajevo Canton PO (which filed zero high level indictments and just one medium level indictment in 2019, compared with two high level and eight medium level indictments in 2017–2018) and the Tuzla Canton PO (which filed zero high level and two medium level indictments in 2019, compared with one high level and eleven medium level in 2017–2018).

This said, the trend was not isolated to these offices alone; the POs in Brčko, Zenica-Doboj, Bijeljina, Livno, and Istočno Sarajevo have also witnessed a sharp decrease in high and medium level indictments.¹¹ The performance of the POs in Mostar and Novi Travnik, on the other hand, remains as dramatically inadequate as in previous years, for only one medium level case has been initiated by the latter in the three years in question, while no high or medium level case was ever brought to trial in Mostar in this period. The only PO maintaining a consistent pace in 2017–2019 is Una-Sana Canton PO, with one high level and three medium level cases in 2019, versus one high level and six medium level cases in 2017–2018.

10 The indictment filed by the PO BiH against the former Minister of Security at the end of 2019 is not considered in this statistic because it was confirmed in 2020.

11 Brčko: 0 high and 1 medium level in 2019, 1 high and 6 medium level in 2017–2018; Zenica-Doboj: 3 medium level in 2019, 11 medium level in 2017–2018; Livno: 0 medium or high level in 2019, 0 high and 6 medium level in 2017–2018; Bijeljina: 0 high and 1 medium level in 2019, 1 high and 5 medium level in 2017–2018; Istočno Sarajevo: 0 medium or high level in 2019, 5 medium level in 2017–2018.

Since these statistics consider only a limited number of cases (i.e. those classified as high and medium level), a degree of fluctuation from one year to another is to be expected. However, the consistency and universality of the negative trend cannot be dismissed for that reason alone.

Another important indicator confirming this trend is the ratio between high/medium level cases and the total number of corruption indictments confirmed in those years: in 2019, 233 indictments in corruption cases¹² were confirmed throughout BiH, out of which 0.4 per cent are high level and 6.4 per cent are medium level according to the Mission's classification.¹³ In comparison, the average ratio based on the total number of corruption-related indictments for the 2017–2018 period was 2.2 per cent for high level and 14.9 per cent for medium level cases.¹⁴

An in-depth evaluation of the causes behind the general failure of the POs in BiH to bring to trial serious corruption cases would require, at a minimum, systematic monitoring of the investigation stage of the proceedings. Taking this into account, the independent Expert Report on Rule of Law issues in BiH¹⁵ published by the European Commission (EC) in 2019 offers important insights into issues such as the quality of investigations, the independence of prosecutors, and the lack of accountability in cases of professional misconduct. The following passages from the EC report are particularly illustrative:

The quality of many criminal investigations is very low. In some cases, prosecutors do not prosecute even when there is evidence to do so. Failure to take obvious investigative steps has been observed, without due justification, particularly in cases dealing with high-level crime or involving 'high level persons'.

Perhaps the most serious problem identified relates to the receptiveness of prosecutors to undue influence and lack of individual independence. The excessively hierarchical structure, the absence of any adequate independence safeguards and of a system of accountability are noteworthy. Interference in ongoing cases, pressure, threats and intimidation of prosecutors, but also of judges, have been observed and are a cause of grave concern.¹⁶

12 HJPC data on cases classified as KTK, on file with the Mission.

13 As mentioned in footnote 1, the definition of corruption cases under the Mission's methodology is broader than the definition of corruption (KTK) cases established by the HJPC. As a result, it is possible that some of the cases categorized as high and medium level by the Mission are not included in the HJPC statistics related to KTK cases.

14 The 2017–2018 ratio is based on the Mission's statistics on the number of high and medium indictments and of statistics published by Transparency International BiH in *Izveštaj o monitoringu procesuiranja korupcije pred sudovima i tužilaštvima u Bosni i Hercegovini 2018*, December 2019, <https://ti-bih.org/>. The result for 2019 appears more favourable if one considers the same ratio in terms of number of defendants in high and medium cases instead of number of indictments: 335 is the total number of defendants, while 5 is the number of defendants in high level cases, namely 1.5 per cent. The number of defendants in medium level cases is 70, so the percentage of defendants in medium cases is instead 20.8 per cent. This rather high proportion is not very illustrative, however, since it is skewed by one medium level case initiated by the Sarajevo PO in which an unusual 36 accused were indicted.

15 *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, Brussels, 5 December 2019, available at <https://europa.ba/?p=66927>.

16 *Ibidem*, paras. 48–49.

These findings, taken in conjunction with the Mission's own observations on the inadequacy of prosecutorial performance in corruption cases, call attention to the general lack of oversight of the POs during the investigation stage, including the almost exclusive discretion of the chief prosecutors at that phase.

What happens during investigations (especially when not resulting in a trial) usually remains undisclosed to the public eye and an official record is available only in very few cases.

The investigation against the former director of the BiH Agency for Identification Documents, Registers and Data Exchange (IDDEEA BiH), Siniša Macan, represents one of those few exceptions because it was the object of a decision of the Constitutional Court of BiH. A short account of that case illustrates how the above-mentioned lack of scrutiny in the investigation phase can result in impunity for the perpetrators and no accountability for prosecutors who fail to faithfully perform their duties.

The BiH Prosecutor's Office opened an investigation against Siniša Macan in January 2015. The PO alleged that in 2012, as the director of IDDEEA BiH, the suspect awarded contracts to certain companies for the issuance of ID cards, in circumvention of the prescribed tender procedures, in exchange for a bribe of one million BAM.¹⁷ Macan was arrested in May 2016 and released after a few days upon being interviewed by the BiH Prosecutor's Office. Prohibiting measures, including a travel ban and a duty to report to authorities, ordered by the Court of BiH in relation to the suspect in June 2016, were terminated in March 2017.¹⁸

Since the prosecutor in the Macan case filed neither an indictment nor an order to close the case in the four years following the start of the investigation, in February 2019 Macan filed an application before the BiH Constitutional Court (CC) alleging a violation of his right to a fair trial due to the excessive length of the proceedings.¹⁹ Four months later, in June 2019 the Grand Chamber of the BiH CC found a violation of the applicant's rights and ordered the PO BiH to conclude the investigation in a month.²⁰ In reaching this decision, the CC rejected the PO BiH justification that the delay was because evidence had to be obtained through requests for international legal assistance addressed to three different EU countries. The court instead based its stance mainly on the fact that the Collegium of the Prosecutor's Office of BiH had failed to take any action to ensure the completion of this investigation within the timeframe as prescribed by the now amended art. 225 of the Criminal Procedure Code (CPC) of BiH.²¹ In March 2020, the media reported that the PO BiH had closed its investigation against

17 Constitutional Court of BiH, Case no. AP 523/19, Grand Chamber Decision upon petition by appellant Siniša Macan, paras. 36–37, 39–40, 43.

18 *Ibidem*.

19 *Ibidem*.

20 *Ibidem*, paras. 22–44.

21 *Ibidem*. Under the previous (now amended) art. 225, there was no fixed deadline for the completion of an investigation; in this regard, the provision only prescribed that if an investigation “has not been completed within six (6) months after the order on its conducting has been issued, the Collegium of the Prosecutor's Office shall undertake necessary measures in order to complete the investigation.”

Siniša Macan, with no indictment filed.²² No further evidence is available as to the reasons for the lengthy investigation nor its closure without an indictment. As mentioned, insights into the reasons for the closure of important investigations are very rare, as these cases generally are not subjected to judicial scrutiny except when the suspect files a complaint to the Constitutional Court, as in this instance.

The Macan case illustrates how an important investigation can come to a conclusion not after a proper gathering and evaluation of the available evidence, but due to the simple passage of time. The proper conclusion of an investigation should be either an indictment, when there is sufficient evidence for the charges; or an order to close the investigation when there is not. In both cases, the prosecutor in charge is required to provide a solid justification based on an assessment of the evidence. **On the other hand, the closing of an investigation motivated by its excessive length has a higher potential for abuse by the prosecution in the absence of proper external scrutiny.** This is because an ill-intended prosecutor could easily “bury” a case by delaying the investigation.

Recent amendments to the BiH CPC have only worsened the risk of such abuse. In 2018, new provisions of the BiH CPC regulating the timeframe for completion of investigations entered into force.²³ The amended article 225 foresees the termination of an investigation after a maximum of 18 months (or 30 months for more serious crimes), upon the expiry of the final deadline given by the relevant Chief Prosecutor after accepting a complaint filed by the suspect (or the injured party).²⁴ In the 2nd ARC report, the Mission expressed its concerns about this provision and its possible negative impact on the processing of corruption-related crimes and other serious cases. There the Mission explained that the temporal limits are overly stringent in relation to the investigation of serious and complex crimes under state level jurisdiction, such as terrorism, war crimes, and high level corruption and economic

22 RTVBN, *Obustavljena je istraga protiv Siniše Macana*, 15 March 2020, available at <https://www.rtvbn.com/3979617/obustavljena-je-istraga-protiv-sinise-macana>.

23 Official Gazette of BiH no. 65/18, available at http://tuzilastvobih.gov.ba/files/docs/zakoni/Zakon_o_kvivicnom_postupku_BiH_izmjene_i_dopune_65_18_b.pdf.

24 Art. 225 CPC BiH: (1) The prosecutor shall order a completion of investigation after he finds that the status is sufficiently clarified to allow the bringing of charges. Completion of the investigation shall be noted in the file. (2) If the investigation has not been completed within six (6) months after the order on its conducting has been issued, the prosecutor shall inform the Chief Prosecutor of reasons for not having completed the investigation. The Chief Prosecutor shall within 30 days set a new deadline for the completion of investigation which shall not exceed six months, and/or which shall not exceed one year for the criminal offenses for which a punishment of ten or more years of imprisonment is prescribed, and order taking necessary measures for the completion of investigation. (3) If it was not possible to complete the investigation within the deadline referred to in Paragraph (2) of this Article, the prosecutor shall within eight days inform the Chief Prosecutor, the suspect and injured party of reasons for not completing the investigation. (4) The suspect and injured party may submit a complaint regarding the length of procedure to the Chief Prosecutor within 15 days of receiving the information referred to in Paragraph (3) of this Article. If the Chief Prosecutor finds that the complaint is founded, he/she shall within 30 days set a new deadline within which the investigation has to be completed, which shall not exceed six months and/or which shall not exceed one year for the criminal offenses for which a punishment of ten or more years of imprisonment is prescribed, and order taking necessary measures for the completion of investigation, of which he/she shall inform the complainant within 15 days. (5) If the investigation is not completed within the deadline referred to in Paragraph (4) of this Article, and the procedural requirements have been met, the investigation shall be deemed to have ceased, of which the prosecutor shall issue an order and inform within 15 days the Chief Prosecutor, the suspect and injured party. (6) The indictment shall not be issued if the suspect was not questioned.

crimes.²⁵ With such strict time limits in place, there is a heightened risk that important investigations may fail prior to the filing of an indictment, as in the Macan case. Even worse, this increases the possibility that unscrupulous prosecutors could drag out investigations to avoid indicting high level perpetrators.

In light of these concerns, the Mission believes that measures should be developed to address the lack of oversight of the POs during the investigation stage. Addressing this issue would require a broader discussion on complex questions such as the possibility of introducing a judicial review of prosecutorial decisions to close an investigation or the autonomy of individual prosecutors vis-à-vis their superiors in the conducting of investigations. However, any reform towards increasing accountability in this regard must be based on careful analysis and with due consideration to preserving prosecutorial independence.

While a full analysis of these complex matters is outside the scope of this report, as a preliminary matter, **the Mission believes that increasing access to information by the media and the public on the activities of the prosecution services, particularly in the investigation phase, would be a good place to start addressing the accountability gap. The HJPC, the prosecution, and the courts should make available to the public meaningful and more detailed information on the investigation, prosecution, and adjudication of cases, particularly when the public interest is prominent.**

There are several measures that could be taken immediately in this regard. An improved policy could envisage, for example, the publication of statistical data (including the number of criminal reports or complaints filed by the law enforcement agencies or by other institutional bodies) on the processing of corruption cases in general and more specifically on cases which are categorized as high level corruption according to the criteria adopted by the HJPC in 2018.²⁶ In specific cases with a substantial public interest component, the prosecution should consider publishing summaries of the orders to close an investigation or not to open an investigation where the main grounds for the decision are presented so that the public can understand the logic behind such decisions, instead of being left to guess as to their motivations. In addition to this, prosecutors and courts should publish indictments and verdicts in important cases as a matter of policy rather than on a discretionary basis, as presently.

Increasing transparency with such measures would not compromise prosecutorial independence, but instead would strengthen public trust in the system and increase support for the critical role of the prosecution and courts in tackling the scourge of corruption. The Mission recognizes that transparency and freedom of information must be carefully balanced with the need for effective prosecutions and defendants' rights to privacy and a fair trial. However, in the Mission's view, the level and quality of official information on the processing of cases currently offered by the judicial system are insufficient and this undermines the interests of all parties as well as the public.

25 See 2nd ARC report, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>, pp. 13-15.

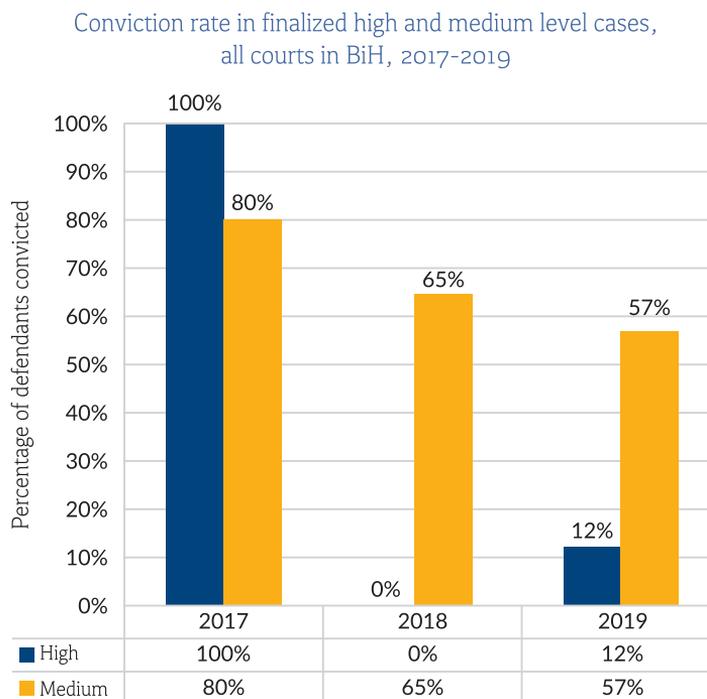
26 See 2nd ARC report, p. 16, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>.

1.2. Conviction rate in finalized high and medium level cases

Conviction rates in finalized serious corruption cases – another telling indicator of the judicial response to corruption – generally fell over the last three years in courts across BiH. This is especially apparent in the rate of convictions per defendant in medium level cases, which dropped from 80 per cent to 57 per cent over this period. In this category of cases, the number of defendants convicted in 2017 amounted to 16, with four acquitted; the defendants convicted in 2018 amounted to 15 with eight acquitted. In 2019, by comparison, just 11 were declared guilty (five of them after signing a plea agreement) while eight were acquitted.

The conviction rate in finalized high level cases, based on a more limited number of defendants, fluctuated slightly over these years but remained abysmal in 2019. In 2017, two defendants in high level cases were convicted and none acquitted; in 2018, none were convicted and four were acquitted; and in 2019, two were convicted and 15 acquitted (all 15 in one case). These trends are illustrated in Figure 3. Considering data from the past three years, it can be concluded that the only PO with a successful conviction rate in high and medium level cases is that of Tuzla Canton.²⁷ Another PO with a good conviction rate is the Zenica-Doboj PO, which, although it did not process any high level case, had eight defendants convicted and two acquitted in medium level cases.

Figure 3



²⁷ Namely, in the three years in question, the Tuzla PO had two persons convicted and zero acquitted in high level cases, six convicted and two acquitted in medium level cases.

Low conviction rates in high and medium level corruption cases in BiH raise serious concern, especially when compared to the rate in corruption cases in general, which has been relatively high and stable, namely 84 per cent in 2017, 80 per cent in 2018 and 87 per cent in 2019.²⁸ As in any justice system that ensures the right to a fair trial including principles such as equality of arms and the presumption of innocence, a consistent 100 per cent conviction rate is neither expected nor desirable. This also signals that the prosecution is not pursuing any cases where the outcome is unsure, regardless of their societal importance or complexity. On the other hand, conviction rates that fall consistently below 75 per cent may signal deficits in the prosecution and should be a reason for further examination.

Based on the data presented here, it is clear that those charged with serious cases of corruption in BiH have much better chances of going unpunished than those charged with petty corruption; this, in turn, could mean that perpetrators of serious corruption more often enjoy impunity while those charged with low level offenses are more likely to be found guilty.

This finding is consistent with the analysis of other external observers, including the European Commission, which in its 2019 Opinion on BiH noted that “corruption is widespread and all levels of government show signs of political capture directly affecting the daily life of citizens, notably in health, education, employment and public procurement matters.”²⁹ It is therefore very implausible that there is no or little high level corruption.

As indicated in the 2nd ARC report, **the unlikelihood of conviction in serious and complex cases indicates numerous shortcomings of the judicial system and suggests a failure to enforce the law with respect to those who hold power and influence in society.** As elaborated in that report, one cluster of problems relates to deficiencies in the preparation of cases by the prosecution,³⁰ a trend visible in the quality of 2019 indictments as well.

However, blaming only the prosecution for each of the problems identified here would be incorrect and misleading. Another cluster of problems in high and medium level corruption cases relates to the unclear or unpredictable application of the law by the courts.³¹ While the legislative and judicial systems in BiH suffer generally from a lack of legal certainty,³² the effects of this systemic disorder are particularly acute in the processing of high and medium level corruption cases. This is

28 For the 2017 and 2018 statistics, see Transparency International BiH in *Izveštaj o monitoringu procesuiranja korupcije pred sudovima i tužilaštvima u Bosni i Hercegovini 2018*, December 2019, available at <https://ti-bih.org/>; the 2019 statistics are derived from data provided by the HJPC, on file with the Mission.

29 European Commission, *Opinion on Bosnia and Herzegovina's application for membership of the European Union*, 25 May 2019, p. 9, available at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-opinion.pdf>. In the same vein, see also Heinrich Böll Foundation, *Captured State in the Balkans*, September 2017, available at https://ba.boell.org/sites/default/files/perspectives_-_09-2017_-_web.pdf.

30 See 2nd ARC report, pp. 44–46, available at https://www.osce.org/files/f/documents/5/2/417527_1.pdf.

31 See in this regard the 1st ARC report at pp. 44–58, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/373204>.

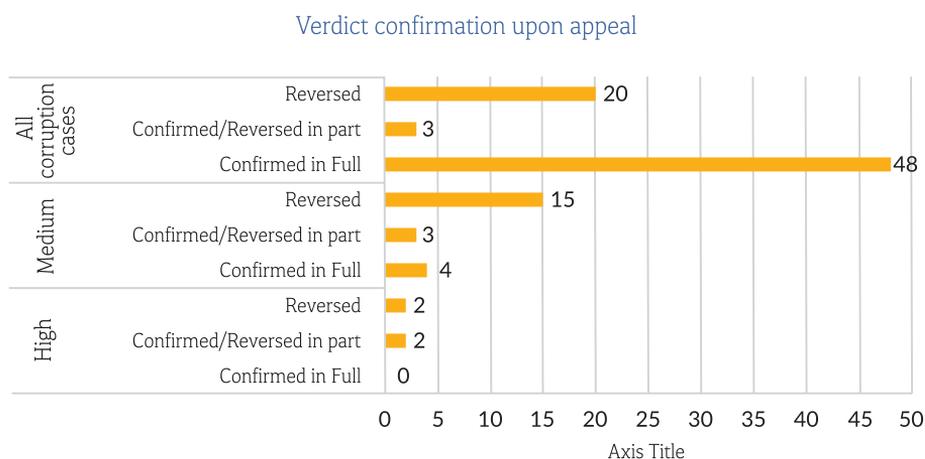
32 See Venice Commission, *Opinion on Legal Certainty and Independence of the Judiciary in Bosnia and Herzegovina*, 18 June 2012, available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)014-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)014-e).

because, in the absence of clear legal standards, there is more room for interpretation of the law according to the wishes of the powerful rather than the methods of legal interpretation envisaged in a democratic society.

In this regard, the rate of first instance verdicts upheld upon appeal in high, medium, and all levels of corruption cases constitutes an important indicator of the level of predictability in the application of the law. This is because predictable appeals court stances would lead lower level courts to rule in accordance with those standards; high rates of overturn on appeal indicate some level of “surprise” or unpredictability in the application of the law, not just for first-instance judges, but for prosecutors and defendants as well. With this in mind, the rates of reversals in BiH are sobering. In high level cases finalized in 2019, for example, two of four first level verdicts were reversed and two of four were confirmed only in part, meaning that none were confirmed in full. For medium level cases in 2019, out of a total of 22 first instance verdicts, 15 verdicts (68 per cent) were reversed, 3 verdicts (14 per cent) were confirmed only in part, and just 4 verdicts (18 per cent) were confirmed in full.

The fact that the vast majority of verdicts in these two categories are reversed upon appeal is a cause for concern in itself; however, this appears to be even more serious when compared to the corresponding figures for corruption cases in general, including low level cases.³³ In these cases, examining 71 verdicts decided upon appeal in 2019, a significant majority of verdicts – 48 (i.e. 66 per cent) – were confirmed in full on appeal; 3 verdicts (4 per cent) were confirmed in part; and 20 verdicts (27 per cent) were reversed.³⁴ This comparison can be seen in Figure 4.

Figure 4



³³ As mentioned in footnote 1, the definition of corruption cases under the Mission's methodology is broader than the definition of corruption (KTK) cases established by the HJPC. As a result, it is possible that some of the cases categorized as high and medium level by the Mission are not included in the HJPC statistics related to KTK cases.

³⁴ HJPC statistics on corruption (KTK) cases on file with the Mission.

While high and medium level cases typically deal with more complex crimes, the striking discrepancy between the verdict confirmation rates in these cases as opposed to corruption cases in general, including low level cases, cannot be dismissed on that basis alone. Since the substantial and procedural criminal laws applied in these cases are the same, the level of predictability in their application should not vary substantially depending on the factual complexity of the cases. Although case complexity may account for some variation in confirmation rates, first instance judges can and should be expected to have adequate knowledge of the law and legal skills to correctly assess facts and apply the law, even in more complex cases; the extent of the second instance reversal rate in such cases indicates a deeper problem than mere complexity.

The conflicting interpretations of the law that led to the acquittal of all defendants in the case against Lijanović et al. before the Court of BiH offer a striking illustration of this discrepancy. In this case, in January 2016 the PO BiH charged the former FBiH Minister of Agriculture, Water Management and Forestry, Jerko Ivanković Lijanović, and 10 other defendants with organized crime, money laundering, and tax evasion amounting to more than 10 million BAM.³⁵ In October 2018, the Court of BiH pronounced a first instance verdict convicting the defendants to a total of 52 years and 8 months in prison and seized illegal assets worth over 7 million BAM.³⁶ After quashing the conviction in May 2019, the Appellate Panel conducted a retrial and pronounced a final acquitting verdict for all defendants in November 2019.³⁷

The primary reason for the acquittal, while appearing reasonable at first glance, is problematic on two grounds, including the fact that it represented a radical reversal of an earlier stance by the Appellate Panel on the same issue.

To describe the issue in more detail: decisive to the ultimate acquittal of Lijanović and his co-defendants was the Appellate Panel's decision to declare illegal key documentary evidence (business books) which had been voluntarily submitted to the prosecution by a witness who worked in the incriminated companies. The appeal verdict established that all the criminal provisions applicable to the enforced seizure of evidence (for which an order from the judge is necessary) apply by analogy to situations in which the evidence is offered to the prosecution voluntarily.³⁸ From this standpoint, the Panel observed that the prosecution did not comply with the provisions in question and especially with art. 71 of the BiH CPC which requires that the prosecution open and inspect the seized evidence after notifying the judge and the

35 *Lijanović et al.*, PO BiH Indictment of 28 December 2015.

36 *Lijanović et al.*, Court of BiH Verdict of 22 October 2018.

37 *Lijanović et al.*, Court of BiH 2nd Instance Verdict of 8 November 2019.

38 *Ibidem*, paras. 49–50. (“Based on a series of indisputable facts, including: documentation whose acquisition is not based on a court decision (order), documentation obtained by an unauthorized person Osman Balić who upon his own volition took the documentation from “Velmos” company in Mostar and kept it for almost six months, after which time he voluntarily submitted it to police officials on the premises of the State Protection and Investigation Agency (SIPA) on 10 September 2014, with the relevant record and receipt on temporary seizure of objects made at the time, the Appellate Panel finds that the evidence in question was obtained in violation of Articles 65-71 of the CPC of BiH, the aim of which is to ensure authenticity of seized objects used as evidence in the criminal proceedings.” Paragraph 50: “The above noted provisions clearly prescribe the procedure for obtaining evidence, with these provisions applied by analogy also in cases of voluntary submission of objects, all with the aim of ensuring their authenticity, which is particularly highlighted by provisions contained in Article 71(1) and (2) of the CPC of BiH that are of imperative nature, and accordingly the failure to comply with these provisions results in the illegality of evidence.” (emphasis added))

suspect, thereby giving them a chance to be present during this activity.³⁹ The Panel went on to conclude that, since observance of these provisions is imperative, failure to comply leads inevitably to the illegality of the evidence in question.⁴⁰ In support of this stance, it also cited a precedent from the Supreme Court of FBiH.⁴¹

While the reasoning may appear sound at first reading, a more careful examination reveals at least two problematic aspects. First, the Panel's stance that *all* provisions on seizure – in particular those requiring a judge's order allowing it – are applicable to evidence offered voluntarily defies logic. Requiring a prosecutor to obtain a judicial order to seize evidence that has been already submitted to her/him voluntarily is not only a waste of time and resources, but goes against the rationale of criminal justice in pursuit of a formality which is not prescribed by law. This amounts to throwing up artificial hurdles which are contrary to the public interest.

Second, the Appellate Panel's view that failure to open and inspect the evidence inevitably leads to the illegality of the evidence defies the Court's own precedent. In a 2014 verdict addressing the issue of the legality of evidence submitted voluntarily, the Appellate Panel of the Court of BiH took the opposite stance, finding that the prosecution's failure to follow the procedures prescribed by article 71 of the CPC does not automatically render evidence illegal nor preclude the basing of a verdict on such evidence. The case in question was against a group of people accused of much less serious crimes than the former FBiH Minister, namely smuggling cigarettes for an estimated damage to the State of 56,700 BAM.⁴² In that case, the Panel unequivocally held that the failure of the prosecution to open and inspect the evidence did *not* lead automatically to its illegality; only indications calling into question its authenticity would render such evidence illegal.⁴³

The inconsistency of jurisprudence in BiH on this important matter has already been noted by other independent observers.⁴⁴ The fact that the Panel in Lijanović et al. cited a

39 *Ibidem*, para 52.

40 *Ibidem*.

41 *Ibidem*, para 53.

42 See Sud BiH, S1 2 K 012856 14 Kž - Jukić Josip i dr., available at <http://www.sudbih.gov.ba/predmet/3095/show>.

43 *Josip Jukić et al.*, Court of BiH, 2nd Instance Verdict of 26 November 2014, para. 38 ("By reviewing evidentiary material in the case file, the Appellate Panel did not find that the prosecution submitted the record of opening and inspection of temporarily seized items or any other document indicating that the prosecution acted in accordance with Article 71(2) of the CPC of BiH. This Panel, however, holds that this cannot automatically mean that the collected evidence is illegal, or that the judgment cannot be based on such evidence, especially since the defense raised this objection only arbitrarily without contesting through the arguments raised on appeal the authenticity and identity of evidence that, in the defense view, should have been the subject of opening and inspection within the meaning of Article 71(2) of the CPC of BiH. Therefore, in the view of the Panel, when deciding on this objection raised in the appeal it was necessary to take into consideration all circumstances characterizing this case and conclude accordingly." (Emphasis added))

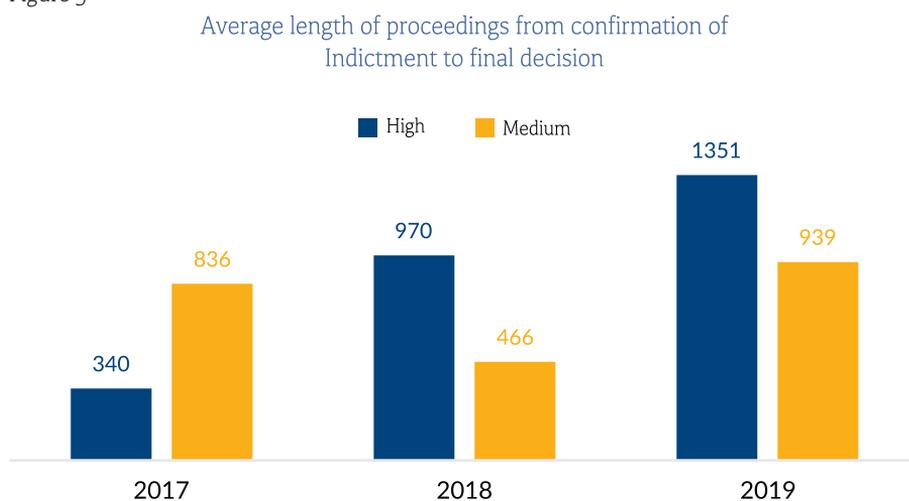
44 USAID Justice Project in BiH, Universal benchbook on how to prosecute and adjudicate cases of corruption, organized crime, and economic crime, at p. 42: "Case law is not consistent on whether the failure to open and inspect documents renders evidence absolutely illegal: In the Verdict No. S1 2 K 012856 14 Kž of 26 November 2014, the Appellate Panel of the Court of BiH found that the prosecutor's failure to open and inspect seized items and documents did not automatically render evidence illegal and that such evidence may be considered as legal evidence"; available at https://ksud-sarajevo.pravosudje.ba/vstv/faces/pdfservlet.jsessionid=c668598b992963279212bac8570a925398ded375a4a441ee1288134e895437.e34TbxyRbNiRb40Pch4QbxKbh50?p_id_doc=54774

precedent from the Supreme Court of FBiH in support of its conclusion – while ignoring its own precedent – is indicative of the fact that, in the fragmented and sprawling BiH legal and judicial system with limited access to jurisprudence or legal digests, it is not too difficult to pick the jurisprudence which better suits the needs of the moment.⁴⁵ While it is true that each case is characterized by different factual circumstances and that the law needs to be applied to these facts, **such diametric opposition in the interpretation of the same basic legal provisions by the same court (and in this case the majority of the panel) cannot be explained by the different facts nor by simple errors in the application of the law. This raises serious suspicions that the cause for such variation could relate to the status and power of the accused, rather than the facts at hand.**

1.3. Efficiency – length of proceedings

Albeit less pronounced than in the previous two indicators, the 2019 trend concerning the length of proceedings is also negative. As shown in Figure 5, the average total length for high level cases completed with a binding verdict has been steadily increasing since 2017, reaching 1351 days in 2019, which is 4.5 times longer than the optimal timeframe set by the HJPC for the completion of first instance and appeal proceedings (298 days).⁴⁶ The picture is not ideal but slightly better when medium level cases are considered. Although the trend here has been fluctuating, the average length in 2019 – 939 days – is longer than in the previous two years.⁴⁷

Figure 5



45 It is worth noting in this regard that two of the three judges sitting in the appellate panel in *Lijanović et al.* were also sitting in the appellate panel deciding on the smuggling case.

46 It should be noted that the averages for high level cases are based on a limited number of cases, namely two for 2019, one for 2018, and two for 2017.

47 The averages for medium level cases are based on larger numbers: 16 cases for 2019, 18 cases for 2018, and 15 for 2017.

As elaborated in the 2nd ARC Report, this delay is largely attributable to the failure of court presidents and presiding judges to effectively organize and manage trials, **which seriously undermines the efficient and effective processing of corruption cases in BiH.**⁴⁸ Serious delays have been observed in virtually all courts dealing with serious cases of corruption, with the exception of courts in Brčko District. A major problem is the very high number of hearings in serious corruption cases that are adjourned with no activity, usually due to the absence of one of the parties. Specifically, out of 428 medium level corruption case hearings monitored by the Mission in 2019, 79 (18.5 per cent) were non-productive, i.e. no substantive activity (i.e. presentation of evidence, oral arguments, etc.) took place. The problem is even more acute in high level cases, where one-quarter of hearings – 33 out of 135 (24.4 per cent) – were non-productive.

According to the Mission's findings, **the situation in Sarajevo Cantonal Court (CC) is the most disturbing.** In Sarajevo CC, out of the 13 ongoing serious cases,⁴⁹ only two have finished the main trial and 11 are still in main trial or pending main trial. Moreover, proceedings in these 11 cases are not all recent as the majority have been ongoing for three to five years.⁵⁰ In one case in particular, the start of the main trial has been pending since 2017 and has been postponed numerous times due to the failure of some of the defendants to appear in court.

On the other hand, the performance of the Tuzla Municipal Court represents an example of comparatively efficient management of serious cases. Out of 13 ongoing serious cases⁵¹ in the Tuzla Municipal Court, nine have finished the main trial and are in the appeal or retrial stage, while four are in main trial or pending main trial.⁵²

There may be a variety of factors behind the failure of the Sarajevo CC in managing complex corruption cases. One important factor is the large number of defendants in those trials. The trials in the Sarajevo CC are also complex in terms of the quantity of the evidence submitted. While case complexity is a challenge, however, this must not result in the indefinite paralysis of the criminal justice system, as is the case in some of the ongoing trials in the Sarajevo CC.

The CPC provides adequate measures to deal with matters like ensuring the presence of parties at trial, including through the imposition of penalties for unjustified absence.⁵³ Implementation of such measures however depends on the willingness and ability of judges and prosecutors to make use of these tools.

As pointed out in the above-cited European Commission's independent expert report:

48 See 2nd ARC report, pp. 69–74, available at https://www.osce.org/files/f/documents/5/2/417527_1.pdf.

49 Namely three high and 10 medium level cases.

50 Namely, two indictments were filed in 2015, two in 2016, four in 2017, two in 2018, and one in 2019.

51 Namely two high and 11 medium level cases.

52 Indictments for these four cases were filed before Tuzla MC as follows: one in 2015, one in 2017, one in 2018 and one in 2019.

53 See CPC FBiH, arts. 160–164.

Some judges appear unwilling or unable to enforce the rule of law in the face of determined opposition from persons charged with serious criminal offences. The failure of some defendants to turn up in court is alarming. It seems almost as if a criminal trial is optional for the accused.⁵⁴

It is unacceptable that the resolution of trials for serious offenses is left to the discretion and goodwill of judges and parties. It is in the interests of injured parties, accused, and society as a whole that criminal trials proceed efficiently and conclude within a reasonable time frame. The legislature should consider the adoption of criminal provisions which would ensure that criminal proceedings are completed in due time, including, when necessary, through the mandatory prescription of trial scheduling on consecutive days.

1.4. Fairness – rights of the accused

As mentioned at the beginning of this chapter, in 2019 the Mission observed that the accused in corruption-related proceedings in BiH generally enjoyed respect for their right to a fair trial. This is consistent with the assessment presented in the 2nd ARC Report. In that publication, the Mission concluded that, while fair trial standards were generally observed, concerns were noted in a limited number of cases in connection to two important issues: the application of procedural guarantees to ensure the impartiality of the court in a given case; and the interpretation of the rules regulating the admissibility and legality of evidence.⁵⁵ These two matters also proved particularly troubling in the present reporting period, thus demonstrating their systematic nature. While the latter (rules on the legality of evidence) has been addressed in section 2 above, recent developments related to the former (procedural guarantees of judicial impartiality) warrant further discussion here.

The 2nd ARC report revealed an abnormal degree of inconsistency in judicial practice related to the transfer of cases from one court to another when there are objective facts which may raise doubts as to the impartiality of the court having jurisdiction.⁵⁶ This matter has specifically affected cases where judges or prosecutors have been indicted for corruption-related charges (or other forms of professional misconduct) before the jurisdiction where they have been working and allegedly carried out the criminal conduct. In some of these cases, the court ordered the transfer of the proceedings to preserve the public perception of impartiality, while in other cases it decided not to transfer similarly situated proceedings with no apparent consistency of reasoning.

With respect to this issue, the Mission underscored that the lack of harmonized judicial practice presented in such cases posed a problem in terms of fairness of the process and legal certainty. It recommended that the provisions regulating the transfer of cases in the four criminal procedural codes in BiH were amended, in a harmonized fashion, in order to further define the reasons justifying the transfer of cases in these or other circumstances.⁵⁷

54 *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, Brussels, 5 December 2019, para. 52, available at <https://europa.ba/?p=66927>

55 See 2nd ARC report, pp. 53–63, available at https://www.osce.org/files/f/documents/5/2/417527_1.pdf

56 See 2nd ARC report, pp. 57–59, available at https://www.osce.org/files/f/documents/5/2/417527_1.pdf

57 2nd ARC Report, pp. 54–59, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>

In the present reporting period, this issue has resurfaced in two different ongoing cases against two prosecutors charged for crimes committed in connection with their function.⁵⁸ Both defendants were charged by the same PO where they had been working for years and brought to trial before the same court in which they had been representing the prosecution. In one case, the court decided *ex officio* to transfer the case to another court to preserve the public perception of impartiality. Both the prosecution and the accused appealed against this decision. This notwithstanding, the transfer was confirmed in the second instance decision, noting, among other things, that the transfer was necessary to ensure the respect for the rights of the accused (which is interesting considering that the accused opposed the transfer).

In the second case against a different prosecutor, the same court (in a different panel composition) did not transfer the proceedings to another court, as it did not consider that the situation posed a problem in terms of appearing impartial. Aside from its discord with the Court's stance in the first case, this decision is especially troubling since the defence in the second case submitted a motion to transfer the case on grounds that the accused could not receive a fair trial in the present court. Ultimately, the same court that was so concerned about the rights of the accused in the first case paid no heed to this matter when coming to a conflicting decision in a strikingly similar case.

Such irreconcilable judicial practices before the same court are troubling not only with regard to a lack of legal certainty, but also for their apparent absence of logic. The two cases illustrate that, while the need for a transfer in these situations should be linked to a firm and transparent standard – i.e. the need to ensure perceived and actual judicial impartiality, including protection for the rights of the accused – the decision is taken without reference to a constant standard and irrespective of the requests of the accused. **The flawed and inconsistent practices described here leave room for speculation as to the existence of other (extra-judicial) factors behind them.**

As explained at the outset, the overall situation concerning the fairness of proceedings for defendants in corruption cases is still generally satisfactory, especially if assessed exclusively through the lens of the monitoring of individual trials. The Mission, on the other hand, cannot ignore the wealth of credible information (in the form of media reports, informal and off-the-record conversations between Mission members and individual judges and prosecutors, politicians, representatives of international financial institutions, etc.) suggesting a strong political influence in the justice process.⁵⁹ Considering that political influence is difficult to detect through trial monitoring (as it usually occurs behind closed doors and seldom manifests itself in the actual conduct of court proceedings) the information from these sources cannot be disregarded. In this light, the Mission is aware of the fact that in this kind of politicized environment the current assessment of the fairness of proceedings could rapidly change.

58 As noted above, due to the Mission's impartiality policy, the names of these and other ongoing cases will not be identified.

59 See in this regard *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, Brussels, 5 December 2019, paras. 53–62, available at <https://europa.ba/?p=66927>.

2.

IS A CRISIS OF ETHICS IN THE BIH JUDICIARY THE ROOT OF THE PROBLEM?

As stated at the outset, the judicial response to corruption in BiH has deteriorated further in 2019. This is particularly alarming given that the Mission had already assessed the situation in 2017–2018 as inadequate, resulting in de facto impunity for many perpetrators.⁶⁰

The previous two ARC reports identified several possible causes for the weakness of the judicial response to corruption: a) a lack of harmonization of substantive and procedural criminal legislation undermining the principles of legal certainty and equality before the law; b) the fragmentation of the judicial system resulting in frequent conflicts of jurisdiction and a general lack of co-ordination; c) the inadequate capacity of prosecutors in the drafting of indictments and the gathering of evidence supporting the charges; and d) the fact that many judges do not properly reason their decisions, with many applying the law inconsistently and unpredictably.

Since these structural and institutional problems are longstanding and have neither worsened nor improved in 2019, they do not in themselves constitute the main explanation for the marked worsening of the trend in the processing of corruption cases in 2019. The statistical data and trial monitoring findings presented in this report make it difficult to conclude that the causes of the “impunity syndrome” affecting the processing of corruption cases lie predominantly in institutional or legal flaws, or the insufficient competence of individual judges and prosecutors.

A key factor that must be considered is the occurrence of illegal or unethical behaviour of certain judges and prosecutors who may be manipulating the outcome of high and medium level corruption cases. Egregiously poor investigations and indictment drafting, along with radically inconsistent interpretations of the law, usually resulting in acquittals or lenient sentences, could be to an extent the product of bad intention or undue influence rather than ignorance.

Indeed, public developments in 2019 offer ample evidence of (increasingly visible) political interference in the criminal justice system, and have demonstrated the unwillingness of the HJPC to uphold professional and ethical standards and ensure accountability within the judiciary. Although it is not directly within the scope of trial monitoring, the Mission holds that this contextual element is key to understanding the causes of impunity in BiH. The outcome of proceedings as observed in court cannot be fully assessed if seen in isolation from the broader political

⁶⁰ See 2nd ARC Report, p. 5, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>.

and social environment in BiH. Moreover, the Mission, as part of its rule of law activities in the last three years, has been monitoring the work of the justice sector, and of the HJPC in particular. For these reasons, the Mission believes it is appropriate to present here some of the developments observed in the course of its activities (all of which are already in the public domain).

2.1. The HJPC: lack of accountability and questionable judicial appointments

The “greasing” (“*potkivanje*”) affair that saw the President of HJPC at its centre casts a harsh light on the current situation within the HJPC. In May 2019, the Office of the Disciplinary Counsel (ODC) – the branch of the HJPC that is responsible for bringing disciplinary proceedings against judges and prosecutors accused of ethical and professional breaches – filed a disciplinary complaint against the HJPC’s President in connection with video footage showing that he had improperly communicated with a party to an ongoing proceeding; the first part of the video shows the President offering to personally intervene in the case with the chief prosecutor in charge to expedite the proceedings.⁶¹ Allegations that he may have received a bribe for this intervention were also made by some members of the press, in light of the second part of the video clip that appeared to show the intermediary receiving a cash payment from the party in the proceedings in question.⁶² Three days later, the first instance disciplinary panel – comprising two members of the HJPC along with a third member of the judiciary, as mandated by law – declared itself incompetent and rejected the complaint as inadmissible before it could even examine the merits. The panel stated that the President of the HJPC, being a full-time member of the Council, cannot be held disciplinarily responsible since all actions taken by him are taken in the capacity of President of the Council and not that of a judge.⁶³ The ODC appealed the decision, which was upheld by the second instance disciplinary panel (comprising three members of the HJPC per the legal procedure); therefore the Council never even considered the substance of the complaint.⁶⁴

This outcome patently defies the provisions of the Law on the HJPC, which provides for disciplinary measures against a Council member, including the President, up to suspension and termination of mandate.⁶⁵ The decision of the first instance disciplinary panel concerning

61 See Žurnal, *POGLEDAJTE VIDEO POTKIVANJA: Ti ćeš meni sve dostaviti pa ću ja vidjeti sa Dalidom!*, 23 May 2019, available at <https://zurnal.info/novost/22111/ti-ces-meni-sve-dostaviti-pa-cu-ja-vidjeti-sa-dalidom>.

62 See Žurnal, *PREDSJEDNIK VSTV-A UHVAĆEN U KORUPCIJI: Milan Tegeltija trgovao krivičnim istragama!*, 21 May 2019, available at <https://zurnal.info/novost/22105/milan-tegeltija-trgovao-krivicnim-istragama>.

63 VSTV, Prvostupanjska Stegovna komisija za suce (*sic*), Rjesenje, 3 June 2019.

64 VSTV, Drugostepena disciplinska komisija za sudije, Odluku, 11 June 2019.

65 This is clear from Article 7 of the Law on HJPC read in conjunction with Article 77. Article 7(3)(b) provides that “the Council may suspend a member...for any of the same circumstances that it may suspend a judge or a prosecutor under Article 77 of this Law.” Article 77(d) provides that “A judge or prosecutor may be suspended from duty... if a disciplinary proceeding has been initiated for a disciplinary violation, and the Council determines that disciplinary liability cannot be properly adjudicated without suspension of the judge or prosecutor during the proceedings.” No exception is made in the law for a President of Vice-President of the Council. Furthermore, Article 6(1)(f) provides that “The mandate of a member shall terminate...for the commission of an act that would make him or her unworthy to perform duties in the Council” and Article 6(4) foresees a procedure for removal of the HJPC President as such.

the alleged misconduct of the President, which was upheld in the second instance, wrongly suggests that, under the Law on the HJPC, members of the Presidency of the HJPC are absolved from disciplinary accountability and therefore the possibility of suspension or termination of mandate. This interpretation of the Law on the HJPC thereby resulted in *de facto* impunity for the President of the HJPC – the highest-ranking member of the judiciary. This absurd outcome signals such a grossly erroneous interpretation of the law as to reasonably merit suspicion that it was made intentionally to reach the desired outcome. In any event, the decision represents an unprecedented attack on judicial accountability.

Against this background, the Mission observes that some segments of the judiciary, including within the HJPC, could be incentivized by some factors other than respect for the law and ethical principles befitting holders of such positions.

This impression is reinforced when we look at the process of appointment of judges and prosecutors, particularly those holding managerial positions. In making decisions on appointments, the Council takes into account the principles of competence and ethnic representation.⁶⁶ There is however no guidance as to how the two principles should be balanced or weighed. The Mission, in its monitoring of the HJPC’s work over the course of 2019, has noticed that the appointments process reveals an alarming and unexplained inclination towards the principle of ethnic representativeness over competence, with no transparent process for determining which quality is more important for any particular appointment; this renders selection procedures more vulnerable to manipulation for political or personal gain. The EC independent Expert Report similarly points to this problem, recommending that “appointments, promotions and career advancement of judges and prosecutors by the HJPC should primarily follow a non-ethnic approach and be based on merit”.⁶⁷

While the increasing “politicization” of the appointment process is a general phenomenon and difficult to assess due to the non-transparent nature of much of the HJPC’s decision-making for leadership positions, the example of the procedure for the selection of the Deputy Chief Prosecutor of Tuzla Canton PO is particularly relevant for this report due to its direct impact on judicial response to corruption. As already mentioned, the Tuzla PO is arguably one of the strongest in BiH, achieving consistently positive results in bringing to justice perpetrators of serious cases of corruption. From a managerial viewpoint, this is in part due to the merit of the Chief Prosecutor and the Head of the Organized Crime and Corruption (OCC) Department. According to the internal regulations of the office, one of the two deputy chief prosecutors is also selected as head of the department.

After the end of the term of the former Deputy Chief/Head of OCC Department, in November 2019 the HJPC carried out a selection procedure for the vacant post, appointing a candidate

⁶⁶ Article 43 of the Law on HJPC.

⁶⁷ *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, Brussels, 5 December 2019, para. 71, available at <https://europa.ba/?p=66927>.

(ranked second in the list of suitable applicants) with no experience in the processing of corruption or organized crime cases. This is particularly puzzling considering that the prosecutor who had successfully covered that position in the last mandate had reapplied for a second term. Despite his good record and strong performance in the interview process, this was not sufficient to ensure his re-appointment. It should be noted that this candidate was ranked third; however, based on the observation of the selection process, the Mission retained a strong impression that the decision not to appoint him was not based on strict deference to the ranking list. If that would have been the case, then the first ranked should have been selected. In the case of the first ranked, however, more decisive than his score was the stance of one key member of the HJPC who expressed her preference for the second ranked candidate on the grounds that he was close to retirement and this promotion would be a reward for him.⁶⁸

Neither the Law on HJPC nor universally accepted principles of judicial independence and impartiality foresee the selection of judicial officers on the basis of “rewarding” those close to retirement above their competence and professionalism.⁶⁹ **Distributing key positions in the judiciary as “rewards”, rather than on the basis of merit, sends a very powerful message to those individual judges and prosecutors who are still trying to abide by ethical and professional standards in BiH.** In other words, it seems that connections may play a more powerful role than results for career and personal advancement in the BiH judiciary.

2.2. Undue conduct of judicial institutions at the state level

In recent years, the Mission has observed that the HJPC is not the only judicial institution showing disregard towards the principles of accountability, impartiality and professionalism. **As previously mentioned, the PO BiH and the Court of BiH have also displayed worrying signs of this.**

The PO BiH’s attitude towards the press and the civil society demonstrates aversion towards public scrutiny when it comes to the handling of politically sensitive cases. Three examples are worth mentioning. First, in the wake of the aforementioned “*Potkivanje*” incident and the posting of the incriminating video on several news portals, the PO BiH publicly announced that it would open an investigation against two of the three persons involved in the incident –the party to the ongoing proceedings who sought the President’s intervention and the intermediary– while the third – i.e. the HJPC President – would have the status of witness.⁷⁰ In the same press release, the PO BiH sent a barely veiled warning to the media outlets that had published the video. Specifically, the PO publicly stated that, simultaneous with the “*Potkivanje*” investigation, it had opened another investigation to enquire “with due care and in accordance with the law” about “the motives and reasons of persons who send such

68 HJPC, Session of 6–7 November 2019, record on file with the Mission.

69 See Article 43 of the Law on HJPC.

70 See PO BiH press release of 19 June 2019, available at <http://www.tuzilastvobih.gov.ba/index.php?id=4177&jezik=b>

negative messages about the work of the judiciary to the public through the media with the aim of destabilizing the judicial system.”⁷¹

The fact that the PO BiH felt obliged to specify that an investigation into “motives” and “reasons” of persons who send negative messages through the media – that is, those who publish opinions – will be conducted “in accordance with the law” is not reassuring. Respect for the law by the judiciary should be the norm in any democratic state.

This hostility towards the press also emerged in connection to allegations that a prosecutor of the PO BiH, investigating another highly sensitive corruption case, had been questioning in an undue manner the journalist who unveiled the case, namely by repeatedly asking her to disclose her sources.⁷² As these allegations are currently the object of ongoing disciplinary proceedings against the prosecutor, they do not appear to be devoid of substance at first sight.⁷³ If true, these allegations indicate a worrying pressure on investigative journalists in BiH that could have a chilling effect on their work. In any democratic society, high-quality investigative journalism plays a critical role in unveiling episodes of possible corruption, including within the judiciary. Such journalists should not have to live in fear simply for doing their job, and potentially valuable sources should not fear disclosure at the hands of an unethical prosecutor. In this regard, the Mission is of the position that the active role played by investigative journalism should be praised and preserved, including by the PO BiH and other judicial actors.

A third recent incident demonstrating resistance to transparency is the PO BiH’s refusal to share with a prominent domestic NGO the indictment filed against the former BiH Ministry of Security for serious charges of corruption. As stated by the NGO, the request (based on the Freedom of Information Act) was denied on the grounds that there is no public interest in this case and that the publication of the indictment would undermine the prevention of crime.⁷⁴ Both grounds appear to be without merit: first, public interest in this case is obvious, since any allegation of serious corruption by a minister holds relevance for public funds and administration; and second, it is difficult to imagine how the publication of an indictment could represent an obstacle to the prevention of crime since criminal trials in BiH are by their very nature public. If sensitive or confidential data is included in the indictment, it

71 *Ibidem*. The press statement includes the following text: “We also hereby inform that lately, daily and intense pressure is put on the work of the HJPC, BiH Prosecutor’s Office, i.e. the BiH judiciary as a whole. This pressure is largely obstructing the work of the judiciary, which is why the BiH Prosecutor’s Office formed a case, in which it will duly examine, in accordance with the law, the personal motives and reasons for sending negative messages to the public via media about the work of the judiciary, with the aim to destabilize the judicial system.” (This is the OSCE Mission’s translation of the original press release, which reads: “*Također saopštavamo, s obzirom da su u posljednje vrijeme prisutni svakodnevn i intenzivni pritisci na rad VSTV-a BiH, Tužilaštva BiH, odnosno pravosuđa Bosne i Hercegovine u cjelini, a koji pritisci u određenoj mjeri već počinju ometati redovni rad pravosuđa, da je Tužilaštvo BiH formiralo predmet gdje će se sa dužnom pažnjom i u skladu sa zakonom ispitati motivi i razlozi osoba koje putem medija šalju javnosti takve negativne poruke o radu pravosuđa sa ciljem destabilizacije pravosudnog Sistema.*”)

72 Žurnal, ČAVKA U ŠEVINOM JATU: Državno tužilaštvo isljeđivalo novinarku Žurnala zbog slučaja diploma, 8 March 2019, available at <https://zurnal.info/novost/21936/drzavno-tuzilastvo-isljeđivalo-novinarku-zurnala-zbog-slucaja-diploma>.

73 Faktor, Ured disciplinskog tužioca podnio tužbu protiv Olega Čavke, 27 January 2020, available at <https://faktor.ba/vijest/ured-disciplinskog-tuzioca-podnio-tuzbu-protiv-olega-cavke/67979>.

74 See <https://ti-bih.org/tuzilastvo-bih-odbilo-da-objavi-optuznicu-protiv-dragana-mektica-i-ostalnih/>

is always possible to publish a redacted version, thus avoiding any negative consequence for ongoing law enforcement. The PO BiH's refusal to share the indictment with the NGO demonstrates disdain for the public's right to access and evaluate the work of the judiciary in tackling serious corruption.

For its part, the Court of BiH has also exhibited increasing aversion towards public scrutiny, particularly with regard to ongoing reforms aimed at strengthening accountability in the judiciary through the introduction of more stringent asset declaration procedures. In particular, the procedures – adopted by the HJPC in 2018⁷⁵ – would require that judges and their family members disclose their assets through a prescribed process, a measure aimed at casting light on property with unknown or suspicious origins. However, the passing of the necessary legal framework has been the object of controversy. The Court of BiH, deciding on an administrative dispute, held that the introduction of the procedure for the declaration review simply through a by-law rather than an ordinary law was illegal, as, according to the Court, the HJPC Law does not provide sufficient legal grounds for that kind of review.⁷⁶

While an analysis of the legal merit of this decision is beyond the scope of this report, it should be mentioned that the impartiality of the Court of BiH in this matter could be questioned as the judges of the Court clearly have a personal interest in the case. On the other hand, the same objection could be raised about any other court in BiH. That said, what is really concerning is the public message that the Court has sent on this matter. After the aforementioned decision of the Court of BiH, the HJPC adopted an amended rulebook with the stated intent to address the problems in terms of respect of the right to privacy which had been identified by the Personal Data Protection Agency (and which had triggered the Court's decision).⁷⁷ A few days later, the Court took the highly unusual step of publishing an open letter, signed by all but two of the Court's judges, in which it declared (outside of any judicial process) that the passing of the amended rulebook represented "the gravest violation of the judgment of the Court of BiH."⁷⁸ These statements are highly inappropriate as they openly prejudge legal issues which could be the object of future proceedings before the same court. As if this departure from established legal procedures was not problematic enough, the letter affirmed that the passing of the amended rulebook constituted a criminal offense under domestic legislation (the letter does not specify the offense), thus summarily "condemning" all those who participated in the passing of the act.⁷⁹ Such behaviour speaks not only to the resistance of the Court of BiH to measures that would enhance the transparency and integrity

75 HJPC, *Annual Report 2019*, pp. 9–10, available at https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=67586.

76 Sud BiH, *Presudu*, 13 January 2020.

77 HJPC, *Annual Report 2019*, pp. 9–10, available at https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=67586.

78 Court of BiH, *Judges of the Court of Bosnia and Herzegovina are not withholding their assets declarations*, open letter, 28 January 2020. On file with the Mission.

79 *Ibidem*. "The adoption of the "cosmetically innovated" draft Rulebook, which not even all HJPC BiH members argued for, according to media reports, encroaches upon the domain of the most egregious breach of the judgment delivered by the Court of Bosnia and Herzegovina. Apart from most blatantly violating the rule of law principle – the principles of legality and legal certainty, it also constitutes a criminal offense under domestic criminal legislation. Such a document's entering into force would also encroach upon the domain of individual violations of conventional and constitutional rights of judges."

of judicial office holders, but also to its willingness to contravene established legal procedures and ethical principles to affirm its position, while recklessly accusing other members of the judiciary of committing unspecified crimes.

2.3. What can be done to re-establish trust in the judiciary? Four recommended first steps

The instances of abuse of the judicial function presented in this and the previous chapter underpin the widespread mistrust of the general public in the integrity and impartiality of the judicial system.⁸⁰ As a result, this lack of confidence cannot be summarily dismissed under the generic category of “public perceptions.” If judicial misconduct is now more visible, this could be due to a growing sense of impunity enjoyed by those involved or else to an improvement in the quality of investigative journalism in the country.

In the face of increasingly blatant alleged abuse of authority, critical voices within the judiciary and the public in general have emerged and grown in recent years. That said, members of the judiciary who openly criticize the deterioration of professional and ethical conduct among their ranks still constitute a minority and face marginalization and ostracization by the dominant factions. The Mission is of the view that its monitoring work and that of other monitoring bodies is essential in delivering objective facts and analyses that may be used by those encouraging positive change from within the judiciary.

As already mentioned, the contextual evidence presented in this chapter is key to understanding the judicial response to corruption in BiH. The conduct of some of the primary judicial institutions and of the individuals heading them indicate a lack of willingness to fight corruption effectively and a disregard for basic professional and ethical standards. Based on this and previous Mission analysis it can be concluded that re-establishing integrity, impartiality, and accountability within the judiciary is a precondition of a more effective judicial response to corruption.

Although the much-vexed topic of judicial reform is outside the scope of this report, the Mission fully supports the recommendations expressed in the afore-mentioned European Commission’s Expert Report on Rule of Law issues in Bosnia and Herzegovina, particularly with regard to the call for the establishment of “a rigorous and credible system of checks of asset declarations of judicial office holders.”⁸¹

Accordingly, here it will suffice to mention some measures which the Mission believes would represent a first step in re-establishing a certain level of trust in the judiciary while ensuring both its *de jure* and *de facto* independence from other branches of power:

80 See USAID BiH, *National survey of citizens’ perceptions in Bosnia and Herzegovina 2018: findings report*, March 2019, p. 30, available at <http://www.measurebih.com/uimages/201820NSCP-BiH20Final20Report.pdf>. According to this survey, only “one-quarter of citizens agree that judges make decisions without interference by the government, politicians, the international community, or other interest groups or individuals . . . while 45 percent do not trust that judges make independent decisions.”

81 *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, Brussels, 5 December 2019, paras. 78–84, available at <https://europa.ba/?p=66927>.

1. All branches of government, as well as non-governmental actors and donors, should strive for the preservation and encouragement of independent investigative journalism and the role of civil society in scrutinizing the work of the judiciary.
2. The HJPC, the prosecution and the courts should make available to the public meaningful and more detailed information on the investigation, prosecution, and adjudication of cases, particularly those with particular importance for the public interest.
3. The legislature should prioritize the adoption of an amended Law on the HJPC to introduce reforms aimed at strengthening judicial integrity and disciplinary processes - including ensuring full functional independence of the ODC from the HJPC and introducing an external adjudication mechanism - in order to ensure accountability while preserving the role of the institution as a safeguard of judicial independence.
4. Finally, all branches of government should work to establish, as a matter of priority, an effective system for checking the integrity of judges and prosecutors, including through the verification of their asset declarations.

3.

THE INDEX OF EFFECTIVENESS OF JUDICIAL RESPONSE TO CORRUPTION

Similarly to the previous two ARC reports, the first two chapters of this report presented trial monitoring findings primarily through qualitative analysis, aided by some indicative quantitative data (such as conviction rates). This method is indispensable for understanding the nature and causes of the challenges facing corruption case processing. However, qualitative analysis has its limitations, notably in its lack of a constant and standardized set of metrics that allow meaningful comparison of systemic progress or regress over time. Achieving the latter requires the development of realistic, meaningful, and comprehensive indicators for measuring progress in the judicial response to corruption and the impact of implemented measures and reforms.

To this end, in 2019 the ARC project developed the Index of Effectiveness of Judicial Response to Corruption (hereinafter “IEJRC” or “the Index”), presented in this chapter.⁸² The IEJRC represents a novel tool in the monitoring of the judicial response to corruption in BiH, comprising a set of measurable indicators tailored to specific problems and features identified through the lens of trial monitoring.

Simply put, the goal of the Index is to measure the different factors determining the effectiveness of the judicial response to corruption. At its core, effectiveness measures whether or not the institutions in question are achieving the goals society has set for them. This is distinct both from the general goal of the criminal justice system –to deliver justice by convicting and punishing the guilty while protecting the innocent – as well as the specific goals of the different institutions constituting the system. In this sense, the role of the prosecution is to use means appropriate to the discovery and suppression of crimes through the pursuit of criminal charges; whereas the role of the judiciary is to administer justice fairly and correctly, and to adjudicate on criminal charges by reaching a correct result on the basis of the law and the facts presented before them.

Effectiveness encompasses both quantitative and qualitative aspects of the criminal justice process. Mirroring the ARC trial monitoring methodology, the indicators composing the Index are grouped around the same four critical dimensions of judicial response to corruption:⁸³

82 This report provides limited detail on the technical aspects of the Index, which was developed in cooperation with a firm specializing in such tools. Readers interested in receiving more detailed technical specifications may contact the Mission.

83 See 2nd ARC report, pp. 33–74, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>.

1. **Productivity** of courts and POs;
2. **Capacity** of prosecutors and judges in the application of the law;
3. **Fairness** of the process in terms of adherence to fair trial standards;
4. **Efficiency** in terms of length of the proceedings.

The Index scoring system (see table below) envisages that each of these four dimensions is assessed from one to ten points, based upon the average of each individual indicator per dimension, which are also each given a score from one to ten points. Thus the overall score may span from a minimum of four points (very poor) to a maximum of 40 points (excellent).⁸⁴

	Disaggregation by institution	Min-max scores
Productivity	Jurisdiction/individual POs and courts	1–10 for POs; 1–10 for courts; overall productivity of BiH justice system is calculated 1–10 (as average of POs and courts' scores)
Capacity	Jurisdiction/individual POs and courts	1–10 for POs; 1–10 for courts; overall capacity of BiH justice system is calculated 1–10 (as average of POs and courts' scores)
Efficiency	Jurisdiction/individual courts	1–10 for courts
Fairness	Jurisdiction/individual courts	1–10 for courts
Total		4–40

The **sources of data** used to produce the indicators are twofold: 1) data gathered by the Mission through trial monitoring and 2) official data from the national authorities, namely the HJPC. These two sets of data generally complement one another. The former focuses on quantitative and qualitative aspects of the high and medium level corruption cases processed in BiH and monitored by the Mission; the latter provides a quantitative picture of the processing of all corruption cases in BiH (the so-called “KTK” cases).⁸⁵

⁸⁴ The Index scoring system is based on the principle of equal weighing. This means not only that each dimension is weighed, but also that every indicator within each dimension is given the same weight. The only exception to this rule concerns the indicators of productivity and capacity of POs related to the motions and decisions requesting and ordering seizure of assets in high and medium level cases. The limited number of such instances renders these two indicators less reliable and stable than the others. Accordingly, their weight in the overall core is reduced by 30 per cent.

⁸⁵ As mentioned in footnote 1, the definition of corruption cases under the Mission's methodology is broader than the definition of corruption (KTK) cases established by the HJPC. As a result, it is possible that some of the cases categorized as high and medium level by the Mission are not be included in the HJPC statistics related to KTK cases.

One of the basic assumptions of the Index is that in measuring the effectiveness of the judicial response to corruption, the processing of medium and high level corruption cases should be given more weight than that of petty corruption cases. This is for two main reasons: first, the processing of the former requires more resources, competence, and willingness than the latter; second, at parity of numerical value, serious corruption cases affect the lives of more people than petty corruption cases. For this reason, cases have been assigned a different numerical value in the Index to “weigh” them according to their level of seriousness. Thus, general corruption cases (KTK) were assigned a value of one, medium level cases were assigned a value of three, and high level cases were assigned a value of six in the scoring mechanism.

This first edition of the Index covers data from 1 January to 31 December 2019.

The first four sections below illustrate the rationale of each dimension as well as the content of the indicators identified under each dimension. Section 5 presents the results for 2019, namely: the overall score, the overall scores for each dimension, and the scores of individual courts and POs for each dimension. While reading the results for 2019, it is important to take into account that the Index is still, to some extent, a work in progress. The development of any credible set of indicators requires a testing period during which their sensitivity to changes in the observed phenomena is tested. This means that, while the raw data used for the 2019 Index are correct, the formulas and methods employed to transform those data into scores may be subject to changes and corrections in the future in order to improve their sensitivity to variations.

3.1. Productivity

Similarly to judicial performance evaluations carried out by state administrations around the world, the Index measures productivity by taking into account the number of cases initiated by POs and adjudicated by courts each year in light of the number of prosecutors and judges working in the respective institutions.

Differently from standard measurement tools, however, the Index also takes into account the complexity and seriousness of the processed corruption cases. Corruption is a multifaceted phenomenon which includes a wide range of conducts differing in magnitude, seriousness, and level of organization. Corruption includes both episodes of a petty nature (e.g. a bribe paid to the police to avoid punishment for a traffic offense) and those of a much graver nature, encompassing complex financial schemes involving a number of perpetrators at different levels of authority. Needless to say, the latter have the potential to have a much more profound negative impact on the public’s interest seen individually and as part of a systemic whole.

Therefore a quantitative assessment of productivity which disregards the seriousness of cases would produce an incomplete, flawed, or inaccurate picture. For example, a decrease in the number of indictments filed from one year to the next should not necessarily be taken as a negative sign if accompanied by an increase in the weight and profile of the cases for which charges are filed.

This methodology recognizes that, in addition to other factors, the processing of serious corruption cases require more “productivity” than the processing of petty corruption cases. The seriousness of a case, however, may be understood differently. In order to ensure consistency, the level of seriousness of a case is determined on the basis of well-defined criteria. Namely, for purposes of the Index (similarly to the Mission’s monitoring methodology), corruption cases are categorized as high, medium or low level based on two main criteria: the status of the accused and the gravity of the (alleged) conduct.

This dimension aims at measuring the productivity of both POs and Courts in processing corruption cases as follows:

- **Prosecutorial productivity**

With specific regard to POs, this Index dimension considers the **number of confirmed indictments and of defendants in corruption cases (so-called KTK cases) in a given year** and **attributes additional weight to indictments in high and medium level corruption cases**. The number of prosecutors in each PO is considered so that, when measuring productivity, the number of cases is weighed against the size of the institutions. Given the importance of seizing illegal gains in serious corruption cases, additional weight is given to indictments in high and medium level cases where the prosecutor filed a request for seizure of assets under the CPC or special legislation.

PROSECUTION PRODUCTIVITY

INDICATORS	DISAGGREGATION	SOURCE	RATIONALE
Primary Indicators			
Total number of prosecutors	Prosecutor's Office/ Jurisdiction ⁸⁶	HJPC	Relates to the available resources. The higher the number of prosecutors, the lower the ratio of prosecutors to the total number of indictments filed. Thus, the lower the ratio, the lower the productivity. This applies to corruption indictments and indictments in high/medium level cases.
Number of corruption indictments	Prosecutor's Office/ Jurisdiction	HJPC	Tracks all prosecuted corruption-related cases, regardless of severity. Indicates overall trends pertaining to corruption prosecutions and enables valuation of productivity in strict numerical terms without weighting for the severity of the alleged corruption act being prosecuted.
Number of defendants in corruption indictments	Prosecutor's Office/ Jurisdiction	HJPC	
Number of confirmed indictments in high and medium level cases	Prosecutor's Office/ Jurisdiction	OSCE trial monitoring	
Number of defendants in confirmed indictments in high and medium level cases	Prosecutor's Office/ Jurisdiction	OSCE trial monitoring	Tracks confirmed indictments in corruption cases of high and medium seriousness, namely ones which, due to their complexity, take more time and effort to prosecute.
Number of motions requesting seizure in confirmed indictments in high and medium level cases	Prosecutor's Office/ Jurisdiction	OSCE trial monitoring	

⁸⁶ Namely: Prosecutor's Office by district, cantonal, entity, and state level and jurisdiction by substantive and procedural law in place, i.e. at the FBiH, RS, BD, and State level.

- **Court productivity**

The Index measures court productivity by the number of corruption cases (KTK) adjudicated in the first or second instance (appeal) by verdict or decision on appeal. Similarly to the prosecutorial productivity measure, the Index acknowledges additional productivity when the adjudicated case is classified as a high or medium corruption case by attributing greater weight to such cases. The number of judges is considered to account for the size of the court.

COURT PRODUCTIVITY			
INDICATORS	DISAGGREGATION	SOURCE	RATIONALE
Primary Indicators			
Number of judges	Court/Jurisdiction	HJPC	This is relevant for all indicators of productivity. The greater the number of judges, the lower the ratio of judges to verdicts issued; the lower the ratio, the less the productivity. This applies to corruption verdicts in general and verdicts in high/medium level cases.
Total number of verdicts in all corruption cases	Court/Jurisdiction	HJPC	Relates to all corruption cases. Enables a general valuation of productivity in strict numerical terms without weighting for the severity of the alleged corruption act being adjudicated.
Total number of verdicts in high and medium level cases	Court/Jurisdiction	OSCE trial monitoring	Enables a more precise assessment of the productivity of courts by looking specifically at the verdicts in high and medium level cases, namely ones which, due to their complexity, take more time and effort to be adjudicated by courts.

3.2. Capacity

Adequate prosecutorial and judicial capacity is a prerequisite to the rule of law. A functional justice system requires that criminal laws are enforced in a uniform and predictable way to ensure accountability, legal certainty, and equality. This said, assessing and measuring the capacities of prosecutors and judges is no simple task. This is because capacity – a concept encompassing knowledge, skills, and abilities for a given role – is primarily of a qualitative nature and thus more open to subjective interpretations while being assessed.

Recognizing this challenge, the Index builds on the criteria established by the HJPC for assessing the quality of the work of judges and prosecutors,⁸⁷ while tailoring them to the specific features of processing corruption cases. Accordingly, this Index indicator includes two key HJPC criteria for assessing the work of POs and courts, namely, percentages of convictions versus acquittals and of first instance verdicts confirmed or quashed upon appeal. These measures are of value because, as explained earlier in this report, a consistently low conviction rate achieved by a particular prosecutor likely signals deficiencies in his/her knowledge or abilities, such as investigation or trial advocacy skills. By analogy, a consistently high reversal rate for a judge may signal deficiencies in his/her knowledge of the law or quality of reasoning.

In addition to this, the Index incorporates another element to evaluate capacity in an even more individualized and qualitative manner. This indicator recognizes that the competence of a judge or prosecutor in the application of the law manifests primarily in his/her written decisions or orders during the judicial process. These include indictments, first instance verdicts, and decisions on appeal, all of which represent milestones in any criminal proceeding. These documents form the fundamental legal basis for such proceedings and their outcomes, including any punishments meted out as a result of a conviction.

Accordingly, the Index takes the strength of these essential legal acts into account, measuring the quality of each through a scoring system based on a set of sub-indicators for elements of these acts.⁸⁸ Since an assessment of judicial acts using this scoring system in all corruption cases would be too resource-consuming, only acts in high and medium level cases have been considered to the extent that they were available at the time of drafting this report. In order to decrease the risk of evaluation bias in the process, each indictment, verdict, and appeal

87 HJPC, *2019 Annual Report*, pp. 66–78, available at https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=67586.

88 This list of sub-indicators is as follows. For indictments: 1) the indictment complies with legal requirements and is clearly written; 2) the factual description of the charge(s) is sufficiently detailed, accurate and is consistent with the legal qualification; 3) proposal of evidence is sufficiently detailed and corresponds to the factual description of the indictment; 4) when appropriate the indictment includes an accurate and correct proposal for forfeiture of unlawful property gain; 5) results of the investigation are presented in a clear and sufficiently detailed narrative summary that is consistent with the factual description and proposal of evidence. For first instance verdicts: 1) the verdict complies with legal requirements and is clearly written; 2) the factual and legal issues at stake are properly presented and defined; 3) the reasons for the establishment of factual elements are accurate, convincing, consistent, unambiguous, and not contradictory; 4) the reasons for legal issues are clear and consistent; 5) the reasons for the criminal sanction are convincing and accurate. For appeal decisions, the first for indicators are the same as for first instance verdicts, but the final sub-indicator is different, namely: 5) second instance decision is instructive for first instance court.

decision has been assessed autonomously by three experts, with the final score resulting from the average of three scores.⁸⁹

- **Prosecutorial capacity**

With specific regard to prosecutors, as noted above, the Index considers the percentage of acquittals and convictions over the total number of corruption cases completed in a year. This indicator is used in many judicial systems, including BiH, as one of the criteria to assess the performance of prosecutors.⁹⁰ As remarked by a prominent resource on justice sector performance indicators, “a prosecution service must demonstrate the ability of the criminal justice system as a whole to establish the guilt of those who commit crimes” and must therefore “be concerned about maintaining rates of conviction that inspire confidence in the fairness and effectiveness of the administration of justice”.⁹¹ Additional weight in terms of capacity is given when the prosecutor succeeded in securing a final conviction against defendants in high and medium level corruption cases and when the permanent seizure of assets was ordered in these cases upon motion of the prosecution.

This indicator is not perfect, however, as what it measures is only partially determined by the quality of the prosecution’s work. Indeed, criminal proceedings may result in acquittals due to factors which are only partially within the prosecution’s control.

As described above, for this reason the Index also incorporates a more comprehensive measure of prosecutorial capacity by looking at the quality of the indictments filed in a given year in high and medium level corruption cases.

89 In total, 16 indictments, 20 first instance verdicts and 17 appeal decisions were assessed and scored. Due to their number, the judicial acts were divided in two groups; the first one (covering acts from the first half of 2019) was assessed by three legal advisors from the Mission; the second group (covering acts from the second half of the year) was assessed by three external experts hired by the Mission.

90 HJPC, *2019 Annual Report*, pp. 75–78, available at https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=67586

91 Vera Institute of Justice, *Measuring Progress Toward Safety and Justice*, November 2003, available at http://www.pointk.org/resources/files/measure_progress_sj.pdf.

PROSECUTORIAL CAPACITY

INDICATORS	DISAGGREGATION	SOURCE	RATIONALE
Primary Indicators			
Average score of quality of confirmed indictments in high and medium level cases	Prosecutor's Office/ Jurisdiction	OSCE experts	Enables an independent assessment of the quality of prosecutorial acts as it is carried out by external experts.
Conviction rate in all corruption cases finalized by the individual PO	Prosecutor's Office/ Jurisdiction	HJPC	Enables a general assessment of competence by considering the conviction rate in all corruption cases finalized in a year, regardless of severity. The higher the rate of convictions, the higher the competence score by this indicator.
Conviction rate of defendants in finalized high and medium level cases by the individual PO	Prosecutor's Office/ Jurisdiction	OSCE trial monitoring	Enables a more precise assessment of the competence of POs by looking at the outcomes of high and medium level cases (which generally demand greater competence). NB: if the PO did not have any high/medium level cases, the score is neutral (zero).
Number of finalized high and medium level cases where permanent seizure of assets was ordered by a court upon motion of the prosecution in relation to the total number of high and medium level cases finalized by the same PO	Prosecutor's Office/ Jurisdiction	OSCE trial monitoring	The higher the ratio of ordered seizures out of the total of cases finalized, the higher the competence. Due to the very limited number of such cases, this indicator carries less weight in the total score.

- **Court capacity**

The percentage of first instance verdicts which are reversed in part or in full on appeal is a quantitative indicator used in many judicial systems as one of the criteria to assess the performance of courts. In BiH, this criterion is used to evaluate the quality of judges' decisions.⁹² Generally speaking, appellate level review of first instance decisions aims to ensure that binding decisions are correct and legal. First instance judges with high rates of decision reversal are thus more likely to exhibit deficiencies in understanding of the law or legal reasoning, which provides the rationale for this indicator as a measure of judicial capacity.

Like conviction rates, however, this indicator has its limitations as a measure of capacity; reversals of first instance decisions may take place even when quality is not lacking in the appealed decision. It has been observed by the Consultative Council of European Judges (CCJE) that "neither the number of appeals nor their rate of success necessarily reflects on the quality of the decisions subject to appeal."⁹³ Furthermore, "a successful appeal can be no more than a different evaluation of a difficult point by the appeal judge, whose decision might itself have been set aside had the matter gone to a yet higher court."⁹⁴ That said, viewed as a proportion over time, a consistently above-average reversal rate (implying multiple impugned decisions, and thus reviews of different areas of law by different appeals court judges) does logically correspond to the first instance judge's competence in interpreting and applying the law. Therefore, the Index includes this somewhat limited though quantifiable measurement of capacity.

This limitation is addressed through the Index's introduction of a quality indicator assessing first instance verdicts and appeal decisions in high and medium level cases. As also noted by the CCJE, it is generally recognized that "the quality of a judicial decision depends principally on the quality of its reasoning".⁹⁵ A coherent and convincing reasoning is a strong guarantee against arbitrariness; on the other hand, flawed, unclear, or unconvincing reasoning may indicate a lack of judicial competence.

92 HJPC, 2019 Annual Report, pp. 66–68, available at https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=67586

93 Consultative Council of European Judges, *Opinion no. 11 on the Quality of Judicial Decisions*, 2008, available at <https://rm.coe.int/16807482bf>.

94 *Ibidem*.

95 *Ibidem*, para. 34.

COURT CAPACITY			
INDICATORS	DISAGGREGATION	SOURCE	RATIONALE
Primary Indicators			
Number of first instance verdicts in all corruption cases which are confirmed in full, confirmed/reversed in part, or reversed in full, in relation to the number of first instance verdicts by the same court reviewed upon appeal in all corruption cases	Court/Jurisdiction	HJPC	The rate of first instance verdicts confirmed by appeal courts is an important (though limited) measure of the competence of first instance courts. The higher the rate, the higher the competence. This indicator considers all corruption cases, irrespective of their severity.
Number of first instance verdicts confirmed in full, confirmed/reversed in part, or reversed in full in high/medium level cases, in relation to the number of first instance verdicts by the same court reviewed upon appeal in high/medium cases	Court/Jurisdiction	OSCE trial monitoring	Enables a more precise assessment of the competence of courts by looking specifically at the number of first instance verdicts in high and medium level cases that are confirmed in full or in part on appeal. NB: If the court did not have any high or medium level cases, the score is neutral (zero).
Average score of the quality of verdicts and appeal decisions in high and medium level cases	Court/Jurisdiction	OSCE experts	Enables an independent assessment of the quality of judicial acts as it is carried out by external experts.

3.3. Fairness

The third dimension of the judicial response to corruption assessed by the Index refers to the fairness of the process, particularly in terms of adherence to fair trial standards.

The fair administration of justice is generally and rightfully considered one of the cornerstones of a democratic society. The right to a fair trial is a basic human right and it is enshrined in the Constitution of BiH⁹⁶ and in the European Convention on Human Rights (ECHR).⁹⁷

⁹⁶ Constitution of BiH, art. II(3)(e), available at <http://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/001%20-%20Constitutions/BH/BH%20CONSTITUTION%20.pdf>.

⁹⁷ European Convention on Human Rights, art. 6, available at <https://echr.coe.int/Pages/home.aspx?p=basictexts&c=>.

Fairness is also a key factor in the context of the judicial response to corruption. While productivity and competence in the application of the law are key factors for assessing the effectiveness of a judicial system, they cannot be taken as proof of respect for the rule of law in the absence of basic guarantees of fairness and respect for the rights of the accused during criminal proceedings.

The Index indicator for measuring fairness in the judicial response to corruption is based on OSCE trial monitors' observations and assessments of hearings with regard to their level of compliance with international norms and standards on the right to a fair trial. The assessment is not based on subjective perceptions of fairness, but on a detailed and proven framework of standards and criteria related to fair trial rights, against which the monitors analyse and evaluate what they see in court.⁹⁸ Since judges bear primary responsibility for ensuring respect for fair trial standards during the judicial process, this indicator refers exclusively to judicial performance.

This indicator is limited to assessing fairness in high and medium level cases since it must be assessed by direct observation and the OSCE's limited resources do not allow for the monitoring of all low level corruption cases across the country.

FAIRNESS			
INDICATORS	DISAGGREGATION	SOURCE	RATIONALE
Primary Indicators			
Percentage of monitored high and medium level cases in which at least one fair trial rights concern is observed, out of the total of high and medium level cases which were monitored during the year	Court/ Jurisdiction	OSCE trial monitoring	Allows a direct assessment of the level of adherence to fair trial standards. The lower the ratio of cases with concerns, the higher the level of fairness of the proceedings.

3.4. Efficiency

The last dimension of the Index covers issues of efficiency as an essential element in the timely and effective administration of justice, including in corruption cases. Since efficiency in terms of productivity has already been considered in the first dimension, in the Index this notion refers exclusively to the timeliness of the proceedings.

The length of proceedings is a key factor in determining the effectiveness of a judicial system. As noted above, the right of the accused to a trial within a reasonable time is one of the key aspects of a fair trial under the ECHR. However, it is not only defendants who

⁹⁸ The list of relevant fair trial standards observed under this dimension reflects those specified under art. 6 of the ECHR, with the exception of the right to trial in due time. This is in order to avoid overlapping with the fourth dimension, which specifically considers the length of proceedings.

have a legitimate interest in the efficient processing of criminal cases. Victims and society in general, as represented by the prosecution, also have an inherent interest in a reactive judiciary capable of ensuring accountability in a timely manner.

The first set of the Index's efficiency indicators refers to the average length of first instance trials and from appeal phase to finalization in high and medium level cases. These data are assessed and scored quantitatively according to the number of days by which they exceed the optimal timeframes for the completion of proceedings adopted by the HJPC.⁹⁹ Due to the unavailability of HPJC data referring to the length of proceedings in all corruption (KTK) cases, these indicators are based exclusively on the data gathered by OSCE trial monitors in high and medium level cases.

The Index's second set of efficiency indicators measures simply the number of all finalized corruption cases in each jurisdictional level (State, FBiH, RS and BD). As with previous indicators, additional weight is given to finalized high and medium level cases in order to account for their additional complexity in comparison with corruption cases on average.

The final indicator refers to the percentage of hearings in high and medium level cases which were adjourned with no procedural activity, that is, hearings in which no evidence was presented, no oral arguments made, no witnesses heard, no procedural decisions made by the presiding panel, etc. This assessment stems from the direct observations of OSCE trial monitors. The lack of activity and subsequent adjournment of a hearing is typically due to the absence of the legal conditions required to hold the hearing, such as the absence of one of the parties, judges, or summoned witnesses. This indicator is thus key to assessing the capacity of judges to efficiently organize trials, especially complex ones.

This dimension refers only to the performance of courts in the processing of criminal proceedings. While the promptness of prosecutors in undertaking pre-trial actions, in particular conducting the investigation, would also be an important factor, the Index does not include this metric given the lack of official data on the length of investigations in KTK cases and the fact that OSCE trial monitors do not monitor investigation proceedings.

⁹⁹ See VSTV, *Aneksa pravilnika o vremenskim okvirima za postupanje po predmetima u sudovima i tužilaštvima Prečišćeni tekst*, on file with the Mission, pp. 48 and 53. Following the recommendations and guidelines issued by the European Commission for the Efficiency of Justice (CEPEJ), the HJPC established procedures and internal regulations for determining optimal and predictable timeframes for the processing of all types of cases. The optimal timeframes "represent a standard timeframe for the efficient resolution of cases in accordance with the law". The predictable timeframes, on the other hand, are "the realistic timeframes within which one can expect the conclusion of a case". While the former represents a target to be achieved and are the same for all courts and prosecutor's offices, the latter is established by each judicial organ on the basis of a set of common parameters. When predictable timeframes are estimated as longer than the optimal ones, measures should be taken to narrow the gap.

EFFICIENCY

INDICATORS	DISAGGREGATION	SOURCE	RATIONALE
Primary Indicators			
Average length of first instance trial in high and medium level cases	Court/Jurisdiction	OSCE trial monitoring	<p>These two indicators are clearly connected to efficiency as they refer to the length of proceedings, defined as days in excess of the optimal timeframes for the completion of proceedings adopted by the HJPC.</p> <p>According to the HJPC rulebook, the optimal timeframe for first instance proceedings from confirmation of indictment to pronouncement of first instance verdict is 120 days (i.e. 140 minus 20 accounting for the issuing of the written verdict). Regarding the appeal phase: The HJPC rulebook sets the optimal timeframe for appeal proceedings at 178 days (namely 158 days plus 20 days accounting for filing of first instance written verdict).</p>
Average length of high and medium level cases from appeal phase to finalization with binding verdict	Court/Jurisdiction	OSCE trial monitoring	
Number of finalized KTK cases as percentage of all finalized criminal cases in the specific jurisdiction/court	Jurisdiction	HJPC	<p>This indicator is very important for measuring efficiency as it refers to the number of finalized KTK cases as a percentage of all criminal cases finalized in a given jurisdiction. As the finalization of a case encompasses first and second instance (appeal) proceedings, this indicator should not be disaggregated by court of first instance. However, it can be disaggregated by level of jurisdiction, namely: State level, FBiH, RS, Brčko. To account for the fact that the four levels of jurisdiction in BiH significantly vary in size and caseload, the indicator is expressed as the ratio between the number of finalized KTK cases and the total number of finalized criminal cases in each jurisdiction. The higher the ratio, the better the score.</p>
Number of finalized high and medium level cases as a percentage of all finalized criminal cases in the specific jurisdiction/court	Jurisdiction	OSCE trial monitoring	<p>Same rationale as the preceding indicator, but jurisdictions that finalized high and medium level cases are given extra weight as these cases are likely to be lengthier due to their complexity.</p>
Percentage of hearings adjourned with no activity in high and medium level cases	Court/Jurisdiction	OSCE trial monitoring	<p>Allows direct observation of the level of activity for each hearing. The indicator is expressed as the ratio between the number of hearings adjourned with no activity and the total number of monitored hearings held in high and medium level cases by the specific court/jurisdiction. The higher the ratio, the lower the efficiency.</p>

3.5. Index results for 2019

The Index results for 2019 are presented in tables 1, 2, and 3 below.

The first table presents the scores for each dimension, and the overall score for BiH as a whole and by jurisdictional level. The 2019 results are consistent with the qualitative analysis and findings presented in chapters 1 and 2 of this report, as well as with the trends observed in the two previous ARC reports.

Specifically, in the three dimensions of judicial response to corruption where, based on trial monitoring alone, the results have been assessed as poor (see Chapter 1), the scores are clearly in the lower range of the 1–10 scale. Specifically, the average scores in these dimensions are as follows: productivity 3.72, capacity 3.50, and efficiency 3.59.

Consistent with the Mission’s trial monitoring findings described above, the fairness dimension is the only of the four with a relatively positive score, namely 7.46. This result helps to push the overall score across the four dimensions higher, although **the final calculated Index score for the judicial response to corruption in BiH in 2019 remains exceedingly poor at 18.27 points out of 40.**

Another important finding is that the Index scores for each dimension do not differ greatly across the four different BiH jurisdictional levels. Although the six-point difference (on the 40-point scale) between the best and the worst performance (respectively by BD with 21.49 points and RS with 15.13 points) is not insignificant, it is not remarkable especially considering that it is over a single year. The importance of this gap may be more effectively assessed in the future when multiple years of Index scores are available for comparison.

As described in detail in the Index methodology above, the overall scores for the first two dimensions are the average of the scores for POs and courts, while the other two dimensions reflect only the performance of courts. This is because the Index, in its current form, does not assess the POs’ performance in relation to the dimensions of fairness and efficiency. As mentioned above, the respect of fair trial standards during the judicial process lies primarily within the responsibility of judges rather than prosecutors. The absence of efficiency indicators for the prosecution, on the other hand, is due to the unavailability of relevant data.

Accordingly, the second table shows the results for the productivity and capacity dimensions disaggregated by individual PO, while the third table presents the results for the four dimensions disaggregated by court.

SCORE FOR BIH

Jurisdiction	Productivity			Capacity			Efficiency	Fairness	TOTAL (max= 40 points)	% Max Attained
	POs	Courts	Overall (median)	POs	Courts	Overall (median)				
BD	5.52	4.50	5.01	3.68	6.03	4.85	4.13	7.50	21.49	54%
BiH	2.50	4.47	3.48	1.73	7.27	4.50	2.88	7.33	18.19	45%
RS	3.36	2.01	2.69	2.31	1.57	1.94	2.50	8.00	15.13	38%
FBIH	4.80	2.60	3.70	3.55	1.84	2.70	4.88	7.00	18.27	46%
BiH Country Level	4.05	3.39	3.72	2.82	4.18	3.50	3.59	7.46	18.27	46%

PROSECUTOR'S OFFICES

Prosecutor's Office	Jurisdiction	Productivity (A)	Capacity (B)	Index Score (A+B) [max=20]	% Max Attained
CPO Tuzla Canton	FBIH	5.86	6.50	12.36	62%
CPO Una-Sana Canton	FBIH	7.62	4.50	12.12	61%
CPO Sarajevo Canton	FBIH	5.24	5.93	11.16	56%
CPO Zenica-Doboj Canton	FBIH	5.52	4.50	10.02	50%
PO Brčko District BiH	BD	5.52	3.68	9.20	46%
CPO Central Bosnia Canton	FBIH	4.24	3.75	7.99	40%
DPPO Doboj	RS	4.64	2.75	7.39	37%
DPPO Banja Luka	RS	3.57	2.93	6.50	32%
CPO Herzegovina-Neretva Canton	FBIH	3.55	2.93	6.47	32%
PO West Herzegovina Canton	FBIH	3.81	2.50	6.31	32%
DPPO Bijeljina	RS	4.07	2.00	6.07	30%
CPO Posavina Canton	FBIH	4.48	1.50	5.98	30%
CPO Canton 10 - Livno	FBIH	3.48	2.18	5.65	28%
DPPO Trebinje	RS	3.14	2.50	5.64	28%
CPO Bosnian-Podrinje Canton	FBIH	4.19	1.25	5.44	27%
RS Republic Public PO	RS	2.93	2.50	5.43	27%
DPPO Prijedor	RS	2.83	2.50	5.33	27%
PO of BiH	BiH	2.50	1.73	4.23	21%
DPPO East Sarajevo	RS	2.36	1.00	3.36	17%

COURTS

Court	Jurisdiction	Court instance	Productivity	Capacity	Efficiency	Fairness	Index Score (A+B+C+D) [max=40]	% Max Attained
Court of BiH	BIH	2nd (B)	4.47	8.13	3.17	8.17	23.93	61%
CC Zenica	FBIH	3 (1st and 2nd)	5.07	6.13	4.88	9.50	24.24	55%
CC Tuzla	FBIH	3 (1st and 2nd)	5.23	2.67	4.54	9.17	21.94	52%
DC Banja Luka	RS	3 (1st and 2nd)	5.08	4.80	1.88	7.33	20.93	48%
MC Goražde	FBIH	1st (A)	3.10	5.20	3.63	9.33	19.26	48%
BC Brčko District	BD	1st (A)	2.58	3.07	4.17	8.67	19.15	46%
CC Sarajevo	FBIH	3 (1st and 2nd)	4.02	3.93	1.63	9.83	18.24	47%
MC Tuzla	FBIH	1st (A)	3.92	3.73	1.42	8.00	18.90	46%
BC Banja Luka	RS	1st (A)	3.35	2.87	4.25	7.17	18.47	44%
CC Bihać	FBIH	3 (1st and 2nd)	5.23	1.33	4.00	6.67	17.73	45%
CC Mostar	FBIH	3 (1st and 2nd)	4.40	1.93	4.88	8.50	17.88	43%
MC Livno	FBIH	1st (A)	3.60	1.67	3.42	8.50	17.18	46%
MC Zenica	FBIH	1st (A)	3.38	3.27	3.21	7.33	18.36	42%
MC Živinice	FBIH	1st (A)	2.67	3.20	3.42	8.00	16.62	42%
MC Sarajevo	FBIH	1st (A)	3.47	3.20	1.96	8.50	16.63	39%
BC Zvornik	RS	1st (A)	1.75	3.20	2.33	0	15.78	38%
Supreme Court of FBiH	FBIH	2nd (B)	6.25	9.00	0.00	8.17	15.25	37%
BC Doboј	RS	1st (A)	1.42	3.20	2.13	7.00	14.91	32%
MC Visoko	FBIH	1st (A)	1.42	3.20	1.00	6.67	12.62	37%
MC Bihać	FBIH	1st (A)	2.58	1.87	3.50	0	14.62	36%
Appeal Court of Brčko District	BD	2nd (B)	6.42	8.00	0	8.00	14.42	35%
MC Mostar	FBIH	1st (A)	2.08	1.00	3.04	7.00	14.13	33%
CC Livno	FBIH	3 (1st and 2nd)	5.05	1.00	0.00	7.00	13.05	27%
MC Kalesija	FBIH	1st (A)	2.92	0.00	1.00	7.00	10.92	27%
MC Lukavac	FBIH	1st (A)	1.75	1.00	1.00	7.00	10.75	26%
MC Cazin	FBIH	1st (A)	2.33	0.00	1.00	7.00	10.33	26%
MC Tešanj	FBIH	1st (A)	2.25	0.00	1.00	7.00	10.25	25%
MC Kakanj	FBIH	1st (A)	1.83	0.00	1.00	7.00	9.83	24%
MC Travnik	FBIH	1st (A)	1.75	0.00	1.00	5.83	9.75	29%
BC Bijeljina	RS	1st (A)	2.25	1.00	2.46	4.50	11.54	28%
MC Konjic	FBIH	1st (A)	1.58	3.53	1.50	7.33	11.12	27%

Court	Jurisdiction	Court instance	Productivity	Capacity	Efficiency	Fairness	Index Score (A+B+C+D) [max=40]	% Max Attained
BC Prijedor	RS	1st (A)	1.42	0.00	2.17	7.33	10.92	26%
MC Široki Brijeg	FBIH	1st (A)	2.17	0.00	1.00	8.00	10.50	25%
MC Bosanska Krupa	FBIH	1st (A)	2.17	0.00	0.00	7.00	10.17	25%
MC Sanski Most	FBIH	1st (A)	2.17	0.00	1.00	7.33	10.17	25%
DC Bijeljina	RS	3 (1st and 2nd)	2.50	0.00	0.00	7.33	9.83	24%
BC Teslić	RS	1st (A)	2.33	0.00	0.00	7.83	9.67	24%
MC Zavidovići	FBIH	1st (A)	1.58	0.00	0.00	7.00	9.42	22%
MC Kiseljak	FBIH	1st (A)	1.67	0.00	0.00	0	8.67	21%
BC Vlasenica	RS	1st (A)	1.83	3.20	3.25	4.83	8.28	21%
BC Višegrad	RS	1st (A)	2.43	1.13	0.00	0	8.40	17%
MC Orašje	FBIH	1st (A)	2.50	3.20	1.00	0	6.70	16%
MC Gračanica	FBIH	1st (A)	2.33	3.20	1.00	0	6.53	16%
MC Banovići	FBIH	1st (A)	2.00	3.20	1.00	0	6.20	16%
MC Gradačac	FBIH	1st (A)	2.00	3.20	1.00	5.17	6.20	15%
CC Široki Brijeg	FBIH	3 (1st and 2nd)	1.00	0	0.00	5.00	6.17	15%
MC Bugojno	FBIH	1st (A)	1.00	0	0.00	0	6.00	8%
BC Srebrenica	RS	1st (A)	1.00	1.00	1.00	0	3.00	8%
BC Foča	RS	1st (A)	2.00	0.00	1.00	0	3.00	13%
BC Mrkonjić Grad	RS	1st (A)	1.83	3.20	0.00	0	5.03	12%
DC Istočno Sarajevo	RS	3 (1st and 2nd)	3.72	1.00	0.00	0	4.72	11%
MC Velika Kladuša	FBIH	1st (A)	2.58	1.00	1.00	0	4.58	11%
MC Čitluk	FBIH	1st (A)	2.50	1.00	1.00	0	4.50	11%
BC Modriča	RS	1st (A)	2.42	1.00	1.00	0	4.42	10%
BC Derвента	RS	1st (A)	1.83	1.00	1.00	0	3.83	8%
BC Kotor Varoš	RS	1st (A)	2.33	0.00	1.00	0	3.33	8%
BC Gradiška	RS	1st (A)	2.00	0.00	1.00	0	3.00	8%
BC Novi Grad	RS	1st (A)	2.00	0.00	1.00	0	3.00	8%
MC Srebrenik	FBIH	1st (A)	2.00	0.00	1.00	0	3.00	7%
BC Prnjavor	RS	1st (A)	1.75	0.00	1.00	0	2.75	7%
MC Čapljina	FBIH	1st (A)	1.67	0.00	1.00	0	2.67	6%
CC Goražde	FBIH	3 (1st and 2nd)	2.50	0.00	0.00	0	2.50	6%
CC Odžak	FBIH	3 (1st and 2nd)	2.50	0.00	0.00	0	2.50	6%
DC Doboј	RS	3 (1st and 2nd)	2.50	0.00	0.00	0	2.50	6%
BC Sokolac	RS	1st (A)	1.42	0.00	1.00	0	2.42	6%

Court	Jurisdiction	Court instance	Productivity	Capacity	Efficiency	Fairness	Index Score (A+B+C+D) [max=40]	% Max Attained
Supreme Court of RS	RS	2nd (B)	2.25	0.00	0.00	0	2.25	3%
BC Kozarska Dubica	RS	1st (A)	1.00	0	0.00	0	1.00	3%
BC Šamac	RS	1st (A)	1.00	0	0.00	0	1.00	3%
BC Trebinje	RS	1st (A)	1.00	0	0.00	0	1.00	3%
MC Jajce	FBIH	1st (A)	1.00	0	0.00	0	1.00	3%
MC Ljubuški	FBIH	1st (A)	1.00	0	0.00	0	1.00	3%
MC Žepče	FBIH	1st (A)	1.00	0	0.00	0	1.00	3%
CC Novi Travnik	FBIH	3 (1st and 2nd)	1.00	0	0.00	0	1.00	3%
DC Prijedor	RS	3 (1st and 2nd)	1.00	0	0.00	0	1.00	3%
DC Trebinje	RS	3 (1st and 2nd)	1.00	0	0.00		1.00	

4.

FOLLOW-UP ON RECOMMENDATIONS FROM THE PREVIOUS ARC REPORTS

To assess progress in addressing shortcomings in the judicial response to corruption, this chapter provides an overview of the implementation status of the 24 recommendations proposed by the Mission in the previous two ARC reports.¹⁰⁰ The table below simply offers an assessment of whether a given recommendation has been implemented or not, while Annex B offers more detailed information on the main steps taken (or not taken) by the national institutions to implement relevant recommendations.

The Mission obtained this information through direct enquiries with the institutions in question, participation in meetings, and review of public reports. The time horizon of this assessment is also different from the remainder of this report; while the previous chapters of this report analyse cases monitored during 2019, the information included in this chapter covers a longer period, namely until July 2020.

While domestic authorities have generally endorsed the Mission's recommendations, they have been slow in translating this into concrete action, with scant positive developments. As seen below, when considering the 15 recommendations issued in the 1st ARC report in 2018, the Mission could detect no progress at all in five of them. Six of them can be defined to be in progress, as initial activities aimed at their implementation have been undertaken. Three have been partially implemented and only one of the 15 has been fully implemented.

With regard to the nine recommendations issued in 2019 in the 2nd ARC report, the Mission detected no progress at all in relation to seven of them, while two are in progress. In sum, considering all 24 recommendations taken together, the situation is unsatisfactory, with no progress at all in 12 recommendations, eight recommendations in progress, three partially implemented and just one fully implemented.

¹⁰⁰ 1st ARC Report, pp. 59–61, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/373204>; 2nd ARC Report, pp. 75–80, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>.

Recommendations addressed to the executive and legislative authorities of BiH, FBiH, RS and Brčko District of BiH

Number	Recommendation	Status of implementation
1.	The material and procedural criminal legislation relevant to the processing of corruption cases should be harmonized across all jurisdictions in BiH. Political authorities at the State and entity level should commit themselves to harmonizing the legal framework as part of their efforts to fight corruption (see Chapter 2.1 and 2.2 in 1st ARC Report).	NO PROGRESS
2.	In this regard, the priority in the short term should be to adopt harmonized amendments to the four criminal procedural codes in accordance with the requirements set under the Decision of the Constitutional Court of BiH of June 2017. The amendments should strike a fair balance between the rights of individuals recognized under international human rights instruments and the need to ensure the effective prosecution of corruption and other serious crimes (see Chapter 2.2 in 1st ARC Report).	PARTIALLY IMPLEMENTED
3.	With a view to streamlining the harmonization process in the medium term, the Ministry of Justice (MoJ) of BiH, together with the MoJs at the entity level, should consider re-establishing a standing body of experts (following the CCIAT ¹⁰¹ precedent) with the mandate of preparing harmonized amendments to criminal laws at all levels of authority in BiH (see Chapter 2.1 in 1st ARC Report).	NO PROGRESS
4.	The RS Law on Fighting Corruption, Organized Crime and the Most Serious Forms of Economic Crime should be urgently amended in order to limit its jurisdiction on corruption-related offenses only to their most serious forms. This should enable the RS Special Departments to focus their attention on high and medium level corruption cases (see Chapter 4.2 in 2nd ARC Report).	NO PROGRESS
5.	Plans to establish the Special Departments at the FBiH level should be reappraised. In particular, a constructive discussion including the FBiH political and judicial authorities should immediately take place with a view to considering all relevant factors as well as the potential benefits and detriments related to their establishment (see Chapter 4.3 in 2nd ARC Report). ¹⁰²	NO PROGRESS
6.	Provisions in the four criminal procedural codes in BiH regulating the transfer of cases between courts should be amended in a harmonized fashion in order to further define the reasons justifying the transfer. In particular, the amended provisions should clarify whether relevant grounds for transfer should be related exclusively to the need to protect the impartiality and independence of a court or should include other factors such as the economy of proceedings and efficiency (see Chapter 6.1 in 2nd ARC Report).	NO PROGRESS

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102 This includes for example: whether the current law represents a viable legal foundation for the creation of the Special Departments or needs to be changed as suggested by the judiciary and by the outgoing FBiH Government; and secondly, whether it still makes sense to go on with the establishment of the Special Departments (for which, premises must still be allocated), or it would be more worthwhile to use those resources to strengthen the special departments within the Cantonal POs. This discussion should be informed by an assessment of the case-load that would be transferred from the cantonal prosecutors to the Special Department on the basis of the proposed, narrower, jurisdiction. Additionally, and given the frequent conflicts of jurisdiction characterizing the functioning of the judicial system in BiH, the risk of possible overlaps between the jurisdiction of the Special Departments and that of judicial bodies in the RS or at the state level should be fully considered.

Recommendations addressed to the High Judicial and Prosecutorial Council BiH and judiciary

Number	Recommendation	Status of implementation
7.	The implementation of the CPC BiH provisions adopted in September 2018 in response to the Constitutional Court Decision of June 2017 should be closely monitored by the HJPC and by the BiH Prosecutor's Office. Such monitoring should carefully assess: ambiguities and inconsistencies in their interpretation; impact in terms of a number of investigations closed due to the expiry of deadlines; and overall effects of the enforcement of the deadlines on the quality and comprehensiveness of investigations. Based on the results of this monitoring, the authorities should consider whether the provisions in question must be amended again (see Chapter 1.1 in 2nd ARC Report).	NO PROGRESS
8.	In light of the sharp decline in the last years in the exercise of "extended jurisdiction" by the state level institutions in corruption cases, the reasons behind this change of policy should be fully examined in order to determine their (due or undue) nature and, if necessary, to undertake appropriate measures to address this situation (see Chapter 4.1 in 2nd ARC Report).	NO PROGRESS
9.	The Special Department within the RS Prosecutor's Office should adopt internal guidelines aimed at ensuring an adequate prioritization of the most serious cases within its jurisdiction, including in the field of corruption (see Chapter 4.2 in 2nd ARC Report)	NO PROGRESS
10.	With a view to stimulating the processing of high level corruption cases, the HJPC should consider the adoption of criteria which adequately differentiate between high and low level corruption cases when it comes to the calculation of the "orientation quota", namely the number of cases that should be processed by each individual judge or prosecutor (see Chapter 3.1 in 1st ARC Report).	IMPLEMENTED
11.	With a view to harmonizing the interpretation of corruption-related legislation by facilitating the reference to existing jurisprudence in judicial decisions, the HJPC should ensure that relevant jurisprudence is systematically gathered and disseminated to all relevant courts. In this regard, specific guidelines should be developed to regulate and streamline the preparation and compilation of case law summaries or digests grasping the essence of the relevant point of law discussed in each decision (see Chapter 3.2.3.c in 2018 ARC Report).	IN PROGRESS
12.	The HJPC, in close co-ordination with the highest courts at the state, entity and Brčko District levels, should take all necessary steps for the creation of a single user-friendly and public database which would enable research by topic of jurisprudence and decisions by those courts (see Chapter 1.1 in 2nd ARC Report).	IN PROGRESS
13.	The HJPC and the executive authorities should augment the capacity of the prosecution and of law enforcement agencies with specific regard to the investigation of financial aspects of corruption. The prosecution, in particular, should have access to, and make use of, continuous assistance from forensic accountants and other financial experts during the investigation. The availability and quality of courts' financial experts should also be improved (see Chapter 3.2.2.b in 1st ARC Report).	IN PROGRESS
14.	The HJPC should develop specific guidelines and training materials on drafting indictments in corruption cases (see Chapter 3.2.2.a. in 1st ARC Report).	PARTIALLY IMPLEMENTED

15.	The procedure for raising and deciding upon conflicts of jurisdiction between the PO BiH, the entity POs and the BD PO should be clarified through judicial interpretation or legal amendments if necessary (see Chapter 3.2.1 in 1st ARC Report).	IN PROGRESS
16.	Prosecutors should improve the quality of indictments in corruption cases. The indictment should be structured so that it is clear to which element (factual or mental) a specific fact refers. In this regard, prosecutors should consider changing the way of presenting a factual description of charges in indictments with a view to enhance their clarity and comprehensibility. Chief prosecutors should exercise proper oversight on drafting and finalization of indictments in corruption cases (see Chapter 3.2.2.a in 1st ARC Report).	IN PROGRESS
17.	With a view to improve the evidence gathering process in corruption cases, specific guidelines should be developed with regard to establishing the financial aspects of the crimes, the criminal intent of the defendants, the existence of a common intent among different perpetrators and the use of factual circumstances to prove these elements (see Chapter 3.2.2.b in 1st ARC Report).	PARTIALLY IMPLEMENTED
18.	The procedure for raising and deciding upon conflicts of jurisdiction between state and entity courts and between courts in different entities should be further clarified through judicial interpretation (see Chapter 3.2.1 in 1st ARC Report).	NO PROGRESS
19.	Judges at the preliminary phase of the proceedings should ensure that indictments which do not comply with the necessary legal requirements are not confirmed. (See Chapter 3.2.3.a in 1st ARC Report).	IN PROGRESS
20.	Judges should strengthen the quality of their reasoning in corruption cases. In particular, the reasoning should clearly address each element of the crime separately and assess the evidence by linking it to the relevant element of the crime. Also, judges at both trial and appellate levels should refer to relevant jurisprudence with a view to improving coherence and certainty in the application of the law (see Chapter 3.2.3.b and Chapter 3.2.3.c in 1st ARC Report).	IN PROGRESS
21.	Inconsistencies in the application of material or procedural criminal provisions specifically relevant for the processing of corruption cases should be identified and solved with a view to improve clarity and predictability of the law. In the absence of a supreme court of BiH (the establishment of which is obviously politically sensitive but legally compelling), the task of harmonizing the case-law throughout the country should be carried out by harmonization panels. The panels, in particular, should systematically address the specific challenges posed by corruption cases with regard to the application and interpretation of criminal and procedural law (see Chapter 3.2.3.c in 1st ARC Report).	NO PROGRESS
22.	The legal framework related to the legality of evidence and the specific grounds for declaring some evidence illegal should be clarified through the development of a harmonized judicial practice and/or through harmonized legal amendments to the criminal codes (see Chapter 6.2 in 2nd ARC Report).	NO PROGRESS
23.	Courts throughout the BiH judicial system should adopt a harmonized sentencing policy in high-level corruption cases, which would take into due account the gravity of the crime and ensure the deterring function of punishment (see Chapter 3.2.3.d in 1st ARC Report).	NO PROGRESS

24.	Adequate measures should be urgently taken to ensure that proceedings, especially in high and medium level corruption cases, are carried out swiftly, in accordance with the right to trial within a reasonable time and in a way that ensures accountability and protects the rights of victims. In this regard, the HJPC, together with court presidents, should consider the adoption of guidelines for the management of plea hearings and trials in complex cases (see Chapter 7.4 in 2nd ARC Report). ¹⁰³	IN PROGRESS
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103 The guidelines should address all the main factors that impact the efficient and prompt conduct of these phases. To give some concrete examples, the guidelines could: indicate the desirable or mandatory frequency of hearings according to the complexity and importance of the case; give directions and indicate best practices on the proper use of status conferences; present domestic and international standards on striking a fair balance between the need to ensure expeditiousness in the conduct of the trial and to guarantee the rights of the accused; give directions on the need to properly and promptly verify the effective existence of the reasons given by parties to justify their absence during a trial; instruct judges on the appropriate and fair trial compliant use of coercive measures and fines to ensure the presence of parties and witnesses; and advise judges on the use of expert assessments to verify the health conditions of the accused and whether these conditions are compatible with attending the trial.

ANNEX

- A. LIST OF HIGH AND MEDIUM LEVEL
CORRUPTION CASES MONITORED IN 2019
- B. LIST OF ACTIVITIES UNDERTAKEN BY
NATIONAL AUTHORITIES IN RELATION TO THE
MISSION'S RECOMMENDATIONS ISSUED IN THE
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- C. COMPLETE RESULTS OF THE INDEX OF
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TO CORRUPTION



LIST OF HIGH AND MEDIUM LEVEL CORRUPTION CASES
MONITORED IN 2019

FINALIZED CASES

Court of Bosnia and Herzegovina

1. Ivanković Lijanović Jerko et al.
2. Puljić Vlatka and Vlamon d.o.o

Sarajevo Cantonal and Municipal Court

3. Drnda Nermin

Tuzla Cantonal and Municipal Court

4. Ivanković Lijanović Jerko and Šakić Stipe
5. Stijepić Slavko
6. Husić Amir

Zenica Cantonal and Municipal Court

7. Žunić Mugdin et al.
8. Ćerim Ahmed
9. Omanović Asim et al.
10. Sarvan Nermin
11. Zakir Hajduković et al.

Mostar Cantonal Court

12. Blažević Ante

Konjic Municipal Court

13. Omerović Esad

Livno Municipal Court

14. Papak Dodig Anka

Banja Luka Basic Court

15. Pađen Milenko

Brčko Basic Court

16. Orlić Boško

ONGOING CASES

Court of BiH

1. Čaušević Kemal et al.
2. Jeremić Darko et al.
3. Kordić Boris et al.
4. Mihajlović Božo

Sarajevo Cantonal and Municipal Court

5. Arslanagić Edin et al.
6. Čengić Alen et al.
7. Delimustafić Alija et al.
8. Đokić Ratko et al.
9. Džumhur Narcis et al.
10. Hamzić Ismet et al.
11. Jusufrianić Ibrahim and Petrović Branislav
12. Oručević Fahrudin et al.
13. Radeljaš Esed et al.
14. Salihović Goran et al.
15. Begić Idriz
16. Brkić Ramo
17. Budimir Živko
18. Džananović Esed et al.
19. Miletić Azra
20. Radeljaš Amra et al.
21. Đalić Enisa et al.
22. Kukić Mirsad

Tuzla Cantonal and Municipal Court

23. Adnan Šabić et al.
24. Brčaninović Eldin
25. Čatović Almazaga
26. Hodžić Hasan
27. Hodžić Niaz
28. Aljić Amra and Derdemez Miralem
29. Bektić Elvis
30. Berbić Šemso
31. Fajić Amra et al.

32. Forčaković Azra
33. Hamzić Senad
34. Lučić Zdravko
35. Malohodžić Mirsad
36. Nurkanović Mahir
37. Šabanović Nesib et al.
38. Švancer Vesna
39. Zukić Abdulah
40. Tufekčić Jusuf et al.

Bihać Cantonal and Municipal Court

41. Emsija Fikić
42. Galijašević Emdžad et al.
43. Mujić Ibrahim
44. Muslimović Đevad et al.
45. Toromanović Selim et al.
46. Lipovača Hamdija et al.
47. Galijašević Emdžad et al.
48. Mešić Mesud et al.
49. Mujić Ermin
50. Saračević Salko
51. Softić Kasumović Anela et al.
52. Besim Dervišević

Banja Luka District and Basic Court

53. Deurić Aleksandar et al.
54. Injac Slavica
55. Navickas Edvinas et al.
56. Stojčinović Mirko and Jeličić Borislav
57. Papak Draško et al.
58. Perduv Zoran et al.

Doboj District and Basic Court

59. Ignjić Radojica
60. Jerinić Predrag
61. Mirković Borislav et al.
62. Spremo Dušan
63. Stevanović Miroslav and Davidović Bogdan

Zenica Cantonal and Municipal Court

64. Kovačević Avdija and Kovač Fuad
65. Tuzlić Halil and Dinarević Nezir
66. Balorda Senka
67. Begić Majda and Sunulahpašić Asim
68. Begić Senaid and Avdaković Omer
69. Ćurić Ivica and Paurić Blanka
70. Neimarlija Nagib
71. Karić Semira and Isović Bisera
72. Silajdžić Mirsada et al.
73. Žunić Mugdin and Maglić Alma

Mostar Cantonal and Municipal Court

74. Barišić Petar
75. Redžović Jasna
76. Slišković Jozo
77. Pelko Ahmet
78. Dragičević Anica et al.

Brčko District Appellate and Basic Court

79. Bikić Zijad et al.
80. Jovičić Brane
81. Marković Drago
82. Šibonjić Nihad and JU Zdravstveni Centar Brčko
83. Sofrenović Duško et al.
84. Marinković Dragan

Livno Cantonal and Municipal Court

85. Bagarić Robert
86. Marković Radovan
87. Topić Dragoslav
88. Matković Ivica
89. Lukač Stevica
90. Maros Zrinko
91. Jukić Slavka

Bijeljina District and Basic Court

92. Radovanović Dragiša and Nukić Šekib
93. Savić Veseljko and Jarić Blagojević Mirjana
94. Đukanović Drago

Visoko Municipal Court

95. Dlakić Ermin

Bugojno Municipal Court

96. Ajkunić Hasan

97. Begić Emina and Hozić Adnan

98. Pejić Mladinko

Višegrad Basic Court and Istočno Sarajevo District Court

99. Gavrilović Boris et al.

100. Gavrilović Milan et al.

Prijedor Basic Court

101. Sukara Siniša

Zvornik Basic Court

102. Cvijetinović Srđan

103. Grigalius Giedrius et al.

Teslić Basic Court

104. Miličević Milan

Široki Brijeg Cantonal Court

105. Pichler Wolfgang et al.

Zavidovići Municipal Court

106. Bošnjaković Džemka et al.

107. Hadžiabdić Alija

Bosanska Krupa Municipal Court

108. Lipovača Hamdija

109. Lipovača Hamdija

110. Bunić Agan

Živinice Municipal Court

111. Mezetović Nijaz et al.

Lukavac Municipal Court

112. Arapčić Tarik and Jaraković Mirsad

Goražde Municipal Court

113. Forto Fahrudin i Čarapić Nela



LIST OF ACTIVITIES UNDERTAKEN BY NATIONAL AUTHORITIES IN RELATION TO THE MISSION'S RECOMMENDATIONS ISSUED IN THE 1ST AND 2ND ARC REPORTS

This Annex offers details regarding the implementation of each of the recommendations issued in the 1st and 2nd ARC reports.

1.1 Recommendations to the executive and legislative authorities

No 1: *The material and procedural criminal legislation relevant for the processing of corruption cases should be harmonized across all jurisdictions in BiH. Political authorities at the state and entity level should commit themselves to harmonizing the legal framework as part of their efforts to fight corruption (see Chapter 2.1 and 2.2 in 2018 ARC Report).*

No 2: *In this regard, the priority in the short term should be to adopt harmonized amendments to the four criminal procedure codes in accordance with the requirements set under the Decision of the Constitutional Court of BiH of June 2017. The amendments should strike a fair balance between the rights of individuals recognized under international human rights instruments and the need to ensure the effective prosecution of corruption and other serious crimes (see Chapter 2.2 in 2018 ARC Report).*

No 3: *With a view to streamlining the harmonization process in the medium term, the Ministry of Justice (MoJ) of BiH, together with the MoJs at the entity level, should consider re-establishing a standing body of experts (following the CCIAT¹ precedent) with the mandate of preparing harmonized amendments to criminal laws at all levels of authority in BiH (see Chapter 2.1 in 2018 ARC Report).*

No 6: *Provisions in the four criminal procedural codes in BiH regulating the transfer of cases between courts should be amended in a harmonized fashion in order to further define the reasons justifying the transfer. In particular, the amended provisions should clarify whether relevant grounds for transfer should be related exclusively to the need to protect the impartiality and independence of a court or should include other factors such as the economy of proceedings and efficiency (see Chapter 6.1 in 2019 ARC report).*

The Mission discerns **no progress** in the implementation of these recommendations except number 2, which has been assessed as **partially implemented**.

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These four recommendations relate to the need to comprehensively amend in a harmonized manner the four CPCs in force in BiH. No serious steps have been taken in this direction, with the exception of the amendments passed at the state, RS and BD level aimed at implementing the Decision of the Constitutional Court of BiH of June 2017 (see no. 2 above).² This recommendation has been implemented only in part since the amendments at the different levels are not harmonized and actually further contribute to the fragmentation of the criminal justice system.

With regard to the other three recommendations, in September 2019 the Minister of Justice at the state level established a working group with the immediate task to amend the CPC BiH and establish the basis for the harmonization of the four CPCs. The working group met five times between September 2019 and January 2020, but achieved very little progress towards its goal.³ In addition to this, it is important to underline that, although all four levels of governance in BiH are represented in the WG, there is no official commitment by the entity level institutions to use the amended BiH CPC as the basis for harmonizing their respective procedural codes, risking that the process will end in even greater divergence between the codes.

In parallel with this official process, the American Bar Association Rule of Law Initiative (ABA ROLI) has undertaken a project to establish an independent group of experts (composed by legal practitioners in BiH) to draft harmonized amendments to the four CPCs to be submitted to the attention of the relevant authorities.

No 4: *The RS Law on Fighting Corruption, Organized Crime and the Most Serious Forms of Economic Crime should be amended in order to limit its jurisdiction on corruption-related offenses only to their most serious forms. This should enable the RS Special Departments to focus their attention on high and medium level corruption cases (see Chapter 4.2 in 2019 ARC report).*

No progress has been observed in the implementation of this recommendation, which was included in the European Commission's Peer Review recommendations regarding organized crime and corruption, including money laundering. Authorities in RS, however, have not to date initiated any procedure to amend the Law in question in order to limit its jurisdiction exclusively to serious corruption cases.

No 5: *Plans to establish the Special Departments at the FBiH level should be reappraised. In particular, a constructive discussion including the FBiH political and judicial authorities should immediately take place with a view to considering all relevant factors as well as the potential benefits and detriments related to their establishment (see Chapter 4.3 in 2019 ARC report).*

2 See 2nd ARC report pp. 13–15, available at <https://www.osce.org/mission-to-bosnia-and-herzegovina/417527>

3 The Mission monitors the sessions of the working group.

The Mission observed **no progress** towards the implementation of this recommendation, as the Law on Fighting Corruption and Organized Crime in FBiH – which entered into force in February 2015 – remains unimplemented, thus undermining rule of law and legal certainty.

In order to at least initiate discussion on this matter, as part of the ARC Project the Mission organized a peer-to-peer event in December 2019 with representatives of courts, POs and executive authorities of FBiH. After a productive discussion, the 25 participants of this event adopted the following conclusions:

- 1) The FBiH executive authorities urgently need to take a clear position as to whether the 2014 Law on Fighting Corruption and Organized Crime in FBiH should be implemented or repealed.
- 2) Prior to considering the adoption of the 2018 draft Law on Fighting Organized Forms of the Criminal Offenses of Corruption, Organized Crime, Terrorism and Inter-cantonal Crime, a detailed analysis should be carried out on the prospective number of cases which would be transferred to the FBiH Special Departments under the narrow jurisdiction envisaged in the draft Law.
- 3) In case of adoption of the 2018 draft Law, it is important to recognize that complex corruption cases will remain within the jurisdiction of Cantonal Courts and Prosecutor's Offices, which will still require adequate resources and specialization to deal with these cases.
- 4) At the same time, it is necessary to ensure that the existing systematization of posts of judicial holders is filled and it is necessary to intensify their training for work on organized crime and corruption cases.

1.2 Recommendations addressed to the HJPC and the judiciary in general

No 7: *The implementation of the CPC BiH provisions adopted in September 2018 in response to the Constitutional Court Decision of June 2017 should be closely monitored by the HJPC and by the BiH Prosecutor's Office. Such monitoring should carefully assess: ambiguities and inconsistencies in their interpretation; impact in terms of a number of investigations closed due to the expiry of deadlines; and overall effects of the enforcement of the deadlines on the quality and comprehensiveness of investigations. Based on the results of this monitoring, the authorities should consider whether the provisions in question must be amended again (see Chapter 1.1 in 2019 ARC report).*

Despite requests from the Mission, the HJPC has not yet provided specific information on monitoring activities undertaken to this effect. Therefore the Mission has observed **no progress** in the implementation of this recommendation.

No 8: *In light of the sharp decline in recent years in the exercise of "extended jurisdiction" by the state level institutions in corruption cases, the reasons behind this change of policy should be fully examined in order to determine their (due or undue) nature and, if necessary, to undertake appropriate measures to address this situation (see Chapter 4.1 in 2019 ARC report).*

According to the HJPC, in relation to this recommendation the Standing Committee for Court Efficiency and Quality proposed the following activities:

- The Law on Courts of BiH should be passed, a higher court at the state level should be established, and a new legislative definition of extended jurisdiction should be adopted.
- The Court of BiH and the PO BiH should submit statistics on reduced use of expanded

As the Mission has no further information on the status of these activities, it concluded that **no progress** has been achieved in the implementation of this recommendation.

No 9: *The Special Department within the RS Prosecutor's Office should adopt internal guidelines aimed at ensuring adequate prioritization of the most serious cases within its jurisdiction, including in the field of corruption (see Chapter 4.2 in 2019 ARC report)*

To the Mission's knowledge, no internal guidelines have yet been adopted by the RS Public Prosecutor's Office in order to ensure adequate prioritization of the most serious cases within its jurisdiction; therefore **no progress** has been observed towards this recommendation.

No 10: *With a view to stimulating the processing of high level corruption cases, the HJPC should consider the adoption of criteria which adequately differentiate between high and low level corruption cases when it comes to the calculation of the "orientation quota", namely the number of cases that should be processed by each individual judge or prosecutor (see Chapter 3.1 in 2018 ARC Report).*

This is the only recommendation which has been **fully implemented**, as in April 2019 the HJPC did adopt definitions of high level organized crime and high level corruption cases. The categorization is based mainly on the weighing of two criteria, namely the status of the accused and the gravity of the conduct. Subsequently, and based on this categorization, the HJPC amended the system of evaluation of the performance of prosecutors to provide them with additional incentives to work on high level corruption cases. According to the Book of Rules on Framework Measurements for the Work of Prosecutors, it is expected that a prosecutor complete a lesser number of high level corruption cases in order to meet the given quota, compared with other criminal cases. **Namely, while the quota for corruption cases in general is 34 indictments (for crimes with sentence up to 10 years) or 11 indictments (for crimes with sentence above 10 years), the quota for high level corruption is five indictments (i.e. the same quota as for war crimes cases).**

In addition to this, the HJPC reportedly implemented certain changes in the Prosecution Case Management System (TCMS) in order to track the processing of high level corruption cases more precisely.

No 11: *With a view to harmonizing the interpretation of corruption-related legislation by facilitating the reference to existing jurisprudence in judicial decisions, the HJPC should ensure that relevant jurisprudence is systematically gathered and disseminated to all relevant courts. In this regard, specific guidelines should be developed to regulate and*

streamline the preparation and compilation of case law summaries or digests grasping the essence of the relevant point of law discussed in each decision (see Chapter 3.2.3.c in 2018 ARC Report).

The Mission assesses that implementation of this recommendation is **in progress**. The HJPC Judicial Documentation Center (JDC), responsible for the dissemination of jurisprudence in BiH pertaining to all kinds of judicial proceedings, including cases of corruption, maintains a jurisprudence database.

However, according to information available to the Mission, the JDC database is currently not used by the majority of those holding judicial functions, as it is not fully functional. In order to become an effective and useful resource, the database requires improvements. Its main shortcoming appears to be the limited number of judicial decisions available. Technical and content related enhancements to the database are currently being implemented through EU IPA funds in line with EC Peer Review recommendations on fighting corruption and money laundering.

No 12: *The HJPC, in close co-ordination with the highest courts at the state, entity and Brčko District levels, should take all necessary steps for the creation of a single user-friendly and public database which would enable research by topic of jurisprudence and decisions by those courts (see Chapter 1.1 in 2019 ARC report).*

This effort is **in progress**, as the HJPC, in close co-operation with highest courts, initiated in 2019 the development of an additional database that will consist of legal holdings (referred to as “E-sentence”). This activity is being implemented through the EU funded Project “IPA 2017”, as well as related projects supported by Norway and the UK. This database will also cover all types of proceedings and is being designed to complement the existing HJPC JDC database.

During 2019, representatives from the highest courts and the HJPC, as well as IT experts, have met five times to discuss the structure of the database.

No 13: *The HJPC and the executive authorities should augment the capacity of the prosecution and of law enforcement agencies with specific regard to the investigation of financial aspects of corruption. The prosecution, in particular, should have access to, and make use of, continuous assistance from forensic accountants and other financial experts during investigations. The availability and quality of courts’ financial experts should also be improved (see Chapter 3.2.2.b in 2018 ARC Report).*

The implementation of this recommendation is **in progress**. Financial experts have been embedded in some POs to support prosecutors in the investigation of economic crime and corruption cases for a period of two years. This activity is carried out as part of the EU funded Project “IPA 2017”.

With regard to courts’ experts, the Mission learned that the HJPC Standing Committee for Court Efficiency and Quality has recommended the following activities in 2019: categorization

of court expert witnesses; professional training of court expert witnesses; and ensuring integrity and responsibility of court expert witnesses. The Mission did not receive any information as to whether these activities have been initiated.

No 14: *The HJPC should develop specific guidelines and training materials on drafting indictments in corruption cases (see Chapter 3.2.2.a. in 2018 ARC Report).*

This recommendation has been **partially implemented**; according to information available to the Mission, a handbook for drafting indictments in corruption cases has been developed in 2019 as part of the activities envisaged under the HJPC Project “Strengthening the Role of Prosecutors in the Criminal Justice System” funded by Switzerland and Norway.

No 15: *The procedure for raising and deciding upon conflicts of jurisdiction between the PO BiH, the entity POs and the BD PO should be clarified through judicial interpretation or legal amendments if necessary (see Chapter 3.2.1 in 2018 ARC Report).*

Efforts towards achieving this recommendation are **in progress**. In 2019 the HJPC launched an initiative for the establishment of a Co-ordination Body of Chief Prosecutors of BiH, FBiH, RS and BD, to resolve conflicts of jurisdiction, as well as to improve exchange of information between the respective POs. Later, in March 2020, the PO BiH, the PO RS, the PO FBiH and the Brčko District PO signed a Memorandum of Understanding which established the co-ordination body.

No 16: *Prosecutors should improve the quality of indictments in corruption cases. The indictment should be structured so that it is clear to which element (factual or mental) a specific fact refers. In this regard, prosecutors should consider changing the way of presenting factual descriptions of charges in indictments with a view to enhance their clarity and comprehensibility. Chief prosecutors should exercise proper oversight on drafting and finalization of indictments in corruption cases (see Chapter 3.2.2.a in 2018 ARC Report).*

This recommendation may be considered **in progress**, although in the early stages. Namely, the HJPC, in co-operation with judicial training centers, has organized five trainings for prosecutors on the topic “improving the quality of indictments in corruption cases” during 2019.

No 17: *With a view to improve the evidence gathering process in corruption cases, specific guidelines should be developed with regard to establishing the financial aspects of crimes, the criminal intent of defendants, the existence of common intent among different perpetrators and the use of factual circumstances to prove these elements (see Chapter 3.2.2.b in 2018 ARC Report).*

This recommendation has been **partially implemented**. In 2019, a manual on the gathering of evidence in criminal proceedings was developed and distributed as part of the activities of the HJPC Project “Strengthening the Role of Prosecutors in the Criminal Justice System”. Trainings for prosecutors and authorized officials were held in accordance to the topics contained in the Manual.

No 18: *The procedure for raising and deciding upon conflicts of jurisdiction between state and entity courts and between courts in different entities should be further clarified through judicial interpretation (see Chapter 3.2.1 in 2018 ARC Report).*

The Mission has observed **no progress** in this area. The HJPC Standing Committee for Court Efficiency and Quality considers that this activity should be resolved through the adoption of the Law on Courts of BiH.

No 19: *Judges at the preliminary phase of proceedings should ensure that indictments which do not comply with the necessary legal requirements are not confirmed. (see Chapter 3.2.3.a in 2018 ARC Report).*

Implementation efforts are **in progress**. The HJPC Standing Committee for Court Efficiency and Quality has discussed this recommendation and held that it should be implemented as follows: 1) invite the heads of the institutions to hold joint team meetings and then; 2) improve and harmonize practices related to the examination of indictments according to the views of the Panels for Harmonization of Court Practice. This recommendation will also be discussed through planned “IPA 2017 Project” workshops that will be organized by the HJPC.

No 20: *Judges should strengthen the quality of their reasoning in corruption cases. In particular, the reasoning should clearly address each element of the crime separately and assess the evidence by linking it to the relevant element of the crime. Also, judges at both trial and appellate levels should refer to relevant jurisprudence with a view to improving coherence and certainty in the application of the law (see Chapter 3.2.3.b and Chapter 3.2.3.c in 2018 ARC Report).*

The Mission assesses that implementation of this recommendation is **in progress**, albeit to a very limited degree. The HJPC Standing Committee for Court Efficiency and Quality considers that this recommendation should be implemented through additional education, harmonization of practice through the views of the Harmonization Panels, and correct application of the judges’ performance evaluation criteria.

Under the “IPA 2017 Project”, the HJPC in March 2020 organized a workshop on improving the quality of legal reasoning in court decisions. Only 12 representatives from courts and POs in BiH attended it.

No 21: *Inconsistencies in the application of material or procedural criminal provisions specifically relevant for the processing of corruption cases should be identified and solved with a view to improve clarity and predictability of the law. In the absence of a supreme court of BiH (the establishment of which is politically sensitive but legally compelling), the task of harmonizing case-law throughout the Country should be carried out by harmonization panels. The panels in particular should systematically address the specific challenges posed by corruption cases with regard to the application and interpretation of criminal and procedural law (see Chapter 3.2.3.c in 2018 ARC Report).*

The Mission assesses that **no progress** has been achieved towards implementing this recommendation. During the reporting period, the Harmonization Panel on Criminal Matters did not consider any “specific challenges posed by corruption cases with regard to the application and interpretation of criminal and procedural law” as a topic for case law harmonization.

No 22: *The legal framework related to the legality of evidence and the specific grounds for declaring some evidence illegal should be clarified through the development of harmonized judicial practice and/or through harmonized legal amendments to the criminal codes (see Chapter 6.2 in 2019 ARC report).*

No progress has been observed in this regard. The HJPC Standing Committee for Court Efficiency and Quality held that this recommendation should be implemented through the activities of the HJPC Judicial Documentation Center, newsletters and seminars, and possibly through amending relevant laws, but to date, the Mission has observed no related activities.

No 23: *Courts throughout the BiH judicial system should adopt a harmonized sentencing policy in high level corruption cases, which would take into account the gravity of the crime and ensure the deterring function of punishment (see Chapter 3.2.3.d in 2018 ARC Report).*

The Mission is aware of **no progress** towards the implementation of this recommendation. In accordance with one of its conclusions, the HJPC sent a letter to all courts regarding the harmonization of criminal policy. The Mission has no information as to whether any concrete activity was carried out towards the harmonization of sentencing practices.

No 24: *Adequate measures should be urgently taken to ensure that proceedings, especially in high and medium level corruption cases, are carried out swiftly, in accordance with the right to trial within a reasonable time and in a way that ensures accountability and protects the rights of victims. In this regard, the HJPC, together with court presidents, should consider the adoption of guidelines for the management of plea hearings and trials in complex cases (see Chapter 7.4 in 2019 ARC report).*

Efforts in this direction are **in progress**. In considering this recommendation, in 2019 the HJPC Standing Committee for Court Efficiency and Quality suggested asking court presidents and all judges in courts hearing complex corruption cases about the causes of delays and suggestions on appropriate measures to address them. One of the conclusions of the July 2019 HJPC workshop on solving crimes and organized crime cases was that the HJPC, in cooperation with court presidents, should develop guidelines to help judges manage trials more effectively in complex corruption cases.

In October 2019, the Mission, as part of the ARC Project, organized a peer-to-peer meeting on Trial Management in Complex Corruption Cases in Banja Luka, which included 25 judges, prosecutors, and attorneys from several jurisdictions, including Banja Luka, Bihać, Tuzla, Livno, and Brčko.

ANNEX



COMPLETE RESULTS OF THE INDEX OF EFFECTIVENESS
OF JUDICIAL RESPONSE TO CORRUPTION

Prosecutor's Offices (PO)

PO Productivity

Jurisdiction (sort/filter column only)	Prosecutor office (sort/filter column only)	Tackling corruption				Technical complexity of corruption cases				Productivity Score (mean A,B)				
		Total number of prosecutors*	No of confirmed corruption indictments**	No of defendants in confirmed corruption indictments*	Score (A)	No of indictments confirmed**	No of defendants in high and medium indictments confirmed**	Number of motions requesting seizure in high/ medium cases for which an indictment was confirmed**	Score (B)					
											High	Medium	High	Medium
BD	PO Brčko District BH	1	2	3	4	5	6	7	8	9	10	11	12	
BH	PO of BiH	58	6	15	4.00	0	0	0	0	0	0	0	3.71	5.52
FBH	CPO Una-Sana Canton	25	32	45	6.67	1	3	5	5	1	1	8.57	7.62	
FBH	CPO Tuzla Canton	38	41	54	7.00	0	2	0	8	0	1	4.71	5.86	
FBH	CPO Zenica-Doboj Canton	31	40	54	7.33	0	3	0	6	0	0	0	3.71	5.24
FBH	CPO Canton Sarajevo	53	23	47	6.33	0	1	0	36	0	1	4.14	5.24	
FBH	CPO Posavina Canton	5	6	10	6.67	0	0	0	0	0	0	0	2.29	4.48
FBH	CPO Central Bosnia Canton	15	5	7	4.33	0	1	0	2	0	1	4.14	4.24	
FBH	CPO Bosnian-Podrinje Canton	2	2	3	4.67	0	1	0	2	0	0	0	3.71	4.19
FBH	CPO West Herzegovina Canton	5	3	4	5.33	0	0	0	0	0	0	0	2.29	3.81
FBH	CPO Hercegovina-Neretva Canton	21	12	15	5.67	0	0	0	0	0	0	0	1.43	3.55
FBH	CPO Canton 10 - Livno	5	0	4	4.67	0	0	0	0	0	0	0	2.29	3.48
RS	DPPO Doboj	17	12	19	6.00	0	2	0	2	0	0	0	2.29	4.64
RS	DPPO Bijeljina	13	6	7	5.00	0	1	0	2	0	0	0	3.14	4.07
RS	DPPO Banja Luka	32	20	23	6.00	0	0	0	0	0	0	0	1.14	3.57
RS	DPPO Tuzla	5	0	0	4.00	0	0	0	0	0	0	0	2.29	3.14
RS	DPPO Republic PO	10	3	3	3.67	0	0	0	0	0	0	0	1.86	2.93
RS	DPPO Prijedor	7	2	2	3.67	0	0	0	0	0	0	0	2.00	2.83
RS	DPPO East Sarajevo	11	2	2	3.00	0	0	0	0	0	0	0	1.71	2.36
Totals/Averages		362	233	335	5.36	1	15	5	70	1	4	3.02	4.19	

DATA SOURCES
* High Judicial and Prosecutorial Council BH
** OSCE case and trial monitoring data

METHODOLOGICAL NOTES:
The Mission categorizes corruption cases as high, medium or low level of seriousness according to two criteria: status of the accused and gravity of the alleged conduct. The Mission monitors all high and medium level cases processed in BH. Cases rated as "low" based on seriousness are not included in calculation of the score. Zero score should be considered as "non-applicable".

PO Capacity

Jurisdiction (sort/filter column only)	Prosecutor office (sort/filter column only)	Quality of indictments in high and medium cases				Conviction rate out of KTK cases finalized by the single PO				Asset Recovery										Competence Score (mean A,B,C,D)											
		Average score of quality-confirmed indictments**		Number of cases ending in conviction*	Number of total finalized cases*	Score (B)	No of defendants in all finalized high and medium cases*	% of defendants in all finalized high and medium cases	Number of defendants convicted in finalized high and medium cases*	Conviction rate of defendants as percentage of defendants in finalized high and medium cases	Score (C)	Finalized h/m cases			Number of finalized high and medium cases where permanent seizure was ordered by a court upon motion of the prosecution*			% of total finalized high and medium cases where permanent seizure was ordered by a court upon motion of the prosecution in finalized convictions			Score (D)										
		High	Medium									Score (A)	Number	Total [4+5]	High	Medium	Total [9+10]	High	Medium			Total [14+15]	High	Medium	Total	High	Medium	Total			
BD	PO Brčko District BH	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
BH	PO of BiH	0.00	2.50	5.00	9	90.0%	1	10	8.00	0	1	1	0.00%	100.0%	0	0	0	0.0%	0.0%	1.00	0	1	1	0	0	0.00%	0.00%	0.00%	1.00	3.68	
FBH	CPO Una-Sana Canton	0.00	0.00	0.00	0	0.0%	1	1	1.00	15	2	17	88.24%	11.8%	0	2	2	0.0%	100.0%	1.00	1	1	2	0	1	1	0.00%	100.00%	50.00%	7.00	1.73
FBH	CPO Tuzla Canton	1.20	1.69	9.00	22	91.7%	2	24	9.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	4.50	
FBH	CPO Posavina Canton	0.00	0.00	0.00	2	66.7%	1	3	6.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	1.50	
FBH	CPO Tuzla Canton	0.00	1.97	7.00	36	87.8%	5	41	8.00	2	1	3	66.67%	33.3%	2	0	2	100.0%	0.0%	4.00	1	1	2	1	0	1	100.00%	0.00%	50.00%	10.00	6.50
FBH	CPO Zenica-Doboj Canton	0.00	1.79	7.00	12	80.0%	3	15	7.00	0	9	9	0.00%	100.0%	0	7	7	0.0%	77.8%	3.00	0	5	5	0	1	1	0.00%	20.00%	20.00%	1.40	4.50
FBH	CPO Bosnian-Podrinje Canton	0.00	2.53	4.00	0	0.0%	1	1	1.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	1.25
FBH	CPO Central Bosnia Canton	0.00	2.39	5.00	1	100.0%	0	1	10.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	3.75
FBH	CPO West Herzegovina Canton	0.00	0.00	0.00	6	100.0%	0	6	10.00	0	3	3	0.00%	100.0%	0	1	1	0.0%	33.3%	1.00	0	3	3	0	0	0	0.00%	0.00%	0.00%	1.00	2.93
FBH	CPO Hercegovina-Neretva Canton	0.00	0.00	0.00	1	100.0%	0	1	10.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	2.50
FBH	CPO Canton 10 - Livno	0.00	1.89	7.00	14	100.0%	0	14	10.00	0	1	1	0.00%	100.0%	0	1	1	0.0%	100.0%	6.00	0	1	1	0	0	0	0.00%	0.00%	0.00%	1.00	5.93
FBH	CPO Canton Sarajevo	0.00	0.00	0.00	3	75.0%	1	4	7.00	0	1	1	0.00%	100.0%	0	0	0	0.0%	0.0%	1.00	0	1	1	0	0	0	0.00%	0.00%	0.00%	1.00	2.18
RS	RS Republic Public PO	0.00	0.00	0.00	2	100.0%	0	2	10.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	2.50
RS	DPPO Banja Luka	0.00	0.00	0.00	21	100.0%	0	21	10.00	0	1	1	0.00%	100.0%	0	0	0	0.0%	0.0%	1.00	0	1	1	0	0	0	0.00%	0.00%	0.00%	1.00	2.93
RS	DPPO Bijeljina	0.00	3.40	1.00	4	80.0%	1	5	7.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	2.00
RS	DPPO Doboj	0.00	2.43	5.00	7	63.6%	4	11	6.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	2.75
RS	DPPO Tuzla	0.00	0.00	0.00	1	100.0%	0	1	10.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	2.50
RS	DPPO Prijedor	0.00	0.00	0.00	0	0.0%	1	1	1.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	1.00
RS	DPPO East Sarajevo	0.00	0.00	0.00	2	100.0%	0	2	10.00	0	0	0	0.00%	0.0%	0	0	0	0.0%	0.0%	0.00	0	0	0	0	0	0	0.00%	0.00%	0.00%	0.00	2.50
Totals/Averages		1.20	2.29	5.56	143	87%	21	164	7.42	17	19	36	47%	53%	2	11	13	12%	58%	2.25	2	14	16	1	2	3	33%	67%	19%	2.93	2.97

DATA SOURCES
* High Judicial and Prosecutorial Council BH
** OSCE case and trial monitoring data

METHODOLOGICAL NOTES:
The Mission categorizes corruption cases as high, medium or low level of seriousness according to two criteria: status of the accused and gravity of the alleged conduct. The Mission monitors all high and medium level cases processed in BH. Cases rated as "low" based on seriousness are not included in calculation of the score. Linear transformation used to rescale original scores from scale 1 (very good-4/very poor) to scale 1 (very poor)-10 (very good). Zero score should be considered as "non-applicable".

COURT

Court Productivity

Jurisdiction (sort/filter column only)	Court (sort/filter column only)	Court instance (sort/filter column only)	No. judges*	Number of verdicts in corruption cases**				Number of 1st instance verdicts/decisions in corruption cases**				Number of 2nd instance verdicts/decisions in corruption cases**				Productivity Score (mean A,B,C)
				1st instance verdicts	*2nd instance verdicts*	Total Score (A)	High	Medium	Total Score (B)	High	Medium	Total Score (C)	High	Medium	Total Score (D)	
BD	BC Brčko District	1st(A)	18	14	0	14	5.75	0	0	0	1.00	0	0	0	1.00	2.58
FBH	MC Banovići	1st(A)	5	1	0	1	4.00	0	0	1.00	0	0	0	1.00	2.00	
FBH	MC Bihać	1st(A)	21	18	0	18	5.75	0	0	1.00	0	0	0	1.00	2.58	
FBH	MC Bosanska Krupa	1st(A)	8	2	0	2	4.50	0	0	1.00	0	0	0	1.00	2.17	
FBH	MC Bugojno	1st(A)	12	0	0	0	1.00	0	0	1.00	0	0	0	1.00	1.00	
FBH	MC Čapljina	1st(A)	8	1	0	1	3.00	0	0	1.00	0	0	0	1.00	1.67	
FBH	MC Cazin	1st(A)	9	3	0	3	5.00	0	0	1.00	0	0	0	1.00	2.33	
FBH	MC Čitluk	1st(A)	5	2	0	2	5.00	0	0	1.00	0	0	0	1.00	2.50	
FBH	MC Goražde	1st(A)	7	1	0	1	3.25	0	1	1	5.05	0	0	0	1.00	3.10
FBH	MC Gračanica	1st(A)	6	2	0	2	5.00	0	0	1.00	0	0	0	1.00	2.33	
FBH	MC Gradačac	1st(A)	10	2	0	2	4.00	0	0	1.00	0	0	0	1.00	2.00	
FBH	MC Jajce	1st(A)	5	0	0	0	1.00	0	0	1.00	0	0	0	1.00	1.00	
FBH	MC Kakanj	1st(A)	6	1	0	1	3.50	0	0	1.00	0	0	0	1.00	1.83	
FBH	MC Kalesija	1st(A)	5	5	0	5	6.75	0	0	1.00	0	0	0	1.00	2.92	
FBH	MC Kiseljak	1st(A)	8	1	0	1	3.00	0	0	1.00	0	0	0	1.00	1.87	
FBH	MC Kozarica	1st(A)	9	1	0	1	2.25	0	0	1.00	0	0	0	1.00	1.58	
FBH	MC Livno	1st(A)	13	9	0	9	5.75	0	1	1	4.05	0	0	0	1.00	3.60
FBH	MC Ljubuški	1st(A)	6	0	0	0	1.00	0	0	1.00	0	0	0	1.00	1.00	
FBH	MC Lukavac	1st(A)	7	1	0	1	3.25	0	0	1.00	0	0	0	1.00	1.75	
FBH	MC Mostar	1st(A)	22	4	0	4	4.25	0	0	1.00	0	0	0	1.00	2.08	
FBH	MC Orašje	1st(A)	9	6	0	6	5.50	0	0	1.00	0	0	0	1.00	2.50	
FBH	MC Ploče	1st(A)	8	2	0	2	4.50	0	0	1.00	0	0	0	1.00	2.17	
FBH	MC Sarajevo	1st(A)	100	13	0	13	5.50	0	3	3	9.90	0	0	0	1.00	3.47
FBH	MC Srebrenik	1st(A)	8	2	0	2	4.50	0	0	1.0						

Court Efficiency (jurisdiction)

Region/Jurisdiction	Finalized Corruption Cases**								*A. Average length of 1st instance proceedings***						*B. Average length of 2nd instance proceedings***						Number of hearings adjourned with no activity in categories of interest**				Efficiency Score (mean A,B,C,D)				
	ALL FINALIZED CRIMINAL CASES (KT)		ALL FINALIZED CORRUPTION CASES (KTK)		HIGH		MEDIUM		Score (A)		HIGH		MEDIUM		Score (B)		HIGH		MEDIUM		Score (C)		Total hearings	HIGH		MEDIUM		Score (D)	
	Total	% of finalized KT	Number	% of finalized KTK	Number	% of finalized KT	Duration	# cases	Deviation from HJPC optimal (120 days)	Duration	# cases	Deviation from HJPC optimal (120 days)	Duration	# cases	Deviation from HJPC optimal (178 days)	Duration	# cases	Deviation from HJPC optimal (178 days)	Duration	# cases	Deviation from HJPC optimal (178 days)	Number		% of total hearings		Number	% of total hearings		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24		25	26	27	28
FBH	7,722	110	1.42%	1	0.01%	11	0.14%	9.0	448	1	3.7	587	15	4.9	5.5	670	3	3.8	304	16	1.7	1.0	391	25	6.4%	59	15.1%	4.0	4.88
RS	3,111	44	1.41%	0	0.00%	1	0.03%	3.0	483	1	4.0	1196	2	10.0	1.0	0	0	0.0	190	3	1.1	2.0	85	2	2.4%	17	20.0%	4.0	2.50
BD	226	15	6.64%	0	0.00%	1	0.44%	2.0	0	0	0.0	0	0	0.0	1.0	0	0	0.0	131	2	0.7	3.5	15	0	0.0%	0	0.0%	10.0	4.13
BH	214	2	0.93%	1	0.47%	1	0.47%	3.0	0	0	0.0	955	1	8.0	2.5	216	1	1.2	0	0	0.0	2.0	72	6	8.3%	2	2.8%	4.0	2.88
Totals/Averages	11,273	171	1.5%	2	0.0%	14	0.1%	4.25	466	2	3.88	466	18	7.61	2.50	888	4	2.49	625	21	0.9	2.13	563	33	5.9%	78	13.9%	5.50	3.59

DATA SOURCES
 * High Judicial and Prosecutorial Council BH
 ** OSCE case and trial monitoring data

METHODOLOGICAL NOTES:
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 Zero score should be considered as "non-applicable".

Court Efficiency (by court)

Jurisdiction (sort/filter column only)	Court (sort/filter column only)	Court instance (sort/filter column only)	Corruption as fraction of criminal cases,**						Average length of 1st instance proceedings**						Average length of 2nd instance proceedings**						Number of hearings adjourned with no activity in categories of interest**				Efficiency Score (mean A,B,C,D)						
			All criminal cases (KT) finalized by court		ALL FINALIZED CORRUPTION CASES (KTK)*		Finalized KTK cases- HIGH**		Finalized KTK cases- MEDIUM**		Score (A)		HIGH		MEDIUM		Score (B)		HIGH		MEDIUM		Score (C)			Total hearings	HIGH		MEDIUM		Score (D)
			Number	% of finalized KT	Number	% of finalized KTK	Number	% of finalized KT	Number	% of finalized KTK	Duration	# cases	Deviation from HJPC optimal (120 days)	Duration	# cases	Deviation from HJPC optimal (120 days)	Duration	# cases	Deviation from HJPC optimal (178 days)	Duration	# cases	Deviation from HJPC optimal (178 days)	Duration	# cases			Deviation from HJPC optimal (178 days)	Number	% of total hearings	Number	
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22		23	24	25	26	27	28
BD	BC Brčko District	A (1st)	226	15	6.64%	0	0.00%	0	0.00%	6.7	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	4.17
FBH	MC Banovići	A (1st)	74	1	1.35%	0	0.00%	0	0.00%	3.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Bihać	A (1st)	323	16	4.95%	0	0.00%	0	0.00%	4.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	3.50
FBH	MC Bosanska Krupa	A (1st)	61	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	0.00
FBH	MC Bugojno	A (1st)	238	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	0.00
FBH	MC Čapljina	A (1st)	86	1	1.16%	0	0.00%	0	0.00%	3.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Čazin	A (1st)	264	2	0.70%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Čitluk	A (1st)	14	1	7.14%	0	0.00%	0	0.00%	4.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Goražde	A (1st)	72	1	1.39%	0	0.00%	0	0.00%	3.00	0	0.00%	200	1	66.67%	1.5	0	0.00%	0	0	0.00%	0.0	7	0	0.00%	0	0.00%	0.00	10.0	3.63	
FBH	MC Gradiška	A (1st)	230	2	0.87%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Gradačac	A (1st)	214	1	0.47%	0	0.00%	0	0.00%	2.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Jajce	A (1st)	78	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	0.00
FBH	MC Kakanj	A (1st)	140	1	0.71%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Kalesija	A (1st)	122	1	0.82%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Kiseljak	A (1st)	127	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	0.00
FBH	MC Konjic	A (1st)	170	2	1.18%	0	0.00%	1	0.59%	6.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.50
FBH	MC Livno	A (1st)	171	4	2.34%	0	0.00%	1	0.58%	6.67	0	0.00%	236	1	96.67%	1.5	0	0.00%	0	0	0.00%	0.0	5	0	0.00%	1	20.00%	5.5	3.42		
FBH	MC Ljubuški	A (1st)	100	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	0.00
FBH	MC Lukavac	A (1st)	198	1	0.51%	0	0.00%	0	0.00%	2.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Mostar	A (1st)	125	3	2.40%	0	0.00%	1	0.80%	6.67	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	1	0	0.00%	1	100.00%	5.5	3.04		
FBH	MC Orašje	A (1st)	158	3	1.90%	0	0.00%	0	0.00%	3.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Sarajevo Most	A (1st)	167	2	1.20%	0	0.00%	0	0.00%	3.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Sarajevo	A (1st)	1380	15	1.09%	0	0.00%	1	0.07%	5.33	0	0.00%	1009	3	740.83%	1.0	0	0.00%	0	0	0.00%	0.0	87	2	2.30%	12	13.79%	1.5	1.96		
FBH	MC Široki Brijeg	A (1st)	112	1	0.89%	0	0.00%	0	0.00%	2.67	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Srebrenik	A (1st)	143	1	0.70%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Tešanj	A (1st)	119	1	0.84%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Travnik	A (1st)	493	1	0.20%	0	0.00%	0	0.00%	2.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Tuzla	A (1st)	670	20	2.99%	0	0.00%	0	0.00%	3.67	448	1	273.33%	670	2	458.33%	1.0	0	0.00%	0	0	0.00%	0.0	52	7	13.46%	13	25.00%	1.0	1.42	
FBH	MC Velika Kladuša	A (1st)	183	2	1.09%	0	0.00%	0	0.00%	2.67	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Visoko	A (1st)	291	2	0.69%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	1.00
FBH	MC Zavidovići	A (1st)	208	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	6	0	0.00%	1	16.67%	6.0	0.00		
FBH	MC Zenica	A (1st)	371	6	1.62%	0	0.00%	3	0.81%	6.33	0	0.00%	872	3	626.67%	1.0	0	0.00%	0	0	0.00%	0.0	37	0	0.00%	13	35.14%	5.5	3.21		
FBH	MC Župče	A (1st)	82	0	0.00%	0	0.00%	0	0.00%	0.00	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0	0.00%	0.0	0.00
FBH	MC Žrnica	A (1st)	297	9	3.03%	0	0.00%	0	0.00%	3.67	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	1	0	0.00%	0	0.00%	10.0	3.42		
RS	BC Banja Luka	A (1st)	667	14	2.10%	0	0.00%	1	0.15%	6.00	0	0.00%	1898	1	1481.87%	1.0	0	0.00%	0	0	0.00%	0.0	3	0	0.00%	0	0.00%	0	0.00%	10.0	4.25
RS	BC Bijeljina	A (1st)	288	6	2.09%	0	0.00%	0	0.00%	3.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	1	10.00%	6.5	2.46
RS	BC Berane	A (1st)	130	1	0.77%	0	0.00%	0	0.00%	2.33	0	0.00%	0	0	0.00%	0.0	0	0.00%	0	0	0.00%	0.0	0	0.00%	0</						

