

Strengthening and reforming the justice sector



As a core element of its rule of law programming, the OSCE Mission to Bosnia and Herzegovina (Mission) is committed to strengthening the overall justice sector in Bosnia and Herzegovina (BiH). In encouraging the effective implementation of relevant criminal justice reforms, the Mission aims to promote judicial independence and equality before the law while enhancing public confidence in the judiciary.

Overview and background

In 2004, as part of sweeping judicial reforms, the Law on the High Judicial and Prosecutorial Council of BiH established the High Judicial and Prosecutorial Council of BiH (HJPC or Council) as a single unifying body mandated to regulate and ensure the independence, impartiality and professionalism of the judiciary across all jurisdictional levels in

BiH. Efforts to reform both the HJPC and the justice sector as a whole continue in BiH.

Reforming the HJPC

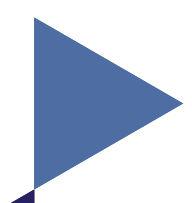
Despite calls for comprehensive legislative reform, including by the Mission, the new Law on the HJPC of BiH has not been drafted or adopted. In the absence of new legislation, the Ministry of Justice of BiH

(MoJ BiH) proposed a set of more limited amendments to the existing Law on the HJPC of BiH that would enhance the integrity of judicial office holders, ensure the independence of the HJPC as an institution and create the preconditions to adopt the new Law on the HJPC of BiH. Unfortunately, these amendments have also not been adopted. Additional HJPC-related reform efforts have addressed issues, amongst others, related to the appointment and appraisal of judicial office holders, integrity, accountability and transparency.

Justice Sector Reform Strategy

In its 2022 Report, the European Commission urged BiH to adopt a new Justice Sector Reform Strategy (JSRS or Strategy) and accompanying action plan¹, and, in 2020, the MoJ BiH drafted a new Strategy, covering 2021 to 2027, to replace one that had expired. Throughout 2020 and 2021, the Mission provided inputs that the MoJ BiH integrated into the new JSRS. Political blockages and the need for further consultations to ensure local ownership over and commitment to implementation of the Strategy have stalled its adoption.

¹ European Commission, Bosnia and Herzegovina 2022 Report, 12 October 2022, p. 18, available at: [Bosnia-and-Herzegovina-Report-2022.pdf \(europa.ba\)](https://www.europa.ba/Bosnia-and-Herzegovina-Report-2022.pdf)



Role of the Mission

In addition to its extensive trial monitoring programme, the Mission began systematically monitoring and reporting on the work of the HJPC in 2015. This includes monitoring all plenary sessions and select disciplinary proceedings of judges and prosecutors. This data serves as the basis of the Mission's justice sector policy programming and informs the support it provides to the HJPC and its perspective on justice sector reform as a whole. The Mission also provides technical support to relevant authorities in drafting and adopting legislative amendments and the development of relevant commentaries, analyses and other tools to harmonize justice sector practice.

Based on its monitoring data, which the Mission complements with extensive consultations with key stakeholders, the Mission has established many entry points through which it assists relevant bodies to improve and strengthen the BiH justice sector.

Such programming includes:

- Monitoring, analysing and reporting on the work of the relevant institutions engaged in justice sector reform to identify trends and challenges and propose relevant recommendations;
- Providing technical assistance to strengthen the institutional, legal and policy frameworks applicable to the justice sector across BiH;
- Identifying specific challenges and inconsistencies in the

appointment, evaluation and accountability of judicial office holders, including through the monitoring of disciplinary and appointment proceedings, and providing related recommendations and capacity-building activities;

- Conducting capacity-building activities on ethics and disciplinary practices for both newly appointed and experienced judges and prosecutors, in co-operation with the respective judicial and prosecutorial training centres; and
- Promoting increased transparency, including advocating for the adoption and implementation of the HJPC Communication Strategy and conducting capacity-building workshops that bring together judicial institutions and members of the media.

In addition to the above activities, the Mission regularly issues reports based on its monitoring data and analysis. For example, in its 2021 report, [The Institution of Additional Judges as a Potential Threat to Judicial Independence in BiH](#), the Mission presented findings indicating that the practice of appointing so-called additional judges raises serious concerns about impartiality, judicial independence, efficiency and fairness. In 2021, as part of its advocacy for practical and technical improvements to the appointment of judicial office holders, the Mission released relevant statistical data and trends in its factsheet on [Judicial and Prosecutorial Appointments - Monitoring Findings 2016-2020](#).



For more information scan the QR code.



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