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THE WESTERN BALKANS TRIAL MONITORING REPORT

FACTSHEET



From Paper to Practice

Evaluating the Effectiveness of Judicial Responses to
Serious Organised Crime and Corruption
Review Period from July 2021 to March 2024

BOSNIA AND HERZEGOVINA

Trial monitoring of serious
organised crime and corruption (OCC) cases

HOW

The Project's Methodology, developed and adapted by the OSCE ODIHR based on its Trial Monitoring Manual and drawing on the extensive experience of OSCE field operations in monitoring OCC cases, encompasses trial monitoring from the confirmation of indictment to the final verdict.

FOCUS



fairness



efficiency



capacities/performance

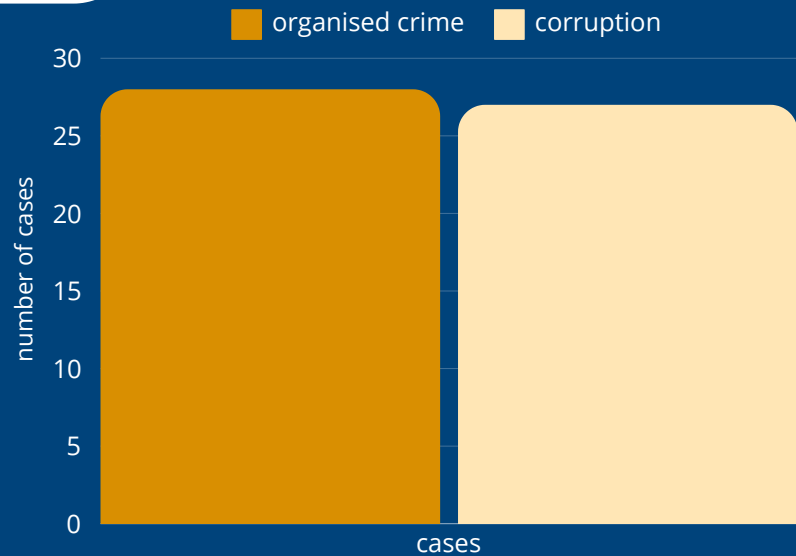


strategic use of judicial tools



14 courts across BiH

CASES MONITORED



REPORT FINDINGS

The Project's trial monitoring identified symptoms of systemic challenges at the institutional, legislative and policy level. However, initiatives are already underway to address many aspects of the issues identified in this Report. These include legislative changes, strategies, action plans, guidelines and capacity building. In Bosnia and Herzegovina, there are ongoing efforts to enhance transparency, to improve the performance management system and to strengthen accountability. These are substantial investments that with sustained efforts can lead to progress.

The main identified areas for further improvement relate to:



LEGAL ACTS

- ▶ quality of indictments
- ▶ reasoning in verdicts
- ▶ reference to case law
- ▶ mechanisms to ensure uniform application of the law



TRANSPARENCY

- ▶ consistency in publication of indictments & verdicts
- ▶ communication with the public about progress in processing OCC cases



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LENGTH OF PROCEEDINGS

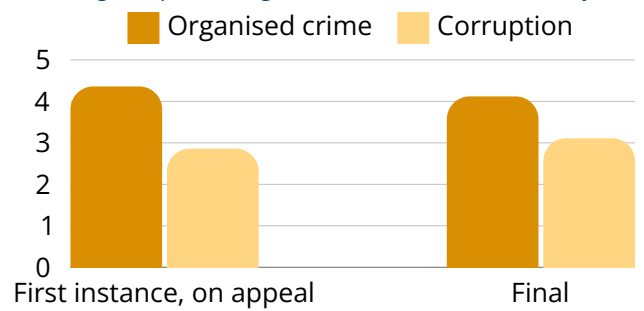
- ▶ trial management practices
- ▶ frequency of hearings
- ▶ efficient use of hearings
- ▶ accountability for delays



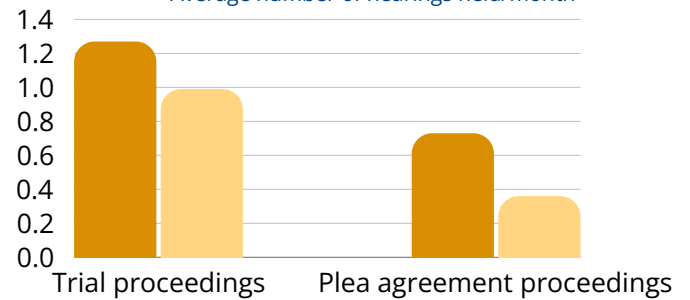
ASSET FORFEITURE

- ▶ use of measures to freeze assets
- ▶ access to timely information on assets & financial data
- ▶ requests for confiscation

Length of proceedings from indictment to verdict, in years



Average number of hearings held/month



SENTENCING

- ▶ well reasoned and proportionate sentences
- ▶ use of provisions on substitution of imprisonment with a fine
- ▶ strategic use of plea agreements

 44% of defendants received suspended sentence & 38% 12 months or less



WAY FORWARD

TRACK RECORD

Create preconditions for an effective track-record in combatting OCC.

IMPACT

Aim for changes that make an immediate difference.

BUY-IN

Address resistance to change, accounting for operational practices and working cultures.



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IMPROVE EFFICIENCY OF PROCEEDINGS

by adopting guidelines on trial management; leveraging policy tools to require prioritization of high-level or complex OCC cases; and ensuring accountability for efficient processing of all OCC cases.



IMPROVE TRANSPARENCY

by uniformly implementing guidelines on the publication of judicial acts and the schedule of hearings; and timely responding to requests for information.



IMPROVE INDICTMENTS & VERDICTS

by enhancing and uniformly applying provisions on review of indictments within prosecutor's offices; providing clear, individualized reasoning for sentences imposed in verdicts; and promoting the specialization of judges and prosecutors.



INCREASE USE OF FINANCIAL INVESTIGATIONS & ASSET FORFEITURE

by ensuring that prosecutor's offices have access to specialized financial experts; and updating binding instructions on conducting financial investigations to address freezing and confiscating illegal gain.



INCREASE STRATEGIC USE OF PLEA AGREEMENTS

by revising prosecutorial guidelines on plea agreements in OCC cases; and introducing provisions on co-operation of the defendant within the provision on plea agreements.

