



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

## Country: Bosnia and Herzegovina

### National correspondent

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## 1. Demographic and economic data

### 1. 1. General information

#### 1. 1. 1. Inhabitants and economic information

##### 1) Number of inhabitants

3842762

##### 2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	364551111
Regional / entity level	3553989866

##### 3) Per capita GDP (in €)

2536

##### 4) Average gross annual salary (in €)

5332

##### 5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2007

1,955830

#### Please indicate the sources for the questions 1 to 4

1) <http://www.bhas.ba/eng/Default.asp?> (estimation 30.6.2006)

2) <http://www.cbbh.ba/index.php?id=30&lang=en>

State level expenditures include: B&H government.

Regional/entity level expenditures include: Entity Federation of BiH Government, Entity Republika Srpska Government, Cantons, municipalities, social security funds and PE for road reconstruction and maintenance.

Consolidated expenditures of whole Bosnia and Herzegovina: 3858208536 €.

3) <http://www.bhas.ba/eng/Default.asp?>

4) Agency for statistics of Bosnia and Herzegovina

### 1. 2. Budgetary data concerning judicial system

#### 1. 2. 2. Budget (courts, public prosecution, legal aid, fees)

##### 6) Total annual approved budget allocated to all courts (in €)

66899635

##### 7) Please specify

This figure represents formally approved budget of: state Court of Bosnia and Herzegovina, entity Supreme Courts, second instance Cantonal/District Courts, first instance Municipal/Basic Courts, Minor Offence Courts and

entity Judicial and Prosecutorial Training Centers.

**8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned**

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	40931066
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	602275
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	3277073
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	5600600
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	305210
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	749488
Other (please specify):	<input type="checkbox"/> Yes	

**9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?**

Yes

No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years)

In 2002–2006 period judiciary budget which includes only Courts, has been increased by 28%, as of 51.811.260 € in 2002 to 66.338.496 € in 2006. The major increase in relation to previous year was in 2004(24%). In 2005, Court budgets decreased by 6% comparing to the previous year.

**10) In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:**

for criminal cases?

for other than criminal cases?

If yes, are there exceptions? Please specify:

The following litigants are exempted from paying a court fee to start a proceeding: state organs, humanitarian organizations and persons receiving social aid.

In following cases, a court tax to start a proceeding is paid upon conclusion of proceedings only in case if a final and valid court decision is not in favour of a litigant who started a proceeding: administrative disputes, health, pension and disability disputes, custody, adoption and social care.

The Court may decide to exempt a litigant from paying a Court tax for a foreign national if it is provided in the international agreement or if there is reciprocity between the states concerned.

**11) If yes, please specify the annual income of court fees (or taxes) received by the State (in €)**

24261154

**12) Total annual approved budget allocated to the whole justice system (in €)**

125125032

**13) Total annual approved public budget allocated to legal aid (in €)**

1606129

**14) If possible, please specify**

	the annual public budget allocated to legal aid in criminal cases	the annual public budget allocated to legal aid in other court cases
Amount		

**15) Is the public budget allocated to legal aid included in the court budget ?**

Yes

No

**16) Total annual approved public budget allocated to the public prosecution system (in €)**

16144684

**17) Is the budget allocated to the public prosecution included in the court budget?**

Yes

No

**18) Authorities formally responsible for the budget allocated to the courts:**

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other ministry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Parliament	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial Council	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inspection body				

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):**

In the preparation of total court budget Ministry of Finance is formally responsible as well as management and allocation of the budget among individual courts and evaluation of the use of the budget at the national level.

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

2) State level expenditures include, B&H government.

Regional/entity level expenditures include: Entity Federation of BiH Government, Entity Republika Srpska Government, Cantons, municipalities, social security funds and PE for road reconstruction and maintenance. Consolidated expenditures of whole Bosnia and Herzegovina: 3861276287 €.

8) These figures show budget amounts of all courts mentioned in question 7 excluding Minor offence courts because of unavailability of data.

All items are included in court budget, but just one of them have separate line in published approved budget:

- Annual public budget allocated to gross salaries.

Costs of other items are calculated using the budget execution reports as the best possible estimation.

Annual public budget allocated to (gross) salaries is calculated as sum of net salaries and all taxes and contributions paid by the employer.

Annual public budget allocated to computerization is calculated as sum of gross salaries and benefits of IT staff, costs for purchase of computer equipment and material, and computer services.

Annual public budget allocated to justice expenses is calculated as sum of two items: costs of expertise, witnesses and juries, layers costs for mandatory defense, costs for layers for indigent persons, and legal services.

Annual public budget allocated to court buildings is calculated as sum of cost for energy, communal costs, rent and insurance of the buildings, current maintenance and reconstruction and investment maintenance.

Annual public allocated to investments in new (court) buildings. This amount included only budget lines regarding the completely new buildings. Budget line relating to reconstruction and investments to existing buildings is included in previous item.

Annual public budget allocated to training and education is sum of following expenses: purchasing in educational material and literature and educational services used by courts. Approved budget of specialized court and prosecutor training centers are also included in this amount.

12) The figure mentioned above represents sum of approved budgets for following institutions: all Courts (excluding Constitutional Courts), Prosecutor Offices, High Judicial and Prosecutor Council, Judicial and Prosecutorial Training Centers, Ministries of Justice, Court police, Prisons, two institutions specialized for legal aid at regional level and Independent Judiciary commission of Brcko District.

13) This amount is calculated as sum of:

Costs registered in budget execution reports of all courts and prosecutor offices

The total adopted budget for two institutions specialized for legal aid at regional level.

Two budget lines from budget executions reports are used for calculating the amount:

Lawyers costs for indigent accused persons

Lawyers costs in cases of a mandatory defense.

18) The Ministry of Finance and the Ministry of Justice send guidelines for budget preparation to all budget users. The High Judicial and Prosecutor Council estimates the funds necessary for each individual court, and judiciary as a whole, and also sends guidelines to all courts and prosecutor offices. Using these guidelines, courts make their individual budget requests and send them to the government.

Governments collect budget proposals from all budget users, make the final proposal of the entire budget and send it to parliament for adoption. The formally approved budget provides funds for separate budget users, and judiciary as a whole.

The management and allocation of budgets is entirely under the responsibility of ministries.

The Ministry of Finance reports on the budget execution and evaluation of the use of funds to the Parliament.

The Parliament formally adopts the report on budget execution. The High Judicial and Prosecutor Council also collects and analyzes budget execution reports from all courts and prosecutor offices. It should be emphasized that budget for the Justice system is adopted at 3 different levels by 14 parliaments.

**Please indicate the sources for the questions 6, 7, 13 et 16**

- 6) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department
- 7) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department
- 13) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department
- 16) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department

## 2. Access to justice

### 2. 1. Legal aid

#### 2. 1. 1. Principles

#### 20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Legal advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

#### 21) If other, please specify (in regards to question 20):

#### 22) Does legal aid foresee the covering or the exoneration of court fees?

- Yes  
 No

If yes, please specify:

There are 4 Civil Procedure Codes applicable within Bosnia and Herzegovina. They all provide that the court shall exempt a party from paying the costs of the proceedings if, according to his/her general financial situation, the party cannot compensate the costs without jeopardizing the necessary support of him/herself and his/her family. Exemption from paying the costs of the proceedings shall include exemption from paying fees, depositing advance payment for the costs of witnesses, experts, investigation and court advertisements.

However, only in one of the 4 codes it is provided that when a party is entirely exempted from paying the costs of the proceedings, the first instance court shall, at the party's request, order that he/she be represented by a lawyer, if necessary for the protection of the party's rights. Other codes do not contain such a provision

#### 23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?

- Yes  
 No

If yes, please specify:

#### 24) Number of cases granted with legal aid provided by (national, regional, local) public authorities:

	Number
Total	000
Criminal cases	000



Other than criminal cases

000

**25) In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?**

- Yes  
 No

**26) Does your country have an income and asset test for granting legal aid:**

	No	Yes	Amount
for criminal cases?	X		
for other than criminal cases?	X		

**27) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?**

- Yes  
 No

**28) If yes, is the decision for granting or refusing legal aid taken by:**

- the court?  
 an authority external to the court?  
 a mixed decision-making authority (court and external)?

**29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?**

- Yes  
 No

Please specify:

**30) Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:**

	yes	no
criminal cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
other than criminal cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

In criminal cases when the court finds the accused guilty, the accused must reimburse the costs of criminal proceedings.

The court may relieve the accused of the duty to reimburse all or part of the costs of criminal proceedings if their payment would jeopardize the support of the accused or of persons whom the accused is required to support economically.

When criminal proceedings are dismissed or when a verdict is rendered that acquits the accused or rejects the charge, the decision or verdict pronounces that the costs of criminal proceedings and the necessary expenditures of the accused and the necessary expenditures and remuneration of defense attorney are paid from budget appropriations.

In other than criminal cases, the party that has lost the litigation in its entirety shall cover the winning party's costs. If the party was partially successful, the court may, depending on the success in the proceedings, order each party to cover its own costs, or one party to cover a proportionate part of other party's costs. The court may decide that a party covers all the costs of the adverse party, if the adverse party failed to succeed in small part of his/her claim only and no separate costs were incurred in connection to that part of the claim. Regardless of the outcome of the proceedings, a party is obliged to reimburse the costs of the adverse party which have been incurred by his/her fault or incident that happened to him/her. Each party shall bear his/her own costs if the litigation has been terminated by a judicial settlement, and the settlement does not state otherwise.

In two regions of BiH, which cover approximately 5% of population, there are two government departments that provide free legal aid to those who cannot afford to pay for legal representation or advice. Also, there is a non-governmental organization called Vaša prava "Your Rights", which has its offices throughout the country and which provide a free legal aid to all those who cannot afford it.

**Please indicate the sources for the questions 24 and 26**

## 2. 2. Users of the courts and victims

### 2. 2. 1. Rights of the users and victims

**31) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to (Please specify the Internet addresses):**

legal texts  yes

(e.g. codes, laws, regulations, etc.)?  
<http://www.hjpc.ba/> <http://www.fbihvlada.gov.ba/index.html>  
<http://www.vladars.net/lt/zakoni>,  
<http://www.narodnaskupstinars.net/lat/zakoni/arhiva.php>,  
[http://www.bdcentral.net/Members/skupstina/Zakoni/zakoni\\_html](http://www.bdcentral.net/Members/skupstina/Zakoni/zakoni_html)

case-law of the higher court/s?  yes

<http://www.hjpc.ba/> <http://www.fbihvlada.gov.ba/index.html>  
<http://www.vladars.net/lt/zakoni>,  
<http://www.narodnaskupstinars.net/lat/zakoni/arhiva.php>,  
[http://www.bdcentral.net/Members/skupstina/Zakoni/zakoni\\_html](http://www.bdcentral.net/Members/skupstina/Zakoni/zakoni_html)

other documents (for example)  yes

forms)?

**32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?**

- Yes  
 No

If yes, please specify:

**33) Is there a public and free-of-charge specific information system to inform and to help victims of crimes?**

- Yes  
 No

If yes, please specify:

**34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:**

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Victims of terrorism	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Children/Witnesses/Victims	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Victims of domestic violence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Ethnic minorities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disabled persons	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Juvenile offenders	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other				

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**35) Does your country have a compensation procedure for victims of crimes?**

- Yes  
 No

**36) If yes, does this compensation procedure consist in:**

- a public fund?  
 a court decision?  
 private fund?

If yes, which kind of cases does this procedure concern?

A claim under property law that has arisen because of the commission of a criminal offense is deliberated on the motion of a victim in criminal proceedings if this would not considerably prolong such proceedings. A claim under property law may pertain to reimbursement of damage, recovery of items, or annulment of a particular legal transaction.

**37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?**

- Yes  
 No

If yes, please specify:

**38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?**

- Yes  
 No

If yes, please specify:

The Criminal Procedure Code provide that the term "victim" refers to a person whose personal or property rights have been threatened or violated by a criminal offense. It is also provided that the victim being examined as the witness by the prosecutor shall be asked about his desires with respect to satisfaction of a property claim in the criminal proceedings. In addition to that the prosecutor has a duty to gather evidence and conduct the investigation necessary to decide whether the possible claim under property law of a victim is relevant to the criminal offense.

The Law on Protection of Witnesses under Threat and Jeopardized Witnesses provides that the jeopardized witness inter alia is a witness who has been physically or psychologically traumatized by circumstances of the criminal act. The prosecutor is obliged to inform the jeopardized witness about measures of the protection provided in the law. Also, during the investigation the prosecutor is obliged upon prior consent of the jeopardized witness to inform the social welfare center about participation of the jeopardized witness in the criminal proceedings in order to enable the center to provide legal and psychological support to the witness which could include presence of the expert persons during the proceedings.

**39) Do victims of crimes have the right to contest a decision of the public prosecution to discontinue a case?**

- Yes  
 No

If yes, please specify:

According to relevant provisions of the Criminal Procedure Code, a prosecutor is obliged to inform the injured party and the person who reported the offence within three (3) days of the fact that the investigation shall not be conducted, as well as the reasons for not doing so. The injured party and the person who reported the offence have a right to file a complaint with the prosecutor's office within eight (8) days. However, the prosecutor's office makes a final decision about the discontinuation of the case, and the victim has no other legal remedy against such a decision of the prosecutor's office.

## 2. 2. 2. Confidence of citizens in their justice system

**40) Is there a system for compensating users in the following circumstances:**

- excessive length of proceedings?  
 non execution of court decisions?  
 wrongful arrest?  
 wrongful condemnation?

If yes, please specify (fund, daily tariff):

Wrongful arrest - a person is entitled to compensation of damages in following cases (i) who was in detention, but criminal proceedings were not instituted or proceedings were dismissed or a final verdict was pronounced acquitting the person of charges or charges were rejected, (ii) a person who was subjected to unlawful detention or retained in detention or a correctional institution due to a mistake, (iii) a person who was in detention longer than the sentence to which he was convicted, (iv) a person who served a sentence of imprisonment, and was pronounced a shorter imprisonment sentence in reopened criminal proceedings than the sentence he had served, or was pronounced a criminal sanction other than imprisonment or he was pronounced guilty but freed from sanction, (v) a person who was imprisoned without a legal ground is entitled to

compensation of damages if no pre-trial detention was ordered against him or the time for which he was imprisoned was not included in the sentence pronounced for a criminal offense or minor offense.

Wrongful condemnation - A person against whom an effective criminal sanction was pronounced or who was found guilty and freed from sanction, and later, based on extraordinary remedy, reopened proceedings were effectively dismissed or effective verdict was pronounced acquitting the person of charges, or the charges were rejected, is entitled to compensation of damages on grounds of unjust convicted, except in the following cases: (i) if the dismissal of proceedings or the verdict rejecting the charges resulted from the prosecutor dismissing the prosecution in the reopened proceedings, and the dismissal took place based on an agreement with the suspect or the accused, (ii) if in the reopened proceedings a verdict was pronounced rejecting the charges due to lack of jurisdiction of the court, and the authorized prosecutor instituted prosecution before a competent court.

When calculating the compensation, there are no provisions regulating the amount per day of unjustified detention or condemnation compensation, however, when the fine is substituted by imprisonment it is done in a way each 25 Euro started, is substituted by one day of imprisonment.

**41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction with the services delivered by the judiciary system?**

- (Satisfaction) surveys aimed at judges
- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at citizens (visitors of the court)
- (Satisfaction) surveys aimed at other clients of the courts

If possible, please specify their titles, how to find these surveys, etc:

**42) If yes, please specify:**

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	<input type="checkbox"/>	<input type="checkbox"/>
Surveys at court level	<input type="checkbox"/>	<input type="checkbox"/>

**43) Is there a national or local procedure for making complaints about the performance (for example the length of proceedings) or the functioning (for example the treatment of a case by a judge) of the judicial system?**

Yes

No

**44) If yes, please specify:**

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Higher court	<input type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>
High Council of the Judiciary	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other external organisations (e.g. Ombudsman)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Can you give information elements concerning the efficiency of this complaint procedure?**

When a complaint is filed against a judge to a court or Ministry of Justice, it is their obligation to immediately forward the complaint to the "High Council of Justice" (which in Bosnia is called "High Judicial and Prosecutorial Council"). The High Judicial and Prosecutorial Council has two years to investigate the complaint and make a final decision about it, meaning whether to initiate disciplinary proceedings or to reject it as unfounded. If a complaint is filed against a court employee, then president of the court is responsible to make a final determination about the complaint, but no time limits are given in the law. If the Ministry of Justice, after investigation upon complaint or ex officio for which there are no time limits, concludes that there are some deficiencies in administration of justice, it is responsible to inform a competent court president and/or High Judicial and Prosecutorial Council, which are then responsible to undertake measures to correct these deficiencies. If the Ministry of Justice, after investigation upon complaint or ex officio for which there are no time limits, concludes that there are some deficiencies in administration of justice, it is responsible to inform a competent court president and/or High Judicial and Prosecutorial Council, which are then responsible to undertake measures to correct these deficiencies. If the Ombudsman institution, after investigation upon complaint or ex officio for which there are no time limits, finds out that there are deficiencies in administration of justice, it can give recommendations to the court or HJPC concerned how to correct these deficiencies.

### 3. Organisation of the court system

#### 3. 1. Functioning

##### 3. 1. 1. Courts

**45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table)**

	Total number
First instance courts of general jurisdiction (legal entities)	65
Specialised first instance courts (legal entities)	0
All the courts (geographic locations)	93

**46) Please specify the different areas of specialisation (and, if possible, the number of courts concerned):**

Structure of first instance courts of general jurisdiction: 48 municipal and basic courts, 16 cantonal, district and appellate courts (first instance decisions only in some cases), 1 State Court (first instance decisions only in some cases). There are also 28 Court branches.

This figure in previous circle (66) included Appellate Court of Brcko District but didn't include two Entity Supreme Courts.

As for first instance courts of general jurisdiction, there are specialized departments within the courts that are competent to deal with specific issues. So, the following specialized departments exist: (i) department for economic disputes (total number is 15), (ii) department for registration of legal persons (15).

**47) Is there a change in the structure of the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?**

Yes

No

If yes, please specify:

**48) Number of first instance courts competent for a case concerning:**

	Number
a debt collection for small claims	48
a dismissal	48
a robbery	48



**Please specify what is meant by small claims in your country (answer only if the definition has changed compared to the previous evaluation round):**

Small claim disputes are those where the monetary claim does not exceed 1.500 Euro. Small claim disputes also include disputes which are not of pecuniary nature but for which the plaintiff has stated in the complaint that s/he will accept certain monetary sum that does not exceed the amount. Small claim disputes also include those disputes in which the main subject matter is not of pecuniary nature but the transfer of a moveable asset with value, as stated in the complaint by the plaintiff, that does not exceed the amount.

**Please indicate the sources for the question 45**

45) High Judicial and Prosecutorial Council of BiH

### 3. 1. 2. Judges, courts staff

**49) Number of professional judges sitting in courts (present the information in full time equivalent and for permanent posts)**

846

**50) Number of professional judges sitting in courts on an occasional basis and who are paid as such:**

	Number
gross figure	58
if possible, in full time equivalent	

**51) Please specify (answer only if the information has changed compared to the previous evaluation round):**

**52) Number of non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs. Please specify (answer only if the information has changed compared to the previous evaluation round):**

Number of non-professional judges: 167.

Lay judges play a role in the BiH judicial system, due to application of previous civil and criminal procedural laws that required their participation. However, most of the procedural laws changed in 2003 in a way that participation of lay judges is not required any longer, but due to a backlog of cases, their participation is still needed.

**53) Does your judicial system include trial by jury with the participation of citizens?**

Yes

No

If yes, for which type of case(s)?

**54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?**

**55) Number of non-judge staff who are working in courts (present the information in full time equivalent and for permanent posts)**

2563

**56) If possible, could you distribute this staff according to the 4 following categories:**

non-judge staff (Rechtspfleger), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input checked="" type="checkbox"/> Yes	113
non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	1138
staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input checked="" type="checkbox"/> Yes	959
technical staff	<input checked="" type="checkbox"/> Yes	353

**Please indicate the sources for the questions 49, 50, 52, 53 and 55**

49) High Judicial and Prosecutorial Council of BiH

55) High Judicial and Prosecutorial Council of BiH

### 3. 1. 3. Prosecutors

**57) Number of public prosecutors (present the information in full time equivalent and for permanent posts)**

281

**58) Do any other persons have similar duties as public prosecutors?**

Yes

No

If yes, please specify:

**59) Number of staff (non prosecutors) attached to the public prosecution service (present the information in full time equivalent and for permanent posts)**

422

**Please indicate the sources for the questions 57 and 59**

57) High Judicial and Prosecutorial Council of BiH

59) High Judicial and Prosecutorial Council of BiH

### 3. 1. 4. Budget and New technologies

**60) Who is entrusted with the individual court budget?**

	Preparation of the budget	Arbitration and allocation of the budget	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court President	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Court administrative director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Head of the court clerk office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**61) You can indicate below:**

- any useful comments for interpreting the data mentioned above

- if available an organization scheme with a description of the competencies of the different authorities responsible for the budget process in the court

The Court President is responsible for all matters regarding the preparation and management of the Court budget.

Chief Accountant also prepares Court financial plans, as well as the day to day management of the budget. Court secretary is included in defining the Court budget request.

**62) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Word processing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Electronic files	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E-mail	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Internet connection	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**63) For administration and management, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Court management information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**64) For the communication between the court and the parties, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Special Website	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other electronic communication facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**65) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary (answer only if this information has changed compared with the previous evaluation round)?**

- Yes  
 No

If yes, please specify the name and the address of this institution:

1. The High Judicial and Prosecutorial Council of BiH,  
Kraljice Jelene 88, 71000 Sarajevo, BiH.
2. Federalni zavod za statistiku, Zelenih beretki 26, 71000 Sarajevo, BiH,
3. RS Zavod za statistiku, Veljka Mla\_enovi\_a 12 d, 78000 Banja Luka, BiH.

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

**Please indicate the sources for the questions 62, 63 and 64**

- 62) The High Judicial and Prosecutorial Council of BiH - IT department  
63) The High Judicial and Prosecutorial Council of BiH - IT department  
64) The High Judicial and Prosecutorial Council of BiH - IT department

## 3. 2. Monitoring and evaluation

### 3. 2. 1. Monitoring and Evaluation

**66) Are the courts required to prepare an annual activity report?**

- Yes

No

**67) Do you have a regular monitoring system of court activities concerning the:**

- number of incoming cases?
- number of decisions?
- number of postponed cases?
- length of proceedings (timeframes)?
- other?

Please specify:

**68) Do you have a regular system to evaluate the performance of each court?**

- Yes
- No

Please specify:

Annual report of the HJPC and its annex contains relevant information in regard to performance of each court.

**69) Concerning court activities, have you defined performance indicators?**

- Yes
- No

**70) Please select the 4 main performance and quality indicators that are used for a proper functioning of courts.**

- Incoming cases

- Length of proceedings (timeframes)
- Closed cases
- Pending cases and backlogs
- Productivity of judges and court staff
- Percentage of cases that are treated by a single sitting judge
- The enforcement of penal decisions
- Satisfaction of employees of the courts
- Satisfaction of clients (regarding the services delivered by the courts)
- Judicial and organisational quality of the courts
- The costs of the judicial procedures
- Other

Please specify:

The indicator "Productivity of judges and court staff" is used only for judges.

**71) Are there performance targets defined for individual judges?**

- Yes
- No

**72) Are there performance targets defined at the level of the courts?**

- Yes
- No

**73) Please specify who is responsible for setting the targets:**

- executive power (for example the Ministry of Justice)
- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

Please specify

Each and every court prepare an Annual Work Plan setting targets for the coming year. High Judicial and Prosecutorial Council of BiH, an independent and autonomous body, is tasked with ensuring the maintenance of an independent, impartial and professional judiciary. Its competence also includes setting criteria for the performance evaluations of judges and prosecutors as well as setting criteria for the performance of courts and prosecutors offices.

**74) Please specify the main targets applied:**

**75) Which authority is responsible for the evaluation of the performances of the courts:**

- the High Council of judiciary
- the Ministry of Justice
- an Inspection authority
- the Supreme Court
- an external audit body
- other?

Other, please specify:

One of the HJPC's authorities is to evaluate performance of the courts. Presidents of courts evaluate performance of the courts, namely judges and court officials, in the end of a year.

Presidents of second instance courts evaluate performance of presidents of first instance courts annually.

**76) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?**

- Yes
- No

If yes, please specify:

Courts collect statistical information on number of annulled, cancelled and overturned decisions for each and every judge and on that basis court presidents evaluate quality of decisions and judges performance.

**77) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?**

- Yes
- No

**78) Is there a system enabling to measure the backlogs and to detect the cases which are not processed within a reasonable timeframe for:**

- civil cases?

- criminal cases?
- administrative cases?

**79) Do you have a way of analysing waiting time during court procedures?**

- Yes
- No

If yes, please specify:

**80) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?**

- Yes
- No

Please specify (including an indication of the frequency of the evaluation):

**81) Is there a system for monitoring and evaluating the functioning of the prosecution services?**

- Yes
- No

If yes, please specify:

Entity Chief Prosecutors and District Chief Prosecutors monitor and evaluate performance of prosecutors and prosecutors' offices as such.



**You can indicate below:**

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your court monitoring and evaluation system**

**Please indicate the sources for the the question 70,71, 72 and 76**

70) B&H legislation: Law on Courts in Federation BiH and Law on Courts in Republika Srpska, Law on HJPC.

71) High Judicial and Prosecutorial Council of BiH

72) High Judicial and Prosecutorial Council of BiH

76) High Judicial and Prosecutorial Council of BiH

## 4. Fair trial

### 4. 1. Principles

#### 4. 1. 1. General principles

**82) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements) ?**

0

**83) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?**

Yes

No

If possible, number of successful challenges (in a year):

N.A

**84) Please give the following data concerning the number of cases regarding Article 6 of the European Convention on Human Rights (on duration and non-execution), for the year of reference**

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)				
Civil proceedings - Article 6§1 (non-execution)			1	
Criminal proceedings - Article 6§1 (duration)				

**Please indicate the sources for the questions 82 and 84**

Sources

82) Bosnia and Herzegovina legislation

84) [http://www.echr.coe.int/NR/rdonlyres/4729C3F9-D38F-42AC-8584-BCA56E26BC5C/0/Annual\\_Report\\_2006.pdf](http://www.echr.coe.int/NR/rdonlyres/4729C3F9-D38F-42AC-8584-BCA56E26BC5C/0/Annual_Report_2006.pdf)

84) The European Court of Human Rights published its report for 2006 and provided the data for Bosnia and Herzegovina stating that one (1) judgement establishing a violation of the Article 6§1 in case of Jeličić v. Bosnia and Herzegovina (no. 41183/02, no. 90) due to Statutory prevention of enforcement of final judgment in applicant's favour.

However, the report does not contain any other particular information with regard to the Article 6§1, but contain the following general statistical information in regard to Bosnia and Herzegovina and all articles of the European Convention on Human Rights in 2006:

State - Bosnia and Herzegovina

Applications lodged - 302

Applications allocated to a decision body - 240

Applications declared inadmissible or struck out - 149

Applications referred to Government - 32

Applications declared admissible - 1

### 4. 2. Timeframes of proceedings

#### 4. 2. 1. General information

**85) Are there specific procedures for urgent matters as regards:**

- civil cases?
- criminal cases?
- administrative cases?

If yes, please specify:

**86) Are there simplified procedures for:**

- civil cases (small claims)?
- criminal cases (petty offences)?
- administrative cases?

If yes, please specify (for example if you have introduced a new law on simplified procedures):

**87) Do courts and lawyers have the possibility to conclude agreements on the modalities for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?**

- Yes
- No

If yes, please specify:

## 4. 2. 2. Penal, civil and administrative law cases

**88) Total number of cases in the first instance courts (litigious and non-litigious); (please complete the table)**

	Pending cases on 1 January 2006	Incoming cases	Decisions	Pending cases on 31 December 2006
Total of civil, commercial and administrative law cases (1-7)	1262289	763590	545157	1480722
1 Civil (and commercial) litigious cases*	259821	138598	136439	261980
2 Civil (and commercial) non-litigious cases*	54941	56542	56106	55377
3 Enforcement cases	849730	400618	170393	1079955
4 Land registry cases**	92320	143429	156231	79518
5 Business register cases**	4309	21682	23865	2126
6 Administrative law cases	1137	1639	1111	1665
7 Other	31	1082	1012	101
Total criminal cases (8+9)	416208	154320	158351	412177
8 Criminal cases (severe criminal offences)	24774	93798	93631	24941
9 Misdemeanour cases (minor offences)	391434	60522	64720	387236

**89) \* The cases mentioned in categories 3 to 5 (enforcement, land registry, business register) are excluded from this total and should be presented separately in the table. The cases mentioned in category 6 (administrative law cases) are also excluded from this total for the countries which have specialised administrative courts or units in the courts of general jurisdiction.**

**\*\* if applicable**

**Note: for the criminal law cases there may be a problem of classification of cases between severe criminal law cases and misdemeanour cases. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedure). Please indicate if possible what case categories are included under "severe criminal cases" and the cases included under "misdemeanour cases (minor offences)".**

**Explanation**

In Bosnia and Herzegovina there is no separation or classification of criminal cases into categories of severe and not severe. A criminal case is an unlawful act that is prescribed as a criminal offence by law, the characteristics of which are specified by law and for which a criminal sanction is prescribed by law.

On the other hand, a minor offence is a violation of the public order or economic and financial regulations as provided in laws.

In addition to this, a procedure for determining criminal liability is different from that of determining liability in minor offence cases.

**90) Total number of cases in the second instance (appeal) courts (litigious and non-litigious); (please complete the table)**

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil,				

commercial and administrative law cases (1-7)	29567	30988	33578	26977
1 Civil (and commercial) litigious cases*	20353	21271	22703	18921
2 Civil (and commercial) non-litigious cases*	1243	2717	3303	657
3 Enforcement cases	0	0	0	0
4 Land registry cases**	0	0	0	0
5 Business register cases**	0	0	0	0
6 Administrative law cases	7971	7000	7572	7399
7 Other	0	0	0	0
Total criminal cases (8+9)	3306	44533	43178	4661
8 Criminal cases (Severe criminal offences)	3306	44533	43178	4661
9 Misdemeanour cases (minor offences)	0	0	0	0

**91) Total number of cases in the highest instance courts (litigious and non-litigious); (please complete the table)**

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)	11664	4013	6258	9419
1 Civil (and commercial) litigious cases*	2602	2918	2684	2836
2 Civil (and commercial) non-litigious cases*	30	242	252	20
3 Enforcement cases	0	0	0	0
4 Land registry cases**	0	0	0	0
5 Business register cases**	0	0	0	0
6 Administrative law cases	9032	853	3322	6563
7 Other	0	0	0	0
Total criminal cases (8+9)	239	1173	1205	207
8 Criminal cases (Severe criminal offences)	239	1173	1205	207
9 Misdemeanour cases (minor offences)	0	0	0	0

**92) Number of divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts (complete the table)**

	Pending cases on 1 Jan. '06	Incoming cases	Decisions	Pending cases on 31 Jan. '06
Divorce cases				
Employment dismissal cases				
Robbery cases				
Intentional homicide case				

**93) Average length of proceedings (from the date of lodging of court proceedings)**

--	--	--	--	--

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance	2nd instance	Total procedure
Divorce cases					
Employment dismissal cases					
Robbery cases					
Intentional homicide					

**94) Where appropriate, please specify the specific procedure as regards divorce:**

Divorce proceedings are immediate and are to be undertaken without delay. The first and second instance courts are obliged to conduct the procedure faster than in other civil cases, and in addition to that it is an obligation for the court to have at its disposal at least one judges who is specialized for this kind of cases and who must deal with the cases. The divorce procedure could be initiated by a lawsuit or by a joint divorce suggestion.

**95) How is the length of proceedings calculated for the four case categories? (please give a description of the calculation method)**

Relevant laws contain provisions regarding deadlines for undertaking particular actions in cases, however in the vast majority of cases courts are not able to respect the given deadlines due to overwhelming number of cases.

**96) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):**

- to conduct or supervise police investigation?
- to conduct investigation?
- when necessary, to demand investigation measures from the judge?
- to charge?
- to present the case in the court?
- to propose a sentence to the judge?
- to appeal?
- to supervise the enforcement procedure?
- to end the case by dropping it without the need for a judicial decision?
- to end the case by imposing or negotiating a penalty without a judicial decision?
- other significant powers?

Please specify:

A prosecutor may withdraw the indictment without prior approval before its confirmation, and after the confirmation and before the commencement of the main trial, only with the approval of the preliminary hearing judge who confirmed the indictment

In the case, the proceeding shall be ceased by the decision, and the suspect or the accused, the defense attorney and injured party shall be promptly notified of such decision.

The suspect or the accused and the defense attorney, may negotiate with the Prosecutor on the conditions of admitting guilt for the criminal offense with which the accused is charged. An agreement on the admission of guilt shall be made in writing. The preliminary hearing judge, judge or the Panel may sustain or reject the agreement in question.

Educational recommendations may be applied to a juvenile for criminal offences for which a fine or a punishment of imprisonment for a term not exceeding three years is prescribed.

The educational recommendations may be applied to a juvenile by a competent prosecutor or judge for juvenile perpetrators.

The conditions for application of educational recommendations are: the juvenile's admission that he has perpetrated the criminal offence, and his expressed willingness to

make amends with the injured party.

**97) Does the prosecutor also have a role in civil and/or administrative cases?**

- Yes  
 No

If yes, please specify:

A prosecutor has the right to file a request for protection of legality if the prosecutor deems that the ruling violates the law, against the valid ruling issued in the area where an administrative lawsuit can not be conducted, and the judicial protection is not provided outside the administrative lawsuit.

The request for protection of legality under the provision may be filed within 30 days from the day when the ruling was submitted to the prosecutor, and if it was not submitted, then within the period of three months from the day of submission to the party.

In addition to this, and in the process of registration of legal entities, a prosecutor has a right to file a Request for protection of legality if the substantive law has been applied incorrectly and if the rules of procedure have been seriously violated. The prosecutor is able to file a request for the protection of legality if the registration subject that has already been registered with the court and is registering with a different court, and the first registering court has not conducted the prescribed procedure. The prosecutor is able to file a request for protection of legality against a valid decision on the court registration within 60 days.

**98) Functions of the public prosecutor in relation to criminal cases – please complete this table:**

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	71435	0	0	0	2280	18507

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years

98) There are 24948 cases in general discontinued by the public prosecutor, but we do not have precise data about its structure or reasons.

**Please indicate the sources for the questions 92 to 94 and question 98**

98) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department

92) and 93) The data for 2006 are not available. HJPC included these questions in 2007 Court performance collection forms in order to submit requested data for next 2006-2008circle.

## 5. Career of judges and prosecutors

### 5. 1. Appointment and training

#### 5. 1. 1. Recrutement, nomination and promotion

#### 99) How are judges recruited?

- Through a competitive exam (for instance after a law degree)?
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

If other, please specify:

#### 100) Are judges initially/at the beginning of their carrier recruited and nominated by:

- an authority composed of judges only?
- an authority composed of non-judges only?
- an authority composed of judges and non-judges?

#### 101) Is the same authority competent for the promotion of judges?

- Yes
- No

If no, please specify which authority is competent for promoting judges:



**102) Which procedures and criteria are used for promoting judges? (please specify).**

Professional knowledge, work experience and performance, Capacity through academic written works and other professional activities, Professional ability based on previous career results, including participation in organized forms of training, Work capability and capacity for analyzing legal problems, Ability to perform impartially, conscientiously, diligently, decisively, and responsibly the duties of the office for which he or she is being considered, Communication abilities and relations with colleagues, conduct out of office, integrity and reputation.

**103) How are prosecutors recruited?**

- Through a competitive exam? (for example after a law degree)
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

If other, please specify:

**104) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:**

- an authority composed of prosecutors only?
- an authority composed of non-prosecutors only?
- an authority composed of prosecutors and non-prosecutors?

**105) Is the same authority formally responsible for the promotion of prosecutors?**

- Yes
- No

If no, please specify which authority is competent for promoting prosecutors.

**106) Which procedures and criteria are used for promoting prosecutors (please specify)**

Professional knowledge, work experience and performance, Capacity through academic written works and other professional activities, Professional ability based on previous career results, including participation in organized forms of training, Work capability and capacity for analyzing legal problems, Ability to perform impartially, conscientiously, diligently, decisively, and responsibly the duties of the office for which he or she is being considered, Communication abilities and relations with colleagues, conduct out of office, integrity and reputation.

**107) Is the mandate given for an undetermined period for judges ?**

Yes

No

Are there exceptions? Please specify:

There is only one exception. The High Judicial and Prosecutorial Council of BiH may appoint persons on a temporary basis to act as reserve judges, in order to assist courts in reducing case backlogs, or where the prolonged absence of a judge in a court requires additional judicial resources. The Council may appoint reserve judges upon application by the president of a court, provided the application is supported by evidence indicating the need and sufficient funding for the reserve judges.

**108) Is the mandate given for an undetermined period for prosecutors?**

Yes

No

Are there exceptions? Please specify:

**109) If no, what is the length of the mandate?**

**Is it renewable?**

for judges

yes, please specify the length

for prosecutors

yes, please specify the length

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

Selection and nomination of judges and prosecutors is conducted by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, which is an independent and autonomous organ of Bosnia and Herzegovina tasked to ensure maintenance of an independent, impartial and professional judiciary. The Council consists of fifteen (15) members out of which 5 are judges of different levels, 6 are prosecutors of different levels, 2 are lawyers

and 2 are representatives of legislative and executive branch of the government.

Criteria for selection and nomination of judges and prosecutors is objective to a large extent, and only individuals possessing integrity, high moral standing, and demonstrated professional ability with the appropriate training and qualifications could be appointed to a position of a judge or prosecutor. Selection and appointment procedure is initiated by a public announcement of vacant positions, conducted by the HJPC, and is published throughout Bosnia and Herzegovina. A competitive examination of applicants could be consisted of a written test, while no person is eligible for appointment to judicial or prosecutorial office without having been interviewed.

Each applicant has a right to review his or her application materials provided to the HJPC in regard to his or her applications, to request and receive information, subject to confidentiality, regarding the application and appointment procedure, to review and comment upon any opinion regarding the applicant submitted to the HJPC, and to address comments to the HJPC about a matter affecting the applicant's application.

In making decisions on appointment, the Council shall take into account, amongst others, the following criteria: (i) professional knowledge, work experience and performance, (ii) work capability and capacity for analysing legal problems, (iii) ability to perform impartially, conscientiously, diligently, decisively, and responsibly the duties of the office for which he or she is being considered, (iv) communication abilities, (v) relations with colleagues, conduct out of office, integrity and reputation, (vi) Managerial experience and qualifications, in relation to the positions of court president, chief prosecutor and deputy chief prosecutor.

### 5. 1. 2. Training

#### 110) Nature of the training of judges.

##### Is it compulsory?

- Initial training
- General in-service training
- In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
- In-service training for management functions of the court (e.g. court president, court managers)
- In-service training for the use of computer facilities in the court

#### 111) Frequency of the training of judges:

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
In-service training for specialised judicial functions	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
In-service training for management functions of the court	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
In-service training for the use of computer facilities in the court	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### 112) Nature of the training of prosecutors.

##### Is it compulsory?

- Initial training
- General in-service training
- Specialised in-service training (e.g. specialised public prosecutor)

- In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- In-service training for the use of computer facilities in the public prosecution service

### 113) Frequency of the training of prosecutors:

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Specialised in-service training	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
In-service training for management functions of the prosecution services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the public prosecution service	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You can indicate below:

- any useful comments for interpreting the data mentioned above
- comments regarding the attention given to the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that have been implemented over the last two years

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina is in charge for controlling the training for judges and prosecutors, but on the other hand three Centres for Judicial and Prosecutorial Training are empowered with carrying out the training.

The HJPC (i) determines the induction training for candidates chosen for judicial and prosecutorial office and supervise the provision of such training, (ii) determines the minimum amount of advanced professional training to be undertaken by every judge and prosecutor each year, (iii) supervise the advanced professional training of judges and prosecutors and advise the Centres for Judicial and Prosecutorial Training in adoption of programmes of advanced professional training for judges and prosecutors, (iv) approve the annual report of the Steering Boards of the Judicial and Prosecutorial Training Centres insofar as it relates to the induction training and the advanced professional training of judges and prosecutors.

If a judge or prosecutor failed to fulfil any mandatory training obligations or any other obligations imposed by law, by that he/she commits a disciplinary offence for which a disciplinary measure could be imposed by the HJPC.

## 5. 2. Practice of the profession

### 5. 2. 1. Salaries

#### 114) Salaries of judges and prosecutors (complete the table)

	Gross annual salary (euro)	Net annual salary (euro)
First instance professional judge at the beginning of his/her career	24024	14946
Judge of the Supreme Court or the Highest Appellate Court	41223	25646
Public prosecutor at the beginning of his/her career	24024	14946
Public prosecutor of	41223	25646

the Supreme Court or the Highest Appellate Instance	
---	--

**115) Do judges and public prosecutors have additional benefits?**

	Judges	Prosecutors
Reduced taxation	<input type="checkbox"/>	<input type="checkbox"/>
Special pension	<input type="checkbox"/>	<input type="checkbox"/>
Housing	<input type="checkbox"/>	<input type="checkbox"/>
Other financial benefit	<input type="checkbox"/>	<input type="checkbox"/>

**116) If other financial benefit, please specify:****117) Can judges combine their work with any of the following other professions?**

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**118) If other function, please specify:****119) Can prosecutors combine their work with any of the following other professions?**

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**120) If other function, please specify:****121) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

- Yes
- No

If yes, please specify:

**Please indicate the source for the question 114**

114) Bosnia and Herzegovina legislation

In this calculation following assumptions were used:

- First instance professional judge at the beginning of his/her career – 3 years of work experience
- Judge of the Supreme Court or the Highest Appellate Court – 20 years of work experience
- Public prosecutor at the beginning of his/her career – 3 years of work experience
- Public prosecutor of the Supreme Court or the Highest Appellate Instance – 20 years of work experience.

5. 2. 2. Disciplinary procedures

**122) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:**

Office of the Disciplinary Counsel of the HJPC.

The Office of the Disciplinary Counsel, an office within the Council, performs prosecutorial functions concerning allegations of misconduct against judges and prosecutors. The Office of the Disciplinary Counsel acts upon a complaint or upon its own initiative and is responsible for evaluating complaints for legal sufficiency, investigating allegations of misconduct against judges and prosecutors, and initiating and presenting cases of disciplinary violations before the disciplinary panels of the Council.

**123) Which authority has the disciplinary power on judges and prosecutors? Please specify:**

High Judicial and Prosecutorial Council.

The Council exercises its disciplinary powers through its disciplinary bodies, or namely the First and Second Instance Disciplinary Panels and may impose one or more of the disciplinary measures ranging from a written warning which shall not be made public to a removal from office. The President of the Council appoints the members of the First and Second Instance Disciplinary Panels. In disciplinary proceedings against judges, a majority of members of the Panel, at both First and Second Instance, are judges. In disciplinary proceedings against prosecutors, a majority of members of the Panel, at both First and Second Instance, are prosecutors.

**124) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of disciplinary proceedings initiated**

	Judges	Prosecutors
Total number (1+2+3+4)	17	
1. Breach of professional ethics	17	
2. Criminal offence		

3. Professional inadequacy		
4. Other		

**125) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of sanctions pronounced**

	Judges	Prosecutors
Total number (total 1 to 9)	20	
1. Reprimand	4	
2. Suspension	3	
3. Withdrawal of cases	1	
4. Fine		
5. Temporary reduction of salary	5	
6. Degradation of post		
7. Transfer to another geographical (court) location		
8. Dismissal		
9. Other	7	

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years

125) Suspensions and Withdrawals of cases are not sanctions in our disciplinary system

## 6. Lawyers

### 6. 1. Statute of the profession

#### 6. 1. 1. Profession

#### 126) Total number of lawyers practising in your country

1241

#### 127) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?

- Yes  
 No

#### 128) Number of legal advisors?

N.A.P

#### 129) Do lawyers have a monopoly of representation:

- Civil cases\*  
 Criminal cases - Defendant\*  
 Criminal cases - Victim\*  
 Administrative cases\*

\* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases.

According to the Criminal Procedure Law a defense attorney of the defendant may be a lawyer who is a member of the Bar Association or a legal representative who is an employee of governmental institutions (legal aid offices) and who had passed a bar exam and have at least three years of legal experience after the exam.

According to the Law on civil procedure a party's representative may be an attorney, a law firm or an employee of the service for free legal aid, as well as - for legal entities - an employee of that legal entity, or - for natural persons - party's spouse, life partner or relative by blood or by marriage.

According to the Law on administrative disputes, relevant provisions of the Civil Procedure Law apply to administrative disputes, including those about representation of the parties.

#### 130) Is the lawyer profession organised through:

- a national Bar?  
 a regional Bar?  
 a local Bar?

Please specify:

There are two entity bar associations in Bosnia, one in the Federation of BiH and other in the Republic of Srpska, while there is no a unified national bar as such.



The Federation of BiH Bar Association consists of five local bar associations, while RS Bar Association is not divided into local associations.

**Please indicate the source for the question 126**

126) two regional bar associations(<http://www.advokatska.com/>, <http://www.advokombih.ba/>)

### 6. 1. 2. Training

**131) Is there a specific initial training and/or examination to enter the profession of lawyer?**

- Yes
- No

**132) Is there a mandatory general system for lawyers requiring continuing professional training?**

- Yes
- No

**133) Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?**

- Yes
- No

If yes, please specify:

### 6. 1. 3. Fees

**134) Can users establish easily what the lawyers' fees will be?**

- Yes
- No

**135) Are lawyers fees:**

- regulated by law?
- regulated by the Bar association?
- freely negotiated?

**6. 2. Evaluation****6. 2. 1. Complaints and sanctions****136) Have quality standards been formulated for lawyers?**

- Yes
- No

**137) If yes, who is responsible for formulating these quality standards:**

- the Bar association?
- the legislature?
- other?

Please specify (including a description of the quality criteria used):

**138) Is it possible to complain about :**

- the performance of lawyers?
- the amount of fees?

Please specify:

Any person may file a complaint against a lawyer. There are four aggravated offences of lawyer, one of which is a violation of professional secrecy and the other one is asking for a fee higher then given in the Tariff or in a contract between the lawyer and his client. In addition to this, complainants may complain about any other behaviour or performance of a lawyer, and these violations are considered as less serious offences, but they are not enumerated in advance.

**139) Which authority is responsible for disciplinary procedures:**

- the judge?
- the Ministry of Justice?
- a professional authority or other?

Please specify:

Disciplinary procedure is initiated by a Disciplinary Prosecutor, who is a member of the Bar Association, and the decision about a disciplinary offence of a lawyer is rendered by a disciplinary court, whose members could only be members of the bar association.

**140) Disciplinary proceedings and sanctions against lawyers:****Disciplinary proceedings initiated**

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	41			

**141) Disciplinary proceedings and sanctions against lawyers:****Sanctions pronounced**

	Reprimand	Suspension	Removal	Fine	Other
Annual number	1				

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

140) and 141) The above information pertain to lawyers of the Republika Srpska Bar Association that provided information about disciplinary proceedings in 2006, while the Federation of Bosnia and Herzegovina Bar Association refused to provide relevant information.

## 7. Alternative Dispute Resolution

### 7. 1. Mediation and other forms of ADR

#### 7. 1. 1. Mediation

**142) If appropriate, please specify, by type of cases, the organisation of judicial mediation:**

	Possibility of private mediation or court annexed mediation	Private mediator	Public authority	Judge	Prosecutor
Civil and commercial cases	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family law cases (ex. Divorce)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment dismissals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal cases	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**143) Is there a possibility to receive legal aid for mediation procedures?**

Yes

No

If yes, please specify:

**144) Can you provide information about the number of accredited mediators?**

Yes

No

If yes, please provide the number of mediators:

33

**145) Can you provide information about the total number of judicial mediation procedures concerning:**

civil cases?

yes,  
number: 352

family cases?

yes,  
number:

administrative cases?

yes,  
number:

employment dismissals?	<input checked="" type="checkbox"/> yes, number:	198
criminal cases?	<input type="checkbox"/> yes, number:	

### Please indicate the source for the question 145

145) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department

For this question the source is HJPC statistical collection forms for 2006.

The data received from AOMBiH are for the period from the 1st of May 2004 till September 30th 2007 according to answer from the AOMBiH, there were 389 mediations in civil cases, and 236 mediations in employment dismissal.

### 7. 1. 2. Other forms of alternative dispute resolution

#### 146) Can you give information concerning other forms of alternative dispute resolution (e.g. Arbitration, conciliation)? Please specify:

In civil cases, parties may agree to entrust the resolution of the disputes on to the arbitration. An arbitration agreement may be concluded with an existing dispute or on future possible disputes that could stem from certain legal relation. An arbitration agreement is considered legitimately concluded also when the provision on jurisdiction of the arbitration board is embodied in the general requirements for the conclusion of legal business. If the parties have agreed to entrust the resolution of the certain dispute to the arbitration, the court which received the complaint concerning the same dispute among the same parties proclaims itself incompetent upon the defendant's objection, revoke actions commenced in the proceedings and dismiss the complaint.

Unless the possibility of contesting the arbitration award before a higher instance arbitration board has been envisaged by the arbitration agreement, the arbitration award is considered final for the parties. An arbitration award may be annulled upon the party's complaint requesting the annulment of the arbitration award filed with the competent court in certain cases provided in the law.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

142) AoMBiH is an association of citizens – nongovernmental organisation. Administrative work related to mediations is performed by the AoMBiH, while mediations are provided by private mediators, registered by the AoMBiH

142) and 143) Employment dismissals – Mediated cases were related mostly to unpaid salaries to the employees of state owned companies, unpaid social and pension benefits or in some cases dismissals.

142) Criminal Cases – Matters that can come to mediation are only damage claims related to criminal acts (Laws on Criminal Procedure of Federation BiH and of Republika Srpska).

Mediation is regulated as a dispute resolution by the Laws on Civil Procedure on a state level of BiH and entity levels of Republika Srpska and Federation of BiH and Laws on Criminal Procedure on entity levels. On June 29th 2004 The Parliamentary Assembly of BiH adopted the Law on Mediation Procedure in BiH (Official gazette of BiH, 37/04). According to the Law mediation in BiH is a voluntary and out of court dispute resolution. Parties pay fee for mediation to the authorised association. The Law mentioned association of mediators will be authorised to perform mediation services by a separate law. Since, it was not regulated which association that will be, the law was inapplicable. Despite this fact, The AoMBiH in cooperation with the International Finance Corporation implemented the mediation pilot project in two major cities in the country, where more than 600 cases were mediated in the period mid 2004 – mid 2007. Cases from two municipal courts (Banja Luka and Sarajevo) were mediated out of court by pilot project mediators and upon settlement the parties would be addressed to court to sign the court settlement.

On July 28th 2005 The Assembly passed The Law on Transfer of Mediation Activities to the AoMBiH (Official gazette of BiH, 52/05), by which The AoMBiH became authorised for providing of mediation services in the country. Major events since then were drafting the Mediation Rules by the Association of Mediators in 2006 (Official Gazette 21/06) and registration of first 33 mediators in May 2007. After that mediation is implemented countrywide in cases referred from the court and those that ask for mediation before the court proceedings. There were 7 mediations held according to the new procedures in 5 towns of the country. The next challenge

with regards to mediation in BiH is that it should be promoted to the courts / judges countrywide in order that they set up administrative procedures in all the courts to refer cases to mediation and to the lawyers and general public in order to increase number of cases coming from the community.

Further information on mediation in BiH is available on the website of the AoM BiH - [www.umbih.co.ba](http://www.umbih.co.ba)

145) For this question the source is HJPC statistical collection forms for 2006.

The data received from AOMBiH are for the period from the 1st of May 2004 till September 30th 2007. According to answer from the AOMBiH, there were 389 mediations in civil cases, and 236 mediations in employment dismissal.

## 8. Enforcement of court decisions

### 8. 1. Execution of decisions in civil matters

#### 8. 1. 1. Functioning

#### 147) Number of enforcement agents

142

#### 148) Are enforcement agents:

- judges?
- bailiff practising as private profession ruled by public authorities?
- bailiff working in a public institution?
- other enforcement agents?

Please specify their status:

Court referee denotes a court official who on the court's order directly undertakes certain acts set forth in the enforcement procedure.

#### 149) Is there a specific initial training or examination to enter the profession of enforcement agent?

- Yes
- No

#### 150) Is the profession of enforcement agent organised by?

- a national body?
- a regional body?
- a local body?

#### 151) Can users establish easily what the fees of the enforcement agents will be?

- Yes
- No

#### 152) Are enforcement fees:

- regulated by law?  
 freely negotiated?

**Please indicate the source for the question 147**

147) High Judicial and Prosecutorial Council of BiH – Budget and Statistics Department

**8. 1. 2. Supervision**

**153) Is there a body entrusted with the supervision and the control of the enforcement agents?**

- Yes  
 No

**154) Which authority is responsible for the supervision and the control of enforcement agents:**

- a professional body?  
 the judge?  
 the Ministry of Justice?  
 the prosecutor?  
 other?

Please specify:

A party or participant may file a submission requesting removal of irregularities conducted by the court referee in the course of executing the enforcement. The court may issue a conclusion revoking illicit and improper activity performed by the court referee. A court president and secretary have a duty to supervise and control the enforcement agents.

**155) Have quality standards been formulated for enforcement agents?**

- Yes  
 No

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?



**156) Do you have a specific mechanism for executing court decisions rendered against public authorities, including for monitoring the execution?**

- Yes  
 No

If yes, please specify:

**Please indicate the sources for the questions 155 and 156**

155 and 156. B&H legislation

### 8. 1. 3. Complaints and sanctions

**157) What are the main complaints of users concerning the enforcement procedure? (please indicate a maximum of 3)**

- no execution at all?  
 non execution of court decisions against public authorities?  
 lack of information?  
 excessive length?  
 unlawful practices?  
 insufficient supervision?  
 excessive cost?  
 other?

Please specify:

The most complaints are about excessive menth of the proceedings.

**158) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?**

Yes

No

If yes, please specify:

High Judicial and Prosecutorial Council of Bosnia and Herzegovina, within its authority, has conducted certain activities in order to change and improve situation concerning the enforcement of court decisions through changes of legislation. Working group is to be established.

**159) Is there a system measuring the timeframes of the enforcement of decisions:**

for civil cases?

for administrative cases?

**160) As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:**

between 1 and 5 days

between 6 and 10 days

between 11 and 30 days

more

Please specify:

**161) Disciplinary proceedings initiated against enforcement agents:**

Breach of professional ethics

yes,  
number:

Professional inadequacy

yes,  
number:

Criminal offence

yes,  
number:

Other

yes,  
number:

**162) Sanctions pronounced against enforcement agents:**

- |            |  |
|------------|--|
| Reprimand  | <input type="checkbox"/> yes,<br>number: |
| Suspension | <input type="checkbox"/> yes,<br>number: |
| Dismissal  | <input type="checkbox"/> yes,<br>number: |
| Fine       | <input type="checkbox"/> yes,<br>number: |
| Other      | <input type="checkbox"/> yes,<br>number: |

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters and the main reforms that have been implemented over the last two years

**Please indicate the sources for the questions 157 and 160**

- 157) High Judicial and Prosecutorial Council of Bosnia and Herzegovina – Office of the Disciplinary Council  
 160) High Judicial and Prosecutorial Council of Bosnia and Herzegovina – Legal Department

**8. 2. Execution of decisions in criminal matters****8. 2. 1. Functioning****163) Is there a judge who is in charge of the enforcement of judgments?**

- Yes  
 No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor).

A judge has an initiative function, meaning that as soon as a court competent for the enforcement of judgement receive a final and valid judgment, it is a duty of judge to undertake activities to enforce the judgement no later then three days after receiving it in case of imprisonment judgments or eight days in case of security measures.

**164) As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?**

- Yes  
 No

If yes, please specify:

**You can indicate below:**

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years**

## 9. Notaries

### 9. 1. Statute

#### 9. 1. 1. Functioning

**165) Do you have notaries in your country? If no, go to question 170.**

- Yes  
 No

**166) Is the status of notaries:**

- |   |   |
|---|---|
| a private one (without control from public authorities)?    | <input type="checkbox"/> yes, number:             |
| a status of private worker ruled by the public authorities? | <input type="checkbox"/> yes, number:             |
| a public one?   | <input checked="" type="checkbox"/> yes, number:  |
| other?  | <input type="checkbox"/> yes, number and specify: |

**167) Do notaries have duties:**

- within the framework of civil procedure?  
 in the field of legal advice?  
 to authenticate legal deeds?  
 other?

Please specify:

A notary is responsible for undertaking notary processing of a document, issuing confirmations, and certify signatures, handsigns and copies. Notary documents are: the documents made by notary processing, notary confirmation or notary certificates. Notary documents have the weight of a public document, and are valid with all authorities, legal persons and other institutions, regardless of which particular notary had issued them. Notary processed documents, which were made by the notary under the scope of his official responsibilities and in a prescribed form, have the full evidentiary weight of a public document on the statements issued before the notary. Notary confirmation and certificate have the evidentiary weight of a public document on the facts that are testified in them.

**Please indicacte the source for the question 166**

166) and 167) The sources for these questions are: Law on Notaries of Federation BiH adopted in 2002, The Law on Notaries of RS adopted in 2004, but the Notary service started with work in 2007.

#### 9. 1. 2. Supervision

**168) Is there an authority entrusted with the supervision and the control of the notaries?**

- Yes  
 No

**169) Which authority is responsible for the supervision and the control of the notaries:**

- a professional body?  
 the judge?  
 the Ministry of Justice?  
 the prosecutor?  
 other?

Please specify:

Work of the notaries is supervised by the cantonal administration agency and the Entity Ministry of Justice. Procedure for determination of disciplinary responsibility of the notary is initiated by the cantonal administration agency. The Notary Chamber is responsible for conducting the disciplinary procedure. The Notary Chamber has a power to impose disciplinary measures on a notary except removal, while the Minister of Justice remove a notary when conditions provided in the law are met.

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years

Although we could answer some of the questions based on notary laws adopted in 2002 and 2004, the notary service did not practically exist in 2006 and did not provide its services until 2007, when it started with its existence in practice.

## 10. Functioning of justice

### 10. 1. Foreseen reforms

#### 10. 1. 1. Reforms

**170) Can you provide information on the current debate in your country regarding the functioning of justice? Are there reforms foreseen? (for example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc). If yes, please specify.**

Main reason for inefficiency of BH judiciary is in large number of unresolved cases.

Concrete measures to be taken in order to settle this problem are:

- Changes in criminal, civil and enforcement legislation
- Increased engagement of trainees and judicial associates
- Increase of court fees
- Affirmation of mediation and institute of notary
- Adoption of new system of measurement and evaluation of work of judges and prosecutors
- Establishment of the system of promotion of judges and prosecutors
- Implementation of Information and Communication Technology in courts and Prosecutor Offices
- Resolution of the premises problem and the problem of financing the courts and Prosecutor Offices
- Implementation of measures to be undertaken within each court