



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

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 (if possible on 1 January 2011)

3 843 126

2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	5 542 506 251
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

3 257

4) Average gross annual salary (in €)

7 467

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

2

A.1

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

1. source: Agency for Statistics of Bosnia and Herzegovina
http://www.stat.gov.ba/tematskibilteni/DEM_2010_001_01-bh.pdf

2. source: The Central Bank of Bosnia and Herzegovina;
<http://www.cbbh.ba/index.php?id=30&lang=en>

State public expenditures include: B&H government, Consolidated entity-FBH Government, Cantons, local governments (municipalities and cities), social security funds and PE for road reconstruction and maintenance of entity FBiH, Tuzla and Central-Bosnia Canton; Consolidated Entity - RS Government, local governments (municipalities and cities), social security funds and PE for road reconstruction and maintenance, and Brcko District Government, Brcko District Health insurance Fund, Brcko District Employment Fund.

3. source: Agency for Statistics of Bosnia and Herzegovina
<http://www.stat.gov.ba/>

4. source: Agency for Statistics of Bosnia and Herzegovina
<http://www.bhas.ba>

This figure includes net payments and taxes and contributions paid on the burden of employees. Contributions paid on the burden of employers are not included in the figure.

5. The exchange rate is 1,955830 BAM (national currency) for 1 euro.

1. 2. Budgetary data concerning judicial system

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

6) Annual approved public budget allocated to the functioning of all courts, in € (if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	75 206 736
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	56 289 944
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	1 058 373
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	1 262 957
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	7 147 962
5. Annual public budget allocated to investments in new (court) buildings		NAP
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	1 087 908
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	8 359 592

7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:

Budgets of the public prosecution services are completely separated from courts' budgets.

Most costs related to legal aid are paid by courts (e.g. lawyers' costs in cases in which a defense attorney is appointed to defendant).

These costs are registered in the courts' financial reports within a separate budget line.

Other includes the following costs: various compensations paid to courts' and public prosecution employees, purchase of materials and equipment, transportation costs etc.

8) Are litigants in general 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 to the rule to pay court a tax or fee? Please provide comments on those exceptions:

The legislation on court fees prescribes that public institutions, humanitarian organizations, juveniles, students, disabled persons etc. do not have to pay the court fee in order to be eligible to start court proceedings. Also, the said legislation lays down that any litigant in certain types of cases may initiate proceedings without paying the court fee, e.g.: labor disputes, cases concerning retirement, some types of etc;

Finally, regardless of the case in question, the court will relieve a litigant who is in adverse financial situation from paying the court fee.

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.

9) Annual income of court taxes or fees received by the State (in €)

26 576 744

10) Annual approved public budget allocated to the whole justice system, in € (this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

NA 177 456 251

11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	NAP
Council of the judiciary	Yes
Judicial protection of juveniles	NAP
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	NAP
Other	No

Comment :

12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	5 906 637	NA	NA

13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided.

Amount 20 400 465

Comment :

This amount is calculated as sum of approved budgets of all prosecution offices in Bosnia and Herzegovina.

14) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :

	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	Yes	No	Yes	No
Other ministry	Yes	No	Yes	Yes
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
Judicial Council	Yes	No	No	No
Courts	Yes	No	No	No
Inspection body	No	No	Yes	Yes
Other	No	No	No	No

15) If any other Ministry and/or inspection body and/or other, please specify (considering question 14):

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.

A.2**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- 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

Question 6.

The adopted budget does not provide the detailed structure of the expenses, so the amounts of all 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, excluding the salaries of IT staff.

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, and legal services. Unlike previous cycles, the layers' costs for mandatory defense and costs for layers for indigent persons are not included in this item, even if they are paid from the Court budget. The data for 2008 were amended.

Comment to the Q6#2#4 : The legal aid expenses were included in the amount of the 2008 Courts' budget which refers to the justice expenses. Part of the legal aid expenses are actually paid from the courts' budgets

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 of existing buildings.

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 the following expenses: purchasing 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.

Question 10.

The public budget allocated to the whole justice system was increased, comparing to 2008 year, mainly due to the significant investment in strengthening of human and technical capacities of the prison system and the court police in the Federation of Bosnia and Herzegovina.

Question 12. Unlike the previous cycle, only the amount of total annual public budget allocated to legal aid is reported. It has been established that it is for the time being too complex for the courts to compile precise information on the distribution of legal aid budget between criminal and civil cases. However, it can be concluded that most of the legal aid budget is used for criminal cases. It is expected that the information system deployed recently to courts will allow them in the future to improve the quality of information on legal aid cases. The legal aid institutions do not have difficulty keeping track of the types of cases in which they grant legal aid.

Question 14.

The Courts are financed by 14 different level of financing (state level, 2 entities, 10 cantons, and Brčko district). The procedures of preparing, adopting and executing the budget are almost the same for all levels.

The Ministry of Finance sends 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 High Judicial and prosecutorial council. The High judicial prosecutorial council sends comments on budget proposals to the Courts, which prepare the final budget proposals and submit them to the Ministry of Justice, together to HJPC comments. Ministry of justice collect the budget proposals of all courts and submit them to Ministry of finance. Ministry of finance makes draft budget and submit it to Government.

Government collects budget proposals from all budget users, make the final proposal of the entire budget and submit it to the 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 controls the budget executions through the single treasury account system.

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. Auditing Office prepares opinions on budget executions and financial reports, use of resources and management of the state property by government, budget and public institutions.

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

6. source - Official data of the High Judicial and Presecutorial Council

9. source - Ministries of finance in Bosnia and Herzegovina

10. source - Official data of the High Judicial and Presecutorial Council

11. source - Official data of the High Judicial and Presecutorial Council
12. source - Official data of the High Judicial and Presecutorial Council
13. source - Official data of the High Judicial and Presecutorial Council

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes

17) Does legal aid include the coverage of or the exemption from court fees?

Yes

No

If yes, please specify:

Civil Procedure Codes 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, inter alia, exemption from paying court fees.

18) Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?

Yes

No

If yes, please specify:

19) Can legal aid be granted for other costs (different from questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc ? If yes, please specify it in the "comment" box below).

	Criminal cases	Other than criminal cases
	Yes	Yes

Comment :

If the accused is found guilty, in the decision which settles the issue of costs, the court may relieve the accused of the duty to reimburse all or part of the costs of criminal proceedings from the list below:

- costs for witnesses, expert witnesses, interpreters and specialists and the cost of a crime scene investigation;
- the cost of transporting the accused, or the suspect;
- the expenses of requiring the suspect or the accused or person in custody to appear;
- the transportation and travelling expenses of officials;
- expenses of medical treatment of the suspect or the accused while in pretrial custody, including the expenses of childbirth, except for the expenses covered from the health insurance fund;
- costs of technical examination of vehicle, blood sample analysis and transportation of corpse to the place of autopsy;
- a scheduled amount.

Legislation regulating civil proceedings provide that exemption from paying the costs of the proceedings shall include: exemption from depositing advance payment for the costs of witnesses, experts, investigation and court advertisements.

20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]

	Number
Total	7 128
in criminal cases	4 539
other than criminal cases	2 589

Comment :

The number of court cases in which legal aid is provided has risen due to the increase in number of legal aid institutions. Several new institutions started functioning in 2009 and 2010. The 2008 figures are reliable.

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.

Accused individuals	Yes
Victims	Yes

Comment :

If the suspect, or the accused in the case of a mandatory defense, does not retain a defense attorney himself, or if his family members do not retain a defense attorney, the preliminary proceeding judge, preliminary hearing judge, the judge or the Presiding judge shall appoint him a defense attorney in the proceedings. In this case, the suspect or the accused shall have the right to a defense attorney until the verdict becomes final and, if a long-term imprisonment is pronounced for proceedings under legal remedies.

If the proceedings are conducted for an offense for which a prison sentence of three (3) years may be pronounced or more or when the interests of justice so require, regardless of the prescribed punishment, a defense attorney shall be assigned to the accused at his request if, due to an adverse financial situation, he is not able to pay the expenses of the defense.

The Law on Free Legal Aid of Republika Srpska entitles an injured party (victim) to representation in court by a free of charge lawyer.

22) If yes, are individuals free to choose their lawyer within the framework of the legal aid system

Yes

No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? Please provide in the "comment" box below any information to explain the figures provided. If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	NAP	NAP
for other than criminal cases?	NAP	NAP

Comment :

There is an income and assets evaluation prior to granting legal aid.

However, the evaluation is not done based on a specific financial amount.

The financial criteria for granting legal aid are set that so it is guaranteed to the following vulnerable groups:

- a) Welfare recipients,
- b) Unemployed persons with no regular income,
- c) Children without parental care,
- v) Poor persons,
- g) Pensioners (in some cantons only pensioners who receive a minimum pensions are eligible to receive legal aid),
- d) Persons whose capacity to exercise rights was annulled by a court decision and mentally ill persons kept in mental-health institutions (only in Republika Srpska),
- e) Persons who have been recently granted legal aid in other case (only in Republika Srpska).

24) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?

- Yes
 No

If yes, please explain the exact criteria for denying legal aid:

Please provide comments to explain the answer under question 27:

A request for legal aid will not be granted if:

- it is obviously ill founded (i.e. legal requirements are clearly not met)
- the proceedings in question are unjustified (i.e. the potential client has slim chances to win the case)
- the right to legal aid is misused (i.e. the potential client has provided incorrect data that was relevant for approving legal aid)

25) Is the decision to grant or refuse legal aid taken by :

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

26) Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?

- Yes
 No

If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

27) Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared, in:

criminal cases?	Yes
other than criminal cases?	Yes

B.1

You can indicate below:

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

Question 25:

Apart from legal aid institutions which take formal decision on granting legal aid, court also takes a decision on granting legal aid in a given proceedings by appointing a defense attorney or by exempting a defendant from paying costs of proceedings. The 2008 answer should be amended.

Please indicate the sources for answering the questions 20 and 23

Question 20: The official judicial statistics for 2010 gathered by the High Judicial and Prosecutorial Council and the official reports for 2010 of the legal aid institutions.

Question 23: Relevant legislation.

2. 2. Users of the courts and victims**2. 2. 1. Rights of the users and victims****28) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for which the general public may have free of charge access to the following:**

The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:

<http://www.hjpc.ba/>

<https://www.parlament.ba/default.aspx?langTag=bs-BA>

legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es):

Yes

<http://www.narodnaskupstinars.net/cyrl/?page=133>

www.mpr.gov.ba/

<http://www.fbihvlada.gov.ba/bosanski/zakoni/>

<http://www.skupstinabd.ba/hr/zakoni/hr.html>
<https://www.parlament.ba/default.aspx?langTag=bs-BA>

case-law of the higher court/s? Internet address(es):

Yes

<http://www.narodnaskupstinars.net/cyrl/?page=133>

<http://www.fbihvlada.gov.ba/bosanski/zakoni/>

<http://www.skupstinabd.ba/hr/zakoni/hr.html>

other documents (e.g. downloadable forms, online registration)?

Yes

<http://www.pravosudje.ba/>

Comment :

29) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

Yes

No

If yes, please specify:

30) Is there a public and free-of-charge specific information system to inform and to help victims of crime?

Yes

No

If yes, please specify:

31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.

[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	No	Yes	No
Victims of terrorism	No	Yes	No
Children (witnesses or victims)	No	Yes	Yes
Victims of domestic violence	No	Yes	No
Ethnic minorities	No	No	Yes
Disabled persons	No	Yes	No
Juvenile offenders			

	No	Yes	Yes
Other (e.g. victims of human trafficking)	No	No	No

Comment :

Thanks to more detailed explanation for the question on special favourable arrangements applied during judicial proceedings, it is possible to identify in the laws on criminal several "other" arrangements as indicated in the table. The 2008 answer should be amended.

32) Does your country allocate compensation for victims of crime?

Yes

No

If yes, for which kind of offences

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.

The above mentioned applies to petty offences as well.

33) If yes, does this compensation consist in:

a public fund?

damages to be paid by the responsible person (decided by a court decision)?

a private fund?

34) Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?

Yes

No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

35) Do public prosecutors have a specific role with respect to the victims (protection and assistance)?

Yes

No

If yes, please specify:

The legislation on criminal proceedings provides 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.

36) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?

Please verify the consistency of your answer with that of question 105 regarding the possibility for a

public prosecutor "to discontinue a case without needing a judicial decision".

- Yes
- No
- NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision is needed).

If necessary, 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

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

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

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):

Excessive length of proceedings:

Pursuant to Article II/3.e of the Constitution of Bosnia and Herzegovina all persons within the territory of Bosnia and Herzegovina enjoy the human rights and fundamental freedoms including:

"The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings."

Based on Article VI of the Constitution the Constitutional Court of Bosnia and Herzegovina inter alia has appellate jurisdiction over issues under the Constitution arising out of a judgment of any other court in the country.

According to Article 16, paragraph 3 of its Rules, the Constitutional Court may examine, within its appellate jurisdiction, an appeal when there is no decision of a competent court if the appeal indicates a grave violation of the rights and fundamental freedoms safeguarded by the Constitution or by the international documents applied in Bosnia and Herzegovina.

The Court admits appeals, based on the aforementioned provision of the Rules, alleging that a court of general jurisdiction has breached both Article II/3.e of the Constitution and Article 6, paragraph 1, of the European Convention on Human Rights by exceeding a reasonable time for determining a court case (i.e. any sort of a court case). If the violation is found, the Court orders the court of general jurisdiction to finalize the case in question without any delay and it also awards compensation of non-material damage caused to the appellant by excessive length of proceedings.

The compensation is paid from budget of the government financing the court of general jurisdiction found to be responsible for the excessive length of proceedings.

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.

38) Does your country have surveys aimed at legal professionals and court users to measure their trust and/or satisfaction with the services delivered by the judicial system? (multiple options possible)

- (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 the parties
- (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
- (Satisfaction) surveys aimed at victims

If possible, please specify their titles, object and websites where they can be consulted:

39) If possible, please specify:

	Surveys at a regular interval (for example annual)	Occasional surveys
Surveys at national level	No	No
Surveys at court level	No	No

40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the treatment of a case by a judge or the duration of a proceeding)?

- Yes
 No

41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	Yes	No	No
Higher court	No	No	No
Ministry of Justice	Yes	No	No
High Council of the Judiciary	Yes	Yes	No
Other external bodies (e.g. Ombudsman)	Yes	No	No

Comment :

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 Judicial and Prosecutorial Council which has, all in all, two years to investigate the complaint and make a final decision about it, meaning whether to initiate disciplinary proceedings or to reject it as ill founded.

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 (for which there are no time limits) upon complaint or ex officio, 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 (for which there are no time limits) upon complaint or ex officio, 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

42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	64
42.2 First instance specialised Courts (legal entities)	5
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	98

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	5
Commercial courts	5
Labour courts	NAP
Family courts	NAP
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Administrative courts	NAP
Insurance and / or social welfare courts	NAP
Military courts	NAP
Other specialised 1st instance courts	NAP

Comment :

The 2008 legislation adopted by Republika Srpska Parliament provided legal basis for the creation of 6 specialized commercial courts in Republika Srpska (i.e. 1 second instance commercial court + 5 first instance commercial courts).

They became operational in May 2010.

The commercial divisions that were functioning within 5 basic courts in Republika Srpska ceased to exist simultaneously.

44) Is there a foreseen change in the structure of courts [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:

The Parliament of Federation of Bosnia and Herzegovina adopted in 2010 amendments to the legislation on its court system increasing the number of municipal courts (i.e. first instance courts of general jurisdiction) from 28 to 32. However, the newly formed courts will not be functional until the budget funds for them are secured.

Similarly, the Parliament of Republika Srpska has recently decided to expand significantly network of basic courts (i.e. first instance courts of general jurisdiction). This legislation will not be effective until the budget funds for its implementation are secured.

45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number of courts
a debt collection for small claims	53
a dismissal	48
a robbery	48

Please give the definition for small claims and indicate the monetary value of a small claim:

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 answering questions 42, 43 and 45:

The legislation on the court system of Bosnia and Herzegovina.

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please provide in the "comment" box below any useful comment for interpreting the data above.

[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.

Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	938	344	594
1. Number of first instance professional judges	644	219	425
2. Number of second instance (court of appeal) professional judges	198	77	121
3. Number of supreme court professional judges	96	48	48

Comment :

There are 3 courts of general jurisdiction in Bosnia and Herzegovina that are included in the supreme court category.

Firstly, at entity level, there are the Federation of Bosnia and Herzegovina Supreme Court and the Republika Srpska Supreme Court. Both courts are competent to decide in respective entity on legal remedies from decisions of the immediately

lower courts. Consequently, each of the entity Supreme Court is the highest court in the relevant entity.

Secondly, there is the Court of Bosnia and Herzegovina at the state level. Its competencies are regulated by the Law on the Court of BiH and are related to criminal, administrative and appellate jurisdiction.

However, Court of Bosnia and Herzegovina has no jurisdiction over the decisions adopted by the entity – level Supreme Court.

Within its criminal jurisdiction, the Court of BiH tries cases pertaining to the crimes laid down by the laws of BiH, which include war crimes, organized crime, economic crime and corruption cases.

Administrative jurisdiction means that the Court of BiH adjudicates cases pertaining to the decisions issued by BiH institutions and other organizations in charge of public functions, such as property disputes related to the performance of public functions between the States and the entities, breaches of the election law, etc.

Its Appellate Division only decides appeals against the decisions of the Court's first instance divisions.

Accordingly, there are three Prosecutor's Offices in Bosnia and Herzegovina representing criminal cases before the courts that are included in the Supreme Court category.

They are as follows:

- the Prosecutor's Office of Bosnia and Herzegovina- before the Court of BaH
- the Prosecutor's Office of the Federation of Bosnia and Herzegovina- before the F BaH SC;
- the Prosecutor's Office of the Republika Srpska- before the RS SC.

47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	71	40	31
1. Number of first instance court presidents	51	29	22
2. Number of second instance (court of appeal) court presidents	17	9	8
3. Number of supreme court presidents	3	2	1

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure Yes 113
 If possible, in full-time equivalent NAP

Comment :

According to the official data of the High Judicial and Prosecutorial Council, there are 113 reserve judges (please note, this figure is not included in the number of professional judges sitting in courts) in Bosnia and Herzegovina, in courts of general jurisdiction, who are appointed on a temporary basis (up to 2 years).

Their role is to assist courts in reducing case backlogs, or to replace temporarily judges who are absent for the prolonged period of time.

They are appointed by the High Judicial and Prosecutorial Council following court's president request.

The reserve judges perform their duties on a full-time basis.

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure Yes 318

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

Yes No

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

51) Number of citizens who were involved in such juries for the year of reference:

NAP

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	<input checked="" type="checkbox"/> Yes	2988
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input checked="" type="checkbox"/> Yes	138
2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	1062
3. Staff in charge of different administrative tasks and 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	1 414
4. Technical staff	<input checked="" type="checkbox"/> Yes	374
5. Other non-judge staff	<input checked="" type="checkbox"/> Yes	0

Comment :

53) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and duties:

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina appoints judicial associates for a period of up to six years to the first instance courts (i.e. municipal and basic courts) in both entities of Bosnia and Herzegovina. It also appoints judicial associates to the second instance courts in Republika Srpska (i.e. county courts).

A judicial associate in the first instance courts may proceed and decide non-contentious and enforcement matters, and small claims cases in accordance with law and as assigned by the Court President. Appeals against their decisions are decided by the second instance courts. As for the requirements in terms of qualifications set by the legislation regulating court system in Bosnia and Herzegovina, judicial associates must possess a law degree and have to pass the bar examination.

However, the Constitutional Court of Republika Srpska in December 2008 declared unconstitutional the relevant provisions of Republika Srpska legislation giving the judicial associates authority to decide cases themselves. The Constitutional Court found that those legal provisions were in contravention with the Constitution Republika Srpska, which prescribes that only judges can perform judicial function. Following the decision, the judicial associates assist judges in preparing their decisions.

The judicial associates in first instance courts in the Federation of Bosnia and Herzegovina have not been relieved of their power to decide cases on their own.

The judicial associates in the second instance courts in Republika Srpska do not decide cases themselves, they only assist judges in preparing the decisions.

54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)? Yes No

If yes, please specify:

C.1

You can indicate below:

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

Following consultations with the ministries of justice, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina has increased significantly the number of professional and reserve judges in 2009 and in 2010 in order to improve capacities of courts to reduce the backlogs.

Additionally, the creation of 6 specialized commercial courts in Republika Srpska contributed to the increase in the number of judges.

The increase in the number of judges has led to the increase in the number of non-judge staff as well.

Please indicate the sources for answering questions 46, 47, 48, 49 and 52

The official data of the High Judicial and Council of Bosnia and Herzegovina.

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	308	162	146
1. Number of prosecutors at first instance level	261	139	122
2. Number of prosecutors at second instance (court of appeal) level	NAP	NAP	NAP
3. Number of prosecutors at supreme court level	47	23	24

Comment :

Please see the answer for question 46.

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	20	16	4
1. Number of heads of prosecution offices at first instance level	17	13	4
2. Number of heads of prosecution offices at second instance (court of appeal) level	NAP	NAP	NAP
3. Number of heads of prosecution offices at supreme court level	3	3	0

Comment :

Please see the answer for question 46.

57) Do other persons have similar duties to public prosecutors?

- Yes
- No

Number (full-time equivalent)

58) If yes, please specify their title and function:

59) If yes, is their number included in the number of public prosecutors that you have indicated under question 55?

Yes

No

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

Yes

550

C.2

You can indicate below:

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

Please indicate the sources for answering questions 55, 56 and 60

The official data of the High Judicial and Council of Bosnia and Herzegovina.

3. 1. 4. Court budget and new technologies

61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	Yes	Yes	Yes	Yes
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No
Other	Yes	Yes	Yes	No

Comment :

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 handles the day to day management of the budget. Court secretary is also included in defining the proposal of the court budget.

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

Word processing	100% of courts
Electronic data base of jurisprudence	100% of courts
Electronic files	+50% of courts
E-mail	100% of courts
Internet connection	100% of courts

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

Case registration system	100% of courts
--------------------------	----------------

Court management information system	100% of courts
Financial information system	-10% of courts
Videoconferencing	-10% of courts

64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts?

Electronic web forms	-10% of courts
Website	100% of courts
Follow-up of cases online	100% of courts
Electronic registers	100% of courts
Electronic processing of small claims	-50% of courts
Electronic processing of undisputed debt recovery	-50% of courts
Electronic submission of claims	0 % of courts
Videoconferencing	-10% of courts
Other electronic communication facilities	100% of courts

65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

	65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	No	No	Yes	No

Comment :

The laws on criminal proceedings include the following provision:

Given age, physical and mental condition, or other justified reasons the witness may be examined using technical means for transferring image and sound in such manner as to permit the parties and the defense attorney to ask questions although not in the same room as the witness. An expert person may be assigned for the purpose of the examination.

C.3

You can indicate below:

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

Only Court of Bosnia and Herzegovina currently uses videoconferencing system in processing of war crime and organized crime cases.

Technical documentation for the establishment of the videoconferencing system for courts in Bosnia and Herzegovina was prepared in 2011. Tender funded by European Commission is ongoing. If it is successfully completed soon, technical implementation will be done in 2012.

3. 2. Performance and evaluation

3. 2. 1. Performance and evaluation

66) Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

Yes

No

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

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Kraljice Jelene 88
in Sarajevo.

67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?

- Yes
 No

68) Do you have, within the courts, a regular monitoring system of court activities concerning:

The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81).

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

If other, please specify:

69) Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?

The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82).

- Yes
 No

Please specify:

In its annual report, the HJPC publishes performance related information and evaluation of courts' performance.

70) Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 72)

- Yes
 No

71) Please select the 4 main performance and quality indicators that have been defined:

- incoming cases
 length of proceedings (timeframes)
 closed cases
 pending cases and backlogs
 productivity of judges and court staff
 percentage of cases that are processed by a single sitting judge
 enforcement of penal decisions
 satisfaction of court staff
 satisfaction of users (regarding the services delivered by the courts)
 judicial quality and organisational quality of the courts
 costs of the judicial procedures
 other:

If other, please specify:

72) Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?

- Yes
 No

73) Who is responsible for setting the targets for each judge?

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

If other, please specify:

74) Are there performance targets defined at the level of the court (if no please skip to question 77)?

- Yes
 No

75) Who is responsible for setting the targets for the courts?:

- executive power (for example the ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council, Higher Court)
 other

If other, please specify:

76) Please specify the main targets applied to the courts:

The performance target is defined as weighted average of disposed cases. The weight of each case type is defined by the HJPC.

77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)

- High Council of judiciary
 Ministry of justice
 inspection authority
 Supreme Court
 external audit body
 other

If other, please specify:

The HJPC evaluates performance of courts. Also, presidents of second instance courts evaluate performance of lower instance courts.

78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?

- Yes
 No

If yes, please specify:

79) Do you have specialised court staff that is entrusted with these quality standards?

- Yes
 No

80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:

- in civil law cases
 in criminal law cases
 in administrative law cases

81) Do you monitor waiting time during court procedures?

- Yes
 No

If yes, please specify:

Courts are required to send reports every six months on time structure of pending cases, i.e. when each case was initiated and if there is an appeal, when the appeal was received by higher instance court. In addition, the HJPC uses information system to collect monthly time structure of pending cases in order to publish it on its website. The information system is increasingly used to monitor length of each phase in the court procedure.

82) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?

This question does not concern the specific evaluation of performance indicators.

- Yes
 No

Please specify the frequency of the evaluation:

83) Is there a system for monitoring and evaluating the performance of the public prosecution service?

- Yes
 No

If yes, please give further details:

Prosecutor Offices annually report on their work flow to the HJPC (criminal charges, investigations, indictments and court decisions). Also, chief entity prosecutors evaluate performance of prosecutor offices.

C.4

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation systems

Using the SATURN guidelines for judicial time management as guidance, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina has started preparing a regulation on the foreseeability and optimum length of judicial proceedings. It shall be obligatory for courts and prosecution services.

4. Fair trial

4. 1. Principles

4. 1. 1. General information

84) Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a legal professional)?

NAP

85) 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):

76

86) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	0	0	0	0
Civil proceedings - Article 6§1 (non-execution)	0	0	0	0
Criminal proceedings - Article 6§1 (duration)	0	0	0	0

Please indicate the sources:

The Government Agent Office that represents Bosnia and Herzegovina before the European Court of Human Rights.

D.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter

The source of data on number of successful challenges for 2008 and 2010 is the information system the High Judicial and Prosecutorial Council has deployed in courts.

Although the number of successful challenges increased significantly in the reporting year, the 2008 data is reliable.

Q85 : The data on the number of successful challenges for 2008 and 2010 was taken out of the information system the High Judicial and Prosecutorial Council has deployed in courts. Although the number of successful challenges went up considerably in 2010, the data for both 2008 and 2010 data is reliable.

4. 2. Timeframes of proceedings

4. 2. 1. General information

87) Are there specific procedures for urgent matters as regards:

civil cases?

criminal cases?

administrative cases?

there is no specific procedure

If yes, please specify:

Codes on civil procedure prescribe that courts are obliged to process with urgency the following types of cases: labor disputes, all family law cases involving interests of juveniles, trespassing, disputes over real estates etc.

Codes on criminal procedure prescribe that courts are obliged to process with urgency the following types of cases: detention cases, cases against juveniles etc.

88) Are there simplified procedures for:

- civil cases (small disputes)?
- criminal cases (small offences)?
- administrative cases?
- there is no simplified procedure

If yes, please specify:

Codes on civil procedure foresee for certain types of cases (small claims, labor disputes, trespassing etc.) shorter time limits for filing an appeal against the first instance court decision (15 days instead of 30 days).

For less serious criminal offenses, for which the law prescribes a prison sentence up to five (5) years or a fine as the main sentence, regarding which the prosecutor has gathered enough evidence to provide grounds for the prosecutor's allegation that the suspect has committed the criminal offense, the prosecutor may request, in the indictment, from the court to issue a warrant for pronouncement of the sentence in which a certain sentence or measure shall be pronounced against the accused without holding the main hearing.

As for minor offences, an authorized organ may enclose with a request to initiate a minor offence procedure an offer to the defendant to accept the proposed sanction, which may be a fine and/or proposed protective measures. If the defendant accepts the proposed sanction, or the authorized organ and the defendant agree on another sanction prior to the rendering of the minor offence decision, organ may submit a written agreement to the court for approval containing details of the sanction, signed by the defendant and the authorized representative of the authorized organ. The court will approve the agreement between the defendant and the authorized organ if it determines that it meets lawful conditions.

89) Do courts and lawyers have the possibility to conclude agreements on arrangements 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. Caseflow management and timeframes of judicial proceedings

90) Comment:

The national correspondents are invited to pay special attention to the quality of the answers to questions 91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note 1: cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	1 958 272	1 117 921	1 155 544	1 920 649
1. Civil (and commercial) litigious	323 540	156 309	147 049	332 800

cases (if feasible without administrative law cases, see category 6)*				
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	54 637	62 580	62 143	55 074
3. Enforcement cases	1 510 117	352 413	384 308	1 478 222
4. Land registry cases**	61 449	496 055	512 753	44 751
5. Business register cases**	2 212	41 496	41 745	1 963
6. Administrative law cases (litigious and non-litigious)	6 308	9 059	7 530	7 837
7. Other cases (e.g. insolvency registry cases)	9	9	16	2

92) If courts deal with "civil (and commercial) non-litigious cases", please indicate the case categories included:

The key case categories among non-litigious cases are: inheritance proceedings, non-contentious proceedings for settling relationships between co- owners including dissolution of co-ownership, settlement of boundary lines, voluntary sales, establishing that a person does not have legal competence etc.

93) If "other cases", please indicate the case categories included:

Other cases are uncommon court cases that do not fall within either of the case categories of the question 91. For example, reconstruction of lost or damaged case files would be included in the category of other cases.

94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	189 051	181 836	190 636	180 251
8. Criminal cases (severe criminal offences)	25 223	57 013	57 529	24 707
9. Misdemeanour and / or minor offences cases	163 828	124 823	133 107	155 544

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

Severe criminal cases:

A criminal offense is an unlawful act which violates or jeopardizes the protected values and which is, because of the danger it represents, defined by law as a criminal offense and for which a punishment is prescribed.

Criminal sanctions are: punishments, suspended sentence, security measures and educational measures.

Examples of criminal cases: criminal acts against state, homicide, organized crime, criminal acts against official duty, theft and other crimes against property, rape and other crimes against sexual integrity, traffic accidents where a person suffered grievous bodily injury or a significant damage and other crimes against public transportation etc.

Minor offence cases:

Minor offences are violations of public order or of regulations on economic and financial operations defined as such by laws or other regulations, whose characteristics are described and for which sanctions are prescribed.

The following sanctions may be imposed upon a person found responsible for commission of a minor offence:

- a) fine;
- b) suspended sentence;
- c) reprimand; and
- d) protective measures.

The following measures may be imposed as a consequence of being found responsible for commission of a minor offence:

- a) confiscation of gains;
- b) obligation to compensate damages;
- c) penalty points; and
- d) deprivation of liberty to compel payment of a fine.

Examples of minor offences: traffic offences, violations of public order, begging etc.

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

The 2010 numbers for several case categories show significant increase or decrease in the volume of case flow. It is the indication of the workload courts dealt with in the reporting year.

The data for land registry cases as of 2009 is collected in a more detailed manner, therefore, compared to the 2008 numbers, there is an increase in 2010 in terms of numbers of incoming and resolved land registry cases .

The data presented in the previous report for all case categories is reliable.

97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	28 719	38 794	36 194	31 319
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	22 411	29 735	28 664	23 482
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NAP	NAP	NAP	NAP
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	6 308	9 059	7 530	7 837
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	1 926	13 764	13 852	1 838
8. Criminal cases (Severe criminal offences)	1 227	8 466	8 555	1 138
9. Misdemeanour and/or minor offences cases	699	5 298	5 297	700

Comment :

The second instance courts have combined jurisdiction, namely they act as first instance and second instance courts.

First instance jurisdiction includes:

adjudicating administrative cases (i.e. judicial overseeing of final decisions of administrative bodies) and adjudicating criminal cases for which more than 10 years of imprisonment or a long-term imprisonment (more than 20 years of imprisonment) is prescribed, unless the competence of another court is prescribed by law proceedings during the investigation and after the bringing of the indictment in accordance with law.

These courts handle majority of administrative cases, therefore CEPEJ in its analysis should use data on their case flow of administrative cases as opposed to the case flow of first instance courts regarding administrative cases.

Second instance jurisdiction includes deciding on appeals against decisions (criminal and civil) of first instance courts, in addition these courts have jurisdiction over deciding on other ordinary and extraordinary legal remedies, if so stipulated by law.

Q98#1#1

Comment: Due to the increased courts' productivity in 2008 and 2009, number of pending misdemeanor cases was reduced between 1 January 2008 and 1 January 2010.

99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	8 949	9 168	9 965	8 152
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	4 278	4 973	5 744	3 507
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NAP	NAP	NAP	NAP
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	4 671	4 195	4 221	4 645
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	531	3 339	3 166	704
8. Criminal cases (severe criminal offences)	531	3 339	3 166	704
9. Misdemeanour cases (minor offences)	NAP	NAP	NAP	NAP

Comment :

It is true that there has been an increase in the number of incoming, resolved, and pending cases at this instance. The trend started in 2009 and continued in 2010, it was mostly due to the increased number of indictments.

101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	2 931	4 386	4 478	2 839
Employment dismissal cases	5 174	3 690	3 567	5 297
Robbery cases	245	533	523	255
Intentional homicide	136	156	161	131

102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	5,38	3,52	215	146	NA	180
Employment dismissal cases	70,45	4,49	325	251	NA	288
Robbery cases	23,52	23,53	393	102	NA	247
Intentional homicide	57,76	50,38	580	80	NA	330

103) Where appropriate, please inform about the specific procedure as regards divorce cases (litigious and non-litigious):

Laws regulating family relations govern how courts conduct the divorce proceedings, i.e. first instance courts adjudicate divorce cases.

Divorce proceedings are started in one of the following manners:

- 1) Spouse files a law suit requesting divorce; or
- 2) Spouses file joint request for the marriage to be divorced.

Prior to taking one of the above legal actions, the couple with underage children must try to reconcile through the legally prescribed procedure which is handled by the municipal social workers.

Court decision by which a marriage is divorced, in principle, may be appealed only on the ground of grave procedural mistakes.

There is no mandatory timeframe for the divorce case to be decided on.

104) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

The length of proceedings for the four case categories is reported by courts as the simple average of time needed to resolve a case for cases resolved during the year.

The average length at the national level is calculated as the weighted average with number of resolved cases at the court level as weights.

In this cycle, as opposed to the 2008 cycle, there were few adjustments to the definitions used in the CEPEJ scheme for evaluating judicial systems:

- Employment dismissal cases: the 2008 data included cases concerning the termination of an employment at the initiative of both the private and public employers. The data for 2010 includes only cases concerning the termination of an employment at the initiative of the private employers.

- Robbery cases: the 2008 data included only cases of mugging, whereas the 2010 data includes both muggings and theft with violence.

Regardless of the said adjustments, the 2008 data should be considered sufficiently reliable.

105) Role and powers of the public prosecutor in the criminal procedure (multiple options possible):

- to conduct or supervise police investigation
- to conduct investigations
- 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 enforcement procedure
- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

Due to the detailed explanation for question 36 provided for this cycle, it can be concluded that the 2008 answer needs to be amended because, according to the legislation on criminal proceedings, a public prosecutor can close an investigation without requiring judicial decision (e.g. the act committed by the suspect is not a criminal offence, lack of evidence). Also, a prosecutor is competent to end the case by imposing an educational recommendations to a juvenile offender.

General comment:

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 plea bargaining 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.

106) Does the public 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.

107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	64 501	7 822	13 342	16 471

108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	7 822
1. Discontinued by the public prosecutor because the offender could not be identified	NA
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	NA
3. Discontinued by the public prosecutor for reasons of opportunity	NA

109) Do the figures include traffic offence cases?

Yes

No

D.2

You can indicate below:

any useful comments for interpreting the data mentioned in this chapter

the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years

Question 109 : The figures provided in the table in 1st instance criminal cases do not include small traffic offences, however they include serious traffic offences (e.g. traffic accidents causing personal injury, death or severe material damages).

Q91#1#1 : The increase was mainly due to the very low clearance rate in 2008 in respect of enforcement cases, which was just 41%, causing sharp rise of the number of pending cases (other than criminal law cases) during 2008. Thanks to the backlog reduction initiative the number of pending enforcement cases (other than criminal law cases) was reduced during 2009. These trends led to the backlog increase of 21.83% between 1 January 2008 and 1 January 2010.

Q91#3#1

There are two main reasons for the registered increase of 54.22% of the Total of other than criminal law cases / Resolved cases between 2008 and 2010 :

1) Thanks to the backlog reduction initiative the number of resolved enforcement cases (other than criminal law cases) was significantly increased during 2009.

2) Due to the more detailed data collection on case flow of land-registry cases, which started in 2009, the numbers of incoming and resolved cases were very much increased. The detailed data collection on land-registry cases pertains to less complex land registry cases that judges deal with quickly.

Q94 Comment: There are two reasons for the decreasing trends in terms of the totals for criminal law cases.

1) Pending cases: Due to the improved courts' productivity in 2008 and 2009, the number of misdemeanor cases went down considerably between 1 January 2008 and 1 January 2010.

2) Incoming and resolved cases: The reporting system regarding criminal cases was changed in 2009. Namely, now the reporting system differentiates between criminal law cases and the administrative matters regarding keeping criminal records. The administrative matters are no longer included in the case flow for criminal cases, which explains the significant decrease of values for incoming and resolved criminal cases for 2010 if compared with the 2008 figures.

The 2008 data were corrected.

Please indicate the sources for answering the questions 91, 94, 97, 98, 99, 100, 101, 102, 107 and 108.

The official judicial statistics for 2010 gathered by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement and promotion

110) How are judges recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
- Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- A combination of both (competitive exam and working experience)
- Other

If other, please specify:

111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].

- An authority made up of judges only?
- An authority made up of non-judges only?
- An authority made up of judges and non-judges?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles:

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.

112) Is the same authority competent for the promotion of judges?

- Yes
- No

If no, which authority is competent for the promotion of judges ?

113) Which procedures and criteria are used for promoting judges? Please specify.

Procedure: The automatic promotion for judges/prosecutors is not prescribed by law. To be promoted, judges/prosecutors need to apply for publicly announced vacant positions within the judicial system and they can advance in terms of career only through the competitive selection procedure. 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.

Criteria: Professional knowledge, work experience, ability, and performance; 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.

114) Is there a system of qualitative individual assessment of the judges' activity?

- Yes
- No

115) Is the status of prosecution services:

- Indépendant?
- Under the authority of the Minister of justice ?
- Other?

Please specify:

Prosecution offices are autonomous organs according to the constitution (i.e. only in Republika Srpska) and laws regulating prosecution system in Bosnia and Herzegovina.

116) How are public prosecutors recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
- Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- A combination of both (competitive exam and working experience)
- Other

If "other", please specify:

117) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:

[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]

- An authority composed of public prosecutors only?
- An authority composed of non-public prosecutors only?
- An authority composed of public prosecutors and non-public prosecutors?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles:

Please see reply to the question 111.

118) Is the same authority formally responsible for the promotion of public prosecutors?

- Yes
- No

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

119) Which procedures and criteria are used for promoting public prosecutors? Please specify:

Procedure: The automatic promotion for prosecutors is not prescribed by law. To be promoted, prosecutors need to apply for publicly announced vacant positions in the judicial system and only through the competitive selection procedure they can advance in terms of career.

Criteria: 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.

120) Is there a system of qualitative individual assessment of the public prosecutors' activity?

- Yes
- No

121) Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

Yes

No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:

A) Removal from office:

The disciplinary measure of dismissal shall only be used in cases where a serious disciplinary offence is found and the severity of the offence makes it clear that the offender is unfit or unworthy to continue to hold his or her office.

B) Reserve judges may be appointed on a temporary basis (up to 2 years).

Their role is to assist courts in reducing case backlogs, or to replace temporarily judges who are absent for the prolonged period of time. They are appointed by the High Judicial and Prosecutorial Council upon application by the president of a court and their mandate is renewable.

122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of probation period (in years)

123) Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

Yes

No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:

Removal from office: The disciplinary measure of dismissal shall only be used in cases where a serious disciplinary offence is found and the severity of the offence makes it clear that the offender is unfit or unworthy to continue to hold his or her office.

124) If there is a probation period for public prosecutors, how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of the probation period (in years)

125) If the mandate for judges is not for an undetermined period (see question 121), is it renewable? What is the length of the mandate (in years)?

NAP

126) If the mandate for public prosecutors is not for an undetermined period (see question 123), is it renewable? What is the length of the mandate (in years)?

NAP

E.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- 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

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Optional
General in-service training	Compulsory
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

128) Frequency of the in-service training of judges:

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

129) Training of public prosecutors

Initial training	Optional
General in-service training	Compulsory
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Optional
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional
In-service training for the use of computer facilities in office	Optional

130) Frequency of the in-service training of public prosecutors

General in-service training	Annual
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Annual
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Annual
In-service training for the use of computer facilities in office	Annual

131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate in the "comment" box below the budget of such institution(s).

If your judicial training institutions do not correspond to these criteria, please specify it.

	Initial training only	Continuous training only	Initial and continuous training

One institution for judges	No	No	No
One institution for prosecutors	No	No	No
One single institution for both judges and prosecutors	No	No	Yes

Comment :

Judicial education in Bosnia and Hercegovina is organized through two training institutions for judges and prosecutors (Centers for Judicial and Prosecutorial Training i.e. JPTC's) at entity level. The governments of the Federation of Bosnia and Herzegovina and Republika Srpska provide respective annual budgets for the functioning of the JPTC's. The amount of their combined budget for 2010 is 935733€.

JPTC's offer both initial and continuous training for judges as well as for prosecutors.

E.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in 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 has been implemented over the last two years

Comment regarding questions 127 and 129: the 2008 answers should be amended to read that initial training is not obligatory neither for judges nor for prosecutors.

Comment regarding questions 128 and 130: the 2008 answers should be amended to read that judges and prosecutors receive all types of the in-service training annually, not occasionally.

Both comments are due to changes in question interpretation.

Main characteristics of the training system:

Induction training is not of obligatory nature and has been attended by associates/advisors and/or trainees working in the courts/prosecutor offices. This training is organised in accordance with 12 educative modules during eight days per year and in the three-year cycles. Judges and prosecutors must undergo minimum of four days of general in-service training per year. This kind of training is of obligatory nature, and judges and prosecutors during annual evaluation are scored, beside other criteria, with number of days spent on in-service training. However, they may choose topics from the annual program of the JPTC's as well as timing of the training, preferably in accordance with their scope of the work.

Also, seminars on the ECHR and ECHR case law are regularly included into Curricula of the judicial and prosecutorial training institutions in BiH.

5. 3. Practice of the profession

5. 3. 1. Practice of the profession

132) Salaries of judges and public prosecutors.

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	22 936	14 946
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	38 108	25 646
Public prosecutor at the beginning of his/her career	22 936	14 946
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	38 108	25 646

Comment :

Unlike the previous circle, the contributions paid by the employer are no longer included the gross salary. The amounts of gross salary are now comparable to the data on gross national salary (question 4). The 2008 data should be amended accordingly.

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.

133) Do judges and public prosecutors have the following additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	No	No
Housing	No	No
Other financial benefit	No	No

134) If other financial benefit, please specify:

135) Can judges combine their work with any of the following other functions ?

	With remuneration	Without remuneration
Teaching	Yes	No
Research and publication	Yes	No
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	No
Political function	No	No
Other function	No	No

136) If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If "other function", please specify.

A judge or prosecutor shall not engage in any function that is incompatible with or could be seen to interfere with the fair and impartial execution of judicial or prosecutorial function or that would affect the independence or dignity of judicial or prosecutorial office, cast doubt upon his or her ability to act impartially, or demean judicial or prosecutorial office.

A judge or prosecutor shall not be a member of or perform any duties in political party organs, or associations or foundations connected to political parties, and shall refrain from participating in political party activities of a public nature.

A judge or prosecutor shall not be a member of and, upon gaining knowledge, must immediately resign from any organisation that practices invidious discrimination on the basis of race, colour, sex, sexual orientation, religion, or ethnic or national origin nor arrange to use the facilities of such an organisation.

A judge or prosecutor shall not hold any other public office that would conflict with the performance of judicial or prosecutorial function, unless otherwise provided by law.

A judge or prosecutor shall not be an attorney, notary, or perform other activities for remuneration, which conflict with the performance of judicial or prosecutorial function, unless otherwise provided by law. As an exception, a judge or prosecutor may engage in academic, scholarly, or similar activities that serve to educate the public and may be entitled to remuneration.

A judge or prosecutor shall not be a member of an executive or supervisory board of public or private companies or other legal persons.

A judge or prosecutor shall not perform any other duties that may interfere with the performance of judicial or prosecutorial function.

If a Court President or Chief Prosecutor believes that a judge or prosecutor is performing activities which are prohibited by Articles 82 and 83 of this Law, the judge or prosecutor shall be informed and the Court President or Chief Prosecutor shall refer the matter to the Council, which shall issue a binding decision. The Council's Rules of Procedure shall regulate proceedings.

A judge or prosecutor may request the Council to provide an opinion on whether his or her activities are compatible with his or her function and the provisions of this Law. Such request shall contain details of the activities concerned. The Council shall respond in writing to such a request within a reasonable time from the receipt of such request. The response of the Council provided in accordance with this paragraph shall be binding.

Judges and prosecutors shall file an annual financial statement with the Council reporting, among other things, the extra-judicial or extra-prosecutorial activities performed, including the amounts of remuneration. The financial statement shall include information about spouses and children who are part of the same household and hold shares in or participate in the management of private or public corporations and associations, including political parties. The Council shall send out forms for financial reports and may request additional information.

137) Can public prosecutors combine their work with any of the following other functions ?

	With remuneration	Without remuneration
Teaching	Yes	No
Research and publication	Yes	No
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	No
Political function	No	No
Other function	No	No

138) Please specify existing rules (e.g. authorisation to perform the whole or a part of these activities). If "other function", please specify:

A judge or prosecutor shall not engage in any function that is incompatible with or could be seen to interfere with the fair and impartial execution of judicial or prosecutorial function or that would affect the independence or dignity of judicial or prosecutorial office, cast doubt upon his or her ability to act impartially, or demean judicial or prosecutorial office.

A judge or prosecutor shall not be a member of or perform any duties in political party organs, or associations or foundations connected to political parties, and shall refrain from participating in political party activities of a public nature.

A judge or prosecutor shall not be a member of and, upon gaining knowledge, must immediately resign from any organisation that practices invidious discrimination on the basis of race, colour, sex, sexual orientation, religion, or ethnic or national origin nor arrange to use the facilities of such an organisation.

A judge or prosecutor shall not hold any other public office that would conflict with the performance of judicial or prosecutorial function, unless otherwise provided by law.

A judge or prosecutor shall not be an attorney, notary, or perform other activities for remuneration, which conflict with the performance of judicial or prosecutorial function, unless otherwise provided by law. As an exception, a judge or prosecutor may engage in academic, scholarly, or similar activities that serve to educate the public and may be entitled to remuneration.

A judge or prosecutor shall not be a member of an executive or supervisory board of public or private companies or other legal persons.

A judge or prosecutor shall not perform any other duties that may interfere with the performance of judicial or prosecutorial function.

If a Court President or Chief Prosecutor believes that a judge or prosecutor is performing activities which are prohibited by Articles 82 and 83 of this Law, the judge or prosecutor shall be informed and the Court President or Chief Prosecutor shall refer the matter to the Council, which shall issue a binding decision. The Council's Rules of Procedure shall regulate proceedings.

A judge or prosecutor may request the Council to provide an opinion on whether his or her activities are compatible with his or her function and the provisions of this Law. Such request shall contain details of the activities concerned. The Council shall respond in writing to such a request within a reasonable time from the receipt of such request. The

response of the Council provided in accordance with this paragraph shall be binding.

Judges and prosecutors shall file an annual financial statement with the Council reporting, among other things, the extra-judicial or extra-prosecutorial activities performed, including the amounts of remuneration. The financial statement shall include information about spouses and children who are part of the same household and hold shares in or participate in the management of private or public corporations and associations, including political parties. The Council shall send out forms for financial reports and may request additional information.

139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?

- Yes
 No

If yes, please specify the conditions and possibly the amounts:

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

140) Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?

- Citizens
 Relevant Court or hierarchical superior
 High Court / Supreme Court
 High Judicial Council
 Disciplinary court or body
 Ombudsman
 Parliament
 Executive power
 Other?
 This is not possible

If "executive power" and/or "other", please specify:

141) Who has been authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):

- Citizens
 Head of the organisational unit or hierarchical superior public prosecutor
 Prosecutor General /State public prosecutor
 Public prosecutorial Council (and Judicial Council)
 Disciplinary court or body
 Ombudsman
 Professional body
 Executive power
 Other?
 This is not possible

If "executive power" and/or "other", please specify:

142) Which authority has disciplinary power on judges? (multiple options possible):

- Court
 Higher Court / Supreme Court
 Judicial Council

- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other?

If "executive power" and/or "other", please specify:

143) Which authority has the disciplinary power on public prosecutors? (multiple options possible):

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other?

If "executive power" and/or "other", please specify:

144) Number of disciplinary proceedings initiated against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Judges	Public prosecutors
Total number (1+2+3+4)	14	3
1. Breach of professional ethics	14	3
2. Professional inadequacy	0	0
3. Criminal offence	0	0
4. Other	0	0

Comment :

Number of initiated disciplinary proceedings increased due to the increase in number of staff in the Office of Disciplinary Council(i.e.ODC); in 2008 at one point ODC had only two disciplinary counsels, while in 2010 their number rose to six.

Another reason is improved quality of work within ODC which has accumulated a broad experience since its foundation, which took place seven years ago.

Q144 Comment: The increase registered between 2008 and 2010 is mainly due to the enhanced staff resources within the Office of Disciplinary Council. In 2008 it had at one point only two disciplinary counsels, while in 2010 their number rose to six.

145) Number of sanctions pronounced against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Judges	Public prosecutors
Total number (total 1 to 9)	9	2
1. Reprimand		

	4	0
2. Suspension	0	1
3. Removal of cases	NAP	NAP
4. Fine	NAP	NAP
5. Temporary reduction of salary	2	1
6. Position downgrade	0	0
7. Transfer to another geographical (court) location	NAP	NAP
8. Resignation	0	0
9. Other	3	0

Comment :

- Other: all three sanctions classified under “other” are “written warnings”;
- Explanation for difference between the number of initiated disciplinary proceedings and pronounced sanctions: many proceedings are not finished within the calendar year, in such cases final sanction is pronounced the following year. Also, in a small number (less than 10%) of proceedings judges and prosecutors are not found guilty of an alleged disciplinary offence.

E.3

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- 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

Please indicate the sources for answering questions 144 and 145

The official data of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

6. Lawyers

6. 1. Status of the profession and training

6. 1. 1. Status of the profession and training

146) Total number of lawyers practising in your country.

1 299

147) Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?

- Yes
 No

148) Number of legal advisors who cannot represent their clients in court:

NAP

149) Do lawyers have a monopoly on legal representation in (multiple options are possible):

- Civil cases?
 Criminal cases - Defendant?
 Criminal cases - Victim?
 Administrative cases?
 There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:

According to the legislation on criminal proceedings a defendant has a right to present his own defense. If legal preconditions for mandatory defense are met, then court must appoint a defence attorney to him.

In one of the entitles of Bosnia and Herzegovina (i.e. the Federation of Bosnia and Herzegovina), if a defendant decides to hire a defense attorney, or if the defense attorney is appointed to him in cases of mandatory defense, he 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) who has passed a bar exam and has practiced law for at least three years after the exam. However, in criminal cases brought before the Court of Bosnia and Herzegovina and in other entity (i.e. Republika Srpska) only lawyers who are members of the Bar Association are eligible to act as defense attorneys.

According to the legislation on civil proceedings procedure both plaintiff and defendant are entitled to present his own case.

A party's agent in civil proceedings 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 legislation on administrative proceedings, relevant provisions of the Civil Procedure Law apply to administrative disputes, including those about representation of the parties.

150) Is the lawyer profession organised through? (multiple options possible)

- a national bar?
 a regional bar?
 a local bar?

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

Yes No

If not, please indicate if there are other specific requirements as regards diplomas or university degrees :

152) Is there a mandatory general system for lawyers requiring in-service professional training? Yes No**153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific diploma or specific authorisations?** Yes No

If yes, please specify:

Both bar associations in Bosnia and Herzegovina are obliged to provide and organize professional training for the lawyers. It is the lawyer's duty to continuously renew and expand their general and legal knowledge.

However, although the bar associations organize certain number of trainings every year, there is no mandatory number of trainings the lawyers need to take during the calendar year.

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

The official data of the the Bar Associations of the Federation of Bosnia and Herzegovina and Republika Srpska.

6. 2. Practising the profession

6. 2. 1. Practising the profession

154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)? Yes No**155) Are lawyers' fees freely negotiated?** Yes No**156) Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?** Yes laws provide rules Yes standards of the bar association provide rules No, neither laws nor bar association standards provide rules**F.2**

Useful comments for interpreting the data mentioned in this chapter:

The legislation on lawyers' profession prescribes that the tariffs on fees for lawyers' services are determined by the Ministry of Justice, upon the proposal of the Bar Association. The tariffs must be published in the official gazette.

Lawyers charge for their services based on the tariffs. However, lawyers may conclude a written contract with their clients that would allow them to charge fees different from those defined in the tariffs.

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

157) Have quality standards been determined for lawyers?

- Yes
 No

If yes, what are the quality criteria used?

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

- the bar association?
 the Parliament?
 other?

If "other", please specify:

159) Is it possible to file a complaint about :

- the performance of lawyers?
 the amount of fees?

Please specify:

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 than 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.

Requesting a fee that exceeds the one prescribed by tariff or agreed to by contract constitutes a serious disciplinary offence.

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If 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. Only lawyers can act as members of the disciplinary court.

161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Total number of	1. Breach of	2. Professional	3. Criminal offence	4. Other

	disciplinary proceedings initiated (1 + 2 + 3 + 4)	professional ethics	inadequacy		
Number	3	NA	NA	NA	NA

Comment :

The Bar Associations informed that disciplinary proceedings were initiated against 3 lawyers in 2010.

They specified that one case was initiated for the breach of professional ethics, the other one was about professional inadequacy. However, it was not stated what was the subject of the third case.

162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	0	0	0	0	0	0

Comment :

The Bar Associations informed that their bodies did not pronounce any final disciplinary sanctions in 2010.

The cases mentioned under question 161 were not resolved by the end of 2010. Namely, in one case a second instance disciplinary body annulled the first instance decision and ordered first instance disciplinary body to retry the case. The other case was postponed until a court decides the relevant matter. The third one was pending before the Bar Association.

F.3

You can indicate below any useful comments for interpreting the data mentioned in this chapter

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for mediation procedures? If no skip to question 168

[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]

Yes

No

164) Please specify, by type of cases, the organisation of judicial mediation:

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	No	Yes	Yes	No	No
Family law cases (ex. Divorce)	No	Yes	Yes	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	No	Yes	Yes	No	No
Criminal cases	No	Yes	No	No	No

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

Yes

No

If yes, please specify:

The legislation on free legal aid provides that legal aid is available in procedures for peaceful settlement of disputes. The answer for 2008 was not correct, due to a change in the way the question was interpreted. The 2008 answer should be amended.

166) Number of accredited or registered mediators who practice judicial mediation:

105

167) Number of judicial mediation procedures.

Please indicate the source in the "comment" box below:

Total number of cases (total 1+2+3+4+5)	<input checked="" type="checkbox"/> Yes	44
1. civil cases	<input checked="" type="checkbox"/> Yes	41
2. family cases	<input checked="" type="checkbox"/> Yes	0
3. administrative cases		NAP
4. employment dismissals cases	<input checked="" type="checkbox"/> Yes	0
5. criminal cases	<input checked="" type="checkbox"/> Yes	3

Comment :

Unlike in 2008, it is possible due to new legislation adopted in 2009 to have mediation in cases against juveniles initiated for less serious crimes. Basically, neutral person (mediator) can, after being asked by a judge or a prosecutor, mediate between an offender and a victim in order to facilitate an agreement on apologizing or paying of damages to the victim. This agreement prevents criminal proceedings against juveniles.

168) Does the legal system provide for the following ADR.

If "other", please specify it in the "comment" box below:

Mediation other than judicial mediation?	Yes
Arbitration?	Yes
Conciliation?	No
Other alternative dispute resolution?	Yes

Comment :

The legislation on peaceful settlement of labor disputes was introduced in 2009 in one entity of Bosnia and Herzegovina (Republika Srpska) introducing legal framework, consisting of procedures and government agency, that employers and employees can use to settle their disputes, both individual and collective, before going to court.

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.

G.1

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

Comment to Q166: The Association of Mediators of Bosnia and Herzegovina gave the number of accredited mediators. It confirmed that there has been a considerable increase in the number of accredited mediators and offered an explanation that the mediation, as a career choice, has become more popular over the last couple of years.

Please note that mediators are private professionals in Bosnia and Herzegovina, i.e. they are not employed by the Association of Mediators

Please indicate the source for answering question 166:

The Association of Mediators of Bosnia and Herzegovina provided information on the number of accredited mediators. It confirmed that there was a huge increase in the number of accredited mediators, therefore the 2008 answer is reliable.

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

169) Do you have enforcement agents in your judicial system?

- Yes
 No

170) Number of enforcement agents

115

171) Are enforcement agents (multiple options are possible):

- judges?
 bailiffs practising as private professionals under the authority (control) of public authorities?
 bailiff working in a public institution?
 other enforcement agents?

Please specify their status and powers:
Enforcement agents are court employees.

Enforcement laws regulate the bailiff's powers.

The bailiff acts upon the court's enforceable decisions.

The bailiff is empowered to enter and search a debtor's property.

172) Is there a specific initial training or examination to become an enforcement agent?

- Yes
 No

173) Is the profession of enforcement agents organised by?

- a national body?
 a regional body?
 a local body?
 NAP (the profession is not organised)

174) Are enforcement fees easily established and transparent for the court users?

- Yes
 No

175) Are enforcement fees freely negotiated?

- Yes
 No

176) Do laws provide any rules on enforcement fees (including those freely negotiated)?

- Yes
 No

Please indicate the source for answering question 170:

The High Judicial and Prosecutorial Council of Bosnia nad Herzegovina collects annually the information on number of bailiffs .

8. 1. 2. Efficiency of enforcement services

177) Is there a body entrusted with supervising and monitoring the enforcement agents' activity?

- Yes
 No

178) Which authority is responsible for supervising and monitoring enforcement agents?

- a professional body?
 the judge?
 the Ministry of justice?
 the public prosecutor?
 other?

If other, please specify:

179) Have quality standards been determined for enforcement agents?

- Yes
 No

If yes, what are the quality criteria used?

180) If yes, who is responsible for establishing these quality standards?

- a professional body
 the judge
 the Ministry of Justice
 other

If "other", please specify:

181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution?

- Yes
 No

if yes, please specify

Based on the relevant legal framework, enforcement of monetary claims is not allowed against publicly owned property and the enforcement on bank accounts of public institutions is possible only insofar as it does not hinder their work or funds earmarked in the relevant budget for this purpose.

182) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

**183) What are the main complaints made by 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?

If other, please specify:

184) 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:

The High Judicial and Prosecutorial Council has within its Backlog Reduction Project:

- prepared and forwarded to the legislative procedure amendments to the entity legislation on enforcement proceedings improving their efficiency,
- introduced the System for the Electronic Processing of Utilities Cases in significant number of first instance courts;
- involved court bailiffs in a comprehensive training program together with enforcement judges.

185) Is there a system measuring the timeframes of the enforcement procedures:

- for civil cases?
- for administrative cases?

186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits:

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more

If more, please specify

187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

Total number of disciplinary proceedings (1+2+3+4)	<input checked="" type="checkbox"/> number:	4
1. for breach of professional ethics	<input checked="" type="checkbox"/> number:	4
2. for professional inadequacy	<input checked="" type="checkbox"/> number:	0

3. for criminal offence number: 0
4. Other number: 0

Comment :

188) Number of sanctions pronounced against enforcement agents.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

- Total number of sanctions (1+2+3+4+5) number: 1
1. Reprimand number: 0
2. Suspension number: 0
3. Dismissal number: 0
4. Fine number: 1
5. Other number: 0

Comment :

H.1

You can indicate below:

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

Please indicate the source for answering the questions 186, 187 and 188:

Question 186: This is an estimate of the High Judicial and Prosecutorial Council based on the available data and consultations with the experienced bailiffs.

Questions 187 and 188: the High Judicial and Prosecutorial Council collected the data from courts.

8. 2. Execution of decisions in criminal matters

8. 2. 1. Execution of decisions in criminal matters

189) Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

Court presidents of first instance courts oversee the enforcement of court decisions in criminal matters.

190) Are the effective recovery rates of fines decided by a criminal court evaluated by studies?

- Yes
- No

191) If yes, what is the recovery rate?

- 80-100%
- 50-79%

- less than 50%
- it cannot be estimated

Please indicate the source for answering this question:

H.2

You can indicate below:

- **any useful comments for interpreting the data mentioned in this chapter**
- **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. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go to question 197

- Yes
 No

193) Are notaries:

If other, please specify it in the "comment" box below.

- | | | |
|----------------------------------------------------------------------------|--------------------------------------------|-----|
| private professionals (without control from public authorities)? | <input type="checkbox"/> number | |
| private professionals under the authority (control) of public authorities? | <input checked="" type="checkbox"/> number | 173 |
| public agents? | <input type="checkbox"/> number | |
| other? | <input type="checkbox"/> number | |

Comment :

194) Do notaries have duties (multiple options possible):

- within the framework of civil procedure?
 in the field of legal advice?
 to certify the authenticity of legal deeds and certificates?
 other?

If "other", please specify:

The court or government agency may entrust to the notary, should he concede to it, performance of other duties that are in agreement with his activities.

This includes, in particular, the following:

1. signing and sealing the heritage mass and bankruptcy mass;
2. evaluation and public sales (auctions) of movable objects and real estates in non-litigation procedure, particularly in case of voluntary sale;
3. division of the sales price in the enforcement proceedings.

The answer for 2008 was incomplete, because it did not include an "others" option due to a change in the way the question was interpreted. The 2008 answer should be amended.

195) Is there an authority entrusted with supervising and monitoring the the notaries' activity?

- Yes
 No

196) Which authority is responsible for supervising and monitoring notaries:

- a professional body?
 the judge?
 the Ministry of justice?
 the public prosecutor?
 other?

If other, please specify:

I.1

You can indicate below:

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

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

- Yes
 No

198) Is the function of court interpreters regulated by legal norms?

- Yes
 No

199) Number of accredited or registered court interpreters:

659

200) Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

- Yes
 No

If yes, please specify (e.g. having passed a specific exam):

There are binding provisions in Bosnia and Herzegovina regulating the quality of court interpreting in judicial proceedings. Namely, the interpreters are required to pass an exam, organized by the entity Ministries of Justice, in order to determine their skills. This guarantees that only sufficiently skilled interpreters can be appointed as court interpreters.

201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.

- Yes for recruitment and/or appointment for a specific term of office
 Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
 - No

Comment :

Courts select a court interpreter in a given proceeding.

Court interpreters are selected from the list of certified court interpreters determined by the relevant ministry of justice following the examination of knowledge.

In addition to that, courts are empowered to recruit a court interpreter in cases in which no interpreters are available for a particular language.

J.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

Please indicate the sources for answering question 199:

The official data of the relevant ministries of justice. The ministries confirmed that there has been an increase compared to 2008 in the number of certified court interpreters.

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation
- "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal
- "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision)

203) Is the title of judicial experts protected?

- Yes
- No

204) Is the function of judicial experts regulated by legal norms?

- Yes
- No

205) Number of accredited or registered judicial experts (technical experts)

1 303

206) Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?

- Yes
- No

If yes, please specify, in particular the given time to provide a technical report to the judge:

Civil proceedings:

If the court, on the motion of a party, orders the hearing of an expert, a deadline for the submission of the expert's findings and opinion shall always be set.

When setting this deadline, the court shall take into consideration that the expert's written findings and opinion must be delivered to the parties no later than eight (8) days before the main hearing.

The court shall decide to hear the expert evaluation by a decision containing the following:

1. the name, surname and occupation of the expert,
2. disputed matter;
3. the subject and the scope of expert evaluation;
4. the time limit for filing the findings and opinion;

In criminal proceedings, court or prosecutor sets time-limits for providing expert evaluation in the order requesting an expert evaluation:

Expert evaluation shall be requested in writing by the prosecutor or court. The request shall indicate the facts in regard of which the evaluation is conducted.

If there is a specialized institution for performing the particular kind of expert evaluation, or if the expert evaluation could be performed by a state body, such expert evaluation, especially if it is complicated, shall as a rule be assigned to that institution or body. The institution or body shall name one or more specialists who will make the expert evaluation.

The expert selected by the prosecutor or court must present a report to the prosecutor or court that shall contain the evidence examined, the tests performed, the findings and opinion reached, and any other relevant information the expert considers necessary for a fair and objective analysis. The expert shall provide a detailed explanation of how he came to a particular opinion.

207) Are the courts responsible for selecting judicial experts?

If no, please indicate in the "comment" box below which authority selects judicial experts?

Yes for recruitment and/or appointment for a specific term of office

Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

No .

Comment :

Court selects an expert for a given proceedings from the official list determined by the relevant ministry of justice following the examination of knowledge.

K.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

Please indicate the sources for answering question 205:

The official data of the ministries of justice.

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged. If possible, please observe the following categories:

- 1. (Comprehensive) reform plans**
- 2. Budget**
- 3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)**
- 4. High Judicial Council**
- 5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.**
- 6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities**
- 7. Enforcement of court decisions**
- 8. Mediation and other ADR**
- 9. Fight against crime and prison system**
- 10. Other**

Reform plans:

Implementation of the Justice Sector Reform Strategy 2008-2012 has continued in a number of areas.

Also, The European Union has intensified its cooperation with Bosnia and Herzegovina to address the reforms that are key for progress towards the EU. In addition to the sectoral cooperation in place under the Interim Agreement, the EU has set up a Structured Dialogue on Justice, under the framework of the Stabilisation and Association Process. The main objective of this dialogue is the consolidation of the rule of law and the establishment of an independent, effective, impartial and accountable judicial system across the whole country to the benefit of every citizen. Various judicial issues including the set up, competences and working methods of judicial institutions will be discussed with a view to making the whole system in Bosnia and Herzegovina compatible with European standards and rules.

Budget:

The High Judicial and Prosecutorial Council of BiH has launched an initiative for improvements in planning and implementing the budgets for the judicial bodies. The initiative aims to give more weight to the High Judicial and Prosecutorial Council of BiH and the judicial bodies in the budgeting arrangements thereby providing them additional safeguards for their independence against the executive branch of government.

Increase in the number of courts:

The Parliament of Federation of Bosnia and Herzegovina adopted in 2010 amendments to the legislation on its court system increasing the number of municipal courts (i.e. first instance courts of general jurisdiction) from 28 to 32. However, the newly formed courts will not be functional until the budget funds for them are secured.

Similarly, the Parliament of Republika Srpska has recently decided to expand significantly network of basic courts (i.e. first instance courts of general jurisdiction). This legislation will not be effective until the budget funds for its implementation are secured.

Backlogs and efficiency:

To reduce the number of so - called old unresolved court cases, the High Judicial and Prosecutorial Council of BiH adopted in 2010 a binding regulation instructing the courts to adopt their respective backlog reduction plans following the internal analysis of data on old unresolved cases.

The High Judicial and Prosecutorial Council of BiH set up a monitoring structure which has been in charge of assessing the courts' progress regarding the implementation of the backlog reduction plans. Until November 2011, the courts disposed around 60% of old unresolved cases included in the backlog reduction plans.

Efficiency-timeframes of proceedings:

Using the SATURN guidelines for judicial time management as guidance, the High Judicial and Prosecutorial Council of BiH has started preparing a regulation on the foreseeability and optimum length of judicial proceedings. It shall be obligatory for courts as well as prosecution services.

Efficiency-number of judges and public prosecutors:

Following consultations with the ministries of justice, the High Judicial and Prosecutorial Council of BiH has increased significantly the number of professional and reserve judges in 2009 and in 2010 in order to improve capacities of courts to reduce the backlogs. The same process will be carried out in 2012 with regards to the number of prosecutors.

Efficiency-performance targets for judges:

The new system for measuring the judges' quantitative performance is under preparation. The current performance management policy is a simple quota system which sets number of cases, regardless of their complexity, each judge should resolve monthly. The new system will take into account case complexity. In other words, complex cases should have higher weight in the performance measurement relative to simple cases.

Information technologies:

Future activities in the e-Judiciary should respond to the needs of citizens, businesses, legal community and registers of BiH for access to legal information, in order to enable them to easily exercise their rights and perform their duties. This can be achieved through further development of new information system modules, particularly the case management system, web portal e-services (web forms for citizens), videoconferencing as well as through the establishment of a two-way electronic communication between courts and users of their services.

Also, the functionalities of the judicial information system should be expanded in order to secure safe exchange of information among judicial electronic registers and electronic registers of other state institutions, particularly those of law enforcement agencies. This will lead to an improvement of cooperation between judicial institutions and law enforcement agencies, particularly in criminal investigations.

Additional attention needs to be paid to the analysis of data collected through the CMS/TCMS for the purpose of making policy decisions. Bearing in mind that all courts and prosecutors' offices gather huge amounts of data on daily basis, the judiciary would benefit from implementation of Business Intelligence system (BI).

Further strengthening of the judicial capacities will be done through establishment of the human resource management information system (module for online exams for candidates to the positions for judges/prosecutors, selection and appointment process module, personal records module, performance evaluation module as well as training module) and implementation of distance learning software to be used by judicial staff in Bosnia and Herzegovina.

High Judicial Council:

Judicial and Prosecutorial Council of BiH (HJPC) initiated drafting procedure of the amendments to the Law on HJPC. Several issues will be addressed such as:

- Increasing efficiency of the appointment procedure,
- Improving existing legal framework regarding disciplinary liability of judges and prosecutors, and
- Redefining membership and organisation of the HJPC (concerning a need to provide for full representation of judicial institutions of all levels in the HJPC, to reconsider current set-up for representation of the executive and legislative branches and to redefine internal structure within the single Judicial and Prosecutorial Council).

Proposed amendments should be approved by HJPC shortly and afterwards presented to relevant authorities in the country.

Legal professionals - Training:

The new Strategy for induction training and general in-service training has been under preparation, as defined in the Strategy for the Reform of Justice Sector. The Strategy for induction training and general in-service training should address issues, defined as mature for moderation by all participants in training process, such as number of days of obligatory annual training, beneficiaries of induction training etc.

Legal professionals - enforcement agents:

There is a draft proposal to adopt a regulatory framework providing guidelines and quality standards for enforcement agents. Also, the enforcement agents formed a professional association with a view to enhancing their professional status.

Reforms regarding legislation:

The amendments to enforcement laws have been sent to the legislative procedure. Their purpose is to increase the efficiency of enforcement proceedings.

The legislation on protection of children and juvenile offenders in the criminal proceedings has been adopted in Republika Srpska and it will be adopted shortly in the Federation of Bosnia and Herzegovina, bringing the regulatory framework for the juvenile criminal justice system in Bosnia and Herzegovina in compliance with the United Nation Convention on the Rights of the Child and other international conventions.