



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

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 2013)

3 831 555

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 or federal level	5 711 488 217
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

3 430

4) Average gross annual salary (in €)

7 915

5) Exchange rate of national currency (non-Euro zone) to € on 1 January 2013

1,955830 BAM for 1 euro

A1. Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

1) An estimate given on 30.6.2012, source of data BiH Agency of statistics

http://www.bhas.ba/tematskibilteni/BHAS_Demografija_BH.pdf

2) Central Bank of BiH

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

Note: Administrative data collected from Ministries of finance of all levels of government, Social security funds of all levels of government and entities funds for reconstruction and maintenance of roads.

3) BH agency of statistics 36th page

http://www.bhas.ba/tematskibilteni/BH_u_broj_kama2013_bh.pdf

4) BH Agency of statistics

http://www.bhas.ba/saopstenja/2013/BPL_2012H2_001_01_Bos.pdf

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) Central Bank of BiH

<http://www.cbbh.ba/?id=1&lang=en>

1. 1. 2. Budgetary data concerning judicial system

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	79 013 297
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	58 658 703
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	1 183 964
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	341 359
4. Annual public budget allocated to court	<input checked="" type="checkbox"/> Yes	7 115 591

buildings (maintenance, operating costs)

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	722 194
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	10 991 486

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' employees, purchase of materials and equipment, transportation costs etc. The increase in amount of other costs can be explained by introduction of several kinds of compensations for judges and prosecutors in the Federation of BiH. The total amount paid to all employees in courts in Federation has been increased for 1,8 million euros in relation to 2010.

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, the court will relieve litigants from paying the court fee if they cannot afford to pay them.

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.

8.1) Please briefly present the methodology of calculation of courts fees?

In Bosnia and Herzegovina the legislation on court fees is adopted at 3 levels of government (BiH, entities, and cantons). In most laws court fees are defined as set sums. Their amount depends on the value of a claim which is determined by the litigant. Only court fee for claims exceeding 50.000 Euro is set as a percentage of the contested claim.

The rest of the laws on court fees in Bosnia and Herzegovina prescribe that the court fee is always calculated as a percentage of the contested claim regardless of its amount.

8.2) Please indicate, if possible, the amount of court fees to commence an action for 3000€ debt recovery?

In Bosnia and Herzegovina the legislation on court fees is adopted at 3 levels of government (BiH, entities, and cantons). The amount of court fees set by the different laws to commence an action for 3000€ debt varies from 75 to 100€.

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

26 179 300

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. (Question modified)

If your system enables to be granted legal aid for cases which are non litigious or not brought to court,

please specify:

	Amount (in €)
Total annual approved public budget allocated to legal aid (12.1 + 12.2)	7128234
12.1 Annual public budget allocated to legal aid for cases brought to court	NA
12.1.1 in criminal law cases	NA
12.1.2 in other than criminal law cases	NA
12.2 Annual public budget allocated to legal aid for non litigious cases or cases not brought to court (legal consultation, ADR, etc)	NA

Comment :

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

Also the budgets of the legal aid institutions are included in the total annual approved public budget allocated to legal aid. It is not possible to give precise figures for budget allocations regarding different types of cases dealt with by the legal aid institutions.

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 21 290 084

Comment :

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 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
High Judicial Council	Yes	No	No	No
Courts	Yes	No	No	No
Inspection body	No	No	No	Yes
Other	No	No	No	No

14.1) 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 instructions 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 finance ministries and the ministries of justice.

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.

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. The data on these costs made by Prosecutors offices have been included in 2010 data: The correct figure for legal services in 2010 should be 337.515 euros.

Other includes the following costs: various compensations paid to courts' employees, purchase of materials and equipment, transportation costs etc. The increase in amount of other costs can be explained by introduction of several kinds of compensations for judges and prosecutors in Federation of BiH. The total amount paid to all employees in courts in Federation has been increase for 1,8 million euros in relation to 2010 year.

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 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. Reduction of budget aimed to training can be explained by sharp reduction of training centres' budgets.

[Mail from NC 22/5/2014 : The budget funds allocated to the public prosecution services and the budget funds allocated to legal aid are not included in the total annual approved budget allocated to the functioning of all courts]

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

6. source - Data collected from the financial reports of the execution of courts' budget 9. Ministries of finance 12. Data collected from the reports of execution of the budget 13. Official data of the High Judicial and Presecutorial Council

1. 1. 3. Budgetary data concerning the whole justice system

15) The following data would be useful for information

15.1) (Former question 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

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

Court (see question 6)	Yes
Legal aid (see question 12)	Yes
Public prosecution services (see question 13)	Yes
Prison system	Yes
Probation services	NAP
Council of the judiciary	Yes
Constitutional court	Yes
Judicial management body	NAP
State advocacy	Yes
Enforcement services	NAP
Notariat	NAP
Forensic services	Yes
Judicial protection of juveniles	NAP
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	NAP
Other	No

Comment :

The data on budgets of Agency for forensic services (1,048,659 euros) and State advocacy (4,784,095 euros) were not included in that have been published for 2010 Year. Along with these institutions total budget for the whole judicial system in 2010 amounted to 183,289,006 euros.

Reduction of the total budget is primarily related to budgets of prison system in The Federation of BiH. This was mostly due to the considerable reduction of funds (i.e.3,75 milion euro)allocated for the construction of prison buildings in 2010.

2. Access to justice

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:

The 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:

Due to more thorough analysis of this question it can be concluded that legal aid can be granted for the fees that are related to the enforcement of judicial decisions. It applies to the exemption from paying court fees for starting the enforcement proceedings. However, legal aid does not include the coverage of or the exemption from fees of an enforcement agent.

The 2008 and 2010 answers to this question need to be corrected and should read Yes.

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 :

Legislation regulating criminal proceedings prescribe that if the accused is found guilty, in the decision settling 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 for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please specify in the "comment" box below, when appropriate.

[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	5 843
in criminal cases	2 655
other than criminal cases	3 188

Comment :

It can be noted that in 2012 the number of criminal cases for which legal aid was granted went down compared to the data for 2010. There is no particular explanation for this trend.

20.1) Number of cases not brought to court (see 12.2 above) for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Number of cases
NA

Comment :

The data is not available because the legal aid institutions only report general numbers for matters in which they provide legal advice preventing litigations before the courts and administrative proceedings before the ministries and other government and local self-governemnt bodies. Considering explanations provided by the legal aid institutions it can be estimated that they prevent probably hundreds of court cases by giving legal advice.

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 ? If you have such a system but no data available, please indicate NA. If you do not have such a system, please

indicate NAP.

Please provide in the "comment" box below any information to explain the figures provided.

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

Comment :

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

The evaluation takes into account if the applicant makes the certain percentage of the average net salary in the country, however it is not entirely based on a specific financial amount and also it involves evaluation of the applicant's entire state of finances including the value of the real estate he might own.

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

- 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:

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) In other than criminal cases, is the decision to grant or refuse legal aid taken by:

- the court?
 an authority external to the court?
 a mixed 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?

Insurance companies in Bosnia and Herzegovina have started offering their clients to conclude an insurance covering lawyers' fees. This is offered mostly in conjunction with the car insurance contracts; however statistics show that legal insurance policies are still concluded in a very small number.

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

criminal cases?	Yes
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other than criminal cases?	Yes
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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

Two new government institutions at cantonal level providing legal aid were created in 2013. Now there are legal aid institutions at almost all levels of government in Bosnia and Herzegovina.

Please indicate the sources for answering questions 20 and 23:

Question 20: The official statistics for 2012 compiled from the case management system and the official reports for 2012 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/;](http://www.hjpc.ba/)

[https://www.parlament.ba/;](https://www.parlament.ba/)

<http://www.narodnaskupstinars;>

skupstinabd.ba/ba/zakoni/ba.html

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

Yes

www.mpr.gov.ba/

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

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

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

Yes

[http://vsud-rs.pravosudje.ba/;](http://vsud-rs.pravosudje.ba/)

[http://vsud-fbih.pravosudje.ba;](http://vsud-fbih.pravosudje.ba/)

www.sudbih.gov.ba

other documents (e.g. downloadable forms, online registration)? Internet address(es):

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

Yes only in some specific situations

If yes only in some specific situations, 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:

The entity level institutions in charge of gender issues have created support structures for victims of domestic violence and sex violence. They are easily accessible and free - of - charge. The well-established non-governmental institutions take part in providing support to the victims within these structures through facilitating contact with police forces and providing them information and shelter. This support is provided in the police investigation phase of the procedure.

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 sexual violence/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	Yes	Yes
Disabled persons	No	Yes	No
Juvenile offenders	No	Yes	Yes
Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)	No	No	No

Comment :

Information mechanism: only general information mechanisms prescribed by law are applied to the categories of vulnerable persons.

31.1) Is it possible for minors to be a party to a judicial proceedings :

- Yes
 No

If yes, please specify which procedure can be concerned (civil, criminal, administrative/normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.) :

Criminal procedure: The legislation on criminal proceedings and the special legislation on treatment of minors in criminal proceedings prescribe that minors may participate in the criminal proceedings in their own right.

A minor must have defense attorney from the outset of the criminal proceedings.

If the minor himself, his legal representative or relatives do not retain a defense attorney, the judge for juveniles shall appoint him ex officio.

Minor, inter-alia, is entitled to examine and cross-examine witnesses and file an appeal against the court judgement.

Civil procedure, Non-litigious and Enforcement procedure: A minor who has not acquired full legal competence shall be considered to have litigation capacity within the limits of his/her recognized legal competence. In that capacity, a minor may participate in the proceedings in his/her own right and can be represented by a lawyer or the representative of the free-legal aid institutions.

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 illustrate with available data concerning 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 for a decision on claim under property law related 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 decision by a judge".

Yes

No

NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge 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/Non execution of court decisions:

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 handling 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 complainant, etc.)	Time limit for dealing with the complaint
Court concerned	Yes	No
Higher court	No	No
Ministry of Justice	Yes	No
High Council of the Judiciary	Yes	Yes
Other external bodies (e.g. Ombudsman)	Yes	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 5 days time limit to acknowledge receipt of the complaint and, all in all, up to 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.

41.1) Please indicate the number of complaints that are upheld and the amount of compensation given to users in 2012 for complaints about the functioning of the judicial system

The number of upheld complaints in 2012 about the functioning of the judicial system, mostly regarding the excessive duration of proceedings, is as follows:

Ombudsman - 10 complaints regarding the excessive duration of judicial proceedings were upheld

The Constitutional Court - 135 complaints regarding the excessive duration of judicial proceedings were upheld; the total amount of compensation awarded to complainants was around 56.000 euro.

The High Judicial and Prosecutorial Council - 25 decisions complaints for professional inadequacy of judges and prosecutors were upheld in the disciplinary proceedings; monetary compensation could not be awarded to complainants according to the law.

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)	67
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 data is not available, please indicate NA.

If the situation is not applicable in your country, please indicate NAP.

	Number
Total (must be the same as the data given under question 42.2)	5
Commercial courts (excluded insolvency courts)	5
Insolvency courts	NAP
Labour courts	NAP
Family courts	NAP
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Fight against terrorism, organised crime and corruption	NAP
Internet related disputes	NAP
Administrative courts	NAP
Insurance and / or social welfare courts	NAP
Military courts	NAP
Other specialised 1st instance courts	NAP

Comment :

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:

There is a tendency of the legislative branch of government to increase the number of first instance courts.

Since the last evaluation round 3 new first instance courts were established in order to replace court branches.

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
a debt collection for small claims	56
a dismissal	51
a robbery	51

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

As in previous evaluation rounds in one part of Bosnia and Herzegovina (i.e. the Federation of Bosnia and Herzegovina) small claim disputes remain to be those where the monetary claim does not exceed 1.500 Euro. As of 2013 in other part of the country, Republika Srpska, the Law on Civil Procedure was amended to increase the value of small claim dispute from 1.500 to 2.500 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 said amounts. 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, court staff

46) Number of professional judges sitting in courts (if possible on 31 December 2012) (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	NAP
Total number of professional judges (1 + 2 + 3)	962	347	615	
1. Number of first instance professional judges	665	226	439	
2. Number of second instance (court of appeal) professional judges	202	75	127	
3. Number of supreme court professional judges	95	46	49	

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	NAP
Total number of court presidents (1 + 2 + 3)	75	42	33	
1. Number of first instance court presidents	56	31	25	
2. Number of second instance (court of appeal) court presidents	16	9	7	
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 2012).

Please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure Yes 114
 If possible, in full-time equivalent NAP

Comment :

According to the official data of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, there are 114 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 2012) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury):

If such non-professional judges exists in your country, please specify it in the "comment" box below:

Gross figure Yes 322

Comment :

[Mail from NC sent on 7 April 2014: Lay judges are citizens who hear and decide criminal cases together with professional judges. Lay judges play a role in the BiH judicial system, due to application of previous criminal procedural laws that required their participation. The procedural laws have been changed in a way that participation of lay judges is not required any longer, but due to a backlog of cases, their participation is still needed.]

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 2012) (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) Yes (among which women) 3 082

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having Yes (among which women) 98

autonomous competence and whose decisions could be subject to appeal

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 Yes (among which women) 1 154

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) Yes (among which women) 1 503

4. Technical staff Yes (among which women) 327

5. Other non-judge staff Yes (among which women) 0

Comment :

The numbers of non-judges staff per categories are as follows:

Total number

male: 735 female: 2374 total: 3082

Category 1. Rechtspfleger:

male: 32 female: 66 total: 98

Category 2: Non-judge staff whose task is to assist the judge:

male: 65 female: 1082 total: 1154

Category 3: Staff in charge of different administrative tasks and of the management of the courts:

male: 471 female: 1032 total: 1503

Category 4: technical staff:

male: 167 female: 160 total: 327

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

The High and Judicial and Prosecutorial Council of Bosnia and Herzegovina appoints judicial associates in municipal courts (i.e. first instance courts) in one part of the country, the Federation of Bosnia and Herzegovina, for an undetermined period. The recent legislative reform extended their mandate to an undetermined period; it was six years before the reform .

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, judicial associates must possess a law degree and have to pass the bar examination.

Due to the Republika Srpska's Constitutional Court ruling and subsequent legislative changes, the powers of judicial associates in first instance courts in Republika Srpska were reduced. They cannot decide cases themselves anymore; their role is to assist judges in preparing court decisions and conduct certain parts of court proceedings under the judge's supervision. Also, unlike the judicial associates in the Federation of Bosnia and Herzegovina, they are no longer appointed by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

The number of judicial associates (i.e. 28) in Republika Srpska is not included in 2012 data on Rechtspfleger because they do not have anymore autonomous competence and their decisions cannot be subject to appeal. Their number is included in the category of non-judge staff whose task is to assist the judges - Q 52.

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:

C1 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 46, 47, 48, 49 and 52

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

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2012) (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	NAP
Total number of prosecutors (1 + 2 + 3)	310	155	155	
1. Number of prosecutors at first instance level	261	131	130	
2. Number of prosecutors at second instance (court of appeal) level	NAP	NAP	NAP	NAP
3. Number of prosecutors at supreme court level	49	24	25	

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	NAP
Total number of heads of prosecution offices (1 + 2 + 3)	20	15	5	
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	NAP
3. Number of heads of prosecution offices at supreme court level	3	2	1	

Comment :

Please see the answer for question 46.

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

- Yes
 No
 NA

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

59.1) Do all prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

- Yes

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2012) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number NA 608
 Among which women NA 454

C2 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

Comment on Q59.1.: Specialized training for prosecutors with regards to domestic violence, sexual violence, and similar crimes has been included into the 2012 training programs of judicial training centres; however, not all prosecution offices sent their representatives to attend the training, thus it cannot be claimed that all prosecution offices have specially trained prosecutors.

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

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

3. 1. 4. Management of the court budget

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 and proposals for allocation of the budgets and handles the day to day management of the budget. The possibility of the allocation of the funds inside the court budget is limited due to rules established by existing Single treasury system controlled by Ministry of finance. Court secretary is also included in preparation of the court budget.

3. 1. 5. Use of Technologies in courts

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 caselaw	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	-50% 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 ?

Si "autres moyens de communication électronique", veuillez le préciser dans la boîte de commentaires ci-dessous.

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	-50% of courts
Other electronic communication facilities	100% of courts

Comment :

65) The use of videoconferencing in the courts (details on question 63).

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 or victims?	Yes
65.2 Can such court hearing be held in the police station and/or in the prison?	No
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?	Yes
65.4 Is videoconferencing used in other than criminal cases?	No

Comment :

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

C3 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

3. 2. Monitoring 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.

66.1) Does this institution publish statistics on the functioning of each court on the internet:

- Yes
 No, only in an intranet website
 No

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, only in an intranet website

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

If yes, please specify:

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina has set the targets for courts in terms of output they are expected to achieve annually. The High Judicial and Prosecutorial Council of Bosnia and Herzegovina analyzes data on courts' activity to evaluate if the targets have been met and publishes in its annual report performance related information including information on the 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, Higher Court)

President of the 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)

President of the 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 High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

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 High Judicial and Prosecutorial Council of Bosnia and Herzegovina 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 High Judicial and Prosecutorial Council of Bosnia and Herzegovina uses information system to collect data monthly on time structure of pending cases in order to publish it on its website. The information system is used increasingly 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 High Judicial and Prosecutorial Council of Bosnia and Herzegovina (numbers of: 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

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

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 lawyer)?

NAP

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

- Yes
 No

Number of successful challenges (in a year):

81

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)	1	11	3	0
Criminal proceedings - Article 6§1 (duration)	0	0	0	0

Please indicate the sources:

The Government Agent Office representing 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

Comment regarding data on friendly settlements -Q86: Out of 11 friendly settlements, the European Court for Human Rights made 6 decisions based on friendly settlements between Bosnia and Herzegovina and applicants; also it endorsed unilateral decisions in 5 cases against Bosnia and Herzegovina.

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 must 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 oblige courts to deal urgently with 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.

88.1) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?

- Yes
- No

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. Case flow 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 and criminal law cases. 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 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 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should r

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12

Total of other than criminal law cases (1+2+3+4+5+6+7)*	1 957 551	1 024 596	967 379	2 014 768
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	322 366	143 775	166 675	299 466
2. General 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)*	48 960	62 665	69 510	42 115
3. Non litigious enforcement cases	1 555 408	386 466	287 221	1 654 653
4. Non litigious land registry cases**	26 289	380 061	390 097	16 253
5. Non litigious business registry cases**	4 416	51 503	53 733	2 186
6. Administrative law cases	112	126	143	95
7. Other cases (e.g. insolvency registry cases)	0	0	0	0

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

The key case categories among civil and commercial non-litigious cases are: inheritance proceedings, proceedings related to personal and family matters (e.g. establishing that a person does not have legal competence, stripping of parental rights), non-contentious proceedings for settling relationships between co-owners of the real estate including dissolution of co-ownership, settlement of boundary lines, voluntary sales.

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

94) 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 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	157 174	168 424	171 414	154 184
8. Severe criminal cases	23 575	54 842	55 433	22 984
9. Misdemeanour and / or minor criminal cases	133 599	113 582	115 981	131 200

95) To differentiate between misdemeanour / minor offenses and serious offenses and ensure the consistency of the responses between different systems, the CEPEJ invites to classify as misdemeanour / minor all offenses for which it is not possible to pronounce a sentence of privation of liberty. Conversely, should be classified as severe offenses all offenses punishable by a deprivation of liberty (arrest and detention, imprisonment). If you cannot make such a distinction, please indicate the categories of cases reported in the category "serious offenses" and cases reported in the category "minor offenses":

Severe offences:

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 serious offenses are: criminal acts against state, homicide, organized crime, criminal acts against official duty (i.e. corruption cases), 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:

- fine;
- suspended sentence;
- reprimand; and
- protective measures.

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

- confiscation of gains;
- 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 90 to 95 (specific situation in your country e.g. NA-answers and the calculation of the total number of other than criminal law cases, differences in horizontal consistency etc.)

Comment-Q91:

The numbers of unresolved cases on 31st December 2012 were decreased for most types of civil litigious cases. Only the number of non litigious enforcement cases went up significantly; majority of these cases are initiated by utility companies for unpaid bills for utility services. (e.g. heating, water, electricity).

The data for the non litigious land registry cases is different considerably compared to the previous evaluation cycle due to the reforms implemented in one part of the country (Republika Srpska) that transferred all land registry cases from the first instance courts to an administrative body outside the judicial system.

[Q91 Mail from NC sent on 7 April 2014: In 2011 and 2012 the courts received more non litigious business registry cases due to a change in business registry legislation but were able to overcome the increased influx of cases by the end of 2012.]

[Q93 - Mail from CN sent on 7 April 2014: Cases pertaining to the category "other" were not recorded in 2012, which is normal because they are very rare.]

97) Second instance courts: total number of cases

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.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	35 704	42 635	40 381	37 958
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	27 084	33 864	31 218	29 730
2. General 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. Non litigious enforcement cases	NAP	NAP	NAP	NAP
4. Non litigious land registry cases	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
6. Administrative law cases	8 620	8 771	9 163	8 228
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

98) 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	2 083	14 989	14 824	2 248
8. Severe criminal cases	1 345	9 906	9 878	1 373
9. Misdemeanour and/or minor criminal cases	738	5083	4 946	875

Comment :

99) Highest instance courts: total number of cases

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.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	8 263	10 942	8 950	10 255
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	3 376	5 047	5 094	3 329
2. General 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. Non litigious enforcement cases	NAP	NAP	NAP	NAP
4. Non litigious land registry cases**	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
6. Administrative law cases	4 887	5 895	3 856	6 926
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

99.1) At the level of the Higher court, is there a procedure of manifest inadmissibility?

- Yes. If yes, please indicate the number of cases closed by this procedure?
 No

Number
1 466

100) 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	419	2934	2960	393
8. Severe criminal cases	419	2934	2960	393
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :

[Mail from NC sent on 7 April 2014: Third instance courts have been receiving increased number of all types of cases over the last several years contributing to the increase of number of pending cases of all types including pending criminal cases.]

101) Number of litigious divorce cases, employment dismissal cases, insolvency, 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 January 2012	Incoming cases	Resolved cases	Pending cases on 31 December 2012
Litigious divorce cases	2 369	5 121	5 186	2 304
Employment dismissal cases	350	353	330	373
Insolvency	628	522	424	726
Robbery cases	276	294	323	247
Intentional homicide	68	106	107	67

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.]

	% 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	5,30	1,91	170	102	NA	136
Employment dismissal cases	3,03	2,14	396	196	NA	296
Insolvency	17,69	29,34	585	37	NA	311
Robbery cases	52,32	26,32	515	68	NA	292
Intentional homicide	117,76	35,82	337	62	NA	200

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 five case categories? Please give a description of the calculation method.

The length of proceedings for the four case categories is calculated 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.

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 request investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise the enforcement procedure
- to discontinue a case without needing a decision by a judge (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:

Other significant powers - Withdrawal of the indictment :

A prosecutor may withdraw the indictment before its confirmation without prior approval of the preliminary hearing judge; a prosecutor may withdraw the indictment after its 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.

Other significant powers -plea bargaining:

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.

Other significant powers - issuing educational recommendations:

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.

106.1) Does the public prosecutor also have a role in insolvency cases?

- Yes
- No

If yes, please specify:

According to the bankruptcy legislation, the bankruptcy court shall deliver ex officio the decision on the opening of bankruptcy proceedings to the public prosecutor. The public prosecutor shall also be informed if the opening of the bankruptcy proceeding does not take place because the company in question has no property which could be distributed to the creditors.

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.

	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	66 302	8 795	15 845	16 517

107.1) Among cases charged by the public prosecutor before the courts, how many were brought to court under a guilty plea procedure or similar ?

	Before the court case:	During the court case:
If possible, please distinguish the number of guilty plea procedure:	NA	1 730

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)	8 795
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**

Comment-Q97:

The backlog of civil litigious cases in the second instance courts has been increased in 2011 and 2012 mostly due to the increase in the number of incoming cases.

In its analysis of statistics regarding administrative cases CEPEJ should calculate the administrative cases dealt with by second instance courts in Bosnia and Herzegovina as the first instance administrative cases. Due to the legislation regulating handling of administrative cases the second instance courts are competent to handle only the first instance administrative cases; their decisions can be appealed before the highest instance courts (i.e. the Supreme Court of the Federation of Bosnia and Herzegovina and the Supreme Court of Republika Srpska).

Comment - Q99:

The number of unresolved cases on 31st December 2012 in the highest instance courts rose sharply, compared to the previous evaluation cycle, mostly due to the extreme increase in the number of incoming administrative cases.

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

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

5. Career of judges and public prosecutors

5. 1. Recruitment and promotion

5. 1. 1. Recruitment 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:

110.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

- Yes
- No

If "yes", please specify:

Article 43 of the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina prescribes the criteria for recruitment of judges. Its second paragraph provides for realizing gender equality within the framework of the procedure for recruiting judges. This provision of the Law applies to all appointments and promotions of judges.

Article 43 - Criteria for Appointment

(1) In making decisions on appointment, the Council shall take into account, amongst others, the following criteria:

- (a) Professional knowledge, work experience and performance;
- (b) Capacity through academic written works and other professional activities;
- (c) Professional ability based on previous career results, including participation in organized forms of training;
- (d) Work capability and capacity for analysing legal problems;
- (e) Ability to perform impartially, conscientiously, diligently, decisively, and responsibly the duties of the office for which he or she is being considered;
- (f) Communication abilities;
- (g) Relations with colleagues, conduct out of office, integrity and reputation; and
- (h) Managerial experience and qualifications, in relation to the positions of court president, chief prosecutor and deputy chief prosecutor.

(2) The Council shall implement relevant Constitutional provisions regulating the equal rights and representation of constituent peoples and others. Appointments to all levels of the judiciary should also have, as an objective, the achievement of equality between women and men.

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 ?

112.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?

- Yes
 No

If "yes", please specify:

Please see the comment on question 110.1

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 (i.e. minimum years) depending on the position that is applied for, 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

If yes, please indicate the frequency

The qualitative individual assessment of the judges' activity is carried out once a year by the court president in line with the criteria the High Judicial and Prosecutorial Council of Bosnia and Herzegovina has adopted.

115) Is the status of prosecution services:

- Independent?
 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.

117.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?

- Yes
- No

If "yes", please specify:

Article 43 of the Law on High Judicial and Prosecutorial Council of Bosnia prescribes the criteria for recruitment of prosecutors. Its second paragraph provides for realizing gender equality within the framework of the procedure for recruiting prosecutors. This provision of the Law applies to all appointments and promotions of prosecutors.

Article 43 - Criteria for Appointment

(1) In making decisions on appointment, the Council shall take into account, amongst others, the following criteria:

- (a) Professional knowledge, work experience and performance;
- (b) Capacity through academic written works and other professional activities;
- (c) Professional ability based on previous career results, including participation in organized forms of training;
- (d) Work capability and capacity for analysing legal problems;
- (e) Ability to perform impartially, conscientiously, diligently, decisively, and responsibly the duties of the office for which he or she is being considered;
- (f) Communication abilities;
- (g) Relations with colleagues, conduct out of office, integrity and reputation; and
- (h) Managerial experience and qualifications, in relation to the positions of court president, chief prosecutor and deputy chief prosecutor.

(2) The Council shall implement relevant Constitutional provisions regulating the equal rights and representation of constituent peoples and others. Appointments to all levels of the judiciary should also have, as an objective, the achievement of equality between women and men.

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 (i.e. minimum years) depending on the position that is applied for 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.

119.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?

- Yes
 No

If "yes", please specify:

Please see the comment on question 117.1

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)?

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below

Yes. If yes, please indicate the compulsory retirement age	70
No	

Comment :

According to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina the mandatory retirement age for judges is age seventy (70).

Exceptions

A) Removal from office as a disciplinary sanction:

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.

C) Resignation from office;

D) Removal because it has been proven by the medical documentation that he or she has permanently lost the working capacity to perform his judicial or prosecutorial function.

121.1) Can a judge be transferred to another court without his consent:

- For disciplinary reasons
 For organisational reasons
 For other reasons. Please specify modalities and safeguards

Please specify modalities and safeguards

Transfer for disciplinary reasons:

According to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina, the Council may impose as a disciplinary measure a temporary or permanent reassignment to another court.

Transfer for organisational reasons:

According to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina, a judge may be assigned to perform judicial services in another court without his or her consent for a period of up to three (3) months, in the event that such assignment is in order to participate in one particular case at the receiving court, or in the event that no other judge has consented to such an assignment. A judge may not be temporarily assigned to another court without his or her consent if he or she has been the subject of a temporary assignment in the preceding twelve (12) months.

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 the probation period (in years)
Yes	
No	
NAP	NAP

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

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below:

Yes. If yes, please indicate the compulsory retirement age	70
No	

Comment :

According to the Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina the mandatory retirement age for prosecutors is age seventy (70).

Exception:

Removal from office as a disciplinary sanction:

A) 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) Resignation from office;

C) Removal because it has been proven by the medical documentation that he or she has permanently lost the working capacity to perform his judicial or prosecutorial function.

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

	Duration of the probation period (in years)
Yes	
No	
NAP	NAP

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

NAP

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

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 public prosecutors and the main reforms that have been implemented over the last two years**

Since 2012 the High Judicial and Prosecutorial Council of Bosnia and Herzegovina has been working towards introducing written examination of candidates who apply to enter a judge or prosecutorial profession, i.e. to become judges or prosecutors at the basic level for the first time in their career.

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 / Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Annual / Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. court president)	Annual / Regular (e.g. every 3 months)
In-service training for the use of computer facilities in courts	Annual / Regular (e.g. every 3 months)

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 / Regular (e.g. every 3 months)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Annual / Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Annual / Regular (e.g. every 3 months)
In-service training for the use of computer facilities in office	Annual / Regular (e.g. every 3 months)

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

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

	Initial training only	Continuous training only	Initial and continuous training	2012 budget of the institution, in €
One institution for judges	No	No	No	NAP
One institution for prosecutors	No	No	No	NAP
One single institution for both judges and prosecutors	No	No	Yes	Yes

Comment :

Judicial training in Bosnia and Hercegovina is organized through two training institutions for judges and prosecutors (Centers for Judicial and Prosecutorial Training i.e. JPTC) at entity level. There is also a Brčko Judicial Commission, which in coordination with other two JPTC's organises some training for judiciary. 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 2012 was 615.593 €, which was reduced significantly compared to previous years. Brčko Judicial Commission has very limited competencies in terms of judicial training and it cannot be estimated what amount of funds this institution allocates to the judicial training.

131.1) If there is no initial training for judges and/or prosecutors in such institutions, please indicate briefly how these judges and/or prosecutors are recruited and trained ?

No initial training is obligatory for those persons who become judges and prosecutors for the first time. Newly appointed judges and prosecutors are offered the same annual curriculum for continuous training as other more experienced judges and prosecutors.

As it is explained in relation to the questions 110-119 judges and prosecutors are appointed in an open and competitive procedure that includes an interview conducted by the Council members. This procedure is applied to all positions in the judicial system. The Law on High Judicial and Prosecutorial Council of Bosnia prescribes the general criteria for recruitment of judges and prosecutors. It sets, among other criteria, a work experience requirement, i.e. minimum number of years of relevant legal experience, not necessarily in the judiciary, after having passed the bar examination. This is a guarantee that the newly appointed judges and prosecutors will have a sufficient level of expertise and experience to perform their respective duties.

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 public prosecutors and the main reforms that have been implemented over the last two years

1.Comment regarding questions 127 and 129:

The general in-service training is obligatory for judges and prosecutors. They 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.

2.Seminars on the ECHR and ECHR case law are included regularly 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 2012	Net annual salary, in €, on 31 December 2012
First instance professional judge at the beginning of his/her career	23674	15081
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)	41098	25788
Public prosecutor at the beginning of his/her career	23674	15081

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)

41098

25788

Comment :

The following presumption were used for calculating these amounts:

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.

The amounts of salaries were increased compared to the previous evaluation cycle due to the change of legislation providing for the general upgrade of salaries of judges and public prosecutors.

133) Do judges and public prosecutors have 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	Yes
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	Yes
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.

The Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina lays down the rules for deciding upon issues of incompatibility of other functions performed by judges and prosecutors.

It is within the competences of the Council to decide if a judge or prosecutor is performing activities which are prohibited by the law.

The law sets general rules prohibiting to judges and prosecutors to exercise incompatible functions as follows:

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	Yes
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	Yes
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:

Please see the answer for the question 136.

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 has been 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)	23	7
1. Breach of professional ethics	4	1
2. Professional inadequacy	19	6
3. Criminal offence	0	0
4. Other	0	0

Comment :

The increase registered between 2010 and 2012 is mainly due to the fact that the Office of Disciplinary Counsel received unusually high number of well founded complaints against judges and prosecutors in 2012. Such complaints were prioritized; it resulted in the highest number of disciplinary proceedings initiated in one year.

145) Number of sanctions pronounced in 2012 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)	21	11
1. Reprimand	17	5
2. Suspension	0	0
3. Removal of cases	NAP	NAP
4. Fine	NAP	NAP
5. Temporary reduction of salary	4	5
6. Position downgrade	0	1
7. Transfer to another geographical (court) location	0	0
8. Resignation	0	0
9. Other	0	0

Comment :

The increase registered between 2010 and 2012 came as a consequence of the significant number of disciplinary proceedings initiated in 2012.

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 public 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.

1 350

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 entities 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:

Please indicate the sources for answering questions 146 and 148:

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

F1 Comments for interpreting the data mentioned in this chapter:

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

F2 Useful comments for interpreting the data mentioned in this chapter:

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

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:

The legislation on profession of lawyers establishes as serious disciplinary offences the following breaches of their professional duties: an obvious negligence of a lawyer, a violation of professional secrecy and an attempt to claim a fee higher than given in the Tariff or in a contract between the lawyer and his client.

In addition to this, the complaints about may be filed about any other malpractice of a lawyer, these other violations are considered as less serious offences.

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

Disciplinary procedure may be initiated by a Disciplinary Prosecutor, who is a member of the Bar Association, or by the entity Ministry of Justice. 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.]

	Number
Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	4
1. Breach of professional ethics	NA
2. Professional inadequacy	NA
3. Criminal offence	NA
4. Other	NA

Comment :

The Bar Associations informed that disciplinary proceedings were initiated against 4 lawyers in 2012, without specifying the

types of alleged offences.

162) Sanctions pronounced against lawyers.

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.

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

Comment :

The Bar Associations informed that their bodies did not pronounce any final disciplinary sanctions in 2012.

The cases mentioned under question 161 have not been finished. Namely, in three cases a second instance disciplinary body annulled the first instance decision and ordered first instance disciplinary body to retry the cases. One case was pending before the Bar Association in the first instance proceedings.

F3 You can indicate below any useful comments for interpreting the data mentioned in this chapter:

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

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

163) Does the judicial system provide for judicial 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

163.1) In some fields, does the judicial system provide for mandatory mediation procedures?

If there are mandatory mediation procedures, please specify which fields are concerned in the "comment" box below.

- Before going to court
- Ordered by a judge in the course of a judicial proceeding

If there are mandatory mediation procedures, please specify which fields are concerned:

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	Yes	No	No

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

- Yes
- No

If yes, please specify:

The legislation on free legal aid provides that legal aid is available for the poor litigants within procedures for peaceful settlement of disputes, including mediation procedures.

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

132

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) Yes 45
- 1. civil cases Yes 45
- 2. family cases Yes 0
- 3. administrative cases Yes NAP
- 4. employment dismissals cases Yes 0
- 5. criminal cases Yes 0

Comment :

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 :

According to the legislation on peaceful settlement of labor disputes employers and employees can use special procedures 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 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.

G.1 You can indicate below:

- 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

Please indicate the source for answering question 166:

The Association of Mediators of Bosnia and Herzegovina provided information on the number of accredited mediators.

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

124

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 and Herzegovina collected the data from courts.

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 how the enforcement procedure is conducted by the enforcement agent?

- Yes
 No

If yes, please specify

Court president monitors day – to – day activities of the bailiffs in cooperation with the administrative court director or the bailiffs' coordinator. The monitoring is performed with a view to streamlining the bailiffs' work and improving their productivity.

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 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 amendments to the legislation on enforcement of civil court decisions have been adopted permitting the courts to speed up the enforcement procedure.

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina has started special backlog reduction projects in several courts with the huge number of pending enforcement cases. The courts receive additional resources within the projects in order to help them decrease the number of enforcement cases. The funding for these projects is provided by foreign donors (European Union, Norway and Sweden).

All courts, provided they are having problems with the backlog of cases, incorporate in their general backlog reduction plans all types of cases waiting to be processed for unreasonably long period of time; this includes enforcement cases which contributes to the reduction of the length of enforcement proceedings.

185) Is there a system measuring the length of 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 initiated disciplinary proceedings (1+2+3+4)	<input checked="" type="checkbox"/> number:	5
1. for breach of professional ethics	<input type="checkbox"/> number:	0
2. for professional inadequacy	<input checked="" type="checkbox"/> number:	5
3. for criminal offence	<input type="checkbox"/> number:	0
4. Other	<input type="checkbox"/> 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 initiated and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	<input checked="" type="checkbox"/> number:	5
1. Reprimand	<input checked="" type="checkbox"/> number:	5
2. Suspension	<input type="checkbox"/> number:	0
3. Dismissal	<input type="checkbox"/> number:	0
4. Fine	<input type="checkbox"/> number:	0
5. Other	<input type="checkbox"/> 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 have been implemented over the last two years

Comment regarding Q 174 and Q176:

The legislation on enforcement of civil court decisions provides rules allowing the enforcement creditor to foresee costs of the enforcement proceedings in general.

For example, the amount of the court tax the enforcement creditor needs to pay before the judicial decision is executed is known in advance.

Therefore, court bailiffs, whose salaries are paid from the court budget, do not request any special fees to execute the judicial decision.

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

Q 186: This is an estimate of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina based on the consultations with experienced bailiffs from the biggest courts.

Q187 and Q188: The High Judicial and Prosecutorial Council of Bosnia and Herzegovina collected the data from courts.

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

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 initiate the enforcement of court decisions in criminal matters.

Prison services, which are part of the ministries of justice, monitor the enforcement of judgments 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%
 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. Statute

9. 1. 1. Functionning

192) Do you have notaries in your country? If no please skip 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 | 176 |
| public agents? | <input type="checkbox"/> number | |
| other? | <input type="checkbox"/> number | |

Comment :

The notaries are appointed by the entity Ministry of Justice following the open competition procedure.

The law determines professional requirements for the notaries, their authority and duties as well as the organization and scope of tasks of the Notarial Chambers.

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 the following:

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

9. 1. 2. Supervision

195) Is there an authority entrusted with supervising and monitoring 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**

Please indicate the sources for answering question 193:

The number of notaries is provided by the Notarial Chambers in Bosnia and Herzegovina.

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Functioning

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:

1 005

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 be eligible to 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 :

Court selects 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 entity ministries of justice. The ministries confirmed that there has been an increase in the number of appointments 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)

1 772

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;

Criminal proceedings:

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 specify in the "comments" 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.

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 relevant ministries of justice. The ministries confirmed that there has been an increase in the number of appointments of certified judicial experts.

12. Foreseen reforms

12. 1. Foreseen reforms

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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 at this stage. 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)

3.1 Access to justice and legal aid

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

6.1 Personal status

7. Enforcement of court decisions

8. Mediation and other ADR

9. Fight against crim

[Mail from NC sent on 7 April 2014:

1. Comprehensive reform plans:

- The New Justice Reform Strategy in Bosnia and Herzegovina has been under preparation. It is expected to be adopted in 2014; the new Strategy will set main goals for development of the judiciary until 2018.
- Also, The European Union has continued its cooperation with Bosnia and Herzegovina to address the judicial reforms that are crucial for achieving the EU rule of law standards. In addition to the sectoral cooperation, put in place under the Interim Agreement, the EU set up in 2011 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.

2. Budget:

There is a debate whether the separate judicial budgets should be introduced in order to allow for more autonomy for courts and prosecution offices with regards to managing budgetary funds allocated to them.

3. Courts and public prosecution services:

Following activities have been undertaken or have been planned in order to improve the functioning of courts and prosecution offices:

- Using the SATURN guidelines for judicial time management, the High Judicial Council of Bosnia and Herzegovina has adopted the Regulation on the Foreseeable and Optimum Timeframes for the Most Common Types of Cases obliging courts and prosecution offices to inform the parties on the foreseeable timeframe of their cases. Its implementation will start in all courts and public prosecution offices in Bosnia and Herzegovina on 1 January 2014. Courts and prosecution offices will start giving the information to individuals on the foreseeable timeframe of their cases as of 1 July 2014.

The Regulation prescribes optimum timeframes, the common methodology for calculation of foreseeable timeframes in individual courts and prosecution offices, and their reporting obligations towards the High and Judicial Council of Bosnia and Herzegovina which will be monitoring the implementation of the Regulation.

- Implementation of backlog reduction plans;

- Second generation of the Case Management System for courts and prosecution offices will be developed and implemented in the next three years. New system will be based on a fully web-based technology. It will encompass all existing CMS functionalities and new functionalities such as electronic archiving module, evidence registration module and CEPEJ Time Management Checklist.;

- Business Intelligence System will also be introduced to give court presidents, chief prosecutors, ministries of justice and the HJPC a possibility to easily create customized reports. The BI system will significantly aid the decision-making process.

- Reconstruction of several court and prosecution offices buildings, including improvement of technical and physical conditions of courts handling more serious crimes to provide application of required support to witnesses.

3.1 Access to Justice and legal aid:

- Access to selected case-law relevant for judges and prosecutors has been provided by HJPC Judicial Documentation Centre since 2008. In 2012 access was given to attorneys and in 2013 to all interested parties. The Venice Commission, European Commission, as well as Council of Europe's experts have recognized this tool as important for B&H judiciary. This tool will be improved further in line with recommendations of the CoE experts, especially regarding institutionalizing cooperation with the highest courts who makes the selection of judgments for JDC;
- The state-level Draft Framework Law on Legal Aid has been revised in order to provide for the common standards in terms of the citizens' rights to legal aid. It is now subject of the discussion within the legislative procedure.

4. High Judicial Council:

The Draft Law on Amendments to the Law on High Judicial Council was prepared several years ago; however due to its importance the Draft Law has been discussed in detail by the relevant stakeholders (High Judicial Council, Parliament and Ministry of Justice). The discussion included obtaining a legal opinion from the Venice Commission.

Several issues are to be addressed by the Draft Law 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).

5. Legal professionals:

The High Judicial Council of Bosnia and Herzegovina has taken steps to make the appointment procedure for judge and public prosecutorial positions more objective and transparent. To that end it has prepared a competitive written examination of first-time applicants for judge and public prosecutorial positions and adopted the guidelines for interviewing candidates; these reforms will be applied as of May 1 2014.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities:

In Republika Srpska the new Law on Criminal Proceedings was adopted; In Federation of Bosnia and Herzegovina the Law on Special Treatment of Juvenile Offenders and Juvenile Victims within Criminal Proceedings was adopted.

7. Enforcement of court decisions:

The High Judicial Council of Bosnia and Herzegovina has continued to have discussion with the ministries of justice about amending the legislation on enforcement of court decisions to relieve courts from enforcement cases being initiated for unpaid utility bills.

8 Alternative Dispute Resolution:

The High Judicial Council of Bosnia and Herzegovina has continued to implement the project with several pilot courts aiming to increase the number of cases resolved through mediation or court settlements.

9. Fight against crime:

The draft legislation on fight against corruption, organized crime, money laundering and seizing funds and property obtained by committing criminal acts has been under preparation.]