

# EXECUTIVE SUMMARY

The Action Plan for Bosnia and Herzegovina (hereafter: BiH) was adopted by the Committee of Ministers of the Council of Europe at its 1221<sup>st</sup> meeting on 4 March 2015, and it was launched on 21 May 2015 in Sarajevo. The beginning of implementation of the Action Plan coincided with BiH's Chairmanship of the Committee of Ministers (May-November 2015).

This Progress Review Report covers the period from March 2015 to May 2017 and presents an overview of co-operation, main achievements and outstanding issues addressed in the priority areas. This report neither aims to provide reflection on general political, social and economic situation in the country nor to elaborate on detailed information on individual projects.

The Action Plan is designed to address reform priorities and obligations of BiH as a member State of the Council of Europe, with the aim to assist the country to develop a democratic society with respect for human rights and the rule of law. While reflecting the recommendations of relevant Council of Europe monitoring and advisory bodies, the Action plan envisages co-operation actions in the areas of anti-discrimination, education, respect for diversity and social inclusion; justice sector; fighting corruption, economic crime, and organised crime; freedom of expression and information society; democratic governance and participation and higher education.

The overall progress of the Action Plan in supporting the current reforms in BiH was limited, due in particular to lack of funding which did not allow the Council of Europe to intervene in all the areas identified. BiH has mostly benefited from regional actions and to a certain extent from country-specific projects. As a result of joint efforts of the Council of Europe and the respective national authorities, significant progress has been made in the area of justice, by strengthening the institutional framework for harmonising the judicial practice of the highest courts of BiH, which has been recognised in the last European Commission progress report as a key instrument for increasing the consistency in the jurisprudence across the country. A fruitful cooperation in the area of penitentiary reforms, where the Council of Europe has had a leading role in BiH since 2003, resulted in further professionalisation of prison staff, and unified the process of their accreditation.

<sup>&</sup>lt;sup>1</sup> This document has been classified restricted until examination by the Committee of Ministers.

A set of strategic priorities for the development of higher education in line with the Standards and guidelines for quality assurance in the European Higher Education Area, prepared with the Council of Europe's assistance, has been endorsed by BiH authorities and relevant universities. Some preliminary but encouraging results have been achieved as regards the minority rights protection, inclusive education, and social inclusion of Roma and freedom of media. The Council of Europe's pre-electoral assistance to support the 2016 local elections and involvement in the census assessment as part of the International Monitoring Operation was commended both by the beneficiaries and by the international community.

The European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey launched in May 2016, allows for further progress on anti-discrimination and the protection of human rights of detained and sentenced persons, through the implementation of the projects that should be completed in 2018 and 2019.

On 1 June 2017, the total cost of the projects of the Action Plan for BiH 2015-2017 was € 10 694 122. The total funding secured amounted to € 5 807 805, including funding from (in order of volume) the European Union, Norway, the United States of America, the United Kingdom, the Human Rights Trust Fund, Lichtenstein, Croatia and Slovakia. The contribution from the Council of Europe's Ordinary Budget represents 12.6% of the total funding provided.

Despite preliminary achievements, additional efforts are required for addressing needs in the areas that remain unfunded. Further funding would allow to address some key priority areas notably in the fight against corruption and money laundering, as well as to pursue work in the field of the efficiency and quality of justice, anti-discrimination, education and democratic governance.

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UN     United Nations       Venice     European Commission for Democracy through Law		Council of Europe Commissioner for Human Rights
Venice European Commission for Democracy through Law		United Nations
VC Voluntary Contribution		Voluntary Contribution

## LIST OF ACRONYMS AND ABBREVIATIONS

The Committee of Ministers (CM) adopted the Action Plan for BiH 2015-2017 at its 1221<sup>st</sup> meeting on 4 March 2015. It was launched by the Secretary General of the Council of Europe Thorbjørn Jagland and Foreign Minister of BiH and Chairman of the Committee of Ministers Igor Crnadak, on 21 May 2015 in Sarajevo.

The Action Plan is designed to support BiH, through technical co-operation, in meeting its remaining statutory and specific obligations as a Council of Europe member State and to help bringing BiH legislation, institutions and practice further in line with European standards in the areas of human rights, the rule of law and democracy. Support to the reform in the judiciary and penitentiary systems, pursuing anti-discrimination policy and practice, overcoming inter-ethnic divisions and promoting inclusiveness in education, protection of human rights of national minorities, fighting against corruption and economic crime, promoting freedom of expression and of the media as well as democratic participation have been jointly identified by the Council of Europe and authorities of BiH as key priorities for co-operation.

The priority areas for the Action Plan are derived from the country's reform agenda including the EU accession criteria, resolutions and recommendations of the Committee of Ministers, Parliamentary Assembly (PACE) and the Congress of Local and Regional Authorities (Congress), relevant Council of Europe standards and findings of monitoring bodies - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Group of States Against Corruption (GRECO), The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the Framework Convention for the Protection of National Minorities (FCNM), European Commission Against Racism and Intolerance (ECRI), opinions of European Commission for Democracy through Law (Venice Commission), reports of the Commissioner for Human Rights (the Commissioner) and shortcomings identified in the judgements of the European Court of Human Rights (ECtHR), building upon the results of previous co-operation programmes in BiH.

In the period under review, the Action Plan activities have been focused on improving the capacities of the judiciary and legal professionals, prison and police authorities, specialised state agencies, electoral administration, educational institutions, independent regulatory bodies, parliamentarians, media and civil society through the regional, multilateral and country based actions in five main areas of cooperation.

This Report presents achievements based on the implementation of activities between March 2015 and May 2017 and does not provide detailed information on the individual projects carried out as a part of the Action Plan.

# 1.2. OVERALL ASSESSMENT AND MAIN ACHIEVEMENTS

Council of Europe technical assistance programmes form an integral part of the unique strategic triangle of standard-setting, monitoring and co-operation: the development of legally binding standards is linked with their monitoring by independent mechanisms and supplemented by technical co-operation to facilitate their implementation. The Council of Europe's actions are developed and implemented in areas where the Council of Europe has strong expertise and added value.

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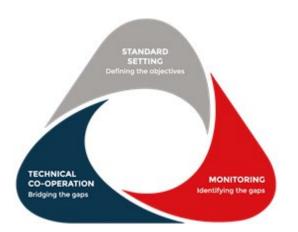


Figure 1: Council of Europe strategic triangle

This report has been prepared using project reports, including from the European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey (hereafter: Horizontal Facility), and evaluation reports, where available. The Action Plan for BiH includes 24 projects, of which 12 received funding. In the period under review, the Horizontal Facility has been launched, covering three additional actions in BiH (strengthening the institution of the Ombudsman, enhancing the protection of human rights of detained and sentenced persons and finalisation of census assessment), with a potential for developing new actions. Additionally, two new pilot projects on prison reform and inter-community dialogue were launched in May 2017.

The overall implementation of the Action Plan has shown limited and uneven progress. The most significant progress has been achieved in the area of justice. Building upon the fruitful and longstanding co-operation with the authorities in the area of penitentiary, a synergy of several projects/actions led to some outstanding results - e.g. professionalisation of the prison staff across the country, unified process of accreditation of the prison staff trainers, preparations for the introduction of probation service(s), and others. Equally impressive achievements stemmed from the follow up project aimed at reinforcing the capacity of BiH judiciary to apply ECHR standards. The result – three specialised harmonisation panels on civil, administrative and criminal law, here serving as a platform for continuous dialogue between the highest judicial instances and harmonisation of complex issues in the judicial practice of BiH courts - were praised in the European Commission's 2016 progress report on BiH, seen as a key instrument for achieving consistency in the national jurisprudence.

In this respect, results of the Council of Europe assistance in the area of higher education are also worth noting. As a blueprint for the future higher education reform a set of "Priorities for the development of the higher education in BiH 2016-2026", has been developed and endorsed first by the BiH Conference of Ministers of Education and subsequently by the Council of Ministers.

Several preliminary but encouraging achievements of the regional and multilateral interventions with regards to minority rights protection, inclusive education, social inclusion and freedom of media, prepared the grounds for developing a broader range of future, more targeted activities in each of these areas.

More work is however required in addressing the needs in the areas that have remained unfunded. A special emphasis should be put on the fight against corruption (in accordance with the overall objective of the Action Plan and the <u>Anti-corruption Strategy (2015-2019) of BiH</u><sup>2</sup>) and anti-money laundering (AML). Support to the implementation of supplementary and/or new activities, as regards anti-discrimination, the efficiency and quality of justice, freedom of expression and of the media and democratic governance will play an instrumental role in streamlining the overall performance of the Action Plan in line with the Council of Europe recommendations and standards.

<sup>&</sup>lt;sup>2</sup> The Council of Ministers of Bosnia and Herzegovina adopted the Anti-Corruption Strategy for 2015-2019 and the Action Plan for its implementation at its 6<sup>th</sup> session held on 7 May 2015.

Most of the activities have been developed through regional programmes with a focus on the region of South East Europe (SEE) as a whole, with the exception of the Horizontal Facility which provides assistance at the country level. In order to boost the co-operation in the forthcoming period, the focus should be on the country based actions, building upon the results of the regional and multilateral initiatives.

As the implementation of certain actions was completed in 2015<sup>3</sup>, the time-span of these actions did not correspond to the time-frame of the Action Plan, diminishing their impact over the reporting period of time. In addition, new actions through the Horizontal Facility in 2016 and two pilot projects that were put in place in May 2017 will give a fresh impetus to the co-operation, but their overall outcomes will only be measurable beyond the lifetime of the Action Plan. Hence a new Action Plan, would provide an opportunity to address emerging priorities in different areas.

#### 2. PILLAR/SECTOR REVIEW

### 2.1. ANTI-DISCRIMINATION, RESPECT FOR DIVERSITY AND SOCIAL INCLUSION

The Council of Europe's work in the field of anti-discrimination has been channelled mainly through regional and multilateral programmes, focusing on minority rights' protection, inclusive education and the social inclusion of Roma.

#### 2.1.1. ANTI-DISCRIMINATION

As part of the Horizontal Facility, the capacity of the Ombudsman's Institution to prevent and combat discrimination has been progressively improved through the systematic training of its lawyers on European anti-discrimination standards, including gender-based discrimination and coaching of a selected group of qualified trainers to conduct the trainings on the identification and handling of anti-discrimination cases. Preand post-training evaluation showed the improved knowledge of participants in this area and the usefulness of the training in improving the daily work of the lawyers in the Institution.

A more sustainable co-operation between the Ombudsman's Institution, other public institutions and the civil society has been achieved through cascade training sessions and a series of round tables on various aspects of protection against discrimination. The establishment of a dialogue between the Ombudsman and relevant civil society organisations (CSOs) proved to be a good tool for strengthening the Institutions' standing and potentially an incentive for the implementation of the Ombudsmans' recommendations.

It should be noted that in co-operation with PACE, a national seminar was organised on 15 December 2016 on combating intolerance and discrimination by countering hate speech, and which has closely examined the role of parliamentarians to this end.

#### 2.1.2 INCLUSIVE EDUCATION

As part of the Council of Europe and the European Union Programme "Regional support to promote inclusive education", seven pilot schools in BiH received grants to implement small projects enhancing inclusive practices in their communities by strengthening their own capacities and creating an inclusive school environment. Additional training provided by the Council of Europe resulted in increased ownership and motivation for inclusivity in educational establishments, vital for the sustainability of the actions. The real impact on the pilot schools and their communities is an evident change in educational philosophy and democratic culture. The evidence of this change is reflected in schools' development plans, which showed improved school policies with a view to combatting discrimination and respect for diversity as well as readiness for providing equal opportunities for all students regardless of their origin and performance level. The project also developed a tool *Teacher Education Practices for Inclusive Education* to upgrade existing programmes for teacher education practices for inclusiveness, by promoting the development of transversal competencies which are essential for dealing with diversity in classrooms.

Building upon the recommendations on inclusive education, adopted by the regional platform for policy dialogue PolicyNet, policy action plans have been developed for each beneficiary. Through this Joint Programme, BiH developed its own Action plan on inclusive education<sup>4</sup>, which started its implementation in 2016 and serves as the basis for future activities in this area. The beneficiaries' commitment to inclusive education as demonstrated in the process of developing the policy recommendations and their determination to incorporate them into their policy documents and regulations raised further prospects for the sustainability of the project results. In addition, the final project conference was hosted by the BiH Ministry of Civil Affairs in the BiH Parliament within the framework of the BiH Chairmanship to the Council of Europe. It brought together participants from all over the region to advance reforms on inclusive education.

# 2.1.3 MINORITIES

The protection of minority rights has been addressed through a regional project, which in BiH took a two-fold approach focusing on both the local and national level.

At the local level, six local governments were selected to receive financial and technical support for the realisation of projects aimed at protecting minority rights in their communities, tailored to the needs in their municipality and in direct support of one or more specific recommendations emanating from the monitoring of the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Minority Languages (ECRML). The implementation of grants contributed to improved partnership between minorities and municipal administrations, raised awareness on the position and status of national minorities at the local level and reinforced the local ownership over the results generated through the small grants in six municipalities.

At the national level, the project supported the first meeting of the Minister for Human Rights and Refugees with the representatives of national minorities in BiH, which resulted in the introduction of a specific budget line at the state level with an allocated annual amount of 70.000 BAM (approximately 35.000 EUR) to support the work of minority organisations. In addition, the capacities of the BiH Council of National Minorities were enhanced to further advice on and advocate for the position of national minorities in BiH. This led *inter alia* to the preparation of the first National Report on the Status and Position of National Minorities in BiH. The report was disseminated as an official publication of the BiH Council of National Minorities as a BiH parliamentary advisory body. Furthermore, the project - in coordination with the Ministry of Human Rights and Refugees - provided expert assistance to the beneficiary institutions responsible for gathering information and reporting on the implementation of the ECRML.

# 2.1.4 ROMA

The Council of Europe support to democratic governance and Roma community participation through mediation, enhanced the participation of Roma in local decision making processes by stimulating the self-organisation of Roma communities into Community Action Groups (CAGs). Through a structured process of dialogue and co-operation with local authorities within the Local Action Groups in 8 municipalities in BiH, the CAGs identified the priorities of the community and made proposals for addressing them. As a result of this structured process of dialogue between the CAGs and the local authorities:

- The local action plans have been agreed, adopted and partly funded by the majority of involved municipalities
- The capacity of the CAGs (composed of Roma community leaders, Roma NGO's and mediators) has been enhanced
- Handbook of the "ROMED2 methodological approach at local level" was published.

<sup>&</sup>lt;sup>4</sup> BiH Action plan on inclusive education contains 6 recommendations: 1) Increase the capacity of schools to create an inclusive environment; 2) Improve teachers' competencies; 3) Develop a support system for inclusive education; 4) Develop a framework for monitoring and evaluating inclusive education (inclusiveness) at school; 5) Redefine the enrolment policy, especially in secondary chools; 6) Formalise cross-sector and inter-institutional co-operation in the field of inclusive education. For each of these recommendations, various goals, activities, outcomes and measures, as well as resources and support have been defined.

As a result of the synergy of several Council of Europe actions, the first Roma Political Academy was organised with the aim to enhance the capacity of Roma candidates to actively participate in the local elections by building up their political visibility and increasing their knowledge about the responsibilities of the local councils. A series of coaching and leadership training sessions, as well as the awareness raising campaigns, facilitated by ROMED mediators proved to be a contributing factor to the election of 10 Roma local councillors (out of 20 candidates), with the capacity to take part in a budgetary and policy decision making process in 9 municipalities.

#### 2.1.5 LOCAL COMMUNITIES/INTER-ETHNIC DIALOGUE

In the framework of the Confidence Building Measures (CBM), the inter-ethnic dialogue at the level of municipalities and local communities has been enhanced. Strategic partnerships have been developed with nineteen municipalities located on both sides of the entity-boundary and, through a fully participatory process, a range of cross-boundary initiatives have been elaborated seeking to address common needs. With the aim to strengthen the capacity of the local administrations in the longer-term, a technical training on project development was delivered which equipped municipalities with the skills necessary to elaborate their proposals and enable them to leverage funds from other donors in the future. During the course of 2016 and early 2017, with continued Council of Europe expertise, cross-boundary sub-groups of municipalities carried out detailed local needs assessments and submitted joint proposals for small grants corresponding to local government competences, such as on education, culture and community infrastructure. This well-established network of municipalities represents a significant opportunity to broaden and deepen Council of Europe coording to broaden and deepen Council of Europe

#### 2.1.6 YOUTH

A new CBM pilot action is being implemented, with the aim to foster inter-ethnic dialogue between young people and support their democratic participation in municipalities located along the entity-boundary in BiH. It aims also to encourage dialogue between young people and policy makers on matters of concern at a local, regional and national level.

#### 2.1.7 PARLIAMENTARY COOPERATION ON ANTIDISCRIMINATION

Institution strengthening activities through a series of national seminars targeting parliamentarians of BiH, have started in December 2016 by focusing on the role of parliaments in combating intolerance and discrimination and through countering hate speech. This activity allowed parliamentarians, alongside civil society, to take stock of the situation in BiH and discuss measures to counter the phenomena, in particular, through the identification of gaps in national anti-discrimination legislation.

## PROGRAMMING OUTLOOK

Through the Horizontal Facility actions, the capacity of Ombudsman to fight discrimination will be further strengthened through new cycles of training and by fostering consultation between the Institution, civil society and various public institutions of BiH – as addressees of the Ombudsman recommendations, with the aim to ensure the sustainability of the action. Specific activities related to judiciary, will be introduced to broaden the scope of action. The peer to peer exchange with other ombudsman institutions in the region will be ensured through study visits and a support to a regular professional exchange between senior legal advisors of the respective institutions. Legal clinics at the universities will be further supported, with the emphasis on the rights of vulnerable groups.

A small scale, pilot activity entitled Young Influencers: Supporting inter-ethnic dialogue of young people at municipality level in line with the Council of Europe standards was launched in May 2017, requiring a followup and financial support in 2018 and beyond.

The new regional project "Promoting good governance and Roma empowerment at local level" (ROMACTED), launched in May 2017, will continue to assist local authorities in mainstreaming Roma specific dimension/measures into local policies, budgets and public service delivery on their agenda, while

enhancing the participation of the Roma citizens in the design, implementation and monitoring of those policies and projects.

The Council of Europe is ready to continue working with the national authorities to ensure that other expected results in the area of anti-discrimination (minority rights protection, youth participation, protection of children rights, measures to combat discrimination on grounds of sexual orientation or gender identity) from the Action Plan are ensured, provided that there is additional funding for the required country based actions.

# 2.2 JUSTICE SECTOR REFORM

# 2.2.1. JUDICIARY

The need for consistent application of national legislation by national courts and harmonisation of the judicial practice with the standards set by the ECtHR case law is a part of the BiH strategic documents, including the <u>Justice Sector Reform Strategy for the period 2014-2018</u><sup>5</sup>. Building upon the achievements of previous activities, the Council of Europe continued to support the judiciary aiming at contributing to the overall judicial reform in BiH.

Three specialised panels to harmonise judicial practice within BiH, that were established earlier with the assistance of the Council of Europe, continued to work successfully. The panels – on civil, criminal and administrative law related issues – operate under the auspices of the High Judicial and Prosecutorial Council (HJPC) and are composed of representatives of judiciary from the Supreme courts of the Entities and the Appellate Court of the Brčko District, the Court of BiH and representatives of High Judicial and Prosecutorial Council. The panels currently serve as a platform for the harmonisation of complex issues in the judicial practice of BiH courts.

In 2016, the panels agreed for the harmonisation of the different legal provisions in the four jurisdictions in BiH, to allow for equal treatment of the citizens throughout the country. To this end, legislative amendments to all Criminal Codes were submitted to the relevant ministries of justice for further consideration. The first proposed amendments were adopted and published in the Official Gazettes in the Federation of Bosnia and Herzegovina (FBiH) and Brčko District in June 2016, while the Ministry of Justice of BiH submitted in late 2016 the proposal for amendments to the Parliamentary Assembly of BiH. It is worth noting that the Constitutional Court of BIH referred to the panels' conclusions two times in 2016, notably in the judgments AP-5246/14 and AP 1471/13.

Furthermore, as a result of the comprehensive set of training activities for judges and courts' legal advisors organised in co-operation with the Judges' and Prosecutors Training Centres (JPTCs) of the FBiH and Republika Srpska (RS), the ECHR and the ECtHR case-law are more widely applied in national judicial proceedings and the overall capacity of legal professionals, including courts' legal associates, is strengthened. In the same context, a number of tools of the European Programme for Human Rights Education for Legal Professionals (HELP) (on Property Rights, Reasoning of Criminal Judgments and Transitional Justice) have been integrated in the continuous training programme of the JPTC of the FBiH, providing high-quality training materials and enabling their wider application by the beneficiaries.

Human Rights Legal Clinics at several Universities in BiH have been launched. Law graduates, who had participated in the Human Rights Training courses earlier become tutors for the 25 participants in the clinics, demonstrating sustainable results of the Council of Europe overall assistance.

<sup>&</sup>lt;sup>5</sup> The Strategy was created through joint efforts of ministries of justice of BiH, entities and cantons, the High Judicial and Prosecutorial Council of BiH, the Judicial Commission of Brčko District (JC BD) and representatives of professional associations of judges, prosecutors, attorneys, notaries, mediators and other NGOs.

#### 2.2.2 PENITENTIARY AND POLICE

The systematic co-operation between the Council of Europe and BiH in this area and the synergy created between the several co-operation programmes implemented in the reporting period resulted in a substantial progress in this area, as reflected in multiple achievements.

The regulatory and policy framework for the implementation of community sanctions has been improved through assisting the authorities in drafting a number of amendments to the criminal legislation in BiH, paving the way for a more efficient supervision of offenders in the community.

An optional assessment paper for the introduction of probation and the draft Action Plan for a phased introduction of probation in BiH have been completed and presented to the authorities. Preparation of the legal framework was supported with the development of draft Law(s) on probation in BiH that drew on the recommendations stemming from the implementation of the Pilot project on introducing probation tasks in prisons.

The functioning of penitentiary institutions across BiH prison jurisdictions was further aligned with international standards through intensive prison staff training. Over 600 prison staff of various profiles and categories was trained on core, advanced and management competencies. Training Manuals have been developed and distributed. The common curricula for prison staff training encompassing security, safety and human rights aspects has been put in place, as well as a transparent and merit-based process of accreditation of the local prison staff trainers.

Several key documents have been developed to enhance human rights protection for persons deprived of their liberty in accordance with the standards of the Council of Europe and particularly the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) standards. They include the Guidelines for law enforcement agencies on detention procedures for persons deprived of liberty, which aim at developing common procedures across the law enforcement bodies with respect to upholding human rights of persons deprived of their liberty and preventing ill-treatment, as well as a the Handbook for developing individual treatment plans, which represent the first locally produced guidance on how to organise a meaningful regime to prisoners. Under the same goal, the Protocols on health care and human rights in closed environment for the provision of health care in prisons have been completed with a view to offer entry level training for newly recruited medical staff and medical protocols for the commonly encountered situations specific for the provision of health care in a prison environment.

In addition, the Council of Europe successfully launched in May 2017 a new pilot action aimed at supporting reintegration of violent and extremist prisoners through the development of a pre-release programme and the risk and needs assessment protocol.

#### PROGRAMMING OUTLOOK

The Council of Europe will continue with its active support to BiH authorities by implementing the pilot project on standardising prisons' operational procedures with respect to violent and extremist prisoners, and enabling prisoners' effective and efficient reintegration in the community. The supplementary funding would help in widening the scope and ensuring the sustainability of the action.

As a part of the Horizontal Facility, the implementation of the Action on Enhancing Human Rights Protection for Detained and Sentenced Persons will be strengthened by including preparatory activities for the introduction of the Management Information System for Prisons.

## 2.3 FIGHTING CORRUPTION, ECONOMIC CRIME AND ORGANISED CRIME

#### 2.3.1 CORRUPTION AND MONEY LAUNDERING

The Council of Europe is closely following initiatives to fight against corruption, in full coordination with other international actors. In recent months, several stakeholders from BiH have started advocating for the harmonisation of the Law on Conflict of Interest with international standards. Measures to manage and deal with conflict of interests are indeed a key feature of any anti-corruption preventive framework.

Taking into consideration that the issue of conflict of interests is one of the priorities of the BiH reform agenda (2015-2019), the country's strategy against corruption and follows GRECO's recommendations, the BiH Parliamentary Assembly Joint Commission of Human Rights organised, in co-operation with the Council of Europe, the European Union and the Organization for Security and Co-operation in Europe conference on this subject, on 23 of May 2017. A GRECO expert and evaluator for BiH participated in the exchange of views with other stakeholders including the Speaker of the House of Representatives (HoR), President of the Group of Parliamentarians against Corruption of HoR, Director of BiH Agency for the Prevention of Corruption and others, presenting the Council of Europe standards and relevant GRECO recommendations. On that occasion the Council of Europe reiterated its readiness to support BiH authorities by providing further expertise in this respect, including by the Venice Commission. To this end, the Expertise Coordination Mechanism<sup>6</sup> in the framework of the Horizontal Facility could be a useful instrument to react to relevant requests from BiH authorities, including on the issue of conflict of interest.<sup>7</sup>

# 2.3.2 CYBERCRIME

On 15 December 2015, the Council of Europe launched a joint ambitious project with the European Union targeting crime proceeds on the Internet in south Eastern Europe and Turkey (iPROCEEDS) and addressing a number of MONEYVAL recommendations. More specifically, the aim of this multifaceted action is to strengthen the capacity of state authorities in the region to search, seize and confiscate cybercrime proceeds and prevent money laundering on the Internet. The implementation of several activities, envisaged to be carried on until end of June 2019, should lead to a measurable increase in domestic, regional and international financial investigations in relation to cybercrime and to the process of reforms in terms of legislation, institutions and practices, in line with international standards.

In 2016, a thematic-based, initial assessment of the countries was undertaken regarding the stages of development in their exposure to cybercrime and money laundering on the Internet, as well as their legislative and practical capabilities to respond to the threats and trends regarding criminal money flows on the Internet. This overview enables more targeted action and support to each of the country, through the national project teams<sup>8</sup>, to improve designated areas<sup>9</sup>.

Several advisory missions and workshops on relevant topics have been organised in BiH so far, most notably on:

- preparation of protocols for interagency and international co-operation with the aim to assist the national authorities in the preparation of inter-agency co-operation protocols and domestic protocols for international sharing of intelligence and evidence for the search, seizure and confiscation of online crime proceeds;
- improved cybercrime reporting mechanism. Information gathered during the mission was translated into a set of recommendations, leading towards an increased knowledge and awareness of the participants on how to set-up a reporting platform and how to improve existing reporting mechanisms;
- assessment of the guidelines and indicators to prevent and detect/identify online crime proceeds with the aim to update/review indicators and red flags for the financial sector institutions used to detect online fraud and money laundering in the online environment.

More country based advice and training workshops are planned to be organised by the end of the programme, highlighting specific issues of concern. It is worth pointing out that partner institutions from BiH already benefited from the participation in a number of international/regional events<sup>10</sup>.

<sup>&</sup>lt;sup>6</sup> This mechanism enables the Council of Europe to respond to requests for legislative expertise for the beneficiaries of the Horizontal Facility.

<sup>&</sup>lt;sup>7</sup> In the framework of the Fourth Evaluation Round, GRECO has adopted several recommendations on the legal framework and the institutional set-up of BiH related to the issue of conflict of interest. The authorities of BiH have been invited to submit a report on the measures taken to implement the above-mentioned recommendations by 30 June 2017.

<sup>&</sup>lt;sup>8</sup> National project teams are composed by the Ministry of Justice, specialised prosecution, police units, Financial Intelligence Units, judicial and law enforcement training institutions.

<sup>&</sup>lt;sup>9</sup> National public reporting system on online fraud and other cybercrime, the legislative and institutional criminal justice framework, control measures used by the financial sector to mitigate money laundering risks and control online fraud and criminal money flows, national judicial training curricula, co-operation with private sector as well as international co-operation for the search, seizure and confiscation of online crime proceeds.

<sup>&</sup>lt;sup>10</sup> E.g. regional workshop on Money Laundering Risks related to New Technologies, plenary sessions of the Cybercrime Convention Committee (T-CY) of the Council of Europe, pilot training on investigation on Darknet and virtual currencies, meeting with Multinational Service Providers, regional case simulation exercise on cybercrime and financial investigations and others.

#### PROGRAMMING OUTLOOK

Alongside with the iPROCEEDS project launched in 2015, the Council of Europe is seeking funds to implement complementing project on Combating and Preventing Money Laundering and Terrorist Financing. Potential assistance needs to address identified shortcomings of the AML and Countering Financing of Terrorism (CFT) system with possibility to focus on several topics (depending on the updated needs assessment):

- AML/CFT Sanctioning regime,
- AML/CFT Supervision,
- NGO misuse for terrorist financing, and
- Seizure and confiscation of illegally acquired assets.

### 2.4 FREEDOM OF EXPRESSION AND INFORMATION SOCIETY

### 2.4.1 FREEDOM OF EXPRESSION AND FREEDOM OF THE MEDIA

Through the regional action (on promoting freedom of expression and information and freedom of the media in the SEE), the Council of Europe contributed to the development of legal and institutional guarantees for freedom of expression, professional journalism and a pluralistic media landscape in the region and in BiH. Action in this area resulted in:

- Enhanced capacities of the Central Regulatory Agency (CRA), Press Council and the BiH Association of journalists, through country based and regional training, workshops and other capacity building activities;
- Improved media professionalism a number of journalists as well as correspondents and editors were trained on different relevant topics, such as: freedom of expression, professional and ethical standards, hate speech, media regulation, investigative journalism and media reporting on minorities, vulnerable groups and gender equality. This includes a specialised training for the journalists of the Public Broadcasting Service of BiH and the organisation of the Association of BiH Journalists' Academy;
- Launch of an on-line platform for specialised education of both citizens and journalists in matters of ethics and professional standards in media, hate speech and freedom of expression;
- Active participation of BiH media in two regional networks (Media NEThics and the informal network for the protection of minors from harmful media contents).

## 2.4.2 REINFORCING JUDICIAL EXPERTISE ON FREEDOM OF EXPRESSION AND THE MEDIA

The Regional Joint Programme on reinforcing judicial expertise on freedom of expression and the media in SEE (JUFREX) was launched in April 2016, with the overall aim to promote freedom of expression and freedom of the media in line with Council of Europe standards and specifically focused on the judiciary in South-East Europe. JUFREX consists of 3 components: (i) training of judges, prosecutors and lawyers; (ii) support to regulatory bodies and (iii) training of media actors.

Since September 2016, when the project has become operational in BiH, the following activities have taken place:

- Country Assessment Report and Strategy Paper have been developed upon the assessment visit of an international expert, in consultation with all stakeholders;

- The regional Kick-off Conference was held on 13-14 October 2016 in Sarajevo bringing together all involved SEE countries/territories to develop the roadmap of actions corresponding to their needs;
- Training material that will feed the curricula to be adopted by the National Training Institutions has been developed in local language and includes a Handbook for Trainers on Article 10 adjusted to the country's legislation and case law, seven presentations on freedom of expression sub-topics, five on-line courses on the HELP Platform;
- Training of Trainers was conducted where out of 20 selected judges, prosecutors and lawyers, 11 became certified trainers capable to deliver cascade trainings;
- Grant Agreements on implementation of cascade training programmes as per the BiH Country Strategy Paper were signed with the Centre for Education of Judges and Prosecutors in FBIH, Centre for Education of Judges and Public Prosecutors and Bar Association of RS;
- Co-operation framework has been established with CRA, the Association of Journalists and the Press Council for the signature of Grant Agreements and the implementation of activities related to component (ii) and (iii).

It should be noted that BiH Project beneficiaries (including representatives of regulatory bodies, lawyers and judges) regularly participate in all other regional JUFREX activities.<sup>11</sup>

# 2.4.3 PARLIAMENTARY COOPERATION ON THE INDEPENDENCE OF THE MEDIA

The second of a series of parliamentary seminars, held on 29 of May 2017, aimed at enhancing dialogue "on the independence and impartiality of media" through a discussion between parliamentarians of BiH and members of parliaments of other Council of Europe member States. Good practices were shared and synergies reinforced with local and international civil society and institutions in the field of media, to help to promote Council of Europe standards and identify concrete areas of reform of the legislative framework in BiH. The seminar contributed to increased awareness within the Parliament of BiH about the role and the mission of the public broadcasting agency and the CRA, in order to foster pluralist media environment in BiH. Recommendations from the seminar were shared with parliamentarians, media institutions and civil society.

# PROGRAMMING OUTLOOK

The follow-up or new actions building on the results of regional activities would be able to maximise the benefit from the Council of Europe multifaceted assistance in the area of freedom of expression and freedom of media, targeting specific needs in BiH (further strengthening the capacity of Public Broadcasting Service, Professionalism in Media, Journalist's Academy, other).

# 2.5 DEMOCRATIC GOVERNANCE AND PARTICIPATION

# 2.5.1 ELECTORAL ASSISTANCE

In the context of 2016 local elections and with the Council of Europe overall electoral assistance programme in BiH:

- The capacity of the electoral administration, including the Central election commission (CEC), has been enhanced through the development of the unified training curriculum, training and certification of polling station members (covering approx. 8000 members) and creation of a database of certified trainers and commissioners;
- Participation of under-represented people (minorities including roma and elderly people) in the electoral process has been addressed and supported through capacity building and voters' awareness raising activities carried out in 10 municipalities in BiH;

<sup>&</sup>lt;sup>11</sup> E.g. regional conference of Media Regulatory Authorities held on 7-8 July 2016 in Montenegro on hate speech and protection of minors and the regional Training of Trainers held on 25-26 April in Albania for legal professionals. The representatives of Bosnian CRA have also led the publication on Hate Speech drafted in Spring 2017.

- The capacity of female politicians and candidates for mayors to successfully participate in the elections, has been improved, due to a set of training and coaching actions and well-targeted public campaign;
- Following the support to the BiH Inter-ministerial working group on the introduction of new technologies in the voting process, through the Council of Europe expert assistance, a set of recommendations has been presented and published in a special brochure together with the related key documents.

#### 2.5.2 SCHOOL OF POLITICAL STUDIES

The School of Political Studies (SPS) in BiH plays a key role in engaging a new generation of civic and political leaders in political dialogue beyond narrowly defined ethnic institutional and party interests.

Over the last two years, the SPS BiH successfully developed the capacity of two successive annual training cohorts of young political and civic leaders in the field of electoral management practices and raised their awareness as to the general political context in the country. Several national seminars have been provided for the selected group of participants and a constructive dialogue is established between young leaders from different political parties and sectors of civil society. Furthermore, the participants/young leaders acquired additional skills and knowledge on a wide spectrum of themes (European integration and harmonisation with European standards; dialogue for a democratic political culture; electoral system and political representation; regional co-operation issues) important for strengthening political culture and democratisation processes in BiH.

Successive generations of alumni of the SPS BiH have reached positions of authority in political, administrative and civil society sectors, thereby contributing to improving democratic governance and disseminating the values and standards of the Council of Europe.

#### 2.5.3 HIGHER EDUCATION

To strengthen the higher education framework and increase mobility and employability a set of "Priorities for the development of higher education in BiH 2016-2026" (which were identified as a result of an in-depth analysis of the situation of higher education in the country) has been developed as a blueprint for the future reform in this area. Following endorsement by the BiH Conference of Ministers, these priorities were adopted by the Council of Ministers of BiH in March 2016.

In addition, the BiH Conference of Ministers of Educations endorsed the 'Manual for the Further Development and Use of Qualification and Occupational Standards in BiH', which was prepared to facilitate the development and implementation of the qualifications framework in line with the BiH Action Plan for the Qualifications Framework, serving also as guidance for all individuals responsible for the development and implementation of internal quality assurance system in higher education as well as curricula developers. Several universities in BiH have started applying the guidelines and recommendations from the Manual by developing new study programmes.

In parallel, to assist the process of strengthening the development and application of common standards for higher education qualification across the country, qualification standards were developed in five subject areas, with corresponding occupational standards in two of those areas and capacity for the further development and use of qualification and occupational standards in BiH has been built through intensive training of 21 selected trainers from the respective institutions.

#### 2.5.4 CENSUS

As a follow up to the previous assistance to BiH authorities in preparing and observing the Population and Housing Census (2012-2015), the Council of Europe as a member of the International Monitoring Operation (IMO), supported the final assessment covering the whole census process from preparation to data dissemination. Based on the above assessment and recalling the assessments of the earlier phases, the IMO concluded that the census in BiH was as a whole conducted in compliance with international standards

and in a satisfactory manner, due to the proper design and implementation of data processing. The census results were considered to be of key importance, for economic and social policy planning, decision making and the elections.

# PROGRAMMING OUTLOOK

Although no actions have been implemented as regards local democracy under the extra budgetary funding due to the lack thereof, the ordinary budget was used for two activities which prepared the ground for future co-operation. A Leadership Academy Programme was launched in October 2016 with the participation of mayors from both entities, and an information meeting on Human Resource Management to present the Toolkit of the Centre of Expertise for Local Government Reform and to explore possibilities for co-operation was organised at the request of the relevant stakeholders. Funding would be welcome to secure the implementation of full scale projects in the above fields.

The Council of Europe continues to express readiness to support the authorities to review the legislation on local self-government within the entities, cantons and municipalities with a view to ensuring a clear apportionment of the powers of local authorities, to allocate to local authorities sufficient financial resources commensurate with their powers and responsibilities and to reinforce local democracy in accordance with Congress recommendations and Venice Commission's Opinion 308/2004 adopted in 2005.

The Council of Europe is also willing to continue with the electoral assistance to BiH especially in the context of BiH general elections in 2018, while the Venice commission remains ready to assist in ensuring the conformity of the legislation and its implementation with the European electoral heritage.

# **3 IMPLEMENTATION AND COORDINATION**

The Council of Europe's Committee of Ministers (CM) assesses the overall Action Plan implementation through its Group of Rapporteurs on Democracy (GR-DEM). The overall coordination of technical cooperation implemented by the Council of Europe falls within the remit of the Office of the Directorate General of Programmes (ODGP), which steers the programming of and fund-raising for co-operation actions, and ensures the efficiency of Council of Europe Offices in the field. The Council of Europe office in BiH, which currently employs 15 staff members, plays a key role in co-ordinating and supporting project implementation in accordance with the co-operation decentralisation policy.

Expertise, the basis of co-operation projects' added value, comes from relevant services in the entire Organisation. Projects under the Action Plan for BiH 2015-2017 are implemented by the Council of Europe's Directorate General of Human Rights and Rule of Law, the Directorate General of Democracy, the Directorate of Policy Planning and the Directorate of Political Affairs. Project implementation involved needs assessments, legislative expertise, capacity-building, awareness-raising and peer-to-peer reviews. The applied methodology reinforces the ownership of national stakeholders and ensures the sustainability of the outcomes.

The Council of Europe implements projects in close co-operation with authorities in BiH, targeting governmental stakeholders, parliaments, civil society and independent governance institutions, such as ombudsmen and local and regional authorities. This creates a unique leverage for a set of comprehensive, inclusive, successful and sustainable reforms.

Coordination to ensure an efficient use of resources and relevance of the Council of Europe's actions is performed at different levels and in different bodies, including the CM.

The Council of Europe closely co-ordinates with relevant international partners, notably the European Union (EU), and in particular the EUD in BiH. Coordination is also ensured with the United Nations (UN) and the Organisation for Security and Co-operation in Europe (OSCE), as well as with the embassies of the Council of Europe member States and states with an observing status such as the United States. To ensure efficiency and avoid the overlapping of activities, the Office actively participates in different coordination panels in the country, as follows:

- Coordinated International Community Support to the reform and transformation of Education in BiH;
- International Gender Group;
- EU Coordination Meetings on different subjects;

- Board of Principals under the chairmanship of the High Representative, serving as the main coordinating body of International Community activity in BiH;
- Countering Violent Extremism coordination group;
- Group on Human Rights and Anti-discrimination Strategy.

#### 3.1 TRANSVERSAL ISSUES

The Council of Europe prioritises a human rights approach in its activities at all levels and stages. Its *acquis*, including Council of Europe legal instruments, information and institutions, combined with the principles of equality, non-discrimination, balanced participation (both gender-based and from civil society) brings further added value to Council of Europe activities.

As a component of this human rights approach, the Council of Europe emphasises gender mainstreaming throughout its project activities. For more information, see the Guidelines on gender mainstreaming in Council of Europe's co-operation activities.<sup>12</sup> The Council of Europe also promotes civil society participation, as outlined in the Guidelines on civil society organisations' participation in Council of Europe's co-operation activities.<sup>13</sup>

The gender dimension is considered throughout the Action Plan implementation, and pursued in most activities in line with the Council of Europe Gender Equality Strategy 2014-2017, e.g.:

- By providing capacity building activities on the professional use of social media for women candidates for mayor and promoting women's participation in elections;
- By raising awareness about the abolishment of negative traditional gender stereotypes through the antidiscrimination on-line course for legal professionals;
- By including gender balance in the selection criteria of the participants, trainers and consultants in a number of projects.

The Organisation pays considerable attention to fostering dialogue between authorities and civil society, thus contributing to the transparency of the reforms and supporting its independent monitoring. The civil sector in BiH benefited from the cascade training on various aspects of protection against discrimination, which results in a wider dissemination of European anti-discrimination standards within the society and is involved in regular consultation with the Institution of Ombudsman. Representatives of CSOs are significantly involved in the programs of the School of Political Studies and increasingly participate in the implementation of the regional HELP initiative for Western Balkan.

The prevention of minority rights and the promotion of inclusiveness were in the spotlight of several regional projects, while most of the actions either addressed the issue of minorities or paid an attention to the balance between representatives of different cultural or social groups and ethnic minorities during their implementation.

## 3.2 RISK MANAGEMENT AND SUSTAINABILITY

Due to the nature of its mandate, the Council of Europe sometimes operates in complex and unstable environments that may expose it to risks. The risk analysis of the Action Plan and possible mitigation strategies are made on the basis of the Council of Europe risk management guidelines and the <u>Risk</u> <u>Management Policy<sup>14</sup></u> of the Organisation adopted in June 2016. All the programmes implemented within the Action Plan have their own risk assessment and mitigation modalities.

<sup>&</sup>lt;sup>12</sup> Available in English only.

<sup>&</sup>lt;sup>13</sup> Available in English only.

<sup>&</sup>lt;sup>14</sup> Available in English only.

Insufficient budgetary contributions to the Action Plan create a serious risk for the effective implementation of the Action Plan and sustainability of the Council of Europe support to BiH in specific sectors, such as the fight against corruption, antidiscrimination, judiciary reform, democratic governance (e.g. consolidating local democracy) and freedom of media. The Council of Europe made efforts to mitigate this challenge through constant dialogue with the donor community and proactive resource mobilisation in close coordination with the national authorities to identify priority areas requiring Council of Europe intervention.

# 3.3 LESSONS LEARNED

What follows are lessons learned from the implementation of this Action Plan during the period of reference.

- A human rights approach to co-operation using the Council of Europe's standards as both means and goals of technical assistance can significantly contribute to the enjoyment of those rights;
- Effective coordination of projects is of crucial importance considering the multiplicity of international donors and in the case of Horizontal Facility the variety of national actors involved in new actions;
- Close coordination with national partners at all levels and at all stages of the programmes' development and implementation is needed to ensure optimal implementation and steering of the action, helping to create shared ownership for the long-term engagement in the Action Plan among the authorities;
- Targeted programmes based on monitoring recommendations embodied in Horizontal Facility actions, showed to be an added value of the cooperation, being able to address the specific needs of the country by streamlined assistance and in a compliance with both the Council of Europe standards and European Union acquis in the framework of the enlargement process;
- Local capacity development remains an important element of the technical assistance programmes

# 4 FUNDING AND PARTNERS

Continued financial support of this Action Plan allows the Council of Europe to build on and create activities that support European standards and the principles of the European Convention on Human Rights and other legal instruments. The Council of Europe increasingly seeks to deliver on agreed priorities rather than on individual projects and activities.

On 1 June 2017, the total cost of the projects of the Action Plan for BiH 2015-2017 was €10 694 122.15

The total funding secured amounted to  $\leq$  5 807 805, including funding from the European Union (55% of the total), Norway (21.1%), the United States of America (9%), and the United Kingdom, the Human Rights Trust Fund, Lichtenstein, Croatia and Slovakia (2.3% all together). The contribution from the Council of Europe's Ordinary Budget amounted to  $\leq$  734 004, representing 12.6% of the total funding provided.

98% of the contributions received were earmarked and allocated as follows:

- 53% of the total was devoted to projects supporting justice reform. This included action to reinforce the capacity of the judiciary to apply European human rights standards at the national level, including through the HELP programme, to harmonise national sanctions policies and practice with European standards, to strengthen human rights protection for detained and sentenced persons, build capacities of prison staff and support reintegration of violent and extremist prisoners in BiH.

<sup>&</sup>lt;sup>15</sup> Costs of the projects for the duration of the Action Plan.

- 19.2% of the funding went in favour of projects on anti-discrimination, respect for diversity and social inclusion, including support for inclusive education, human rights and minority protection, as well as for democratic governance and Roma community participation.
- 12.9% of the funding went in favour of projects in the democratic governance and participation sector, supporting strategic development of higher education and qualification standards and the International Monitoring Operation in the final assessment of the census process in BiH.
- Projects in the field of fight against corruption, economic crime and organised crime received 7.8% and focused on supporting co-operation on Cybercrime, targeting crime proceeds on the Internet.
- Action supporting freedom of expression and information benefited from 6.3% of the total funding received; it was aimed at strengthening the right to data protection and reinforcing judicial expertise on freedom of expression and the media at the regional level.

The total funding needs of the Action Plan amounted to €4 886 317, representing 46% of the total cost of the projects.

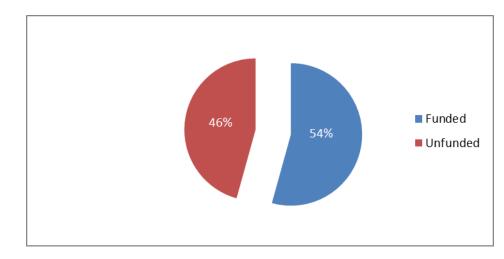
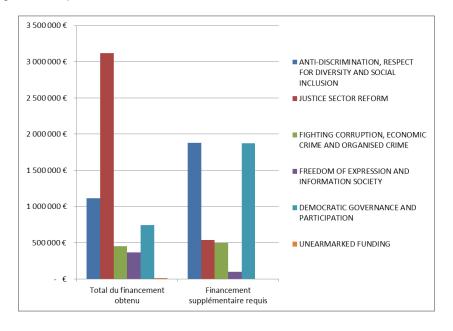
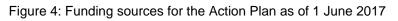
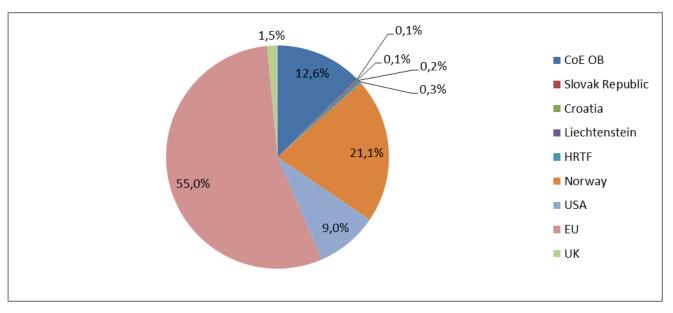


Figure 2: Funding situation of the Action Plan as of 1 June 2017

Figure 3: Funding situation per sector of the Action Plan as of 1 June 2017







# 5 APPENDIX I: LIST OF PROJECTS

Title	Duration
Reinforcing the capacity of the judiciary to apply European Human Rights standards at the national level in BiH (Phase II	01/03/2014 - 31/08/2017 (42 months)
Harmonisation of BiH sanctions policies and practices with European Standards	01/01/2013 - 30/06/2016 (42 months)
Support to prison staff training in BiH	01/08/2014 - 31/07/2016 (24 months)
Electoral assistance	01/04/2016 - 30/06/2017 (15 months)
School of Political Studies of BiH	01/01/2015 - 31/12/2017 (36 months)
Strategic Development of Higher Education and Qualification standards in BiH	01/02/2013 - 31/07/2015 (30 months)
Horizontal Facility Action - Strengthening the Human Rights Ombudsman to fight discrimination	1/09/2016 – 30/06/2018 (22 months)
Horizontal Facility Action- Enhancing Human Rights Protection for Detained and Sentenced persons	1/07/2016-30/06/2018 (24 months)
Horizontal Facility Action - Support to the IMO in the final assessment of the census process in BiH	01/09/2016 - 28/02/2017 (6 months)
Supporting reintegration of violent and extremist prisoners in BiH	01/05/2017 - 31/03/2018 (11 months)
CBM project - Young Influencers: Supporting inter-ethnic dialogue of young people at municipality level in BiH in line with the Council of Europe standards	May – 31/12/2017 (7months)
Strengthening Institutions and Links with the Council of Europe Parliamentary Assembly	1 October 2016 – 30 December 2017 (15 months)

# LIST OF REGIONAL PROJECTS

Title	Duration
Regional Support for Inclusive Education:	01/01/2013 - 30/11/2015 (35 months)
Promoting Human Rights and Minority Protection in South East Europe	01/12/2013 - 29/12/2016 (37 months)
Democratic Governance and Roma Community Participation through Mediation	01/04/2014 - 31/08/2016 (29 months)
European Programme for human rights education of legal professionals (HELP)	01/01/2014 - 31/12/2015 (24 months)
Promoting freedom of expression and information, and freedom of the media in the SEE	01/09/2013 - 31/08/2015 (24 months)
Co-operation on Cybercrime under the IPA: Project on targeting crime proceeds on the Internet (iPROCEEDS):	15/12/2015 - 14/06/2019 (42 months)
Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe	20/04/2016-19/04/2019 (36 months)