



Strasbourg, 30/06/2021

CEPEJ(2021)2  
Part 2

## EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

### HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans “DASHBOARD Western Balkans”

Data collection: 2020

Report prepared by the CEPEJ for the attention of the European Commission

## Part 2 (A) - Beneficiary profile - Bosnia and Herzegovina

Generated on 30/06/2021 10:00

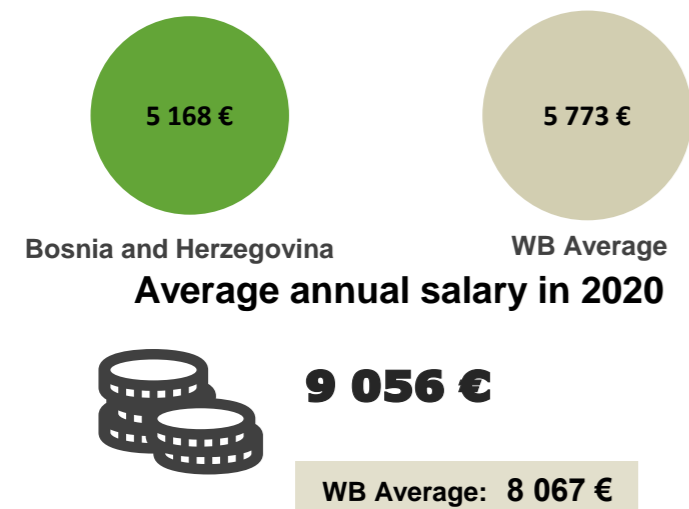
This Action is implemented in the framework of the Horizontal Facility II (2019-2022), a co-operation initiative of the European Union and Council of Europe for the Western Balkans and Turkey. The project is funded by the European Union and the Council of Europe and implemented by the Council of Europe.

## Executive Summary - Bosnia and Herzegovina in 2020

### Population in 2020



### GDP per capita in 2020



### Budget

In 2020, Bosnia and Herzegovina spent 131 981 916€ as implemented judicial system budget, i.e. **37,81 € per inhabitant, the same as the Western Balkans (WB) median**. 72,4% was spent for all courts, 21,5% for prosecution services, 6,1% for legal aid.

Over the three-year period (2018 – 2020), Bosnia and Herzegovina **increased the budget spent for Judicial System** from 35 € per inhabitant in 2018 to 37,8 € in 2020. Compared to 2019, Bosnia and Herzegovina spent 4,3% more for courts, 14% more for prosecution services, and 1,2% more for legal aid in 2020.

The budget spent for courts coincides with the WB median whereas the budget spent for prosecutor services is slightly below the WB median. However, **the budget for legal aid is well above the WB median (2,3 € per inhabitant vs 0,2 €)**.

The amount of budget coming from **external donors** is difficult to calculate because funds are often allocated on projects that usually last longer than one year and involve not only the justice system but also other areas. Furthermore, it is difficult to identify how much is directly or indirectly allocated to courts, prosecutor offices and legal aid. However, Bosnia and Herzegovina was able to estimate the ratio between external donors funding and budget of courts, where external donors funding allocated to courts is around 2% in proportion to courts' budget, prosecutor services (around 6%), and legal aid (around 9%).

### Efficiency\*\*

**The Covid-19 pandemic had visible consequences on the work of courts and judges.** In many countries, including Bosnia and Herzegovina, courts were closed for several months in 2020. This caused a decrease of the number of both incoming and resolved cases. For this reason, the Clearance Rate (CR) was above 100% (judges were able to solve all the received cases). However, the Disposition Time (DT) increased because the number of pending cases remained stable, while the number of resolved cases dropped. In 2020, the highest CR for Bosnia and Herzegovina was for the second instance Civil and commercial litigious cases (130,2%), and the second instance total Criminal law cases, with a DT of 59 days, were resolved faster than the other type of cases and other instances.

However, **Bosnia and Herzegovina has the highest number of Civil and commercial litigious pending cases per inhabitant in the region** (4,9 per 100 inhabitants vs 2,77), and longest length of proceedings in the first instance for this type of cases (DT of 639 days whereas the WB median was 366). In the second instance, the DT for the Civil and commercial litigious cases was 412 days while the WB median was 255. This was also due to the backlog of old cases, which several courts in the biggest cities in Bosnia and Herzegovina had to deal with.

In the three-year period between 2018 and 2020, **the clearance rate in first instance decreased for civil and commercial litigious and criminal cases** slightly increased for administrative cases (still remaining below 100% for the latter type of cases). **In the same period, the DT increased for all categories of cases:** civil and commercial litigious case increased from 483 days in 2018 to 639 days in 2020, administrative cases from 393 days in 2018 to 424 days in 2020, and criminal cases from 293 days in 2018 to 316 days in 2020. The DT of civil and commercial litigious and criminal cases is well above the WB median, the DT for administrative cases is equal to the WB median, while the DT for criminal cases is slightly higher than the WB median.

In December 2020, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted **new criteria for the performance evaluation of judges, prosecutors, court presidents, and chief prosecutors**. Court presidents and Chief prosecutors evaluate judges and prosecutors annually, in line with the following performance criteria:

- quantity of work (i.e. annual quota),
- percentage of realization of individual case resolution plan (for judges),
- backlog reduction plan (for prosecutors),
- and statistical quality of decisions.

According to these criteria, the **quality of decisions** issued by a judge is evaluated based on the percentage of reversed decisions compared to the total number of decisions upheld modified and reversed by a higher instance court. The quality of prosecutors' indictments is assessed on the basis of the total number of issued indictments; the total number of enforceable judgements dismissing charges (e.g. acquitting the charged people); and on the basis of enforceable decisions on dismissing indictments, proportionate to the total number of indictments issued in the evaluation period.

Moreover, the Book of Rules on Referential Quota for the Work of Judges, Judicial Associates of the Courts in Bosnia and Herzegovina prescribes the measurements for monitoring and measuring the work and the performance results of judges, judicial associates, court presidents, court department heads, and court mentors in all courts in Bosnia and Herzegovina. Indeed it **sets the monthly and annual quota** as well as the **weight** for each type of court case within a given case category.

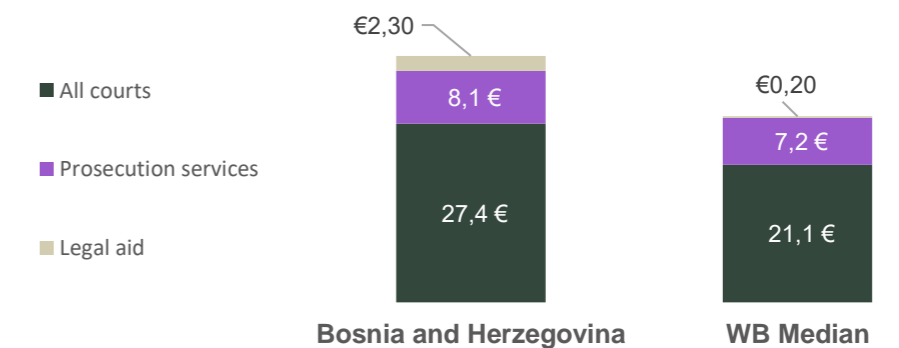
\*\*The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

**Clearance Rate**, obtained by dividing the number of resolved cases by the number of incoming cases, is used to assess the ability of a judicial system to handle the inflow of judicial cases. Its key value is 100%. A value below 100% means that the court weren't able to solve all the cases they received and, as a consequence, the number of pending cases will increase, while CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of pending cases) and, as a consequence, the number of pending cases will decrease.

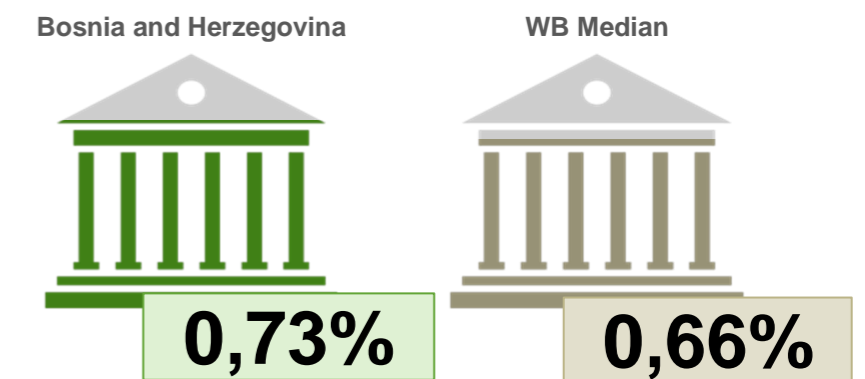
**Disposition Time** is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator is highly influenced by the number of pending cases: categories of cases with high backlog will have higher DT than categories of cases that do not have backlog. At the same time, it is affected by the number of resolved cases, and this is especially evident in 2020, when this number dropped.

### Budget of the Judiciary

#### Implemented Judicial System Budget per inhabitant in 2020



#### Implemented Judicial System Budget as % of GDP in 2020

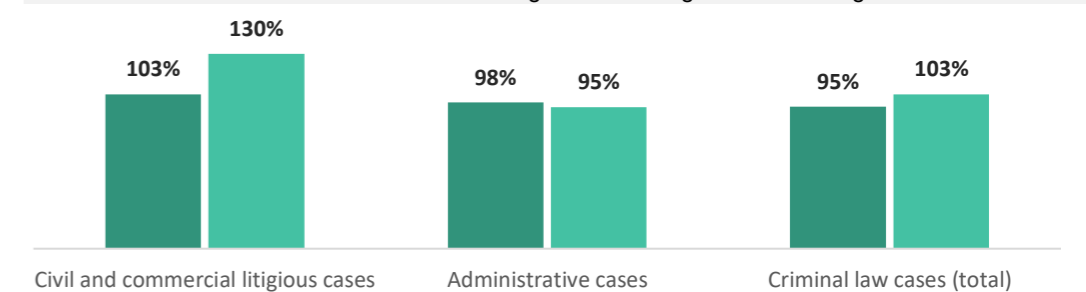


### Efficiency

■ 1st instance ■ 2nd instance

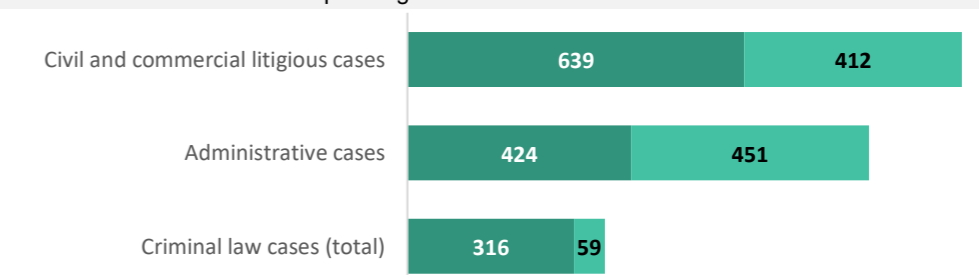
#### Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.



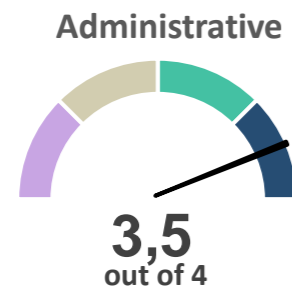
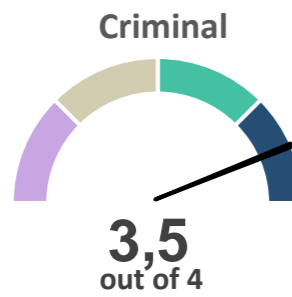
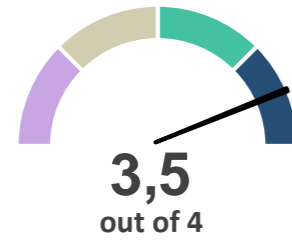
#### Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



### CMS index (scale 0-4)

Civil and/or commercial



Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the case management system of the courts of the respective beneficiary.

The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.

### Legal aid

As already mentioned, Bosnia and Herzegovina is the beneficiary with the highest budget per inhabitant for legal aid in the WB region. The budget for legal aid is positively related to the number of cases granted with legal aid and Bosnia and Herzegovina is indeed the country with the **highest number of cases granted with legal aid per inhabitant in the region** (712, more than twice the WB median of 306). However, **this number steadily decreased** from 876 in 2018 to 712 in 2020 (when the Covid-19 pandemic restrictions further affected this trend).

### Electronic case management system and court activity statistics

In regard to the Case Management System (CMS) development, the CMS in Bosnia and Herzegovina seems to be the most advanced in the WB region at the moment. It was developed more than 10 years ago and updated 2 years ago. The CMS is developed in all courts 100% deployment rate and the data is stored on a database consolidated at national level. The CMS index for Bosnia is higher than the WB average (3.5 for each type of cases versus 2.9 for civil and/or commercial cases and administrative cases, and 2.8 for criminal cases.)

### Training

Bosnia and Herzegovina had the **lowest budget per 100 inhabitants allocated to training** in the region: 17,4€ per inhabitant, whereas the WB median was 30,5€.

The number of training courses delivered is an indicator that has been influenced by the Covid-19 pandemic restrictions, which have excluded the possibility to deliver in-person training courses. In 2020, Bosnia and Herzegovina was **able to transfer courses from in-person to online platform**: the number of delivered training courses plummeted from 398 days in 2019 to 81 days in 2020, while the number of available on-line courses climbed from 1 to 153.

### ADR

Generally speaking, ADR and mediation in particular are not well developed in the Western Balkans region.

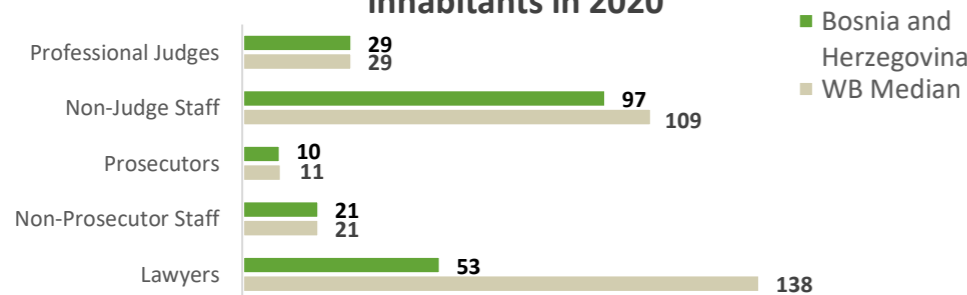
In Bosnia and Herzegovina, **the civil and criminal procedure codes foresee non-mandatory court-related mediation procedures, for which legal aid could be granted**. As regards civil proceedings, at the preparatory hearing at the latest, the court conducting the civil proceedings may propose to the parties the resolution of the dispute through mediation proceedings, as prescribed by a separate law. The parties may jointly put forward such proposal until the conclusion of the main hearing. As far as criminal proceedings are concerned, the court may propose mediation through the mediator to the injured party and the accused or to the defence attorney in accordance with law.

In 2020, there were 531 cases in which parties agreed to start mediation and, in 458 cases there was a settlement agreement (out of 496 closed cases).

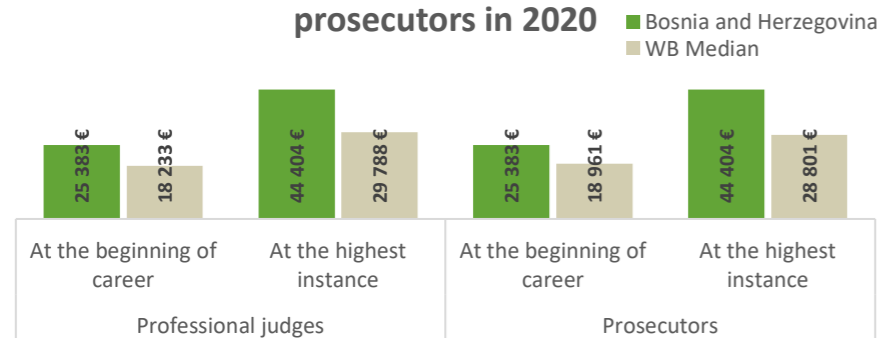
The number of mediators per 100 000 inhabitants coincided with the median and it remained stable during the three-year period under analysis. The total number of cases in court related mediations increased in all the WB region However **in Bosnia and Herzegovina it increased less than in the other countries**.

### Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2020



Salaries of professional judges and prosecutors in 2020



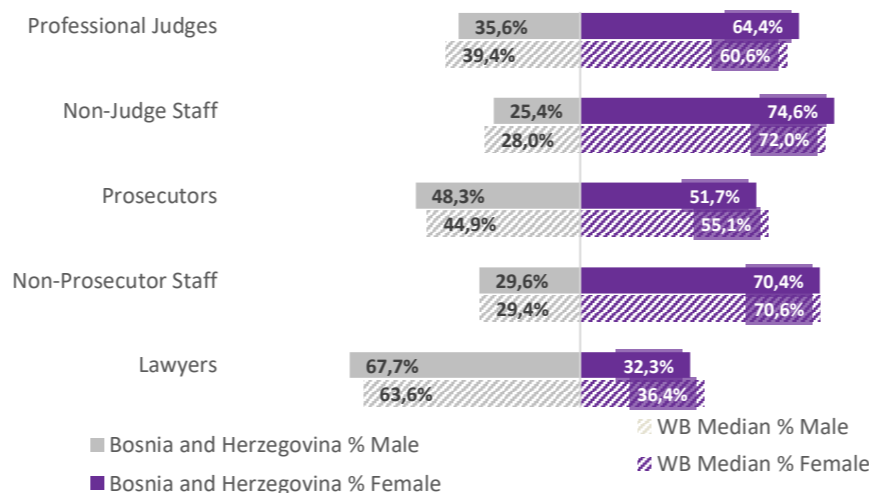
### Gender Balance

64% female judges (total)

52% female prosecutors (total)



Gender Balance in 2020



### Professionals and gender

Eastern European countries traditionally have a very high number of professionals per 100 000 inhabitants. In 2020, however, Bosnia and Herzegovina had **19,3 first instance professional judges per 100.000 inhabitants, significantly lower than the WB median** (22,7). Compared to 2019, the number of judges slightly increased, while the number of prosecutors decreased. Moreover, **a higher percentage of judges was employed at the higher instance court compared to the WB median** (8,8% vs 3,3%).

The number of non-judge staff per professional judge (3,3 staff units per judge) was similar to the WB median (3,4) for all instances. However, this ratio was significantly lower than the WB median for the third instance (2,5 non-judge staff per judge in the Supreme Court vs 3,4).

Compared to the national average salary, judges and prosecutors received a higher salary (both at the beginning and at the end of career) than the WB median.

Regarding the **gender balance**, Bosnia and Herzegovina has a higher percentage of female professional judges (64,4%) and non-judge staff (74,6%) compared to the WB median (respectively 60,6% and 72%) but a lower percentage of female prosecutors (51,7% vs 55,1%) and non-prosecutor staff (70,4% vs 70,6%).

### ECHR

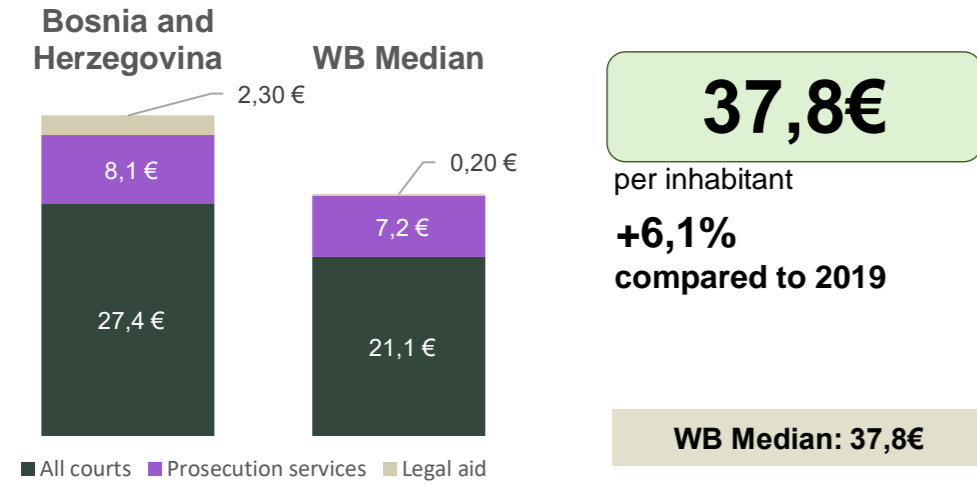
In 2020, the **applications pending before an European Court on Human Rights decision body for Bosnia and Herzegovina were 403** (-1192 less than the previous year). The judgements by the ECHR finding at least one violation for Bosnia and Herzegovina were 8; whereas they were 21 in 2019.

Kosovo\* is not included in the calculation of summary statistics

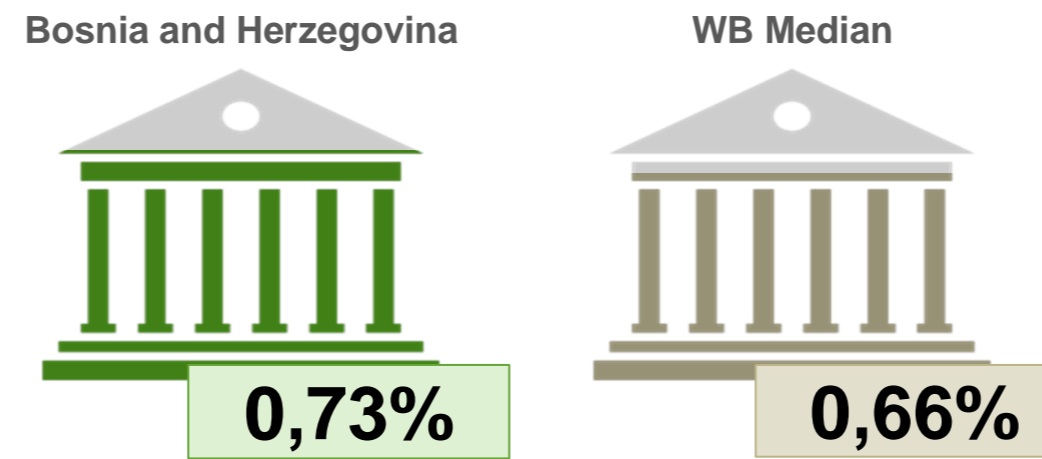
\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

## Budget of the judiciary in Bosnia and Herzegovina in 2020 (Indicator 1)

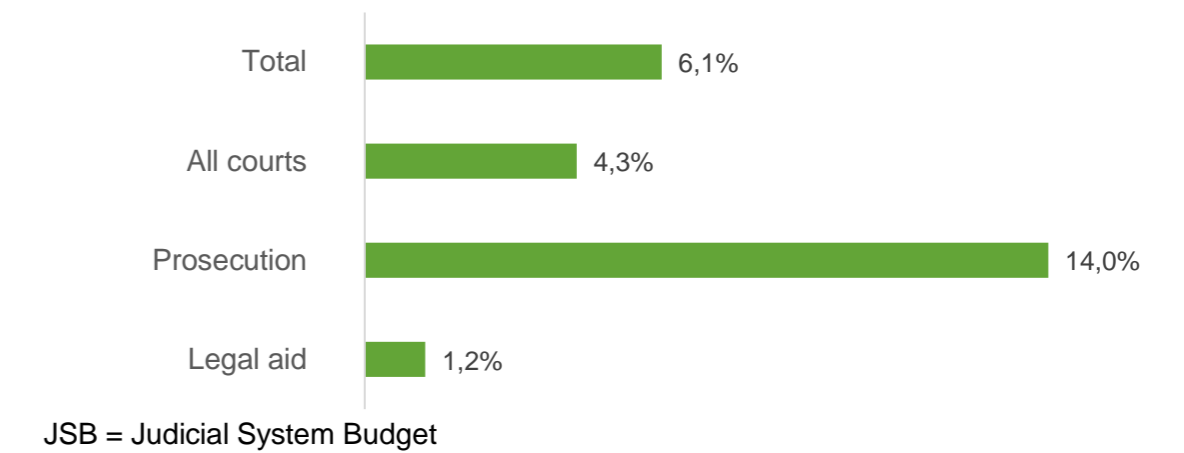
### Implemented Judicial System Budget per inhabitant



### Implemented Judicial System Budget as % of GDP



### % Variation of Implemented JSB between 2019 and 2020



The Judicial System Budget (JSB) is composed by the budget for all courts, public prosecution services and legal aid. In 2020, the implemented JSB for Bosnia and Herzegovina was 37,8 € per inhabitant. This was the same as the Western Balkans (WB) median. It represented 0,7% of the GDP of Bosnia and Herzegovina (the WB median was 0,7%) and it increased by 6,1% since 2019.

### Budget allocated to the judicial system (courts, prosecution services and legal aid)

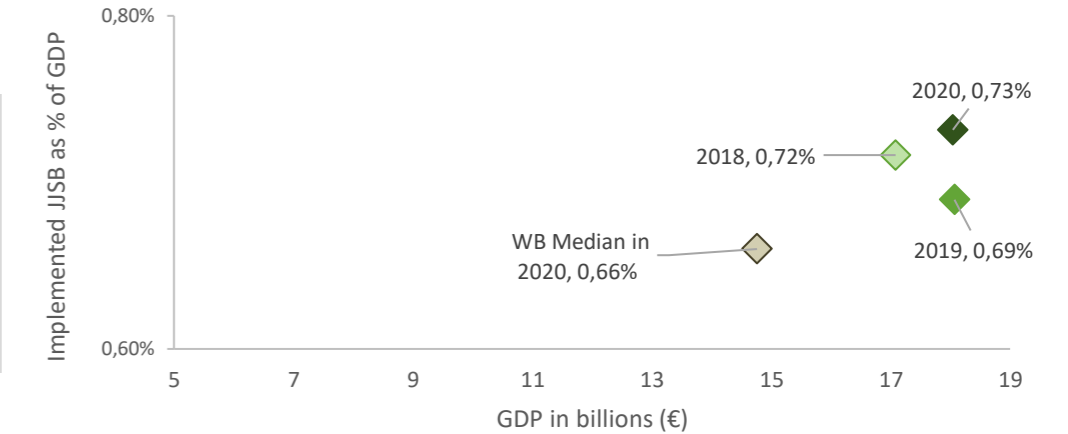
In 2020, Bosnia and Herzegovina spent 131 981 916 € as implemented judicial system budget. This means that Bosnia and Herzegovina spent 37,81 € per inhabitant, the same as the Western Balkans median. 72,4% was spent for all courts, 21,5% for prosecution services, 6,1% for legal aid.

Compared to 2019, Bosnia and Herzegovina has spent 4,3% more for courts, 14% more for prosecution services, and 1,2% more for legal aid.

Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant	WB Median	% Variation 2018 - 2020	% Variation 2019 - 2020	As % of GDP	WB Median	Variation (in ppt) 2018 - 2020	Variation (in ppt) 2019 - 2020
<b>Total</b>	NA	131 981 916 €	37,8 €	37,8 €	8,0%	6,1%	0,73%	0,66%	0,02	0,04
<b>All courts</b>	97 986 212 €	95 534 233 €	27,4 €	21,1 €	8,0%	4,3%	0,53%	0,41%	0,01	0,02
<b>Prosecution</b>	29 698 213 €	28 427 318 €	8,1 €	7,2 €	7,4%	14,0%	0,16%	0,15%	0,00	0,02
<b>Legal aid</b>	NA	8 020 365 €	2,30 €	0,20 €	10,3%	1,2%	0,04%	0,003%	0,002	0,001

PPT = Percentage points

### Implemented Judicial System Budget as % of GDP between 2018 and 2020

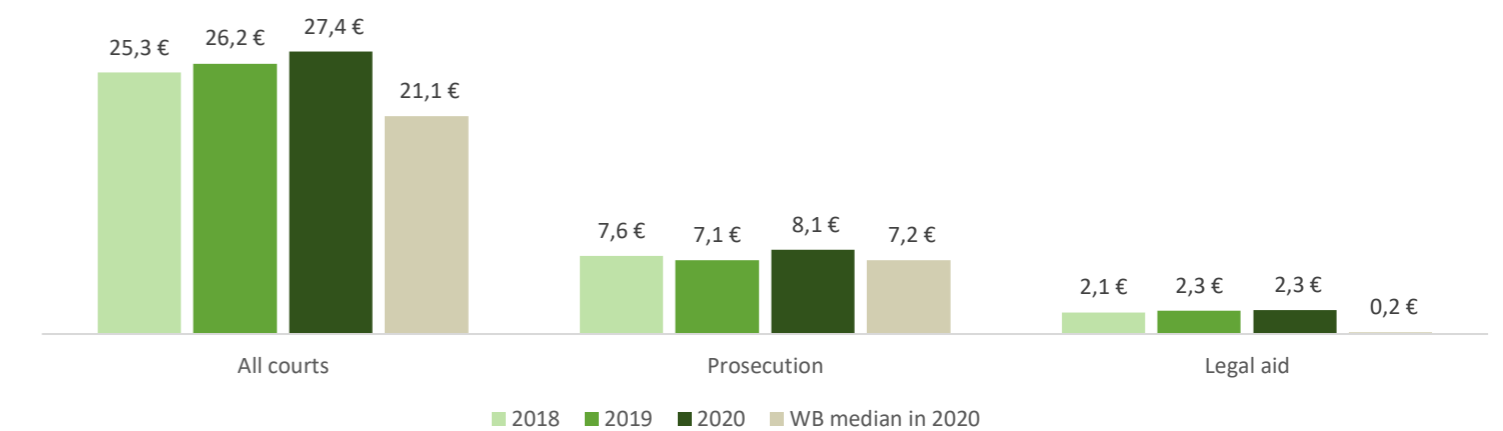


The budget spent for courts coincides with the WB median whereas the budget spent for prosecutor services is slightly below the WB median. However, the budget for legal aid is well above the median and it is the highest in the region.

The difference between approved and implemented budget for courts and prosecutor services is due to the fact that a certain number of judicial and non-judicial positions remained vacant, and the budget for setting up the new unit for organized crime and corruption cases within one of the highest instance courts has not been implemented.

In Bosnia and Herzegovina, legal aid is financed both through the budget of legal aid institutions which are government bodies independent from courts and through the budgets of courts. Regarding the latter, the accounting methodology does not allow to distinguish between funds earmarked by the courts for legal aid and other funds. Though, it is possible to differentiate the amount of funds spent for legal aid in the implemented court budget, but it is not possible to calculate the approved legal aid budget.

### Implemented judicial system budget per inhabitant between 2018 and 2020 (€)

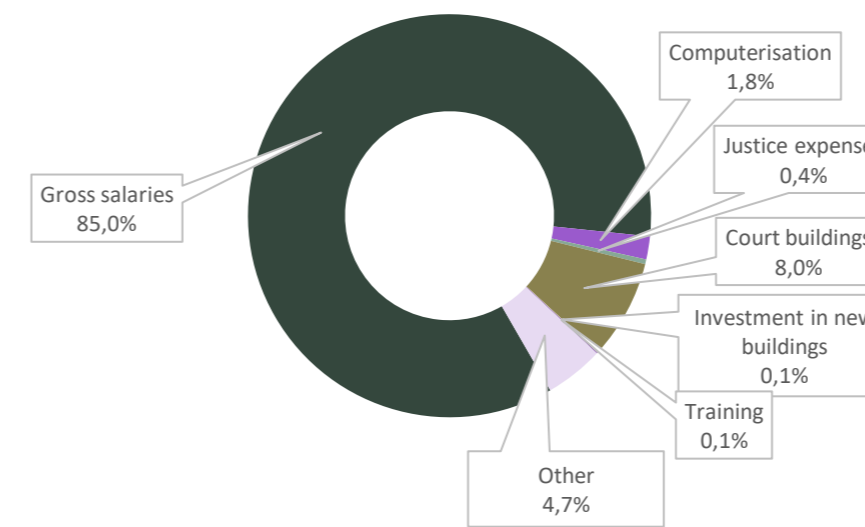


## Budget allocated to the functioning of all courts

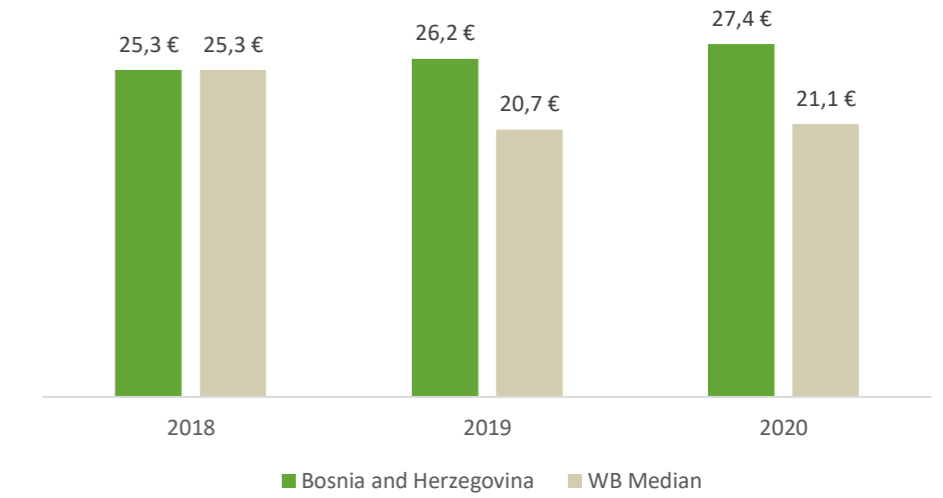
In 2020, Bosnia and Herzegovina spent 95 534 233 € as implemented budget for courts. 85% was spent for gross salaries, 1,8% for computerisation, 0,4% for justice expenses, 8% for court buildings, 0,1% for investments in new buildings, 0,1% for training, 4,7% for other expenses. Within the category "Other" are included the expenditures for travel expenses and purchase of office material and office equipment. Compared to 2019, the implemented budget for courts has increased by 4,2%.

	2020		% Variation between 2018 and 2020		% Variation between 2019 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
<b>Total</b>	97 986 212 €	95 534 233 €	5,6%	7,9%	0,7%	4,2%
<b>Gross salaries</b>	83 172 265 €	81 177 143 €	8,3%	9,7%	1,8%	5,5%
<b>Computerisation</b>	NA	1 762 874 €	NA	3,3%	NA	0,1%
<b>Justice expenses</b>	NA	362 511 €	NA	12,5%	NA	2,5%
<b>Court buildings</b>	NA	7 610 770 €	NA	-6,3%	NA	-8,8%
<b>Investment in new buildings</b>	NA	62 885 €	NA	-62,7%	NA	-32,3%
<b>Training</b>	NA	56 518 €	NA	-35,2%	NA	-38,2%
<b>Other</b>	NA	4 501 532 €	NA	7,6%	NA	10,4%

Distribution of the Implemented budget allocated to all courts in 2020 (%)



Implemented budget allocated to all courts per inhabitant between 2018 and 2020



Data on the approved budget are classified according to the economic classification adopted by the ministries of finance. The data regarding the approved budget is classified in a way that allows obtaining data only on annual budget allocated to the functioning of all courts, and annual public budget allocated to (gross) salaries.

Regarding the approved budget, the economic classification used by the Ministry of finance in Bosnia and Herzegovina is not earmarked, except for salaries, for this reason it is not possible to obtain data for sub-categories. Regarding the implemented budget, the amounts of all sub-categories are calculated using the budget execution reports as the best possible estimation.

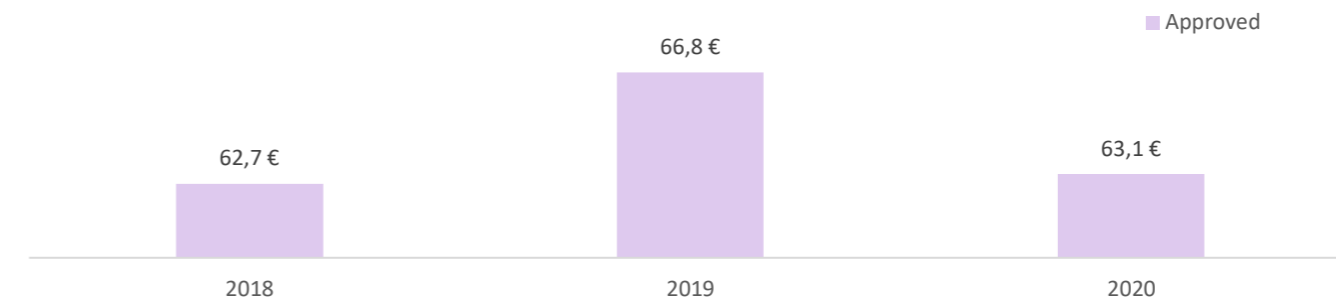
The implemented annual public budget for training and investments in new court buildings declined considerably in 2020 compared to 2019, because the courts could not use all of the funds allocated for these purposes due to the reduction of the relevant activities in the context of the measures undertaken against the spread of COVID-19 pandemic.

## • Budget allocated to the whole justice system

Since every beneficiary includes different elements in the whole justice system budget, it is not possible to compare it with the WB median. In Bosnia and Herzegovina, from 2019 to 2020 the whole justice system approved budget decreased by 6%.

Whole Justice System	2020		% Variation of the Whole Justice System per inhabitant	
	Absolute number	Per inhabitant	2018 - 2020	2019 - 2020
Approved	220 116 324 €	63,1 €	1%	-5,6%
Implemented	NA	-	NA	NA

Whole Judicial System Budget between 2018 and 2020 (€ per inhabitant)



### The whole justice system budget includes the following elements in 2020:

Court budget	✓	Constitutional court	✓	Judicial protection of juveniles	✗
Legal aid budget	✓	Judicial management body	✗	Functioning of the Ministry of Justice	✓
Public prosecution services budget	✓	State advocacy	✓	Refugees and asylum seekers service	✗
Prison system	✓	Enforcement services	✗	Immigration services	✗
Probation services	✗	Notariat	✗	Some police services	✓
Council of the judiciary	✓	Forensic services	✓	Other services	✗

The category Judicial management body is not applicable to the judicial system of Bosnia and Herzegovina, the High Judicial Council of Bosnia and Herzegovina is empowered to perform the managerial authorities.

Regarding enforcement function (i.e. enforcement services) and judicial protection of juveniles, they are carried out within the courts and public prosecution services but there is not specific budget line to that extend in their budgets.

Regarding the refugees and asylum seekers services and immigration services, they are the responsibility of various institutions outside the justice system.

Finally, notary chambers are not financed by the public budget.

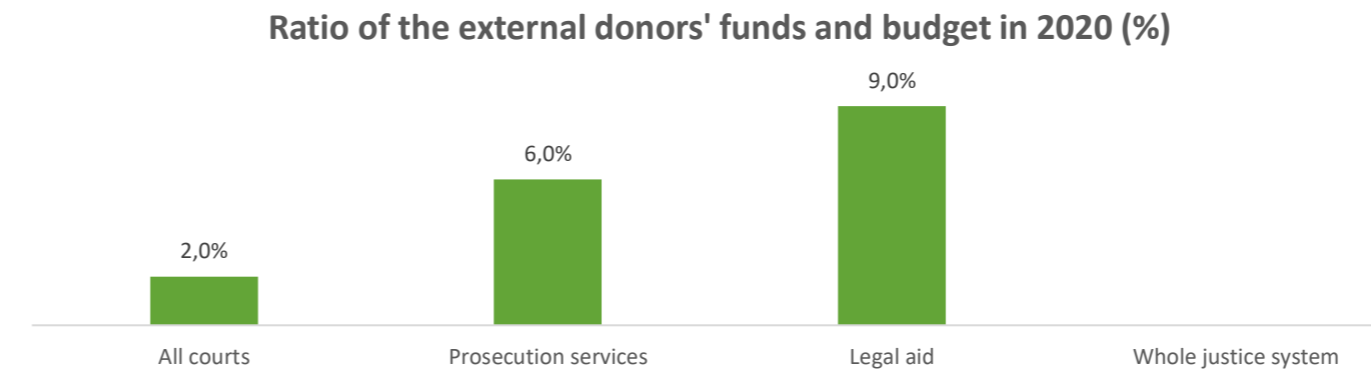
The annual approved public budget allocated to the whole justice system was reduced in 2020 compared to 2019, due to the following circumstances:

- Prison system: A smaller amount of funds was planned for the construction of new prison buildings in 2020 following the completion of the new maximum-security prison in 2019;
- COVID-19 measures: In addition, some of the funds allocated in the 2020 budget for the justice system were transferred to finance the measures easing the economic and other problems caused by the COVID-19 pandemic.

## • Budget received from external donors

The percentages represent an estimate of the ratio between external donations and respective budget. The percentage is calculated in relation to the total implemented budget of each category. However, this does not mean that the external funds cover a percentage of the budget, since donations are not included in the judicial system budget.

	Absolute value	Calculated as %	In percentage (%)
All courts	NA	NA	2,0%
Prosecution services	NA	NA	6,0%
Legal aid	NA	NA	9,0%
Whole justice system	NA	NA	NA



Looking at these figures, the highest ratio between external donations and budget of Bosnia and Herzegovina is for legal aid (9%).

External donors provide funding for the IT system in judiciary aimed at improving its functioning. Donor funds are not included in the budgets of courts, public prosecution services and legal aid institutions; the external funds are implemented in addition to the budgets within the projects financed by the donors or by a non-governmental organization that provides legal aid throughout Bosnia and Herzegovina. The biggest donors are: the European Commission, Sweden, Norway, Switzerland, and UNICEF.

## Professionals and Gender Balance in judiciary in Bosnia and Herzegovina in 2020 (Indicators 2 and 12)

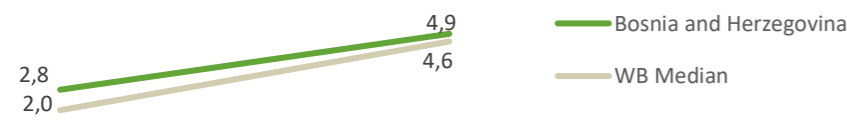
### Judges

**29,3**  
per 100 000 inhabitants  
**+ 1,4%**  
compared to 2019  
WB Median: 30,4

64% female judges (total)



Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020



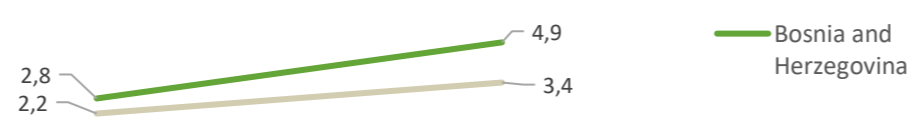
### Prosecutors

**10,3**  
per 100 000 inhabitants  
**-3,6%**  
compared to 2019  
WB Median: 10,5

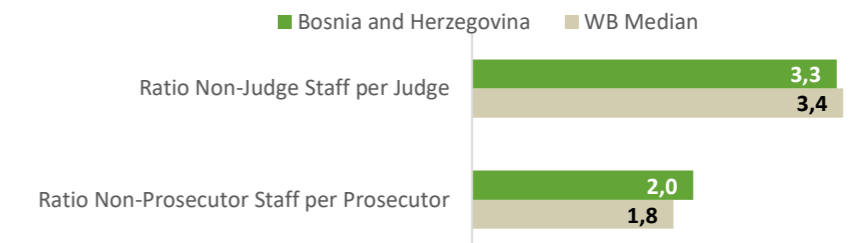
52% female prosecutors (total)



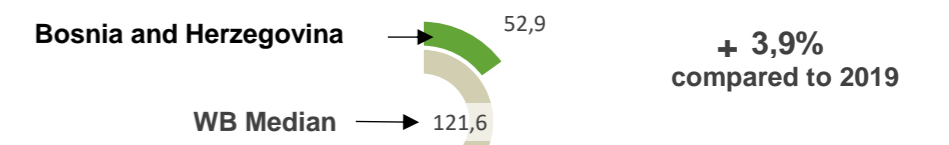
Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020



### Non-Judge and Non-Prosecutor staff



### Lawyers per 100 000 inhabitants



In 2020, Bosnia and Herzegovina had 29,3 professional judges and 10,3 prosecutors per 100 000 inhabitants. Both figures were below the Western Balkans (WB) median of 30,4 and 10,5, respectively. More than half of professional judges were women (64,4%, higher than the WB median of 60,6%), as well as the percentage of female prosecutors (51,7%, lower than the WB median of 55,1%).

### Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
<b>Total</b>	1 024	100,0%	29,3	30,4
<b>1st instance courts</b>	673	65,7%	19,3	22,7
<b>2nd instance courts</b>	232	22,7%	6,6	6,0
<b>Supreme Court</b>	119	11,6%	3,4	1,6

For reference only: the 2019 EU median is 24,5 judges per 100 000 inhabitants.

The numbers provided do not include information on the number of court presidents and reserve judges. The absolute number of professional judges in Bosnia and Herzegovina in 2020 was 1024, which was 29,3 per 100 000 inhabitants. This number is significantly lower than WB median of 30,4. Compared to 2019, the total number of professional judges increased only by 1,4%.

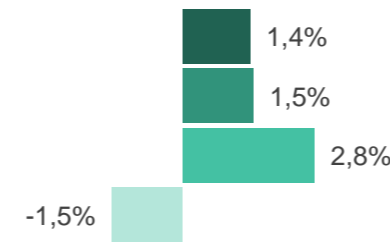
The figures show a difference of 9,1 percentage points between the percentage of judges in the first instance (65,7%) and the WB median (74,8%)

As regards Supreme Court, there are 3 courts of general jurisdiction in Bosnia and Herzegovina that are included in the "Supreme Court" category.

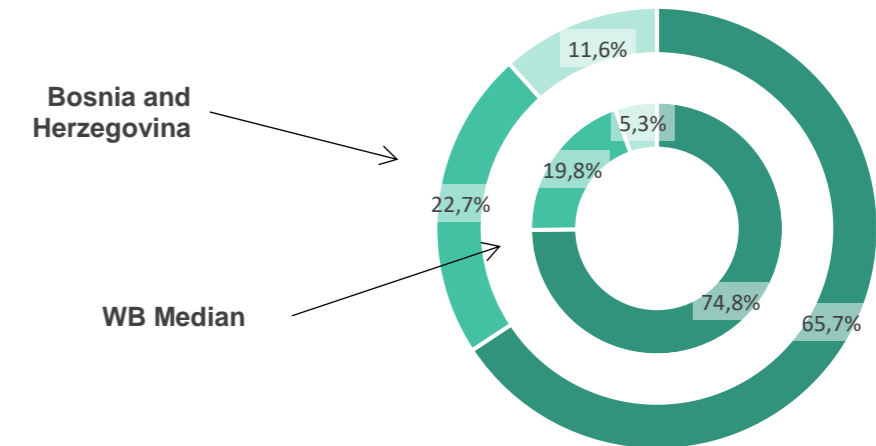
At entity level, there are the Federation of Bosnia and Herzegovina Supreme Court and the Republika Srpska Supreme Court. Both courts are competent to decide within the respective entity on legal remedies concerning decisions of the immediately lower courts. At the State level there is the Court of Bosnia and Herzegovina. Its competencies are regulated by the Law on the Court of Bosnia and Herzegovina and are related to criminal, administrative and appellate jurisdiction. However, the Court of Bosnia and Herzegovina has no jurisdiction over the decisions adopted by the entity – level Supreme Courts.

Accordingly, there are three Prosecutor's Offices representing criminal cases before the courts that are included in the Supreme Court category: the Prosecutor's Office before the Court of Bosnia and Herzegovina; the Prosecutor's Office before the Federation of Bosnia and Herzegovina Supreme Court; the Prosecutor's Office before the Republika Srpska Supreme Court. □

% Variation of no. of professional judges per 100 000 inh. 2019 - 2020

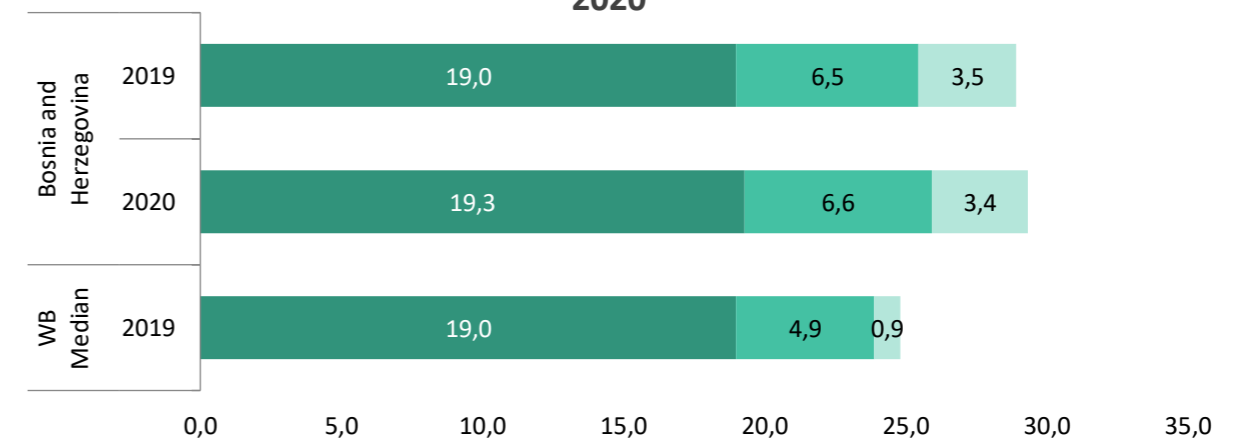


Distribution of professional judges by instance in 2020 (%)



■ 1st instance ■ 2nd instance ■ 3rd instance

Distribution of professional judges per 100 000 inhabitants by instance in 2019 and 2020





## • Non-judge staff

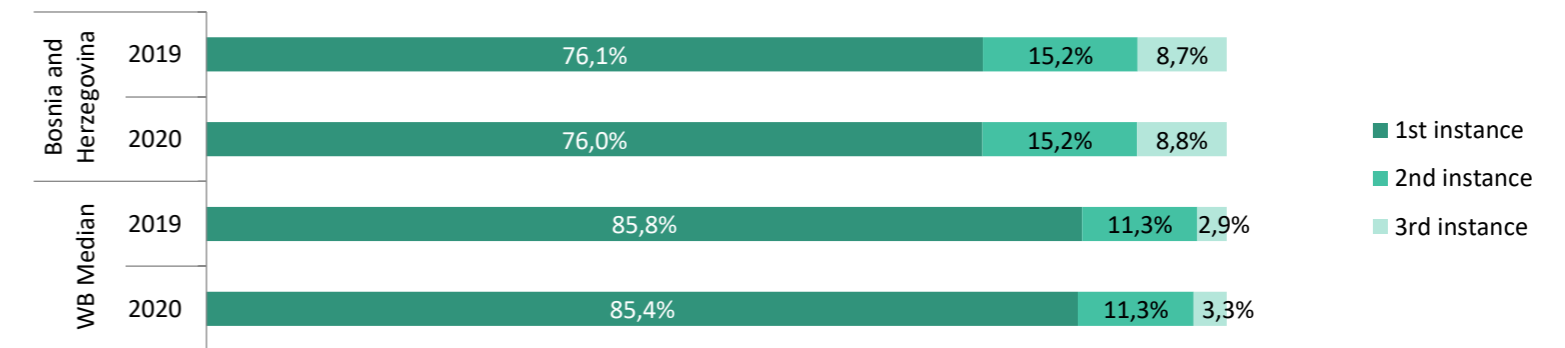
In 2020, the total number of non-judge staff in Bosnia and Herzegovina was 3 384, which increased by 0,5% between 2019 and 2020. Thus, the number of non-judge staff per 100 000 inhabitants was 96,9, which was below WB median of 109,1. Compared to 2019, there was no significant variation in the distribution of non-judge staff among instances in 2020. The highest number of non-judge staff were in charge of administrative tasks and represented 48,6% of the total.

	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
<b>Total</b>	3 384	100,0%	96,9	109,1
<b>1st instance courts</b>	2 573	76%	73,7	93,2
<b>2nd instance courts</b>	513	15%	14,7	12,4
<b>Supreme Court</b>	298	9%	8,54	3,56

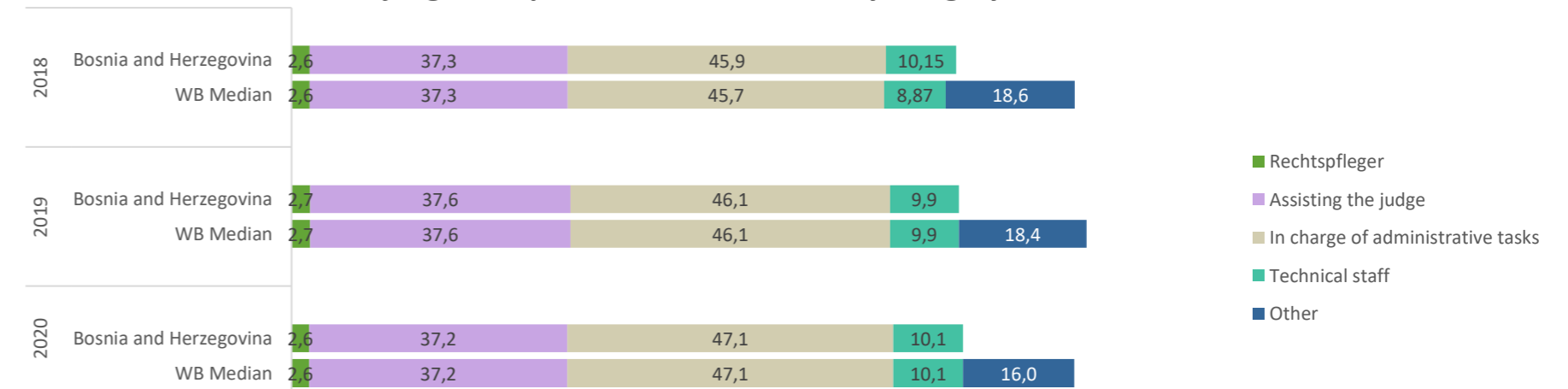
For reference only: the 2019 EU median is 57,5 non-judge staff per 100 000 inhabitants.

	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
<b>Total</b>	3 384	100,0%	96,9	109,1
<b>Rechtspfleger</b>	90	2,7%	2,6	2,6
<b>Assisting the judge</b>	1 299	38,4%	37,2	37,2
<b>In charge of administrative tasks</b>	1 643	48,6%	47,1	47,1
<b>Technical staff</b>	352	10,4%	10,1	10,1
<b>Other</b>	NAP	NAP	NAP	16,0

### Distribution of non-judge staff by instance in 2019 and 2020



### Number of non-judge staff per 100 000 inhabitants by category between 2018 and 2020



Only full time employees are taken into account for the calculation presented in the table above, fixed term employees and trainees are not included.

Within the category Rechtspfleger (or similar bodies) are included Judicial associates. Judicial associates are appointed following a public competition by the High and Judicial and Prosecutorial Council of Bosnia and Herzegovina in municipal courts (i.e. first instance courts) in one part of the country, the Federation of Bosnia and Herzegovina, for an undetermined period. They must possess a law degree and must pass the bar examination. A judicial associate may proceed and decide non contentious matters, enforcement matters, including payment orders, and small claims cases in accordance with the law and as assigned by the court president. Appeals against their decisions are decided by the second instance courts. The provisions of the Law on the High and Judicial and Prosecutorial Council of Bosnia and Herzegovina that refer to judges are applied accordingly also for judicial associates (i.e. disciplinary procedure, rules on productivity etc.).

Within the category non-judge staff are included law clerks, court typists/administrative judicial assistants, witness support officers, etc.

The category staff in charge of different administrative tasks and of the management of the courts includes positions such as: court administrator, secretary to court president, human resource management officer, court registry staff, ICT staff, financial and budgetary officer, land registry and business registry staff, bailiff, etc.

Finally, the category technical staff includes positions such as: driver, receptionist, cleaning staff, janitor, etc.

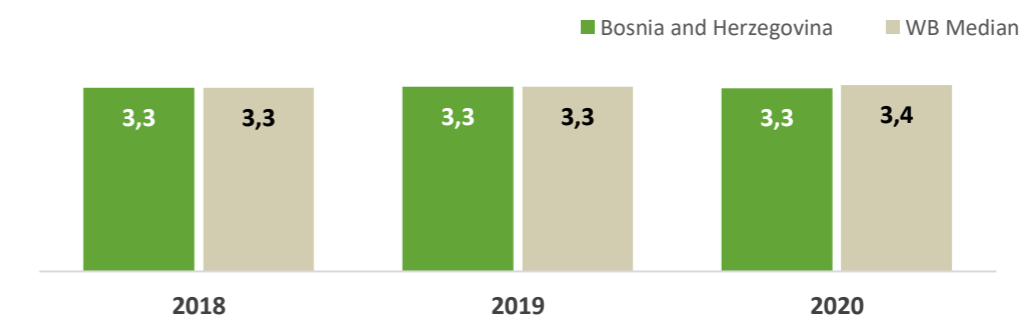
## • Ratio between non-judge staff and professional judges

In Bosnia and Herzegovina, the ratio between non-judge staff and professional judges was 3,3 in 2020, whereas the WB median was 3,4. This ratio remained stable during the three-year period (2018 - 2020).

	Ratio in 2020		% Variation between 2019 and 2020	
	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median
<b>Total</b>	3,3	3,4	-0,8%	1,0%
<b>1st instance courts</b>	3,8	3,8	-0,9%	-0,9%
<b>2nd instance courts</b>	2,2	2,7	-2,2%	14,9%
<b>Supreme Court</b>	2,5	3,4	3,1%	-1,7%

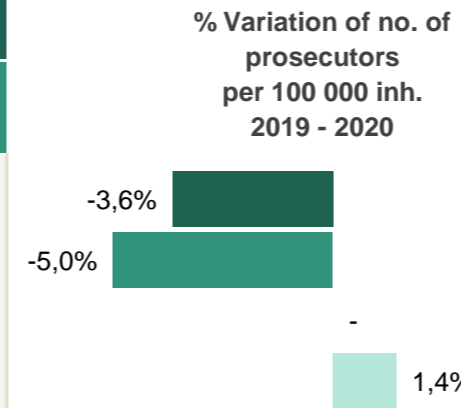
For reference only: the 2019 EU median ratio of non-judge staff per judge is 3,3.

### Ratio between non-judge staff and judges between 2018 and 2020

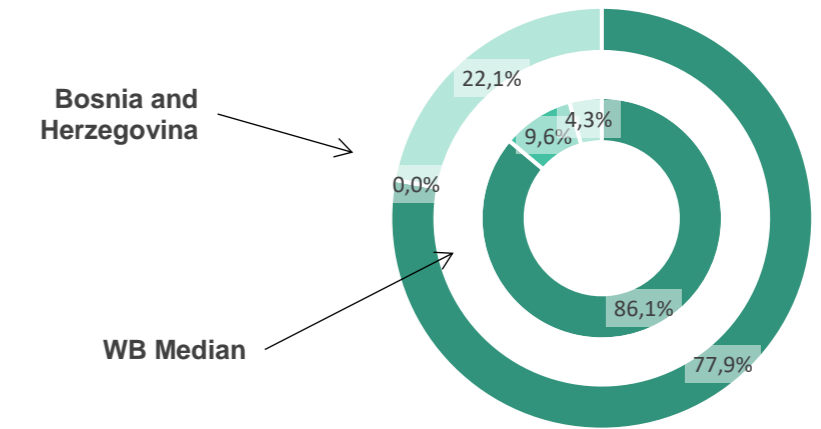


## Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
<b>Total</b>	358	100,0%	10,3	10,5
<b>1st instance courts</b>	279	77,9%	8,0	9,6
<b>2nd instance courts</b>	NAP	NAP	NAP	1,1
<b>Supreme Court</b>	79	22,1%	2,3	0,5



Distribution of prosecutors by instance in 2020 (%)



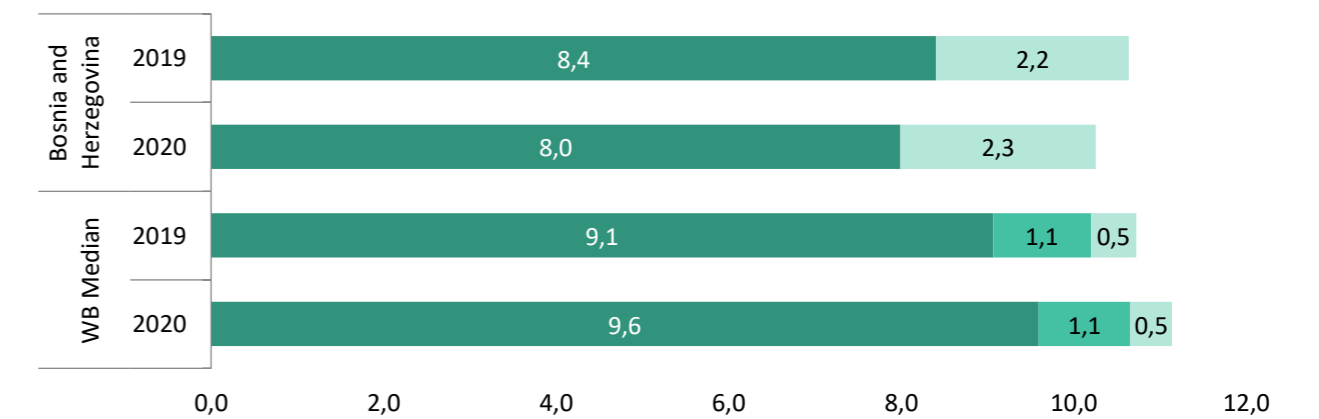
In 2020, the total number of prosecutors in Bosnia and Herzegovina was 358, which was 10,3 per 100 000 inhabitants (slightly lower than WB median of 10,5).

The total number of prosecutors decreased by -3,6% between 2019 and 2020.

The figures show a difference of -8,2 percentage points between the percentage of prosecutors in the first instance (77,9%) and the WB average (86,1%), since in Bosnia and Herzegovina there is not 2nd instance for prosecutors.

As already mentioned, there are three Prosecutor's Offices representing criminal cases before the courts that are included in the Supreme Court category: the Prosecutor's Office before the Court of Bosnia and Herzegovina; the Prosecutor's Office before the Federation of Bosnia and Herzegovina Supreme Court; the Prosecutor's Office before the Republika Srpska Supreme Court. The numbers provided in the table above do not include information on the number of chief prosecutors. 18 chief prosecutors were appointed on 31st December 2020.

Distribution of prosecutors per 100 000 inhabitants by instance in 2019 and 2020



## Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

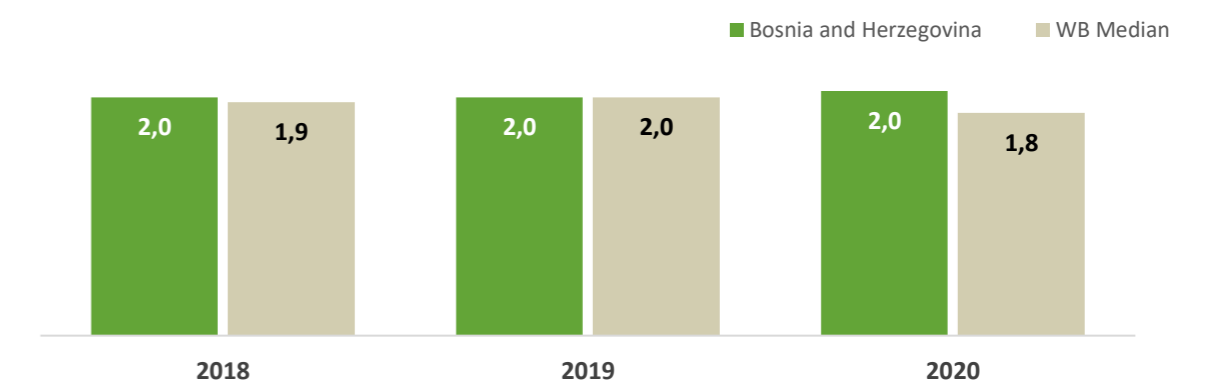
	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhab.	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median
<b>Total</b>	717	20,5	20,5	2,0	1,8	2,6%	-6,5%

In 2020, the total number of non-prosecutor staff in Bosnia and Herzegovina was 717, which decreased by -1,2% compared to 2019.

Thus, the number of non-prosecutor staff per 100 000 inhabitants was 20,5, the same as the WB median.

The number of non-prosecutor staff per prosecutor is 2, which is slightly higher than WB median of 1,8.

Ratio between non-prosecutor staff and prosecutors between 2018 and 2020



Only full time employees are taken into account for the calculation presented in the table above. The figures stated in the table above do not include fixed term employees and trainees.

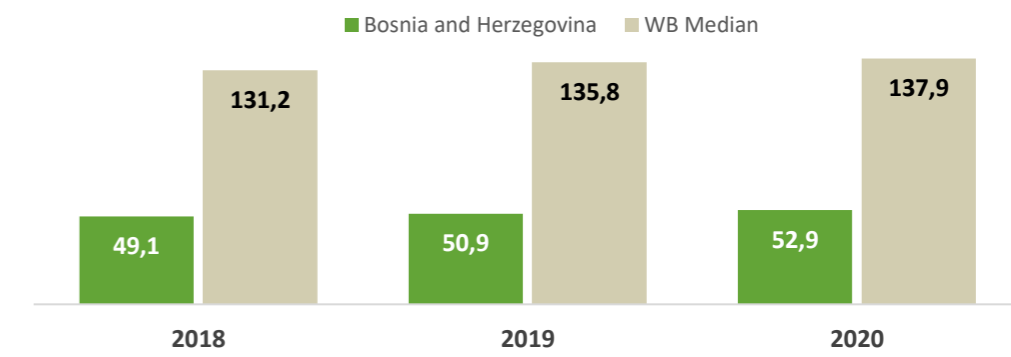
## • Lawyers

	Number of lawyers			% Variation between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Bosnia and Herzegovina	WB Median
<b>Total</b>	1 846	52,9	137,9	3,9%	1,6%

*For reference only: the 2019 EU median is 121,3 lawyers per 100 000 inhabitants.*

In 2020, the number of lawyers was 52,9 per 100 000 inhabitants, which was remarkably lower than the WB median (137,9). The number of lawyers increased by 3,9% between 2019 and 2020.

Number of lawyers per 100 000 inhabitants between 2018 and 2020



## Salaries of professional judges and prosecutors

In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Bosnia and Herzegovina was 2,8, which was more than the WB median (2).

At the end of career, judges were paid more than at the beginning of career by 74,9. The increase is less than the variation of the WB median (127%).

In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Bosnia and Herzegovina was 2,8, which was more than the WB median (2,2).

At the end of career, prosecutors were paid more than at the beginning of career by 74,9%, which was more than the variation of the WB median (51,9%).

		Salaries in 2020 (Q15)				% Variation of Gross Salary between 2019 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	WB Median Ratio with the annual gross salary	Bosnia and Herzegovina	WB Median
Professional judge	At the beginning of his/her career	25 383	16 268	2,8	2,0	2,9%	-5,0%
	Of the Supreme Court or the Highest Appellate Court	44 404	27 669	4,9	4,6	2,8%	-27,1%
Public prosecutor	At the beginning of his/her career	25 383	16 268	2,8	2,2	2,9%	-0,1%
	Of the Supreme Court or the Highest Appellate Court	44 404	27 669	4,9	3,4	2,8%	-11,5%



For reference only: the 2019 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:

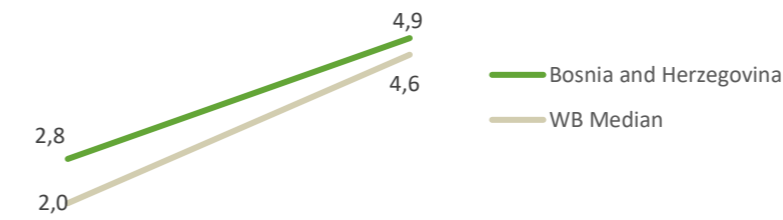
- professional judges' salary at the beginning of career: 2,02

- prosecutors' salary at the beginning of career: 1,77

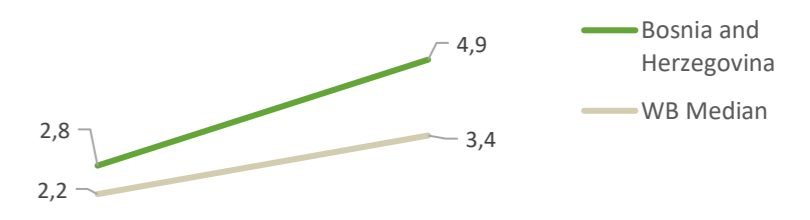
- professional judges' salary at the end of career: 4,1

- prosecutors' salary at the end of career: 3,57

**Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020**



**Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020**



There are different general regimes for the salary contributions in different jurisdictions in Bosnia and Herzegovina, these regimes apply to the salaries of the judicial office holders as well. The calculations were made as the weighted average salary based on the number of judges/prosecutors, for a three-years working experience judge/prosecutor at the beginning of his/her career; a twenty-years working experience judge/prosecutor of the supreme court or the highest appellate instance.

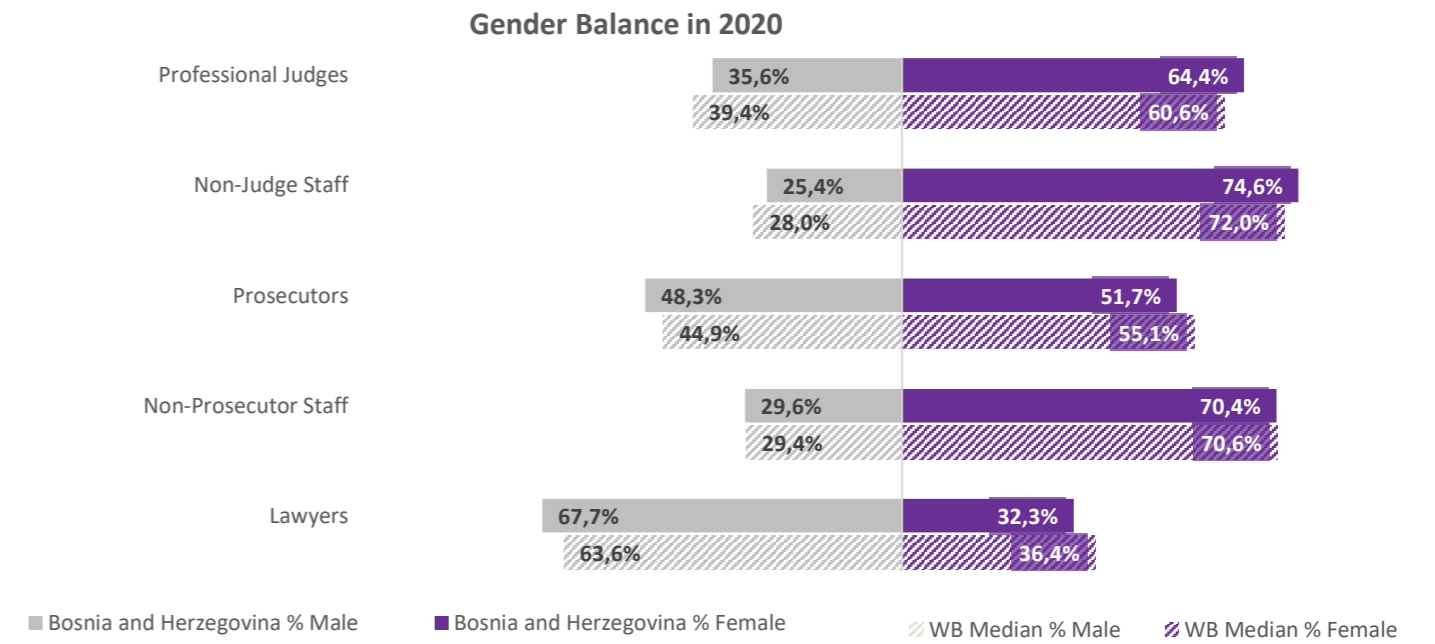
## Additional benefits and bonuses for professional judges and prosecutors

	Reduced taxation	Special pension	Housing	Other financial benefit	Productivity bonuses for judges
Judges	✗	✗	✗	✗	✗
Prosecutors	✗	✗	✗	✗	

Judges and prosecutors are entitled to certain benefits as all other public sector employees. The public sector employees are entitled to receive benefits in addition to wages such as health and retirement contributions, overtime pay, meal expense allowance, transport expense allowance, retirement pay, funeral expenses, etc.

## Gender Balance

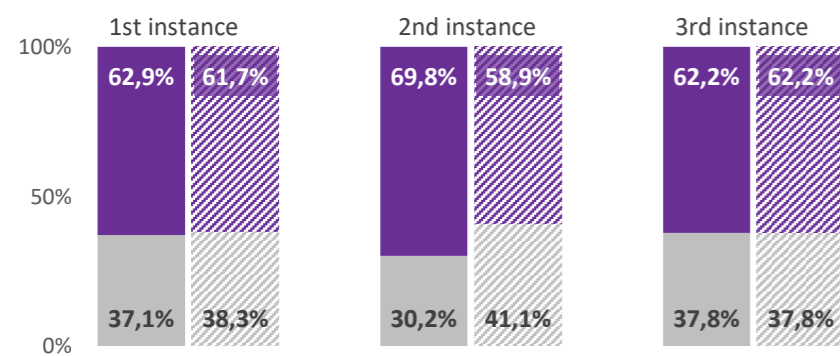
	Total number per 100 000 inh.	% Female	WB Median	Variation of % females between 2019 and 2020 (percentage points)	
				Bosnia and Herzegovina	WB Median
Professional Judges	29,3	64,4%	60,6%	0,2	0,3
Non-Judge Staff	96,9	74,6%	72,0%	-1,1	0,2
Prosecutors	10,3	51,7%	55,1%	0,3	1,9
Non-Prosecutor Staff	20,5	70,4%	70,6%	-0,5	-1,4
Lawyers	52,9	32,3%	36,4%	0,5	1,3



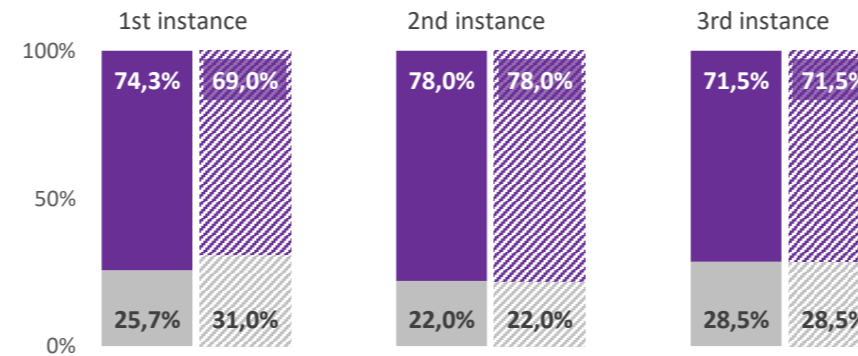
In 2020, the percentage of female judges was 64,4%, which was more than WB median (60,6%). Moreover, the percentage of female non-judge staff was 74,6%. Also, in 2020, the percentage of female prosecutors was 51,7%, which was less than WB median (55,1%). Moreover, the percentage of female non-prosecutor staff was 70,4%. Finally, the percentage of female lawyer was 32,3%, which was less than WB median (36,4%). Lawyers is the only category where less than 50% of professionals are female.

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median
1st instance courts	62,9%	61,7%	74,3%	69,0%	52,3%	58,1%
2nd instance courts	69,8%	58,9%	78,0%	78,0%	NAP	49,6%
Supreme Court	62,2%	62,2%	71,5%	71,5%	49,4%	49,4%

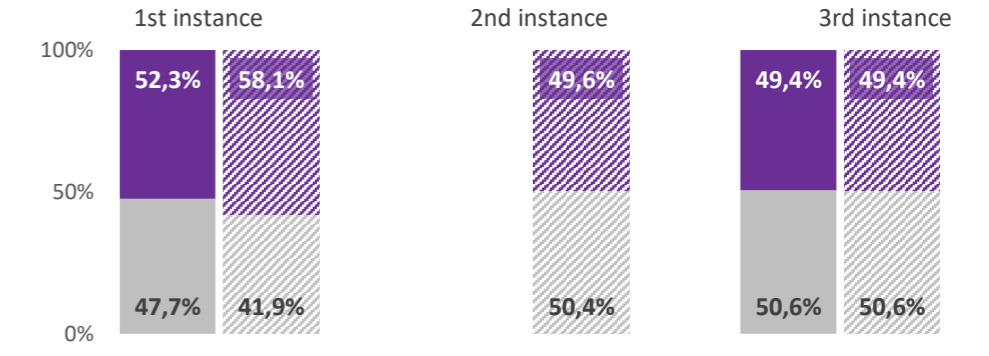
Professional Judges - Gender Balance by instance in 2020



Non-Judge Staff - Gender Balance by instance in 2020



Prosecutors - Gender Balance by instance in 2020



For judges, an increase in the percentage of females can be observed from first to second instance, together with an increase for non-judge staff. For prosecutors, a diminution of the percentage of females can be observed from first to third instance.

• Gender Equality Policies

	Recruitment		Promotion		Surveys or reports on national level, related to the male / female distribution	Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level		
Judges	✓	✗	✓	✗	✗	✗
Prosecutors	✓	✗	✓	✗	✗	✗
Non-judge staff	✗	✗	✗	✗	✗	✗
Lawyers	✗		✗		✗	
Notaries	✗		✗		✗	
Enforcement agents	✗		✗		✗	

In Bosnia and Herzegovina there is no national programme or orientation document to promote gender equality.

The Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina pinpoints the criteria for recruitment and promotion of judges and prosecutors. The Law makes it obligatory for the High Judicial and Prosecutorial Council of Bosnia and Herzegovina that appointments to all levels of the judiciary should also have, as an objective, the achievement of equality between women and men. The Law applies to all appointments and promotions of court presidents, chief prosecutors, judges, and prosecutors. As for other categories only general legislation on the gender equality has been adopted to prohibit discrimination of employees as well as persons seeking employment, with regard to sex, race etc.

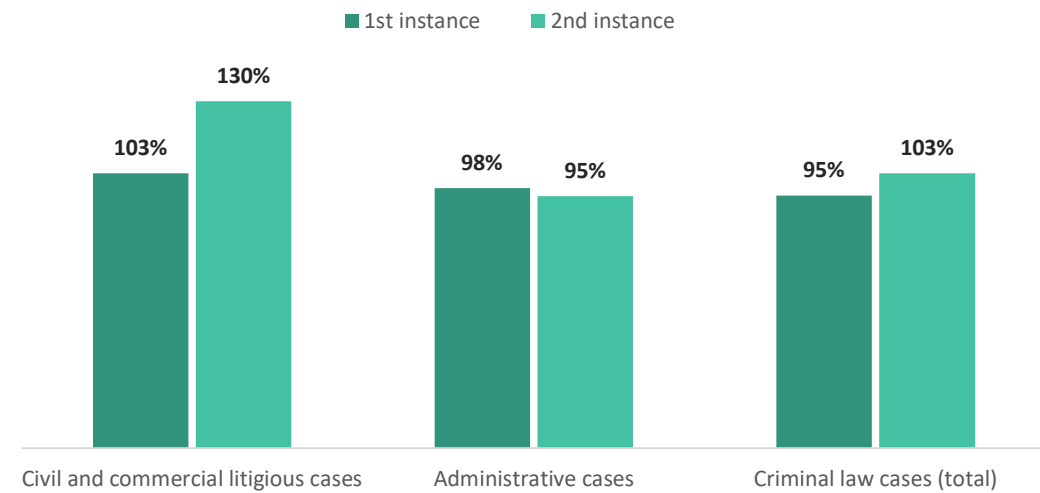
There is a general Gender Equality Agency. This Agency is responsible for resolving complaints of persons indicating violations of a certain right included in the General Law on the Gender Equality

*Kosovo is not included in the calculation of summary statistics*

## Efficiency in Bosnia and Herzegovina in 2020 (Indicators 3.1 and 3.2)

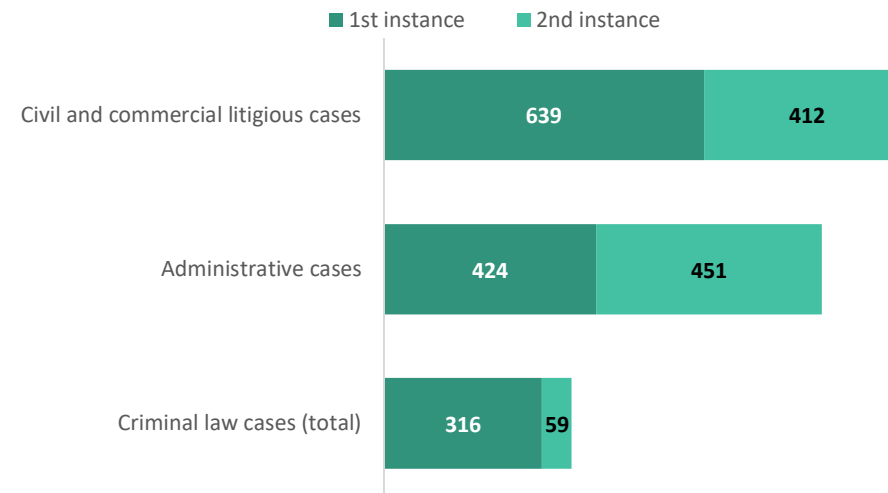
### Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.

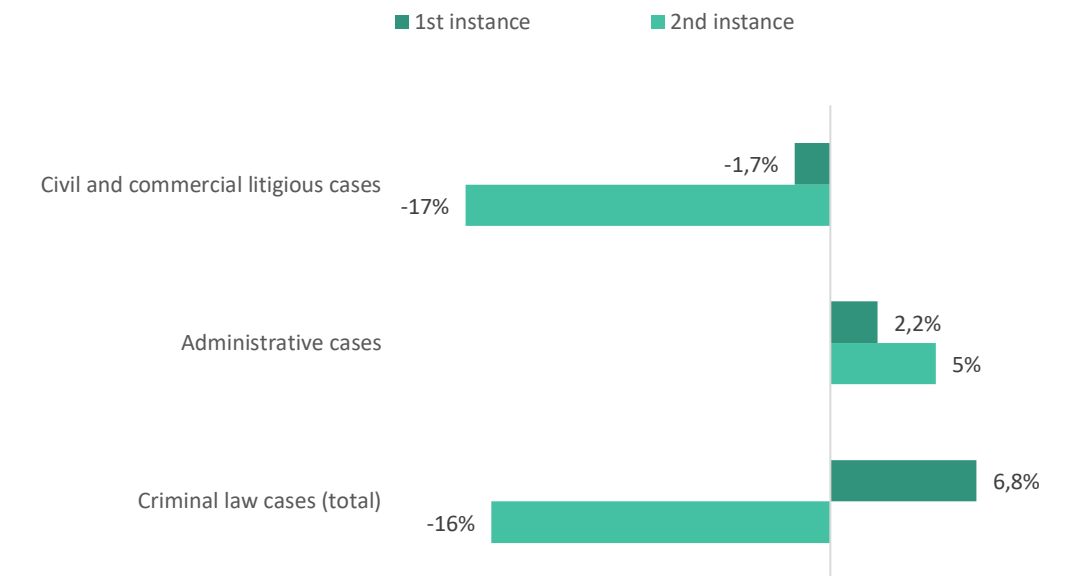


### Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



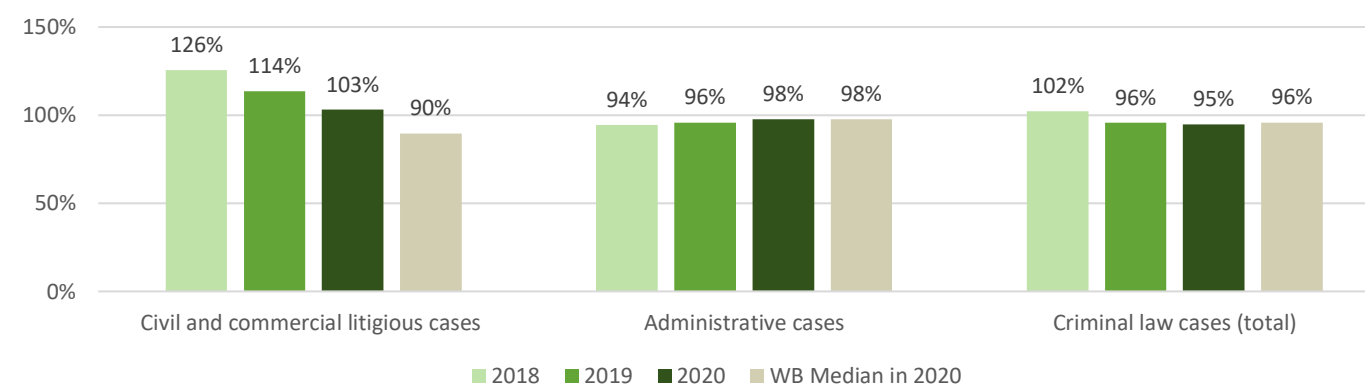
### Pending cases at the end of year - Variation between 2019 and 2020 (%)



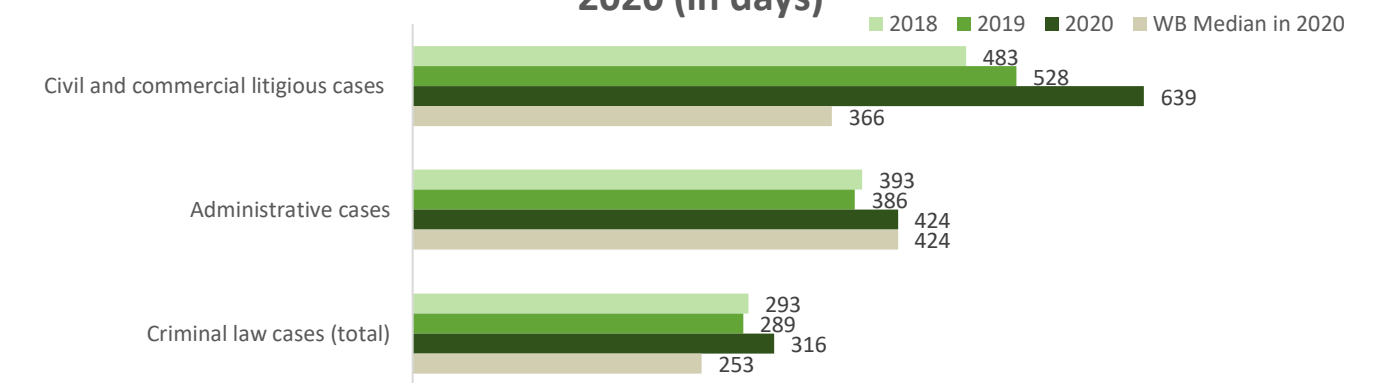
In 2020, the highest Clearance rate (CR) for Bosnia and Herzegovina is for the second instance Civil and commercial litigious cases, with a CR of 130,2%. However, it seems that Bosnia and Herzegovina; was not to be able to deal as efficiently with the second instance Administrative cases (CR of 94,5%). With a Disposition Time of approximately 59 days, the second instance total Criminal law cases were resolved faster than the other type of cases. Compared to 2019, the pending cases at the end of year increased for the first instance total Criminal law cases (6,8%), whereas they decreased for the second instance Civil and commercial litigious cases by -17,1%.

### First instance cases

#### Clearance rate for first instance cases between 2018 and 2020 (%)



#### Disposition time for first instance cases between 2018 and 2020 (in days)

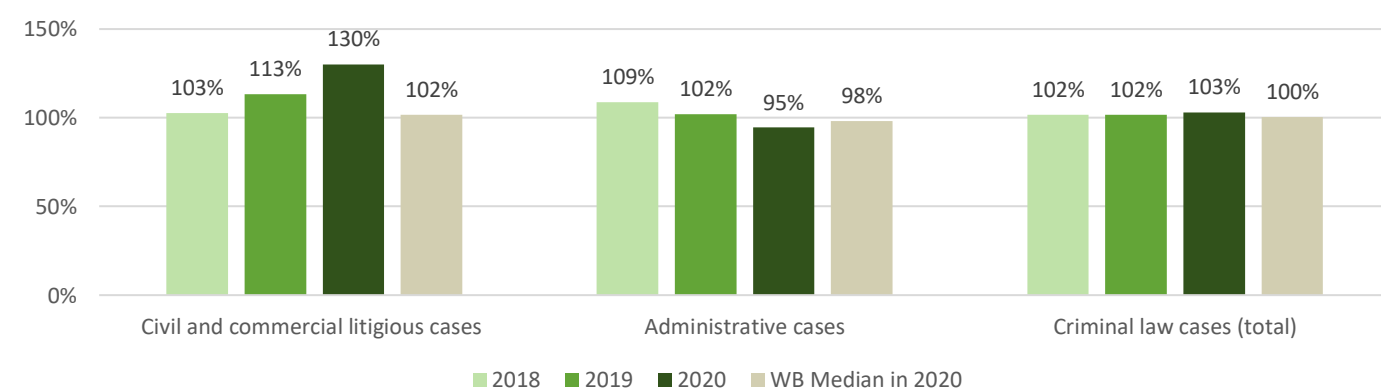


In the three-year period, between 2018 and 2020, the clearance rate has been decreasing for civil and commercial and criminal cases, and slightly increased for administrative cases (still remaining below 100%). In the same period, the DT increased for all categories of cases: civil and commercial litigious cases increased from 483 days in 2018 to 639 days in 2020, administrative cases from 393 days in 2018 to 424 days in 2020, and criminal cases from 293 days to 316 days. The DT of civil and commercial criminal cases is well above the WB median, the DT for administrative cases is equal to the median, while the DT for criminal cases is slightly higher than the median.

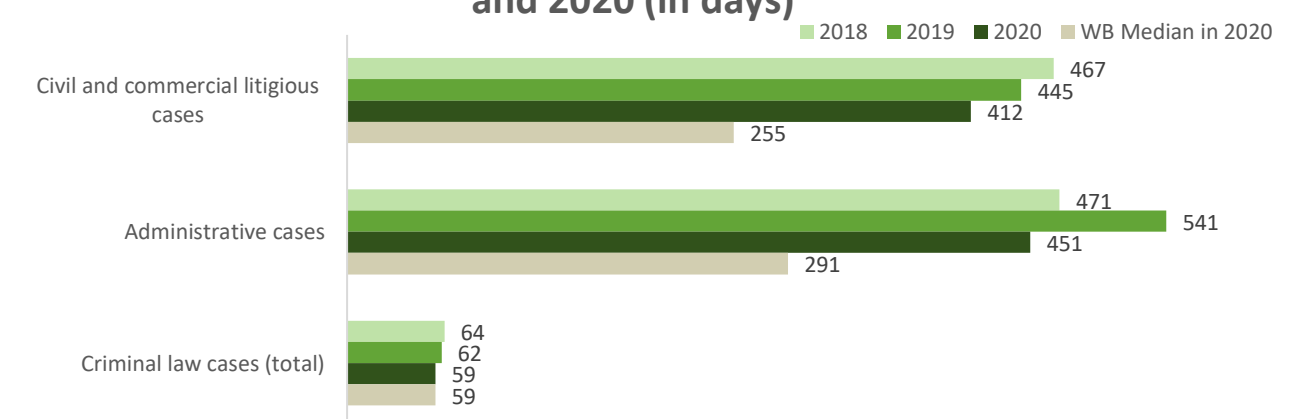
In the three-year period, the clearance rate for civil and commercial cases has been increasing while the DT has been decreasing (from 467 days to 412 days). However, the DT for civil and commercial cases is above the WB median. The clearance rate and the disposition time for criminal cases remained stable over the period, while the clearance rate for administrative cases decreased and the disposition time had an unstable trend while still being above the WB median.

### Second instance cases

#### Clearance rate for second instance cases between 2018 and 2020 (%)



#### Disposition time for second instance cases between 2018 and 2020 (in days)



**• First instance cases - Other than criminal law cases**

1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	911 020	903 100	2 073 469	1 586 342	99,1%	104,4%	838	269	26,1	25,9	59,4	45,4	-7,5%	-17,3%	1,6%	NA	-11,9	23,0%
1 <b>Civil and commercial litigious cases</b>	94 672	97 608	170 893	72 431	103,1%	89,6%	639	366	2,7	2,8	4,9	2,1	-10,6%	-18,8%	-1,7%	-1,0%	-10,5	21,1%
2 <b>Non-litigious cases**</b>	809 000	798 324	1 894 251	1 512 700	98,7%	100,3%	866	161	23,2	22,9	54,3	43,3	-7,1%	-17,2%	1,9%	NA	-12,1	23,2%
3 <b>Administrative cases</b>	7 348	7 168	8 325	1 211	97,6%	97,6%	424	424	0,2	0,2	0,2	0,0	-8,5%	-6,8%	2,2%	14,7%	1,7	9,7%
4 <b>Other cases</b>	NAP	NAP	NAP	NAP	NAP	97,3%	NAP	195	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

\*\* Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Incoming cases per 100 inhabitants: 1,9;
- Clearance rate: 100,2% ;
- Disposition time: 213 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

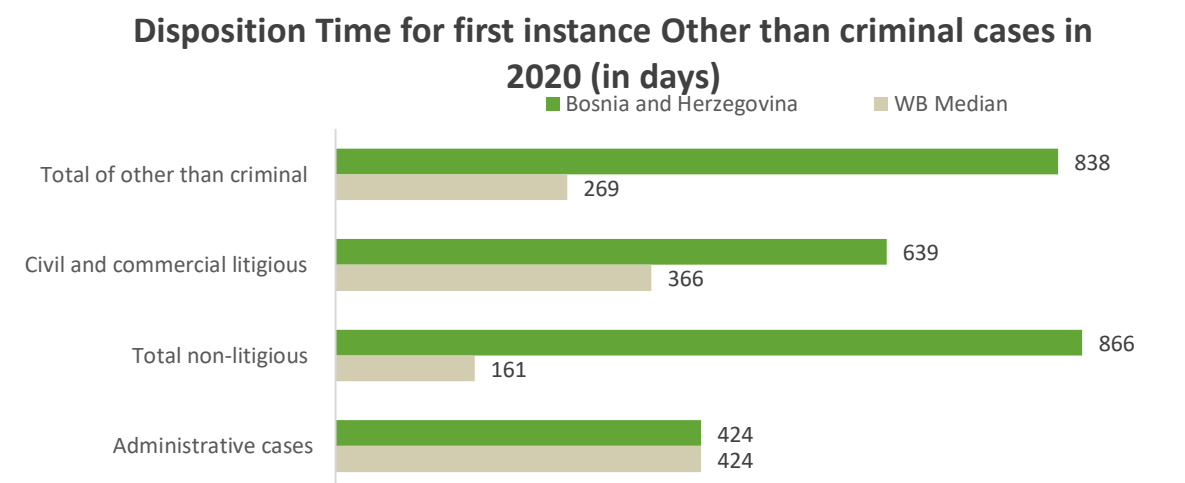
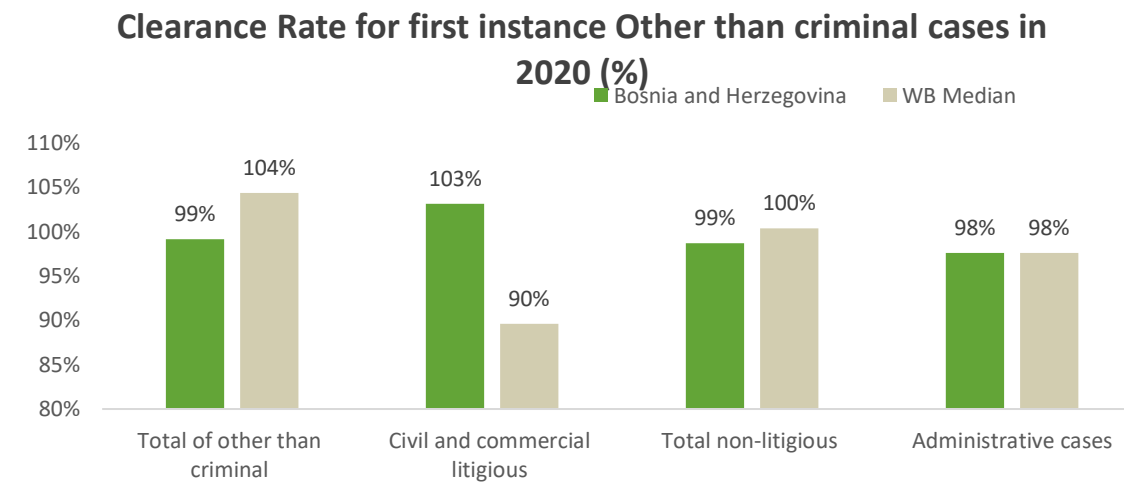
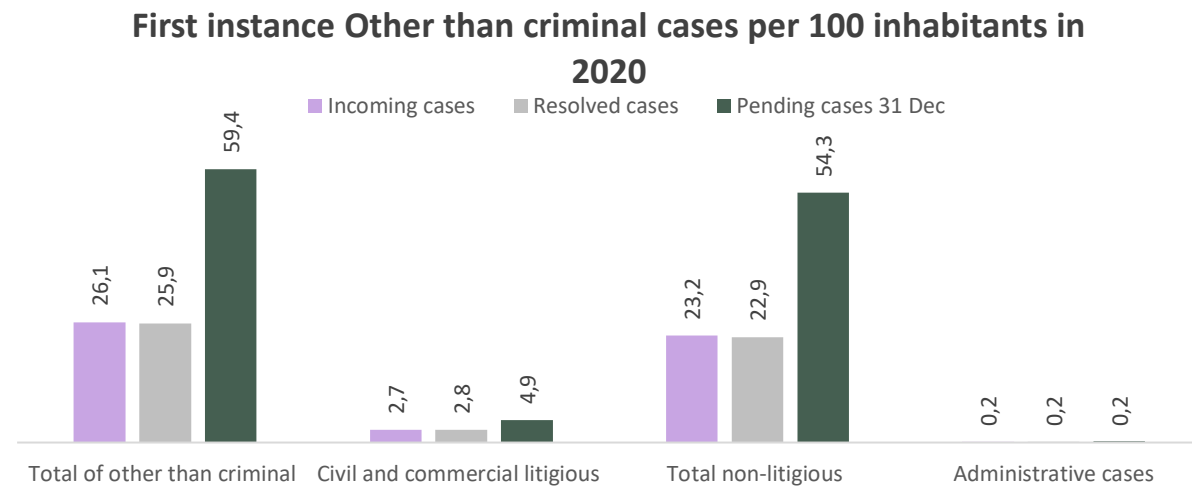
- incoming cases per 100 inhabitants was 0,2;
- Clearance rate: 102,1%;
- Disposition time: 284 days.

In 2020, the incoming civil and commercial litigious cases were 94 672, which was 2,7 per 100 inhabitants and -10,6% less than in 2019. The resolved cases were 97 608, which was 2,8 per 100 inhabitants and -18,8% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were less than 2019 and the Clearance rate for this type of cases was 103,1%. This decreased by -10,5 percentage points compared to 2019 and was above the WB median (89,6%).

Finally, the Disposition Time for civil and commercial litigious cases was approximately 639 days in 2020. This has increased by 21,1% compared to 2019 and it was above the WB median (366 days).

In 2020, the incoming administrative cases were 7 348, which was 0,2 per 100 inhabitants and -8,5% less than in 2019. The resolved cases were 7 168, which was 0,2 per 100 inhabitants and -6,8% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than 2019 and the Clearance rate for this type of cases was 97,6%. This increased by 1,7 percentage points compared to 2019 and was below the WB median (100,3%).

Finally, the Disposition Time for administrative cases was approximately 424 days in 2020. This has increased by 9,7% compared to 2019 and it was below the WB median (424 days).



The second instance courts of general jurisdiction have subject matter over the first instance administrative law cases. Therefore, the statistics incorporated in the table for first instance non-criminal cases include data on the caseload of second instance courts regarding the first instance administrative law cases.

In 2019 there was a general improvement in the reduction of the backlog as regards civil and commercial litigious cases and non-litigious cases, mainly due to a decrease in the number of incoming cases combined with a clearance rate higher than 100%, and a strategy lead by the principle to deal with pending cases following the chronological order.

However, in 2020, Covid- 19 restrictions affected particularly the functioning of courts dealing with first instance cases, namely the numbers of incoming and resolved cases were reduced for all case types within the category of "other than criminal" first instance cases. However, the courts generally managed to achieve the clearance rate over 100% for commercial and civil litigious cases, general non-litigious cases, non-litigious business registry cases, and other registry cases. Nevertheless, the total number of pending "other than criminal" first instance cases increased due mostly because of the courts did not achieve the 100% clearance rate for the non-litigious land registry cases: in this case, courts did not have sufficient capacity to handle the workload that increased in 2020. The majority of pending civil and commercial litigious cases and general non-litigious cases older than 2 years are related to unpaid utility bills. This backlog of old cases is concentrated in the several courts in the biggest cities in Bosnia and Herzegovina.



• **First instance cases - Criminal law cases**

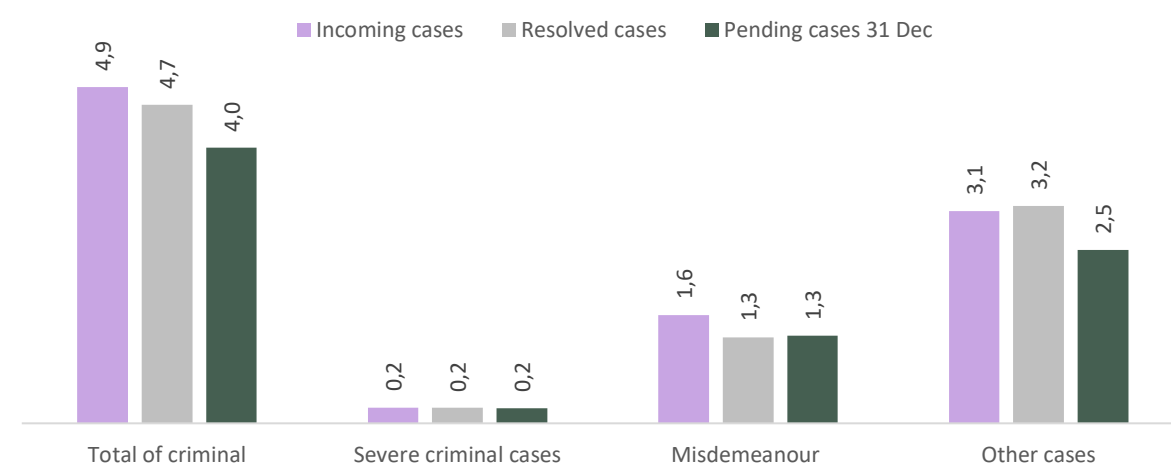
1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
<b>Total of criminal law cases (1+2+3)</b>	172 297	163 226	141 180	38 531	94,7%	95,8%	316	253	4,9	4,7	4,0	1,1	-1,3%	-2,3%	6,8%	-11,0%	-1,0	9,4%
<b>1 Severe criminal cases</b>	8 042	7 891	7 690	1 291	98,1%	87,3%	356	244	0,2	0,2	0,2	0,0	-17,7%	-23,8%	2,0%	16,1%	-7,8	33,9%
<b>2 Misdemeanour and / or minor criminal cases</b>	55 555	44 014	44 754	47	79,2%	98,9%	371	275	1,6	1,3	1,3	0,0	5,0%	-4,7%	34,7%	-36,5%	-8,1	41,4%
<b>3 Other cases</b>	108 700	111 321	88 736	37 193	102,4%	95,6%	291	313	3,1	3,2	2,5	1,1	-2,8%	0,6%	-2,9%	-11,7%	3,5	-3,4%

PPT = Percentage points

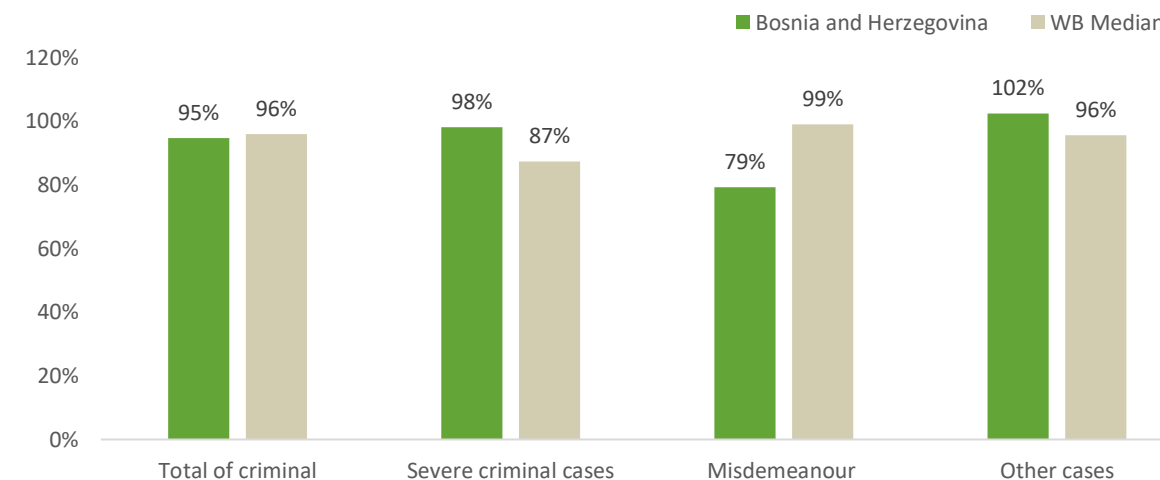
In 2020, the incoming total criminal cases were 172 297, which was 4,9 per 100 inhabitants and -1,3% less than in 2019. The resolved cases were 163 226, which was 4,7 per 100 inhabitants and -2,3% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were more than 2019 and the Clearance rate for this type of cases was 94,7%. This decreased by -1 percentage points compared to 2019 and was below the WB median (95,8%).

Finally, the Disposition Time for total criminal cases was approximately 316 days in 2020. This has increased by 9,4% compared to 2019 and it was above the WB median (253 days).

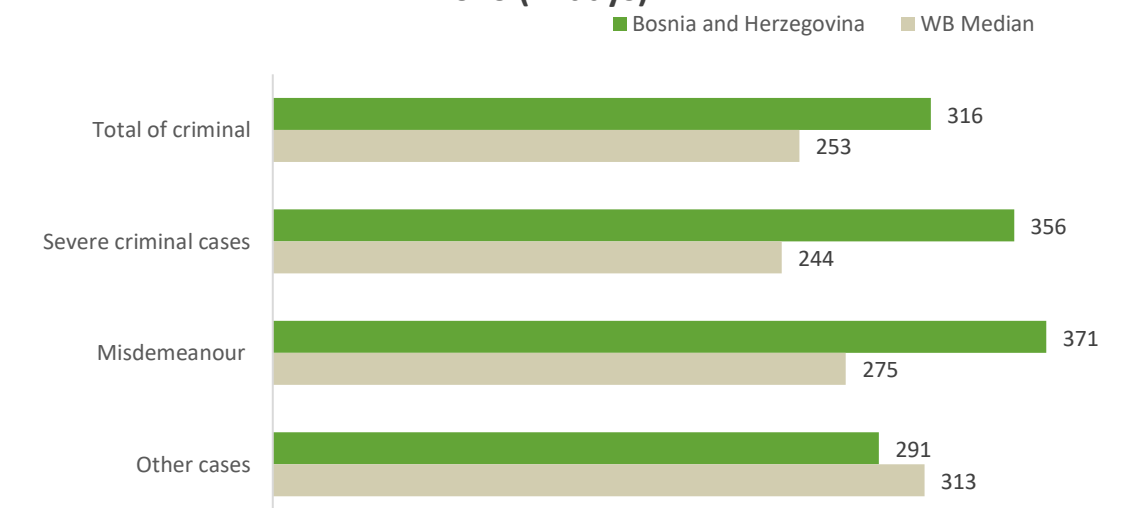
**First instance Criminal law cases per 100 inhabitants in 2020**



**Clearance Rate for first instance Criminal Law cases in 2020 (%)**



**Disposition Time for first instance Criminal Law cases in 2020 (in days)**



Data for severe criminal offenses also include statistics on court proceedings related to the enforcement of convictions pronounced in criminal proceedings.

Second instance courts have dual subject matter in criminal matters. Second instance courts have first instance jurisdiction for criminal offences for which more than 10 years of imprisonment is prescribed, they also have second instance jurisdiction to decide on appeals against the decisions brought by the first instance courts for criminal offences for which up to 10 years of imprisonment is prescribed. The statistics on criminal law cases for second instance therefore include both first and second instance cases.

There has been a significant decrease in the influx of severe criminal cases over recent years, including 2019.

Certain number of pending severe criminal cases, which are older than 2 years, cannot be resolved due to the circumstances that are outside of the responsibility of the courts (e.g. an accused person is not traceable). At second instance, there has been a decrease of those cases in 2019 compared to 2018 due to the consistent implementation of the principle to deal with cases chronologically within their backlog reduction plans.

Minor offence cases 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; penalty points; and deprivation of liberty to compel payment of a fine. Examples of minor offences: traffic offences, violations of public order, begging etc.

Data for minor offence cases also include statistics on court proceedings related to the enforcement of pronounced penalties.

There has been a significant decrease in the influx of first instance severe criminal cases over recent years: that trend was confirmed in 2020 due to the decrease of activity of public prosecutors and judges in the context of measures implemented against the epidemic of Covid-19. As Covid-19 measures restricted the work in prosecutors' offices and courts, the number of resolved first instance criminal cases dropped as well. Therefore, the number of pending severe criminal cases was bigger at the end of the reporting year. As in 2019, the number of incoming first instance misdemeanor cases continued to raise in 2020. Predominantly, increase of the new cases remains to be the result of a more consistent approach of the law enforcement institutions concerning traffic offences and some offences against public order. The number of resolved first instance cases in 2020 was less compared to 2019 because of Covid-19 measures restricting the work in courts. Consequently, the number of pending misdemeanor cases continued to grow in 2020 as in the previous year. The majority of pending other cases older than 2 years are misdemeanor cases in which courts are lacking effective mechanisms to enforce outstanding monetary fines pronounced in the minor offence proceedings. The category "Other cases" include inter alia: statistics on the preliminary criminal proceedings before the main trial, i.e. during the investigative procedure which is conducted by the prosecutor's office (e.g. seizure of evidence, detention and similar measures, confirmation of indictment etc.), statistics on the court decisions brought outside of the main criminal trial (e.g. detention and similar measures, the change of monetary sanction to imprisonment etc), statistics on criminal proceedings related to the enforcement of convictions pronounced in criminal proceedings; statistics for minor offence cases regarding related to the court decisions brought outside of the main misdemeanor proceedings and for the enforcement of pronounced penalties.

**• Second instance cases - Other than criminal law cases**

2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	28 472	34 939	40 052	15 327	122,7%	108,7%	418	184	0,82	1,00	1,15	0,44	-14,4%	-6,1%	-14,0%	-12,1%	10,9	-8,4%
<b>1 Civil and commercial litigious cases</b>	22 523	29 317	33 103	14 485	130,2%	101,7%	412	255	0,65	0,84	0,95	0,41	-22,1%	-10,4%	-17,1%	-11,1%	16,9	-7,5%
<b>2 Non-litigious cases**</b>	NAP	NAP	NAP	NAP	NAP	103,9%	NAP	55	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP
<b>3 Administrative cases</b>	5 949	5 622	6 949	842	94,5%	98,2%	451	291	0,17	0,16	0,20	0,02	35,9%	25,9%	4,9%	-26,8%	-7,5	-16,6%
<b>4 Other cases</b>	NAP	NAP	NAP	NAP	NAP	100,0%	NAP	5	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP

\*\* Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Clearance rate: 101,8% ;
- Disposition time: 175 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

- Clearance rate: 96,9%;
- Disposition time: 329 days.

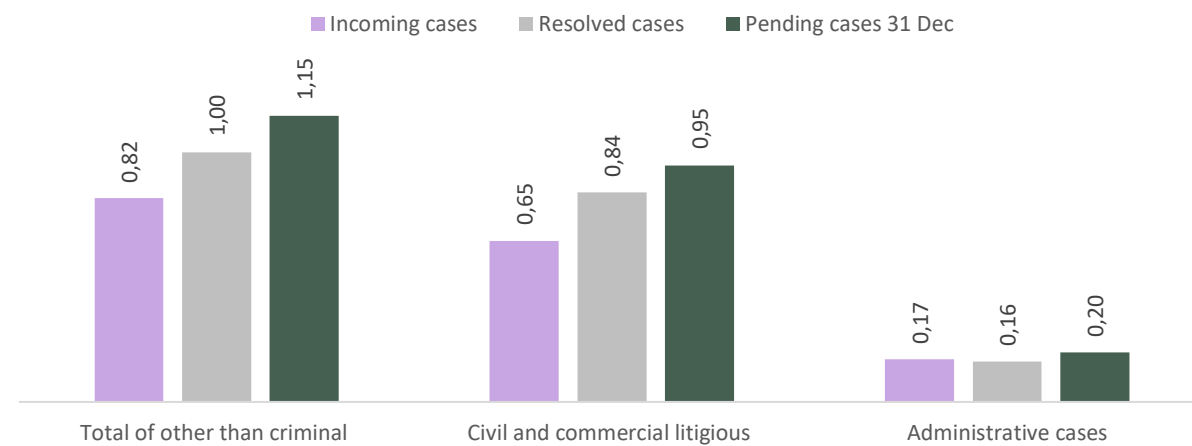
In 2020, the incoming civil and commercial litigious cases were 22 523, which was 0,6 per 100 inhabitants and -22,1% less than in 2019. The resolved cases were 29 317, which was 0,8 per 100 inhabitants and -10,4% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were less than 2019 and the Clearance rate for this type of cases was 130,2%. This increased by 16,9 percentage points compared to 2019 and was above the WB median (101,7%).

Finally, the Disposition Time for civil and commercial litigious cases was approximately 412 days in 2020. This has decreased by -7,5% compared to 2019 and it was above the WB median (255 days).

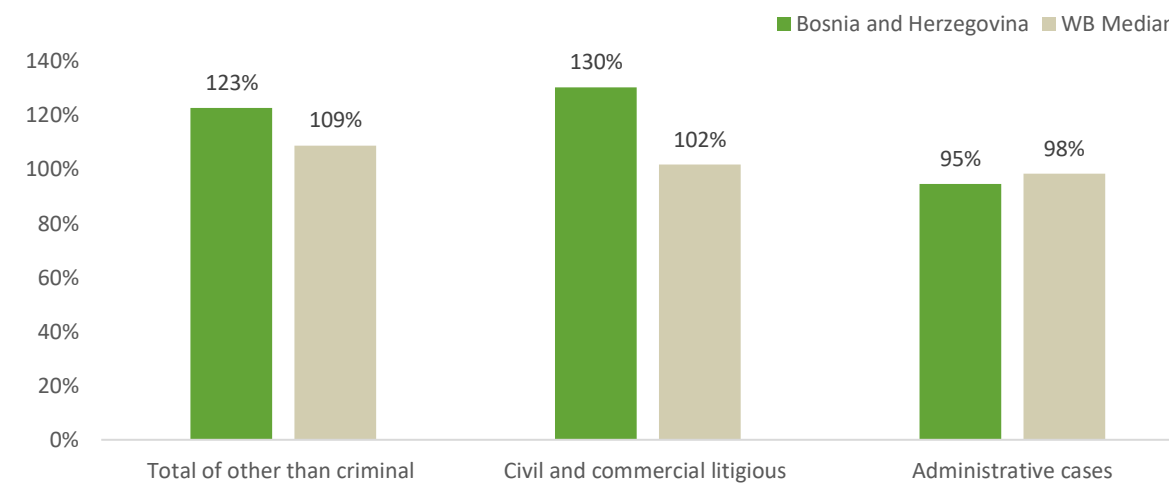
In 2020, the incoming administrative cases were 5 949, which was 0,2 per 100 inhabitants and 35,9% more than in 2019. The resolved cases were 5 622, which was 0,2 per 100 inhabitants and 25,9% more than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than 2019 and the Clearance rate for this type of cases was 94,5%. This decreased by -7,5 percentage points compared to 2019 and was below the WB median (103,9%).

Finally, the Disposition Time for administrative cases was approximately 451 days in 2020. This has decreased by -16,6% compared to 2019 and it was above the WB median (291 days).

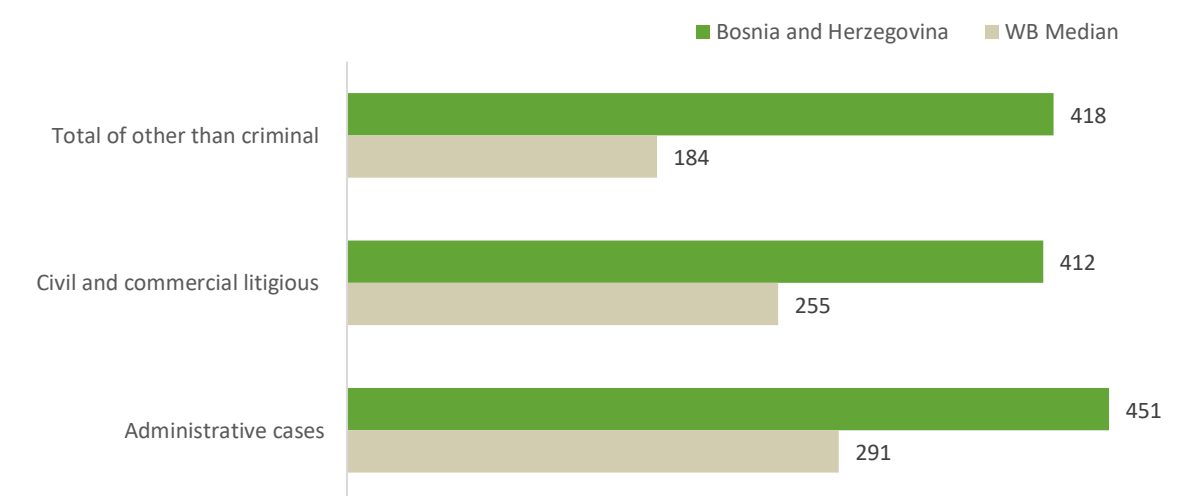
**Second instance Other than criminal cases per 100 inhabitants in 2020**



**Clearance Rate for second instance Other than criminal cases in 2020 (%)**



**Disposition Time for second instance Other than criminal cases in 2020 (in days)**



There has been a significant decrease in the influx of second instance civil commercial litigious cases over recent years. In 2020, the number of incoming cases dropped additionally compared to 2019, due to Covid-19 restrictions decreasing the number of first instance court decisions; therefore, the number of appeals was much lower, compared to the previous years. In addition, the courts with the biggest caseload in the country have surpassed the 100% clearance rate; consequently, the number of pending second instance civil commercial litigious cases was lower at the end of 2020.

• **Second instance cases - Criminal law cases**

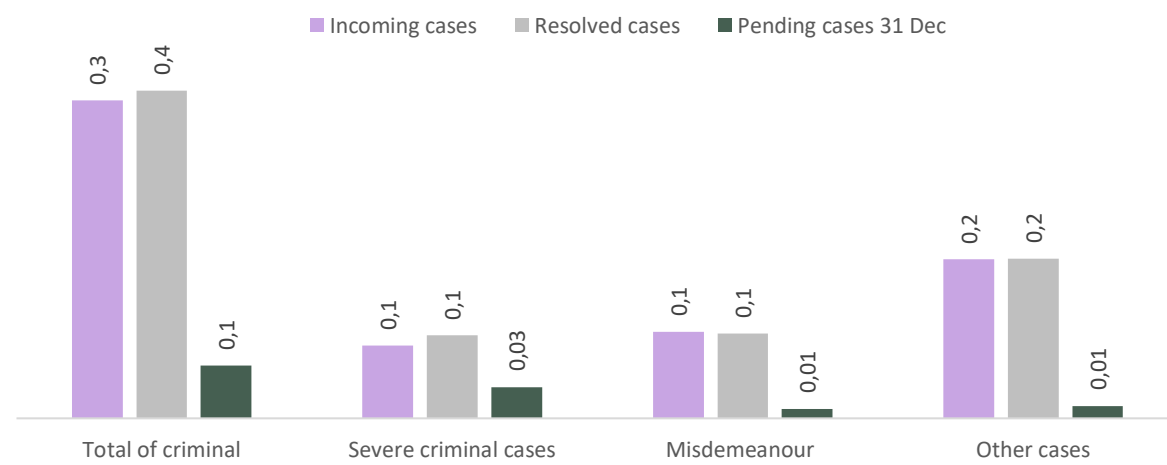
2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
<b>Total of criminal law cases (1+2+3)</b>	11 999	12 374	1 984	189	103,1%	100,3%	59	59	0,3	0,4	0,1	0,01	-11,7%	-10,3%	-15,9%	12,5%	1,6	-6,2%
<b>1 Severe criminal cases</b>	2 744	3 131	1 167	117	114,1%	99,9%	136	75	0,1	0,1	0,03	0,003	-21,2%	-16,7%	-24,9%	18,2%	6,1	-9,8%
<b>2 Misdemeanour and / or minor criminal cases</b>	3 257	3 208	360	0	98,5%	99,2%	41	45	0,1	0,1	0,01	0,0	-1,7%	-2,3%	15,8%	NA	-0,6	18,5%
<b>3 Other cases</b>	5 998	6 035	457	72	100,6%	100,2%	28	16	0,2	0,2	0,01	0,002	-11,7%	-10,7%	-7,5%	4,3%	1,2	3,6%

PPT = Percentage points

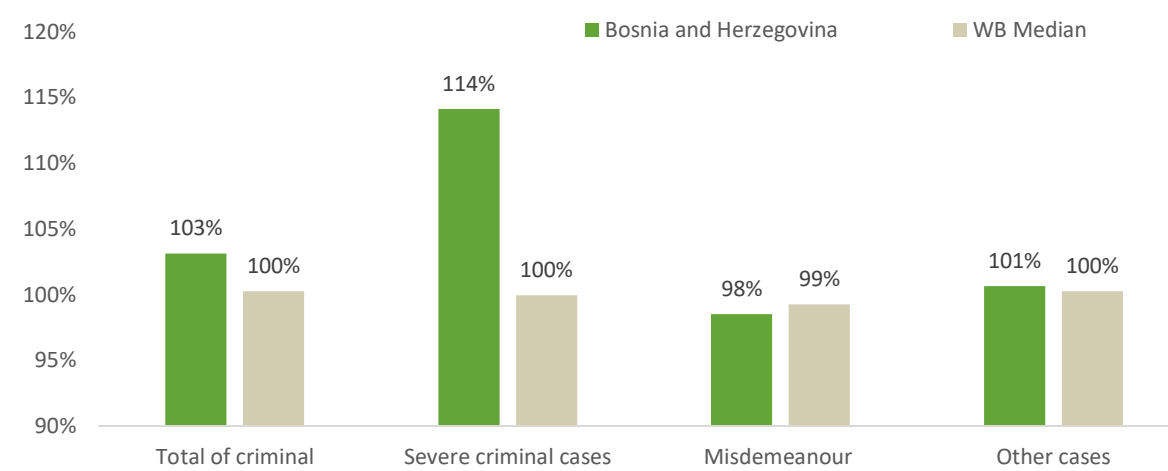
In 2020, the incoming total criminal cases were 11 999, which was 0,3 per 100 inhabitants and -11,7% less than in 2019. The resolved cases were 12 374, which was 0,4 per 100 inhabitants and -10,3% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were less than 2019 and the Clearance rate for this type of cases was 103,1%. This increased by 1,6 percentage points compared to 2019 and was above the WB median (100,3%).

Finally, the Disposition Time for total criminal cases was approximately 59 days in 2020. This has decreased by -6,2% compared to 2019 and it was below the WB median (59 days).

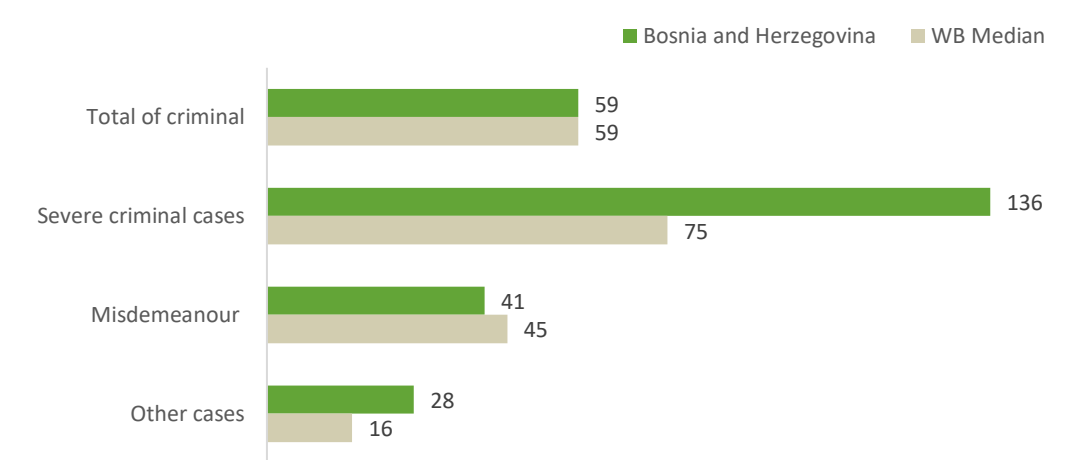
**Second instance Criminal law cases per 100 inhabitants in 2020**



**Clearance Rate for second instance Criminal Law cases in 2020 (%)**



**Disposition Time for second instance Criminal Law cases in 2020 (in days)**



Statistics on "Other cases" include inter alia: statistics on the preliminary criminal proceedings before the main trial, i.e. during the investigative procedure which is conducted by the prosecutor's office (e.g. seizure of evidence, detention and similar measures, confirmation of indictment etc.), statistics on the court decisions brought outside of the main criminal trial (e.g. detention and similar measures, the conversion of monetary sanction to imprisonment etc.), statistics on court cases related to the enforcement of convictions pronounced in criminal and misdemeanor proceedings; statistics on court cases related to the various auxiliary matters decided in relation to the misdemeanor proceedings.

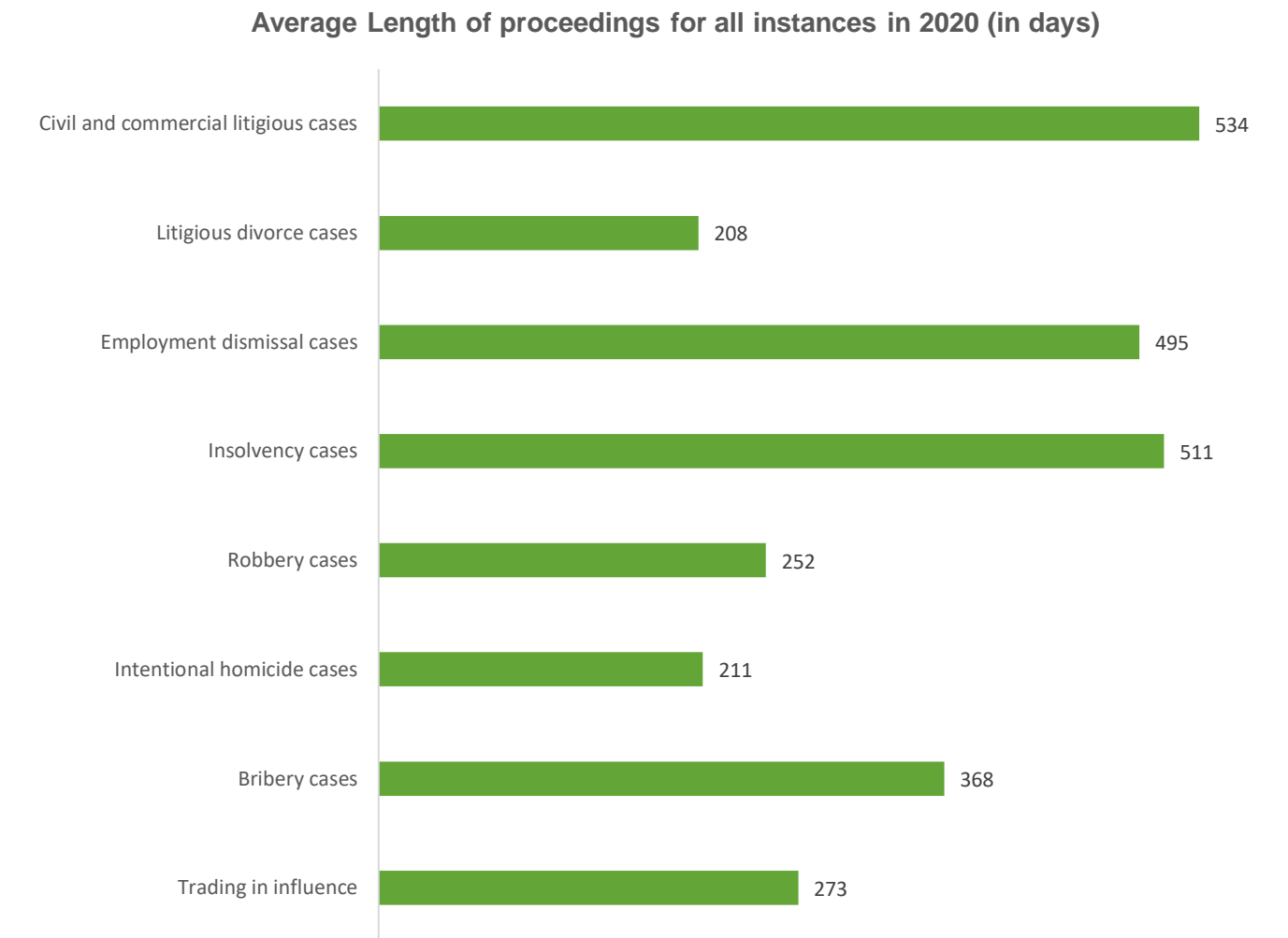
Severe offences: a criminal offense is an unlawful act which violates or jeopardizes the protected values and which is, because of the danger it represents, defined by law as a criminal offense and for which a punishment is prescribed. Criminal sanctions are: prison punishments, suspended sentence, security 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; penalty points; and deprivation of liberty to compel payment of a fine. Examples of minor offences are: traffic offences, violations of public order, begging etc.

Second instance courts have a dual competence in criminal matters. The second instance courts have first instance jurisdiction for criminal offences for which more than 10 years of imprisonment is prescribed, they also have second instance jurisdiction to decide on appeals against the decisions brought by the first instance courts for criminal offences for which up to 10 years of imprisonment is prescribed. The statistics of second instance courts on criminal law cases include both first and second instance cases within the jurisdiction of the second instance courts. These statistics do not include data on severe criminal cases managed by the three courts that are included in the category of supreme courts. In 2020, the number of incoming second instance criminal cases dropped additionally compared to 2019, due to Covid-19 restrictions decreasing the number of first instance court decisions. As a result, the number of appeals initiating the second instance severe criminal cases in 2020 was much lower than in 2019. Although the second instance courts resolved smaller number of severe criminal cases in 2020 compared to the previous year, they were able to exceed the 100% clearance rate during the reporting year. Accordingly, the number of pending first and second instance severe criminal cases declined significantly in the reporting period.

• Average length of proceedings for specific category cases ( in days - from the date the application for judicial review is lodged)

	2020					% Variation between 2019 and 2020						
	Decisions subject to appeal (%)	Average length of proceedings (in days)				% of cases pending for more than 3 years for all instances	Decisions subject to appeal (PPT)	Average length of proceedings (in days)				Cases pending for more than 3 years for all instances (PPT)
		First instance	Second instance	Third instance	Total			First instance	Second instance	Third instance	Total	
Civil and commercial litigious cases	21%	529	591	242	534	30%	-1,0	-7%	6%	-19%	-4%	NA
Litigious divorce cases	7%	209	197	103	208	0%	0,0	12%	8%	-46%	12%	NA
Employment dismissal cases	53%	382	743	386	495	17%	-10,0	-29%	26%	-9%	-8%	NA
Insolvency cases	13%	584	97	41	511	30%	0,0	31%	24%	-32%	26%	NA
Robbery cases	42%	265	231	157	252	22%	-2,0	-20%	-5%	-23%	-17%	NA
Intentional homicide cases	73%	222	202	137	211	17%	12,0	-31%	-34%	56%	-33%	NA
Bribery cases	83%	516	143	56	368	8%						
Trading in influence	25%	284	250	0	273	14%						



The highest number of cases pending for more than three years is for civil and commercial litigious cases and insolvency cases (30%).

The average length of court procedure is calculated as the average of time needed to resolve a case for cases resolved during the reporting year. The average length of court procedure for resolving the case is calculated separately for different phases of the court procedure - from the day of initiating the phase of the court procedure to its completion. The data are retrieved from the case management system. The average length of the total procedure is calculated as the average of time needed to resolve a case for all cases resolved in the different phases of court procedure during the year. (e. g. The first instance employment dismissal case is resolved in 100 days from its lodging with the first instance court, second instance employment dismissal case is resolved in 120 days from its lodging with the second instance court, and third instance employment dismissal case was resolved in 120 days. The average length of the total procedure employment dismissal cases is calculated as follows:  $100+120+120/3=113,3$  days.)

As regards civil and commercial litigious pending cases older than 3 years, the majority of those cases are litigious small claims cases, pending before the first instance courts, related to the unpaid utility bills. This backlog of old litigious small claims cases for unpaid utility bills is concentrated in the several courts in the biggest cities in Bosnia and Herzegovina.

As regards other cases, there is no particular explanation of the variations for other cases between 2019 and 2020 except for Covid- 19 restrictions that affected differently the work of courts.

When it comes to the Bribery cases and Trading in influence cases, it is important to note that the prosecutors' offices and the courts in Bosnia and Herzegovina process very often the corruption cases as the cases of the Abuse of Office. The statistics included in the reply for the Question 41 do not include the court cases in which Bribery and Trading in influence are dealt with together in conjunction with the Organized crime and other criminal offences.

As regards Litigious divorce cases, Employment dismissal cases, Insolvency cases, Robbery cases, and Intentional homicides, Bribery cases, and Trading in influence, there is no particular explanation of the variations between 2019 and 2020. It is important to put these differences into the following contexts; the variations are registered within a relatively small number of cases, so the variations could be influenced significantly by the facts and circumstances of individual cases (e.g. robberies and intentional homicides) or the registered variations are high percentage-wise but they are not significant in absolute terms (e.g. litigious divorce cases, employment dismissal cases, insolvency cases). Furthermore, in 2020, Covid- 19 restrictions regarding the functioning of the courts affected differently their work on individual cases and case types.

**• Quality standards and performance indicators in the judicial system**

In Bosnia and Herzegovina there are quality standards determined for the judicial system at national level.

In December 2020, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted the new criteria for the performance evaluation of judges, prosecutors, court presidents, and chief prosecutors. According to the criteria, the court presidents and the chief prosecutor yearly evaluate judges and prosecutors in line with the following performance criteria: quantity of work (i.e. annual quota), percentage of realization of individual case resolution plan (for judges) and backlog reduction plan (for prosecutors), and statistical quality of decisions. The statistical quality of decisions issued by a judge is evaluated based on the following parameters: a) the percentage of reversed decisions compared to the total number of decisions upheld, modified and reversed by a higher instance court; b) the percentage of reversed and modified decisions compared to the total number of cases in which a final decision was rendered to which a legal remedy may be filed with the higher instance court. The statistical quality of a prosecutor's indictments is assessed on the basis of the total number of issued indictments and the total number of enforceable judgements dismissing charges, acquitting the persons charged, and on the basis of enforceable decisions on dismissing indictments, proportionate to the total number of indictments issued in the evaluation period. The heads of higher courts and prosecutors' offices yearly evaluate lower instance court presidents and chief prosecutors based on the statistical data and the indicators related to the management of the work of the court and the prosecutor's office. Furthermore, a normative framework was established with the purpose to help the judicial institutions to achieve the best possible results in terms of production and quality. The processes include meetings of departments (uniform application of the law, analysis of relevant case law, caseload, length of proceedings, backlog reduction plan etc.), quota system, adoption of yearly work plan, reporting on the yearly work plan implementation, preparation of yearly training program by the judicial training institutions etc.

**• Performance and quality indicators and regular assessment in courts and prosecution offices**

In Bosnia and Herzegovina performance and quality indicators are defined for both courts and prosecution offices as follows:

	Courts		Prosecution offices	
	Performance and quality indicators	Regular assessment	Performance and quality indicators	Regular assessment
Number of incoming cases	✓	✓	✓	✓
Length of proceedings (timeframes)	✓	✓	✓	✓
Number of resolved cases	✓	✓	✓	✓
Number of pending cases	✓	✓	✓	✓
Backlogs	✓	✓	✓	✓
Productivity of judges and court staff / prosecutors and prosecution staff	✓	✓	✓	✓
Satisfaction of court / prosecution staff	✗	✗	✗	✗
Satisfaction of users (regarding the services delivered by the courts / the public prosecutors)	✗	✗	✗	✗
Costs of the judicial procedures	✗	✗	✗	✗
Number of appeals	✓	✓		
Appeal ratio	✓	✓		
Clearance rate	✓	✓	✓	✓
Disposition time	✓	✓	✓	✓
Percentage of convictions and acquittals			✓	✓
Other	✗	✗	✗	✗

Monitoring of the number of pending cases and backlogs	
Civil law cases	Yes
Criminal law cases	Yes
Administrative law cases	Yes

Courts prepare annual plans for resolving cases by their age. Plans for dealing with pending cases must include the oldest unsolved cases. Courts are obliged to send information to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina every six months about the realization of the plan for resolving the cases. Reports on the implementation of these plans must include information on the length of proceedings in resolved and remaining unresolved cases.

Monitoring of the waiting time during judicial proceedings	
Within the courts	Yes
Within the public prosecution services	Yes

Waiting time (i.e. lack of activity by a court or a prosecutor office) during proceedings is monitored by the court presidents and the chief prosecutors. The relevant statistics are generated in the case management system.

Each court submits an annual report on its work for the previous year to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. The annual report contains information concerning the court's performance against the indicators determined by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

In the same way, each prosecutor's office submits an annual report on its work for the previous year to the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and to the superior hierarchical chief prosecutor. The annual report contains information concerning the prosecutor's office against the indicators determined by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

• **Quantitative targets for each judge and prosecutor**

In Bosnia and Herzegovina there are quantitative targets for both judges and prosecutors. The High Judicial and Prosecutorial Council of Bosnia and Herzegovina is in charge of setting quantitative targets for judges and prosecutors.

Responsible for setting up quantitative targets for judges	
Executive power (for example the Ministry of Justice)	✗
Legislative power	✗
Judicial power (for example the High Judicial Council, Supreme Court)	✓
President of the court	✗
Other:	✗

Responsible for setting up quantitative targets for public prosecutors	
Executive power (for example the Ministry of Justice)	✗
Prosecutor General /State public prosecutor	✗
Public prosecutorial Council	✗
Head of the organisational unit or hierarchical superior public prosecutor	✗
Other	✓

Consequences for not meeting the targets	Judges	Public prosecutors
Warning by court's president/ head of prosecution	✗	✗
Disciplinary procedure	✗	✗
Temporary salary reduction	✗	✗
Other	✓	✓
No consequences	✗	✗

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina has adopted the Book of Rules on Referential Quota for the Work of Judges, Judicial Associates of the Courts in Bosnia and Herzegovina in accordance with the its competencies determined by the law. The Book of Rules on Referential Quota for the Work of Judges, Judicial Associates of the Courts in Bosnia and Herzegovina prescribes the measurements for monitoring and measuring the work and the performance results of judges, judicial associates, court presidents, court department heads, and court mentors in all courts in Bosnia and Herzegovina, as well as other issues of significance for monitoring and measuring work within the regular courts of Bosnia and Herzegovina. The Book of Rules sets monthly and annual quota for each type of a court case within a given case category and its weight. On the basis of the quota achieved a judicial office holder shall be awarded a certain number of points within the performance appraisal procedure. If the judicial office holder fails to achieve the annual quota, that will affect negatively his or her annual performance appraisal.

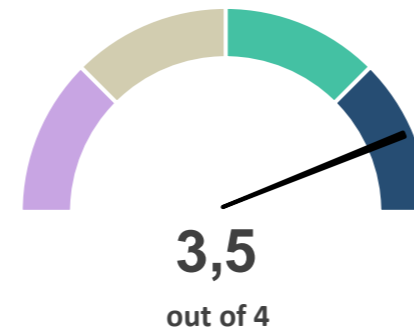
The Book of Rules on Referential Quota for the Work of the Prosecutors in Bosnia and Herzegovina prescribes the measurements for monitoring and measuring the work and the performance results of prosecutors, chief prosecutors, and heads of departments as well. The Book of Rules sets monthly and annual quota for each type of a case within a given case category and its weight. On the basis of the quota achieved a judicial office holder shall be awarded a certain number of points within the performance appraisal procedure. If the judicial office holder fails to achieve the annual quota, that will affect negatively his or her annual performance appraisal.

*Kosovo is not included in the calculation of summary statistics*

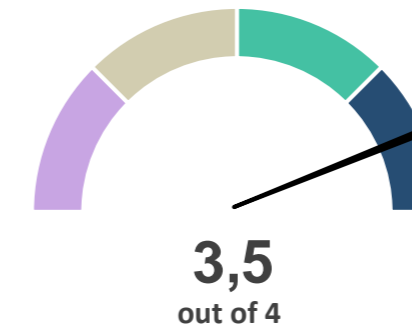
## Electronic case management system and court activity statistics in Bosnia and Herzegovina in 2020 (Indicator 3.3)

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the of the case management system of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.

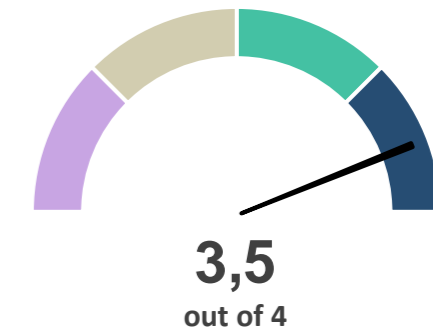
CMS index in Civil and/or commercial



CMS index for Criminal



CMS index for Administrative



### Electronic case management system

In Bosnia and Herzegovina, there is no IT Strategy for the judiciary at the moment, but the Director of the Secretariat at the HJPC has the mandate from the HJPC to provide the preconditions for drafting a new strategy.

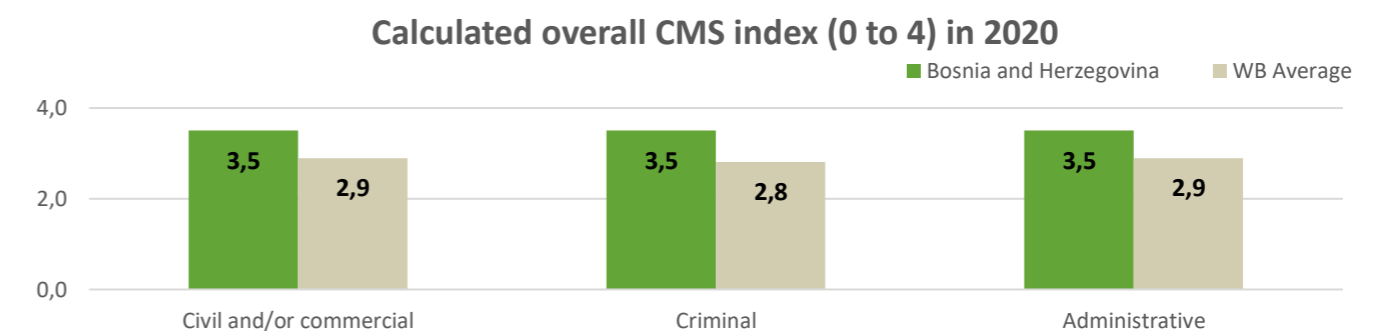
There is a case management system (CMS), eg software used for registering judicial proceedings and their management. Currently, there are two running versions of the CMS the first version was developed more than 10 years ago, while the second version was developed between 2 and 5 years ago. Both versions are used on the same database. DCMS, a new CMS module that will be used in the Office of the Disciplinary Counsel at HJPC Bosnia and Herzegovina, will be implemented during 2021.

The CMS is developed in all courts 100% deployment rate and the data is stored on a database consolidated at national level. The CMS index for Bosnia is higher than the WB average (3.5 for each type of cases versus 2.9 for civil and/or commercial cases and administrative cases, and 2.8 for criminal cases.)

	Case management system and its modalities				
	CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/ connection of a CMS with a statistical tool
Civil and/or commercial	100%	Accessible to parties	✓	✓	Fully integrated including BI
Criminal	100%	Accessible to parties	✓	✓	Fully integrated including BI
Administrative	100%	Accessible to parties	✓	✓	Fully integrated including BI

Both: Accessible to parties  
Publication of decision online

	Overall CMS Index in 2020	
	Bosnia and Herzegovina	WB Average
Civil and/or commercial	3,5	2,9
Criminal	3,5	2,8
Administrative	3,5	2,9



## • Centralised national database of court decision

In Bosnia and Herzegoviana, there is a centralised national database of court decisions in which all judgments for all instances are collected, with anonymised data. This case-law database is not available for free online and in open data. There is no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

	For 1st instance decisions	For 2nd instance decisions	For 3rd instance decisions	Link with ECHR case law	Data anonymised	Case-law database available free online	Case-law database available in open data
Civil and/or commercial	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✗	✗
Criminal	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✗	✗
Administrative	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✗	✗

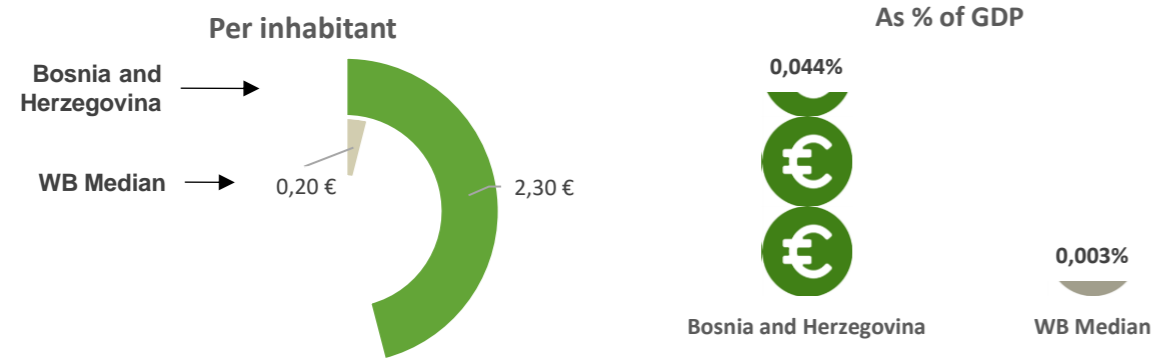
Court decisions database is available online through the HJPC Judicial Documentation Centre's web site [www.pravosudje.ba/csd](http://www.pravosudje.ba/csd). It contains court decisions selected by highest courts in all three areas (civil, criminal and administrative) and is searchable by different parameters: case number, court that issued the decision, legal field, legal term, applied institute, but also through free text search. At the moment, the selected decisions are aligned with lower court decisions brought in the same case, anonymized and available on-line (for the members of the judiciary - judges, prosecutors and all judicial staff free of charge, and the rest of the public must pay annual fee to access the database. In September 2020 HJPC adopted a decision making the database free of charge for all users, but this decision is pending a confirmation by the Council of Ministers. Some decisions from database are also aligned with decisions of the Constitutional Court of BiH. The alignment of this database with ECHR case law is not in place. Various detailed reports on ECHR case law is available through JDC web site , and is subject of improvement through IPA 2017 (information from European highest courts with ECTHR Network). HJPC initiated development of the database with court sentences in cooperation with highest courts (E-sentence). This database will enable highest courts to record their case law in line with pre-defined descriptors (legal terms). Besides, this database should enable identification of diverse case law between highest court and move forward the process of harmonisation of the case law at the state level.

*Kosovo is not included in the calculation of summary statistics*



## Legal Aid in Bosnia and Herzegovina in 2020 (Indicator 4)

### Total implemented budget for Legal Aid in 2020

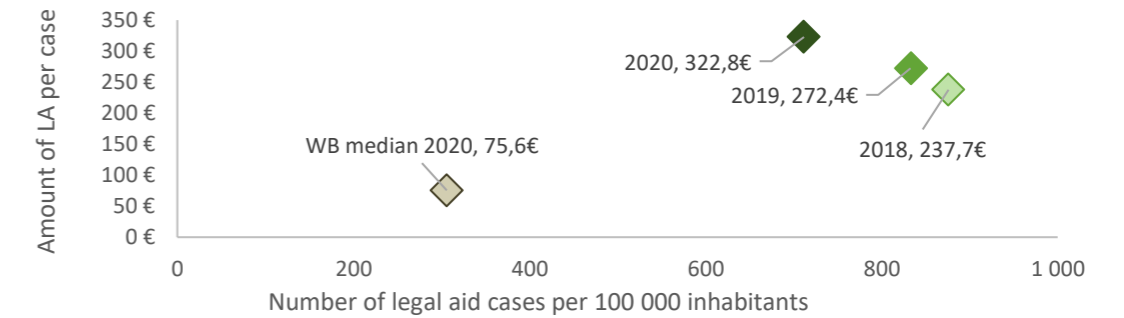


In 2020, the implemented budget for legal aid spent by Bosnia and Herzegovina was 2,3€ per inhabitant (above the WB median of 0,2€. This was equal to 0,044% of the GDP, the same as the WB median.

### Number of LA cases



### Amount of implemented legal aid per case (in €) and total no. of legal aid cases per 100 000 inh. between 2018 and 2020



This scatterplot shows the relation between the number of legal aid (LA) cases per 100 000 inh. and the amount of LA per case. A figure on the right (left) of the WB median means that the Beneficiary has more (less) number of LA cases per 100 000 inh. than the WB median. A figure above (below) the WB median shows that the Beneficiary has spent per LA case more (less) than the WB median.

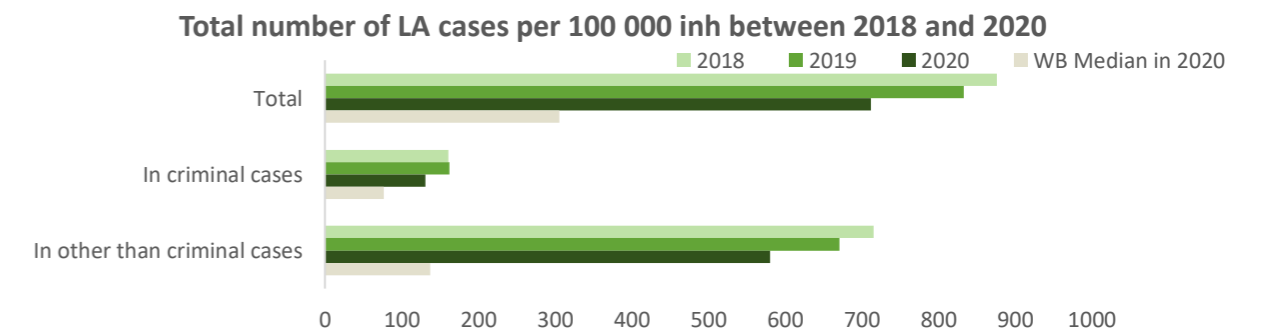
### Implemented budget for legal aid and number of cases for which legal aid has been granted

	Implemented budget for legal aid in €				Total implemented budget for legal aid Per inhabitant		Total implemented budget for legal aid as % of GDP	
	Total	% Variation (2019 - 2020)	Cases brought to court	Cases not brought to court	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median
<b>Total</b>	8 020 365 €	1,1%	NA	NA	2,30 €	0,20 €	0,044%	0,003%
<b>In criminal cases</b>	NA	NA	NA	NA				
<b>In other than criminal cases</b>	NA	NA	NA	NA				

In 2020, the total implemented budget for legal aid was 8 020 365€, which was 1,1% more compared to 2019. In total, Bosnia and Herzegovina spent 2,3 € per inhabitant in legal aid (well above the WB median of 0,2€)

In Bosnia-Herzegovina, the legal aid is financed through the budgets of individual courts (e.g. funds for legal aid are mainly used to pay for the services of ex officio appointed attorneys in criminal cases) and the budgets of legal aid institutions that are government bodies independent from the courts. The lawyers employed by the government legal aid institutions provide legal aid in different legal fields (i.e. representation in criminal, civil, administrative court proceedings; provision of legal advice outside of court or other proceedings), and it is not possible to split the planned or implemented budget funds of the legal aid institutions between different legal fields. It is therefore only possible to make the calculation of the annual implemented public budget allocated to legal aid without dividing it among criminal and other than criminal cases.

	Number of cases for which legal aid has been granted					Amount of LA granted per case (€)		
	Total			Cases brought to court	Cases not brought to court	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 000 inh.	% Variation (2019 - 2020)					
<b>Total</b>	24 850	712	-14,5%	7 801	17 049	322,8 €	NA	NA
<b>In criminal cases</b>	4 577	131	-19,1%	3 753	824	NA	NA	NA
<b>In other than criminal cases</b>	20 273	581	-13,4%	4 048	16 225	NA	NA	NA



In 2020, the number of cases for which legal aid was granted was 24 850€, which was -14,5% less compared to 2019. The number of criminal cases was 4 577, and the other than criminal cases were 20 273. The total cases brought to court were 7 801, while the total cases not brought to court were 17 049. On average, Bosnia and Herzegovina spent 322,75 € per case, which is above the WB median of 75,58 €.

Free legal aid is provided in courts and by the specialized free legal aid institutions formed by the different levels of government in Bosnia and Herzegovina.

Regarding criminal cases brought to court, are counted cases (criminal/misdemeanor) for which free legal aid was given through representation in court and cases in which free legal aid was given for the costs of proceedings.

Regarding other cases brought to court are counted cases in which free legal aid was given through representation in court and the preparation of legal documents, cases in which free legal aid was given only through preparation of legal documents required within the court procedure, and cases in which free legal aid was given only for the costs of proceedings.

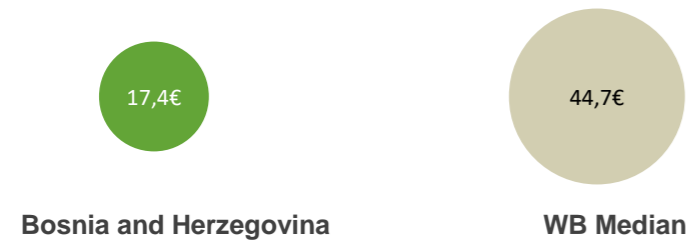
Regarding cases not brought to court are counted cases (civil, enforcement, administrative, administrative-non judicial, criminal/misdemeanor, etc.) in which free legal aid was given through legal advice only by the government founded free legal aid institutions.

It is important to note that the number of persons who received free legal aid may be higher than the number of cases in which free legal aid was provided.

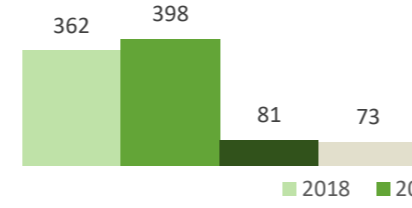
In 2020, legal aid institutions reported that their caseload was reduced in 2020 following the introduction of measures against the spread of Covid-19.

## Training of judges and prosecutors in Bosnia and Herzegovina in 2020 (Indicator 7)

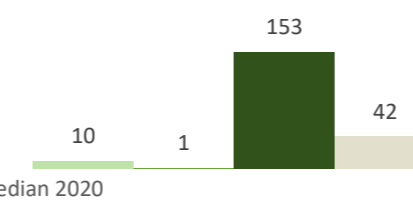
### Total budget for Training per 100 inhabitants



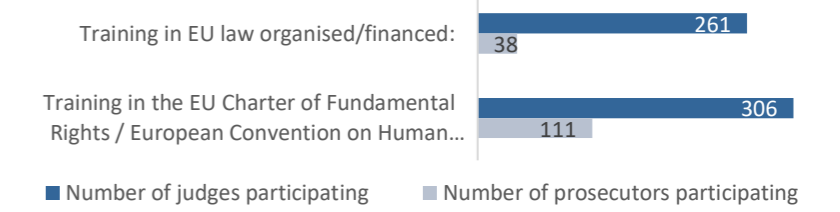
### Delivered in-person training courses between 2018 and 2020 (in days)



### Number of online training courses (e-learning) available between 2018 and 2020



### Training in EU law (participants in 2020)



The total budget for training of judges and prosecutors in Bosnia and Herzegovina was 17,4€ per inhabitant, lower than the Western Balkans (WB) median of 44,7€ per inhabitant. The number of delivered in-person training courses decreased between 2019 and 2020 (from 398 to 81). On the other hand, the online available courses increased to 153 in 2020 (from 1 in 2019).

### Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)			
			Absolute Number	Per 100 inhabitants	% Variation 2019 - 2020	WB Median per 100 inhabitants
<b>Total</b>	540 244 €	68 595 €	608 839 €	17,4 €	NA	44,7 €
<b>Judges</b>	NAP	56 518 €				
<b>Prosecutors</b>	NAP	12 077 €				
<b>One single institution for both judges and prosecutors</b>	540 244 €					

Bosnia and Herzegovina spent in total 608 839€ for training judges and prosecutors in 2020, which is 17,4€ per 100 inhabitants (below the WB median of 44,7€ per 100 inhabitants).

Budget - One single training institution budget for both judges and prosecutors					
Per 100 inhabitants		As % of Judicial System Budget		% Variation between 2019 and 2020	
Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median
19,0 €	23,7 €	0,41%	1,69%	-10,1%	-40,4%

There are two training institutions in Bosnia and Herzegovina which are responsible for judicial training in the two different entities in the country. Each of these institutions is responsible for both judges and prosecutors. Their respective adopted budgets for 2019 are as follows: the Judicial and Prosecutorial Training Centre of Republika Srpska with 215 100€ , the Judicial and Prosecutorial Training Centre of the Federation of Bosnia and Herzegovina with 386 014€.

### Type and frequency of trainings

	Judges		Prosecutors	
	Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
<b>Initial training</b>	Compulsory		Compulsory	
<b>General</b>	Compulsory	Regularly	Compulsory	Regularly
<b>Specialised judicial functions</b>	Compulsory	Regularly	Compulsory	Regularly
<b>Management functions of the court</b>	Optional	Regularly	Optional	Regularly
<b>Use of computer facilities in courts</b>	Optional	Regularly	Optional	Regularly
<b>On ethics</b>	Optional	Regularly	Optional	Regularly

In Bosnia and Herzegovina, the in-service training for specialized functions is obligatory only for the judicial office holders assigned to work on criminal cases involving juveniles; they must take certain training courses in order to be able to work on such cases.

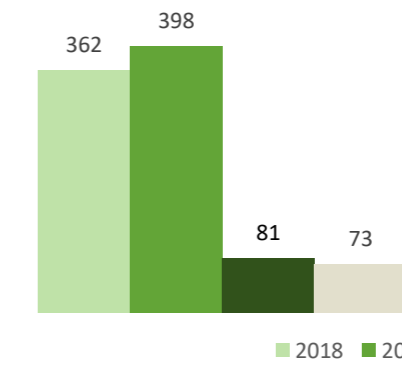
The number of days per year for in-service training for all judicial office holders is from minimum 3 to maximum 10 days. The judicial office holders may choose between training topics, which are related to the issues they most frequently work on.

The newly appointed judicial office holders must complete specially designed training courses at the judicial training centre within 6 months of their appointment.

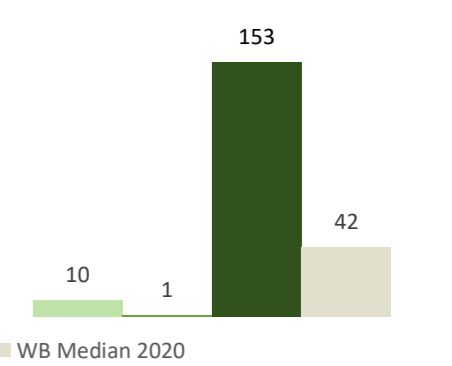
• Number of in-service trainings and participants

	In-person training courses				Online training courses (e-learning)		
	Available (number)	Delivered (in days)		Number of participants	Available (number)		Number of participants
		In 2020	% Variation 2019 - 2020		In 2020	% Variation 2019 - 2020	
<b>Total</b>	246	81	-80%	1394	153	15200,0%	2444
<b>Judges</b>	216	121	NA	644	143	NA	1606
<b>Prosecutors</b>	167	67	NA	257	82	NA	680
<b>Non-judge staff</b>	67	12	NA	198	34	NA	89
<b>Non-prosecutor staff</b>	67	12	NA	159	34	NA	69
<b>Other professionals</b>	NA	NA	NA	136	NA	NA	0

Delivered in-person training courses between 2018 and 2020 (in days)



Number of online training courses (e-learning) available between 2018 and 2020



The number of delivered in-person training courses plummeted in 2020 as a result of the measures taken against the spread of coronavirus. For the same reason, the number of on-line training courses increased considerably in 2020.

In Bosnia and Herzegovina, sanctions are foreseen if judges and prosecutors do not attend the compulsory training sessions. The Law on High Judicial and Prosecutorial Council of Bosnia and Herzegovina (Article 56, item 20) defines the list of disciplinary offences for judges which includes the following: "Failure to fulfill any mandatory training obligations or any other obligations imposed by law." Historically, none of the judges has been found liable for this offence.

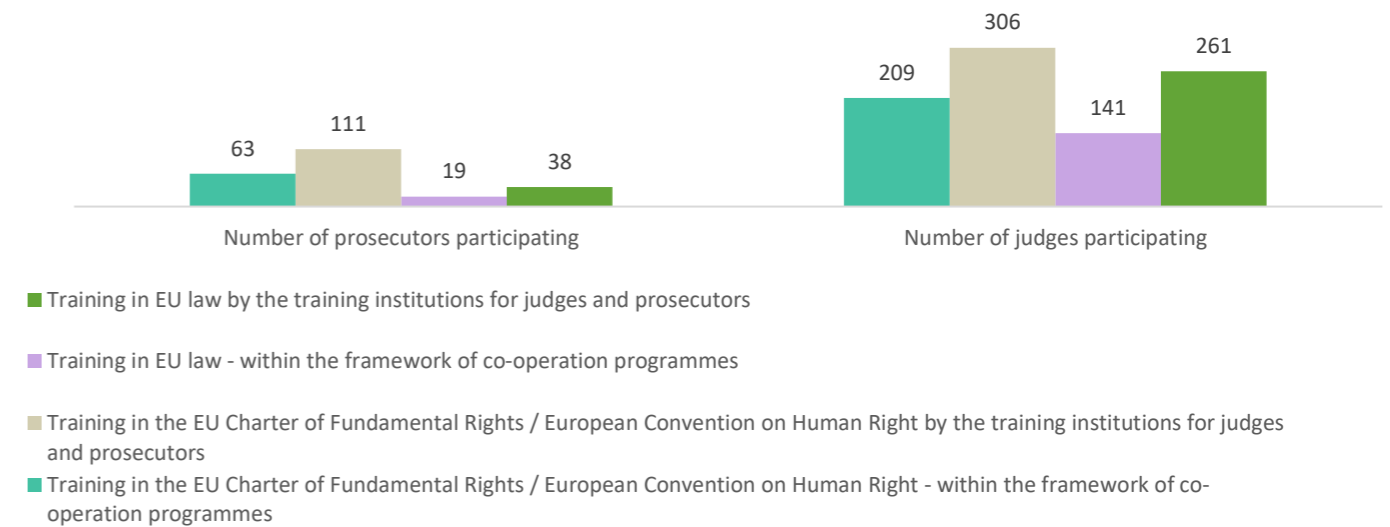
As regards in-service training on ethics, prevention of corruption and conflicts of interest, they are included in the annual training program, however it is not obligatory. It cannot be confirmed that all the judges and prosecutors who have been reappointed during the major reform in 2003 have undergone the training on ethics. Attending training on ethics, prevention of corruption and conflicts of interest is obligatory only for the newly appointed judicial office holders.

Prosecution offices have specially trained prosecutors in domestic violence and sexual violence. Furthermore, the majority of prosecution offices have specialized departments with prosecutors who are experienced in investigating and prosecuting sexual violence cases. Specialized trainings for prosecution of domestic violence cases are held regularly for prosecutors who are responsible for domestic violence cases.

## • Number of EU law training courses and participants

	Training in EU law organised/financed:		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights organised/financed:	
	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes
Number of in-person training courses available	9	7	10	9
Number of delivered in-person training courses in days	2	1	4	3
Number of online training courses (e-learning) available	12	6	17	13
Number of judges participating	261	141	306	209
Number of prosecutors participating	38	19	111	63

Number of judges and prosecutors participating in the EU law trainings in 2020



In 2020, many trainings on EU Law and on the EU Charter of Fundamental Rights and the European Convention on Human Rights available or delivered in Bosnia and Herzegovina were co-organised or co-financed with International partners.

The abovementioned number of training courses days in 2020, pertaining to the European Union Law and the European Convention on Human Rights, were determined in the annual working plans of the training institutions (The Judicial and Prosecutorial Training Centre of Republika Srpska and the Judicial and Prosecutorial Training Centre of the Federation of Bosnia and Herzegovina). The training courses on the different topics with regards to the European Convention on Human Rights have been an integral part of the training institutions' curricula for many years now.

The courses which were financed and co-organised by other stakeholders were delivered within the implementation of the annual working plans of the training institutions. In 2020, The training institutions in Bosnia and Herzegovina delivered several new training courses on the European Union Law and the European Convention on Human Rights that they had developed in cooperation with the relevant foreign organizations' experts. The involvement of judges and prosecutors in the new training courses increased the participation at the classes on European Union Law and the European Convention on Human Rights.

In 2020, the training institutions' implementation of the specific cooperation programmes with the European Delegation in Bosnia and Herzegovina and the German Foundation for International Legal Cooperation, caused a substantial increase in the number of judges and prosecutors in the training courses on the European Union Law and the European Convention on Human Rights.

The stakeholders which co organized EU law training courses were as follows: The German Foundation for International Legal Cooperation, the Advice on Individual Rights in Europe based in London, The Dutch Judicial Academy. The list of the training courses was: 1. Train the trainers in EU law, 2. The relation between EU Law and national law, 3. Protection of collective rights in the context of EU law.

The stakeholders which co organized training courses on EU Charter of Fundamental Rights/European Convention on Human were as follows: The London based Advice on Individual Rights in Europe, the Organization for Security and Co-operation in Europe, the Women's Rights Centre, the Heinrich Boll Foundation. The list of the training courses was 1. Train the trainers: Special investigative measures, Relevant provisions of The European Convention on Human Rights and the case law of the European Court of Human Rights, 2. Gender (Non)equality, 3. Recent trends in the European Court of Human Rights case law, 4. Article 10. Right on freedom of expression.

*Kosovo is not included in the calculation of summary statistics*

## Alternative Dispute Resolution in Bosnia and Herzegovina in 2020 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge

Yes

Court-related mediation procedures

Yes

Mandatory informative sessions with a mediator

No

Mandatory mediation with a mediator

No

### Mediators

5,4

per 100 000 inhabitants

WB Median: 5,4

54,7% female mediators



### Total number of court-related mediations

Number of cases for which the parties agreed to start mediation

531

Number of finished court-related mediations

496

Number of cases in which there is a settlement agreement

458

In Bosnia and Herzegovina, court related mediation procedures are available and legal aid for court-related mediation or related mediation provided free of charge could be granted. The judicial system does not provide for mandatory mediation. Also, there are no mandatory informative sessions with a mediator. In 2020, the number of mediators per 100 000 inhabitants was 5,4, which was the same as the Western Balkans median. The majority of the mediators were women (54,7%). There were in total 531 cases for which the parties agreed to start mediation and 458 mediation procedures which ended with a settlement agreement.

### • ADR procedures and mandatory mediation

The civil and criminal procedure codes foresee non-mandatory court-related mediation procedures.

As regards civil proceedings, at the preparatory hearing at the latest, the court conducting the civil proceedings may propose to the parties the resolution of the dispute through mediation proceedings, as prescribed by a separate law. The parties may jointly put forward such proposal until the conclusion of the main hearing. As concerns criminal proceedings, the court may propose mediation through the mediator to the injured party and the accused or to the defense attorney in accordance with law. Injured party, accused and the defense attorney may propose referral to the mediation until the closing of the main trial. In less complex juvenile cases involving issuing educational recommendations a prosecutor or a judge may suggest the mediation between the offender and the injured party.

### • ADR methods

Mediation other than court-related mediation



Arbitration



Conciliation (if different from mediation)



Other ADR



The members (i. e. mediators) of the Association of the Mediators of Bosnia and Herzegovina are in charge of conducting court-related mediation and other than court-related mediation.

Conciliation is foreseen by the law in different legal fields (e. g. the conciliation is obligatory as a prerequisite for the divorce proceedings, the conciliation is carried out by the social welfare institution).

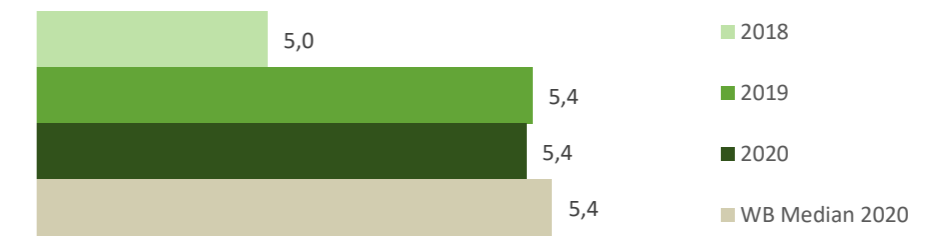
As for the arbitration, the civil procedure legislation regulate that the parties may agree to entrust the resolution of the disputes on to the arbitration. An arbitration agreement may be concluded with an existing dispute or on future possible disputes that could stem from certain legal relation.

## • Mediators and court-related mediations

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2020	
Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Bosnia and Herzegovina	WB Median
190	5,4	5,4	0,7%	-40,0%

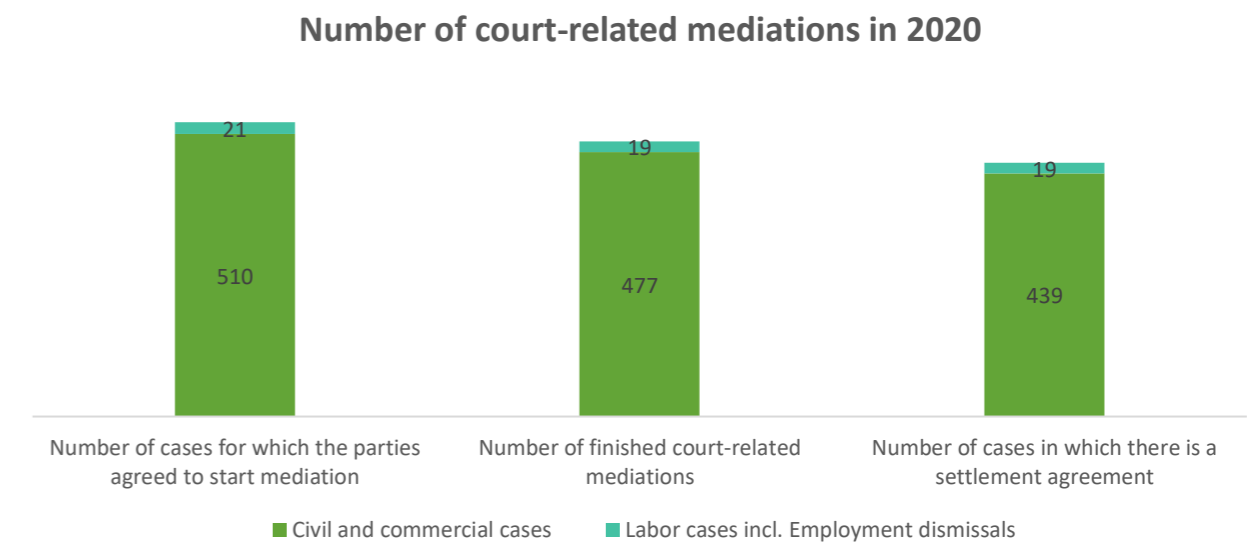
For reference only: the 2019 EU median is 14,3 mediators per 100 000 inhabitants.

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2018 and 2020



In 2020, the total number of mediators in Bosnia and Herzegovina was 190, which is 0,7% more than the previous year. The number of mediators per 100 000 inhabitants was 5,4 which is the same as the WB median.

	Number of court-related mediations			Providers of court-related mediation services			
	Number of cases for which the parties agreed to start mediation	Number of finished court-related mediations	Number of cases in which there is a settlement agreement	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
<b>Total (1 + 2 + 3 + 4 + 5+ 6)</b>	531	496	458				
<b>1. Civil and commercial cases</b>	510	477	439	✓	✓	✗	✗
<b>2. Family cases</b>	0	0	0	✓	✓	✗	✗
<b>3. Administrative cases</b>	0	0	0	✗	✗	✗	✗
<b>4. Labour cases incl. employment dismissals</b>	21	19	19	✓	✓	✗	✗
<b>5. Criminal cases</b>	0	0	0	✓	✓	✗	✗
<b>6. Consumer cases</b>	0	0	0	✓	✓	✗	✗



Court related mediations are provided by private mediators and public authorities (other than the court). In 2020, mediation was most used for Civil and commercial cases and Labour cases (including employment dismissals) (510 and 21 cases, respectively, in which parties agreed to start mediation).

The Association of Mediators of Bosnia and Herzegovina produced the statistics on mediations. According to the Association the number of mediations has decreased over the recent years due to the lack of cases put forward for the mediation procedures by the relevant creditors (e.g. the state-owned enterprises providing utility services), which have recorded the decrease in terms of the number of incoming cases deemed eligible for the mediation procedures.

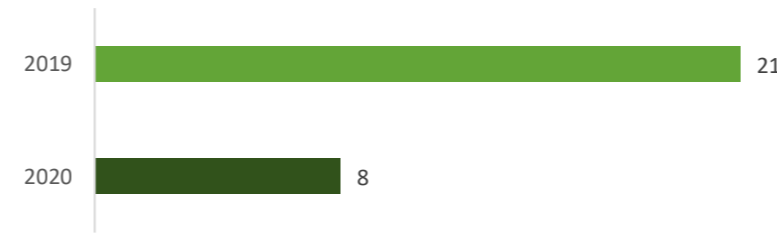
Kosovo is not included in the calculation of summary statistics

## European Convention on Human Rights in Bosnia and Herzegovina in 2020 (Indicator 10)

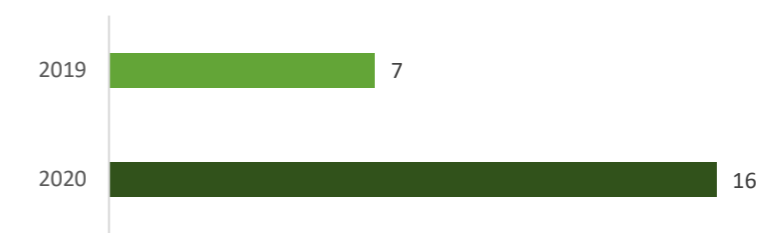
*European Convention on Human Rights – Article 6 – Right to a fair trial:*

*In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*

Number of judgements finding at least one violation of ECHR in 2019 and 2020



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process in 2019 and 2020



### ECHR

Bosnia and Herzegovina is represented before the European Court of Human Rights by its Agent (Agent of the Council of Ministers before the European Court of Human Rights). It is also within the scope of work of the Agent to coordinate and monitor implementation of the ECHR's decisions regarding BiH and to report on this issue to the Council of Ministers of BiH and the Committee of Ministers of the Council of Europe. If violation of the Convention is established by the final decision of the ECHR, the Agent will take all actions necessary to ensure its implementation, from translating and distributing such decision to responsible domestic authorities, to conducting intensive and continuous cooperation with them, as well as with the Department for the Execution of Judgments of the ECHR. Furthermore, if Agent finds that domestic law, applicable in the case submitted to the ECHR, is not in line with European Convention, Agent will initiate, through competent authorities, procedure to amend and harmonize respective regulation. Agent has a deputy and an office (Office of the Agent of the Council of Ministers before the European Court of Human Rights). Office of the Agent is tasked to follow domestic and international regulation relevant for the protection of the human rights, and to follow and analyze the practice of the ECHR. Specific institutional safe-guard for the rights and freedoms protected by the Constitution of BiH and European Convention (including rights provided in article 6), derives from appellate jurisdiction of the Constitutional Court of BiH. Based on Article VI of the Constitution, 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. Under terms provided by its Rules, the Constitutional Court may decide on the appeal even 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. Appellants, who believe that the judgment or other decision of any court is in violation of their rights, shall have the right to file an appeal after all legal remedies have been exhausted while the Court shall also consider the effectiveness of possible legal remedies. If the Constitutional Court finds an appeal well-founded, it may decide on the merits or it may quash the challenged decision and refer the case back to the court that adopted the judgment for renewed proceedings. The court whose decision has been quashed is obligated to take another decision in expedient proceedings and, in doing so, it shall be bound by the legal opinion of the Constitutional Court concerning the violation of the appellant's rights and the fundamental freedoms guaranteed under the Constitution. If the Constitutional Court finds that violation of human rights is caused by systematic flaws in functioning or organization of the public authorities or by inadequate regulations, it may, in a decision granting an appeal, instruct competent institutions to implement measures aiming to eliminate causes that led to such violation.

Monitoring system for violations related to Article 6 of ECHR		
Civil procedures (non-enforcement)	Civil procedures (timeframe)	Criminal procedures (timeframe)
✓	✓	✓

#### Possibility to review a case after a decision on violation of human rights by the ECHR

Yes

The criminal procedure codes in Bosnia and Herzegovina explicitly prescribe that criminal proceedings may be reopened in favour of the accused if the Constitutional Court of Bosnia and Herzegovina or the European Court of Human Rights establish that human rights and fundamental freedoms were violated during the proceedings or that the verdict was based on these violations. The Rules of the Constitutional Court, prescribe that, exceptionally, if the European Court of Human Rights finds that human rights concerning access to a court have been violated in proceedings before the Constitutional Court and if the decision of the Constitutional Court is based on such a violation, the Constitutional Court shall renew proceedings not later than three months from the finality of the judgment of the European Court of Human Rights. The civil procedure codes in Bosnia and Herzegovina do not provide for the option to reopen civil proceedings when establishing that party's rights, as guaranteed with the European Convention, have been violated in civil proceedings and/or if a judgment rendered by the court in civil proceedings was founded on that violation.

In 2020, the applications pending before an ECHR decision body for Bosnia and Herzegovina were 403 (-1192 less than the previous year). The judgements by the ECHR finding at least one violation for Bosnia and Herzegovina were 8; whereas they were 21 in 2019.

The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 16 in 2020; whereas they were 7 in 2019.

	2019	2020	% Variation between 2019 and 2020
Number of applications pending before a ECHR decision body**	1595	403	-74,7%
Judgements finding at least one violation**	21	8	-61,9%

\*\* Source: ECHR

	2019	2020	% Variation between 2019 and 2020
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	7	16	129%

\*\*\* Source: Department of Execution of sanctions of the Council of Europe

Kosovo is not included in the calculation of summary statistics



CEPEJ(2021)2

Part 2

## EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

### HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans - “Dashboard Western Balkans”

#### Data collection 2020

#### Part 2 (B) - Beneficiary Profile – Bosnia and Herzegovina

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondent) to the CEPEJ Questionnaire for the Dashboard Western Balkans, and relevant GRECO reports.



## Selection and recruitment of judges and prosecutors

Recruitment, career and dismissal of judges and prosecutors are regulated by the same provisions of the Law on the High Judicial and Prosecutorial Council (Law on the HJPC), the Rules of Procedure of the HJPC and the Book of Rules on Entrance Exams and Written Tests for Candidates for Judicial Office in the Judiciary of Bosnia and Herzegovina.

All judges in BiH (incl. reserve judges and lay judges) are appointed (and dismissed) by the High Judicial and Prosecutorial Council (HJPC), with the exception of judges in the Constitutional Courts of FBiH and RS. The HJPC has a right to appoint some and reject some among the selected (proposed) candidates as well as to appoint candidates that were not selected (proposed) by the competent authority (HJPC's nomination sub-council).

Judges and prosecutors are recruited in a process which includes both a competitive exam as well as a requirement to demonstrate certain legal experience. Basic requirement for appointment at a first instance court as well as at a district/cantonal prosecutor's office include passing the bar examination and having a minimum of three years' legal experience. Additional conditions of working experience are required for appointment to higher positions within the judiciary/prosecution service.

Appointment to any position of judge/court president as well as any position of prosecutor/chief prosecutor in BiH requires the publication of a vacancy announcement in three daily newspapers and on the website of the HJPC. A public vacancy is applicable to both internal candidates (candidates who hold judicial office) and external candidates, who compete each other for the vacant position. However, certain aspects of selection procedure are different for internal or external candidates (see below). Entry criteria are announced as part of the public call and include: a) basic law studies; b) judicial exam/bar exam; c) years of work experience; d) relevance of previous work experience; and e) entry test.

The list of pre-selected candidates is sent only to the candidates who participate in the competition. There is no possibility to appeal for non-pre-selected candidates.

The selection process is carried out by sub-councils of the HJPC or sub-committees appointed by the Entities' sub-councils.

Criteria for the selection of judges/prosecutors include: a) relevance of previous work experience; b) duration of previous work experience; c) interview evaluation; d) performance appraisal; and e) professional competence (which is established for external candidates based on results of entrance exams and written tests). Furthermore, Article 46 of the Rules of Procedure of the HJPC stipulates that the criteria to be taken into account include professional expertise, legal analysis skills, ability to perform the functions responsibly and impartially based on the candidate's previous work experience, professional impartiality and reputation, conduct outside of work, academic publications, training, and communication skills, as well as managerial experience and qualification for positions of court president.

During the appointment procedure consideration shall also be given to circumstances relevant for the evaluation of candidate suitability, such as information concerning any previous disciplinary offences, previous criminal convictions and other circumstances that may deem a candidate unsuitable to hold judicial office. Also, the candidate is required to submit together with his/her application an official court document confirming that there are no pending criminal proceedings against him/her.

Candidate's criminal record does not constitute an eliminatory criterion in the process of appointment of candidates. But in this regard, the Interview panel and the HJPC, through the appointment procedure determine the ability of the candidate with criminal record to perform the judicial function.

The integrity of both candidate judges and candidate prosecutors is checked at the interview conducted with candidates and through the information which the candidates have submitted in the application form.

Non-selected candidates do not have the possibility to appeal against the HJPC's decision of appointment. However, the HJPC may annul an appointment if, before the appointed judge/prosecutor takes up his/her duties, it receives information which would have prevented the appointment from taking place. In such a case, the date of commencement of duty of the appointed judge/prosecutor may be postponed in order to conduct an investigation.

Judges and prosecutors in BiH (except the reserve judges who are appointed on a temporary basis - up to 2 years, renewable; and lay judges who are appointed for a mandate of eight years, renewable) have life tenure until the retirement age of 70. Court presidents are appointed for a fixed term, renewable, at the end of which they continue to work in the same court as judges. Chief prosecutors are appointed for a fixed term, renewable, at the end of which they continue to work in the same office as prosecutors.

No probation period is envisaged in the law for judges/prosecutors before being appointed “for life”.

A dismissal from office is envisaged as a disciplinary sanction (in case 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/her office).

In its [Evaluation Report on BiH](#) (see paragraphs 94 and 95) GRECO looked into appointment and promotion system for judges and prosecutors and had been presented with several deficiencies, namely superficiality, lack of transparency and vulnerability to personal and political links. As a consequence, inexperienced judges and prosecutors are being called on to work on complex cases. This has to some extent to do with the fact there is no judicial academy in BiH that could adequately prepare the future candidates to judicial positions. On the other hand, interviews that the candidates have to undergo before the competent sub-committee of the HJPC as part of the appointment procedure leave significant possibilities for subjectivity. Furthermore, written exams are not obligatory and not much emphasis appears to be placed on questions of ethics and integrity in the candidates' examination. Moreover, the ethnicity criterion that has to be taken into account in appointments to judicial positions further complicates the process and is widely recognised as taking precedence over professional competence in some appointment decisions. Finally, decisions on appointment of judges/prosecutors by the HJPC are not subject to appeal.

However, GRECO recognised efforts had been made with regard to HJPC's recent practice to increase the objectivity and transparency of the process, candidates for beginning-of-career posts had to undergo a written exam containing 100 questions extracted from a data-base. They also had to draft a judgment or an indictment. For candidates to more senior positions, the interview had been standardised with questions from the data-base, to test candidates' legal analytical skills, integrity, responsibility and managerial skills. It only accounted for 20% of the candidates' final ranking, the remaining 80% being based on performance appraisals. Following the tests, candidates' ranking was calculated by a dedicated software. GRECO nevertheless pointed out that unfortunately, the ethnicity criterion still allowed the final appointment to override the results of the tests and that some candidates indicated a false ethnicity in order to receive preference. In relation to this matter the BiH authorities presented to GRECO draft amendments to the Law on the HJPC which foresaw the inclusion of a compulsory written exam in the appointment procedure which, in GRECO's view, need to be adopted as a matter of priority. As to the ethnicity criterion, although GRECO understood the historical reasons that presided over its inclusion, it questioned its continued relevance from the perspective of selecting the most competent judges or prosecutors. As regards the lack of possibility to appeal against the HJPC's decisions on appointment GRECO recommended to the BiH authorities that determined legislative and operational measures be taken to strengthen the HJPC's role in protecting the holders of judicial and prosecutorial offices from undue influences – both real and perceived – including by ensuring that decisions of the HJPC on the appointment, promotion and disciplinary liability of judges and prosecutors are subject to appeal before a court (see part (iii) of the recommendation viii, para. 91 of the [GRECO Evaluation Report on BiH](#)). At the time of adoption of the GRECO [Compliance Report on BiH](#) in 2018 GRECO established no progress had been made, recalled that the process of amending the Law on the HJPC had been on-going since 2013, before the adoption of the Evaluation Report (see para. 43) and thus encouraged the BiH authorities to step up their efforts to make the changes necessary. Moreover, GRECO pointed out that the recommendation also called for operational changes (i.e. to avoid that the same HJPC members were involved in different aspects of a judge's or prosecutor's career) which could well be implemented without changes to the law. In the [GRECO Second Compliance Report](#) on BiH from 2020 (see para. 40 – 45), no tangible progress was noted regarding implementation of the recommendation.

## Promotion for judges and prosecutors

The High Judicial and Prosecutorial Council (HJPC) is competent for the promotion of judges and prosecutors.

The promotion procedure should include: a) publication of competition procedure (announced in a daily newspaper and on the HJPC's website); b) conducting interviews with candidates; c) ranking candidates in accordance with the criteria and making appointment proposals (sub-council); and d) deciding on appointment (HJPC). The promotion procedure is applicable to both internal candidates (candidates who hold judicial office) and external candidates, who compete each other for the vacant position. However, certain aspects of selection procedure are different for internal or external candidates.

The criteria for ranking the candidates are: a) expertise; b) ability to perform legal analysis; c) ability to responsibly, independently and impartially conduct the position in question, professional reputation, impartiality, and conduct outside of work; d) previous working experience; e) professional development, additional training, publishing of scientific papers, and other activities relevant for the judicial profession; and f) communication skills. Additional criteria are used for candidate ranking for managerial positions.

Selection procedure may include entrance exams and written tests, depending on the status of the candidate. Entrance exams and written tests shall be carried out mainly for candidates who do not hold judicial office and who have applied for positions of judges on any level. Results of the aforementioned tests are relevant for the establishing the competences of the external candidates. Other criteria are checked in an interview.

For candidates who already perform the function of a judge/prosecutor promotion to higher positions within the judicial system is based on the results of the candidates' performance appraisals for the last three years, as well as on an interview. Pursuant to the performance criteria of the HJPC the expertise and the ability to perform legal analysis are determined in the performance appraisal which is carried out every year by the head of institution (i.e. court president or chief prosecutor). Other criteria are checked in an interview.


Candidates are ranked based on their success in the selection procedure. The points received according to the competence criterion (results of entrance exam/written test or performance evaluation) are added to the points received at the interview and candidates are ranked according to the total points scored.

The sub-council then makes an appointment proposal to the HJPC which decides on appointment with a reasoned decision. Decisions on appointment of judges/prosecutors are not subject to appeal – however, GRECO found in its [Evaluation Report on BiH](#) (see para. 90 and 93) that the HJPC may annul an appointment if, before the appointed judge/prosecutor takes up his/her duties, it receives information which would have prevented the appointment from taking place. In such a case, the date of commencement of duty of the appointed judge/prosecutor may be postponed in order to conduct an investigation.

As already mentioned, GRECO found several deficiencies with regard to appointment and promotion system for judges and prosecutors (see section "Selection and recruitment of judges and prosecutors").

In its [Evaluation Report on BiH](#) (see para. 94, 95 and 99) GRECO found that the results of these yearly performance appraisals are the determining factor (representing 80% of the overall assessment of the candidate) in promotion procedures. GRECO heard major criticism of the ineffectual appraisal system that did little to distinguish candidates. The lack of knowledge about actual performance from some appraisers, too great attention paid to numerical data about cases processed rather than qualitative information about the complexity of work, and reluctance to performance manage instead of moving problems on were highlighted. Further criticism was raised regarding the initial recruitment and promotion process particularly that not much emphasis appeared to be placed on questions of ethics and integrity in the candidates' examination. Moreover, the ethnicity criterion that had to be taken into account in appointments to judicial positions further complicated the process and was widely recognised as taking precedence over professional competence in some appointment decisions. Consequently, GRECO recommended that further steps should be taken to improve the performance appraisals (with a priority given to qualitative over quantitative criteria) to both enforce the high ethical and performance standards expected from judges and prosecutors and assist in identifying meritorious

candidates for promotion (recommendation ix). In the [GRECO Compliance Report on BiH](#) (see para. 45 – 54) BiH authorities reported that the HJPC had adopted new criteria for the evaluation of the work of prosecutors on 7 July 2016 and of chief prosecutors, deputy chief prosecutors and heads of departments/sections in prosecutor's offices, which had been harmonised with the former text, on 29 November 2016. Among the changes introduced by the new criteria, the quality of indictments should be measured according to the complexity of the case, with cases of economic crime, organised crime and war crimes being monitored separately from other cases. Decisions not to prosecute or to discontinue prosecution had been added to the monitored criteria. A third change was that grounds had been added to award negative points to a prosecutor for the quality of his/her decisions if they were subject to significant corrections. The HJPC also adopted on 7 July 2016 a Book of Rules on benchmarks for the work of prosecutors in BiH, which set out annual norms on cases achieved or cases closed, which were broken down according to the types of crimes. It also set out criteria for taking into account the complexity of cases, ways of closing cases and levels of penalty. The purpose of the Book of Rules should ensure a uniform application of the evaluation rules throughout the territory of BiH. It would also help in determining the necessary allocation of human resources – both prosecutors and support staff – in an attempt to ensure more efficiency in the prosecution service. Chief prosecutors were responsible for proper implementation of the Book of Rules (via organising a record keeping system based on the automatic management system of prosecutorial cases and periodic reporting) which should be monitored by the chief prosecutors of BiH and its entities, as well as by the HJPC. The HJPC also adopted on 14 December 2016 a Book of Rules on the process of appraisal of chief prosecutors, deputy chief prosecutors, heads of departments/sections and prosecutors which stipulated the appraisal procedures, their monitoring, the appeal procedure against an appraisal, the content of appraisal and appraisal monitoring forms. The BiH authorities also reported that the adoption of a new Book of Rules on benchmarks for the work of judges and further improvement of the criteria for performance appraisal of judges was foreseen in the HJPC's 2017 work plan. The work plan also foresaw the implementation of expert recommendations on the system of appraisal and appointment into by-laws and practice of the HJPC. These activities were under way at the time of adoption of the Compliance Report on BiH. The authorities also reported that the draft law on the HJPC that was under preparation by the Ministry of Justice envisaged an improvement of the provisions related to the performance appraisal of holders of judicial and prosecutorial functions. However, a possibility would be left for certain issues to be elaborated in greater detail through by-laws of the HJPC – for example are regards promotion criteria. GRECO welcomed in the Compliance Report on BiH the different documents adopted by the HJPC with a view to improving prosecutors' performance appraisals, which represented an attempt at increasing the objectivity and uniformity of the appraisal system. However, GRECO pointed out that much would depend on how the system would be implemented in practice. Moreover, in the same report GRECO noted that the chief prosecutors of the Prosecutor's Office of Bosnia and Herzegovina, the Federal Prosecutor's Office of the Federation of Bosnia and Herzegovina, the Republic Prosecutor's Office of Republika Srpska and the Prosecutor's Office of the Brčko District of Bosnia and Herzegovina were still exempt from the evaluation system. It therefore invited the HJPC to adopt evaluation criteria also for these professionals. GRECO also pointed out that the performance appraisal system for judges still needed to be upgraded. Thus, GRECO concluded that this recommendation had been partly implemented. In the [Second Compliance Report on BiH](#) from 2020 (see para. 46 – 54) GRECO noted that on 27<sup>th</sup> November 2018, the HJPC adopted new criteria for evaluating the performance of judges and prosecutors, including in respect of chief State Prosecutor and Chief Prosecutors of the Entities. Evaluation of judges and prosecutors for 2019 was planned to be initiated in the first quarter of 2020, in accordance with the newly adopted criteria. The criteria are based on recommendations from the evaluation of the performance of judges and prosecutors, prepared in 2017 by the EC experts, and aim at achieving an appropriate balance between quantitative and qualitative performance evaluation criteria. According to the authorities, the judges will be evaluated in terms of analytical quality of their work and decisions taken against such elements as: the quality of reasoning in court decisions, the quality of court proceedings, the manner of communication with the parties, other bodies, relationship with associates, etc. This evaluation will be based on the opinion of the presiding judge of the respective court, the opinion of the division of a higher instance court, based on a review of court rulings on a legal remedy in cases under the responsibility of the evaluated judge, a detailed examination report of a number of randomly selected cases, information on adjourned hearings, length of proceedings, etc. The new evaluation criteria also contain elements for evaluating the managerial performance of presidents of judicial departments. As to the evaluation of prosecutors, the quality of their decisions will be assessed against such elements as: ability to determine key facts relevant to prosecutorial decisions, resolve complex cases, speedy decision-making capacity and compliance with deadlines, ability to investigate proactively, expert quality of prosecutorial decision, legal knowledge and the use of legal remedies. In the course of evaluations, it is intended to consult such information sources as reports on detailed review of a number of randomly selected cases, resolved by the prosecutor during the evaluation period, opinion of the deputy chief of the prosecutor's department, and a written opinion from a higher instance prosecutor's office, based on a review of a randomly selected case under responsibility of the evaluated prosecutor. In addition to the new elements of performance evaluation, traditional criteria for evaluating the performance of judges and prosecutors will continue to apply. The authorities also reported that the proposal on amending the Law on the HJPC, submitted in June 2018 to the Ministry of Justice, provides, *inter alia*, for the evaluation of the work of all judges, prosecutors, court presidents and chief prosecutors in Bosnia and Herzegovina once every three years, by the Evaluation Commission, set up by the HJPC.



According to this proposal, the Judges' Evaluation Commission shall consist of all judge-members of the HJPC and one judge from each – the Supreme Court of the Federation of Bosnia and Herzegovina, the Supreme Court of the Republika Srpska, the Court of Bosnia and Herzegovina and the Appellate Court of the Brčko District. The Prosecutors' Evaluation Commission is proposed to consist of all HJPC prosecutor-members and one prosecutor from each – the Prosecutor's Office of the Federation of Bosnia and Herzegovina, the Prosecutor's Office of the Republika Srpska, the Prosecutor's Office of Bosnia and Herzegovina and the Prosecutor's Office of the Brčko District. GRECO took note of the adoption of separate criteria for evaluation of judges and prosecutors. But, it stressed the critical importance of having any evaluation of judges' performance strictly done within the judiciary itself, and without any influence from the other two branches of powers. Since the implementation of this recommendation depended on establishing of the relevant Evaluation Commissions for judges and prosecutors, as envisaged in the draft amendments to the Law on HJPC, GRECO concluded that this recommendation remained partly implemented.

In its [Evaluation Report on BiH](#) (see para. 98) GRECO addressed an issue that not all judges were subject to yearly performance appraisals - this was the case for the president and judges of the Court of BiH and for the president of the FBiH Supreme Court, for lack of an explicit legal basis. GRECO noted that the HJPC had proposed on several occasions to the BiH Ministry of Justice to amend the Law on the HJPC to unify the regulation of performance appraisals for all judicial office holders. The HJPC's Strategic plan for 2014-2018 also foresaw remedying this gap by introducing appraisals along with the adoption of criteria for the above-mentioned judges. The GET supported this planned reform, as it would contribute to even handedness and indicate a desire for accountability. In the [GRECO Second Compliance Report on BiH](#) from 2020 (see para. 48), GRECO noted that the HJPC adopted new criteria for evaluating performance of judges (and prosecutors). However, no information was provided as to whether these criteria would apply also to the above-mentioned judges.

## Confidence and satisfaction of the public with their justice system

The legislation for protecting the right of citizens to seek compensation in case they have suffered pecuniary or non-pecuniary damage due to the violation of the right to a trial within reasonable time or for non-execution of court decisions is in place. A person may file an appeal to the Constitutional Court of BiH which, based on Article VI of the Constitution, has, inter alia, 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 11/3.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 Constitutional Court orders the court of general jurisdiction to finalize the case in question without any delay. In a decision granting an appeal, the Constitutional Court may also award compensation for non-pecuniary damages. If the Constitutional Court considers that a compensation is necessary, it shall award it on equitable basis, taking into account the standards set forth in the case-law of the Constitutional Court. 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.

For wrongful arrest and wrongful conviction, compensation for damages may be sought and granted on the basis of the criminal procedure codes. A person is entitled to compensation for damages for wrongful arrest in the following cases: (i) a person 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 pretrial 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. For wrongful conviction, 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 for 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. Compensation is awarded in civil proceedings, initiated against public authorities by the person entitled to compensation. The filing of a lawsuit is preceded by an attempt to reach a settlement through the relevant ministry of justice. Under one of the jurisdictions in BiH there is a rule regulating criteria applicable in settlement procedure, which stipulates the amount per day for unjustified detentions. There is no specific and unified method to calculate the amount of the compensation in court proceedings and court decides in each case based on the circumstances of the case. Apart from the aforementioned regular proceedings, a person whose rights and freedoms protected by the Constitution and the ECHR are violated by wrongful arrest and wrongful conviction, can submit an appeal to the Constitutional Court of BiH. In a decision granting an appeal, the Constitutional Court may award compensation for non-pecuniary damages. If the Constitutional Court considers that compensation is necessary, it shall award it on equitable basis, taking into account the standards set forth in the case-law of the Constitutional Court.

Below are the statistical data on number of requests for compensation as well as compensation granted, for 2019 and 2020. The number of requests for compensation include only requests submitted in a reference year while number of compensations granted includes all cases, regardless of the year of the request for compensation. Significant variations between the data for 2019 and 2020 exist due to, in particular, individual applications alleging a non-execution of court decisions against public sector debtors which were rejected in 2020 by the Constitutional Court of BiH. This was due to the fact that the non-execution of these decisions was a systemic problem, in relation to the Article 6 of the ECHR and the Constitutional Court of BiH already introduced a policy. As regards the increased number of compensations awarded for excessive length of court proceedings in 2020, the Constitutional Court of BiH reported that the high number corresponds to the continued lack of success of relevant authorities to take efficient legislative and other measures to reduce the length of proceedings at the BiH courts. No particular reasons triggered data variations for wrongful arrest, wrongful conviction and others between 2019 and 2020. As noted by the relevant authorities (i.e. ministries of justice, public defenders), numbers of requests and numbers of compensations granted as well as amount of the compensation depended on the circumstances of each individual case.

Persons may file complaints about the functioning of the judicial system which are dealt with by the HJPC. The HJPC's Office of Disciplinary Counsel performs prosecutorial functions concerning allegations of misconduct against judges and prosecutors, while the HJPC's disciplinary panels decide on violations. There is time limit for handling the complaints which is 2 years for completing a disciplinary investigation. Other external body to receive and handle complaints is the Institution of Human Rights Ombudsman of Bosnia and Herzegovina which handles complaints related to malfunctioning of public authorities or to human rights violations committed by any public institution in Bosnia and Herzegovina. There is no strict deadline for handling complaints. In cases where violation of rights is established, the Ombudsman issues recommendation to competent public institutions to undertake measures to restore human rights violation or poor functioning of administration. The Ombudsman also provides assistance to citizens how to use the most adequate legal remedies or advises them which institution to address. In performing its competences the Ombudsman cannot decide on compensation for determined human rights violations.

	2019			2020		
	Number of requests for compensation	Number of compensations	Total amount (in €)	Number of requests for compensation	Number of compensations	Total amount (in €)
Total	5181	1030	708.458 €	4891	434	435.696 €
Excessive length of proceedings	444	99	58.338 €	406	239	103.562 €
Non-execution of court decisions	515	757	- €	331	3	4.601 €
Wrongful arrest	223	79	647.564 €	221	62	327.532 €
Wrongful conviction	404	1	- €	370	5	- €
Other	3595	94	2.556 €	3563	125	- €

	2019		2020	
	Number of complaints	Compensation amount granted	Number of complaints	Compensation amount granted
TOTAL			1090	NAP
Court concerned	NAP	NAP	NAP	NAP
Higher court	NAP	NAP	NAP	NAP
Ministry of Justice	NAP	NAP	NAP	NAP
High Judicial Council	843	NAP	722	NAP
Other external bodies (e.g. Ombudsman)	504	NAP	368	NAP

In 2019, the Office of Disciplinary Counsel of the HJPC received 843 complaints against judges and prosecutors and the Ombudsman received 504: 101 of which were about excessive length of proceedings, 56 about ineffective enforcement of court decisions, 20 against judges for violation of procedural laws, 6 against the HJPC and 321 related to the violation of other rights related to court procedure. The Ombudsman issued 26 recommendations to the courts in 2019. In 2020, the HJPC's Office of Disciplinary Counsel received 722 complaints against judges and prosecutors, while the Ombudsman received 368 complaints against courts: of which 57 related to alleged excessive length of proceedings, 39 ineffective enforcement of court decisions, 8 against judges for violation of procedural laws, 8 against the HJPC and 256 related to the violation of other rights related to court procedure. The Ombudsman issued 36 recommendations to the courts in 2020. Both the HJPC and the Ombudsman report that the number of complaints dropped in 2020 as compared to 2019 due to Covid-19 situation.

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. The authorities have reported that 99% of initiated procedures of challenges have been finalised in 2020.

Provisions of the Criminal Procedure Code governing competences of a prosecutor prevent specific instructions to prosecute or not to be issued to public prosecutors. However, a chief prosecutor has a right and a duty to give mandatory instructions to a prosecutor regarding his/her work and may, apart from that, take certain actions which are in the competence of a prosecutor, authorize a different prosecutor to process individual cases that are within the competence of the prosecutor and authorize a prosecutor to perform individual activities that are within the competence of another prosecutor.



## Promotion of integrity and prevention of corruption

The BiH Constitution does not contain provisions on judicial independence, nor is it explicitly stated in the Law of Courts of BiH. The principle of the independence of courts is enshrined in the Entities' constitutions and laws on courts, as well as in the statutory and regulatory framework of Brčko District (Articles 121 and 121a, Republika Srpska Constitution, Section I Article 4, FBiH Constitution, Article 66, Statute of Brčko District). The respective laws on courts provide that the courts are autonomous and independent from the legislative and executive authorities and that no one shall affect the independence and impartiality of a judge in deciding the cases assigned to him/her (Article 3, Laws on Courts of FBiH, Republika Srpska and Brčko District).

The independence of the prosecution office is enshrined at constitutional level (in Republika Srpska and Brčko District) or at the level of the law (in the Law on the Prosecutor's Office of BiH and Law on the Federal Prosecutor's Office of FBiH).

Specific measures to prevent corruption are in place for judges and prosecutors, namely rotation of assignments, rules on gifts, internal controls and safe complaints mechanisms and specific training. In July 2016, the HJPC adopted the Guidelines for the prevention on conflicts of interest in the judiciary, on issues such as incompatibilities, reporting on assets, gifts and other benefits, contacts with third persons and abuse of confidential information, nepotism and education and awareness-raising. The Guidelines build upon the existing legislation and the code of ethics, by providing practical examples of appropriate conduct in various situations.

Both judges and prosecutors have their respective codes of ethics adopted by the HJPC which are regularly updated and published on the website of the HJPC (<https://vstv.pravosudje.ba/>).

A Standing Committee on Judicial and Prosecutorial Ethics, Independence and Incompatibility is a committee established by the HJPC which monitors the implementation of both codes and advises the HJPC on issues of ethics. It is authorized to give binding opinions on ethical and incompatibility questions raised by judges and prosecutors. Usually it convenes once a month. Only the members of the HJPC are eligible to be appointed the members of the Committee. Currently, the members of the Committee have the following background: 2 judges, 1 prosecutor, 1 lawyer, and 1 law professor who has been appointed as the member of the HJPC by the Parliamentary Assembly of BiH. The opinions issued are only communicated to the interested judge (or prosecutor) and not made public to the entire judicial/prosecutorial community.

In accordance with Article 17, item 27 of the Law on the HJPC the HJPC provides its opinion on complaints submitted by a judge/prosecutor who considers that his/her rights established by this or another law, or his/her independence, are endangered. These opinions are issued in order to identify threats to the independence of judicial institutions, that is holders of judicial functions, and to publicize it, as well as to invite relevant participants to refrain from further activities that threaten the independence of the judiciary. The Law does not provide for sanctions that the HJPC may impose in these situations.

In addition, all criminal codes adopted at different levels of government in BiH contain chapters dedicated to the protection and ensuring of independence of the judiciary and the legitimate work of the judiciary and other bodies. Most of the offenses in this group relate to endangering the criminal proceedings, endangering the smooth conduct of criminal proceedings and executing the criminal sanctions, i.e. protecting the special categories of subjects in criminal proceedings.

The criminal codes contain provisions by which obstruction of the judiciary through attacks, threats or intimidation of a judge/prosecutor in connection with the exercise of his/her duties is criminalized (e.g. Article 241 of the Criminal Code BiH, Article 339 of the Criminal Code Republika Srpska, 358, 359, 359a of the Criminal Code FBiH, Articles 352, 353 of the Criminal Code Brčko District).

Based on the Rulebook on Internal Court Operations and the Rulebook on the Automated Case Management System in Court, adopted by the HJPC court cases are in principle allocated automatically at random (chronologically) through the Automated Case Management System in the Courts (CMS), according to parameters (i.e. specialization of a judge, percentage of participation of every judge in distribution of cases) determined yearly by the president of the court. However, for cases that have not been entered into the

CMS, assigning is manual, based on the alphabetical and numerical order of judges of the court, according to the Book of Rules on Internal Court Operations. Prior to the development of the CMS system, all cases were assigned manually. Priority cases (e.g. cases involving detention, cases involving minors etc.) are distributed through automatic allocation algorithm based on specific setup of predefined parameters used for priority cases or by the decision of the court president as the law stipulates shorter deadlines for such cases. The law also allows for cases to be pre-assigned to another judge by the president of the court for legitimate reasons, stating these reasons in writing. It is possible to exclude a judge from the allocation for various reasons (i.e. judge's illness, vacation, longer absence, workload etc.). All interventions on the system are irreversibly logged/registered.

A court case may be reassigned for reasons of conflicts of interest declared by the judge or parties, recusal of the judge or requested by the parties, physical unavailability (illness, longer absence) or for other reasons such as the judge's previous involvement in the same case in a different role (e.g. prosecutor, witness, expert) or existence of circumstances that raise reasonable doubt about judge's impartiality (any personal relationships beyond familial, friendship with parties, neighbourhood relations, common property interests). Reassignment of a case is processed through the computerised distribution of cases and has to be reasoned. Reassignments of cases can be processed as random and automatic, whereby the system will assign a case to individual judge, depending on his/her specialization, or by discretion of a court president.

In the [Evaluation Report on BiH](#) (see para. 103, 141) GRECO noted some practices (i.e. cases where co-defendants were split in order to meet numerical targets, or manual allocation made where reasons for avoiding the CMS were not clear) and expressed its view that the CMS system offered the potential for comprehensive management information that could help the HJPC to identify and investigate such anomalies.

The table below shows number (absolute and per 100 judges/prosecutors) of criminal cases initiated and completed against judges and prosecutors as well as number of sanctions pronounced:

	2019				2020			
	Judges		Prosecutors		Judges		Prosecutors	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of initiated cases	1	0,10	0	0,00	1	0,10	0	0,00
Number of completed cases	0	0,00	0	0,00	0	0,00	0	0,00
Number of sanctions pronounced	0	0,00	0	0,00	0	0,00	0	0,00

In 2019, one case was initiated against a judge, while several other criminal cases were pending that had been initiated against 3 judges and 5 prosecutors in previous years. In 2020, one case was initiated for corruption and the other for family violence. There were also criminal cases pending from the previous years against 2 judges and 4 prosecutors in 2020. In one case, a judge was sentenced to two years and ten months imprisonment for a non-corruption offence. No criminal cases have been completed nor sanctions pronounced against judges or prosecutors.

Level of implementation of GRECO recommendations in September 2020 (adoption of the GRECO Second Compliance Report on BiH):

	JUDGES	PROSECUTORS
Implemented	0,00%	0,00%
partially implemented	62,50%	62,50%
not implemented	37,50%	37,50%

## Declaration of assets for judges and for prosecutors

Article 86 of the Law on the HJPC obliges judges and prosecutors to file an annual financial statement with the HJPC. In September 2018 the HJPC adopted the Rulebook on Submission, Verification and Processing of the Financial Statements of Judges and Prosecutors and a new Financial Statement Form (hereinafter: Rulebook) which established procedures for the reporting, manner (electronic submission) and time of reporting as well as for monitoring, processing, verifying and publishing the data on the HJPC's website. The Rulebook was to be applied in practice as of 1<sup>st</sup> January 2019 for financial statements of judges and prosecutors for 2018. However, after the Association of judges in BiH initiated an administrative dispute, the Agency for Personal Data Protection in BiH prohibited the HJPC to process personal data in a manner prescribed by the Rulebook which was later upheld by the Court of BiH. As a consequence, the Rulebook was annulled in February 2020. As an interim solution, to comply with the Article 86 on the Law on the HJPC, judges and prosecutors filed their financial statements for 2018 and 2019 using previous version of financial statement form.

Judges and prosecutors are obliged to disclose, for themselves and 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, information on their income, assets, liabilities and guarantees given to or received from third parties during the past year. Activities in public and private companies, as well as political parties also have to be reported, including the amounts of remuneration.


Declarations of assets are to be submitted by judges and prosecutors at the beginning of the term in office and then annually, while in office. Candidates to positions in the judiciary also have to submit a statement, and an ad-hoc statement may be requested from a judge/prosecutor in the framework of disciplinary proceedings.

The law foresees the possibility for the HJPC to request additional information, but does not provide specifically for a review of the statements' content (except if necessary in the framework of disciplinary proceedings) – annual financial statements are only verified as regards their timeliness.

There is no register of declarations of assets and declarations of assets are not published as the Law on the HJPC does not provide for their publication. In order to remedy this, the Rulebook introduced the possibility to publish annual financial statements of judges and prosecutors for the year 2018 on the HJPC's website which was planned to happen on 1<sup>st</sup> January 2019. However, due to a decision issued by the Agency for Personal Data Protection of BiH, confirmed by the Court of BiH, stating that the disclosure of personal information in asset declarations infringed upon privacy rights, the BiH authorities consider the publication as impossible.

There is no specific sanction for failing to file the annual statement or for false reporting. The Law on the HJPC does contain general sanctions according to which providing false, misleading or insufficient information with regard to any matter under the competence of the HJPC is a disciplinary offense. Disciplinary measures that can be pronounced for such a disciplinary offence are: a written warning, public reprimand, salary reduction of up to 50% for a maximum period of one year, temporary or permanent reassignment to another court or prosecutor's office, demotion of a court president to an ordinary judge or the chief prosecutor or deputy chief prosecutor to an ordinary prosecutor and dismissal. Instead of or in addition to these measures, the disciplinary panels may order that a judge/prosecutor participates in rehabilitation programmes, counselling or professional training.

GRECO addressed the efficiency of the declarations of assets regime and its importance with regard to preventing and detecting conflicts of interests in the [Evaluation Report on BiH](#) (see para. 119, 120 and 152), pointing out to several deficiencies, namely lack of a system of review of annual statements (i.e. random checks), lack of specific, proportionate and dissuasive sanctions in case of non-compliance and their application in practice (GRECO learned that no judge or prosecutor has ever been sanctioned for omitting to fill in an asset declaration or for lying with regard to his/her assets), lack of sufficient resources of the HJPC as well as cooperation with other authorities responsible for keeping financial and property information. As regards the publicity of financial statements, GRECO pointed out that the Agency for Personal Data Protection of BiH's decision should not be an obstacle to public disclosure of financial statements, for instance by excluding private information (such as address, ID and other personal identification data) from the forms and that the public disclosure of annual financial statements would clearly have a positive impact on public trust in the judiciary in BiH by allowing external checks on their accuracy and a potential challenge to any corrupt practices. GRECO therefore recommended (i) developing an effective system for reviewing annual financial statements, including adequate human and material resources, co-operation channels with relevant authorities and appropriate sanctions for noncompliance with the rules or false reporting and (ii)



considering ensuring the publication of and easy access to financial information, with due regard to the privacy and security of judges, prosecutors and their close relatives. In the [Compliance Report on BiH](#) (see para. 72 – 75) GRECO found no progress was made with regard to this recommendation. In the [Second Compliance Report on BiH](#) from 2020 (see para. 74 – 79), the BiH authorities reported on the court proceeding regarding the Rulebook and its subsequent annulment. They also reported on the HJPC's considerations given to setting up a separate administrative unit within its internal structure with the task of reviewing and processing of financial statements, which would be appropriated with adequate human and other resources. However, due to the court dispute GRECO concluded this recommendation to be not implemented.

No data is available regarding number (absolute and per 100 judges/prosecutors) of proceedings against judges and prosecutors for violations or non-declaration of assets in 2019 and 2020.

## Conflict of interest for judges and for prosecutors

Conflicts of interest regime applicable to judges and prosecutors is addressed via rules on preventing and managing conflicts of interest contained in the Guidelines for the prevention of conflicts of interest in the judiciary (hereinafter: Guidelines), adopted by the HJPC in July 2016, via rules on exclusion of a judge/prosecutor from an individual case, which are contained in the Law on the HJPC, as well as via rules on incompatibilities, prohibition from certain activities and gifts, defined in the Law on the HJPC and both codes of ethics applicable to judges and prosecutors.

The Guidelines cover: a) incompatibilities, b) reporting on property, income, obligations and interests; c) gifts and other benefits; d) contacts with third persons and abuse of confidential information; e) nepotism; and f) education and awareness-raising. They recall the existing legislation and code of ethics and go into further detail with practical “do’s and don’ts” in a variety of situations.

The reasons for disqualification of judges are listed in the relevant procedural laws (Criminal Procedure Codes: BiH, Articles 29-33; Federation of BiH, Articles 39-43; Republika Srpska: Articles 37-41; Brčko District: Articles 29-33; Codes of Civil Procedure: Court of BiH, Articles 295-298a; Federation of BiH, Articles 357-360; Republika Srpska, Articles 357-360; Brčko District: Articles 111-114) and include conflicts of interest arising from family, marital, financial or any other relationship with the parties, prior involvement in the case, as well as any other circumstances that raise reasonable suspicion as to the judge’s impartiality. Disqualification may occur at the initiative of the judge or of the parties and is decided upon by the court in plenary session (criminal cases) or by the president of the court (civil cases) or, if the conflict of interest involves the president of a court, by the president of the higher court. The reasons for disqualification of judges apply accordingly to prosecutors (Criminal Procedure Codes: BiH, Article 34; Federation of BiH, Article 44; Republika Srpska, Article 42; Brčko District, Article 34). They include conflicts of interest arising from family, marital, financial or any other relationship with the parties, as well as any other circumstances that raise reasonable suspicion as to the prosecutor’s impartiality. Disqualification is decided upon by the chief prosecutors and, as regards the latter, by the Collegium of the Prosecutor’s Office. The obligation of disqualification in case of conflicts of interest is also addressed in the Code of Ethics for Judges (Articles 2.2 and 2.5) as well as in the Code of Ethics for Prosecutors (Articles 2.2 and 2.5).

The Code of Ethics for Judges and the Code of Ethics for Prosecutors regulate receiving gifts for judges and prosecutors who are prohibited from seeking or accepting gifts, bequests, loans and other services and advantages related to acts or omissions in the performance of their judicial/prosecutorial duties. This prohibition extends to their close family members and court/prosecutor’s office employees or other persons under their supervision. Gifts, remunerations or benefits of a symbolic nature given for a special occasion are allowed, provided they cannot reasonably be perceived as aiming at influencing the judge/prosecutor or creating an impression of partiality in the public’s view (Articles 4.10 and 4.11, Code of Ethics for Judges; Articles 4.10 and 4.11, Code of Ethics for Prosecutors).

Rules on incompatibilities and accessory activities apply both to judges and prosecutors. The holding of any public office or the exercise of any activity in the private sector for remuneration is prohibited. Participation as a manager or member of the supervisory board of public or private companies, as well as any other legal person, is likewise prohibited (Article 83, Law on HJPC). Moreover, membership in political parties and associations is banned and judges/prosecutors must refrain from engaging in any public political activity (Article 82, Law on the HJPC).

The only exceptions to this general prohibition are: (a) the exercise of scientific and cultural activities; (b) participation in public discussions concerning legal and judicial issues and (c), membership of government commissions and advisory bodies, if such membership does not damage public perception of impartiality and political neutrality. Remuneration may be received for these activities but should not exceed 40% of his/her annual salary. Judges/prosecutors may also hold financial interests but have to declare them annually. The rules concerning incompatibilities and accessory activities are further developed in the Code of Ethics for Judges and Code of Ethics for Prosecutors. In case of doubt on the exercise of a given activity, judges/prosecutors may seek written advice from the HJPC. This advice is binding (Article 85, Law on HJPC).

A judge/prosecutor may request the HJPC for an opinion on whether his/her activities are compatible with his/her function and the provisions of this Law. The HJPC should respond in writing within a reasonable time and is binding (Article 85, Law on the HJPC).

A Standing Committee on Judicial and Prosecutorial Ethics, Independence and Incompatibility of the HJPC monitors the implementation of both codes of ethics and advises the HJPC on issues of ethics. The Standing Committee is sometimes called upon in practice to give opinions on incompatibilities and accessory activities of judges and prosecutors. The opinions thus issued are only communicated to the interested prosecutor (or judge) and not made public to the entire judicial/prosecutorial community.

No authorisation is needed for judges and prosecutors to perform accessory activities. However, they have to inform the HJPC about these activities through filing an annual financial statement with the HJPC reporting also on accessory activities performed and the amounts of remuneration. Information on 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, should be included (Article 86, Law on the HJPC).

Judges and prosecutors may combine their work with the following other functions/activities:

		With remuneration		Without remuneration	
		Judges	Prosecutors	Judges	Prosecutors
Combine work with other functions/activities	Teaching	✓	✓	✓	✓
	Research and publication	✓	✓	✓	✓
	Arbitrator	✓	✓	✓	✓
	Consultant				
	Cultural function	✓	✓	✓	✓
	Political function				
	Mediator	✓	✓	✓	✓
	Other function				

Specific conflicts of interest regime applies to members of the HJPC, via rules on preventing and managing conflicts of interest contained in a special Book of Rules on Conflict of Interests of Members of the HJPC BiH, adopted by the HJPC in May 2014. It defines a conflict of interests as a situation in which members of the HJPC, their relatives or other persons closely connected to them (friends, business connections) have a private interest that affects or may affect the legality, transparency, objectivity and impartiality in the performance of their functions, or when a private interest harms or may harm the public interest or citizens' trust. A conflict of interests occurs inter alia when a member of the HJPC or one of his relatives applies for a position in the judiciary. In this case, the member has to resign from the HJPC. In other cases of conflicts of interest, the HJPC member has to seek disqualification.

The Law on the HJPC stipulates that the following actions constitute a disciplinary offence:

- failure to request disqualification (Article 56, Law on the HJPC – for judges; Article 57, Law on the HJPC – for prosecutors);
- acceptance of a gift or remuneration in exchange for improper influence or appearance of such an influence (Article 56, Law on the HJPC – for judges; Article 56, Law on the HJPC – for prosecutors);

- engagement in activities that are incompatible with the judicial/prosecutorial function (Article 56, Law on the HJPC – for judges; Article 57, Law on the HJPC – for prosecutors).

Disciplinary measure that may be pronounced are prescribed in Article 58, Law on the HJPC (see under chapter Discipline).

Disregard for the provisions of the Guidelines represent a serious breach of official duties or compromise the public confidence in the impartiality or credibility of the judiciary and could constitute a disciplinary offence. The same goes for both the Code of Ethics for Judges and Code of Ethics for Prosecutors.

The Law on the HJPC regulates the procedure to sanction breaches of the rules on conflicts of interest in respect of judges and prosecutors.

In cases when a court president or chief prosecutor believes that a judge/prosecutor is performing activities contrary to Articles 82 or 83 of the Law on the HJPC s/he should inform the judge/prosecutor and refer the matter to the HJPC which shall issue a binding decision (Article 84, Law on HJPC).

GRECO addressed the quality of the conflicts of interest regime for judges and prosecutors in its Evaluation Report on BiH (see para. 111, 114), as at the time of the adoption of the Evaluation Report no rules on the prevention and management of conflicts of interest applicable to all judicial and prosecutorial office holders existed. GRECO noted, however, that the Justice Sector Reform Strategy 2014-2018 foresaw amending the Law on the HJPC to this end. Furthermore, no advice was available to judges and prosecutors in case of doubt as to whether a gift or remuneration may give rise to a conflict of interests and, in practice, little attention seemed to be given to ensuring compliance with the rules on gifts, remuneration etc. GRECO therefore recommended the BiH authorities to develop rules on conflicts of interest that would apply to all judges and prosecutors, along with an adequate supervisory and enforcement regime. As GRECO pointed out, the rules should prevent HJPC members from applying to positions representing a personal promotion during their mandate and for a reasonable time after its expiration. They should also include, inter alia, a clearer limitation of the extra-judicial activities and remunerations that should be incompatible with the judicial/prosecutorial office. Moreover, in order for rules on conflicts of interest to be enforceable in disciplinary proceedings rather than remain merely aspirational, guidance should be available and compliance closely monitored. In the [Compliance Report on BiH](#) (see para. 67 - 71) GRECO welcomed the adopted Guidelines for the prevention of conflicts of interest in the judiciary, adopted by the HJPC in July 2016, as they provided valuable illustrations and explanations of the existing legislation, along with clear instructions on how (not) to act. However, the supervision and enforcement regime had not been upgraded, which prevented compliance by judicial office holders from being closely monitored, as required by the recommendation, concluded GRECO.

GRECO also observed that the opinions issued to judges and prosecutors by the HJPC in case of doubt on the exercise of a certain activity, were only communicated to the interested party and not made public and remarked that the HJPC could usefully contemplate whether greater transparency about the nature of activities that were acceptable might reinforce standards, through publication of anonymised requests and their response.

In the [GRECO Second Compliance Report on BiH](#) from 2020 (see para. 67 – 73), GRECO noted that the HJPC decided to make it mandatory for all judicial institutions in BiH to implement the Guidelines on preventing conflicts of interest in the judiciary (adopted in July 2016), as well as the adopted integrity plans, which would be subject to continuous monitoring by the HJPC. In order to ensure the implementation of these Guidelines, in November 2018 the HJPC updated the codes of judicial and prosecutorial ethics, having supplemented them by the rules of the Guidelines, and adopted, in February 2019, the Code of Ethics Application Manual. 8 By mid-2019, judicial institutions in Bosnia and Herzegovina submitted their reports on the implementation of integrity plans for 2018 and were preparing an Annual Report on this topic, which was later presented at the HJPC session in September 2019, disseminated to relevant institutions at the State and Entity levels and published on the HJPC website. Further, in mid-July 2019, the HJPC completed the final third cycle of the survey for judicial office-holders on ethics and disciplinary responsibility. The survey results were presented at the HJPC session in September 2019 and were also published on the website. Furthermore, the BiH authorities reported that the Instrument for monitoring the application of the Guidelines for the prevention of conflicts of interest in the judiciary was adopted by the HJPC in November 2018. By analysing data collected on the basis of the indicators defined in this Instrument, the HJPC estimated to be able to improve mechanisms for the prevention of conflicts of interest in the judiciary and take relevant decisions on the basis of specific indicators and exact data. At its session held in September 2019, the HJPC adopted the document entitled "Institutional Mechanisms and Records for the Implementation of the Instruments for Monitoring the Implementation of the Guidelines for the Prevention of Conflicts of Interest in the Judiciary", and tasked the Working Group for improving the integrity and responsibility of judicial



office holders to continue implementing these activities. As regards proceedings for disciplinary violations, the BiH authorities reported that primary reference documents were the respective codes of judicial and prosecutorial ethics. In their view, although observance of the codes was not prescribed by a binding norm, and nor was the non-compliance with their provisions considered a disciplinary violation, the Office of the Disciplinary Prosecutor and the HJPC Disciplinary Commission increasingly considered certain conduct of judges and prosecutors as violations of codes of ethics and qualified them as disciplinary violations. Thus, the impact of these documents and their importance in disciplinary proceedings was enhanced through practice. nevertheless, there were still no disciplinary proceedings initiated by the Office of the Disciplinary Prosecutor with reference to violation of the Guidelines for the prevention of conflicts of interest. As a result, GRECO concluded that this recommendation remained partly implemented.

In GRECO's opinion (see the Evaluation Report, para. 109) more should also be done in respect of promotion of both codes of ethics and effectively ensuring adherence to its principles as GRECO observed that judges and prosecutors were not aware of the codes and of the activity of the Standing Committee. In the absence of a training institution for judges and prosecutors at state level, GRECO pointed out that the Standing Committee had a crucial role in maintaining, promulgating and promoting ethical standards and in demonstrating that the judicial system took such matters seriously. GRECO recommended significantly strengthening and further developing – for judges and prosecutors – confidential counselling and dedicated training of a practical nature on issues of ethics and integrity. Issues such as conflicts of interest, reactions to gifts and relations with third parties should be covered and the training centres within the entities should be associated to these efforts. In the [Compliance Report on BiH](#) (see para. 60 - 66) GRECO took into account information provided by the BiH authorities on different training events organised (on integrity plans, on inclusion of integrity training into the initial training programme for newly appointed judges and prosecutors, the initial and continuous training activities provided by the Centre for education of judges and prosecutors in the FBiH, with the assistance of the HJPC) and encouraged the authorities to develop them further, both at state and at entity levels and to further develop confidential counselling on issues of ethics and integrity. In the [GRECO Second Compliance Report on BiH](#) from 2020 (see para. 61 – 66), GRECO noted that as of 1<sup>st</sup> January 2019, topics of integrity and ethics had become a mandatory part of the initial training for newly appointed judges and prosecutors. The topics has also been included as mandatory topics for expert associates and advisors in courts and prosecutors' offices of the three-year training course under the module entitled “Judicial office holders and the society”, taught in the first and the third year. Furthermore, two trainings had been held on these topics. The HJPC also developed, in collaboration with the USAID, a Manual for the application of the Code of Judicial Ethics and the Code of Prosecutorial Ethics, published in February 2019. However, GRECO concluded that recommendation remained partly implemented since, despite efforts to provide trainings to representatives of the judiciary and prosecution on the topics of integrity and ethics and the manual developed, there was still no confidential counselling on issues of ethics and integrity available for these two professions at any level in BiH and no measures were taken to implement this part of the recommendation.

Number (absolute and per 100 judges/prosecutors) of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019 and 2020:

Bosnia and Herzegovina	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	2	2,00	0	0,00	0	0,00	2	2,00	1	1,00	1	1,00
2020	0	0,00	2	2,00	2	2,00	0	0,00	1	1,00	1	1,00

The BiH authorities report judges were held liable for disciplinary offence of “not disqualifying himself or herself from hearing a case when a conflict of interest exists”. Regarding prosecutors, a chief prosecutor was held liable for disciplinary offences “behaviour inside or outside the court or office that demeans the dignity of the public prosecutor” and “any other behaviour that represents a serious breach of official duties or that compromises the public confidence in the impartiality or credibility of the public prosecutor”, for leasing his flat for office to defence attorneys representing the clients prosecuted by his Prosecutor's Office.

## Discipline against judges and prosecutors

Judges (as well as reserve judges, lay judges) and prosecutors may have disciplinary procedures brought against them for committing a disciplinary offence as listed in the Law on the HJPC (Article 56 – for judges; Article 57 – for prosecutors) or disregarding the provisions of both codes of ethics or of the Guidelines for the prevention of conflicts of interest in the judiciary. The HJPC is competent to receive complaints against judges and prosecutors, conduct disciplinary proceedings, determine liability, impose sanctions, decide upon appeals and upon suspensions of judges (Article 17, Law on the HJPC).

Disciplinary proceedings are initiated by the Office of the Disciplinary Counsel (hereinafter: ODC) (can act *ex officio* or upon complaints about alleged misconduct of a judge/prosecutor received from any natural or legal person; conducts investigations, decides whether to file a disciplinary complaint against the judge/prosecutor and presents the case before the disciplinary panels; can request that the HJPC suspends the judge/prosecutor for the duration of the proceedings; can also decide to enter into “an agreement of common consent” (plea bargaining) with the judge/prosecutor) and are conducted by the First and Second Instance Disciplinary Panels of the HJPC. These bodies are autonomous but form part of the HJPC.

Disciplinary liability is decided upon by the First Instance Disciplinary Panel, composed of three members, at least two of whom are members of the HJPC. Appeals against its decisions are heard by the Second Instance Disciplinary Panel, composed of three (other) members, who all belong to the HJPC. In disciplinary proceedings against judges, both panels have to be composed of a majority of judges and in disciplinary proceedings against prosecutors, of a majority of prosecutors. Decisions are taken by majority vote. Appeal against a decision from the Second Instance Disciplinary Panel is possible before the full membership of the HJPC. Members of the panels may take part in the procedure. Appeal against a dismissal decision is possible before the Court of BiH, but only for an alleged violation of the disciplinary procedure or an erroneous application of the law (Article 60, Law on the HJPC).

During the disciplinary proceedings, a judge/prosecutor has the right to be notified of the allegations of the violation and the supporting evidence, the right to respond in writing or to have a verbal statement recorded in writing, the right to a fair and public hearing, the right to assert the privilege against self-incrimination and to appear at any hearing and defend against allegations with legal counsellor of his/her choice, the right that judgements are pronounced publicly and/or made public in some manner and the right to appeal (Article 68, Law on the HJPC).

Disciplinary measures consist of a written warning, public reprimand, salary reduction of up to 50% for a maximum period of one year, temporary or permanent reassignment to another court or prosecutor’s office, demotion of a court president to an ordinary judge or the chief prosecutor or deputy chief prosecutor to an ordinary prosecutor and dismissal. Instead of or in addition to these measures, the disciplinary panels may order that a judge/prosecutor participates in rehabilitation programmes, counselling or professional training. Moreover, judges/prosecutors are criminally liable for illegal actions or decisions taken in the performance of their official duties. The information regarding disciplinary proceedings and disciplinary measures is public, but the names of the judges concerned are not disclosed (Article 58, Law on the HJPC).

Judges cannot be transferred without their consent, except by the HJPC for organisational reasons up to a period of three months or as a disciplinary sanction.

Number (absolute and per 100 judges/prosecutors) of disciplinary proceedings initiated/cases completed/sanctions pronounced against judges and prosecutors in 2019 and 2020:


		2019				2020			
		Judges		Prosecutors		Judges		Prosecutors	
		Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	35	3,46	11	2,96	24	2,34	7	1,96
	1. Breach of professional ethics (including breach of integrity)	11	1,09	4	1,08	2	0,20	4	1,12
	2. Professional inadequacy	24	2,37	7	1,88	21	2,05	3	0,84
	3. Corruption	0	0,00	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00	1	0,10	0	0,00
	5. Other	0	0,00	0	0,00	0	0,00	0	0,00
Number of cases completed in the reference year against	Total number (1 to 5)	29	2,87	13	3,49	28	2,73	5	1,40
	1. Breach of professional ethics (including breach of integrity)	8	0,79	5	1,34	7	0,68	3	0,84
	2. Professional inadequacy	21	2,08	8	2,15	20	1,95	2	0,56
	3. Corruption	0	0,00	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00	1	0,10	0	0,00
	5. Other	0	0,00	0	0,00	0	0,00	0	0,00
Number of sanctions pronounced during the reference year	Total number (total 1 to 10)	25	2,47	12	3,23	27	2,64	1	0,28
	1. Reprimand	11	1,09	4	1,08	9	0,88	1	0,28
	2. Suspension	0	0,00	0	0,00	0	0,00	0	0,00
	3. Withdrawal from cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
	4. Fine	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
	5. Temporary reduction of salary	7	0,69	3	0,81	10	0,98	0	0,00
	6. Position downgrade	0	0,00	0	0,00	1	0,10	0	0,00
	7. Transfer to another geographical (court) location	0	0,00	0	0,00	0	0,00	0	0,00
	8. Resignation	0	0,00	0	0,00	1	0,10	0	0,00
9. Other	6	0,59	4	1,08	4	0,39	0	0,00	

10. Dismissal	1	0,10	1	0,27	2	0,20	0	0,00
---------------	---	------	---	------	---	------	---	------

The BiH authorities explained that Covid-19 situation has an impact also on the work of disciplinary bodies as well as on the number of complaints received which was lower by 15% (for both professions) as compared to the previous year. In 2020, four judges were sanctioned with a non-public written warning which falls under the notion “Other” sanctions. Also, although no suspension as a disciplinary sanction was imposed in 2020, two judges were temporarily suspended from office pending criminal proceedings and another judge was temporarily suspended from office until the completion of a disciplinary proceeding initiated against him. Two judges remained suspended as a result of criminal proceedings initiated before 2019. Among prosecutors, against one prosecutor a disciplinary sanction was pronounced. No suspensions were pronounced as sanctions, four prosecutors remained suspended as a result of criminal proceedings initiated against them before 2020.

The following offences are deemed as professional inadequacies: neglect or careless exercise of official duties; issuing decisions in patent violation of the law or persistent and unjustified violation of procedural rules; unjustified delays in issuing decisions or any other act related to the exercise of judicial functions, or any other repeated disregard of the duties of the judicial function; failure, for an unjustifiable reason, to comply with decisions, orders or requests of the Council; failure to fulfil any mandatory training obligations or any other obligations imposed by law; 6. failure to comply with the decision on temporary transfer to another court.

In its [Evaluation Report on BiH](#) (see para. 126) GRECO pointed out the importance of the capacity of the ODC and the disciplinary panels of the HJPC to deal with misconduct of judges and prosecutors in a determined and effective manner, especially against the perception of judicial bias and self-reporting by many of paying bribes to the judiciary. In this respect GRECO found several misgivings about the current disciplinary liability system and its performance (ODC’s lack of independence which could lead to self-censorship in sensitive cases as the head was appointed by the HJPC and the HJPC evaluated the ODC’s work and allocated funds for its functioning; a lack of sufficient and adequately trained staff; disciplinary procedures were not dealt with in a timely manner; alleged mildness and inadequacy of sanctions; lack of transparency with regard to activity of the ODC and the disciplinary panels). GRECO noted that the Justice Sector Reform Strategy 2014-2018 foresaw amendments to the Law on the HJPC related to the disciplinary responsibility of judicial office holders, as well as the work, powers and role of the ODC, which could be used as an opportunity to remedy some of the system’s flaws. GRECO recommended that (i) the independence, capacity and transparency of the activity of the Office of the Disciplinary Counsel be increased; and that (ii) the disciplinary procedure and sanctions in case of misconduct of judges and prosecutors be revised in order to ensure that cases are decided in a timely manner and that misconduct is effectively subject to proportionate and dissuasive sanctions. In the [Compliance Report on BiH](#) (see para. 76 – 82) GRECO concluded this recommendation not to be implemented. However, in [the GRECO second Compliance Report on BiH](#) from 2020 (see para. 80 – 86, the BiH authorities reported on several measures taken by the HJPC, in cooperation with the USAID, in the course of 2018 towards developing documents on disciplinary proceedings for judges and prosecutors. A Manual for Disciplinary Procedure of the HJPC was prepared and adopted in September 2019, and is intended for all participants of disciplinary proceedings, covering topics such as composition and operation of disciplinary committees, types of disciplinary sanctions, as well as complementary measures, such as temporary removal of a judge or prosecutor from their duties, incapacity of a judge or a prosecutor to perform their function, and incompatibility of judge’s or prosecutor’s function with their other duties. It included summaries of previous final disciplinary decisions, covering all cases resulting in a disciplinary sanction, and model forms to be used as examples in disciplinary proceedings, such as a model disciplinary decision, containing possible reasoning. In addition, the Manual contains other previously adopted documents. It is published on several website, including of the HJPC and of the Office of Disciplinary Prosecutor. Furthermore, in cooperation with the judicial training centres of the Federation of Bosnia and Herzegovina and Republika Srpska, trainings on disciplinary proceedings were carried out, including initial and continuous training of staff of the Office of Disciplinary Prosecutor and members of disciplinary commissions of the HJPC. Also, a system of electronic allocation of disciplinary cases to committees was established, and the necessary training of staff conducted in this regard. Furthermore, court presidents and chief prosecutors were requested by the HJPC in October 2018 to provide information on institution of disciplinary proceedings which led to sanctions in respect of judges or prosecutors as part of their annual reports. To strengthen the capacity of the Office of Disciplinary Prosecutor, in September 2018 the HJPC recruited three additional disciplinary prosecutors, and two additional members of administrative staff of this Office. No general review had been conducted so far to determine the adequacy, proportionality and dissuasive effect of sanctions imposed in disciplinary proceedings by the HJPC. The authorities took the view that the effectiveness and dissuasiveness of the sanctions would depend on each



specific case, which should reflect individual characteristics of the disciplinary violation in question and be considered and determined individually. As a conclusion, GRECO noted the developments reported but regretted that preparation of numerous guiding documents, as well as training efforts, had not been translated into their application in practice, as the authorities had not been able to provide any examples of cases where the disciplinary panels imposed proportionate and dissuasive sanctions. GRECO therefore concluded this recommendation to be partly implemented.

## Council for the Judiciary/ Prosecutorial Council

Established by the Law on the HJPC is the High Judicial and Prosecutorial Council of BiH (HJPC) which is competent both for judges and prosecutors. It is independent and autonomous body entrusted with maintaining of an independent, impartial and professional judiciary.

It is composed of 15 members, among whom 11 are judges and prosecutors elected by their peers (five or six are judges elected in the four systems of courts and five or six are prosecutors), two are attorneys elected by the Bar associations of the Entities (Federation of BiH and Republika Srpska), one is elected by the House of Representatives of the Parliamentary Assembly of BiH and one by the Council of Ministers of BiH upon the proposal of the Minister of Justice of BiH. Membership of the HJPC has to generally reflect the ethnic composition and the gender balance of BiH and members have to be persons of high moral standing and integrity, with a reputation for efficiency, competence and integrity.

The HJPC Rulebook on selection of the HJPC members defines basic rules for the selection of the HJPC members (among which are rules on ethnicity and gender structure) which ought to be respected also by the House of Representatives of the Parliamentary Assembly of BiH, the Council of Ministers of BiH and the Bar Associations of the Entities when they carry out the procedure of selection of their representatives in the HJPC in accordance with their own rules. Members of the judiciary are elected directly by their peers in the process conducted at all levels of the judiciary (within courts and prosecutor's offices) in BiH except for the Brčko District where the HJPC member is not elected directly by the judges and prosecutors but by the Brčko District Judicial Commission. The elected member may be a judge of the Brčko District Court of Appeal or Basic Court, or a prosecutor of the Brčko District Prosecutor's Office.

The HJPC has a President and two Vice-Presidents.

Mandate of the members of the HJPC is limited to two consecutive terms of four years each. Only the President and up to three members work on a full-time basis in the HJPC.

The HJPC is competent for the appointment of all judges (including lay judges and reserve judges, but not judges of Constitutional Courts of the State and Entities of BiH) and prosecutors, as well as for conducting disciplinary proceedings, imposing disciplinary measures and deciding upon appeals in disciplinary proceedings against the holders of judicial office; determines the minimum amount of advanced professional training to be undertaken by judges and prosecutors, determines induction training for candidates for the judicial office, supervises the advanced professional training for judges and prosecutors; establishes the criteria for the evaluation of judges and prosecutors; issues codes of ethics; decides on incompatibilities, temporary assignment or transfer, leaves of absence and has certain budgetary, advisory, administrative and IT tasks relating to the judiciary (Article 17, Law on the HJPC).

In accordance with the HJPC Law (Article 14), the HJPC acts and decides as a single body. Decisions are made by a majority vote of the members present and voting. The quorum requires the presence of at least 11 HJPC members. In matters on which the votes are divided, a vote shall be taken by roll call of the members, and the vote of the President or the Vice-President has the casting vote.

The HJPC may delegate certain decisions within its jurisdiction, with the exception of appointment decisions, to sub-committees. Sub-committees are appointed by the President of the HJPC and are composed of three to five members of the HJPC reflecting the ethnic composition of the country or the Entity in which the appointment is to take place. The powers of sub-committees to make decisions relate to less complex issues (e.g. simpler queries on compatibility of functions, opinions on laws that are not systemic and organizational and do not regulate the status of judicial office holders, shorter absences from office etc.).


Accountability measures in place regarding the HJPC's activities are primarily ensured through ensuring transparency of the HJPC's work. Its public sessions as well as first instance disciplinary proceedings against judicial office holders are public. The public is informed of the HJPC's decisions, activities, reports on its work, planned activities etc. on its website. Requests for access to public information related to HJPC's work are regularly processed.

In cases when a judge or a prosecutor considers his/her rights established by the Law on the HJPC BiH or other law or his/her independence are endangered, the HJPC provides opinion on his/her complaint. The purpose of such opinions is to identify threats to the independence of judicial institutions, holders of judicial functions, and to publicise them. However, no sanctions can be imposed by the HJPC in such situations. Furthermore, independence of the judiciary and its legitimate work are protected by penal codes in BiH which criminalize certain acts such as endangering criminal proceedings or execution of a criminal sanction as well as attacks, threats or intimidation of a judge or a prosecutor in relation to performance of his/her duties.

In its Evaluation Report GRECO addressed several issues pertaining to the HJPC's composition, the appointment procedures for its members, their accountability and attempts to undermine its independence, including through interference of the executive and legislative powers in the appointment of its members (see para. 86). Subsequently, GRECO issued a recommendation to the BiH authorities that determined legislative and operational measures be taken to strengthen the HJPC's role in protecting the holders of judicial and prosecutorial offices from undue influences – both real and perceived, including by (i) providing for separate judicial and prosecutorial sub-councils; and (ii) avoiding an over-concentration of powers in the same hands concerning the different functions to be performed by members of the High Judicial and Prosecutorial Council; and (iii) ensuring that decisions of the High Judicial and Prosecutorial Council on the appointment, promotion and disciplinary liability of judges and prosecutors are subject to appeal before a court (recommendation viii, para. 91).

As regards the composition of the HJPC, GRECO highlighted in its Evaluation Report that the HJPC's unitary structure has been criticised as it implied that the prosecutors and lay members could have a majority vote on the appointment and disciplinary proceedings regarding judges. Conversely, a majority of judges and lay members could vote on the appointment and disciplinary proceedings regarding prosecutors. In its Evaluation Report therefore GRECO called for strengthening the HJPC's operation by providing for separate judicial and prosecutorial sub-councils (part (i) of the recommendation viii). Draft amendments to the Law on the HJPC presented to GRECO in the course of the evaluation foresaw the establishment of two separate sub-councils, one dealing with appointments and disciplinary procedures regarding judges and the other for prosecutors, while maintaining a common platform for both professions to decide on common problems of the judicial system as a whole. GRECO supported this solution, which would preserve the unitary design of the HJPC while ensuring that judges and prosecutors would be selected by a body composed in majority of their peers. Nevertheless, since no progress had been made at the time of GRECO adoption of the [Compliance Report on BiH](#) in March 2018 (see para. 41 - 44) GRECO recalled that the process of amending the Law on the HJPC had been on-going since 2013, before the adoption of the Evaluation Report and thus encouraged the BiH authorities to step up their efforts to make the changes necessary. Moreover, GRECO pointed out that the recommendation also called for operational changes (i.e. to avoid that the same HJPC members were involved in different aspects of a judge's or prosecutor's career) which could well be implemented without changes to the law. In the [GRECO Second Compliance Report on BiH](#) from 2020 (see para. 40 – 45), the BiH authorities reported that the HJPC revised the Law on the HJPC in July 2018 and submitted the proposal to the Ministry of Justice of BiH. The proposal aims at amending the composition of the HJPC, establish the Judicial and Prosecutorial Council Departments and their sub-councils, provide more detailed definition of duties of the HJPC members, revise the rules for their appointment and the duration of their mandates. At a ministerial meeting held in July 2018, this legislative initiative was considered as a good basis for further discussion and the Working Group, established for this purpose with the Ministry of Justice of BiH, instructed to take it into consideration. The BiH authorities also reported that in the course of its June 2019 session, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina decided to examine by urgent procedure the draft law on amendments to the Law on the HJPC and requested the Ministry of Justice of Bosnia and Herzegovina to submit to the Parliamentary Assembly an analysis of necessary amendments to laws in the field of justice. In August 2019, the Council of Ministers of Bosnia and Herzegovina instructed the Ministry of Justice to proceed with the activities of the Working Group, in particular to examine the draft amendments to the Law on the HJPC, in parallel with the initiative submitted by the HJPC. On the basis of this, GRECO concluded that this part of the recommendation remained not implemented.

Concerns were also raised to GRECO about attorneys being lay members in the HJPC and regarding the politicisation of the appointment procedures for the members of the HJPC, through the involvement of both the legislative and executive branches. GRECO therefore stressed in its Evaluation Report that it was not unusual and was, in fact, advisable that a judicial council included also a number of non-judicial members, so as to create a link between the judiciary and the rest of society. However, it agreed that only including judges, prosecutors and attorneys in a body which was competent to decide on appointments, dismissals and disciplinary liability of judges and prosecutors may not be advisable in a country like Bosnia and Herzegovina, in which there was considerable public mistrust of the judiciary and its independence, as it may fuel perceptions of collusion across the judicial system. Broadening the composition of the HJPC to other lay members, such as members of relevant NGOs and/or academics instead of or in addition to attorneys was an idea worth exploring, said GRECO. It was important, however, to ensure that their professional qualities and impartiality could be objectively endorsed by objective and measurable selection criteria.



As regards the wide-ranging powers of the HJPC over the career of judges and prosecutors, ranging from their appointment to their promotion, transfer, ethics and disciplinary liability GRECO in its [Evaluation Report](#) stressed that it was therefore possible for the same HJPC members to be involved in different aspects of a judge's or a prosecutor's professional life and this may well create conflicts of interests and be detrimental to their individual independence. Consequently, GRECO pointed out it was important to provide a proper separation of tasks of HJPC members, as highlighted by Opinion No. 10(2007) of the Consultative Council of European Judges (CCJE) on the Council for the Judiciary and issued a recommendation to avoid an over-concentration of powers in the same hands concerning the different functions to be performed by members of the HJPC (part (ii) of the recommendation viii).

Furthermore, as GRECO was presented by its interlocutors with the view that the judiciary as a whole was perceived as generally politicised, due on the one hand to personal links of some of its members with politicians and on the other hand, due to the perception that high profile investigations and cases were either lacking or were opened and closed based on political motivations and that members of the HJPC were not exempt from such suspicions it found draft amendments of the law on HJPC that would entrust the Parliamentary Assembly of BiH with the prerogative to appoint the judicial and prosecutorial members of the HJPC, as well as its President and Vice-President, upon presentation of a short list of candidates nominated by groups of courts or prosecution offices as worrisome. GRECO pointed out that such model would bring an over-exposure of the HJPC to the legislative power and would deviate from international standards that require that judicial members be effectively chosen by their peers (see para. 89 of the Evaluation Report).

As to which decisions of the HJPC are subject to appeal GRECO found that decisions of the HJPC on appointment of judges and prosecutors are not subject to appeal while as concerns decisions on disciplinary liability of judicial office holders, decisions of the First Instance and Second Instance Disciplinary Panels are subject to appeal to the plenary of the HJPC and decisions on dismissal may be appealed to the Court of BiH, but only for an alleged violation of the disciplinary procedure or an erroneous application of the law. GRECO concluded a genuinely external review was therefore lacking for many decisions in disciplinary matters and recommended to the BiH authorities to ensure that decisions of the HJPC on the appointment, promotion and disciplinary liability of judges and prosecutors are subject to appeal before a court (part (iii) of the recommendation viii).