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PART 2

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

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

Data collection: 2022

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

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

## Executive Summary - Bosnia and Herzegovina in 2022

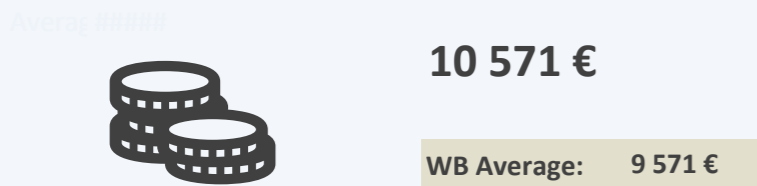
### Population in 2022



### GDP per capita in 2022



### Average annual salary in 2022



### Budget

In 2022, Bosnia and Herzegovina spent 150 421 437 € as implemented judicial system budget, i.e. **43,6 € per inhabitant, higher than the WB average (38,5 €)**. Compared to the other beneficiaries, Bosnia and Herzegovina spent relatively more, given its wealth. In 2022, 72,6% was spent on all courts, 28,1% on prosecution services, 5,6% on legal aid.

The budget per capita spent for courts coincided with the WB median and was slightly higher than the average, whereas the budget spent for prosecutor services was slightly above the WB average. However, **the budget for legal aid was well above the WB average (2,44 € per inhabitant vs 0,61 €)**, and it increased in the last year.

Over the four-year period (2019 – 2022), Bosnia and Herzegovina **increased the budget spent on Judicial System** from 35,6 € per inhabitant in 2019 to 43,6 € in 2022. In 2022, Bosnia and Herzegovina spent 11,4% more on courts, 11,2% more on prosecution services, and 20% less for legal aid compared to 2021.

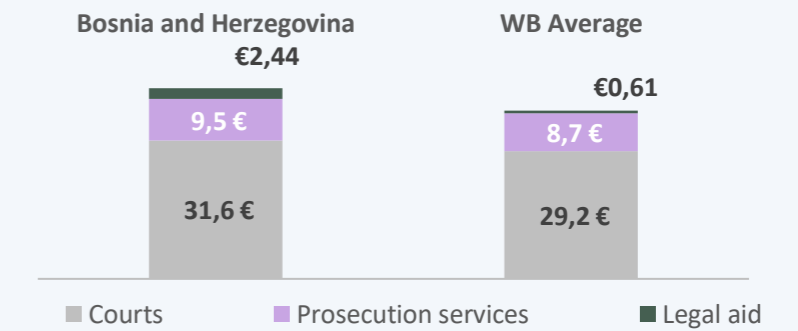
The amount of budget coming from **external donors** is difficult to calculate because funds are often allocated to projects that usually last longer than one year and involve not only the justice system but also other areas. Furthermore, it is difficult to identify how much is directly or indirectly allocated to courts, prosecutor offices and legal aid. However, Bosnia and Herzegovina was able to estimate the ratio between external donors' funding and the budget of courts. Indeed, the external donors' funding allocated to courts was around 5% in proportion to courts' budget, prosecutor services was around 5%, and legal aid around 5%.

### Legal aid

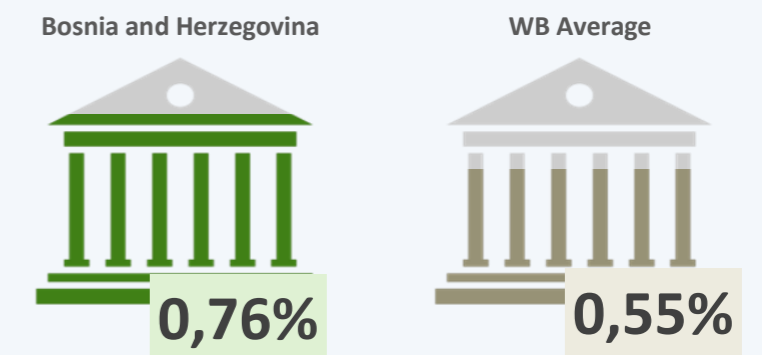
Bosnia and Herzegovina is the beneficiary with the highest budget per inhabitant for legal aid in the WB region. The budget for legal aid is positively related to the number of cases granted with legal aid. Indeed, Bosnia and Herzegovina was the beneficiary with the **highest number of cases per inhabitant for which legal aid was granted in 2022** (0,75 cases per 100 inhabitants, more than twice the WB average of 0,27). The average amount per case for which legal aid was granted was 326 €.

### Budget of the Judicial System

#### Implemented Judicial System Budget per inhabitant in 2022



#### Implemented Judicial System Budget as % of GDP in 2022



### Efficiency\*\*

In 2022, in Bosnia and Herzegovina, the Clearance Rate (CR) was above 100% for all categories in the two instances, except for civil and commercial litigious cases and administrative cases in the first instance. As a consequence, for the latter two categories, the Disposition Time (DT) increased between 2021 and 2022, while for all the other categories, it decreased. The DT in the second instance is lower than the average, except for administrative cases, while in the first instance, it was higher for civil and commercial litigious cases (518 days vs the WB average of 384) and criminal cases (255 vs 185)

**Bosnia and Herzegovina still had the highest number of Civil and commercial non-litigious pending cases per inhabitant in the region** (53,28 per 100 000 inhabitants, whereas the WB average was 10,99). Compared to the other beneficiaries, Bosnia and Herzegovina had a disproportionate number of incoming, resolved and pending non-litigious cases (including pending older than 2 years). The majority of these cases were enforcement proceedings that the state-owned utility companies initiate to recover unpaid bills for utility services (e.g. heating, water, electricity, garbage collection, television subscription etc.). The backlog of old non-litigious small claims cases for unpaid utility bills is concentrated in several first instance courts in the biggest cities in Bosnia and Herzegovina.

Court presidents and Heads of prosecution services evaluate judges and prosecutors annually, in line with the following **performance criteria**: quantity of work (i.e. annual quota), percentage of realisation of individual case resolution plan (for judges), backlog reduction plan (for prosecutors), and statistical quality of decisions.

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

**Clearance Rate (CR)** is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage. It demonstrates how the court or the judicial system is coping with the in-flow of cases and allows comparison between systems regardless of their differences and individual characteristics. Its key value is 100%. A value below 100% means that the courts were not able to solve all the cases they received and, as a consequence, the number of pending cases increases. A CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of the pending cases) and, as a consequence, the number of pending cases decreases.

**Disposition Time (DT)** is the indicator that calculates time necessary for a pending case to be resolved and estimates the lengths of proceedings in days. It is a ratio between the pending cases at the end of the period and the resolved cases within the same period, multiplied by 365 days. More pending than resolved cases will lead to a DT higher than 365 days (one year) and vice versa.

### ADR (Alternative dispute resolution)

In general, ADR and mediation in particular are not well developed in the Western Balkans region.

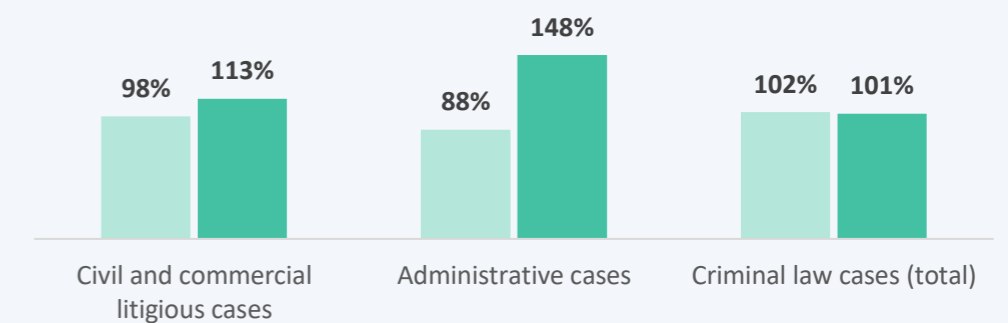
In Bosnia and Herzegovina, **the civil and criminal procedure codes foresee non-mandatory court-related mediation procedures, for which legal aid could be granted**. As regards civil proceedings, the court conducting the civil proceedings may propose to the parties the resolution of the dispute through mediation proceedings at the preparatory hearing at the latest, 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 2022, there was a drop in the number of cases for which the parties agreed to start mediation (164). Out of 122 finished court-related mediations, a settlement agreement was reached in 117 cases (96%).

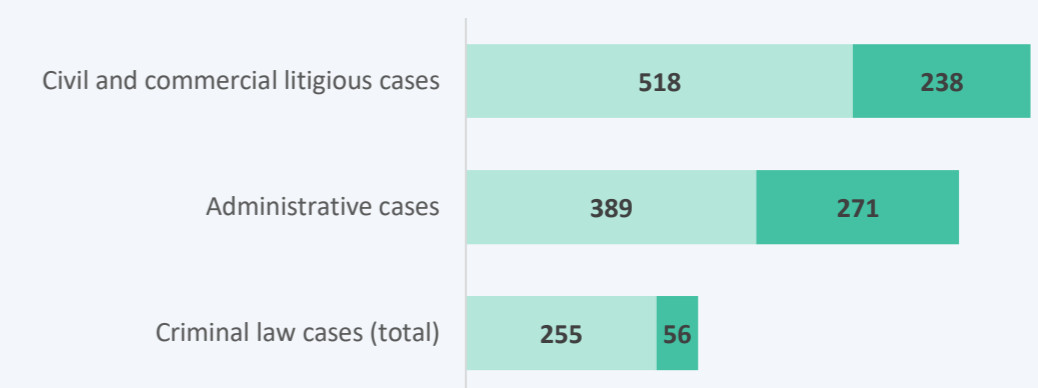
### Efficiency

1st instance 2nd instance

#### Clearance rate in 2022 (%)

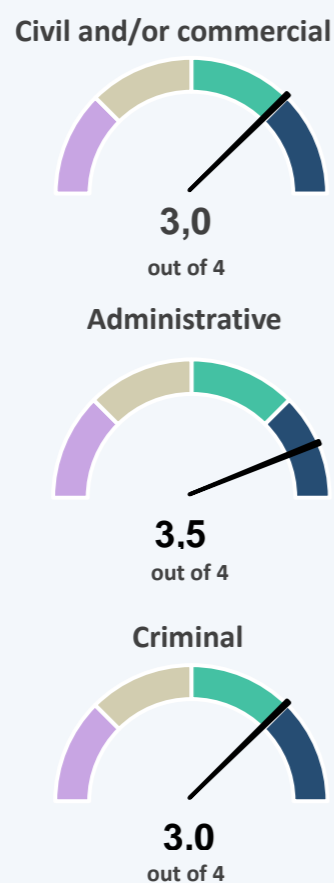


#### Disposition time in 2022 (in days)



### CMS index (scale 0-4)

The Case Management System (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the five questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarized while 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 an adequate evaluation.



### Electronic case management system and court activity statistics

Concerning the Case Management System (CMS) development, the CMS in Bosnia and Herzegovina seems to be one of 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.

**Central database of court decisions** is developed and maintained by HJPC's Judicial Documentation and Training Department – former Judicial Documentation Centre. **In 2021, the HJPC decided to open this database for public free of charge and without registration.** The HJPC BiH has also issued a new anonymisation instruction in order to make database more user friendly. According to this instruction, **more information about court decisions are available**, i.e. data on all state officials mentioned in the decisions, data on public enterprises and institutions, name and surname of the convicted persons in high - profile cases (war crime cases, organised crime and corruption cases, terrorism cases etc). Also, according to the new instruction, **all final decisions in this type of cases are published** through the central database.

### Training

Bosnia and Herzegovina had the **lowest budget per 100 inhabitants allocated to training** in the region: 0,22 € per inhabitant, whereas the WB average was 0,66 €. However, unlike the other beneficiaries, the donors' budget is not included in the training budget of Bosnia and Herzegovina.

In 2022, the average number of participants per training course was higher than the WB average (25,4 participants per training vs 19,8). The minimum number of mandatory trainings per year for judges and prosecutors is 3 days. In 2022, 100% of judges and 98% of prosecutors participated in at least one training during . Also, judges and prosecutors participated on average to 4,8 and 3,7 trainings, respectively .

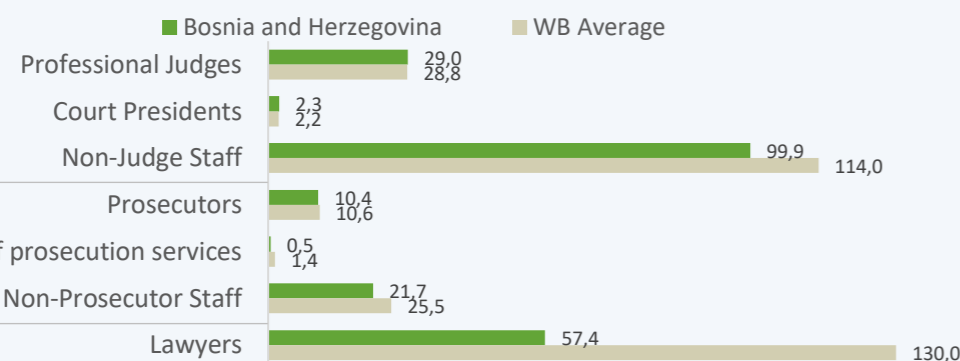
In Bosnia and Herzegovina, judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts up to 1 day and they have to participate to it only once.

### ECHR

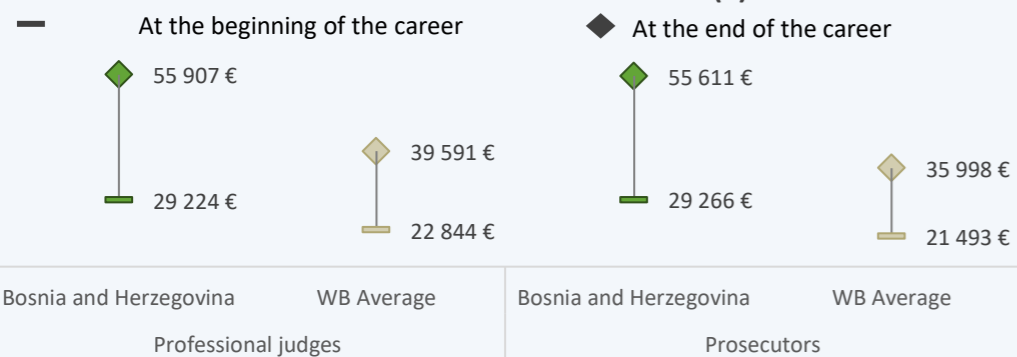
In 2022, the **applications allocated to a judicial formation of the European Court on Human Rights for Bosnia and Herzegovina were 407** (377 less than the previous year). The judgements by the ECHR finding at least one violation for Bosnia and Herzegovina were 10 (6 of which found a violation of the article 6 of the ECHR).

### Professionals of Justice

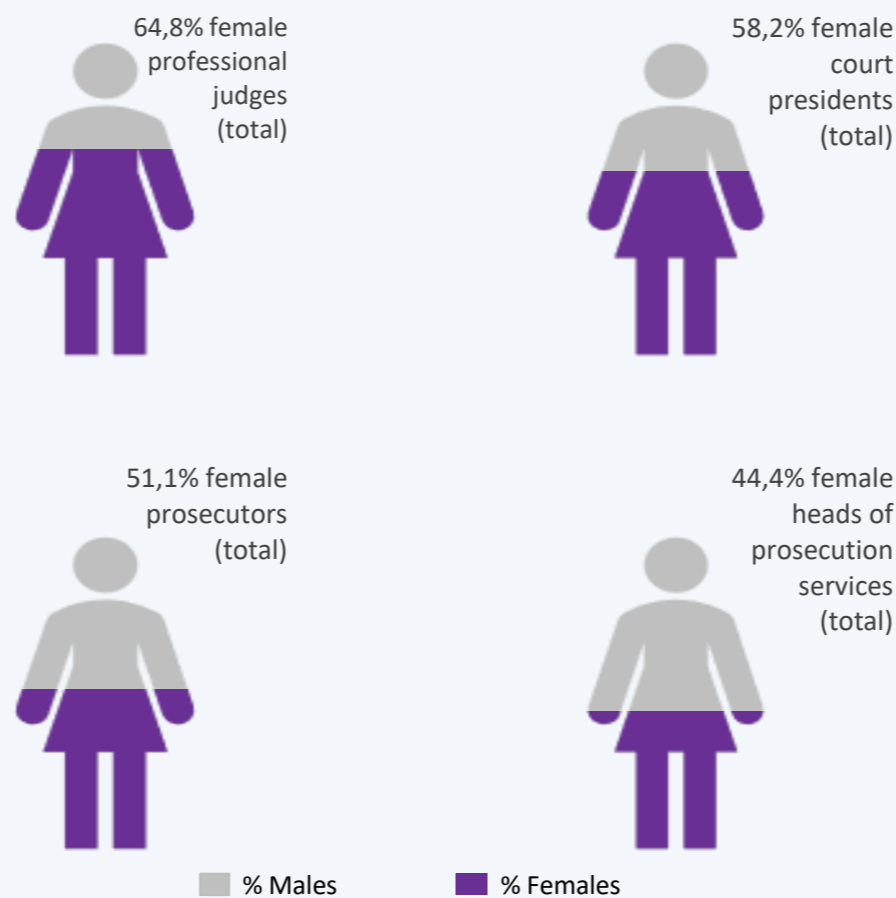
#### Total number of professionals per 100 000 inhabitants in 2022



#### Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2022 (€)



### Gender Balance



### Professionals and gender

Western Balkans countries traditionally have a very high number of professionals per 100 000 inhabitants. In 2022, Bosnia and Herzegovina had **29 professional judges per 100.000 inhabitants, slightly higher than the WB average (28,8)**. Compared to 2019, the number of judges and prosecutors remained stable.

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

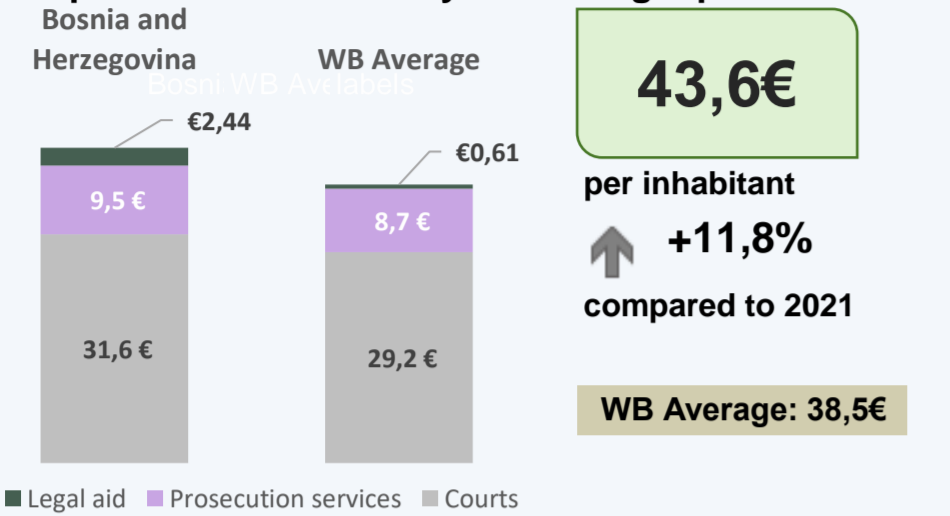
Regarding the **gender balance**, a prevalence of female professional judges and prosecutors could be noticed in all instances of Bosnia and Herzegovina's courts and prosecution services. The only exception was the prosecutors at the Supreme Court level for which the percentage of females was slightly less than 50% but still above the WB Average of 43,7%. The percentages of Bosnia and Herzegovina's female professionals were above the regional average for most of the categories. In particular, the percentage of second instance female Court presidents was well above the WB Average by almost 16,5 percentage points.

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

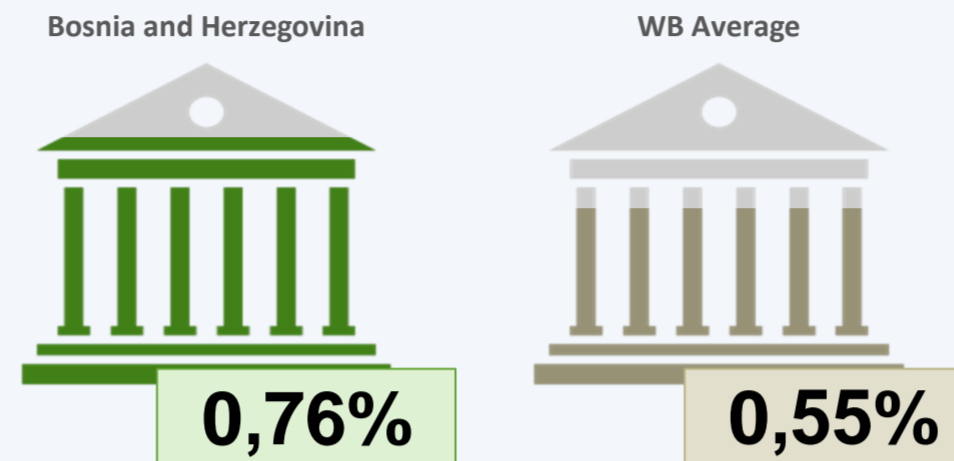
\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

## Budget of the judicial system in Bosnia and Herzegovina in 2022 (Indicator 1)

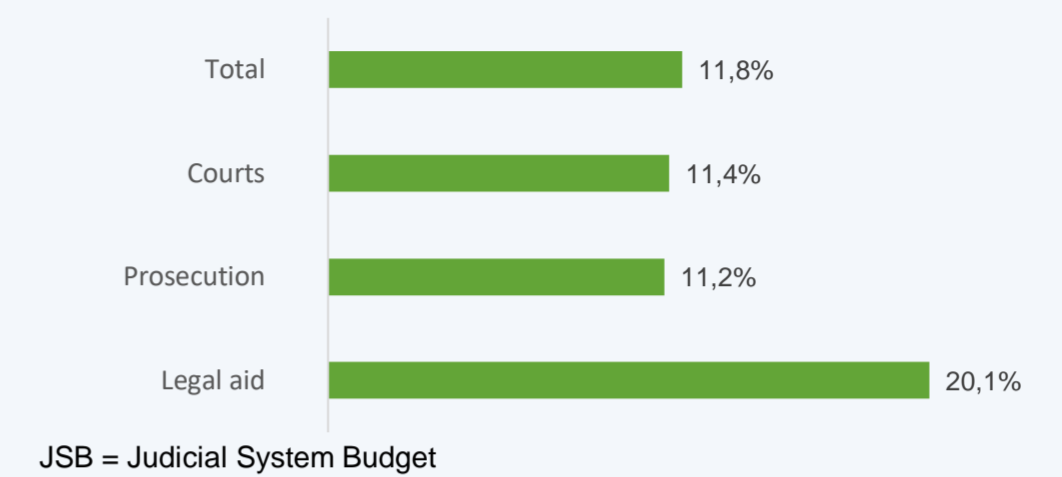
### Implemented Judicial System Budget per inhabitant



### Implemented Judicial System Budget as % of GDP



### Variation of the JSB per inhabitant between 2021 - 2022



The Judicial System Budget (JSB) is composed by the budget for courts, public prosecution services and legal aid. In 2022, the implemented JSB for Bosnia and Herzegovina was 43,6€ per inhabitant (+11,8% compared to 2021). It was higher than the WB Average of 38,5€. The expenditure on JSB represented 0,76% of the GDP of Bosnia and Herzegovina (above the WB Average of 0,55%).

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

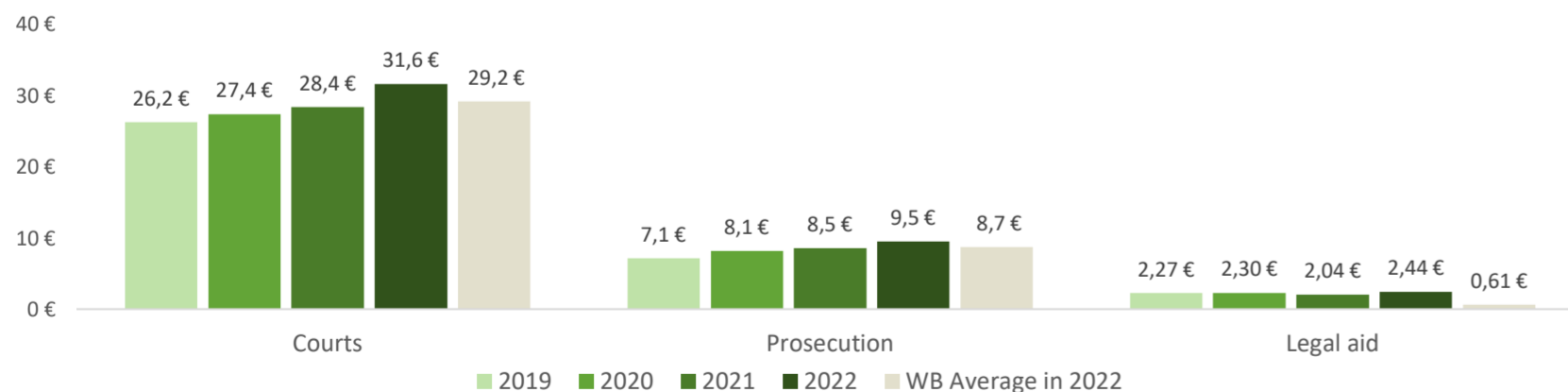
In 2022, Bosnia and Herzegovina spent 150 421 437€ on the implemented judicial system budget. This means that Bosnia and Herzegovina spent 43,6€ per inhabitant, which is more than the WB Average of 38,5€. 72,6% was spent for courts, 21,8% for prosecution services, 5,6% for legal aid.

Compared to 2021, Bosnia and Herzegovina has spent, per inhabitant, 11,4% more for courts, 11,2% more for prosecution services, and 20,1% more for legal aid.

Judicial System Budget	Judicial System Budget in 2022		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant in 2022	WB Average in 2022	% Variation between 2019 - 2022	% Variation between 2021 - 2022	As % of GDP	WB Average in 2022	Variation (in ppt) 2019 -2022	Variation (in ppt) 2021 - 2022
<b>Total</b>	NA	150 421 437 €	43,6 €	38,5 €	22,2%	11,8%	0,76%	0,55%	0,07	-0,01
<b>Courts</b>	118 765 506 €	109 176 210 €	31,6 €	29,2 €	20,6%	11,4%	0,55%	0,41%	0,04	-0,01
<b>Prosecution</b>	34 350 939 €	32 803 150 €	9,5 €	8,7 €	33,0%	11,2%	0,17%	0,13%	0,03	-0,004
<b>Legal aid</b>	NA	8 442 077 €	2,44 €	0,61 €	7,7%	20,1%	0,043%	0,01%	-0,001	0,002

PPT = Percentage points

### Evolution of the implemented judicial system budget per inhabitant between 2019 and 2022 (€)



The authorities reported that some prosecution offices allocated a smaller amount of funding in connection with the training in 2022 year. However, the disparities in training funding for 2022 compared to 2021 are not significant considering the small value of absolute amounts the prosecution offices generally allocate for this purpose.

In Bosnia and 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 accounting methodology does not make it possible to distinguish the amount of budget funds earmarked by the courts for legal aid from other funds which are planned within the same line in the court budget. Though, it is possible to differentiate the amount of funds spent for legal aid in the implemented court budget. On the other hand 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). Therefore, for Bosnia and Herzegovina, it is not possible to split the planned or implemented budget funds of the legal aid institutions between different legal fields. In conclusion, it is 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.

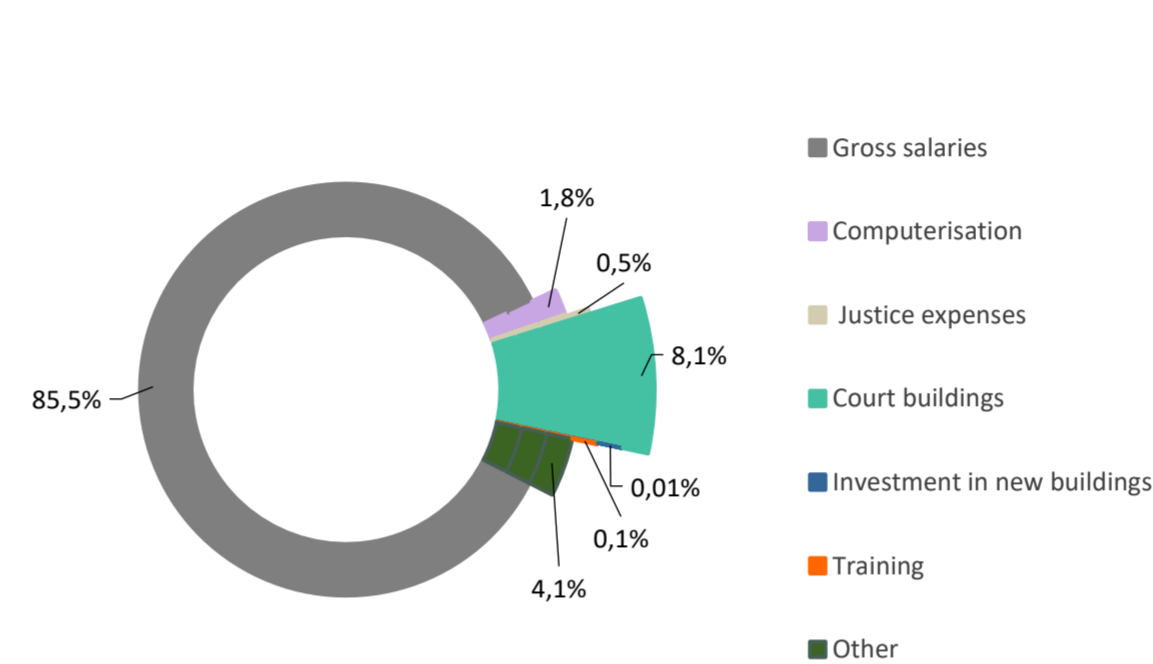
## Budget allocated to the functioning of the courts

In 2022, Bosnia and Herzegovina spent 109 176 210€ on the implemented budget for courts. 85,5% was spent for gross salaries, 1,8% for computerisation, 0,5% for justice expenses, 8,1% for court buildings, 0% for investment in new buildings, 4,1% for other.

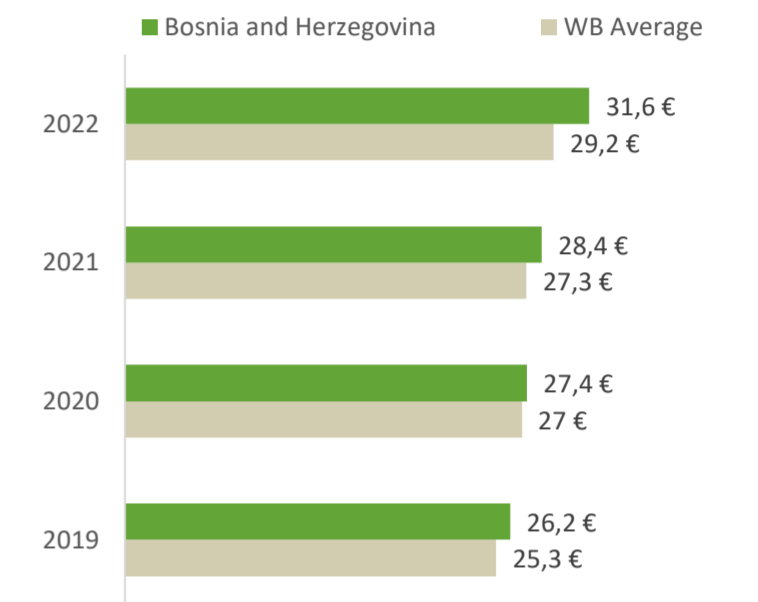
Between 2021 and 2022, the implemented budget for courts has increased by 10,7%.

	2022		% Variation between 2019 and 2022		% Variation between 2021 and 2022	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
<b>Total (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	118 765 506 €	109 176 210 €	22,0%	19,1%	14,3%	10,7%
<b>1. Gross salaries</b>	96 216 273 €	93 309 769 €	17,7%	21,2%	5,2%	11,0%
<b>2. Computerisation (2.1 + 2.2)</b>	NA	1 922 788 €	NA	9,2%	NA	16,9%
<b>2.1 Investment in computerisation</b>	NA	NA			NA	NA
<b>2.2 Maintenance of the IT equipment of courts</b>	NA	NA			NA	NA
<b>3. Justice expenses</b>	NA	513 702 €	NA	45,3%	NA	48,0%
<b>4. Court buildings</b>	NA	8 864 318 €	NA	6,2%	NA	4,8%
<b>5. Investment in new buildings</b>	NA	11 385 €	NA	-87,7%	NA	63,7%
<b>6. Training</b>	NA	97 919 €	NA	7,1%	NA	32,6%
<b>7. Other</b>	NA	4 456 328 €	NA	9,3%	NA	10,7%

Distribution of the Implemented budget allocated to the courts in 2022 (%)



Implemented budget allocated to the courts per inhabitant between 2019 and 2022 (€)



The authorities reported that, on the one hand, data on the approved courts' budget are classified according to the economic classification adopted by the ministries of finance. Accordingly, the data regarding the approved budget is classified in a way that allows obtaining data only on the following elements:

- Total- Annual budget allocated to the functioning of all courts, and
- Annual public budget allocated to (gross) salaries.

The classification used for budget approval does not allow to obtain data on other elements referred to in table above.

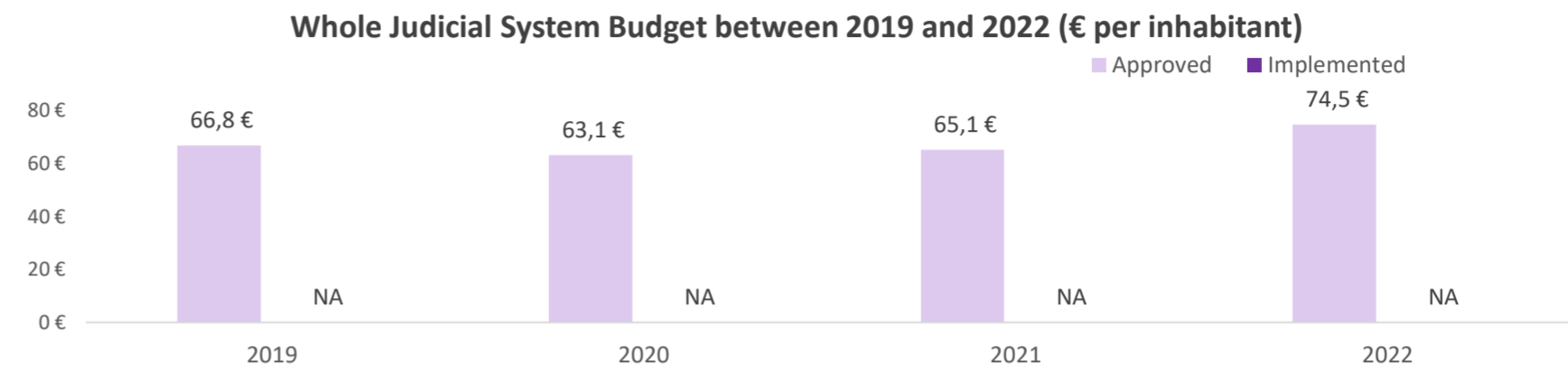
On the other hand, the reports on the implemented budgets make it possible to distinguish budget lines for all the elements in the table. The amounts of all items are calculated using the implemented budget reports as the best possible estimation.

The Bosnia and Herzegovina's authorities reported that there are two reasons why the amounts allocated for courts' judicial expenses and training in 2022 (implemented budget) are higher compared to the amounts allocated in 2021. Firstly, after operating at a limited capacity in 2021 due to the COVID-19 pandemic, the courts continued to operate at full capacity in 2022. Secondly, due to inflation, a significant increase in the prices of services was recorded in 2022, and therefore the services of expertise, interpretation and training have become more expensive. In several courts, the amount of funds allocated for these purposes increased by more than 100% in 2022 compared to 2021.

As regards the investments in new buildings, the amount of funds allocated for the construction of new court buildings fluctuates from year to year, because it directly depends on the amount of funds donated for this purpose.

• Budget allocated to the whole justice system

Whole Justice System Budget	2022		% Variation of the Whole Justice System Budget per inhabitant	
	Absolute number	Per inhabitant	2019 - 2022	2021 - 2022
Approved	257 260 352 €	74,5 €	18,2%	14,4%
Implemented	NA	NA	NA	NA



The whole justice system budget includes the following elements in 2022:

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

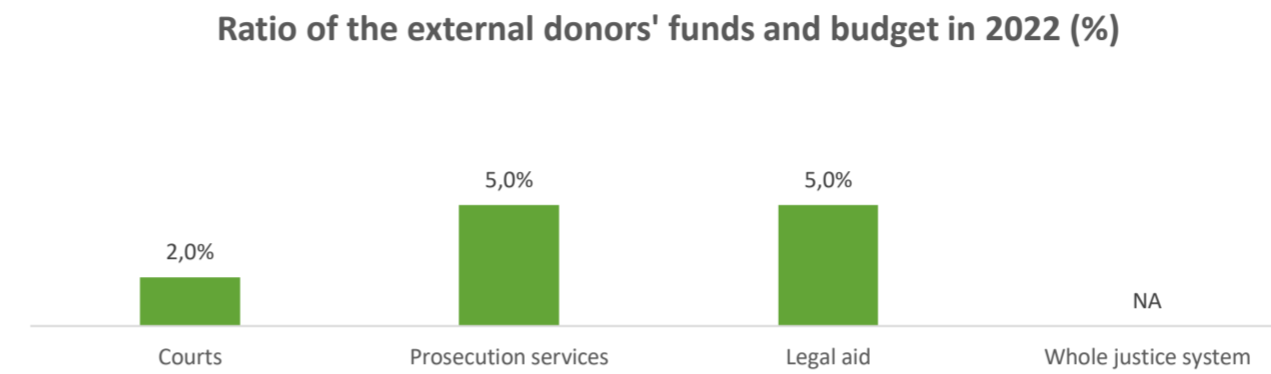
The Bosnia and Herzegovina's authorities reported that there are no specialized institutions delivering probation services. The courts decide on some issues related to the probation matters, the relevant functionaries determine the matters related to the pardon of convicted defendants. Judicial management body is not included in the budgetary elements since the High Judicial Council of Bosnia and Herzegovina, which is included in the budgetary elements has the regulatory functions within the judicial system of Bosnia and Herzegovina.

The enforcement function (i.e. enforcement services) and the judicial protection of juveniles are carried out within the courts and public prosecution services; related costs are included in the public budget of the court, public prosecution system and the whole justice system, however, there is no specific budget line related to the enforcement function of courts and judicial protection of juveniles by courts and public prosecution services; the budget allocated to social workers involved in the youth protection is not part of the judicial budget in Bosnia and Herzegovina. Refugees and asylum seekers services and immigration services are the responsibility of various institutions outside the justice system; in addition, related costs cannot be extracted from the overall budget of the relevant institutions. Notary chambers and notaries are not financed by the public budgets.

## • 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 %
Courts	NA	2,0%
Prosecution services	NA	5,0%
Legal aid	NA	5,0%
Whole justice system	NA	NA



Looking at these figures, the highest ratio between external donations and budget of Bosnia and Herzegovina is for prosecution services (5%).

The Bosnia and Herzegovina's authorities clarified that the donor funds are not included in the budgets of courts, public prosecution services and legal aid institutions. Indeed, 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 in Bosnia and Herzegovina. The most important donors are: the European Commission, USAID, Sweden, Norway, and Switzerland.

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

## Professionals and Gender Balance in judiciary in Bosnia and Herzegovina in 2022 (Indicators 2 and 12)

### Professional Judges

29,0

per 100 000 inhabitants

↑ **+0,1%**  
compared to 2019

WB Average: 28,8

64,8% female judges  
(total)



### Prosecutors

10,4

per 100 000 inhabitants

↓ **-2,6%**  
compared to 2019

WB Average: 10,6

51,1% female prosecutors  
(total)



### Salaries of judges and prosecutors

Professional judges  
Gross annual salaries at the beginning and the end of the career in 2022 (€)

Bosnia and Herzegovina	29 224 €	55 907 €
WB Average	22 844 €	39 591 €

Prosecutors  
Gross annual salaries at the beginning and the end of the career in 2022 (€)

Bosnia and Herzegovina	29 266 €	55 611 €
WB Average	21 493 €	35 998 €

In 2022, Bosnia and Herzegovina had 29 professional judges per 100 000 (close to the WB Average of 28,8); whereas prosecutors were 10,4 per 100 000 inhabitants, which is slightly lower than the WB Average (10,6). More than half of professional judges and prosecutors were women (WB Averages were 62,4% and 54,9%, respectively).

### Professional Judges

	Professional judges in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	1 000	100,0%	29,0	28,8
1st instance courts	652	65,2%	18,9	21,7
2nd instance courts	234	23,4%	6,8	5,6
Supreme Court	114	11,4%	3,3	1,6

For reference only: the 2021 EU median is 24,1 judges per 100 000 inhabitants.

In 2022, the absolute number of professional judges in Bosnia and Herzegovina was 1 000 (i.e. 29 per 100 000 inhabitants, which was close to the WB Average of 28,8).

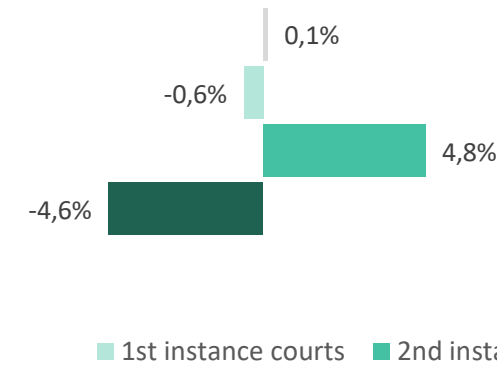
Compared to 2019, the total number of professional judges per 100 000 inhabitants increased by 0,1%.

The figures show a difference of 10 percentage points between the percentage of judges in the first instance (65,2%) and the WB Average (75,2%)

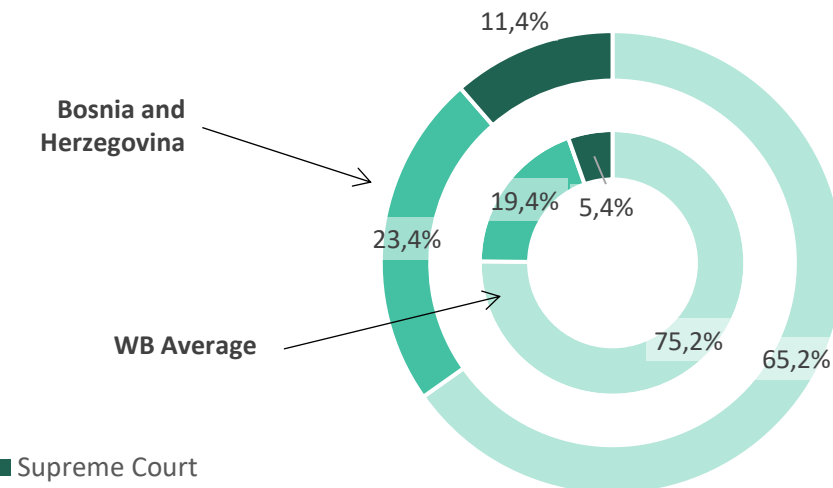
There are 3 courts of general jurisdiction in Bosnia and Herzegovina that are included in the Supreme Court category.

Firstly, at entity level, there are the Federation of Bosnia and Herzegovina Supreme Court and the Republika Srpska Supreme Court. Both courts are competent to decide within the respective entity on legal remedies concerning decisions of the immediately lower courts. Secondly, there is the Court of Bosnia and Herzegovina at the State level. 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. Within its criminal jurisdiction, the Court of Bosnia and Herzegovina tries cases pertaining to the specific category of crimes laid down by the laws of Bosnia and Herzegovina, which include war crimes, organized crime, economic crime and corruption cases. The administrative jurisdiction means that the Court of Bosnia and Herzegovina adjudicates cases pertaining to the decisions issued by the State institutions and other organizations in charge of public functions, such as property disputes related to the performance of public functions between the State and the entities, breaches of the election law, etc. Its Appellate Division only decides appeals against the decisions of the Court's first instance divisions. Accordingly, there are three Prosecutor's Offices 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 - 2022



Distribution of professional judges by instance in 2022 (%)



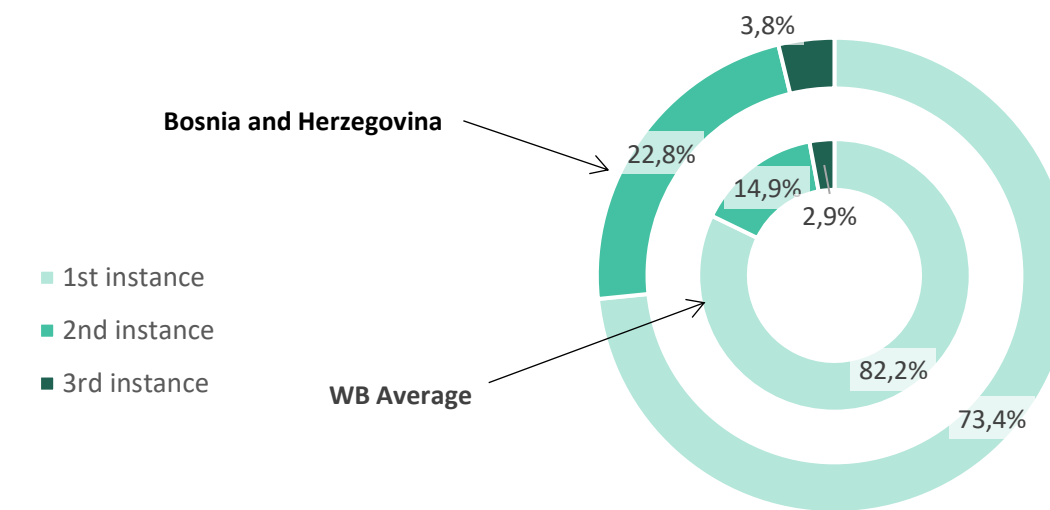


• Court presidents

	Court presidents in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	79	100,0%	2,3	2,2
<b>1st instance courts</b>	58	73,4%	1,7	1,8
<b>2nd instance courts</b>	18	22,8%	0,5	0,3
<b>Supreme Court</b>	3	3,8%	0,1	0,1

The absolute number of court presidents in Bosnia and Herzegovina in 2022 was 79 ( i.e. 2,3 per 100 000 inhabitants, which was similar to the WB Average of 2,2).

Distribution of court presidents by instance in 2022 (%)



## • Non-judge staff

The absolute total number of non-judge staff in Bosnia and Herzegovina was 3 449 and, between 2019 and 2022, it increased by 2,4% . The number of non-judge staff per 100 000 inhabitants was 99,9, which was below WB Average of 114.

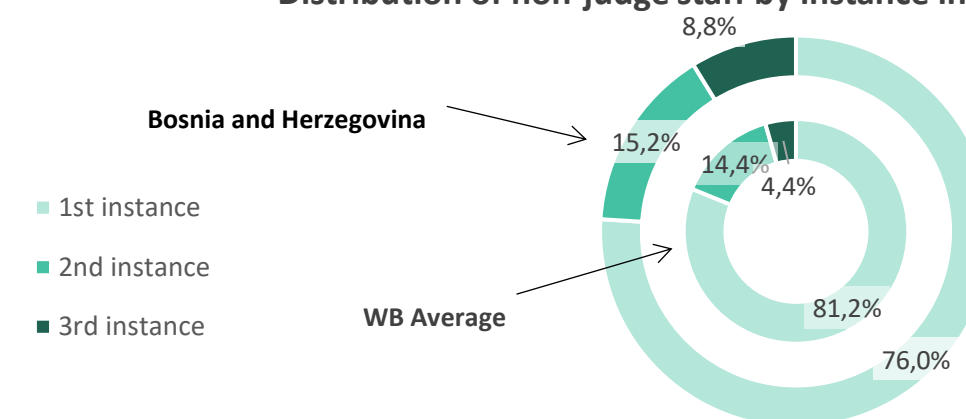
	Number of non-judge staff by instance in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	3 449	100,0%	99,9	114,0
<b>1st instance courts</b>	2 621	76%	75,9	92,5
<b>2nd instance courts</b>	525	15%	15,2	16,4
<b>Supreme Court</b>	303	9%	8,8	5,0

For reference only: the 2021 EU median is 58,5 non-judge staff per 100 000 inhabitants.

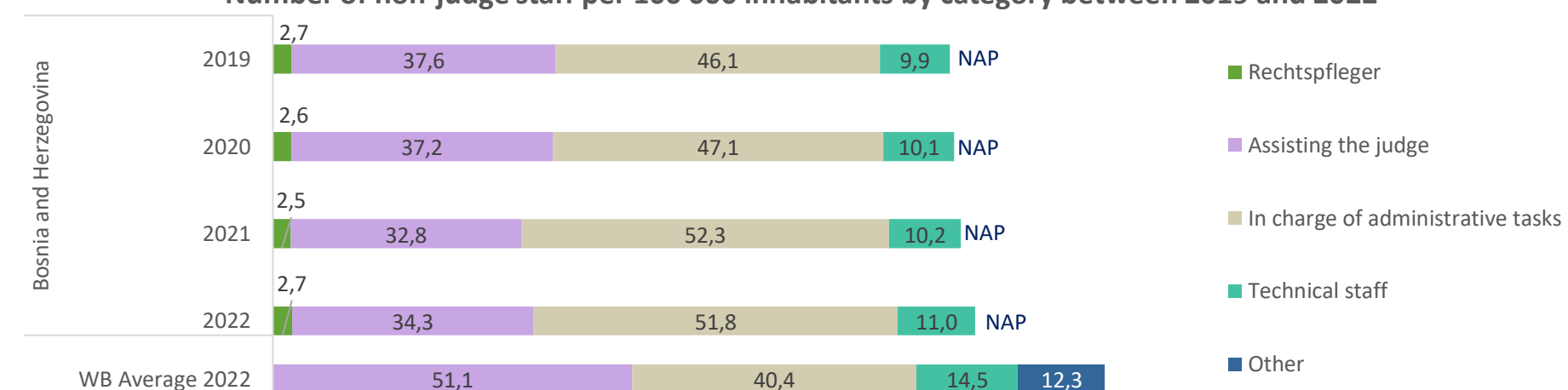
The highest number of non-judge staff were in charge of administrative tasks and represented 51,9% of the total. Since 2019, there has been a reduction of the staff assisting the judge and an increase the staff in charge of administrative tasks.

	Number of non-judge staff by category in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	3 449	100,0%	99,9	114,0
<b>Rechtspfleger</b>	94	2,7%	2,7	-
<b>Assisting the judge</b>	1 186	34,4%	34,3	51,1
<b>In charge of administrative tasks</b>	1 789	51,9%	51,8	40,4
<b>Technical staff</b>	380	11,0%	11,0	14,5
<b>Other</b>	NAP	NAP	NAP	12,3

Distribution of non-judge staff by instance in 2022



Number of non-judge staff per 100 000 inhabitants by category between 2019 and 2022



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.

Category 1. Rechtspfleger (or similar bodies): The High and Judicial and Prosecutorial Council of Bosnia and Herzegovina appoints in a public competition procedure judicial associates in municipal courts (i.e. first instance courts) in one part of the country, the Federation of Bosnia and Herzegovina, for an undetermined period. 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. As for the requirements in terms of qualifications which are set by the legislation, judicial associates must possess a law degree and have to pass the bar examination. 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.).

Category 2. Non-judge staff includes positions such as: law clerk, court typist/administrative judicial assistant, witness support officer etc.

Category 3. 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.

Category 4. Technical staff includes positions such as: driver, receptionist, cleaning staff, janitor etc.

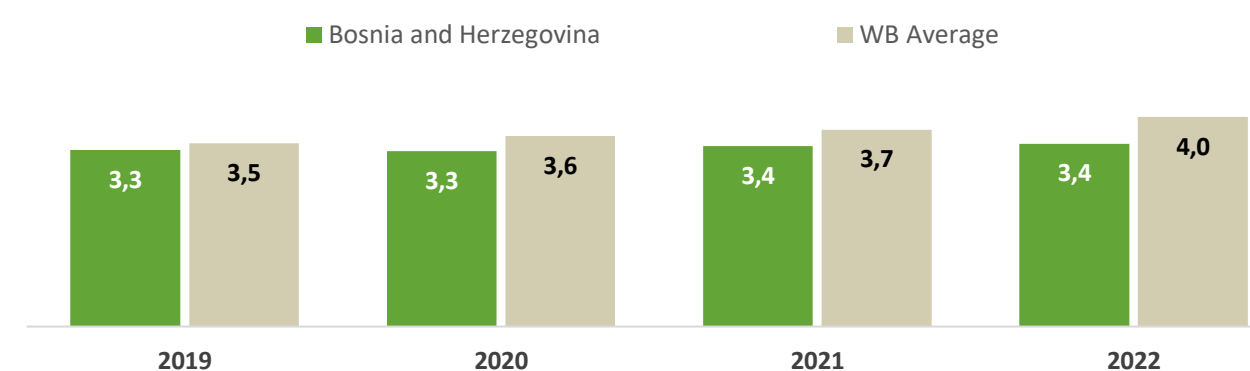
## • Ratio between non-judge staff and professional judges

In Bosnia and Herzegovina, the ratio of non-judge staff per professional judge was 3,4 in 2022, whereas the WB Average was 4. This ratio has remained stable between 2019 and 2022.

	Ratio in 2022		% Variation between 2019 and 2022
	Bosnia and Herzegovina	WB Average	
<b>Total</b>	3,4	4,0	3,6%
<b>1st instance courts</b>	4,0	4,2	4,2%
<b>2nd instance courts</b>	2,2	3,0	-0,8%
<b>Supreme Court</b>	2,7	4,3	9,4%

For reference only: the 2021 EU median ratio of non-judge staff per judge is 3,1.

Ratio between non-judge staff and judges between 2019 and 2022



## Prosecutors

	Number of prosecutors by instance in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	358	100,0%	10,4	10,6
1st instance level	275	76,8%	8,0	8,2
2nd instance level	NAP	NAP	NAP	1,9
Supreme Court level	83	23,2%	2,4	0,9

For reference only: the 2021 EU median is 10,8 prosecutors per 100 000 inhabitants.

In 2022, the absolute number of prosecutors in Bosnia and Herzegovina was 358 (i.e. 10,4 per 100 000 inhabitants, which was slightly lower than the WB Average of 10,6).

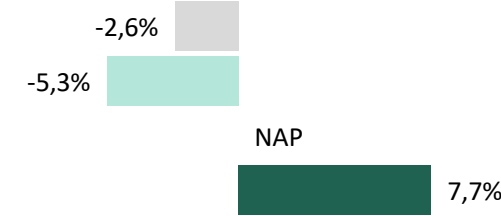
The total number of prosecutors per 100 000 inhabitants decreased by -2,6% between 2019 and 2022.

In Bosnia and Herzegovina, there do not exist prosecutors at the second instance level.

The number of heads of prosecution offices is included in the number of prosecutors.

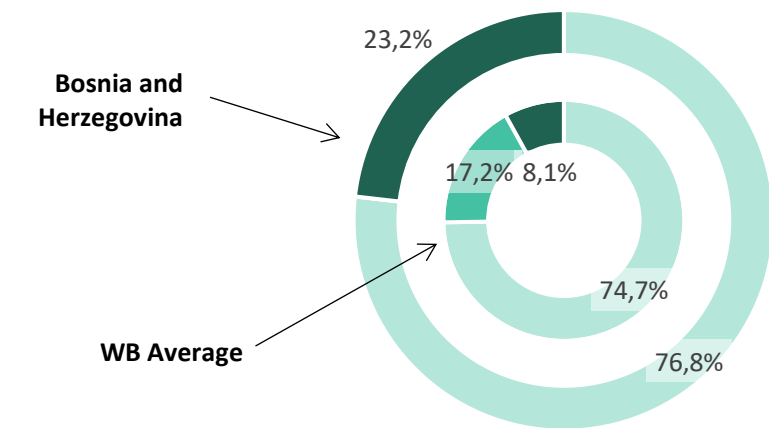
There are 3 courts of general jurisdiction in Bosnia and Herzegovina that are included in the Supreme Court category. Firstly, at entity level, there are the Federation of Bosnia and Herzegovina Supreme Court and the Republika Srpska Supreme Court. Secondly, there is the Court of Bosnia and Herzegovina at the State level. 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 prosecutors per 100 000 inh. 2019 - 2022



■ 1st instance level ■ 2nd instance level ■ Supreme Court level

Distribution of prosecutors by instance in 2022 (%)

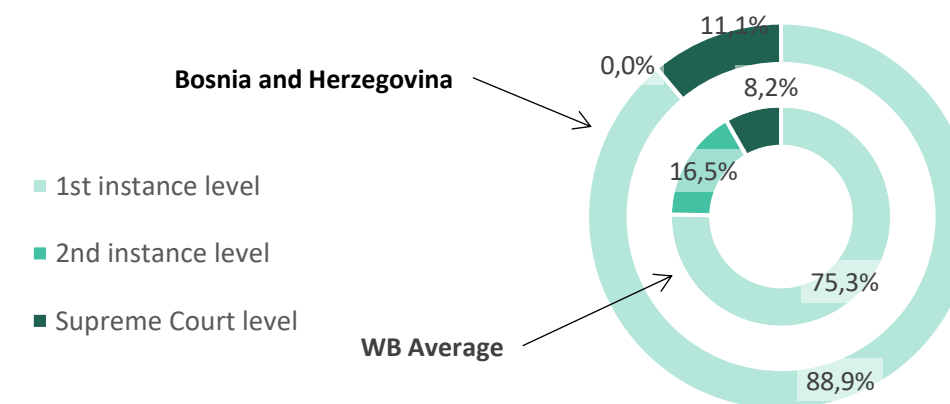


## Heads of prosecution services

	Heads of prosecution services in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	18	100,0%	0,5	1,4
1st instance level	16	88,9%	0,5	1,1
2nd instance level	NAP	NAP	NAP	0,2
Supreme Court level	2	11,1%	0,06	0,12

In 2022, the absolute number of heads of prosecution services in Bosnia and Herzegovina was 18 (i.e. 0,5 per 100 000 inhabitants, which was remarkably lower than the WB Average of 1,4).

Distribution of heads of prosecution services by instance in 2022 (%)



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

	Non-prosecutor staff in 2022			Ratio between non-prosecutor staff and prosecutors		
	Absolute number	Per 100 000 inhabitants		2022		% Variation 2019 - 2022
	Bosnia and Herzegovina	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina
<b>Total</b>	750	21,7	25,5	2,1	2,4	7,3%

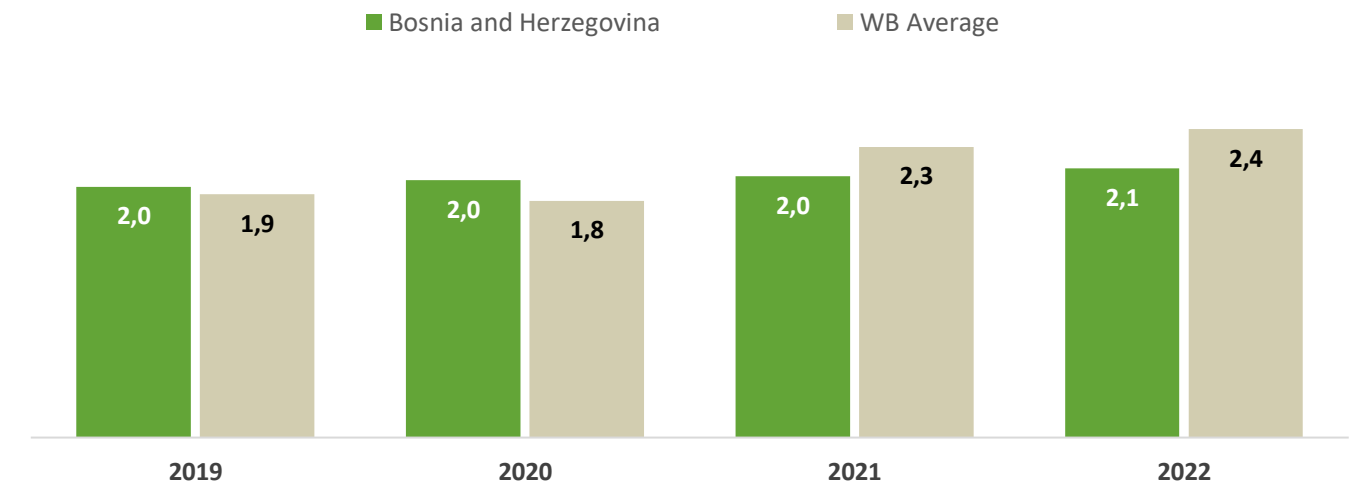
For reference only: the 2021 EU median is 14,7 non-prosecutors staff per 100 000 inhabitants.

In 2022, the total number of non-prosecutor staff in Bosnia and Herzegovina was 750. Their number increased by 3,3% compared to 2019.

The number of non-prosecutor staff was 21,7 per 100 000 inhabitants, which was below the WB Average of 25,5.

The ratio of non-prosecutor staff per prosecutor was 2,1 (lower than the WB Average of 2,4).

Ratio between non-prosecutor staff and prosecutors between 2019 and 2022



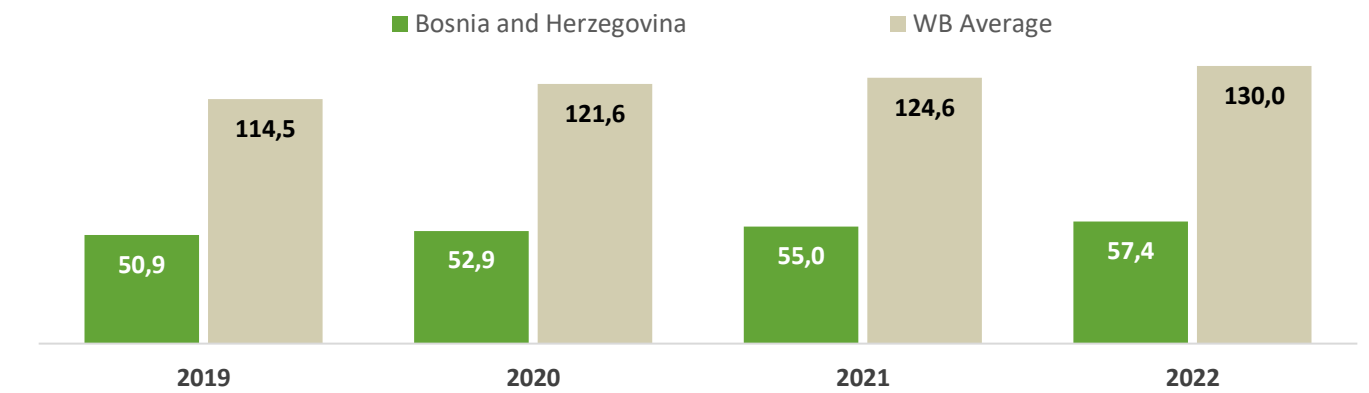
## • Lawyers

	Number of lawyers in 2022			% Variation 2019 - 2022
	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	Bosnia and Herzegovina
<b>Total</b>	1 981	57,4	130,0	12,7%

For reference only: the 2021 EU median is 122,4 lawyers per 100 000 inhabitants.

In 2022, the number of lawyers was 57,4 per 100 000 inhabitants, which was remarkably lower than the WB Average (130). The number of lawyers per 100 000 inhabitants increased by 12,7% between 2019 and 2022.

Number of lawyers per 100 000 inhabitants between 2019 and 2022



## Salaries of professional judges and prosecutors

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

In 2022, 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 Average (2,5).

At the end of career, judges were paid more than at the beginning of career by 91,3%, which was more than variation noted for the WB Average (68%).

In 2022, 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 Average (2,3).

At the end of career, prosecutors were paid more than at the beginning of career by 90%, which was more than the variation noted for the WB Average (63,6%).

		Salaries in 2022 (absolute values)			Ratio with the average gross annual salary	
		Gross annual salary in €	% Variation 2019 - 2022	Net annual salary in €	Bosnia and Herzegovina	WB Average ratio
Professional judge	At the beginning of his/her career	29 224	▲ 18,5%	18 401	2,8	2,5
	Of the Supreme Court or the Highest Appellate Court	55 907	■ 0,0%	35 051	5,3	4,1
Public prosecutor	At the beginning of his/her career	29 266	▲ 18,6%	18 472	2,8	2,3
	Of the Supreme Court or the Highest Appellate Court	55 611	▲ 28,8%	34 548	5,3	3,8

For reference only: the 2021 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:

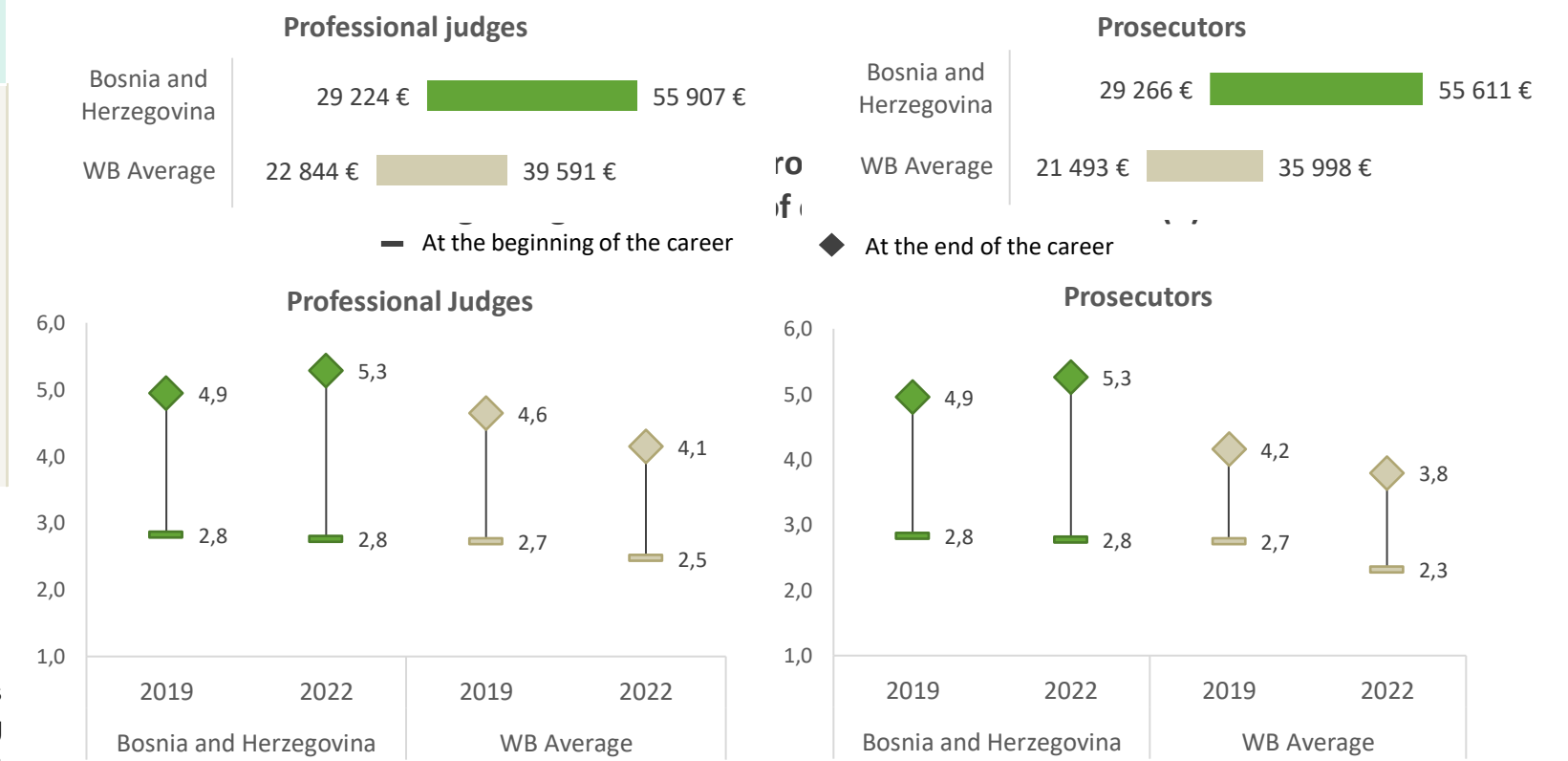
- professional judges' salary at the beginning of career: 1,9
- professional judges' salary at the end of career: 4,1
- prosecutors' salary at the beginning of career: 1,7
- prosecutors' salary at the end of career: 3,4

First of all, the work experience affects the amount of net and gross salaries. The following assumptions were used for the above stated calculations of the salaries of judicial office holders (i. e. judges and prosecutors): three-year working experience of judge/prosecutor at the beginning of his/her career; twenty-year working experience of a judge/prosecutor of the supreme court or the highest appellate instance. There are somewhat 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. Having in mind the aforementioned factors, the above stated calculations of the salaries are made as the weighted average salary based on the number of judges/prosecutors.

The method used to calculate net and gross salaries for judges/prosecutors is based on the basic salary amount as prescribed by law together with allowances added to the net salary subject to years of employment, and other contributions for the calculation of gross salaries. Deviations occur due to the application of different legal regulations on entity level, i.e. specifically with reference to judicial office positions in one of the jurisdictions in Bosnia and Herzegovina (i.e. the Brcko District of Bosnia and Herzegovina), where there are far more judges than prosecutors, which directly impacts the calculation of overall indicators.

Due to the changes in the Dashboard Western Balkans Questionnaire for 2022, the amount of salaries of judges and public prosecutors in Bosnia and Herzegovina at the Highest Appellate Instance is significantly higher in 2022 compared to the relevant figure included in the Dashboard Western Balkans Questionnaire for 2021.

## Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2022 (€)



## Additional benefits and bonuses for professional judges and prosecutors

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

**Gender Balance**

	% Female in 2022		Variation of the % females between 2019 - 2022 (in ppt)
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina
Professional Judges	64,8%	62,4%	▲ 0,6
Court Presidents	58,2%	50,6%	▲ 7,6
Non-Judge Staff	74,7%	70,9%	▲ -1,0
Prosecutors	51,1%	54,9%	▼ -0,2
Heads of Prosecution Services	44,4%	39,7%	▲ 4,7
Non-Prosecutor Staff	71,9%	68,7%	▲ 0,9
Lawyers	32,9%	37,2%	▲ 1,2

PPT= Percentage points

For reference only: 2021 EU medians on gender are among professionals are as follows: 62% women judges; 76% women non-judge staff; 60% women prosecutors; 74% women non-prosecutor staff; and 47% women lawyers.

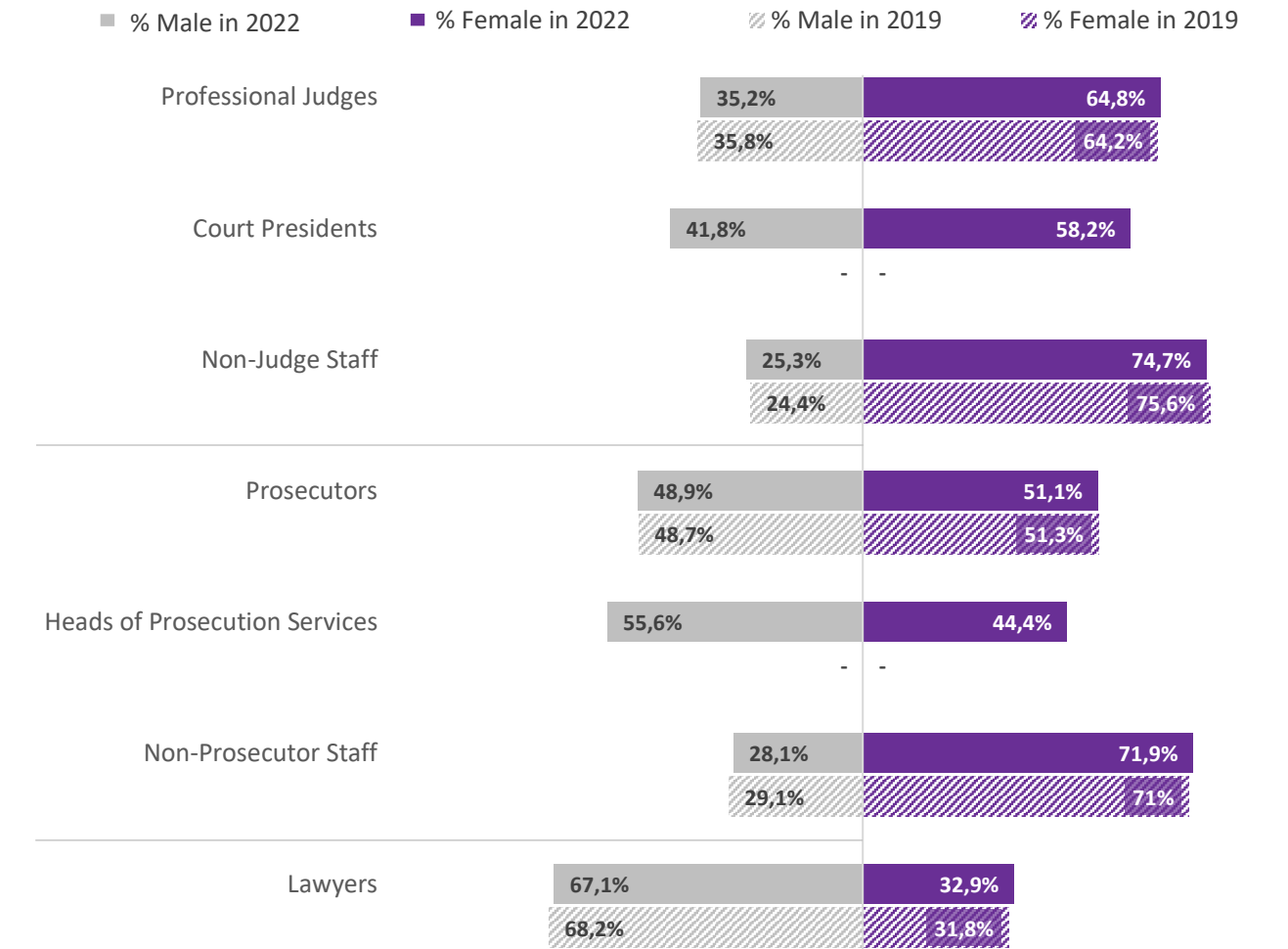
In 2022, the percentage of female professional judges was 64,8%, which was higher than WB Average (62,4%). With a presence of 58,2%, the number of female court presidents in Bosnia and Herzegovina was higher than the WB Average of 50,6%. Moreover, the percentage of female non-judge staff was 74,7%.

Also, the percentage of female prosecutors was 51,1% (lower than the WB Average of 54,9%). The number of female heads of prosecution services (44,4%) was slightly higher than the WB Average (39,7%). Moreover, the percentage of female non-prosecutor staff was 71,9%.

Finally, the percentage of female lawyers was 32,9%, which was lower than WB Average (37,2%).

The heads of prosecution services and lawyers were the only categories with less than 50% of female presence.

**Gender Balance in Bosnia and Herzegovina in 2019 and 2022**



In 2022, a prevalence of female professional judges and prosecutors could be noticed in all instances of Bosnia and Herzegovina's courts and prosecution services. The only exception was the prosecutors at the Supreme Court level for which the percentage of females was slightly less than 50% but still above the WB Average of 43,7%.

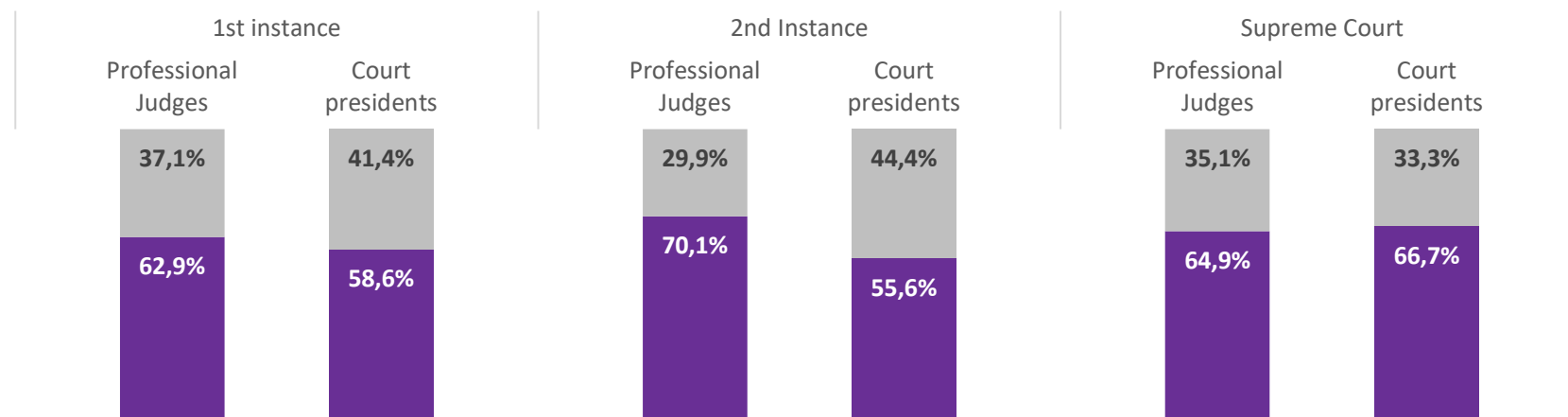
As shown in the table on the side, the percentages of Bosnia and Herzegovina's female professionals were above the regional average for most of the depicted categories. In particular, the percentage of second instance female Court presidents was well above the WB Average by almost 16,5 percentage points.

	Professional Judges % Female		Court presidents % Female		Prosecutors % Female		Heads of Prosecution Services % Female	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average
1st instance	62,9%	62,2%	58,6%	51,9%	52,0%	57,0%	50,0%	43,3%
2nd instance	70,1%	64,5%	55,6%	39,1%	NAP	48,4%	NAP	25,0%
Supreme Court	64,9%	55,6%	66,7%	73,3%	48,2%	43,7%	0,0%	44,4%

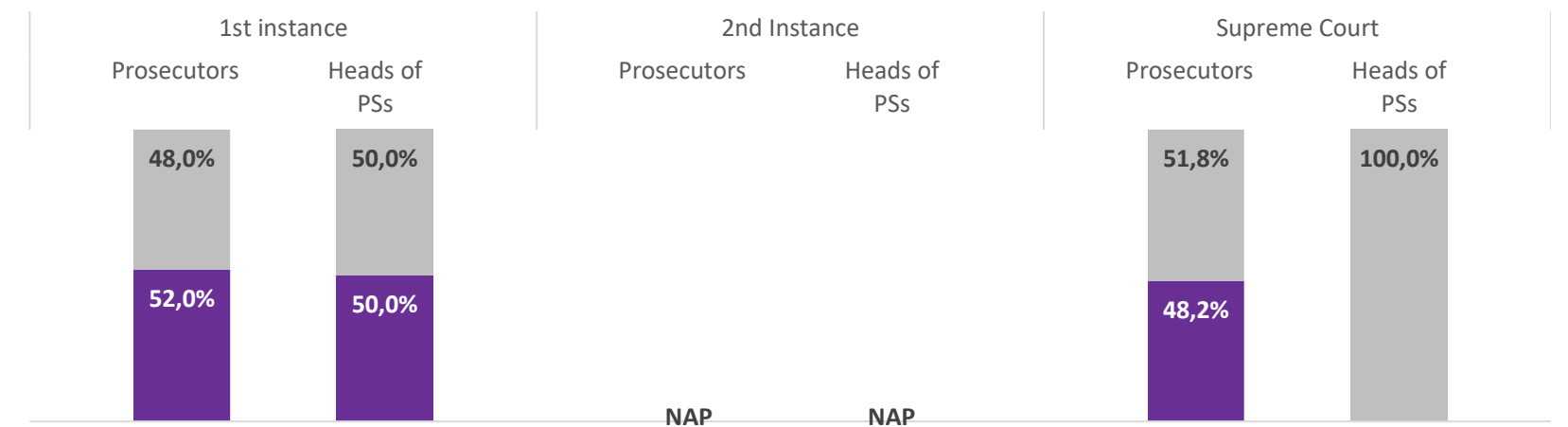
**Gender Balance by instance in 2022**

■ % Females ■ % Males

**Professional Judges and Court Presidents**



**Prosecutors and Heads of Prosecution Services**



• Gender Equality Policies

	Recruitment		Appointment	Promotion		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	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court Presidents			✓			
Heads of Prosecution Services			✓			
Judges	✓	✗		✓	✗	✗
Prosecutors	✓	✗		✓	✗	✗
Non-judge staff	✗	✗		✗	✗	✗
Lawyers	✗			✗		
Notaries	✗			✗		
Enforcement agents	✗			✗		

In Bosnia and Herzegovina there is an overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary.

Comment 2022-278: In October 2020, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted the Strategy on Improving Gender Equality in the Judiciary of Bosnia and Herzegovina, based on which all judicial institutions will prepare their implementation plans. The Strategy is available here: <https://pravosudje.ba/vstvfo/E/141/article/95500> The Strategy was created within the Project Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH - Phase 2, financed by the Government of Sweden, in cooperation with the Swedish National Courts Administration, as the coordinator of gender mainstreaming activities in the courts of Sweden and HJPC's long-term partner.

In 2021, the HJPC has carried out the piloting phase of implementation of the Strategy on Improving Gender Equality in the Judiciary of BiH, in order to create good practices, which will be applied to other judicial institutions.

The piloting phase of implementation of the Strategy was carried out in four judicial institutions in the period March – October 2021.

In cooperation with pilot judicial institutions and Swedish experts, the HJPC has commenced the preparation of activities, with the purpose of implementing the Strategy in the entire judiciary of BiH, within the Project Improving Court Efficiency and Accountability of Judges and Prosecutors in BiH - Phase 3.

The HJPC will provide support to judicial institutions in the process of preparation of their implementation plans and will regularly monitor their realization by judicial institutions.

In 2022, the HJPC has organized seven workshops for all judicial institutions, aimed at providing knowledge necessary for the creation of action plans for the implementation of the Strategy on Improving Gender Equality in the Judiciary of BiH.

The workshops were carried out in partnerships with the Swedish National Courts Administration, Swedish experts and the ambassadors from pilot judicial institutions.

In addition, the HJPC has provided support to judicial institutions in the process of preparation of their action plans for the implementation of the Strategy, which was followed by their assessment and adoption.

As a result, the judicial institutions have commenced implementing their action plans in 2022, whilst the HJPC will regularly monitor their realization.

The Strategy is available here: <https://pravosudje.ba/vstvfo/E/141/article/95500>

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.

In Bosnia and Herzegovina, there is a general Gender Equality Agency.

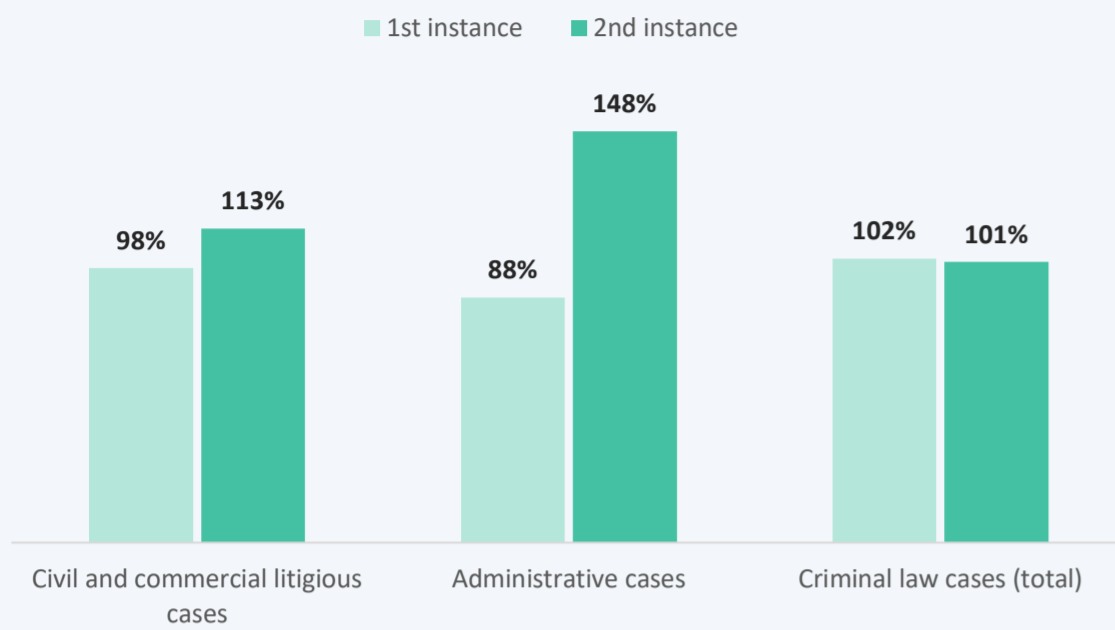
This Agency is responsible for resolving complaints of persons indicating violations of a certain right included in the General Law on the Gender Equality.

In Bosnia and Herzegovina, there does not exist any person (e.g. an equal opportunities commissioner)/institution specifically dedicated to ensure the respect of gender equality in the organisation of judicial work. Indeed, it is the general responsibility of the heads of the courts and prosecutors' offices to supervise the work of these institutions on all matters, including the respect of gender equality.

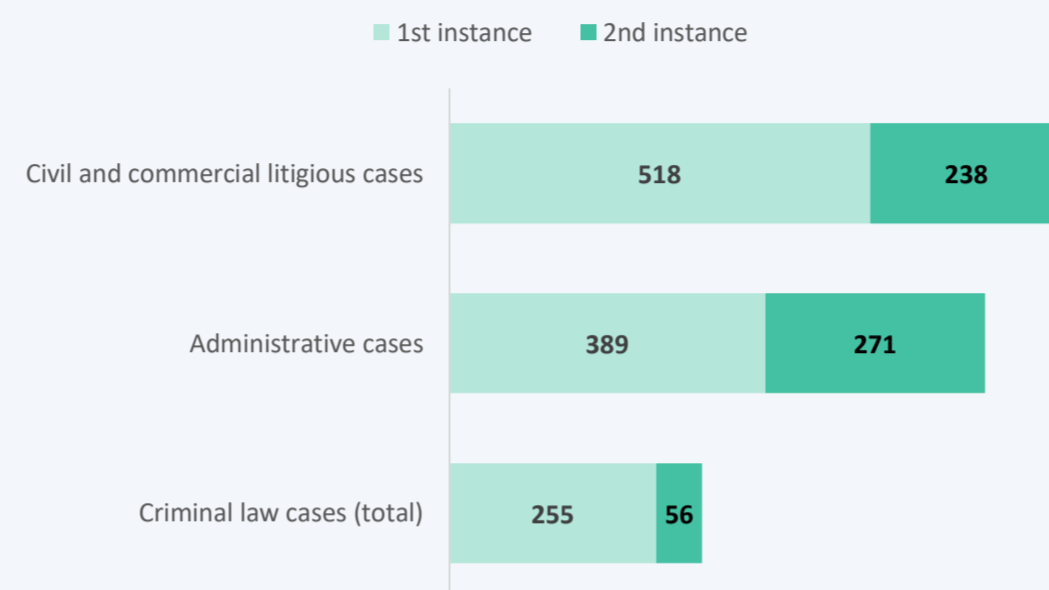
Kosovo is not included in the calculation of summary statistics

## Efficiency in Bosnia and Herzegovina in 2022 (Indicators 3.1 and 3.2)

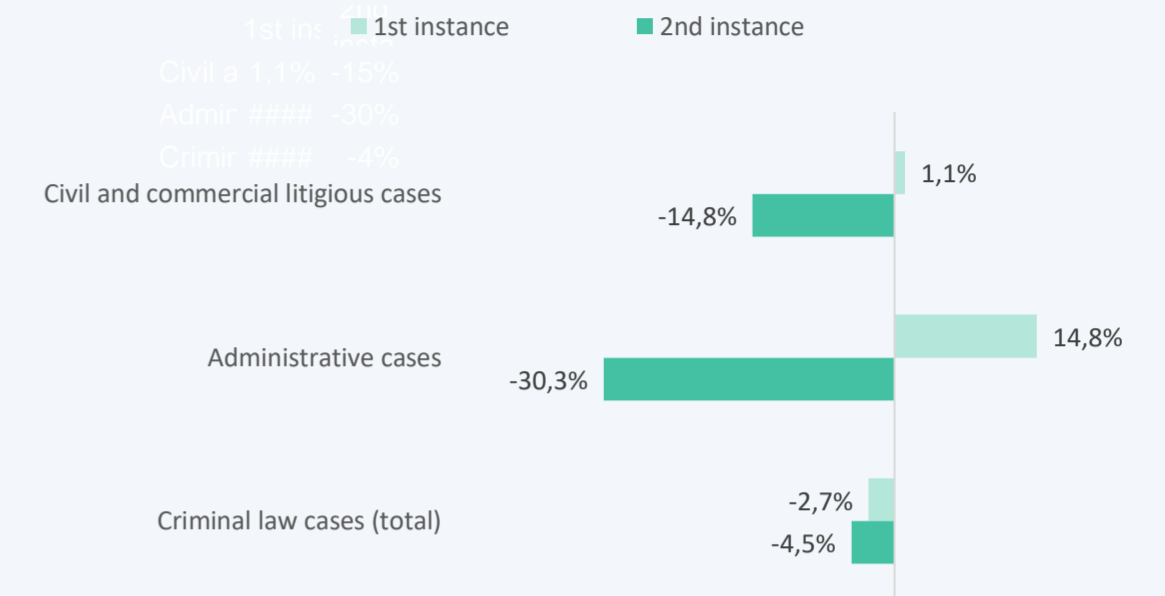
### Clearance Rate in 2022



### Disposition Time in 2022 (in days)



### % Variation of pending cases at the end of year between 2021 and 2022



In 2022, the highest Clearance rate (CR) for Bosnia and Herzegovina was calculated for the second instance Administrative cases, with a CR of 148%. However, it seems that Bosnia and Herzegovina was not able to deal as efficiently with the first instance Administrative cases (CR of 88%). With a Disposition Time of approximately 56 days, the second instance total Criminal law cases were resolved faster than any other type of cases.

Compared to 2021, the pending cases at the end of year increased mostly for the first instance Administrative cases (14,8%). They decreased in the second instance for all type of cases, in particular for the second instance Administrative cases (-30,3%).

In 2022, in Bosnia and Herzegovina, the clearance rate was above 100% for all categories in the two instances except civil and commercial litigious cases and administrative cases in the first instance. As a consequence, for these two categories, the Disposition Time increased between 2021 and 2022, while for all the other categories, it decreased. The DT in the second instance is lower than the average, except for administrative cases, while in the first instance, it is higher for civil and commercial litigious cases (518 days vs 384, which is the WB Average) and criminal cases (255 vs 185).

Bosnia and Herzegovina still has the highest number of Civil and commercial litigious pending cases per inhabitant in the region (53,28 per 100 000 inhabitants, whereas the WB average is 10,99). Compared to the other beneficiaries, Bosnia and Herzegovina has a disproportionate number of incoming, resolved and pending non-litigious cases (including pending older than 2 years): the majority are enforcement proceedings that the state-owned utility companies initiate to recover unpaid bills for utility services. (e.g. heating, water, electricity, garbage collection, television subscription etc.). The backlog of old litigious small claims cases for unpaid utility bills is concentrated in several first instance courts in the biggest cities in Bosnia and Herzegovina.

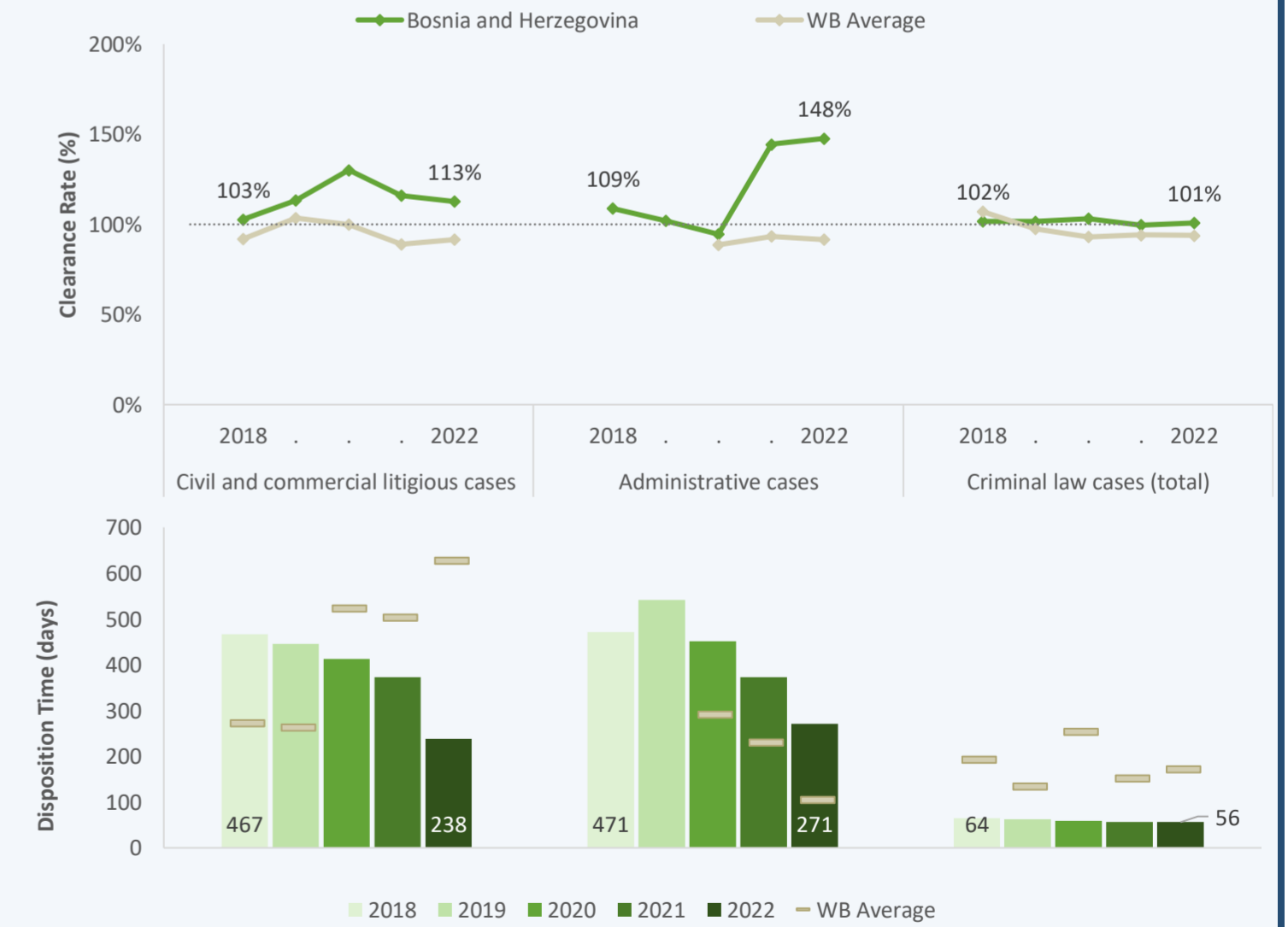
### First instance cases

Clearance rate (%) and Disposition Time (days) for first instance cases from 2018 to 2022



### Second instance cases

Clearance rate (%) and Disposition Time (days) for second instance cases from 2018 to 2022



NB: For the second instance Administrative cases: the WB Median of the Disposition Time is visualised in the graph above (instead of the WB Average)



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

1st instance cases in 2022 (absolute values)		Bosnia and Herzegovina (2022)				% Variation between 2021 and 2022			
		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
Total of other than criminal law cases (1+2+3+4)		1 124 398	1 212 342	2 012 556	1 479 144	-1,0%	4,9%	-3,8%	-5,3%
1	Civil and commercial litigious cases	117 187	115 410	163 865	61 140	9,9%	-0,04%	1,1%	-20,3%
2	Non-litigious cases**	997 731	1 088 597	1 839 805	1 416 315	-2,3%	5,5%	-4,3%	-4,5%
3	Administrative cases	9 480	8 335	8 886	1 689	18,3%	-3,0%	14,8%	-11,7%
4	Other cases	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.

In 2022, the incoming civil and commercial litigious cases were 117 187 (3,39 per 100 inhabitants vs the WB Average of 2,7). They increased by 9,9% between 2021 and 2022. According to the authorities, there has been a significant decrease in the influx of first instance civil and commercial litigious cases over recent years and this trend continued in 2022. However, one of the biggest first instance courts received a large number of relatively simple litigious small claims cases. This resulted in an increase in the total number of cases received compared to 2021. This was a one-time increase in the influx of cases, related specifically to this court's territorial jurisdiction. Given that the number of resolved cases remained stable, this increase of incoming cases led to a slight increase in the number of pending cases at the end of the year. The 2022 Clearance rate for this type of cases was 98% (below the WB Average of 107%) and it decreased by -9,8 percentage points compared to 2021. Yet, the authorities reported that most courts surpassed the 100% clearance rate in 2022. The number of pending cases older than two years old has decreased significantly. These cases are mainly litigious small claims cases related to the unpaid utility bills. The Disposition Time for civil and commercial litigious cases was approximately 518 days in 2022 (above the WB Average of 384 days). This increased by 1,1% over the 2021-2022 period. The statistics shown in the table include data on the caseload of second instance courts regarding the first instance administrative law cases since the second instance courts of general jurisdiction have subject matter over the first instance administrative law cases. The authorities reported that the majority of the administrative cases are concentrated in the biggest cities in Bosnia and Herzegovina. Several courts saw an increase in the influx of administrative cases during 2022. Overall, the incoming administrative cases were 9 480 in 2022 (ie 0,27 per 100 inhabitants vs the WB Average of 0,84). They indeed increased by 18,3% compared to the previous year. In 2022, the overall resolved cases were 8 335 (0,24 per 100 inhabitants, below of the WB Average of 0,46). Between 2021 and 2022, the number of resolved administrative decreased by -3%. Consequently, there was a surge in the number of pending cases at the end of the year (+14,8%).

In addition, the authorities declared that the number of pending administrative cases in some of the largest courts has escalated since some of the judges specialized in administrative cases were absent due to sick leave or they were retired during the year. The Clearance rate for this type of cases was 88% (above the WB Average of 73%). The CR decreased by -19,3 percentage points compared to the previous year. Moreover, the Disposition Time for administrative cases was approximately 389 days in 2022. This has increased by 18,3% compared to 2021. Yet, it was below the WB Average (716 days).

Regarding the non-litigious cases, there was a decrease of the number of incoming cases between 2021 and 2022. The majority of general civil non-litigious cases are enforcement proceedings that the state-owned utility companies initiate to recover unpaid bills for utility services. (e.g. heating, water, electricity, garbage collection, television subscription etc.).

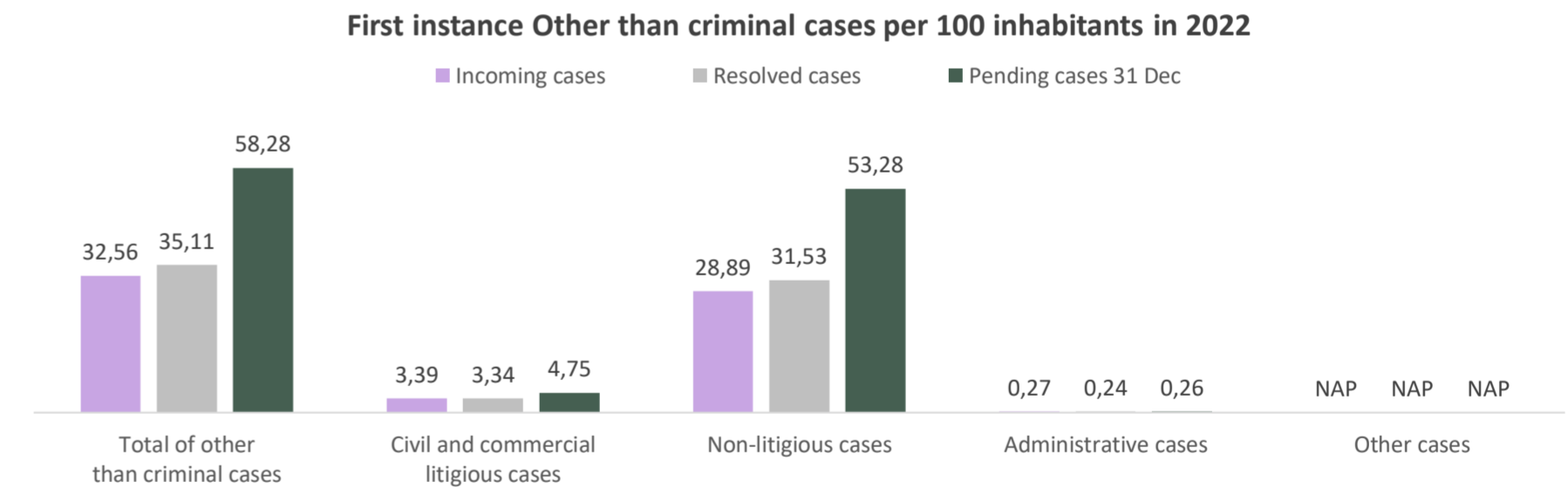
The Bosnia and Herzegovina authorities reported that, as in the previous years, several courts in their annual reports indicated that they did not have sufficient capacity to handle the workload that increased in the reference year within the project aiming to achieve harmonization between land register and cadastre data. The non-judge court staff deal with a substantial part of the caseload in terms of registry cases and land registry matters.

It is important to note an additional information on the inconsistency for general non-litigious pending cases between an end to 2021 and the beginning of 2022. Namely, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina instructed one of the courts to correct technical mistakes made in the case management system about the registration of non-litigious enforcement cases the public companies had initiated with the courts previously for unpaid utility bills. The court increased the number of pending cases by implementing the instructions of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

1st instance cases in 2022 (per 100 inhabitants)		Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
		Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average
Total of other than criminal law cases (1+2+3+4)		32,56	11,82	35,11	12,47	58,28	15,15	42,84	11,40
1	Civil and commercial litigious cases	3,39	2,70	3,34	3,03	4,75	3,12	1,77	1,01
2	Non-litigious cases**	28,89	7,82	31,53	8,52	53,28	10,99	41,02	10,30
3	Administrative cases	0,27	0,84	0,24	0,46	0,26	1,01	0,05	0,09
4	Other cases	NAP	0,77	NAP	0,77	NAP	0,03	NAP	-

For reference only: the 2021 EU Median was as follows:  
 - Incoming first instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;  
 - incoming first instance Administrative cases per 100 inhabitants: 0,3.

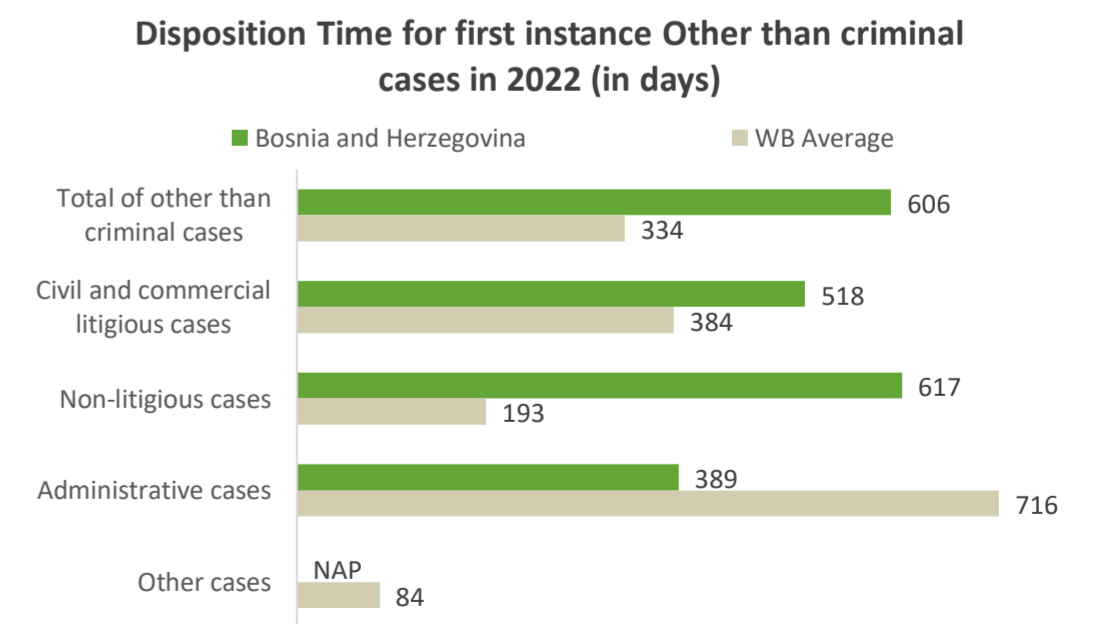
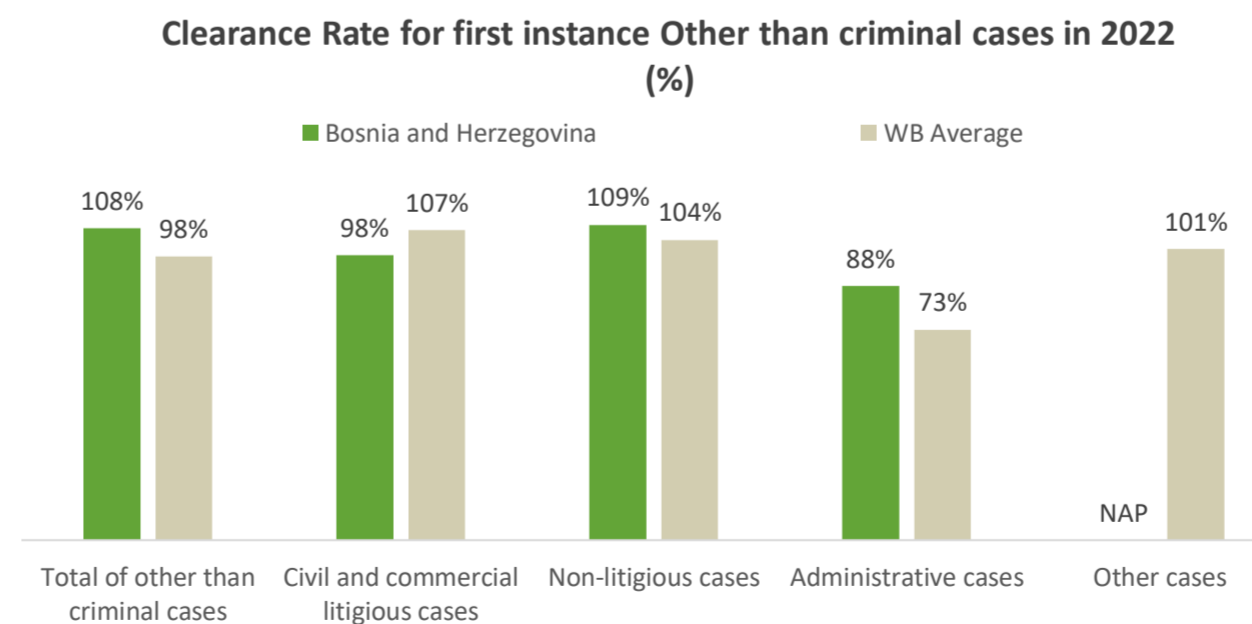
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1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022		CR (%)		DT (days)		% Variation 2021 - 2022	
		Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		108%	98%	606	334	6,0	-8,3%
1	Civil and commercial litigious cases	98%	107%	518	384	-9,8	1,1%
2	Non-litigious cases**	109%	104%	617	193	8,1	-9,3%
3	Administrative cases	88%	73%	389	716	-19,3	18,3%
4	Other cases	NAP	101%	NAP	84	NAP	NAP

PPT = Percentage points

For reference only: the 2021 EU Median for the first instance Civil and Commercial litigious cases was as follows:  
 - Clearance rate: 102,5%; - Disposition time: 234 days.  
 For reference only: the 2021 EU Median for the first instance Administrative cases was as follows:  
 - Clearance rate: 101,7%; - Disposition time: 296 days.



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

1st instance cases in 2022 (absolute values)	Bosnia and Herzegovina (2022)				% Variation between 2021 and 2022			
	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
<b>Total of criminal law cases (1+2+3)</b>	191 289	195 037	136 196	29 520	1,7%	3,1%	-2,7%	-13,5%
<b>1 Severe criminal cases</b>	8 558	8 472	7 476	1 242	-1,7%	-5,9%	1,2%	-11,7%
<b>2 Misdemeanour and / or minor criminal cases</b>	54 172	59 786	42 705	92	-10,3%	5,2%	-11,6%	-23,3%
<b>3 Other cases</b>	128 559	126 779	86 015	28 186	8,1%	2,7%	2,1%	-13,6%

In 2022, the incoming first instance total criminal cases were 191 289 (5,54 per 100 inhabitants vs the WB Average of 10,69). They increased by 1,7% between 2021 and 2022. The resolved cases were 195 037 (5,65 per 100 inhabitants). Between 2021 and 2022, they increased by 3,1%. The number of resolved cases was thus higher than the incoming cases. As a consequence, the total criminal pending cases at the end of 2022 were less than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 102% (above the WB Average of 95,7%). This increased by 1 percentage point compared to 2021. The Disposition Time for total criminal cases was approximately 255 days in 2022 (above the WB Average of 185 days). It decreased by -5,6% compared to 2021.

Regarding the severe criminal cases, the authorities reported that there has been a significant decrease in their influx over recent years. This trend was followed in 2022 too. Indeed, in 2020, the number of incoming cases dropped compared to 2019, due to Covid-19 restrictions. In 2021, however, the number of incoming first instance severe criminal law cases rose by 8% compared to 2020. Still, that number is smaller than the number of incoming first instance severe criminal law cases registered in 2019 and 2018. The reduction in the influx of cases was recorded, predominantly, in the largest courts. This is not a consequence of legislative changes.

As regards misdemeanour cases, the number of incoming cases increased in 2021 and 2022. The number of resolved cases increased in 2022, consequently, the number of pending first instance cases at the end of 2022 decreased compared to the previous year. It remains to be seen whether such indicators will continue to be achieved in the coming period.

According to the authorities, certain number of pending severe criminal cases, which are older than 2 years, cannot be resolved due to the procedural gridlock that the courts cannot resolve (e.g. an accused person is not traceable).

Moreover, the majority of pending other cases older than 2 years are misdemeanour cases in which courts are lacking effective mechanisms to enforce outstanding monetary fines pronounced in the minor offence proceedings.

The categories of criminal cases include the following:

- 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: traffic offences, violations of public order, begging etc.

- 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 misdemeanour proceedings; statistics on court cases related to the various auxiliary matters decided in relation to the misdemeanour proceedings.

1st instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average
<b>Total of criminal law cases (1+2+3)</b>	5,54	< 10,69	5,65	< 10,62	3,94	< 4,77	0,85	< 1,02
<b>1 Severe criminal cases</b>	0,25	< 0,48	0,25	< 0,48	0,22	< 0,28	0,04	= 0,04
<b>2 Misdemeanour and / or minor criminal cases</b>	1,57	< 3,84	1,73	< 3,47	1,24	< 2,20	0,00	< 0,06
<b>3 Other cases</b>	3,72	< 7,97	3,67	< 8,34	2,49	< 2,85	0,82	< 0,92

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Incoming cases per 100 inhabitants: 1,6.

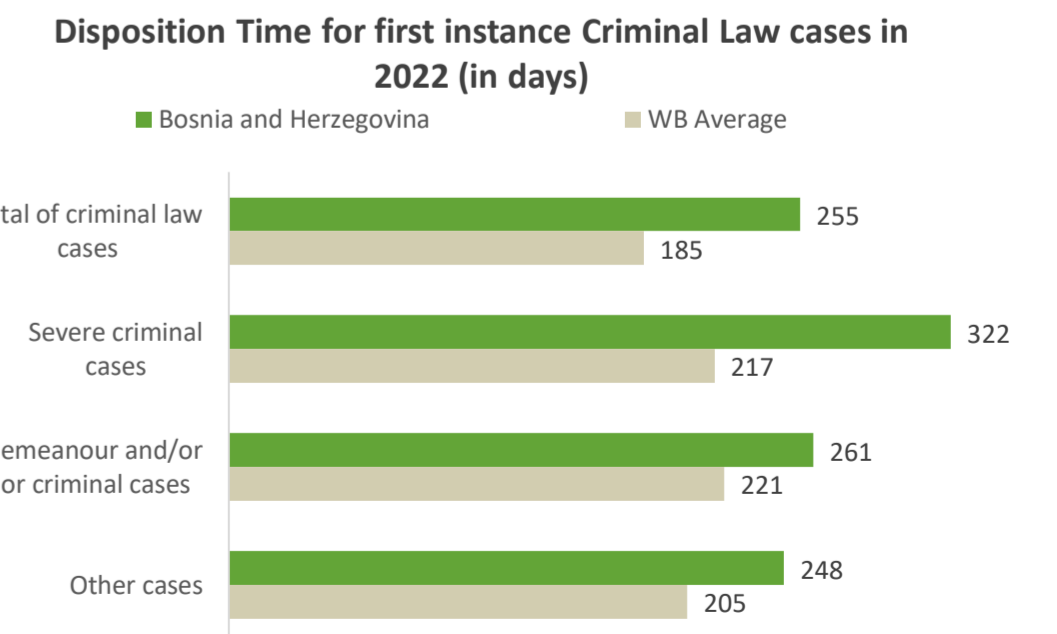
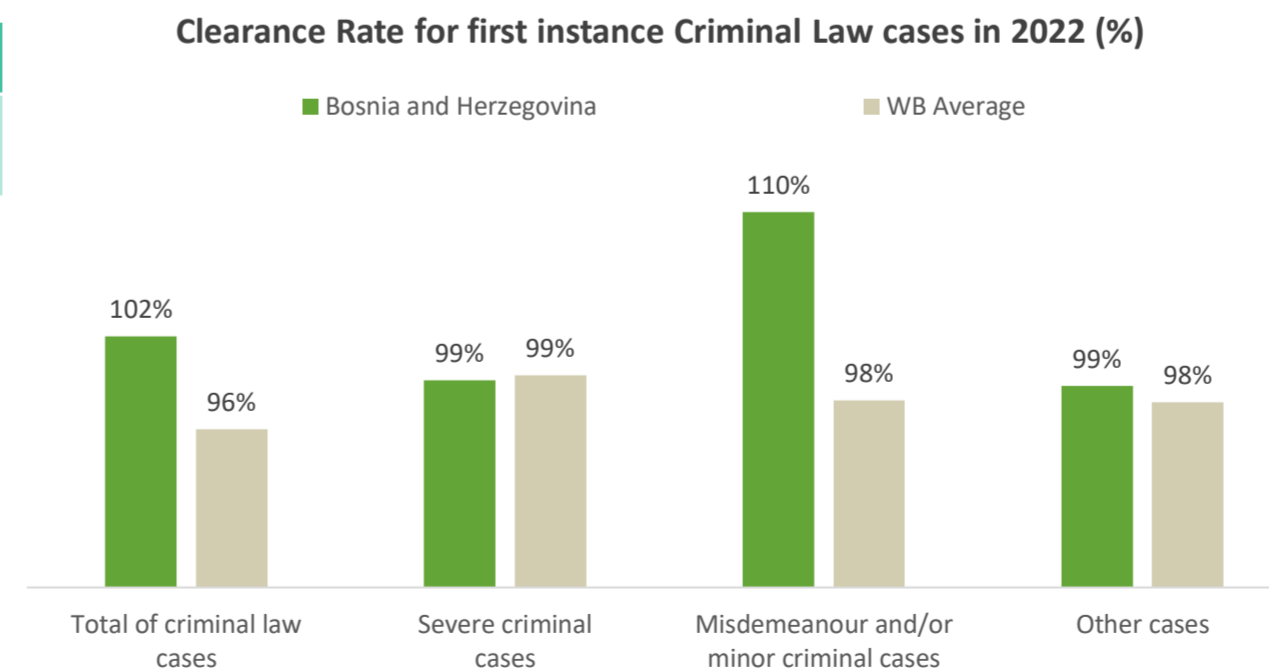
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	<	Lower than the WB Average



1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	CR (PPT)	DT (%)
<b>Total of criminal law cases (1+2+3)</b>	102%	96%	255	185	1,3	-5,6%
<b>1 Severe criminal cases</b>	99%	99%	322	217	-4,4	7,5%
<b>2 Misdemeanour and / or minor criminal cases</b>	110%	98%	261	221	16,3	-16,0%
<b>3 Other cases</b>	99%	98%	248	205	-5,2	-0,6%

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Clearance rate: 100%; - Disposition time: 134 days.

PPT = Percentage points



• Second instance cases - Other than criminal law cases

2nd instance cases in 2022 (absolute values)	Bosnia and Herzegovina (2022)				% Variation between 2021 and 2022			
	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
<b>Total of other than criminal law cases (1+2+3+4)</b>	37 241	43 176	28 563	7 931	31,9%	27,9%	-17,2%	-36,7%
1 Civil and commercial litigious cases	33 847	38 164	24 841	7 865	37,6%	33,8%	-14,8%	-34,7%
2 Non-litigious cases**	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
3 Administrative cases	3 394	5 012	3 722	66	-6,4%	-4,2%	-30,3%	-86,3%
4 Other cases	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.

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 initiating the second instance court cases in 2020 was much lower, compared to the previous years. In 2021, however, the number of incoming second instance civil commercial litigious cases was increased by 9% compared to 2020; nevertheless, that number is by far smaller than the number of incoming second instance civil commercial litigious cases registered in 2019 and 2018. This trend continued in 2022. However, one of the second-instance courts received a large number of simple cases, which were resolved during the same year, which resulted in an increase in the total number of cases received compared to 2021. This was a one-time increase in the influx of cases, related specifically to this court's territorial jurisdiction. Furthermore, the courts with the biggest caseload in the country have managed to surpass the 100% clearance rate for many consecutive years, including the reference year; consequently, the number of pending second instance civil commercial litigious cases was lesser at the end of 2022. No major legislative reforms in terms of the laws on civil and commercial procedure took place in the recent years. When it comes to administrative court cases, the number of pending cases has been further reduced in 2022, confirming indicators from 2021.

In 2022, the incoming civil and commercial litigious cases were 33 847 (0,98 per 100 inhabitants vs the WB Average of 1,2). They increased by 37,6% between 2021 and 2022. The resolved cases were 38 164 (1,11 per 100 inhabitants). Between 2021 and 2022, they increased by 33,8%. The number of resolved cases was thus higher than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2022 were less than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 113% (above the WB Average of 92%). This decreased by -3,2 percentage points compared to 2021.

The Disposition Time for civil and commercial litigious cases was approximately 238 days in 2022 (below the WB Average of 627 days). This decreased by -36,3% compared to 2021.

The incoming administrative cases were 3 394 in 2022 (ie 0,1 per 100 inhabitants vs the WB Average of 0,13). They decreased by -6,4% compared to the previous year. The resolved cases were 5 012 (0,15 per 100 inhabitants, above of the WB Average of 0,12). Between 2021 and 2022, the number of resolved administrative decreased by -4,2%. The number of incoming cases was thus lower than the resolved cases. As a consequence, the administrative pending cases at the end of 2022 were less than in 2021 and the Clearance rate for this type of cases was 148% (above the WB Average (92%). The CR increased by 3,3 percentage points compared to the previous year.

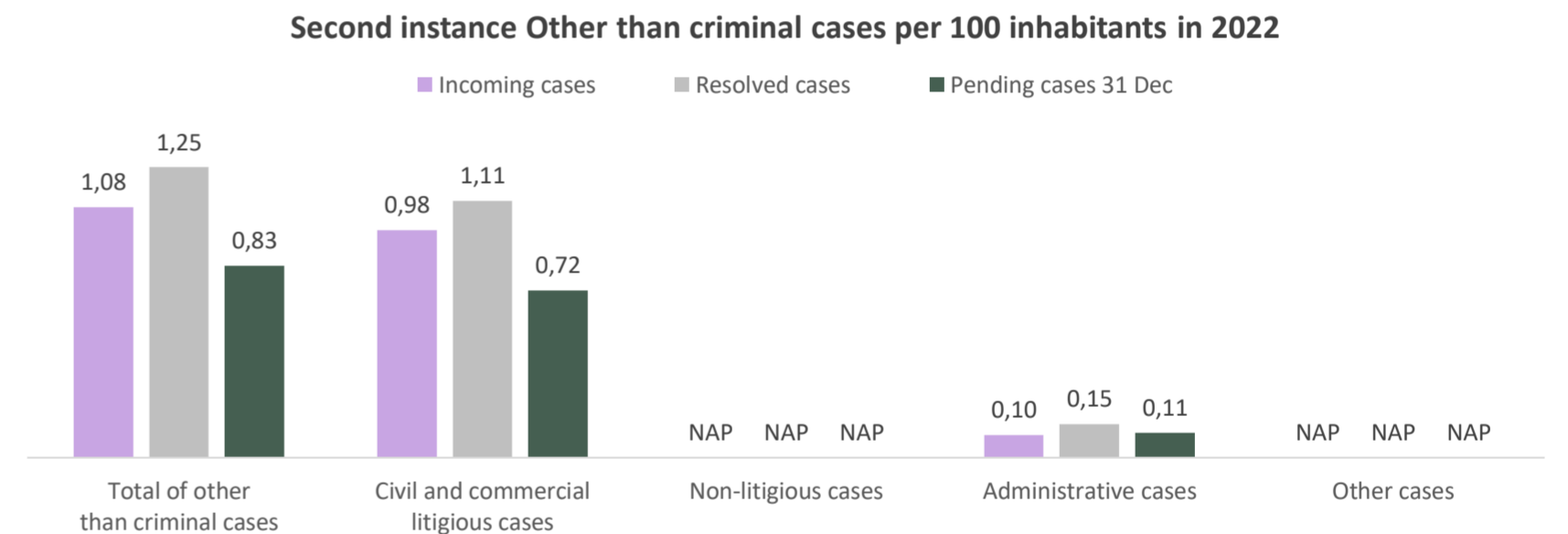
Finally, the Disposition Time for administrative cases was approximately 271 days in 2022. This has decreased by -27,2% compared to 2021 and it was above the WB Average (193 days).

2nd instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average
<b>Total of other than criminal law cases (1+2+3+4)</b>	1,08	< 1,37	1,25	< 1,30	0,83	< 1,11	0,23	< 0,71
1 Civil and commercial litigious cases	0,98	< 1,20	1,11	< 1,14	0,72	< 0,88	0,23	< 0,57
2 Non-litigious cases**	NAP	0,11	NAP	0,10	NAP	0,07	NAP	0,03
3 Administrative cases	0,10	< 0,13	0,15	> 0,12	0,11	< 0,24	0,002	< 0,16
4 Other cases	NAP	-	NAP	-	NAP	-	NAP	-

For reference only: the 2021 EU Median was as follows:

- Incoming Second instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;
- incoming Second instance Administrative cases per 100 inhabitants: 0,3.

Key:	>	Higher than the WB Average
	=	Equal to the WB Average
	<	Lower than the WB Average



2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	CR (PPT)	DT (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	116%	90%	241	760	-3,7	-35,3%
1 Civil and commercial litigious cases	113%	92%	238	627	-3,2	-36,3%
2 Non-litigious cases**	NAP	90%	NAP	409	NAP	NAP
3 Administrative cases	148%	92%	271	193	3,3	-27,2%
4 Other cases	NAP	-	NAP	-	NAP	NAP

PPT = Percentage points

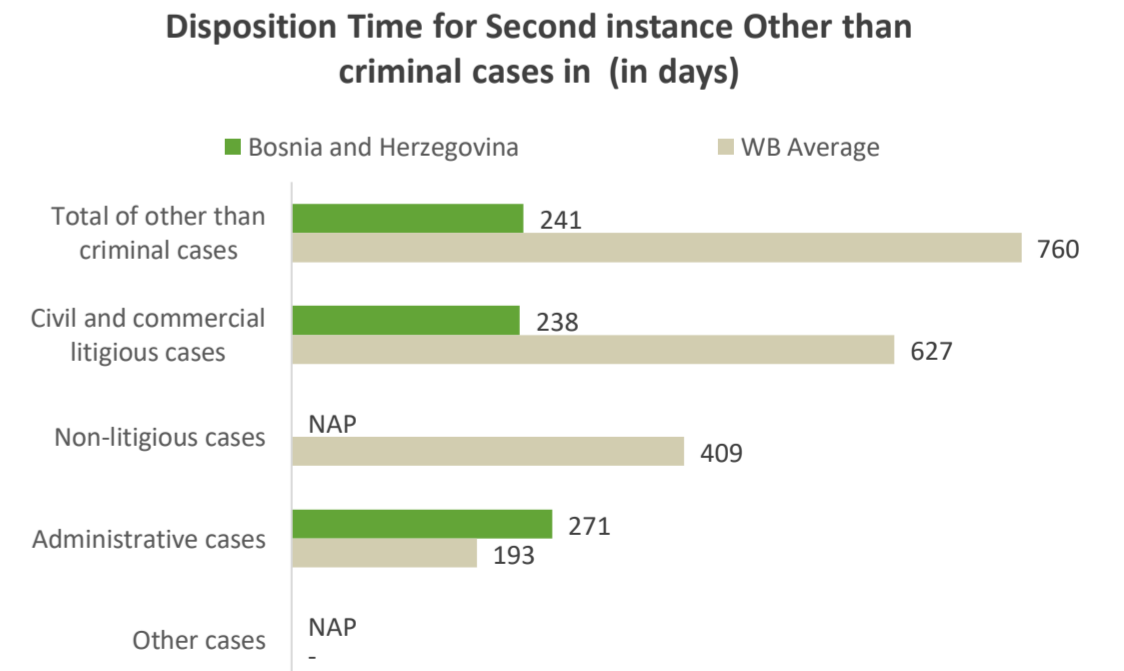
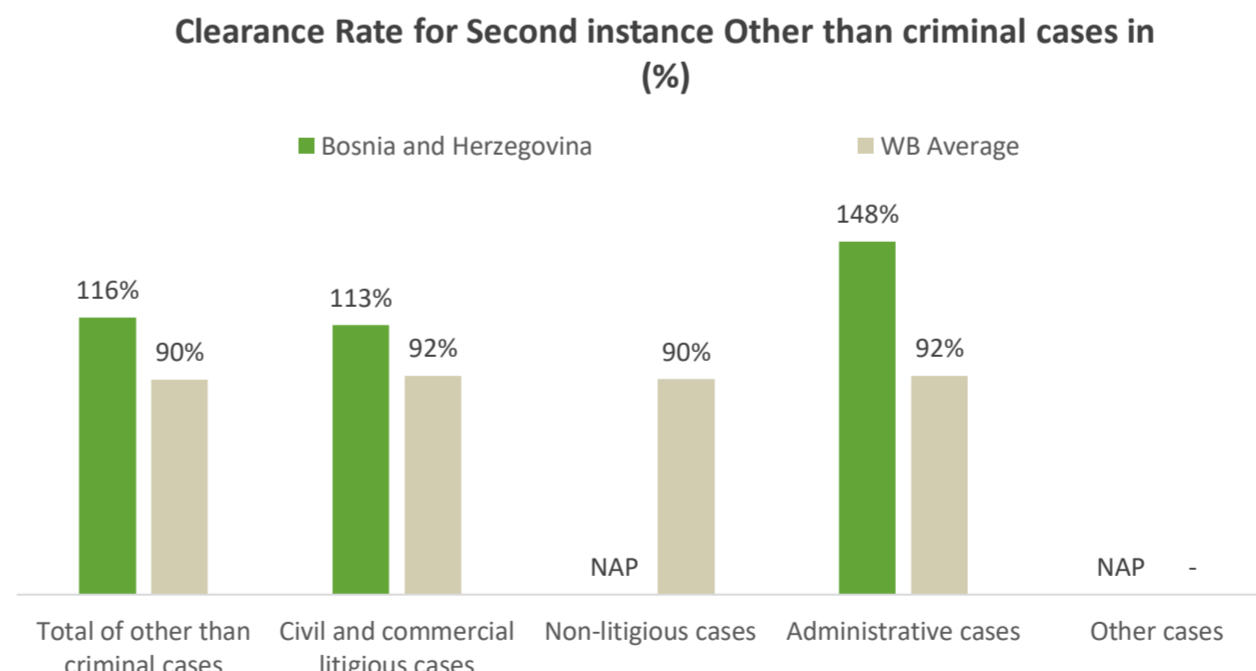
For reference only: the 2021 EU Median for the Second instance Civil and Commercial litigious cases was as follows:

- Clearance rate: 102,5%;
- Disposition time: 234 days.

For reference only: the 2021 EU Median for the Second instance Administrative cases was as follows:

- Clearance rate: 101,7%;
- Disposition time: 296 days.

NB: In the table and the graph above, the WB Median of the Disposition Time is presented for the second instance Administrative cases, instead of the WB Average.



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

2nd instance cases in 2022 (absolute values)	Bosnia and Herzegovina (2022)				% Variation between 2021 and 2022			
	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
<b>Total of criminal law cases (1+2+3)</b>	12 626	12 718	1 953	194	-4,7%	-3,6%	-4,5%	-9,3%
1 Severe criminal cases	3 038	3 072	1 171	113	1,8%	4,3%	-2,8%	-11,0%
2 Misdemeanour and / or minor criminal cases	3 184	3 221	307	0	0,7%	1,3%	-10,8%	NA
3 Other cases	6 404	6 425	475	81	-9,9%	-9,1%	-4,2%	-6,9%

In 2022, the incoming total criminal cases were 12 626 (0,37 per 100 inhabitants vs the WB Average of 0,5), and they decreased by -4,7%, compared to the previous year. The resolved cases were 12 718 (0,37 per 100 inhabitants). Between 2021 and 2022, they decreased by -3,6%. In 2022, the number of resolved cases was thus higher than the incoming cases. As a consequence, the total criminal pending cases at the end of 2022 were less than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 101% (above the WB Average of 94%). This increased by 1,2 percentage points compared to 2021.

The Disposition Time for total criminal cases was approximately 56 days in 2022 (below the WB Average of 172 days). This decreased by -0,9% compared to 2021.

Second instance courts have a dual subject matter in criminal matters. The second instance courts have first instance jurisdiction for criminal offences for which more than 10 years of imprisonment is prescribed, and also a 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.

Definition of severe and minor criminal offences in Bosnia and Herzegovina is following:

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.

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.

2nd instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average
<b>Total of criminal law cases (1+2+3)</b>	0,37	< 0,50	0,37	< 0,47	0,06	< 0,16	0,01	< 0,04
1 Severe criminal cases	0,09	< 0,20	0,09	< 0,18	0,03	< 0,09	0,00	< 0,02
2 Misdemeanour and / or minor criminal cases	0,09	< 0,22	0,09	< 0,21	0,01	< 0,05	0,000	< 0,009
3 Other cases	0,19	> 0,13	0,19	> 0,14	0,01	< 0,02	0,002	< 0,005

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Incoming cases per 100 inhabitants: 1,6.

Key: > Higher than the WB Average  
= Equal to the WB Average  
< Lower than the WB Average

Second instance Criminal law cases per 100 inhabitants in 2022



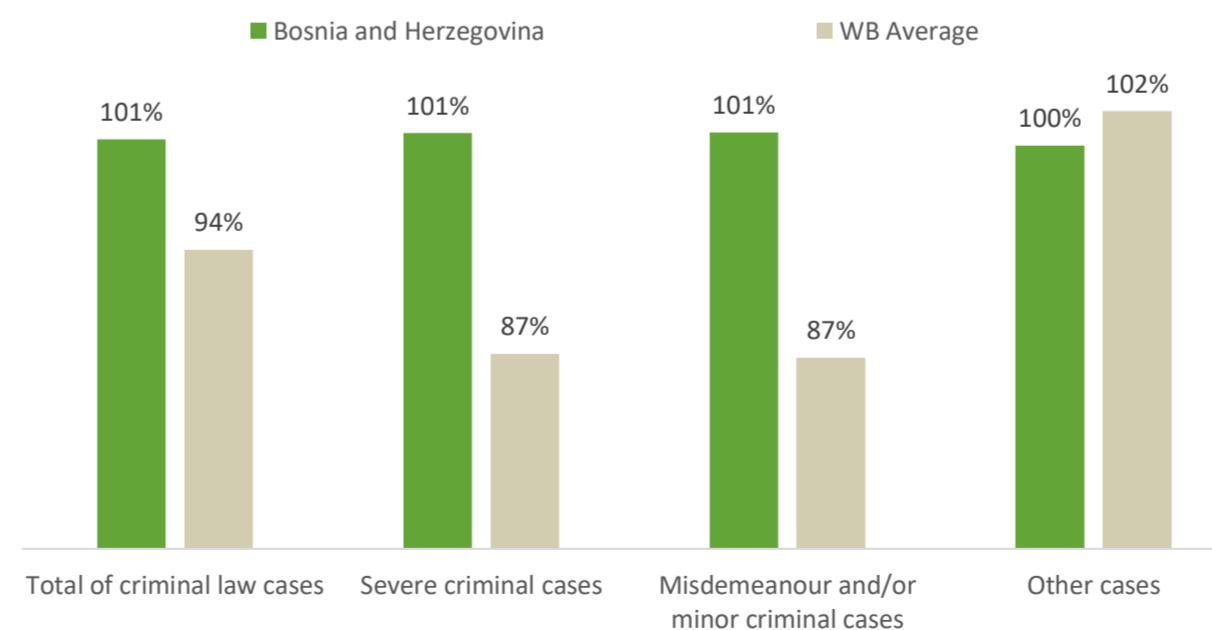
2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average	CR (PPT)	DT (%)
<b>Total of criminal law cases (1+2+3)</b>	101%	94%	56	172	1,2	-0,9%
1 Severe criminal cases	101%	87%	139	352	2,4	-6,8%
2 Misdemeanour and / or minor criminal cases	101%	87%	35	84	0,7	-11,9%
3 Other cases	100%	102%	27	53	0,9	5,4%

PPT = Percentage points

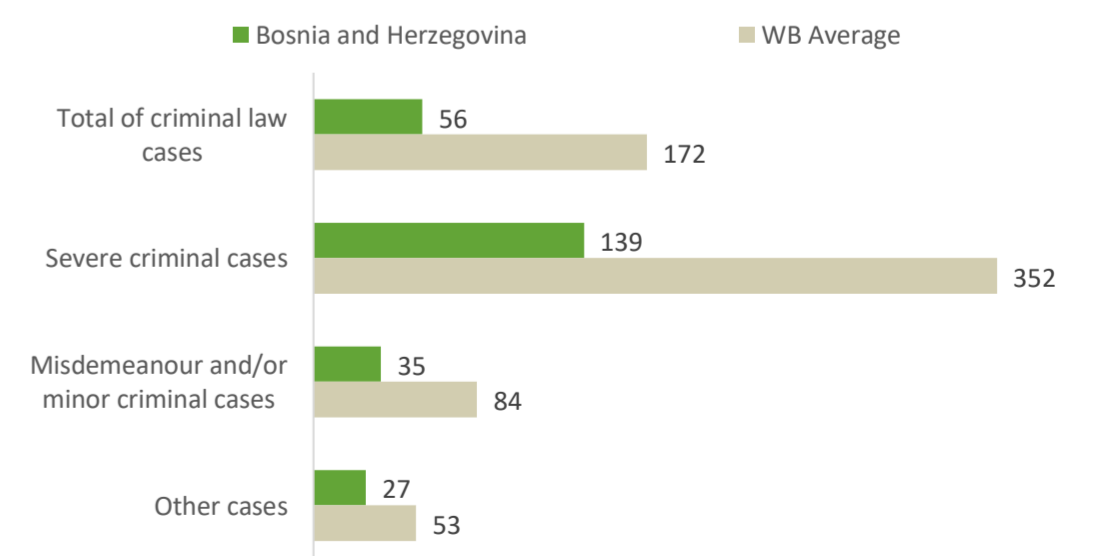
For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:  
- Clearance rate: 100%;  
- Disposition time: 134 days.

NB: In the table and the graph above, the WB Median of the Disposition Time is presented for the second instance Other criminal cases, instead of the WB Average.

Clearance Rate for second instance Criminal Law cases in 2022 (%)

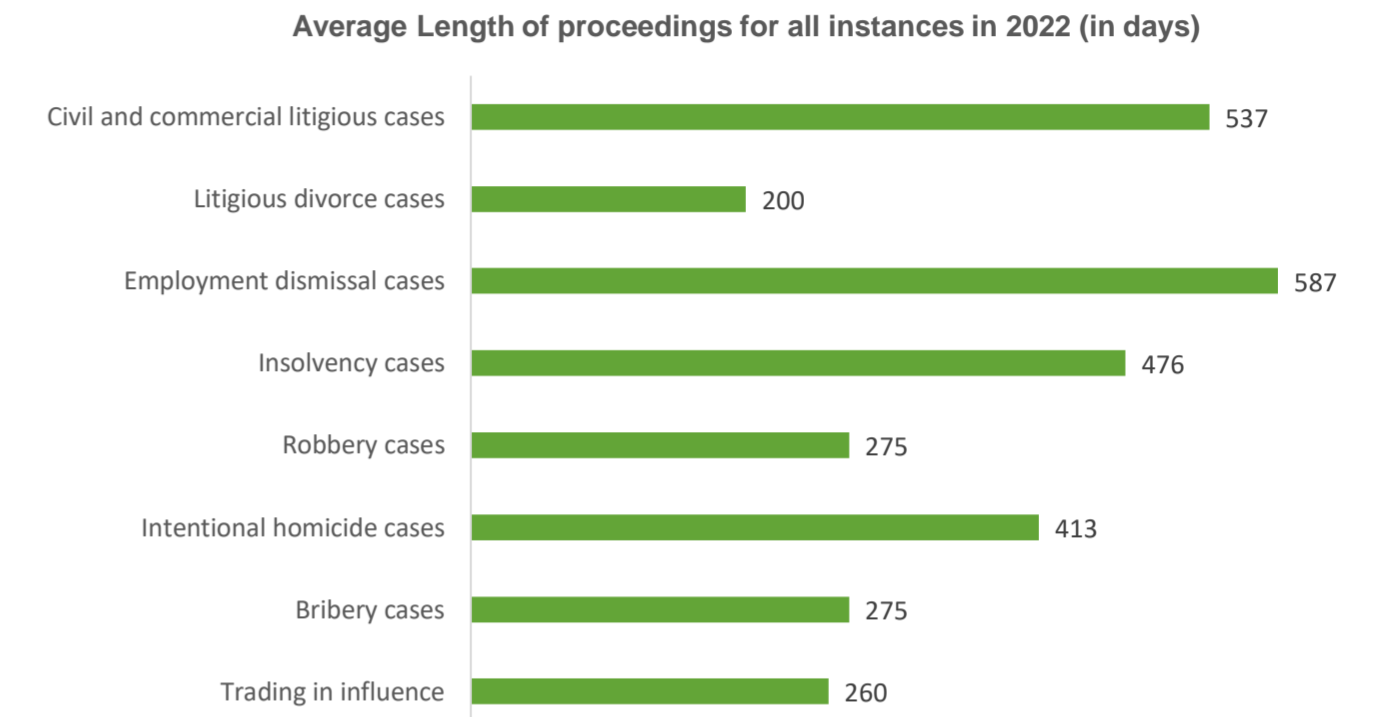


Disposition Time for second instance Criminal Law cases in 2022 (in days)



• Specific category cases

	Bosnia and Herzegovina (2022)						% Variation between 2021 and 2022					
	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	19%	591	407	149	537	28%	0,0	6%	-27%	-7%	-2%	1%
Litigious divorce cases	8%	195	248	62	200	0%	-1,0	-3%	-8%	-66%	-2%	0%
Employment dismissal cases	69%	457	893	115	587	13%	12,0	0%	-6%	-34%	-5%	-2%
Insolvency cases	12%	521	99	11	476	33%	-3,0	-1%	65%	-77%	3%	2%
Robbery cases	46%	314	184	0	275	25%	1,0	-16%	-10%	-100%	-14%	0%
Intentional homicide cases	52%	513	260	223	413	20%	-16,0	58%	22%	12%	45%	3%
Bribery cases	38%	337	109	0	275	10%	-3,0	-21%	-16%	NA	-14%	4%
Trading in influence	88%	306	190	0	260	9%	48,0	-49%	40%	NA	-50%	-4%



The average length of cases corresponds to the average length of resolved cases at a certain instance within the reference year. The Bosnia and Herzegovina's authorities reported that they used the following calculation methods:

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 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.

CEPEJ points out that the calculation of the average length of the total procedure might need to be revisited considering that the average length in total can not be shorter than the average length on first instance.

According to the authorities, it is important to note that the backlog of old litigious small claims cases for unpaid utility bills is concentrated in the several first instance courts in the biggest cities in Bosnia and Herzegovina.

The average duration of second-instance litigation of economic commercial cases decreased significantly due to the increase in the number of resolved cases in the largest courts of second instance.

As in previous years, for these categories of court cases, the variations are primarily due to a relatively small number of cases (intentional homicide, trading of influence) or the significant influence by the length of proceedings and other circumstances of individual cases (e.g. robberies and intentional homicides). 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 in this question 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.

## • 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. Also, both courts and public prosecution services have specialised personnel entrusted with implementation of these national level quality standards.

In December 2020, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted the criteria for the performance evaluation of judges, prosecutors, court presidents, and chief prosecutors. According to the criteria:

The court presidents evaluate yearly judges in line with the following performance criteria: quantity of work (i.e. annual quota), percentage of realization of individual case resolution plan, 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 chief prosecutors evaluate yearly prosecutors in line with the following performance criteria: quantity of work (i.e. annual quota), percentage of realization of individual backlog reduction plan, and statistical quality of decisions. 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 evaluate yearly 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, there is a normative framework that consists of the various law provisions, regulations, and guidelines. The framework outlines systematic processes in the entire judicial system of Bosnia and Herzegovina as well as in the prosecutors' offices and courts, which have a purpose to help the judicial institutions 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 programme by the judicial training institutions etc.

• **Regular monitoring of courts and prosecution offices' activities**

In Bosnia and Herzegovina, there exists a system to annually evaluate court performance based on the monitored indicators listed below. This evaluation of the court activities is not used for the allocation of resources within the courts.

Moreover, there exists a system to annually evaluate public prosecution services' performance based on the monitored indicators listed below.

	Regular assessment	
	Courts	Prosecution offices
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. Before making plans for resolving cases, courts need to analyze the causes that have led to a large number of pending cases. 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

The 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.

The criteria for regular assesment of judges are specified in previous title.

In addition, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina is responsible to provide instructions to the courts in relation to management issues and to determine criteria for the work of courts and court presidents. The High Judicial and Prosecutorial Council of Bosnia and Herzegovina and the superior hierarchical court president monitor regularly the implementation of those instructions and criteria.

As metioned above, the new criteria for the performance evaluation of court presidents were adopted in December 2020. The new criteria include the performance criteria in relation to management issues: the achieved collective target quota of the court, and the organization and management of the work of the court (e.g. realization of the annual work plan, realization of the backlog reduction plan).

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.

The criteria for regular assesment of prosecutors are specified in previous title.

As for courts, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina is responsible to provide instructions to the prosecutors' offices in relation to management issues and to determine criteria for the work of the prosecutors' offices and chief prosecutors.

• Quantitative targets for each judge and prosecutor

Existence of quantitative targets for:

Judges



Prosecutors



Responsibility for setting up quantitative targets for judges lies on:	
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:	✗

Responsibility for setting up quantitative targets for public prosecutors lies on:	
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	For judges	For public prosecutors
Warning by court's president/ head of prosecution	✗	✗
Disciplinary procedure	✗	✗
Temporary salary reduction	✗	✗
Reflected in the individual assessment	✗	✗
Other	✓	✓
No consequences	✗	✗

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.

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.

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. The Book of Rules sets monthly and annual quota for each type of a case within a given case category and its weight.

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina has adopted the Book of Rules on Referential Quota for the Work of the Prosecutors in Bosnia and Herzegovina in accordance with the its competencies determined by the law.

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.



• Qualitative targets for each judge and prosecutor

Existence of qualitative targets for:		Judges	Prosecutors
Responsibility for setting up the criteria qualitative 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		✗	✗
Responsibility for setting up the criteria for the qualitative assessment of the public prosecutors' work			
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		✗	✗

Frequency of this assessment	For judges	For public prosecutors
Annual	✓	✓
Less frequent	✗	✗
More frequent	✗	✗

A judge Bosnia and Herzegovina is evaluated by the court president yearly according to the following performance criteria: quantity of work (i.e. annual quota), percentage of realization of individual case resolution plan, and statistical quality of decisions. The statistical quality of decisions issued by a judge is evaluated based on the following sub-criteria:

- 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 assessment of the statistical quality of the prosecutor's decisions is established on the basis of the quality of the indictments and the quality of the decisions not to investigate and orders to terminate an investigation.

The quality of a prosecutor's indictments is evaluated on the basis of the total number of issued indictments and the total number of final judgements dismissing charges, acquitting the persons charged, and on the basis of final court decisions on dismissing indictments, proportionate to the total number of indictments issued in the evaluation period. The quality of a prosecutor's orders not to investigate and orders to terminate an investigation is evaluated on the basis of the total number of such orders issued during the period covered by the evaluation and the total number of decisions rendered by a chief prosecutor, during that time, approving complaints lodged against those orders.

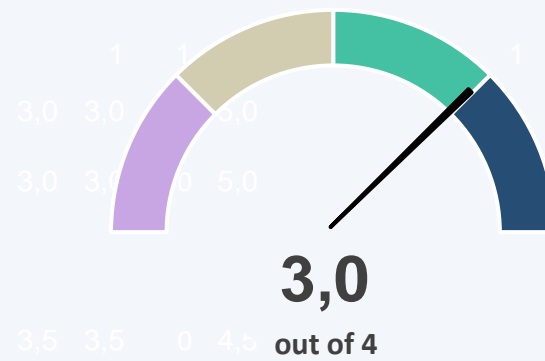
Kosovo is not included in the calculation of summary statistics

## Electronic case management system and court activity statistics in Bosnia and Herzegovina in 2022 (Indicator 3.3)

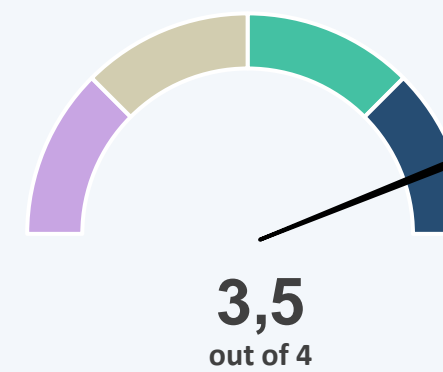
The Case Management System (CMS) Index is an index ranging from 0 to 4 points. It is calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary.

The methodology for calculation provides one index point for each of the five questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarized while 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. This methodology provides an adequate evaluation.

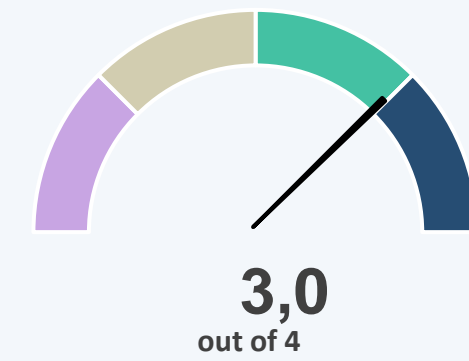
CMS index for Civil and/or commercial



CMS index for Administrative



CMS index for Criminal



### Electronic case management system

In Bosnia and Herzegovina, the High Judicial and Prosecutorial Council has formed a working group for drafting a medium-term strategy for the development and implementation of information technologies in the judiciary.

In Bosnia and Herzegovina, 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 Case Management System in the judicial system of Bosnia and Herzegovina: CMS v1 was developed more than 10 years ago, CMS v2 was developed between 2 and 5 years ago. Both versions are used on the same database.

A new version of the Case Management System (version 3.0) will be tested in several courts and prosecutors' offices during 2023. It is based on new WEB technologies. The full-scale implementation of the new version of the Case Management System will take place in 2024.

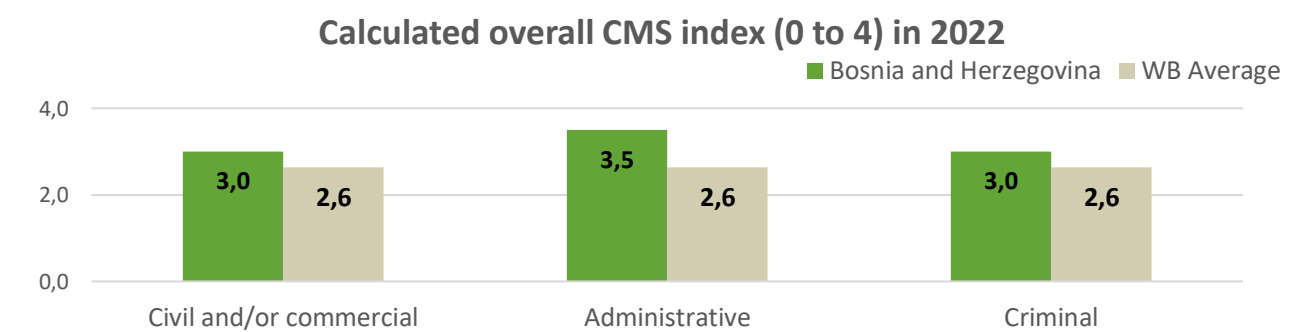
The CMS is developed in all courts (100% deployment rate) and the data is stored on a database consolidated at national level. The CMS is fully integrated with a Business intelligence system (BI). The CMS index for Bosnia and Herzegovina is slightly higher than the WB average (3 for civil and/or commercial cases and criminal cases and 3,5 administrative cases while the WB average is 2,6).

	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%	Not accessible at all	✓	✓	Fully integrated including BI
Administrative	100%	Accessible to parties	✓	✓	Fully integrated including BI
Criminal	100%	Not accessible at all	✓	✓	Fully integrated including BI

Legend for "Status of case online":

Both: Accessible to parties  
Publication of decision online

	Overall CMS Index in 2022	
	Bosnia and Herzegovina	WB Average
Civil and/or commercial	3,0	2,6
Administrative	3,5	2,6
Criminal	3,0	2,6



• **Centralised national database of court decisions**

In Bosnia and Herzegovina, there is a centralised national database of court decisions in which in which all judgments for all instances are collected, with anonymised data. This case-law database is available online for free. There are 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
<b>Civil and/or commercial</b>	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✓	✗
<b>Administrative</b>	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✓	✗
<b>Criminal</b>	Yes some judgements	Yes some judgements	Yes some judgements	✗	✓	✓	✗

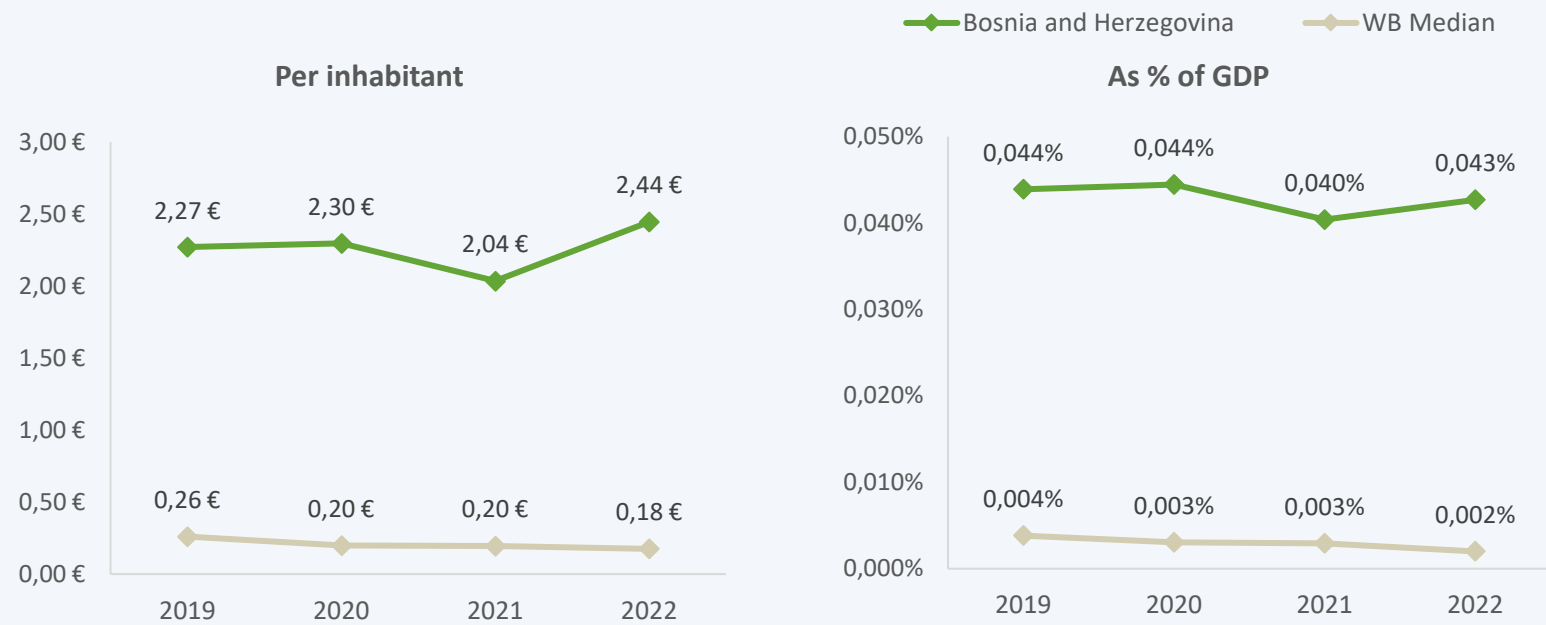
The Bosnia and Herzegovina's authorities reported that the central database of court decisions is developed and maintained by HJPC's Judicial Documentation and Training Department – former Judicial Documentation Centre. Since 2021, the HJPC decided to open this database for public free of charge and without registration. The HJPC BiH has also issued a new anonymization instruction in order to make database more user friendly. According to this instruction, more information in court decisions are available, i.e. data on all state officials mentioned in the decisions, data on public enterprises and institutions, name and surname of the convicted persons in high-profile cases (war crime cases, organised crime and corruption cases, terrorism cases etc). This is an advancement comparing to the former rule where all data were anonymized (total anonymization). In this way, the HJPC has made an effort to make balance between public and private interest. Also, according to the new instruction, all final decisions in this type of cases are published through the central database, which is new practice compared to previous rule, according to which only decisions selected and provided by the courts of highest instance were published (Appellate Court of Brcko District, Court of BiH – Appellate Division, Supreme Court of BiH Federation and Supreme Court of Republika Srpska).

Also, in 2021, the HJPC secured funding for development of case-law database of the aforementioned courts of highest instance (e-Sentence), through which not only legal positions taken by these courts will be made available, but also the related court decisions, anonymised as well. This database will enable judges to get acquainted with the relevant legal positions and compare those with their cases when rendering new decisions. E-Sentence database was launched in November 2021, and is publicly available as of 1 February 2022, also free of charge. With all this, the HJPC is making an effort to ensure greater transparency and facilitate access to court decisions, as well as to enable judges and prosecutors in BiH to be more consistent in their decision-making and thus ensure a more harmonised case law.

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

## Legal Aid in Bosnia and Herzegovina in 2022 (Indicator 4)

Total implemented budget for Legal Aid between 2019 and 2022



Number of cases for which LA has been granted in 2022



**0,75**

per 100 inhabitants

WB Median: 0,27

In 2022, the implemented budget for legal aid spent by Bosnia and Herzegovina was 8 442 077€ (5,61% of the judicial system budget). This means that an amount of 2,44€ was spent per inhabitant (considerably above the WB Median of 0,18€). The budget for legal aid was equal to 0,043% of the GDP, whereas the WB Median was 0,002%.

### • Organisation of the legal aid system

The Bosnia and Herzegovina's authorities reported that the courts and the specialized government institutions provide free legal aid to citizens in relation to court proceedings.

Free legal aid is provided by the courts in criminal proceedings by assigning a lawyer to a suspected or accused person if that person meets the conditions laid down by law (e.g. obligatory defense etc.) Also, the courts may make a decision on exemption from the costs of proceedings for parties in different types of proceedings (e.g. criminal, civil). In addition, free legal aid centers have been established by the legislation adopted at all levels of government as a part of the respective public administration system. Employees of free legal aid institutions represent the citizens in various types of court and non-court proceedings or give legal advice to the citizens and compose legal documents for them. Citizens are entitled to free legal aid provided by the legal aid institutions if they fulfill financial and property criteria prescribed by the relevant legislation.

#### Legal aid is applied to:

	Criminal cases	Other than criminal cases
Representation in court	✓	✓
Legal advice, ADR and other legal services	✓	✓

In Bosnia and Herzegovina, legal aid is exercised in different types of court proceedings as a right to:

- general information on rights and obligations,
- legal advice and assistance in filling out forms,
- legal assistance in compiling all types of correspondence,
- representation in court,
- making an appeal and
- legal assistance in the procedures of peaceful settlement of the dispute (e.g. mediation).

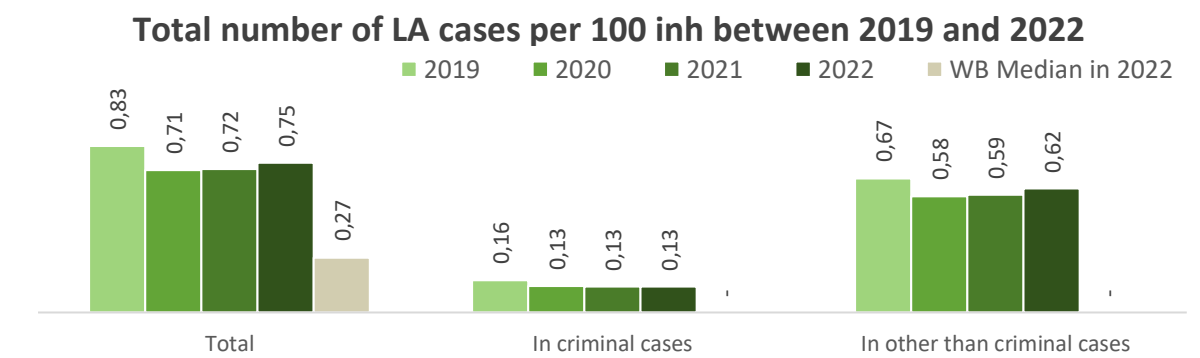
• **Implemented budget for legal aid and number of cases for which legal aid has been granted**

	Implemented budget for legal aid in €				Total implemented budget for legal aid per inhabitant		Total implemented budget for legal aid as % of GDP		Total implemented budget for legal aid as % of the judicial system budget	
	Total (a+b)	% Variation 2019 - 2022	Cases brought to court (a)	Cases not brought to court (b)	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median	Bosnia and Herzegovina	WB Median
<b>Total (1+2)</b>	8 442 077 €	6,4%	NA	NA	2,44 €	0,18 €	0,043%	0,002%	5,61%	0,7%
<b>In criminal cases (1)</b>	NA	NA	NA	NA						
<b>In other than criminal cases (2)</b>	NA	NA	NA	NA						

In 2022, Bosnia and Herzegovina spent 8 442 077€ on the total implemented budget for legal aid, which was 6,4% more compared to 2019. It spent a more than double amount per inhabitant compared to the WB Median (2,44€ and 0,18€, respectively).

The Bosnia and Herzegovina's authorities reported that 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 accounting methodology does not make it possible to distinguish the amount of budget funds earmarked by the courts for legal aid from other funds which are planned within the same line in the court budget. Nevertheless, it is possible to differentiate the amount of funds spent for legal aid in the implemented court budget. On the other hand, 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). Therefore it is not possible to split the planned or implemented budget funds of the legal aid institutions between different legal fields. It is 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 (a+b)			Cases brought to court (a)	Cases not brought to court (b)	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 inh.	% Variation 2019 - 2022					
<b>Total (1+2)</b>	25 834	0,75	-10,2%	8 098	17 736	326,8 €	NA	NA
<b>In criminal cases (1)</b>	4 462	0,13	-20,2%	3 835	627	NA	NA	NA
<b>In other than criminal cases (2)</b>	21 372	0,62	-7,7%	4 263	17 109	NA	NA	NA



In 2022, the number of cases for which legal aid was granted was 25 834, which was -10,2% less compared to 2019. The number of criminal cases were 4 462, and the other than criminal cases were 21 372. The total cases brought to court were 8 098, while the total cases not brought to court were 17 736. On average, the amount granted per legal aid case was 326,8€.

The various categories of cases include the following:

- Criminal cases brought to court: cases (criminal/misdemeanor) in which free legal aid was given through representation in court and cases in which free legal aid was given for the costs of proceedings.
- Other cases brought to court: 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.
- Cases not brought to court: 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.

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. Free legal aid is provided by the courts in criminal proceedings by assigning a lawyer to a suspected or accused person if that person meets the conditions laid down by law. Also, the courts make a decision on exemption from the costs of proceedings for parties in different types of proceedings (e.g. criminal, civil). Employees of institutions providing free legal aid represent the party in various types of court proceedings, compose legal documents and give legal advice to a person who meets financial and property criteria.

The data refer to the number of cases in which courts and institutions of free legal aid provided legal assistance in the described ways. It is important to notice 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.

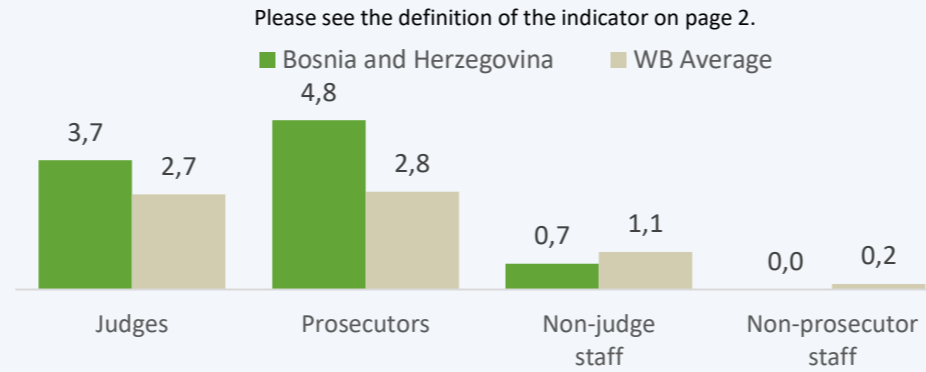
*Kosovo is not included in the calculation of summary statistics*

## Training of judges and prosecutors in Bosnia and Herzegovina in 2022 (Indicator 7)

### Total budget for training per inhabitant



### Average number of live training participations per professional



### Average number of participants per delivered training



The total budget for training of judges and prosecutors in Bosnia and Herzegovina was 0,22€ per inhabitant, lower than the WB Average of 0,66€ per inhabitant.

In 2022, 6 235 participants (of which 3 660 judges and 1 717 prosecutors) were trained in 245 live trainings (in-person, hybrid or video conferences).

There were 1537 participants in internet-based trainings. This shows that the participation on live trainings is higher than the participation in internet-based trainings.

In Bosnia and Herzegovina, each judge participated, on average, to 3,7 live trainings in 2022, which was higher than the WB Average (2,7) while each prosecutor participated, on average, to 4,8 live trainings, more than the WB Average (2,8).

Regarding the internet-based trainings (not-live), 22 trainings in total were provided on the e-learning platform of the training institution for judges and prosecutors, whereas a total of 6 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.). The total number of participants was 990 and 547, respectively.

In Bosnia and Herzegovina, both judges and prosecutors are required to attend a minimum of 3 days of in-service compulsory training.

### Budget for training

This part analyses the budget of training institution/s for judges and prosecutors but also the budgets of courts and prosecutions dedicated to training (when applicable)

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Absolute Number	Total (1)+(2)				% Variation 2019 - 2022	% Variation 2021 - 2022	WB Average per inhabitant
				Evolution of training budget per inhabitant						
				2019	2020	2021	2022			
<b>Total</b>	654 087 €	113 623 €	767 710 €	NA	0,17 €	0,19 €	0,22 €	NA	19,7%	0,66 €
<b>Judges</b>	NAP	97 919 €	97 919 €							
<b>Prosecutors</b>	NAP	15 704 €	15 704 €							
<b>One single institution for both judges and prosecutors</b>	654 087 €		654 087 €							
<b>Donor's contribution</b>	NA									

Bosnia and Herzegovina spent in total 767 710€ for training for judges and prosecutors in 2022, which is 0,22€ per inhabitant (below the WB average of 0,66€ per inhabitant).

There are two training institutions in Bosnia and Herzegovina which are responsible for judicial training in two different entities in the country. Each of these institutions is responsible for both judges and prosecutors. Their respective adopted budgets for 2022 were: The Judicial and Prosecutorial Training Centre of Republika Srpska - 281 970 EUR. Budget funds for the Center for Education of Judges and Prosecutors in the Republic of Srpska have increased as material costs rose in 2022 due to the growth of inflation. The Judicial and Prosecutorial Training Centre of the Federation of Bosnia and Herzegovina - 333 132 EUR. Many of training courses delivered in the training institutions are prepared by domestic experts who are financed by external donors. The external donor funds used for this purpose are not included in the budget of the training institutions. In addition, the training institutions spent grants worth EUR 38.985,57 provided within the specific projects by the external donors in 2022, (i.e. the external donors which provided the grants were: UNICEF, the Council of Europe - SOUTH-EAST EUROPE Freedom of expression, The AIRE Centre - Advice on Individual Rights in Europe).

## • Number of in-service live trainings and participants

### Organisation of the trainings (number, duration and average number of participants on trainings)

	Live (in-person, hybrid, video conference) trainings (2022)							
	Number of available trainings	Number of delivered trainings	Delivered trainings in days	Number of participants	Average duration of trainings in days		Average number of participants per delivered training	
					Bosnia and Herzegovina	WB Average	Bosnia and Herzegovina	WB Average
<b>Total</b>	279	245	322	6 235	1,3 <	1,4	25,4 >	19,8
<b>Judges</b>	176	158	213	3 660	1,3 <	1,4	23,2 >	12,5
<b>Prosecutors</b>	81	67	113	1 717	1,7 >	1,5	25,6 >	11,8
<b>Non-judge staff</b>	22	20	20	858	1,0 <	1,3	42,9 >	24,7
<b>Non-prosecutor staff</b>	0	0	0	0	0,0 <	1,0	0,0 <	26,9

CEPEJ distinguish these types of trainings:  
 "A live" training shall be understood as a training conducted in real time. This means that both trainers and participants are physically present in one location or several locations assisted with information technology (digital tools).  
 "Internet-based" trainings are all trainings that take place over internet, irrespective of the format of the training (such as trainings via specifically designed LMS - Learning Management System platforms, webinars, podcasts and other forms of downloadable lectures and self-learning digital tools). The internet-based training shall be understood as e-training that is implemented according to participant own pace and time of training.

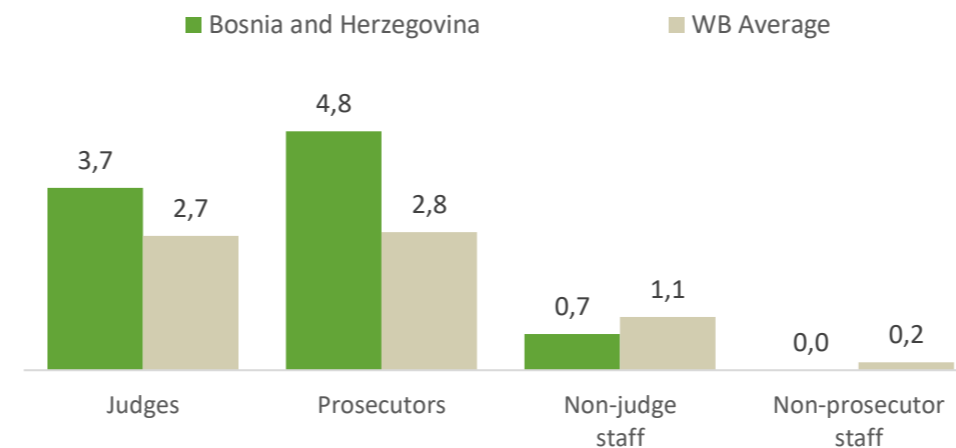
Key:		
>	Higher than the WB Average	
=	Equal to the WB Average	
<	Lower than the WB Average	

In 2022, the average duration of trainings for judges in Bosnia and Herzegovina was 1,3 days (slightly below the WB Average of 1,4). During the same period, the average duration of training for prosecutors was 1,7 days, which was above the WB Average of 1,5 days.

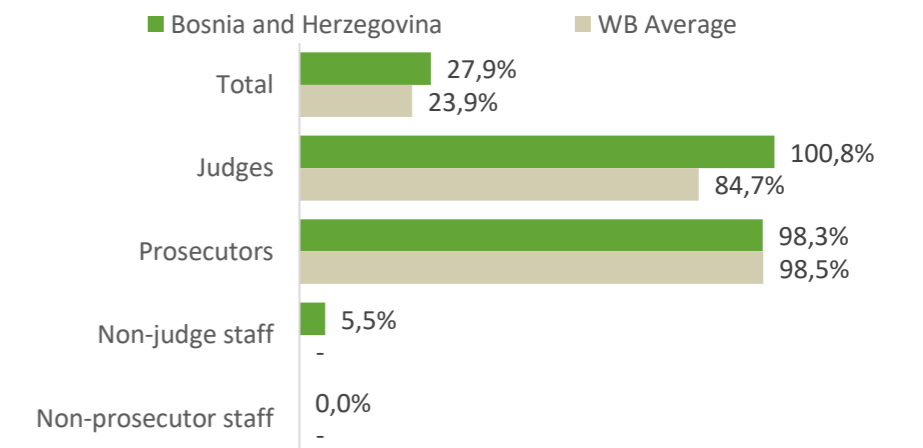
### Indicators on training participation: Number of training participations per professional and unique participants

	Average number of live training participations per professional		Professionals attending at least one training (unique participants)		
	Bosnia and Herzegovina	WB Average	Number	% of total professionals by category	
				Bosnia and Herzegovina	WB Average
<b>Total</b>	1,1 >	0,9	1 549	27,9% >	23,9%
<b>Judges</b>	3,7 >	2,7	1 008	100,8% >	84,7%
<b>Prosecutors</b>	4,8 >	2,8	352	98,3% <	98,5%
<b>Non-judge staff</b>	0,7 <	1,1	189	5,5%	-
<b>Non-prosecutor staff</b>	0,0 <	0,2	0	0,0%	-

Average number of live training participations per professional in 2022



Percentage of professionals attending at least one training in 2022



### Average number of live training participations per professional

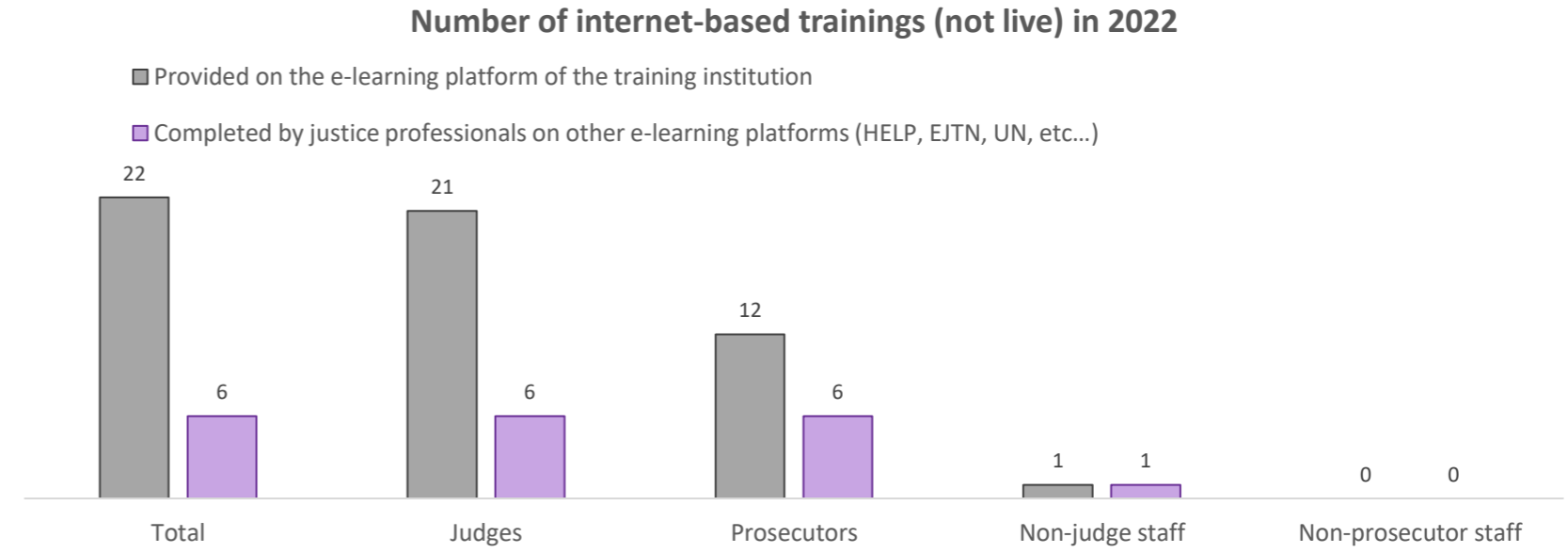
This indicator is calculated as follows: the number of participants in live trainings is divided by the number of professionals for that category. For example, the WB Average for judges is 2,7. This means that, on average, each judge in the region participated to 2,7 live trainings. This indicator should also be analysed together with the indicator on percentage of professionals attending training, shown in the table as well. Indeed, this analysis allows to better understand how long a professional was trained on average and if all were trained.

Looking at the average participations on live trainings, the highest average was for prosecutors (4,8 live training participations per prosecutor).

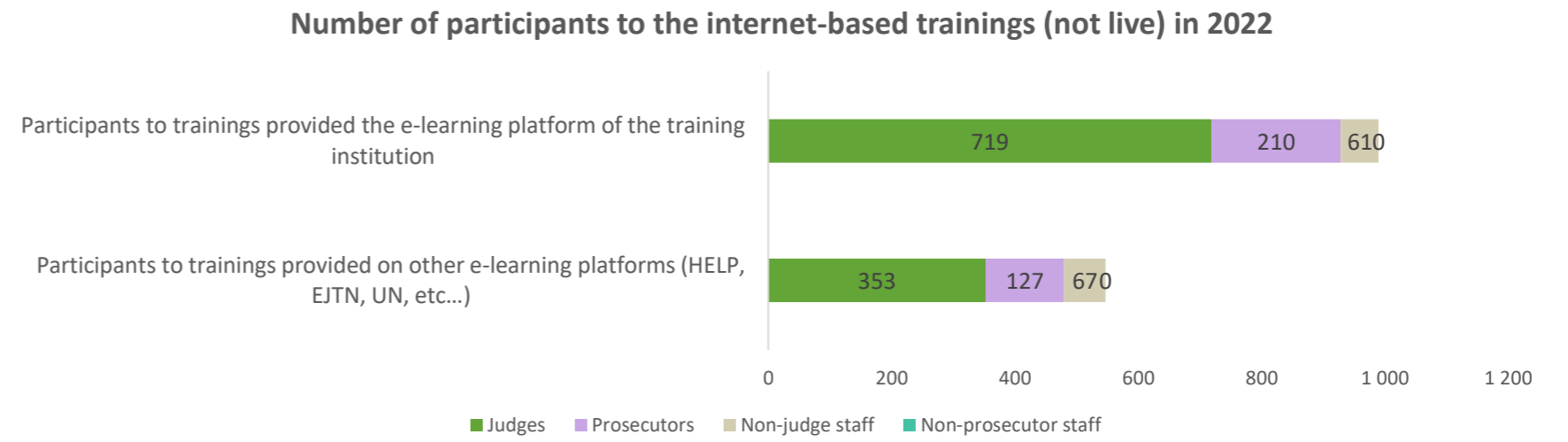
The number of professional judges sitting in courts on 31 December 2022 (i.e. 1000) was higher than the number of unique participants of the trainings registered during 2022 (i.e. 1008), as some judges, who attended the trainings, left the judiciary before the end of the reporting year due to resignation, retirement, death etc.

**• Number of in-service internet-based trainings and participants**

	Number of internet-based trainings (not live) in 2022			
	Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Number of trainings	Number of participants	Number of trainings	Number of participants
<b>Total</b>	22	990	6	547
<b>Judges</b>	21	719	6	353
<b>Prosecutors</b>	12	210	6	127
<b>Non-judge staff</b>	1	61	1	67
<b>Non-prosecutor staff</b>	0	0	0	0



Bosnia and Herzegovina was able to provide the number of participants per e-learning training provided by the e-learning platforms of the training institutions and on other learning platforms.

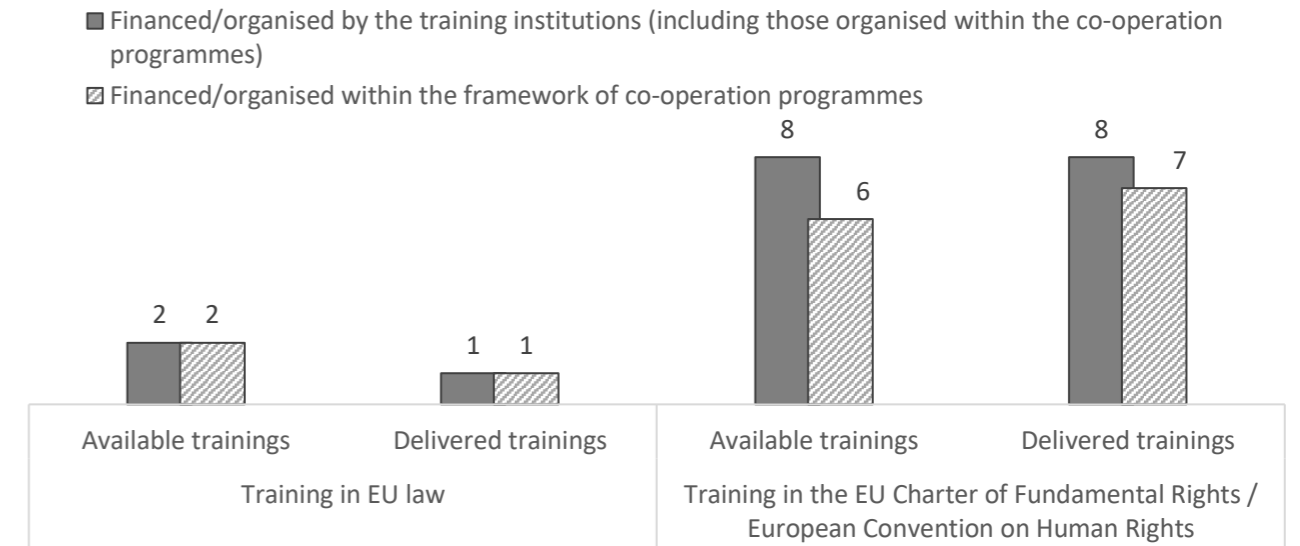




• Number of EU law training courses and participants

	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
<b>Live trainings (2022)</b>				
Number of available live trainings	2	2	8	6
Number of delivered live trainings	1	1	8	7
Number of delivered live training in days	2	2	16	14
<b>Internet-based trainings(2022)</b>				
Provided on the e-learning platform of the training institution (not live)	1	1	1	1
Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	0	0	2	2

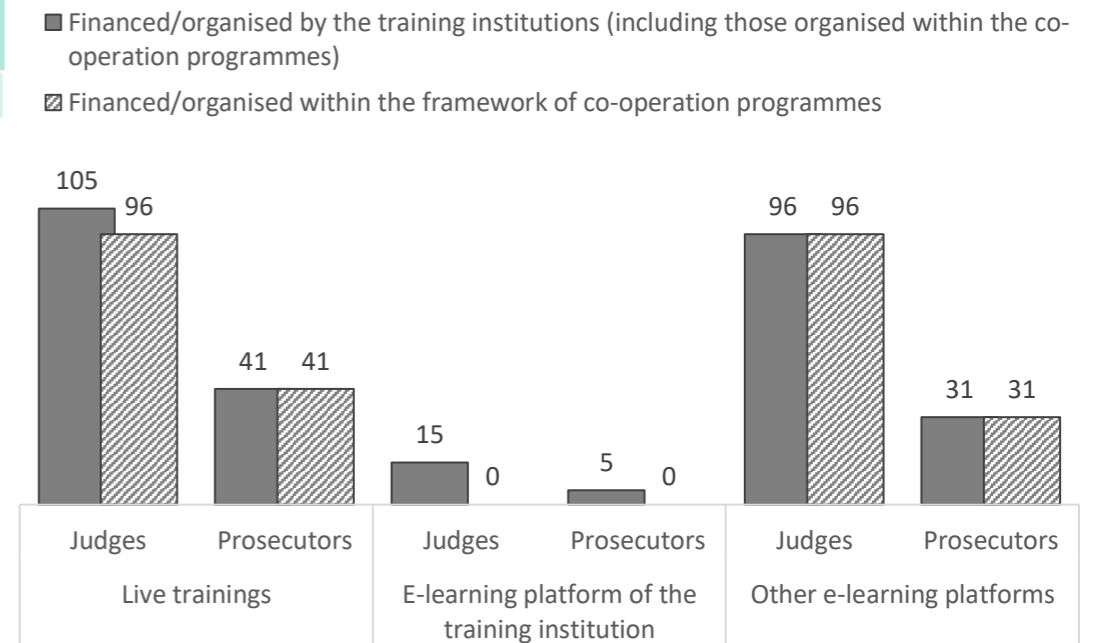
Number of live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2022



In 2022, all trainings on EU Law and almost all trainings 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.

Training in EU law and EU Charter of Fundamental Rights / European Convention on Human Right organised/financed:	Live (in-person, hybrid, video conference) trainings				Internet-based trainings (not live)			
	Number		Unique participants		Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors
By the training institutions for judges and prosecutors	105	41	26	9	15	5	96	31
Within the framework of co-operation programmes	96	41	9	0	0	0	96	31

Number of participants to live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2022



In 2022, external donors organized and funded 2 trainings on the e-platform related to the European Convention for Human Rights (i.e. The Council of Europe – HELP Project, The AIRE Centre - Advice on Individual Rights in Europe). Training institutions did not organize these trainings (EU law, European Convention for Human Rights) on their e-platform.

Participation shall be understood as one attendance of a person to a training.

## • Type and frequency of trainings

		Judges		Prosecutors	
		Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
In-service training	Initial training	Compulsory		Compulsory	
	General	Compulsory	Regularly	Compulsory	Regularly
	Specialised judicial functions	Compulsory	Regularly	Compulsory	Regularly
	Management functions of the court	Compulsory	Regularly	Compulsory	Regularly
	Use of computer facilities in courts	Optional	Regularly	Optional	Regularly
	On ethics	Compulsory	Regularly	Compulsory	Regularly
	On child-friendly justice	Compulsory	Regularly	Compulsory	Regularly
	Other	Optional	Regularly	Optional	Regularly

The relevant legislation on juvenile criminal justice requires that in-service training for specialized functions is obligatory for prosecutors and judges assigned to work on criminal cases involving juveniles; they must take certain training courses in order to be able to work on such cases. This program lasts 4 days and covers 4 topics.

In addition, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina decided that as of 2022 an in-service online training on ethics, prevention of corruption and conflicts of interest is compulsory for all judges and prosecutors. Furthermore, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina has introduced in 2022 a mandatory managerial training for newly appointed court presidents and chief prosecutors: it includes the following topics: 1) Developing leadership and management skills 2) Proactive role of court presidents 3) Electronic tools for managers, and 4) Modern public relations. Moreover, all chief prosecutors and court presidents are required to attend the training on the role of chief prosecutors and court presidents in preserving the judicial integrity.

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.

In Bosnia and Herzegovina, judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts up to 1 day and they need to participate to it only once: the High Judicial and Prosecutorial Council of Bosnia and Herzegovina decided in 2022 that in-service online training on ethics, the prevention of corruption and conflicts of interest is compulsory for all judges and prosecutors. The acquired knowledge of judges and According to the reply to Q153, prosecution offices have prosecutors specially trained in domestic violence and, also, specifically trained in dealing with cases when minor victims are involved.

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.

## • Minimum number of compulsory trainings

	Initial compulsory training		In-service compulsory trainings	
	Minimum number of trainings	Minimum number of days	Minimum number of trainings	Minimum number of days
Judges	11	NAP	NAP	3
Prosecutors	11	NAP	NAP	3

As regards in service training:


The minimum requirement for prosecutors and judges is to attend trainings at the judicial training center for at least 3 days during one year. There is no minimum requirement for prosecutors and judges to attend a certain number of trainings over the course of one year. The judicial office holders may choose between training topics related to the issues they most frequently work on.

As regards initial compulsory training:

The newly appointed prosecutors and judges must undergo an initial training program that is consisted of 11 different trainings; typically, the program lasts for 15 days. In order to qualify for appointment to judicial or prosecutorial office, one must have passed a bar examination and have a certain number of years of practical experience after having passed the bar examination. The program includes topics focused on development of relevant skills, ethics, human rights protection etc. Besides, newly appointed prosecutors receive on the job support and guidance from more experienced prosecutors (i.e. consultative prosecutors). Mentorship system for newly appointed judges is under the development.

**• Quality of judicial training**

**Bosnia and Herzegovina identifies (collects information about) future in-service training needs via:**

Target audience itself		Relevant judicial institutions	
Previous participants in trainings		Ministry of Justice	
Trainers		Other (The High Judicial and Prosecutorial Council)	
Courts/prosecutor's offices			

Future in-service training needs are assessed annually.

In order for the Program to reflect the needs of the judicial community, the Judicial and Prosecutorial Training Centers have assessed the training needs of the judiciary for the next year. The needs assessment was carried out on three levels: 1. Examining the needs of judges, prosecutors and legal associates through the analysis of evaluation forms which the participants fill out after completing the training. In this context, trainers/lecturers who actively participated and contributed to the implementation of previous programs, were also surveyed. 2. Requests of the judicial institutions: In this case, the heads of the judicial institutions were surveyed. 3. Strategic requirements: The Centers considered training requirements arising from the strategic documents. In this part, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and other relevant institutions in Bosnia and Herzegovina which deal with the supervision of the implementation of the strategies and which also aim to train judges and prosecutors in the Federation of Bosnia and Herzegovina were consulted.

Also, the process of assessing training needs included the obligations of the Centers stemming from strategic documents in the field of judicial reform in Bosnia and Herzegovina. In order to analyse training needs, aware of the importance of contacts with the court presidents, chief prosecutors, trainers, judges, prosecutors, representatives of state bodies, representatives of law enforcement agencies, professional legal associations and international partners, with the intention that the offered program contents correspond to the greatest possible extent to the specific needs of training participants, the Centers create professional training programs for judicial office holders. The Centers consulted with all national and international organizations that participate in the organization of professional development for judicial office holders in Bosnia and Herzegovina. Certainly, a significant part of the Program comes from the projects of the international partners, international institutions and organizations that focus on support, cooperation and strengthening the judicial community in Bosnia and Herzegovina which also influences training efforts for judicial office holders. Other vital elements for the creation of the Program are the reports of the European Commission on the progress of Bosnia and Herzegovina, the recommendations of the Standing Committee for Training of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina and numerous other strategic documents – national and entity level which focus on training efforts for the judiciary. The Program for induction training and advanced training for judges and prosecutors was developed on the basis of data collected in this way.

The analysis and creation of training programmes is done once a year.

There are two types of evaluation questionnaires:

1. For heads of courts and prosecutor's offices, asking for their proposals of topics they find relevant for their respective institutions,
2. For all judges and prosecutors, their opinion and their proposals of topics which should be included in the annual programme,

Also, in this regard, the judicial training institutions cooperate with the Standing Committee for Training of the High Judicial and Prosecutorial Council through the analysis of relevant case-law.

In Bosnia and Herzegovina, in-service trainings (seminars, workshops, round tables) are evaluated immediately after the training is delivered by using a combination of Kirkpatrick and other training evaluation models.

**The feedback of the training evaluation process is used:**

To prepare a training evaluation report with recommendations		To suppress a training course	
To improve the training course which, according to the report, needed improvements		To introduce a new course	
To replace the trainers that failed to meet expected learning outcomes/were negatively evaluated		Other	

For all judicial office holders and non-judicial staff (all topics except the ethics) only post-training satisfaction questionnaires are used.

The questionnaires are anonymous and contain three parts:

1. The first part: satisfaction with technical realization, satisfaction with the trainer and topic,
2. The second part is evaluation of the trainer - methodology, communication, knowledge sharing,
3. The third part are comments related to improvement of training, personal impressions and proposals of new topics.

The training grades range from 1 to 5 (5 being the highest grade).

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

## Alternative Dispute Resolution in Bosnia and Herzegovina in 2022 (Indicator 9)

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



Court-related mediation procedures



Mandatory informative sessions with a mediator



Mandatory mediation with a mediator



### Mediators

5,6

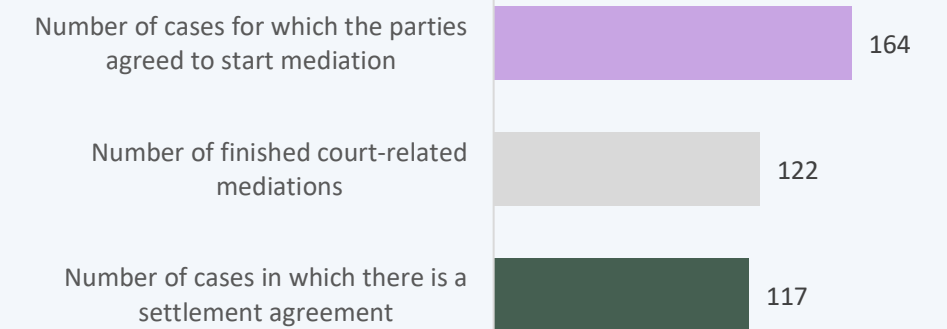
per 100 000 inhabitants

WB Average: 14

54,4% female mediators



### Total number of court-related mediations



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 2022, the number of mediators was 5,6 per 100 000 inhabitants, which was below the WB Average (14 per 100 000 inhabitants). The majority of the mediators were women (54,4%). There were in total 164 cases for which the parties agreed to start mediation and 117 mediation procedures which ended with a settlement agreement.

### • Court-related mediation procedures

*Court related mediation is the mediation which includes the intervention of a judge, a public prosecutor or other court staff who facilitates, directs, advises on or conducts the mediation process. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor (or a judge) can refer a case to a mediator or propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement). Such mediation may be mandatory either as a pre-requisite to proceedings or as a requirement of the court in the course of the proceedings.*

The Bosnia and Herzegovina's authorities reported that the civil and criminal procedure codes foresee court-related mediation procedures.

- Civil proceedings:

At the preparatory hearing at the latest, the court conducting the civil proceedings may, if it finds it appropriate with regard to the nature of the dispute and the circumstances, 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.

- 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, if the court considers that the claim under property law is such that it would be purposeful to refer it to the mediation. 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 (i. e. an apology to the injured party or compensation of damages to the injured party) a prosecutor or a judge may suggest the mediation between the offender and the injured party.

### • Other 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

### Requirements and procedure to become an accredited or registered mediator:

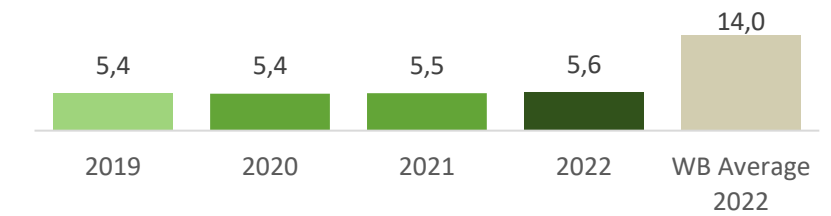
The Law on mediation procedure determines the requirements for conducting the mediation as follows:

- The mediator may be a person meeting general requirements for employment.
- In addition, the mediator must meet the following requirements:
  - a) a university degree,
  - b) completed training in mediation according to the program of the Association of mediators or according to another training programs recognized by the association,
  - c) entry into the registry of mediators held by the association.

The person who is successful in completing the training program for mediators shall be issued an appropriate certificate serving as a basis for entry into the registry of mediators in Bosnia and Herzegovina.

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2022
Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	
195	5,6	14,0	2,6%

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2019 and 2022



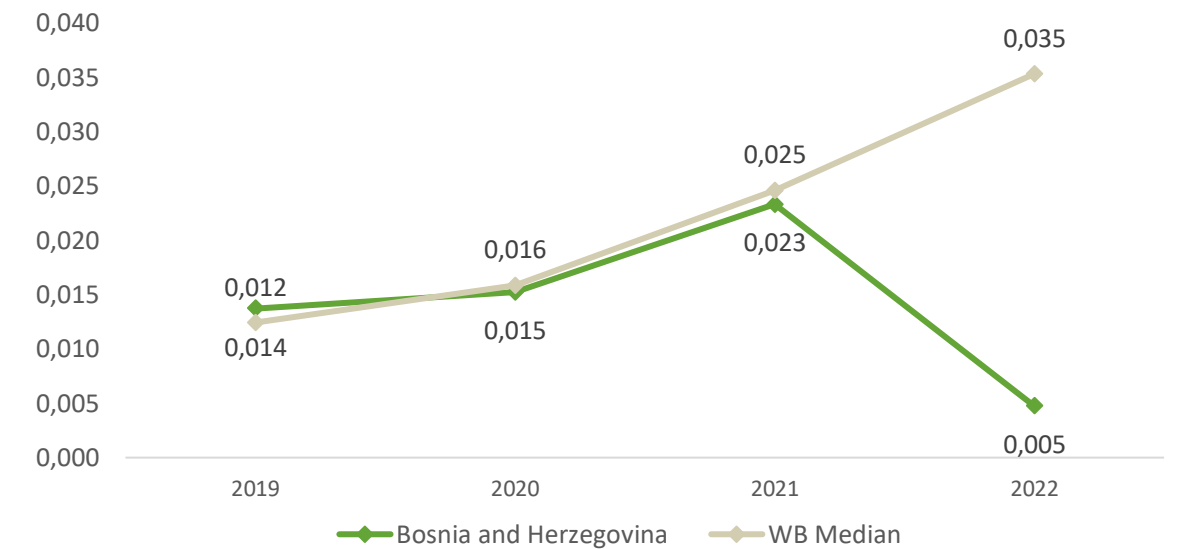
For reference only: the 2021 EU median is 16,2 mediators per 100 000 inhabitants.

In 2022, the total number of mediators in Bosnia and Herzegovina was 195, which is 2,6% more than in 2019. The number of mediators was 5,6 per 100 000 inhabitants, which is less than a half of the WB Average of 14.

According to the Law on mediation procedure that governs the mediation procedure on the territory of Bosnia and Herzegovina, the mediation tasks are transferred to the association of mediators by the procedure set forth in that law. Parties to an individual procedure jointly select a mediator from the list of mediators established by the association of mediators (the mediator then submits proof of payment of the registration fee to the Association of Mediators).

	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>	164	122	117				
<b>1. Civil and commercial cases</b>	153	111	106	✓	✓	✗	✗
<b>2. Family cases</b>	1	1	1	✓	✓	✗	✗
<b>3. Administrative cases</b>	1	1	1	✗	✗	✗	✗
<b>4. Labour cases incl. employment dismissals</b>	9	9	9	✓	✓	✗	✗
<b>5. Criminal cases</b>	0	0	0	✓	✓	✗	✗
<b>6. Consumer cases</b>	0	0	0	✓	✓	✗	✗
<b>7. Other cases</b>	0	0	0				

Evolution of the number of court-related mediation for which parties agreed to start mediation per 100 inhabitants between 2019 and 2022



Court-related mediations are provided by private mediators and public authorities (other than the court). In 2022, mediation was most used for Civil and commercial cases and Labour cases (including employment dismissals). Indeed, parties agreed to start mediation in 153 and 9 cases, respectively.

The Bosnia and Herzegovina's authorities reported that, historically, the number of mediations is small in Bosnia and Herzegovina. The already small number of mediations was further reduced in 2022 compared to 2021. Although this difference is large in terms of percentage, in reality there was not a significant change in terms of the scope of use of mediation procedures in Bosnia and Herzegovina.

In Bosnia and Herzegovina, it is possible to receive legal aid for court-related mediation or receive these services free of charge.

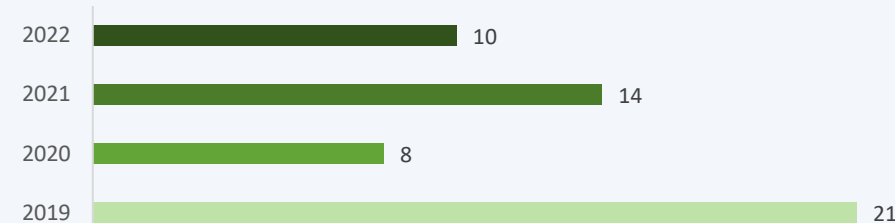
*Kosovo is not included in the calculation of summary statistics*

## European Convention on Human Rights in Bosnia and Herzegovina in 2022 (Indicator 10)

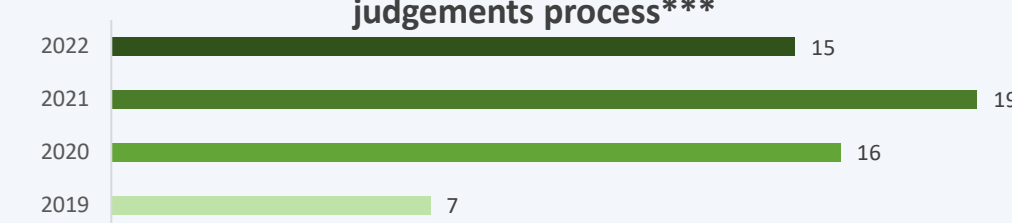
European Convention on Human Rights – Article 6 – Right to a fair trial:

*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.*

Judgements finding at least one violation\*\*



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process\*\*\*



### ECHR

The Bosnia and Herzegovina's authorities reported that 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. The 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



If the verdict of the European Court establishes a violation of the right to a fair trial that is of a nature that can only be resolved by reopening the criminal proceedings, the national court that violated such right in criminal proceedings, as stipulated with the Convention, shall reopen the criminal proceedings. 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. Based on the verdict of the European Court of Human Rights in the case *Avdic and Others vs Bosnia and Herzegovina*, ap. no. 28357/11, which established a violation to Mr Avdic's right to a fair trial in proceedings before the Constitutional Court of BiH, proceedings were reopened before the same court in order to address the violation of the applicants rights, as identified. At the same time, a Decision was also rendered on amendments to the Rules of the Constitutional Court in order to avoid future human rights violations on such grounds as in the *Avdic* case. Based on the verdict of the European Court in the case *Maktouf & Damjanovic vs Bosnia and Herzegovina*, ap. no. 2312/08 & 3478/09, that established a violation of the rights from Article 7 of the Convention of the applicants in criminal proceedings against them before the Court of BiH, proceedings were reopened before the said court both, in their favour, as well as in favour of all persons convicted with finality and who were in the same/similar situation. Subsequent to the verdict of the European Court in the case *Muslija Adnan vs Bosnia and Herzegovina*, app. no. 32042/14, establishing a violation of the rights of the applicant pursuant to Article 4 of Protocol no. 7 to the Convention, criminal proceedings were reopened in favour of the convicted person – applicant Mr Muslija. Also, the civil procedure codes in Bosnia and Herzegovina have been amended enabling the parties to civil proceedings to request from the first instance court to reopen their case, if the European Court of Human Rights makes a decision that the court in Bosnia and Herzegovina in its judgment had made an infringement of one's human rights, or basic freedoms. The party to the civil proceeding may request from the first instance court to reopen the proceeding within 90 days from the day of the final judgment of the European Court of Human Rights.

In 2022, the applications allocated to a judicial formation\*\* for Bosnia and Herzegovina were 407 (-377 less than the previous year). The judgements by the ECHR finding at least one violation for Bosnia and Herzegovina were 10; whereas they were 14 in 2021. Moreover, the number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 15 in 2022; whereas they were 19 in 2021.

	2019	2020	2021	2022
Applications allocated to a judicial formation of the Court**	1 784	870	784	407
Judgements finding at least one violation**	21	8	14	10
Judgements finding at least one violation of the Article 6 of the ECHR	Right to a fair trial (1)	3	1	2
	Length of proceedings	2	1	4
	Non-enforcement	13	4	9

\*\* Source: ECHR

(1) Figures in this line may include conditional violations.

Kosovo is not included in the calculation of summary statistics

	2019	2020	2021	2022
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	7	16	19	15

\*\*\* Source: Department for the Execution of Judgments of the ECHR

## Reforms in Bosnia and Herzegovina in 2022

	Yes (planned)	Yes (adopted)	Yes (implemented during 2023)	Comment
<b>(Comprehensive) reform plans</b>	✘	✘	✔	Reform Programme of HJPC for the period 2021 – 2023 has been adopted in May 2021 (available on: <a href="https://vstv.pravosudje.ba/">https://vstv.pravosudje.ba/</a> , Activities, European Integration, Recommendations European Commission) and its Implementation Plan in September 2021. It takes into account recommendations of the European Commission's Peer Review assessment missions, that were carried out between 2016 – 2017, the European Commission's Opinion on Bosnia and Herzegovina's application for membership of the European Union from May 2019 and the accompanying Analytical Report of the European Commission, the Expert Report on Rule of Law Issues in Bosnia and Herzegovina from December 2019 (the Priebe Report), recommendations of the European Commission sent to BiH institutions after the 4th and 5th meetings of the Subcommittee for Justice, Freedom and Security, as well as the third Annual OSCE Report on Judicial Response to Corruption and documents prepared within the framework of USAID's project - The Judiciary against Corruption "Assessing procedures and processes in cases involving high-profile corruption,organised crime and commercial crime".
<b>Budget</b>	NA	NA	NA	-
<b>Courts and public prosecution services</b>	✔	✘	✔	<p>Planned reforms: Debate on the reform of state level judiciary and drafting of the new Law on Courts of BiH is still ongoing; the legislative debate focuses on the establishment of the Appellate/Higher Court of BiH and redefining, in clear terms, criminal jurisdiction of state level judicial institutions. There are no plans set to reform regulation on the competencies and organization of court system and prosecutor's offices.</p> <p>Implemented reforms: The HJPC of Bosnia and Herzegovina adopted a new Book of Rules on performance indicators for prosecutors in Bosnia and Herzegovina (hereinafter: " Book of Rules ") at the session held on January 17 and 18 in 2022. The Book of Rules seek to ensure uniform application of the rules on measuring and evaluating of the performance of all prosecutors and to ensure more efficient performance of prosecutors and prosecutor's offices in Bosnia-Herzegovina.</p> <p>The new Book of rules, among other things:</p> <ul style="list-style-type: none"> <li>- Significantly reduced the quota for Chief Prosecutors and Deputy Chief Prosecutors in order to direct most of their work to the increased supervision of the work of prosecutors in the prosecutor's office.</li> <li>- The trial phase is weighted by prescribing a higher weighting of indictments compared to order not to conduct investigation and order to discontinue investigation.</li> <li>-The number of prescribed indictments has been reduced, which constitutes the annual quota for certain types of cases with the aim of improving the quality of indictments.</li> <li>-The proposed new solutions give the possibility that exceptional commitment and work on the most complex cases will be adequately weighted, with a special focus on cases of economic crime, high-level corruption and organized crime.</li> <li>- Stricter procedure for making decisions on additional weighting is prescribed, which additionally evaluates the prosecutor's work on the most complex types of cases.</li> </ul>
<b>Access to justice and legal aid</b>	NA	NA	NA	-
<b>High Judicial Council and High Prosecutorial Council</b>	✔	✘	✘	<p>Drafting procedure of the revised Law on the High Judicial and Prosecutorial Council is still ongoing, aiming improvements regarding organization and functioning of the HJPC, appointment of judges and prosecutors and disciplinary procedure, system of the appraisal of judges and prosecutors, and straightening of judicial integrity.</p> <p>In parallel, in 2022, legislative initiative has been newly launched, but not finalized, in order to propose amendments on the existing Law on HJPC and achieve necessary short-term improvements (mainly issues of judicial integrity such as asset declaration for judges and prosecutors and disciplinary matters).</p>
<b>Legal professionals</b>	✔	✘	✘	<p>As explained under Q288-5, drafting of the revised Law on the High Judicial and Prosecutorial Council is undergoing. Apart from regulating functioning and organization of the HJPC, Law on HJPC regulates issues regarding appointment/promotion of judges and prosecutors, their discipline and related aspects.</p> <p>All this issues (appointment, appraisal system, disciplinary procedure and straightening of judicial integrity) are subjected to comprehensive revision in order to improve current system. At the end of 2022, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted certain changes to the criteria for assessing the work of judges and prosecutors, in accordance with the analysis of the process of assessing the work of judicial office holders in the previous year. Reforms of the criteria for assessing the work of judicial office holders will continue.</p>

## Reforms in Bosnia and Herzegovina in 2022

	Yes (planned)	Yes (adopted)	Yes (implemented during 2023)	Comment
<b>Gender equality</b>	✘	✘	✔	<p>In 2022, the HJPC has organized seven workshops for all judicial institutions, aimed at providing knowledge necessary for the creation of action plans for the implementation of the Strategy on Improving Gender Equality in the Judiciary of BiH. The workshops were carried out in partnerships with the Swedish National Courts Administration, Swedish experts and the ambassadors from pilot judicial institutions.</p> <p>In addition, the HJPC has provided support to judicial institutions in the process of preparation of their action plans for the implementation of the Strategy, which was followed by their assessment and adoption.</p> <p>As a result, the judicial institutions have commenced implementing their action plans in 2022, whilst the HJPC will regularly monitor their realization. The Strategy is available here: <a href="https://pravosudje.ba/vstvfo/E/141/article/95500">https://pravosudje.ba/vstvfo/E/141/article/95500</a></p>
<b>Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities</b>	NA	NA	NA	-
<b>Mediation and other ADR</b>	NA	NA	NA	-
<b>Fight against corruption and accountability mechanisms</b>	NA	NA	NA	-
<b>Domestic violence</b>	NA	NA	NA	-
<b>New information and communication technologies</b>	✔	✘	✔	<p>Planned reforms:</p> <ul style="list-style-type: none"> <li>- CMS/TCMS v3 - Development of the CMS/TCMS v3 is in its final phase. Implementation in the pilot institutions is planned for June 2023, and implementation in the rest of the judiciary institutions is planned to start in August 2023. - Software for planning and tracking of budgets in judiciary institutions – Technical specification for development of the Software is finished. Development of the Software is planned to be finished by the end of the 2023 and implementation in the judiciary institutions is planned for 2024.</li> <li>- BIH Organized Crime And Corruption Case Map – It is planned that the Case Map will be developed and implemented by the August 2023.</li> </ul> <p>Implemented:</p> <ul style="list-style-type: none"> <li>- e-Sentence Portal – Since January 1, 2022 the e-sentence Portal is available to all employees in judiciary, and from February 1, 2022 it is available to professional community as well as to citizens. It contains judicial practice of 4 highest court in BiH – Court of Bosnia and Herzegovina, Supreme Court of Federation of Bosnia and Herzegovina, Supreme Court of Republica Srpska and Appellate Court of the Brčko District of Bosnia and Herzegovina. It contains selected court decisions and legal opinions. Approximately, 5000 legal opinions with accompanying court decisions have been published so far.</li> <li>- System for the electronic submission and processing of utility cases (SOKOP – Mal v2) – Implemented in pilot courts and utility companies during March 2022. Implementation in the rest of the courts is planned for the second half of 2023.</li> </ul>



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

### HFIII:

### Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II

### “Dashboard Western Balkans II”

Data collection: 2022

### 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). In case that the HJPC does not adopt the proposal of a sub-council and the sub-council does not propose another candidate, the HJPC may, based on an elaborated proposal by any HJPC's member, appoint one of the candidates who achieved the appropriate results required for appointment.

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 published on the internet, but is available 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. The relevant sub-council shall carry out the final ranking of candidates and submit a proposal to the HJPC for appointment. Several measures are taken to increase the level of transparency of the interview conducted, such as audio or video recording is made, a standardised questionnaire is used for all candidates and a standardised system of awarding points is used to evaluate the candidates.

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). 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 a judge/prosecutor at any level. Results of

the aforementioned tests are relevant for the establishing the competences of the external candidates. Competences of the candidates who are already judges/prosecutors are established based on the performance evaluation. All candidates undergo an interview.

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. If a court for which an appointment is being carried out has a need for a judge of a particular specialisation, the work-related experience of a candidate in a certain field of law are also taken into account by a relevant sub-council, apart from the points scored and ranking of the candidate. Furthermore, ethnicity and gender of a candidate are also taken into consideration by a sub-council, apart from points scored and ranking the candidate, when candidates are being nominated for appointment since in accordance with Article 43, paragraph 2 of the Law on HJPC appropriate ethnic and gender representation in court or prosecutor's offices need to be ensured. The competition is repeated once if none of the candidates who achieved the minimum results required for appointment is of an appropriate ethnicity or with the specific work-related experience. The competition may also be repeated if none of the proposed candidates receive a majority vote required for appointment or in the event that none of the candidates achieved the required results within the competition procedure.

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, 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.

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. In [the GRECO Second Interim Compliance Report](#) (see para. 39-43) GRECO noted draft amendments to the LHJPC being sent to the Parliament. However, as no information on the content of these amendments was provided, GRECO concluded the recommendation to remain not implemented.

## 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 Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina in general does not distinguish the recruitment of new judges from the promotion or transfer of judges to a different position in judiciary. Thus 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. Accordingly, 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/promotion 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 the GRECO Second Interim Compliance Report (see para. 44-49), GRECO noted adoption of the new performance



evaluation guidelines (adopted on 29<sup>th</sup> December 2020) which are to be less focused on qualitative assessment than the previous ones which focused more on qualitative assessment however were repealed. This GRECO concluded the recommendation as not 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. The situation as regards the lack of information on application of the evaluation criteria to all judges stayed the same also in [the GRECO Second Interim Compliance Report](#) (see para. 44-49).



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

A person whose right to a fair trial is violated by the excessive length of court proceedings or non-execution of the court decisions, can submit an appeal to the Constitutional Court of Bosnia and Herzegovina. Based on Article VI of the Constitution the Constitutional Court of Bosnia and Herzegovina inter alia has appellate jurisdiction over issues under the Constitution arising out of a judgment of any other court in the country. According to Article 16, paragraph 3 of its Rules, the Constitutional Court may examine, within its appellate jurisdiction, an appeal when there is no decision of a competent court if the appeal indicates a grave violation of the rights and fundamental freedoms safeguarded by the Constitution or by the international documents applied in Bosnia and Herzegovina. The Court admits appeals, based on the aforementioned provision of the Rules, alleging that a court of general jurisdiction has breached both Article II/3.e of the Constitution and Article 6, paragraph 1, of the European Convention on Human Rights by exceeding a reasonable time for determining a court case (i.e. any sort of a court case). If the violation is found, the 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 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.

In addition, a legislative framework that regulates the protection of the right to a trial within reasonable time, according to which the courts act, has been established recently in several jurisdictions in Bosnia and Herzegovina. According to this legal framework, the party has two options: to file a motion for procedure expedition to the court processing the case for which expedition is requested or file a complaint with the highest court in respective jurisdictions to determine the violation of the right to a trial within reasonable time, which requires the determination of financial compensation. In the remaining jurisdictions in Bosnia and Herzegovina, a legislative procedure is underway for the adoption of a legal framework on the protection of the right to a trial within a reasonable time.

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, 2020, 2021 and 2022. 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. Significant variations between data for 2020 and 2021 are due to increased number of condemnations for excessive length of proceedings and non-execution of court decisions in 2021, as reported by the Constitutional Court of Bosnia and Herzegovina. Namely, the Court concluded during the reporting year that the majority of the relevant legislative and other authorities in Bosnia and Herzegovina failed to meet the timeframe determined previously by that institution for taking legislative measures and other corrective activities to help reduce systematic violations of the right to trial within a reasonable time. Accordingly, the Court has intensified the processing of individual applications of the parties in court proceedings alleging infringement of the right to trial within a reasonable time or the right to have a court decision enforced. There were no particular reasons (e.g. change of policy or legislation) for the data variations between 2020 and 2021 for the following categories: wrongful arrest, wrongful conviction, and others. In this regard, the relevant authorities (e.g. ministries of justice, public defenders, the Constitutional Court of Bosnia and Herzegovina) explained that the numbers of requests and condemnations and the amount of compensation were based on the circumstances of individual cases. In 2022, the authorities report that although in previous years it was evident that cases involving the length of court procedures and the non-enforcement of court decisions had an effect on the total number of incoming cases this was not the

case in 2022, due to the fact that a certain number of these cases were processed by courts within the new legislative framework that regulates the protection of the right to a trial within reasonable time. According to the Constitutional Court of BiH, most of their cases concern allegations regarding the violation of the right to a fair trial (Article 6 of the European Convention) and the right to property (Article 1 of Protocol No. 1 to the European Convention) as well as cases in which the Constitutional Court of BiH is petitioned to proceed as a court of the fourth instance.

When it comes to the number of motions to expedite case resolution, a total of 154 motions were filed to the courts in 2022. In 2022, the courts granted 39 and denied/dismissed 76 motions of the parties. In addition, the courts received 15 claims for damages last year. In 7 cases, the courts decided to award compensation to the plaintiffs, while they rejected the lawsuit with a claim for damages in 5 cases.

	2019			2020			2021		
	Number of requests for compensation	Number of compensation	Total amount (in €)	Number of requests for compensation	Number of compensation	Total amount (in €)	Number of requests for compensation	Number of compensation	Total amount (in €)
Total	5181	1030	708.458	4891	434	435.696	4670	694	654,624
Excessive length of proceedings	444	99	58.338	406	239	103.562	641	543	205,107
Non-execution of court decisions	515	757	-	331	3	4.601	192	86	5,647
Wrongful arrest	223	79	647.564	221	62	327.532	198	51	426,581
Wrongful conviction	404	1	-	370	5	-	349	14	-
Other	3595	94	2.556	3563	125	-	3290	111	17,289

	2022		
	Number of requests for compensation	Number of compensation	Total amount (in €)
Total	5.236	906	603.800
Excessive length of proceedings	357	683	276.758
Non-execution of court decisions	117	45	7.641
Wrongful arrest	205	39	319.400
Wrongful conviction	368	18	0
Other	4.189	121	0

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.

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. In 2021, 925 complaints against judges and prosecutors were received by the Office of Disciplinary Counsel of the HJPC while the Ombudsman received 427 complaints (69 for alleged excessive length of proceedings, 31 for alleged ineffective enforcement of court decisions, 8 against judges for violation of procedural law, 2 against the HJPC and 317 related to the violation of other rights related to court procedure) against courts in the same year. The Ombudsman issued 58 recommendation to the courts in 2021. The increased number of complaints in 2021 has been due to gradual lifting of Covid 19 restrictions in 2021, stated the Office and the Ombudsman in their respective reports. In 2022, the Ombudsman received 347 complaints against courts: 29 for alleged excessive length of proceedings, 22 for alleged ineffective enforcement of court decisions; 12 against judges for violations of procedural law; 2 against HJPC and 282 related to violation of other rights related to court procedure. The Ombudsman issued 67 recommendations to the courts.

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. 96% of procedures initiated during 2021 were resolved in the reference year. Out of the total number of initiated procedures in the reference year, the party's request for the recusal of the judge was accepted in 16% procedures. In 2022, 558 procedures to effectively challenge a judge were initiated (87% of the procedures were resolved) and 51 recusals were pronounced (9% in total).

The judicial system in Bosnia and Herzegovina consists of both courts and prosecutor's offices as mutually independent institutions in performance of their powers. Public prosecutors perform their functions on the basis of the Constitution and the law. 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, there are exceptions to this law. 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. As a result, in December 2021 the HJPC adopted guidelines requiring chief prosecutors in BiH to prescribe internal procedure for issuing specific instructions. These guidelines allow the chief prosecutor to give mandatory individual instructions for taking procedural and substantive prosecutorial decisions in accordance with the law. The instructions must be issued in writing, entered in the case file and may only be given occasionally. In exceptional circumstances, they may be given orally; however, the prosecutor may subsequently request that written instructions are issued. The prosecutor is obliged to act in accordance with the individual instructions given unless following such instructions would constitute a violation of the law. If the prosecutor disagrees with the individual instructions, s/he will submit his/her dissenting opinion to the chief prosecutor. The chief prosecutor, after obtaining the opinion of the collegiate of the prosecutor's office, shall make an elaborate decision in relation to the prosecutor's dissenting opinion. In 2022, 80 such instructions were issued.

## 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 on 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 rules on gifts, internal controls, 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.

There is a compulsory in-service training regularly available to both prosecutors and judges. Both judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. Indeed, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina decided that as of 2022 an in-service online training on ethics, prevention of corruption and conflicts of interest is compulsory for all judges and prosecutors. Moreover, all chief prosecutors and court presidents are required to attend the training on the role of chief prosecutors and court presidents in preserving the judicial integrity. This training is up to 1 day long (the estimated duration is up to 5 hours) and both judges and prosecutors need to participate on this training only once.

Both judges and prosecutors have their respective codes of ethics adopted by the HJPC which are regularly updated (on average every two to three years, as a result of monitoring their compliance and ethical practices and the need for further improvement) and published on the website of the HJPC (<https://vstv.pravosudje.ba/>). Principles enshrined in the codes of ethics oblige judges and prosecutors to adhere to judicial values (such as independence, integrity, impartiality), prescribe relationship of judges and prosecutors with institutions, citizens and users, prescribe competence and continuing education of judges and prosecutors, regulate their extrajudicial activities, conflict of interest, political activities, association membership and institutional positions as well as gifts and cover disclosure of information and relationship judges and prosecutors may have with press agencies.

A Standing Committee on Ethics, Integrity and Accountability of Judges and Prosecutors is a committee established by the HJPC which monitors the implementation of both codes and advises the HJPC on issues of ethics. 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.

In matters that have already been decided and where ethical practice has already been established, the Standing Committee is authorized to act autonomously on the submitted request, while the decision on contested ethical issues is considered only by the High Judicial and Prosecutorial Council of BiH. According to the analysis of the past practice, 45-50 responses on requests for opinions are submitted annually. In 2022, 19 such opinions were issued in respect of judges and 31 in respect of prosecutors (with regard to permissibility of judges' and prosecutors' participation as lecturers in seminars, trainings, conferences, as experts on projects that support judicial community, as lecturers at legal clinics, their membership in bar or state legal exam panels, and remuneration received for these activities).

The High Judicial and Prosecutorial Council of BiH started publishing in 2022 on its website the above-mentioned opinions in shortened form, as well as answers to the most frequent questions submitted by prosecutors and judges with regards to ethics, integrity and compatibility of other activities with the performance of judicial function.

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 cases is governed by the Book of Rules on Case Management System and the Book of Rules on TCMS. 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 2022, 475.394 cases were reassigned. It is important to take into account that these court cases were redistributed primarily because the judges in charge of these court cases have ceased to work in a particular court (i.e. appointment to another court, retirement, resignation etc.). In addition, courts had to reassign a significant number of cases owing to the longer absence of judges because of sick leave. Finally, harmonizing the burden of judges with court cases in a single court and regrouping judges within the court made it necessary to reassign noteworthy number of court cases.

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				2021			
	Judges		Prosecutors		Judges		Prosecutors		Judges		Prosecutors	
	Abs	Per 100	Abs	Per 100	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	5	0,50	0	0,00
Number of completed cases	0	0,00	0	0,00	0	0,00	0	0,00	2	0,20	0	0,00
Number of sanctions pronounced	0	0,00	0	0,00	0	0,00	0	0,00	1	0,10	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 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. In one case not related to corruption, a judge was sentenced to two years and ten months imprisonment.

	2022			
	Judges		Prosecutors	
	Abs	per 100	Abs	per 100
Number of initiated cases	0	0,00	0,00	0,00
Number of completed cases	1	0,10	0,00	0,00
Number of sanctions pronounced	1	0,10	0,00	0,00

In 2022, the Office of the Disciplinary Counsel was informed about three investigations initiated against two judges and one prosecutor. ODC was not informed of the result of the investigations. One judge was sentenced to a one-year imprisonment for corrupt criminal offence in a proceeding initiated in 2021.

Level of implementation of GRECO recommendations in December 2021 (adoption of the GRECO Interim Compliance Report on BiH):

	Judges	Prosecutors
Implemented	0%	0%
Partially implemented	50%	50%
Not implemented	50%	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. Currently, the Law on the HJPC is subject to a legislative procedure aimed at amending provisions on asset declarations.

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. Only with the consent of judges and prosecutors, their declarations of assets are published on the website of the HJPC BiH. In fact, the Rulebook had 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 impossible. In its [Interim Compliance Report](#) (see para. 70 and 71), GRECO noted that the Rulebook is no longer in force. At the moment, only with consent of judges/prosecutors declarations of assets may be published. The authorities reported that out of 1416 judicial office-holders under obligation to submit asset declarations only 190 consented to publication of their declarations which were published on the HJPC's website.

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 (Article 58, Law on the HJPC).

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. Since no progress was noted by GRECO in its [Interim Compliance Report on BiH](#) (see para. 66-72), GRECO concluded that recommendation remains not implemented.

Number (absolute and per 100 judges/prosecutors) of proceedings against judges/prosecutors for violations or discrepancies in declaration of assets in 2021 and 2022:

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
2021	1	0,10	1	0,10	0	0,00	0	0,00	0	0,00	0	0,00
2022	2	0,20	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00

No data are 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. The two cases initiated in 2020 are currently pending.

## 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. 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. No progress was noted in [GRECO Interim Compliance Report](#) (see para. 61-65).

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. In [the GRECO Interim Compliance Report](#) (see para. 55-60), the authorities reported on discussion of HJPC on introduction of confidential counselling and trainings on ethics conducted in 2020. In March 2021, a new Rulebook was adopted on the procedure for selecting a “consultative prosecutor” with the aim to provide professional support and guidance to newly appointed prosecutors. GRECO noted this information however noted that the process is at an early stage and no tangible results. It concluded that recommendation remains partly implemented.

Absolute number of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019, 2020, 2021 and 2022:

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
2019	2	0	0	2	1	1
2020	0	2	2	0	1	1
2021	1	0	0	0	1	1
2022	0	0	0	0	0	0

## 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 disciplinary proceedings (suspension is mandatory in case when a judge/prosecutor is in pre-trial detention, until the pre-trial detention ends); 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 (only regarding pronounced disciplinary sanction) 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 duly 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 within a reasonable time by an impartial and independent panel established by law, 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 (shall not be made public), 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 programme, 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 (Articles 56 and 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, 2020, 2021 and 2022:

		2019				2020				2021			
		Judges		Prosecutors		Judges		Prosecutors		Judges		Prosecutors	
		Abs	Per 100	Abs	Per 100	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	22	2,20	13	3,60
	1. Breach of professional ethics (including breach of integrity)	11	1,09	4	1,08	2	0,20	4	1,12	16	1,60	4	1,11
	2. Professional inadequacy	24	2,37	7	1,88	21	2,05	3	0,84	6	0,60	9	2,49
	3. Corruption	0	0,00	0	0,00	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	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00	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	22	2,20	9	2,49
	1. Breach of professional ethics (including breach of integrity)	8	0,79	5	1,34	7	0,68	3	0,84	8	0,80	2	0,55
	2. Professional inadequacy	21	2,08	8	2,15	20	1,95	2	0,56	14	1,40	7	1,94
	3. Corruption	0	0,00	0	0,00	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	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00	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	17	1,70	8	2,22
	1. Reprimand	11	1,09	4	1,08	9	0,88	1	0,28	6	0,60	1	0,28
	2. Suspension	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00
	3. Withdrawal from cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
	4. Fine	NAP	NAP	NAP	NAP	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	10	1,00	5	1,39
	6. Position downgrade	0	0,00	0	0,00	1	0,10	0	0,00	0	0,00	2	0,55
	7. Transfer to another geographical (court) location	0	0,00	0	0,00	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	0	0,00	0	0,00
	9. Other	6	0,59	4	1,08	4	0,39	0	0,00	0	0,00	0	0,00
10. Dismissal	1	0,10	1	0,27	2	0,20	0	0,00	1	0,10	0	0,00	

		2022			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated	Total number (1 to 5)	32	3,20	9	2,51
	1. Breach of professional ethics (including breach of integrity)	8	0,80	3	0,84
	2. Professional inadequacy	24	2,40	6	1,68
	3. Corruption	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00
Number of cases completed	Total number (1 to 5)	35	3,50	13	3,63
	1. Breach of professional ethics (including breach of integrity)	6	0,60	4	1,12
	2. Professional inadequacy	29	2,90	9	2,51
	3. Corruption	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00
Number of sanctions pronounced	Total number (total 1 to 10)	23	2,30	10	2,79

1. Reprimand	6	0,60	2	0,56
2. Suspension	0	0,00	0	0,00
3. Withdrawal from cases	NAP	NAP	NAP	NAP
4. Fine	NAP	NAP	NAP	NAP
5. Temporary reduction of salary	17	1,70	6	1,68
6. Position downgrade	0	0,00	2	0,56
7. Transfer to another geographical (court) location	0	0,00	0	0,00
8. Resignation	0	0,00	0	0,00
9. Other	0	0,00	0	0,00
10. Dismissal	0	0,00	0	0,00

The BiH authorities explained that Covid-19 situation has had 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 judges 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. For 2022, the authorities report that a significant difference between the number of disciplinary proceedings initiated (35) and the total number of sanctions imposed (23) against judges was due to the following: in 3 cases disciplinary action was rejected; in 9 cases disciplinary proceedings were suspended (4 judges retired, 3 judges resigned, 1 judge died and 1 judge’s term expired). The difference in number of cases in respect of prosecutors (13 initiated, 10 penalties imposed) was due to rejection of a disciplinary lawsuit in 3 cases.


The following offences are deemed as professional inadequacies:

- in respect of judges: 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 (Article 56, para. 8-10, 14, 17, 20 and 21, Law on HJPC);

- in respect of prosecutors: neglect or careless exercise of official duties; unjustified delays in performing any acts related to the exercise of prosecutorial functions, or any other repeated disregard of the duties of the prosecutor; failure to carry out instructions of a superior prosecutor under whose authority they serve, unless the carrying out of such instruction would itself constitute a violation of law or this Article; failure, for an unjustified reason, to comply with the decisions, orders or requests of the Council; failure to fulfil any mandatory training obligations or any other obligations imposed by law; failure to comply with the decision on temporary transfer to another prosecutor's office (Article 57, para. 8-10, 13, 15, 17, 20-21, Law on HJPC).

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. In the GRECO Interim Compliance Report (see para. 73-78), GRECO noted that no further measures have been taken to increase independence and transparency of the ODP. As to the second part, GRECO noted that the information provided indicates a slight decrease in respect of pending disciplinary cases. On the other hand, disciplinary procedures may still take well over a year. No revision of sanctions has taken place. Overall, no sufficient progress has been achieved to consider this recommendation implemented more than partly.



## 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 (s/he must not be a member of the judiciary or a member of the Parliamentary Assembly of Bosnia and Herzegovina) and one by the Council of Ministers of BiH upon the proposal of the Minister of Justice of BiH (s/he may not be a member of the judiciary or a member of the Council of Ministers 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 (which are reasoned), 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. No progress was noted by GRECO also in its [Interim Compliance Report](#) (see para. 39-43).

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).