

REPORT ON THE FINANCIAL IMPLICATIONS OF ESTABLISHING A DEPARTMENT OF JUDICIAL PRACTICE AT A SECOND INSTANCE COURT CANTONAL COURT OF SARAJEVO



**Support to a coherent national implementation
of the European Convention on Human Rights
and facilitating execution of European Court of
Human Rights judgments in Bosnia and Herzegovina**

December 2025

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

REPORT ON THE FINANCIAL IMPLICATIONS OF ESTABLISHING A DEPARTMENT OF JUDICIAL PRACTICE AT A SECOND INSTANCE COURT CANTONAL COURT OF SARAJEVO

**Support to a coherent national implementation
of the European Convention on Human Rights
and facilitating execution of European Court of
Human Rights judgments in Bosnia and Herzegovina**

December 2025

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

The opinions expressed in this work are the responsibility of the author(s) and do not necessarily reflect the official policy of the Council of Europe.

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text. The source text must always be acknowledged as follows “© Council of Europe, year of the publication”. All other requests concerning the reproduction/translation of all or part of the document, should be addressed to the Directorate of Communications, Council of Europe (F-67075 Strasbourg Cedex or publishing@coe.int).

All other correspondence concerning this document should be addressed to the Department for the Implementation of Human Rights, Justice and Legal Co-operation Standards, which is part of the Council of Europe’s Directorate General of Human Rights and the Rule of Law (DGI).

Department for the Implementation of Human Rights,
Justice and Legal Co-operation Standards

F-67075 Strasbourg Cedex, France

<https://www.coe.int/en/web/implementation/home>

This publication was produced as part of the Council of Europe project “Support to a coherent national implementation of the European Convention on Human Rights and facilitating execution of ECtHR judgments in Bosnia and Herzegovina”, funded under the Council of Europe’s Action Plan for Bosnia and Herzegovina 2022-2025. The project’s aim is to contribute to the protection of human rights and strengthening of domestic human rights protection mechanisms in Bosnia and Herzegovina in line with European human rights standards.

Author: Julien Berthoud, consultant

Cover design and layout: Grafika Šaran d.o.o.

Cover photo: Shutterstock

© Council of Europe, December 2025

CONTENTS

I. INTRODUCTION	4
II. POLICY BASIS SUPPORTING THE ESTABLISHMENT OF DEDICATED DEPARTMENTS OF JUDICIAL PRACTICE	6
III. COURT STRUCTURE OF BIH - EXISTING DEPARTMENTS OF JUDICIAL PRACTICE	9
IV. DEPARTMENT OF JUDICIAL PRACTICE – KEY PRACTICAL AND FINANCIAL BENEFITS	12
GENERAL CONSIDERATIONS	12
V. BUDGET PLANNING – ANTICIPATED EXPENSE LINES	15
VI. BUDGET ESTIMATE – OPTIONS	19
VII. POSSIBLE RISKS AND FINANCIAL CHALLENGES	22
FRAGMENTATION OF THE JUDICIARY IN BIH	22
LACK OF LEGAL BASIS TO SUPPORT DEPARTMENTS OF JUDICIAL PRACTICE IN SECOND INSTANCE COURTS	22
LACK OF SUPPORT AND/OR INTEREST FROM CONCERNED PARTIES	23
BUDGET CONSTRAINTS (AND LACK OF HUMAN RESOURCES, BY EXTENSION)	23
VIII. CONCLUSIONS AND RECOMMENDATIONS	25
ANNEXES	28
ANNEX 1 - SOURCES	28
ANNEX 2 - INTERLOCUTORS MET	29

I. INTRODUCTION

As part of its project “Support to a coherent national implementation of the European Convention on Human Rights and facilitating execution of ECtHR judgments in BiH,” the Council of Europe has been supporting the strengthening of national mechanisms that provide for country-wide caselaw harmonisation and implementation of the European Convention on Human Rights (ECHR) standards. In this context, the project is supporting the establishment of dedicated departments of judicial practice in second instance courts in Bosnia and Herzegovina (hereinafter: BiH) to enhance legal research, streamline case referencing, and improve overall judicial efficiency. The present report focuses on understanding the financial implications of this process in the Cantonal Court of Sarajevo, selected as a pilot court, as this is one of the key elements impacting decision-making and budgeting.

Following a short description of the existing policy basis supporting the establishment of departments of judicial practice in higher and second instance courts in BiH, the report covers the following main objectives:

1. Review existing departments of judicial practice established in higher courts in BiH (legal basis, organisational structure), and consider key practical and financial benefits of having such departments for the overall functioning of the judiciary;
2. Based on the findings of the review, carry out budget planning, covering all anticipated expense lines, and propose quantifiable budget estimate options (whenever possible);
3. Consider the possible risks and financial challenges inherent to the objective and provide concrete conclusions and recommendations.

To fulfil the objectives listed above, relevant materials have been researched using open sources (official websites/ HJPC, higher courts, etc.) and by meeting with relevant interlocutors (members of the HJPC Secretariat; project managers and procurement officers with relevant experience in setting up new offices/ departments).

All data collected have been comparatively analysed and summarised before being included as sources for the report.

The following activities have been undertaken for the purpose of drafting this report:

- ▶ Collecting relevant data on the policy basis that led to (1) the establishment of higher courts’ harmonisation panels and (2) the establishment of departments of judicial practice in courts of higher instance;
- ▶ Gathering and further assessing structural and legal information on currently existing departments of judicial practice in the Supreme Courts of the entities and the Brčko District Appellate Court,

1. The final decision on how to name the department shall be left to the management of the Sarajevo Cantonal Court in line with relevant legal requirements. The term “Department of Judicial Practice” used in this report derives from the names used in the Brčko District Appellate Court and in the Supreme Court of Republika Srpska. In the Supreme Court of the Federation of BiH, the relevant department is called the “Department for the Recording of Judicial Practice”.

meeting with expert advisors involved in supporting this process;

- ▶ Reviewing existing documentation, and organising meetings with expert advisors dealing with the enhancement of judicial efficiency to assess the key practical and financial benefits of establishing departments of judicial practice in second instance courts;
- ▶ Meeting with administrative, finance, and procurement officers to consider all the resources required for the establishment of a new department and related costs;
- ▶ Further development of the budget needed for establishing such a department, covering human resources, furniture, IT equipment and support, etc.;
- ▶ Based on the review of available documentation sources and the outcomes of meetings with expert advisors, assessing the possible risks and financial challenges;
- ▶ Formulating a set of conclusions to the main findings and related recommendations.

II. POLICY BASIS SUPPORTING THE ESTABLISHMENT OF DEDICATED DEPARTMENTS OF JUDICIAL PRACTICE

Any democracy based on the rule of law must enforce the two fundamental principles of legal certainty and independence of the judiciary. These principles are part of the international instruments that Bosnia and Herzegovina is obliged to enforce, as stipulated in Article II (2) of the Constitution of BiH: *“The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law.”*

— In 2011, the European Commission launched the “EU-BiH Structured Dialogue on Justice” (hereinafter: SDJ) with a view to supporting justice system reforms in Bosnia and Herzegovina and bringing it closer to the EU. This platform provided a forum to discuss the reforms needed to allow BiH to progress with the alignment of its judicial system with the EU *acquis* and relevant standards. The establishment of this mechanism stemmed from the commitment of the European Commission to advancing structured relations on the rule of law with potential candidate countries, even prior to the entry into force of the EU-BiH Stabilisation and Association Agreement (SAA). The EU-BiH SAA entered into force on 1 June 2015.

— Legal certainty and equality before the law were debated at the first plenary session of the SDJ in June 2011 and the European Commission recommended *“that all relevant authorities strengthen their efforts to better assess the possibility of harmonisation of the substantive and procedural legislation (Criminal and Civil Codes, Procedural Codes) between the entities, Brčko and the state level in order to ensure the equality of citizens before the law.”* In that context, in October 2011, the European Commission asked the “European Commission for Democracy Through Law” (Venice Commission) to issue an opinion on *“how the judicial framework, the division of powers and the existing co-ordination mechanisms affect legal certainty and the independence of the judiciary in Bosnia and Herzegovina.”*

— The Venice Commission’s Opinion on legal certainty and the independence of the judiciary in BiH, adopted at its plenary session in June 2012,² addressed the current court structure at the state level, noting the lack of *“a supreme judicial body that would guarantee the unity of its legal order and the uniformity or at least the harmonisation of its judicial and prosecutorial systems.”*³ The opinion further explains the importance of

2. European Commission for Democracy through Law (Venice Commission) of the Council of Europe – Opinion No. 648/2011 on “Legal Certainty and the Independence of the Judiciary in BiH” (18 June 2012), paragraphs 64 to 67 (pages 14,15), paragraphs 71 to 73 (page 16), and conclusions (c) and (k); pages 21, 22 and 23

3. *Ibid* (2), paragraph 64, page 14

supreme judicial bodies in ensuring legal certainty, notably by guaranteeing “consistency in the case law,”⁴ and suggests to BiH two models to redress the situation. The first model provides for the creation of a Supreme Court of BiH and may be considered in the long run due to the current lack of support for such an option. The second model envisages “the establishment of a common or joint body”⁵ composed of representatives of the highest judicial institutions of the country and is referred to as the preferable option in the short run, “as a continuation of the already existing inter-court co-operation.”⁶ The establishment of such a body is recommended in conclusion (c) of the opinion.⁷

— The opinion further considers the issues of access to legal instruments and to case law, noting problems with access to case law – restrictive access to existing case law databases, limited database, etc.⁸ The opinion’s conclusion (k) recommends that case law should be publicly available on-line.⁹

— At the end of the 4th session of the SDJ (April 2013), the European Commission gave the following related recommendation: “In line with the relevant Venice Commission observations, this practice (i.e. regular meetings of highest judicial officials) should be considered for establishing the Joint Panel of highest judicial instances.” Following the 6th session of the SDJ (November 2013), the European Commission “reiterates the need to establish an effective Joint Panel of highest judicial instances, under the leadership of the High Judicial and Prosecutorial Council (HJPC).” The panels of highest judicial instances were established in April 2014,¹⁰ covering civil, administrative, and criminal law. The panels started to operate in BiH without a legal basis, i.e. in the absence of domestic laws supporting their activities. Participants to the panels therefore decided that the issues to be considered by panel members should be pre-identified before convening any session of the relevant panel (criminal, civil or administrative). The panel would then discuss the issue(s) and come to joint positions, clearly described in the minutes of the meeting that should be confirmed by all its participants. Members of the panel would then present the agreed joint positions to the relevant department of their court (Brčko District Appellate Court, entity Supreme Courts, Court of BiH) for further endorsement before these joint positions become binding for the judges of these courts. This approach was the only way to legally legitimise the activities of the panels.

— The European Commission released its Opinion on BiH’s application for EU membership in May 2019. Under the “Democracy/ Functionality” component of the report, the Commission required of BiH to “guarantee legal certainty, including by establishing a judicial body entrusted with ensuring the consistent interpretation of the law throughout Bosnia and Herzegovina.”¹¹

— In its analytical report accompanying the opinion, the Commission further elaborated on case-law consistency across the four legal systems present in Bosnia and Herzegovina, noting that it “is promoted by voluntary harmonisation panels among the highest court instances, which issue guidelines.”¹² In the chapter covering “Quality of Justice,”¹³ the report describes the functioning of the panels for harmonisation of case law in civil, criminal, and administrative matters, which had been established to address the lack of case-law consistency throughout BiH – specifically their composition, functioning, legal impact, results achieved and

4. Ibid (2), paragraph 65, page 14

5. Ibid (2), paragraph 66, second bullet, page 15

6. Ibid (2), paragraph 67, page 15

7. Ibid (2), paragraph 102 (c), pages 21-22

8. Ibid (2), paragraph 71-73, page 16

9. Ibid (2), paragraph 102 (k), pages 23

10. “Rules of the Panel for harmonisation of judicial practice,” No. 07-50-314-4/2014, 10 April 2014

11. Communication from the Commission to the European Parliament and the Council Commission - Opinion on Bosnia and Herzegovina’s application for Membership to the European Union - 29 May 2019, COM(2019) 261 final / page 15 (e)

12. Commission staff working document – 29 May 2019, SWD(2019) 222 final - Analytical document accompanying the Communication from the Commission to the European Parliament and the Council Commission - Opinion on Bosnia and Herzegovina’s application for Membership to the European Union - 29 May 2019, COM(2019) 261 final / paragraph 4, page 11

13. Ibid (3) / paragraph 2, page 35

improvements needed. The report further refers to the European standards applicable in such circumstances, noting that “the consistency of case-law needs to be ensured through decisions of higher courts rather than through instructions or guidelines,” and gives recommendations.

■ In its latest annual report on BiH’s progress in the context of EU enlargement, covering the year 2024,¹⁴ the Commission noted “limited results on the harmonisation of jurisprudence” and recommended further efforts under the lead of the HJPC.

■ On 15 July 2025, new rules on the functioning of the panels at higher judicial institutions were jointly adopted by the HJPC, the Court of BiH, the entity Supreme Courts and the Brčko District Appellate Court. The new rules formalise the work of the panels by setting regular meetings (quarterly) and the rotation of the meeting location, with members having to submit issues 10 days ahead of the meeting, etc.¹⁵ Formerly, the identification of issues to be discussed was driving the process and determining when sessions of the panels would be convened. With these new rules, the panel’s meetings are now formalised according to a pre-established schedule, with a meeting agenda to be filled with identified issues.

14. Commission staff working document – 30 October 2024, SWD(2024) 691 final - Bosnia and Herzegovina 2024 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions; 2024 Communication on EU enlargement policy / paragraph 2, page 31

15. “Rules of the Panel for harmonisation of judicial practice”, No 07-13-3-2073-2/2025, 15 July 2025

III. COURT STRUCTURE OF BIH - EXISTING DEPARTMENTS OF JUDICIAL PRACTICE

This report addresses the financial implications of creating a department of judicial practice at a second instance court. The Cantonal Court of Sarajevo is one of 17 second instance courts in the country and is among the largest. The structure and competences of second instance courts are not addressed in this report.

It is worth recalling that the current court system of Bosnia and Herzegovina is organised into four systems (State, two entities, and Brčko District) applying distinct sets of substantive and procedural rules in civil, administrative, and criminal matters. There are 10 cantonal second instance courts in the Federation of BiH and 6 district second instance courts in Republika Srpska plus a High Commercial Court acting as a second instance court.¹⁶

More importantly for the purpose of this report, there are already three judicial practice departments operating in the country, in the Brčko District Appellate Court, the Supreme Court of the Federation of BiH and the Supreme Court of Republika Srpska, respectively.

Brčko District Appellate Court

The Department of Judicial Practice of the Brčko District Appellate Court (hereinafter: the Department) was established in January 2017, when the Court adopted its Rulebook on Internal Organisation and Job Classification,¹⁷ as one of the four divisions of the Court (Article 3 A.). The Rulebook further specified the responsibility of the Department (Article 7). The court adopted Rules of Procedure for Court Divisions in November 2017, regulating the composition, jurisdiction, operation, and decisionmaking of court divisions, along with other matters of organisational importance.¹⁸ Article 6 of the Rules of Procedure sets out how the Department of Judicial Practice operates: “Judges assigned to the Department of Judicial Practice systematise the Court’s jurisprudence, monitor jurisprudence of other courts in BiH, track contentious legal issues, update data on jurisprudence of other courts, as well as the European Court of Human Rights, perform research for judges and appropriately inform them about developments, ensure consistent treatment of cases based

16. For details on the court system of Bosnia and Herzegovina see: (<https://vstv.pravosudje.ba/vstvfo/B/141/kategorije-vijesti/1172/1254>); Council of Europe “Report on the need to establish judicial practice departments at second instance courts in BiH with recommendations”, January 2024, pages 7-9

17. “Rulebook on Internal Organisation and Job Classification” of the Appellate Court of the Brčko District of BiH, number 0970Su17000045, 20 January 2017

18. “Rules of Procedure for Court Divisions” of the Appellate Court of the Brčko District of BiH, number 0970Su17000770, 29 November 2017

on identical factual and legal grounds, maintain records of legally significant decisions and general judicial practice views, and collaborate with judicial practice departments of other courts. This Department consists of judges and a senior legal advisor (drawn from among professional associates) assigned by the annual work schedule, as well as division presidents.”

— The Department adopted its “own Rules of Procedure” in February 2023,¹⁹ specifying its composition, working organisation, activities, etc. According to the distribution of duties for judges and legal associates for the year 2025, issued by the President of the Appellate Court,²⁰ the Department has three judges and one legal associate. All three judges assigned to the Department are members of other divisions of the court, with one of the judges serving as president of the Department.

Supreme Court of Republika Srpska

— Similarly, the Department of Judicial Practice of the Supreme Court of Republika Srpska (hereinafter: the Department) was established in October 2017, when the Court adopted its Rulebook on Internal Organisation and Job Classification.²¹ Article 6 refers to the four departments of the court, including the Department of Judicial Practice, which “monitors and studies the practice of courts and international judicial bodies and informs judges and senior legal associates about the legal positions of the courts.”

— The Rulebook on the Work of Judicial Departments in the Supreme Court of Republika Srpska was adopted in December 2018,²² regulating the composition, jurisdiction, operation, and decisionmaking of court divisions. Article 6 specifies the tasks of the Department of Judicial Practice, namely “systematising court practice and ensuring a consistent approach in identical factual/legal cases; maintaining databases of significant decisions (*sententiae*) for Criminal, Civil, and Administrative Departments; published on the court’s website and shared electronically; tracking jurisprudence from domestic courts and the European Court of Human Rights; selecting decisions for web publication and practice bulletins; supporting other departments in harmonising legal standards; coordinating with judicial practice departments of other courts”, and the composition of this Department: “department’s president, the presidents of the other three departments, and senior professional associates as per the annual assignment.”

— In the decision on the assignment of duties to judges for the year 2025, issued by the President of the Supreme Court,²³ the Department has seven judges and one legal associate. All assigned judges are members of other departments and the composition includes the President of the Court and the presidents of all the other departments of the Court.

Supreme Court of the Federation of BiH

— The Department for Recording Judicial Practice of the Supreme Court of the Federation of BiH (hereinafter: the Department) was established in December 2018 through the adoption of its Rulebook,²⁴ which specifies the composition, jurisdiction, operation, and decisionmaking of the Department. Article 4 provides for the composition of the Department – 11 judges, including the President of the Department, three Presidents of the Criminal/Civil/Administrative Departments and 7 judges (2 criminal judges, 2 administrative,

19. “Rules of Procedure for the Judicial Practice Department” of the Appellate Court of Brčko District of BiH, number 0970Su230001001, 20 February 2023

20. “Distribution of duties 2025” in the Appellate Court of Brčko District of BiH, number 0970Su25000024, 15 January 2025

21. “Rulebook on Internal Organisation and Job Classification” of the Supreme Court of Republika Srpska, number 1180Sul17000281, 02 October 2017

22. “Rulebook on the Work of Judicial Departments in the Supreme Court of Republika Srpska,” number 118-0-Sul-18-000339, 26 December 2018

23. “Decision on the Work Schedule of Judges in the Supreme Court of Republika Srpska for the year 2025”, number 118-0-Sul-24-000 346, 24 December 2024

24. “Rulebook on the Work of the Department for Recording Judicial Practice of the Supreme Court of the Federation of BiH,” 12 December 2018

3 civil) appointed annually.

■ The Article further specifies the activities of the Department, which “performs tasks related to collecting judicial practice positions in cases handled by the Criminal, Civil, and Administrative Departments of the Court through the presidents of those departments.”

■ Other activities of the Department are further covered in Article 5, notably “the implementation of plans for recording and systematising judicial practice positions in cases handled by the Criminal, Civil, and Administrative Departments; timely submission of those positions to the Department and their timely entry into the judicial practice database; taking measures to improve quality, efficiency, and timeliness of the Department’s work; monitoring and applying laws and other regulations; identifying and proposing topics for the education of judges and legal advisors; cooperation with judicial practice departments of other courts; and other matters important for the Department’s work.”

Practice

■ In the Brčko District and in Republika Srpska, the Departments of Judicial Practice can review cases received and, if an issue is identified (discrepancy with another similar case, etc.), the Department has the authority to suggest the case for review.²⁵ There is clearly a proactive approach.

■ The practice in the Supreme Court of the Federation of BiH is, however, very different, as the Department is exclusively “collecting judicial practice positions” and “recording and systematising judicial practice positions,” with no latitude to re-assess and suggest a new course.

25. Brčko District: Ibid (17), Article 6; Republika Srpska: Ibid (21), Article 7

IV. DEPARTMENT OF JUDICIAL PRACTICE – KEY PRACTICAL AND FINANCIAL BENEFITS

General considerations

— In the context of drafting the Council of Europe “Report on the need to establish judicial practice departments at second instance courts in BiH with recommendations,”²⁶ the deployed experts met with relevant members of the judiciary to collect views; they conducted a survey of presidents of second instance courts and presidents of departments within these courts (all but two courts responded), and organised a round table with representatives of seven second instance courts (November 2023) on the topic of the “*introduction of judicial practice departments in second instance courts*”. The report noted that the recording of court cases is taking place in most second instance courts, thus providing for some degree of coordination of judicial practice, but this is not the case within all courts, or within all departments in those courts. There is no uniform recording of judicial practice. It is not done in an organised and systemic manner and it is not harmonised between all second instance courts in BiH.

— Public trust in the judiciary is an essential component of any democratic society based on the rule of law. To secure this trust, courts must ensure coherent judicial practice and overall legal certainty. This is primarily the responsibility of courts of higher instance, but also courts of second instance, which conduct appeals proceedings. Ensuring the transparency of judicial practice is essential, both for the profession and for the public. This requires the systemic recording of final decisions within the judiciary, by a harmonised method enforcing best practices, carried out by dedicated and properly trained staff (judges, professional associates) gathered within a specific structure established for that purpose wherever needed. Finally, the transparency of judicial practice requires systematic publication of final court decisions using available means (e.g. court portals, court database, bulletins, etc).

— As described in the previous chapter, departments of judicial practice are currently only established at supreme instances in the country, namely the two Supreme Courts of the entities and the Brčko District Appellate Court. The benefits of the existence of these departments are many. The first direct benefit is to have all decisions of the court recorded and systematised in the dedicated portal of the court, all in line with the positions of the court and according to predefined descriptors, thus (eventually) preventing divergent judicial practice within the court and between all courts of higher instance. Another benefit of the system is that it makes it possible to more easily detect any diverging legal positions between the four courts of highest instance in the country. Such easier detection allows the panels of higher judicial institutions to consider and discuss the detected issues and ultimately have them harmonised so as to ensure uniform judicial practice.

26. Council of Europe “Report on the need to establish judicial practice departments at second instance courts in BiH with recommendations”, January 2024, pages 10-16

The Department for Court Documentation and Education of the HJPC Secretariat has established, and is coordinating a “Case-law Harmonisation Support Unit” (hereinafter: the Unit) composed of 5 legal advisors (a sixth position is currently vacant in the HJPC Secretariat Department) deployed in the three courts mentioned above (positions are part of these institutions’ permanent staff), in the Court of BiH (position currently financed by EU4Justice until new IPA financing is in place/ not systematised, as a department of judicial practice is not prescribed by the Law on the Court of BiH) and in the HJPC Secretariat Department (position currently financed by EU4Justice until new IPA financing is in place). The Unit oversees the work of all deployed legal advisors covering judicial practice, who communicate on a daily basis, inquiring for decisions and positions of the Department of Judicial Practice and regular departments of the courts. The Unit has also developed a centralised reporting tool, including summary references to all cases entered in each court’s dedicated portal. The portals are technically administered by the HJPC, but the uploading of the cases is the responsibility of the relevant staff at each Department of Judicial Practice. Reports are produced (weekly, quarterly, annually). The HJPC Secretariat Department also provides all judges (as well as managers of courts and prosecutors’ offices) with access to summaries of the European Court of Human Rights case law on a weekly basis, so the professional community has the possibility to get acquainted and/or to consider those positions. Systematic publication and further promotion of access to publications will increase transparency and oblige judges to research other similar cases, read them, and enhance the overall harmonisation between cases.

More generally, the benefits of harmonised judicial practice include the possible improvement of the overall quality of the work of judges who can access uniform databases, providing for greater efficiency and professionalism. This reinforces legal certainty and therefore citizens’ trust in the judiciary. Hypothetically, it could generate a reduction of the case backlog with overall quality improvement of cases and has the correlated consequence of lowering the number of legal and procedural errors/ inconsistencies that lead to the overturning of verdicts and ordering of retrials on appeal. It should, therefore, impact the cost of justice by reducing the length of proceedings and the backlog of cases in appeal procedure.

The Sarajevo Cantonal Court pilot project

The Sarajevo Cantonal Court was selected as a pilot court of second instance for the establishment of a Department of Judicial Practice. The project was initiated in July 2024 with the deployment of a “legal advisor for judicial practice” through the institutional and financial support of the Council of Europe project “Initiative for legal certainty and efficient judiciary in Bosnia and Herzegovina – Phase III.” This deployment lasted until May 2025, when the legal advisor resigned, which concluded this one-year mandated pilot initiative.

The selection of this court for the pilot project was justified by its size, with 45 judges handling an average influx of 10,000 cases annually and with an average of 11,500 cases completed annually (2023 statistics²⁷), making it the largest court of second instance in the country. According to recent information (2025), the court has 25 professional associates.

The deployed legal advisor was tasked with uploading final decisions into the court database and, through an analysis of judgements, with identifying internal inconsistencies between similar cases. Initially, the legal advisor was not assisted by any of the 25 expert associates of the court, who are not pre-assigned to any specific department of the court, but ultimately received support from two of them.

The project achieved quite concrete results with the registration of cases:

- Registration of 3,860 court decisions in the newly established database of the Administrative Department of the court, with the strong support of the department head;

27. Ibid (26), page 8

- ▶ Registration of 434 court decisions in the Criminal Department database, but experiencing delays due to some misunderstandings with judges on what cases to register, and limited/ restricted access granted to the central Case Management System;
- ▶ Registration of 295 decisions in the newly established database of the Commercial Department;
- ▶ The Civil Department did not collaborate in this project, having considered that it already has a database that is regularly updated, and does not therefore need any additional recording of cases.

■ Publishing on the court’s official web portal was carried out in accordance with the “Guidelines for the Publication of Judicial and Prosecutorial Decisions, Acts and Information” adopted by the HJPC in March 2024.²⁸

■ Concrete **challenges** were identified, in addition to the clear absence of internal harmonisation on the approach between the four departments of the court.

■ There has been (1) a lack of staff capacity to support the work of the legal advisor, (2) failure to ensure proper working conditions, (3) a lack of communication within the court, with many judges being unaware of the project despite it being presented to the court’s entire management, (4) delays or simple failure to receive responses to some inquiries or requested reports. More visible support from the then president of the Cantonal Court to the project may have helped achieve better results. Overall, in the absence of clearly spelt-out regulations explaining to judges what needed to be recorded and in what way, the pilot project did not achieve the expected results, in large part due to a lack of support by some members of the management and some judges. The best results were achieved with the registration of administrative cases, in large part thanks to the proactive support of the department head.

■ Several **recommendations** were delivered upon completion of the project (namely, upon the resignation of the legal advisor in May 2025), starting with the necessary (1) assessment of the institutional capacities (structure, resources, regulation, finance, etc.), which is in part covered by this report. In case of an extension of the pilot project, (2) the deployed legal advisor should be more effectively used through enhanced communication with court management, and (3) alternative models for entering court decisions should be developed. Moreover, it was particularly recommended to (4) formalise the creation of a Department of Judicial Practice (legally and financially). Additional recommendations addressed the need (5) to strengthen cooperation with the relevant departments of the HJPC Secretariat, (6) enhance transparency and visibility through systematic publication of court decisions, by (7) publishing judicial practice bulletins, (8) drafting and further publishing summaries of legal opinions, and (9) centralising access to existing databases through a single SharePoint for internal and external use.

28. “Guidelines for the Publication of Judicial and Prosecutorial Decisions, Acts and Information”, HJPC, No. 07-02-3-1279-3/2024 Sarajevo, 21 March 2024

V. BUDGET PLANNING – ANTICIPATED EXPENSE LINES

As per the Terms of Reference provided by the Council of Europe, the new department staffing structure shall include a judge as head of the department, assisted by three legal advisors with a minimum of three years' experience and a passed bar exam. In view of the staffing structure in the existing departments of judicial practice in the two entity Supreme Courts and the Brčko District Appellate Court, additional judges from other court departments – heads of other departments – could be assigned to support further harmonisation and coordination.

Other costs related to establishing such a department, in addition to the staffing costs (salaries, allowances, etc.), include office space and its maintenance, furniture (desks, chairs, tables, filing cabinets, bookcases, shelving units), technological support (phone - landline/mobile, computer - desk top and/ or laptop, printer, scanner, IT system upgrading), etc.

Additional key requirements to be considered for the forming of a new office/ department, which may generate additional costs, include:

- ▶ IT support and access to a working network;
- ▶ Administrative and logistical support;
- ▶ Credentials to access the official building (procedures, ID card, etc.)
- ▶ Email accounts with all needed credentials

Human resources

Judge

The Department of Judicial Practice of the Cantonal Court of Sarajevo should be headed by a judge. It should be decided whether the deployed judge/ department head will be exclusively working for this department or will also be assigned cases from other departments of the court. For the purposes of this report, the annual budget estimate covers the costs of a judge/ department head with 10 years of work experience.

This overall cost includes the following:

- ▶ Net salary + tax and social/ health contributions (72% of the net salary)
- ▶ Seniority allowance (equal to 0.5% of the net salary per each year of service completed and up to 40 years maximum)
- ▶ Meal allowance (for each workday with an average of 20 days/ month; equal to 1% of the average net salary in the Federation of BiH – BAM 1,577 in June 2025)
- ▶ Holiday allowance (50% of the net salary once a year)

- ▶ Commuting allowance
- ▶ Overtime – Non-working days, night work, and public holidays compensation
- ▶ Allowance for living apart from family, accommodation at place of work
- ▶ Allowance for mandatory duty or on-call work
- ▶ Travel expenses reimbursement

As stipulated by the “*Decision enacting the Law on Salaries and Other Compensations for Judges and Prosecutors in the Federation of Bosnia and Herzegovina*,”²⁹ the net monthly salary of a judge in a cantonal court in the Federation of BiH is BAM 3,000. A head of department in the same court receives BAM 3,200, and the court president receives BAM 3,400. The Law outlines how these salaries are adjusted annually, tied to the changes in the average monthly net salary in the country, as specified in Article 6 of the Law. This baseline figure is also adjusted based on additional factors, such as the size of the court, the role of the judge (e.g., Head of Department, Court President), and the average monthly net salary in Bosnia and Herzegovina. Therefore, the current average net salary of a judge in the Cantonal Court of Sarajevo is BAM 5,196 (*BAM 8,937 gross salary*) and it goes up to BAM 5,542 (*BAM 9,753 gross salary*) for the head of department.

The possibility of other judges of the court assisting in the activities of the department shall not induce additional costs, these judges being assigned to other departments of the court.

Legal advisors/ professional associates

In cantonal courts of the Federation of BiH, professional associates (legal advisors) are recruited by the FBIH Civil Service Agency and are subject to the Law on Civil Service of the Federation of BiH³⁰.

The overall cost of the position shall include the following:

- ▶ Net salary (base multiplied by coefficient, raised by the number of years of experience³¹) + tax and social/ health contributions (72% of the net salary)
- ▶ Raise of 0.5% of the basic salary per year of service completed
- ▶ Meal allowance (see above for the rules of calculation)
- ▶ Commuting allowance (transportation – public transport)
- ▶ Overtime work
- ▶ Compensation for the costs of moving from the place of permanent residence to the place where the official appartement is located and back
- ▶ Compensation for education expenses (training)
- ▶ Holiday allowance
- ▶ Travel expenses reimbursement
- ▶ Retirement severance pay
- ▶ Anniversary rewards

The average monthly net salary for (legal) professional associates in Bosnia and Herzegovina, including positions like legal advisor in the Sarajevo Cantonal Court, falls within the range of BAM 1,067

29. “Law on Salaries and Other Compensations for Judges and Prosecutors in the Federation of Bosnia and Herzegovina”, Official Gazette of FBIH, No. 72/05, 22/09, 55/13 and 61/22

30. “Law on Civil Service in the Federation of BiH”, Official Gazette of FBIH, No. 29/03, 23/04, 39/04, 54/04, 67/05 and 8/06

31. Based on the Law on Civil Service in the Federation of BiH, Articles 39 and 40, the basis is determined by the FBIH Government and negotiated between the trade unions, the FBIH and cantonal governments. The coefficient relating to the salary grade is to be decided by the cantonal government for cantonal civil servants.

to BAM 2,558 (according to information available through public sources). Salaries can vary significantly depending on the specific position, experience, and level of responsibility. The current average basic salary of a legal advisor in the Cantonal Court of Sarajevo is BAM 2,579 (*BAM 4,435 gross salary*).

Office space/ furniture

■ For a team of 4 members (including the head of department), a minimum of two rooms of similar size is necessary. A third spare room may be useful.

■ The identification and further allocation of the office space needed for a new department (one or two rooms) within the court should not represent an additional cost for the court, which has been allocated most of the space vacated recently after the transfer of the Sarajevo municipal prison to new premises. However, the refurbishment of the freed space is still not completed and additional funds are apparently needed.

■ The furniture needed for a two-room/ 4-member team include:

- ▶ Office desk with office chair and drawer pedestal x 4
- ▶ Conference table (round preferably) for up to 6 persons + 6 meeting chairs
- ▶ Office cabinet (metal with doors) x 2
- ▶ Bookshelf x 3
- ▶ Whiteboard x 2
- ▶ Desk lamp x 4

Stationery and office supplies

■ Stationery and office supplies needed for a functional court department include: paper, notebooks, pencils, highlighters, stapler, scissors, paper clips, pen holder, filing shelves, tape, tape dispenser, post it notes, filing folders, calculator, plastic sheets, envelopes, toners, coat stand, calendar, rubbish bin, umbrella bin, etc.

■ Determining the needs for a year of activity of a department is practically impossible, but could be more accurately estimated by comparing with the needs (and corresponding budget) of other departments of the court. For the purposes of this report, a lump sum was determined for each of the four employees of the department, based on the market prices available through web research.

Information and Technology (IT) support

■ The IT Department of the High Judicial and Prosecutorial Council Secretariat provides IT support to all courts and prosecutors' offices in BiH as their second level of support, and ensures the harmonisation and compatibility of the overall IT system throughout BiH, notably by providing technical specifications to all institutions twice a year.

■ The Sarajevo Cantonal Court has its own IT support staff to cover first level needs. This staff will oversee all the IT needs of the newly established department (setting up the IT system, tendering, and purchasing the IT equipment – still in close coordination, and in accordance with the technical specifications provided by the HJPC IT Department).

■ The list of equipment and system software to be purchased includes:

- ▶ Desktop computer (incl. monitor, keyboard, and mouse) x 4
- ▶ Printer x 1
- ▶ Scanner x 1

- ▶ Copy machine x 1
- ▶ System licence – MS Office, Windows (to be configured by HJPC IT Department)
- ▶ Network switch to upgrade the existing system to cover the needs of the new department

Establishing a new department of judicial practice requires including the second instance Cantonal Court of Sarajevo in the existing “Court Practice Database” of higher instance courts. The HJPC Secretariat’s IT Department will be responsible of implementing this requirement, pursuant to a decision of the HJPC supporting it and with the consent of the four higher instance courts (Court of BiH, entity Supreme Courts, Brčko District Appellate Court). Currently, the publication of cases with public access is addressed by the HJPC Guidelines for the Publication of Judicial and Prosecutorial Decisions, Acts and Information on cases in the Federation of BiH, the state level and the Brčko District. In Republika Srpska, there is a Rulebook on the publication of judgements, enacted by the minister of justice in accordance with Article 9, paragraph (3) of the Law on Courts of RS. It generally regulates publication of all final decisions, but also those that are not yet final. Anonymisation practices are harmonised throughout the country in line with relevant instructions adopted by the HJPC.

The development of the “Court Practice Database” was completed in 2021, with an overall cost of approximately BAM 58,700 (EUR 30,000). A reasonable estimate of the costs of future upgrading of the system amounts to 60–70% of the original development price, i.e., around BAM 39,116 (EUR 20,000). A more precise price estimation would require additional details, specifically on how the judicial decisions will be published, and to whom these decisions will be made available.

This budget will be allocated to the HJPC Secretariat’s IT Department, which will be responsible for customising the “Court Practice Database”. This budget is therefore not part of the overall budget proposal for the Sarajevo Cantonal Court described in the following part of this report.

Additional technical supplies

Given below are possible additional technical supplies that are either needed for the proper functioning of the new department or suggested for the overall improvement of the working conditions:

Needed:

- ▶ Landline phone x 2
- ▶ Mobile phone with abonnements x 4

Extra:

- ▶ Electric heating system x 3
- ▶ Air purifier x 2

VI. BUDGET ESTIMATE – OPTIONS

All the monetary values (costs) provided below are based on information gathered from meetings with interlocutors or from conducted research. These costs are indicative only. The submitted annual budget proposal contained in this report must be considered as a very first draft intended to provide preliminary ideas only.

Annual budget proposal breakdown per category in BAM:

Category No. 1 – Human resources

No.	Description	Number of units	Estimated cost per unit in BAM	Total cost in BAM
1	Judge/ Head of Department – Gross salary	12	9,753	117,036
	Seniority allowance (10 years' experience)	12	277	3,324
	Meal allowance	12	315	3,780
	Holiday allowance	1	2,598	2,598
	Other compensation costs ³¹ not included	12	-	-
Sub-total				126,738
2	Legal advisors (professional associates) – Gross salary	12	4,435	53,220
	Seniority allowance (3 years' experience)	12	38	456
	Meal allowance	12	315	3,780
	Holiday allowance	1	1,289	1,289
	Other compensation costs ³² not included	12	-	-
Sub-total				58,745
3	Legal advisors (professional associates) – Gross salary	12	4,435	53,220
	Seniority allowance (3 years' experience)	12	38	456
	Meal allowance	12	315	3,780
	Holiday allowance	1	1,289	1,289
	Other compensation costs not included	12	-	-
Sub-total				58,745

4	Legal advisors (professional associates) – Gross salary	12	4,435	53,220
	Seniority allowance (3 years' experience)	12	38	456
	Meal allowance	12	315	3,780
	Holiday allowance	1	1,289	1,289
	Other compensation costs not included	12	-	-
Sub-total			58,745	
Estimated overall total budget for category No. 1				299,433

Category No. 2 – Office furniture (average costs, VAT included)

No.	Description	Number of units	Estimated average cost per unit in KM	Total cost in KM
1	Office desk	4	1,000	4,000
2	Office chair	4	600	2,400
3	Drawer pedestal	4	250	1,000
4	Conference table	1	550	550
5	Meeting chair	6	300	1,800
6	Office cabinet (metal, with doors)	2	1,200	2,400
7	Bookshelf	3	300	900
8	Whiteboard	2	180	360
9	Desk lamp	4	150	500
Estimated budget for category No. 2				13,910

Category No. 3 – Office stationery (average costs, VAT included)

No.	Description	Number of units	Estimated cost per unit in KM	Total cost in KM
1	Lump sum (per employee, per year) - Paper, notebooks, pencils, highlighters, stapler, scissors, paper clips, pen holder, filing shelves, tape, tape dispenser, post it notes, filing folders, calculator, plastic sheets, envelopes, toners, etc.	4	400	1,600
2	Coat stand	2	180	360
3	Rubbish bin	4	50	200
4	Umbrella bin	2	150	300
Estimated budget for category No. 3				2,460

Category No. 4 – Office information and technology (17% VAT included)

No.	Description	Number of units	Estimated cost per unit in KM	Total cost in KM
1	Desktop (incl. monitor, keyboard, mouse, operating system, and MS Office licence)	4	2,340	9,360
2	Printer	1	2,340	2,340
3	Scanner (small capacity)	1	1,989	1,989
	Scanner (large capacity)	1	14,040	14,040
4	Copy machine (black & white)			17,550
1				17,550
	Copy machine (colour)	1	18,720	18,720
5	Network switch	1	4,446	4,446
Estimated budget for category No. 4				35,685 (48,906)

Category No. 5 – Other technical supplies (17% VAT included)

No	Description	Number of units	Estimated cost per unit in KM	Total cost in KM
1	Landline phone	2	50	100
2	Mobile phone	4	585	2,340
3	Air purifier (+ two filters)	2	590	1,380
4	Electric heating system	3	234	819
Estimated budget for category No. 5				4,639

Overall estimated annual budget covering all the above categories	356,127 (369,348)
---	-------------------

VII. POSSIBLE RISKS AND FINANCIAL CHALLENGES

Fragmentation of the judiciary in BiH

The judiciary in Bosnia and Herzegovina is fragmented into several court systems that are not hierarchically subordinated to each other, which may at times lead to inefficiency and ineffectiveness. The possibility of conflicts of jurisdiction, combined with the variety of practice in investigations and trials are a very direct threat to the overall functioning of the judiciary because they weaken the entire system whose track record remain poor, especially in criminal matters.

— The quality of the working relationships between institutions within the rule of law chain, for instance between courts and prosecutors' offices across the country, directly impacts their efficiency. Conflictual or inadequate relations further undermine the overall results of the judiciary.

— There are also highly fragmented sources of financing for courts, whose expenditures are paid through fourteen different budgets, making the development of the court levels uneven, and leaving room for influence by the executive branch.

— Given the current political context, and notwithstanding the fact that the country is officially an EU candidate, it is unlikely that the current fragmentation of the BiH judiciary and its negative consequences will be addressed and resolved anytime soon. There is no consensus in the country for the establishment of a Supreme Court at the state level, as recommended by the Venice Commission.³² This would require amending the Constitution of BiH and increasing the legislative powers of the State, the prerequisite for that being to build broad political support across ethnic lines.

Lack of legal basis to support departments of judicial practice in second instance courts

— There is currently no formal legal basis to support the establishment of departments of judicial practice in second instance courts. The legal practice in Bosnia and Herzegovina is that if a regulation is not specified clearly in the relevant law, there is no legal basis. The Rulebook on internal court operation in the Federation of BiH,³³ under Article 17 (i) and (j), assigns to the heads of departments within the court the responsibility to follow changes in jurisprudence and to inform the judges of the department accordingly, as well as being responsible for ensuring consistency within the department through early identification

32. Ibid (2), paragraph 102 (b), page 21

33. "Rulebook on internal court operations of the Federation of Bosnia and Herzegovina and Brčko District of BiH", Official Gazette of BiH, No. 66/12, 54/17, 60/17, 30/18 and 83/22

of possible legal discrepancies between similar cases, and before a case is closed. However, the head of department cannot influence a case, judges remain independent. Ensuring harmonisation does not prevent a panel of judges within the same court from rendering a verdict that is different from a previous verdict in a similar case. The independence of the judges prevails. Even positions/ decisions of the Supreme Courts are not binding for other courts, they are only informative.

■ While there is clearly a consensus that citizens' trust in the judiciary is based on harmonised and coherent judicial practice, as well as legal certainty, the best way to achieve such results in courts of second instance remains to be agreed. Cantonal courts' decisions are not final, which raises the question of the actual need to have departments of judicial practice at this level (and while there are such departments in higher instance courts). Is it not enough to have the heads of departments within the court ensuring the horizontal harmonisation of judicial practice among judges and judicial panels, along with enhanced coordination between departments? Developing a proper legal basis for the establishment of a department of judicial practice is one of the key prerequisites before moving forward.

Lack of support and/or interest from concerned parties

■ Judges jealously guard their independence and are reluctant to support anything that could be perceived as a limitation of this independence. Recording of cases enhances case-law transparency and benefits harmonisation, as judges can access and review other similar accessible cases while drafting their verdicts. However, some judges prefer not to know about other cases which may reveal the existence of legal inconsistencies. Recognising a mistake is not something everybody is ready to do. Furthermore, a large majority of judges argue that they do not have time to review existing recorded cases (including from the case law of the ECtHR), even though it could enhance the overall quality of their rulings and possibly prevent inconsistencies. Judges in Bosnia and Herzegovina still favour informal ways for legal communication, speaking to each other when meeting.

■ If there were to be a department of judicial practice established in a second instance court, in the Sarajevo Cantonal Court for instance, the head of this department would need to have the required qualifications of a second-instance-court judicial office holder with some degree of expertise in criminal, civil, administrative, and commercial law, since the work would involve recording cases from all the departments of the court.

Budget constraints (and lack of human resources, by extension)

■ This is likely going to be one of the main challenges for the establishment of a new department of judicial practice within a court of second instance. Indeed, the establishment of a new department represents an additional burden on the budget, rather than a financial benefit, at least in the short term.

■ In terms of the budget planning procedure, the relevant ministry of justice (i.e. that of the Sarajevo Canton) provides the budget amount available, independently from the budget proposal originally prepared by the institution (namely, the Cantonal Court of Sarajevo), which must then reconcile its budget proposal with the provided amount of budget available. Any additional budget needs must be covered in a separate document annexed to the main budget proposal for further consideration by the decision-makers. The HJPC is provided the full package and gives an opinion on the proposal. The full package is then submitted for adoption to the Cantonal Government and the Assembly. Within the process described above, the budget planning logic of the government is rarely aligned with the priorities of the cantonal institutions, but is instead motivated by some other immediate political gains. The main question will therefore be whether the establishment of a department of judicial practice in the Sarajevo Cantonal Court is a priority for the Cantonal

Government, given that the general elections, and therefore the reconstitution of the current cantonal majority, will be decided by citizens in 2026.

■ Considering more concretely the current situation of the Sarajevo Cantonal Court, it appears that the Court has a number of pressing financial needs to cover, notably (1) hiring more judges in all its existing departments and more professional associates/ legal advisors, (2) covering a shortage of funds to complete the refurbishing work on one of the floors previously occupied by the Sarajevo municipal prison and recently transferred to the Cantonal Court, (3) finding additional funds for the refurbishment of the premises with the adaptation of the main conference room into a courtroom able to accommodate cases with numerous parties, and (4) overall upgrading of the court's IT equipment, etc. The management of the Court will have to choose priorities among all its needs for additional budget allocation, in an environment that is generally not favourable to budget increases.

VIII. CONCLUSIONS AND RECOMMENDATIONS

The 18th recommendation in the Council of Europe’s “Report on the need to establish judicial practice departments at second instance courts in BiH with recommendations,”³⁴ released in January 2024, reads: “particularly review the financial aspect of forming new court departments, since this entails increased costs.” The present report directly enforces this recommendation, as well as others. Indeed, the present report supports the recording of cases in all second instance courts in BiH, further recommending the forming of departments of judicial practice in the largest second instance courts. It further recommends standardising the recording of cases following the example of courts of higher instance, exchanging good practices, establishing cooperation with courts of higher instance, with the High Judicial and Prosecutorial Council and the ministries of justice, etc.

Many of these recommendations are further supported in the handover conclusions and recommendations of the “legal advisor for judicial practice” who was deployed in the Sarajevo Cantonal Court between July 2024 and May 2025. The recommendations contained in these two separate documents must be carefully considered.

Enhancement of legal certainty and case law harmonisation have been at the forefront of the priority reforms of the judiciary in Bosnia and Herzegovina over the past decade and more. Clear progress was achieved with the forming of joint panels of highest judicial instances covering civil, administrative, and criminal law in 2014. In 2025, the work of these panels was formalised with clear rules being adopted by the HJPC, the Court of BiH, the entity Supreme Courts and the Brčko District Appellate Court. In the meantime, between the two dates, an important additional step forward was achieved with the forming of three departments of judicial practice, in the Brčko District Appellate Court (2017), the Supreme Court of Republika Srpska (2017), and the Supreme Court of the Federation of BiH (2018), respectively.

The above-described successful achievements, while limited to courts of higher instance, nonetheless confirm that enforcing such changes in courts of second instance is possible and should be considered favourably, notably to enhance public trust in the judiciary.

- ▶ Recommendation 1: A review of the lessons learnt from the establishment of the departments of judicial practice in higher instance courts should be undertaken (if not already done) to issue concrete guidance on the best way to proceed in second instance courts.

A closer look at the composition of the existing departments of judicial practice in higher instance courts shows that each office differs from the others. There is no uniform model, but the duties and responsibilities of all three departments are quite similar (though not identical, notably in relation to practice).

34. Ibid (26), pages 28-30

- ▶ *Recommendation 2: While considering what would be the optimum staff composition of a department of judicial practice in a second instance court, the different models proposed in higher instance courts should be assessed from the legal, human resource and financial perspective to better determine what model may be more effective.*

There is no uniform recording of cases in second instance courts in Bosnia and Herzegovina. It is not done in an organised and systemic manner, in line with harmonised rules and regulations. Establishing departments of judicial practice in second instance courts would therefore ensure systematic recording of all court decisions in a dedicated portal, permitting early detection of diverging legal positions for more harmonisation and uniform judicial practice. This would impact the quality of the work of judges. It would contribute to improving citizens' trust in the judiciary by enhancing legal certainty, efficiency, and professionalism. Recording judicial practice in second instance courts is clearly in the interest of first instance courts, as well as being useful for enforcement departments in second instance courts that handle final cases.

- ▶ Recommendation 3: An in-depth legal impact assessment of establishing departments of judicial practice in second instance courts must be conducted, given that the recording of cases is already an existing legal requirement assigned as a responsibility to heads of departments. This assessment should consider whether it would be more effective (1) to reinforce case registration tools and regulations already in place or (2) to establish new departments of judicial practice.

Establishing a new department from scratch within a court of second instance requires securing a corresponding budget. It represents an additional cost for the court that needs to be planned and announced in advance, so that the court could stand a chance of being allocated the required additional budget line by the cantonal authorities. In the short term, establishing a new department requires a budget increase, unless some equivalent spending cuts are found in other budget lines (which is rare, unless imposed by the authorities/ legislator). A reduction of costs is possible, however, in the middle/ long term, with running costs decreasing once the department is in place and fully functioning, and indirectly through the impact of the work of the judicial practice department on the judiciary.

- ▶ Recommendation 4: A comparative financial assessment should be conducted by the relevant staff of the Sarajevo Cantonal Court (administration and personnel, finance and IT) to fine-tune the budget proposal proposed in this report, notably looking at (1) the budget value of all the compensation costs not included in the report and (2) reviewing the budget covering office stationery based on the identified needs of existing departments of the Court.

There are several risks and financial challenges standing on the path towards establishing a department of judicial practice in the Cantonal Court of Sarajevo (or any other second instance court in the country). The BiH judiciary remains highly fragmented and is likely to remain so for many years to come. The successful establishment of such departments in courts of higher instance is a positive precedent, but this success concerned a limited number of courts at the very top of the judicial chain. Furthermore, there is a clear lack of legal basis to support such reforms, which may also lack the necessary support from those most concerned (judges, judicial management) and even be legally challenged by those opposing it. Finally, the main challenge is likely to be financial, in view of the budget needed for the establishment of a new department and while the Sarajevo Cantonal Court is looking for additional funds to support several clearly identify needs.

- ▶ Recommendation 5: The success of this reform will largely depend on the inclusiveness of its operationalisation (including in relation to all the concrete activities recommended above). A high degree of communication and interaction are required within the management of the concerned

court so that the final decision is supported by consensus (reducing the chance of future obstruction by judicial office holders). The process must also include close coordination with relevant external stakeholders, notably the High Judicial and Prosecutorial Council (both the Secretariat and Council), the Supreme Court of the Federation of BiH, and the Sarajevo Canton Government (Ministry of Justice).

ANNEXES

[Annex 1 - Sources](#)

- ▶ European Commission for Democracy through Law (Venice Commission) of the Council of Europe – Opinion No. 648/2011 on “Legal Certainty and the Independence of the Judiciary in BiH”, 18 June 2012
- ▶ Communication from the Commission to the European Parliament and the Council Commission - Opinion on Bosnia and Herzegovina’s application for Membership to the European Union - 29 May 2019, COM (2019) 261 final
- ▶ Commission staff working document – 29 May 2019, SWD (2019) 222 final - Analytical document accompanying the Communication from the Commission to the European Parliament and the Council Commission - Opinion on Bosnia and Herzegovina’s application for Membership to the European Union - 29 May 2019, COM (2019) 261 final
- ▶ Commission staff working document – 30 October 2024, SWD (2024) 691 final - Bosnia and Herzegovina 2024 Report Accompanying the document “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions”; 2024 Communication on EU enlargement policy
- ▶ European Commission recommendations issuing from the 1st Plenary Session of the EU-BiH Structured Dialogue on Justice, Banja Luka, 6-7 June 2011
- ▶ European Commission recommendations issuing from the 4th Plenary Session of the EU-BiH Structured Dialogue on Justice, Brčko District, 4-5 April 2013
- ▶ European Commission recommendations issuing from the 6th Plenary Session of the EU-BiH Structured Dialogue on Justice, Banja Luka, 11-12 Nov 2013
- ▶ Council of Europe “Report on the need to establish judicial practice departments at second instance courts in BiH with recommendations”, January 2024
- ▶ “Rulebook on Internal Organisation and Job Classification” of the Appellate Court of the Brčko District of BiH, number 0970Su17000045, 20 January 2017
- ▶ “Rules of Procedure for Court Divisions” of the Appellate Court of the Brčko District of BiH, number 0970Su17000770, 29 November 2017
- ▶ “Rules of Procedure for the Judicial Practice Department” of the Appellate Court of the Brčko District of BiH, number 0970Su230001001, 20 February 2023
- ▶ “Distribution of duties 2025” in the Appellate Court of the Brčko District of BiH, number 0970Su25000024, 15 January 2025
- ▶ “Rulebook on Internal Organisation and Job Classification” of the Supreme Court of Republika Srpska, number 1180Sul17000281, 02 October 2017
- ▶ “Rulebook on the Work of Judicial Departments in the Supreme Court of Republika Srpska”, number

118-0-Sul-18-000339, 26 December 2018

- ▶ “Decision on the Work Schedule of Judges in the Supreme Court of Republika Srpska for the Year 2025”, number 118-0-Sul-24-000 346, 24 December 2024
- ▶ “Rules of the Panel for harmonisation of judicial practice”, Federation of BiH, No. 07-50-314-4/2014, 10 April 2014
- ▶ “Rulebook on the Work of the Department for Recording Judicial Practice of the Supreme Court of the Federation of BiH”, 12 December 2018
- ▶ “Rules of the Panel for harmonisation of judicial practice”, Federation of BiH, No. 07-13-3-2073-2/2025, 15 July 2025
- ▶ “Guidelines for the Publication of Judicial and Prosecutorial Decisions, Acts and Information”, HJPC, No. 07-02-3-1279-3/2024 Sarajevo, 21 March 2024
- ▶ “Law on Salaries and Other Compensations for Judges and Prosecutors in the Federation of Bosnia and Herzegovina”, Official Gazette FBiH, No. 72/05, 22/09, 55/13 and 61/22
- ▶ “Law on Civil Service in the Federation of BiH”, Official Gazette of FBiH, No. 29/03, 23/04, 39/04, 54/04, 67/05 and 8/06
- ▶ “Law on Public Procurement”, Official Gazette of BiH, No. 39/14, and “Law on amendments to the Law on Public Procurement”, Official Gazette of BiH, No. 59/22 – Unofficial revised text prepared in July 2024 for use by the BiH Parliament
- ▶ “Rulebook on Internal Judicial Operations of the Federation of Bosnia and Herzegovina and the Brčko District of BiH”, Unofficial Consolidated Text, Official Gazette of BiH, No. 66/12, 54/17, 60/17, 30/18, and 83/22

Annex 2 - Interlocutors met

- ▶ Vera Bjelogrić, Head of the Department for Court Documentation and Education, HJPC Secretariat
- ▶ Ana Bilić-Andrijanić, Head of the Department for Improving Efficiency and Judicial Capacity Building, HJPC Secretariat
- ▶ Amra Halilović, Department for Improving Efficiency and Judicial Capacity Building, HJPC Secretariat
- ▶ Kenan Softić, Head of IT Department, HJPC Secretariat
- ▶ Admir Dulaš, Deputy Head of IT Department – Integrated management system, HJPC Secretariat
- ▶ Haris Kurtić, Deputy Head of IT Department – System maintenance, HJPC Secretariat
- ▶ Mersiha Mavrić, Head of the Finance and Accounting Department, HJPC Secretariat
- ▶ Ivana Zovko Planinić, Director of the HJPC Secretariat
- ▶ Nađa Kazić, Procurement Officer, Office of the EU Special Representative (EUSR)
- ▶ Pierre-Louis Bazin, Project Manager, EU4Justice Phase II
- ▶ Hana Jusić, Project Manager Assistant/ Office Manager, EU4Justice Phase II

www.coe.int

Council of Europe is the continent's leading human rights organisation. It comprises 46 member states and includes all members of the European Union. All Council of Europe member states have signed the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE