

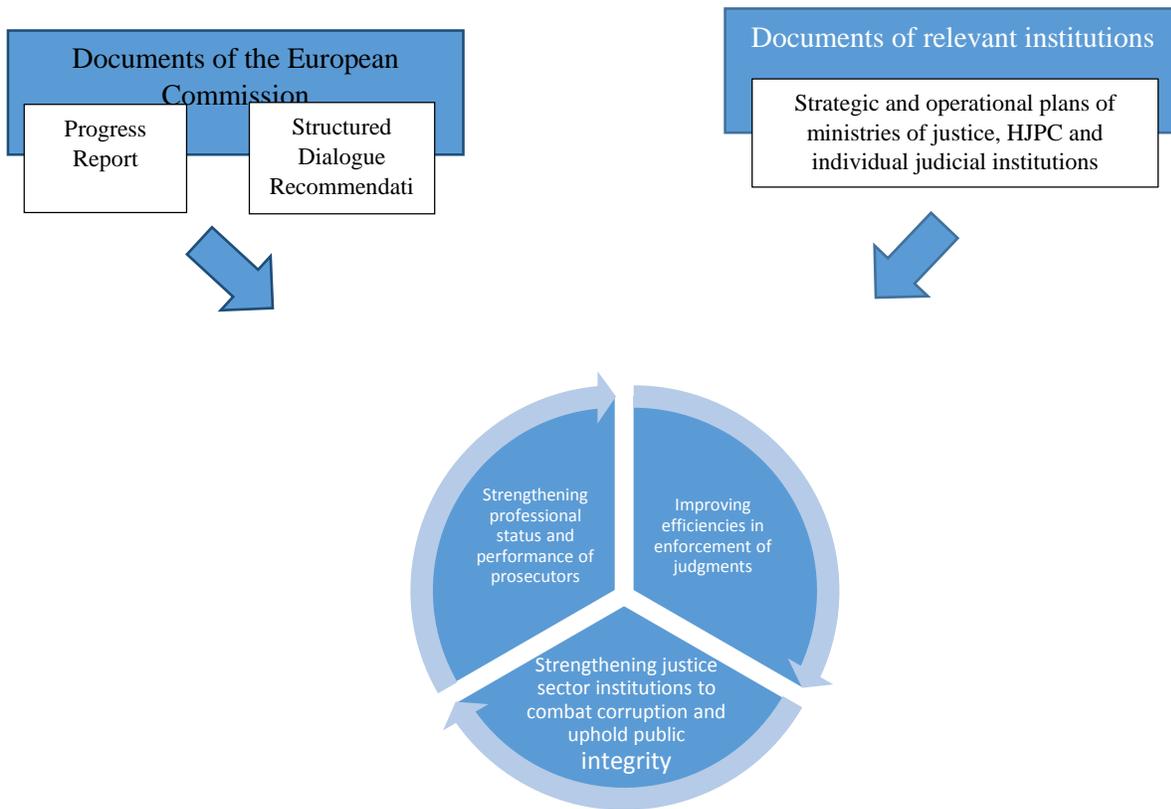


**USAID' JUSTICE PROJECT IN BOSNIA AND HERZEGOVINA
(2014-2019)**

Background

The new USAID's Justice Project of the United States Agency for International Development (USAID) in BiH continues capacity-building activities in support of the institutions and organizations which play a major role in judiciary, as a follow up of a broader effort of the US Government to enhance democracy and rule of law in Bosnia and Herzegovina.

USAID's "Justice Project" (USAID JP) draws on results of previous activities within the earlier USAID Justice Sector Development Projects I and II. Mirroring the practice of USAID's previous projects, in designing specific activities USAID's JP will give due attention to issues and priorities identified in relevant documents of both the European Union¹ and relevant institutions of BiH:



¹ This particularly applies to the Recommendations of the European Commission from the Plenary Meeting of the Structured Dialogue between the European Union and BiH on judiciary and other issues of rule of law held on 13 and 14 May 2014 to discuss professionalism in judiciary, efficiencies of judiciary and cooperation between police and prosecutors across all jurisdictions, and recommendations from the 2014 BiH Progress Report

During the life of the Project (October 2014 - September 2019), USAID JP will provide technical assistance in the above described areas defined on the basis of previously achieved reform outcomes, and in close coordination with the relevant institutions (primarily HJPC, relevant ministries of justice and judicial institutions), as well as with other international organizations and donors, primarily the European Union. Anticipated results in the aforesaid areas to be achieved during the life of the Project, and proposed approaches and activities for the Year 1 (until end of September 2015) are set out below.

Strengthened professional status and performance of prosecutors

Broader context of assistance program

Notwithstanding all efforts previously made with the view of reforming the justice sector BiH, it would seem that there is an overwhelming consensus that insufficient attention was given to strengthening of prosecutorial capacities and working conditions for prosecutors in BiH. Furthermore, in accordance with the conclusions of the Foreign Affairs Council from April 2014, it was decided that the Agenda of the Structured Dialogue between the European Union and BiH should be broadened, so as to include, among other things, the issues pertaining to combat of corruption. In fact, the success rate in prosecution of cases of corruption is clearly insufficient, as can be seen from both the conclusions of the relevant organizations from the nongovernmental sector and the Bosnia and Herzegovina 2013 Progress Report by the European Commission. In addition, as the statistics in the HJPC Annual Report show, a huge backlog continues to be a major hurdle in prosecutor's offices. As an example, on 31 December 2013 the backlog in cantonal prosecutor's offices included 46% pending cases at the stage of a criminal report and 57% pending cases at the stage of investigation, while the proportion of these cases in district prosecutor's offices was 69% and 55% respectively. The justice sector institutions, including prosecutor's offices, made a significant progress in development and adoption of both institutional strategic plans and uniform standards for assessment of efficacy and performance. It is, however, necessary to move forward on the issue of a comprehensive analysis of all available data to facilitate better informed decisions on the use of professional and technical resources. Within the five year partnership program, and in consultation and close cooperation with the Strategic Body of prosecutors/members of HJCP (the Strategic Body), Secretariat of HJPC, all chief prosecutors and prosecutors in BiH, USAID JP intends to work on defining of all available methods to achieve the following objectives:

- Enhanced organizational management, planning and operational efficacy of all prosecutor's offices;
- Better utilization of available human and material resources in prosecutor's offices;



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IN BOSNIA AND HERZEGOVINA

- Increased public confidence and integrity of prosecutor's offices through enhanced capacities and prosecution of cases of corruption aimed at increasing the success rate in prosecution of cases and upgrading their quality;
- Enhanced transparency of work of prosecutor's offices and public communication through strengthened public communication and information capacities and processes;
- Defined proposals for improvement of performance appraisal methods for prosecutor's and prosecutor's offices aimed at improvement of prosecutors' status and the appointment and promotion system.

Proposed approaches and activities in 1 Year of implementation

USAID JP will confer with the Strategic Body to identify individual prosecutor's offices (4 to 6) which will participate in the program during the first year. A sufficiently detailed analysis of the situation and needs will be carried out in all the selected prosecutor's offices which will be used to design individual plans of technical and professional assistance. The intention is to design targeted professional assistance, and engage primarily national and regional experts, as well as experts from other jurisdictions on an as needed basis, for the areas assessed as requiring additional professional support and exchange of professional experience for improved performance and better efficacy. The Project will also help in identifying best practices in prosecutor's offices, they will be developed and shared them with other prosecutor's offices. USAID JP will routinely communicate and confer with the Strategic Body on all planned and implemented project activities, as well as on findings of analysis and recommendations related to the work of prosecutor's offices during the life of the Project. The Project anticipates that special attention will be given to support provided to the Federal Prosecutor's Office of the Federation of BiH with a view to help this Prosecutor's Office to meet the requirements envisaged under the new Law on Prevention of Corruption and Organized Crime in the Federation of BiH. At the end of the first year the Project will prepare and present to the Strategic Body and HJPC an account of implemented activities, achieved results and recommendations which will form a basis for continued technical assistance to participating and other prosecutor's offices in the next year. Close coordination with all other donor activities, primarily with the Swiss Agency for International Development will be secured in order to identify areas of cross-cutting activities and potential synergy amongst various projects.

Improved efficiencies in enforcement of judgments

Broader context of assistance program

Significant improvements have been made in terms of reducing the backlog of enforcement cases with respect to the previous years. As the HJPC 2013 Report states, "overall backlog of 2012 was reduced by 2% in 2013." However, as at 31 December 2013 there were 455.126, mostly utility cases, pending. In cooperation with HJPC, selected courts, ministries of justice, bars and associations of notaries, business enterprises, including banking sector, as well as

nongovernmental sector, USAID JP will work to improve efficiencies of enforcement of judgments with the following objectives:

- Improved procedures for enforcement of judgments and reduced backlog of enforcement cases;
- Improved capacity of enforcement agents through targeted training, staffing procedure, oversight and management;
- Designing a framework legislation for licensing, monitoring, and control of alternative enforcement agents;
- Support courts in establishment of necessary system and alternative means to adequately secure and control seized assets.

Proposed approaches and activities in I Year of implementation

In consultation with relevant institutions, USAID JP will hire a team of national and international experts who will carry out a comprehensive assessment of the enforcement procedure with recommendations for improvements. The Diagnostic Assessment will take into consideration both the previous analyses and recommendations made by national experts and donors, and the present situation in enforcement of judgments. The experts will make recommendations which will be used to develop a handbook for enforcement agents to boost the implementation of enforcement procedures. These procedures may also include the issue of monitoring and performance evaluation of enforcement agents, application of alternative methods for enforcement of final judgments and stronger involvement of court presidents and enforcement sections in recruitment and work of enforcement agents. The Project will work on development of proposed legal framework for licensing, training, overview and control of so called alternative enforcement agents. The findings of the Diagnostic Assessment shall be used as a basis to propose specific solutions. During the first year, the Project will design a pilot program to test the system and alternative solutions for securing and seizure of debtors' assets and funds.

Strengthened capacities of judicial institutions to combat corruption and uphold public integrity

Broader context of assistance program

A public opinion survey carried out by USAID JSDP II revealed that political influence was rated 7.23 (on a scale from 1–10). A relatively small percentage of respondents stated they knew somebody who was asked to pay a bribe to a court or prosecutor office employee (4.7% and 2.5% respectively). On a scale from 1–10, citizen satisfaction with the independence of the judiciary, its

efficiency, and its ability to fight corruption, process war crimes cases, and protect labor rights remained low at around 3.8. Almost 93% of respondents were not aware of a judge or prosecutor being sanctioned for not performing his/her function properly.

Many of these challenges were recognized both by the government and civil society, which agreed with the EU to broaden the structured dialogue on justice to other rule of law issues, such as anti-corruption, prevention of conflict of interest, and measures to strengthen the integrity, accountability, and efficiency of institutions.

Through proper enforcement of the law, the judicial branch plays a key role in protecting citizens against the arbitrary or inequitable use of political or economic power. It is generally known that justice sector institutions in particular are subject to attempts of bribery, coercion, or other undue influence, the aim of which is to undermine not only the institutions themselves, but also their ability to hold other institutions accountable. With that said, both judicial independence and accountability are considered crucial to advancing impartial justice and increasing public confidence in the capacity of judges and prosecutors to do so. The activities of USAID JP are designed to support mechanisms of self-accountability within the judiciary and as such further reinforce the concept of the independence of the judiciary. These activities will be implemented in cooperation with HJPC, courts and prosecutor's offices, Centers for Education of Judges and Prosecutors, ministries of justice in BiH and other governmental institutions and nongovernmental organizations. The objective of these activities is:

- Systemic and systematic enhancement of capacities of judges and prosecutors to combat corruption;
- Stronger institutional position of the Office of Disciplinary Prosecutor (ODP), and other improvements in management and conduct of disciplinary proceedings;
- Improved cross-institutional cooperation and coordination in the fight against corruption;
- Stronger public confidence in judiciary.

Proposed approaches and activities in 1 Year of implementation

Activities anticipated for the first year of the implementation are in line with the recommendations of the European Commission from the Structured Dialogue on judiciary and rule of law (from May 2014). They have been designed in coordination with other international organizations and donors who support the BiH institutions in combating corruption. Their necessity and relevance was identified through a review of institutional strategies and discussion with key partners in judiciary. With the assistance of both national and international experts, the activities will be implemented in close coordination with judicial institutions with consideration of the results achieved in capacity building of judiciary to combat corruption and uphold public integrity. During the first year the Project will carry out an analyses with recommendations for improved judicial statistics

in corruption cases and their exchange among the agencies, develop and recommend mechanisms of cooperation between the Agency for Prevention of Corruption and coordination of combat of corruption (APIK) and prosecutor offices. In addition, in coordination with ODP and HJPC, the Project will prepare an analysis with recommendations for improved operation of ODP with a view of enhancing public confidence in operation of judiciary, and an analysis of practices and perception of disciplinary proceedings. We will work to improve understanding on elements and risks of corruption in judiciary, and the role of codes of ethics and their application. Also, in coordination with CEST and other relevant institutions, we will seek to design long term training programs aimed at improvement of capacity of judicial officials to combat corruption.