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USAID BOSNIA JUSTICE SECTOR DEVELOPMENT PROJECT II

Year 2 - ANNUAL REPORT
July 15, 2010 - July 14, 2011

AUGUST, 2011

This publication was produced for review by the United States Agency for International Development by the East-West Management Institute, Inc.

USAID BOSNIA JUSTICE SECTOR DEVELOPMENT PROJECT II

Year 2 – ANNUAL REPORT

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Prepared under the USAID's Bosnia Justice Sector Development Project II (USAID JSDP II), Contract Number 168-C-00-09-00105-00.

Submitted to:

USAID/Bosnia and Herzegovina on August 15, 2011.

Contractor:

East-West Management Institute, Inc.

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TABLE OF CONTENTS

TABLE OF ACRONYMS 4

EXECUTIVE SUMMARY 6

SECTION I: BACKGROUND..... 10

SECTION II: ANNUAL WORKPLAN BY TECHNICAL COMPONENTS..... 13

COMPONENT 1: STRENGTHENING THE INDEPENDENCE, ACCOUNTABILITY AND EFFECTIVENESS OF THE JUSTICE SECTOR..... 13

 SUMMARY HIGHLIGHTS 13

 HIGHLIGHTING ACHIEVEMENTS: 15

 1.1 Promoting Independence and Accountability through Improved Appointment and Advancement Processes 15

 1.2 Increasing the Effectiveness of the Judicial System through Improved Management and Administration of Courts and Prosecutor Offices 19

 PROJECT IMPACT 27

 PROBLEMS AND ROADBLOCKS 30

 PROPOSED PROGRAMMATIC OR TACTICAL CHANGES 31

COMPONENT 2: SUPPORT FOR A BETTER COORDINATED AND MORE UNIFIED SYSTEM OF JUSTICE READY FOR EU ACCESSION..... 32

 HIGHLIGHTING ACHIEVEMENTS 32

 2.1. Creation of “Forum for Joint Policy (FJP)” with HJPC and MOJ, and building the capacity of MOJ/HJPC policy units for policy analysis and writing of policy proposals..... 32

 2.2 Strengthening the capacity of SSPACEI to implement JSRS 33

 2.3 Establishment of MOJ Documentation System to track JSRS implementation..... 34

 2.4 Strengthening strategic and policy capacities at the entity and cantonal level, including the Brcko District Judicial Commission..... 35

 2.5 Improving the required Justice Sector reporting to EU/EC 36

 2.6 Increasing Independence and Effectiveness through Improved Budgeting Processes..... 37

 PROJECT IMPACT 38

 PROBLEMS AND ROADBLOCKS 41

COMPONENT 3: BOLSTERING PUBLIC CONFIDENCE IN THE RULE OF LAW..... 43

 HIGHLIGHTING ACHIEVEMENTS: 43

 3.1 Development of the Justice Sector Civil Society Network (Justice Network) 43

 3.3. Supporting the Development of Justice-Sector Policy or Legislative Reforms by Civil Society..... 45

 3.5 Capacity Building for JSDP II Partner NGOs and other JSDP II Grantees 48

 PROJECT IMPACT 49

 PROBLEMS AND ROADBLOCKS..... 55

ANNEX A: Summary of Performance Indicators..... 57

TABLE OF ACRONYMS

EWMI	East-West Management Institute, Inc.
USAID	United States Agency for International Development
USG	United States Government
AC	Acquis Communautaire
ADI	Association for Democratic Initiatives
ADR	Alternative Dispute Resolution
AP	Action Plan for Justice Sector Reform Strategy Implementation
AR	Annual Report
BB	Bench Book
BD BiH	Brčko District of Bosnia and Herzegovina;
BD JC	Judicial Commission of Brčko District of Bosnia and Herzegovina;
BFD	Budget Framework Document;
BiH MOJ	Ministry of Justice of Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
BIRN	Balkan Investigative Reporting Network
BOR	Book of Rules
CCEJ	Consultative Council of European Judges
CCPE	Consultative Council of European Prosecutors
CEPEJ	The European Commission for Efficiency of Justice
CIPP	Centre for Information and Legal Aid, Zvornik
CMS	Case Management System for courts in BiH
CoE	Council of Europe
CSOs	Civil Society Organizations
DON	Democracy-Organized Action-Progress, Prijedor
DPSP	Department for Planning and Strategic Policy of the HJPC's Secretariat;
DS	Justice Sector Reform Strategy tracking Documentation System
EC	European Commission
ECHR	European Convention on Human Rights
EU	European Union
EUSR	European Union Special Representative
EWMI	East-West Management Institute, Inc.
FBiH	Federation of Bosnia and Herzegovina;
FBiH MOJ	Ministry of Justice of the Federation of Bosnia and Herzegovina
FJP	Forum for Joint Policy;
FLD	Foundation of Local Democracy
FWG	Functional Working Group
HJPC	High Judicial and Prosecutorial Council of Bosnia and Herzegovina
HJPC BD	Budget Department of the HJPC's Secretariat
IT	Information technologies
JN	Justice Network
JPTC	Judicial and Prosecutorial Training Centers
JSDP I	Justice Sector Development Project
JSDP II	Justice Sector Development Project II
JSRS	Justice Sector Reform Strategy
MC	Ministerial Conference
MCI	Model Court Initiative
MPOI	Model Prosecutors Office Initiative
MOJ	Ministry of Justice

MOU	Memorandum of Understanding
MS	Matrix of Standards
NAGTRI	National Attorneys General Training and Research Institute
NGO	Non governmental organization
OSCE	Organization for Security and Co-operation in Europe
OHR	Office of the High Representative
PLE	Public Legal Education
PO	Prosecutors' Office
PR	Public Relations
PSB	Permanent Subcommittee on Judicial and Prosecutorial Budgets of HJPC
ROL	Rule of Law
RS	Republic of Srpska
RS MOJ	Ministry of Justice of Republic of Srpska
SAA	Stabilization and Association Agreement
SATURN	Council of Europe's Centre for judicial time management
SCB	Standing Committee on Judicial and Prosecutorial Budgets
SCO	Swiss Cooperation Office
SO	Strategic Objective
SPC	Point of Contact for Strategic Planning;
SSPACEI	Sector for Strategic Planning, Aid Coordination and European Integrations of the BH MOJ;
SUFI	System for Management of Financial Operations;
TC	Thematic Conference
TCMS	Prosecutorial Case Management System
T-Portal	Internet portal for prosecutors
TS	Technical Secretariat for Monitoring of the implementation of the JSRS
UPR	Universal Periodic Review, a human rights monitoring mechanism of the UN Human Rights Council
US	United States
USAID	United States Agency for International Development
VC	Venice Commission
WG	Working Group
WP	Work Plan
YIHR	Youth Initiative for Human Rights

EXECUTIVE SUMMARY

This Annual Report covering the period July 15, 2010 – July 14, 2011 is presented by East-West management Institute, Inc. (EWMI) in compliance with the Contract 168-C-00-09-00105-00 for the Bosnia and Herzegovina “Justice Sector Development Program II”. This Annual Report was prepared by the Component Team Leaders, Component Coordinators and staff under the supervision of the the Chief of Party. Detailed input was received from the Office Manager, Financial Manager as well as EWMI headquarters staff. The current Chief of Party, Gerald Meyerman, arrived in Bosnia end May 2011 and took over project management responsibility from Mr. Richard Gebelein at that time.

The contract was awarded to East-West Management Institute on July 14, 2009 and is currently slated to end July 13, 2012. USAID JSDP II is a three-year, \$4.9 million activity that follows up on the successes of the first JSDP Program while launching a number of significant new reform initiatives. The contract provides for a two year “Option Period” for the period July 15, 2012 to July 14, 2014 at an additional projected cost of \$3.1 million. Unless the Option is exercised this would be the final Annual Report. It is anticipated that, if the Option has not been exercised, the Year 3, Second Quarterly Report, will contain a detailed shut down strategy and an adjusted implementation plan.

USAID JSDP II has as its main goal assisting BiH to continue building an effective and credible justice system. Emphasis is placed on building institutions which will enable BiH to accede to the EU. This requires the continual strengthening of the independence, accountability and effectiveness of the judiciary through a better coordinated and more unified justice system. Building greater public confidence in the judicial system and the rule of law is a key objective and a particularly critically important element in developing a peaceful and stable country. USAID JSDP II was designed to build on the partnership initiative of its predecessor project with the BiH High Judicial and Prosecutorial Council (HJPC), the BiH Ministry of Justice (MOJ), and the courts. USAID JSDP II has launched a new partnership with prosecutors’ offices and a broad and ambitious new engagement with civil society. This engagement has resulted in the establishment of the 57 member CSO group known as the “Justice Network”.

During Year 2 implementation significant strides were made in improving the judicial environment. It should be recalled that USAID JSDP II is focused on building institutions which will enable BiH to accede to the EU and that this requires the significant strengthening of the independence, accountability and effectiveness of the judiciary and building greater public confidence in the judicial system. These are massive and long-term objectives not possible to reach in neither a year nor even likely a decade. The EU itself does not realistically expect BiH to achieve these goals until accession – typically 7 to 9 years after a country achieves “candidate” status. It is hoped that BiH will achieve candidate status within the next year. USAID JSDP II has promoted inter-entity and public-private dialogue wherever possible.

To overcome the residual distrust lingering since the end of hostilities and the uncertainty of the BiH government taking on increasing responsibilities as the international community reduces its’ presence requires a comprehensive approach to building trust through working together and visualizing and eventually building a common future. This massive task will continue next year and will take individually small but fundamental steps to build a new and reliable justice system. All activities last year were influenced by a deteriorating political

environment. Details of the impact thereof are outlined in greater below. The performance management summary for the second year is presented in Annex A.

KEY EVENTS INFLUENCING THE IMPLEMENTATION

In order to provide detailed support to USAID JSDP II, the HJPC recognized that it had limited implementation capacity and established Working Groups to address the major, substantial issues. Using this mechanism, it was expected that significant progress would be made with local courts and institutions by way of enhancing transparency, budgeting expertise and judicial independence.

It is further anticipated that experienced judges and prosecutors, from across BiH, working together in a Working Groups, will contribute to improving the current system of selecting, promoting and evaluating judges and prosecutors. To assure the need to develop efficient court and prosecutorial services, the HJPC in establishing and refining time frames for courts and prosecutors offices. Working across entity boundaries will assist in building bridges and understanding and assist in the closer harmonization of judicial processes and standards, laying the groundwork for enhanced integration and harmonization as required for accession to the EU.

USAID JSDP II established and implemented a Model Prosecutor Office Initiative during the initial two years of the project. This approach follows on JSDP I's successful Model Courts Initiative. Over the first three years of the project it will result in all 18 prosecutors' offices meeting European Standards. Through its initial efforts USAID JSDP II has gained the trust of the prosecutors by emphasizing and demonstrating that its support has been specifically tailored to the needs of the prosecutors, was developed in cooperation with the country's chief prosecutors and is focused on impact and sustainability.

To date the Project has completed work with thirteen model prosecutor offices from Brčko District and FBiH. Change management teams have been established with the participation of all participating prosecutor offices, have been meeting regularly and are leading the process. Need assessments for all 18 prosecutors' offices has now been completed. A "Model Prosecutor Offices Initiative Intervention Plan" has been developed by participants detailing the initiatives and outlining improvements and anticipated achievements for participating prosecutor office and their administration.

Seven USAID JSDP II domestic experts, specializing in areas including architecture, constructing, strategic planning, financial management, program budgeting, information gathering, public relations and archive management have made field visits to model prosecutor offices participating in the first two waves. The experts provided trainings to each change management team, and assisted the teams to develop reports containing detailed findings and recommendations. Through this process, and the technical assistance provided to all thirteen prosecutor offices developed their individual strategic and operational plans as well as their own, individualized program budgets.

Initially some delays were encountered in obtaining the formal support for this highly participative implementation approach from the HJPC. The approach was designed to assure local ownership of the effort and thus make the changes more sustainable, has demonstrated the value of this approach and these lessons have been recognized by the HJPC. The "workload" assumed by HJPC and each working group also took its toll. A number of key

individuals were appointed to several working groups and the pressure to deliver simply exceeded time available in addition to their regular positions as judges, prosecutors or justice sector administrators.

In October/November 2010, the HJPC concluded it did not have sufficient internal resources to support all activities undertaken by USAID JSDP II and decided it only had the capacity to work with fewer Working Groups. After consulting with USAID JSDP II, it eliminated Working Groups slated to deal with bench book revision and budget issues. In addition the Council decided that the task of developing time measurement factors for the prosecutors' offices would be delayed until those for the courts had been substantially completed. The HJPC Secretariat will provide administrative support to the remaining working groups.

In recognition of the heavy workload and importance of the Working Groups, fees were established for the members of its working groups attending meeting when such meetings are not at the same time as meetings of the HJPC were established and which WG members are there to attend.

During Year 2 it became clear that item 1.3 'Increasing Independence and Effectiveness through Improved Budgeting Process' from the Year 1 workplan fit more logically within the scope of Component 2. Creating a more logical unified budget design and implementation process and ideally funding source, is essential for an independent judicial sector. Greater budget harmonization supports the creation of the unified justice sector required and ready for EU accession. As a result this item has been moved to Component 2 and may now be found as item 2.6.

USAID JSDP II has also significantly expanded the engagement with civil society in justice sector reform. The creation of a Justice Network, now comprised of 57 organizations including both NGO's as well as all of the professional associations, has been accomplished. The presentation by this Network before the United Nations UPR for BiH June 2010 in Geneva was an extremely significant and important activity. The Justice Network brings together a focused group within CS to assist in the monitoring and evaluate in the implementation of a number of critical activities of USAID JSDP II across the country,

Effective project performance monitoring is an important aspect of USAID JSDP II workplan implementation. A survey of public and professional opinions about the justice sector was conducted by a professional organization for USAID JSDP II. That survey provides baseline information that will serve to provide a measurement tool to judge our activities in improving the public perception of this sector.

The full Survey is intended to be repeated on a bi-annual basis. This is not deemed sufficient to provide timely and detailed guidance to the Project Team in the implementation and monitoring of various USAID JSDP II components. Using web-based tools, the USAID JSDP II Team will design and implement simple, focused surveys to permit for more accurate and timely reporting of impact of various project programs. Such statistically reliable information will be useful for monitoring impact, tailoring forward implementation strategies and in developing a more aggressive outreach program designed to divulge the results in specific entities more broadly, thus assisting in building a broader consensus of what works, what may need adjustment and specifically what the impact of the policy and process harmonization programs have on citizens, thus building greater confidence in the rule of law and judicial processes. It is anticipated that the Justice Network members interested in

specific areas of project work will play a leading role both in the social auditing of impact as well as the broad communication of results achieved.

The USAID JSDP II Project Team is made up of experienced and highly motivated professionals. Each Component Leader and her or his Team will work diligently to utilize their skills and experience to manage the implementation of all project tasks and, to the greatest extent possible, implement specific tasks directly with the Project Team. Although the implementation strategy divided the implementation into three components, each component is an integral part of the drive to achieve the overall project objective. The objectives of EWMI is to deliver maximum QUALITY, meet and exceed project objectives and do so within budget and on time. The commitment is to do more than anticipated with existing resources during the established contract period.

This Annual Report is detailed and comprehensive and hopefully provides a full overview of what has been achieved this past year and how this work related to the Year 3 workplan and beyond. The Report details activities this past year but does so within a strong context of the Project's overall objectives, what remains to be done and what additional activities can be undertaken within the project resources to ensure sustainability for the policies, organizations, and other transformational activities in the justice sector.

SECTION I: BACKGROUND

INTRODUCTION TO THE USAID JUSTICE SECTOR DEVELOPMENT PROJECT II

Contract Background

The USAID Justice Sector Development Project II (USAID JSDP II) is a three-year, \$4.9 million activity that follows up on the successes of the first JSDP Program while launching a number of significant new reform initiatives. The contract provides for a two year “Option Period” for the period July 15, 2012 to July 14, 2014 at an additional projected cost of \$3.1 million.

USAID JSDP II has as its main objective to assist BiH to continue building an effective and credible justice. Emphasis is placed on building institutions which will enable BiH to accede to the EU. This requires the continual strengthening of the independence, accountability and effectiveness of the judiciary through a better coordinated and more unified justice system. Building greater public confidence in the judicial system and the rule of law is a key objective and a particularly critically important element in developing a peaceful and stable country. USAID JSDP II was designed to build on the partnership initiative of its predecessor project with the BiH High Judicial and Prosecutorial Council (HJPC), the BiH Ministry of Justice (MOJ), and the courts. USAID JSDP II has launched a new partnership with prosecutors’ offices and a broad and ambitious new engagement with civil society. This engagement has resulted in the establishment of the 57 member CSO group known as the “Justice Sector Network”.

Brief Project Component Description and Approach

Respect and confidence in the Rule of law is fundamental for a democratic political system and a market economy, and an embedded rule of law better protects the rights of all BiH citizens and limits excessive government power while at the same time assisting in creating a more stable and peaceful BiH. The implementation of USAID JSDP II supports the strengthening of the rule of law in Bosnia-Herzegovina through three Components: (1) strengthened judicial independence, accountability and effectiveness; (2) a better coordinated and more unified justice sector oriented towards EU accession; and (3) increased public confidence in the rule of law. The Components can briefly be described as follows:

Component 1 - JUDICIAL INDEPENDENCE, ACCOUNTABILITY AND EFFECTIVENESS

USAID JSDP II works with the HJPC, MOJ, courts and prosecutors’ offices to help BiH continue its efforts to reform the judicial system. USAID JSDP II works closely with HJPC to improve the appointment and advancement process for judges and prosecutors. The project also works to improve the effectiveness of the judicial system through improved management and administration of courts and prosecutors’ offices. USAID JSDP II provides assistance to prosecutors’ offices through the Model Prosecutors Office Initiative, which is based in part on the successful Model Courts/European Standards program implemented under JSDP. In addition, USAID JSDP II works with relevant counterparts to improve the judicial budgeting process, helping prosecutors’ offices develop need-based, program budgets and increasing budget autonomy for the judiciary.

Component 2 - A COORDINATED AND MORE UNIFIED JUSTICE SECTOR

EU integration remains a key guidepost for judicial reform in BiH and requires a better coordinated and more unified justice sector. Continuing the effective partnership established under JSDP, the new project works closely with the MOJ to help it track and enhance implementation of the Justice Sector Reform Strategy (JSRS). USAID JSDP II also engages entity and cantonal authorities in JSRS implementation, given the essential roles of these authorities in the justice sector. In cooperation with MOJ and HJPC, the JSDP II helps each institution strengthen the capacity of its respective policy unit and promote the development of coordinated reform proposals.

Component 3 - INCREASED PUBLIC CONFIDENCE IN THE RULE OF LAW

Improving the engagement of civil society in developing the rule of law and increasing the public confidence in the delivery of justice in BiH are essential to lasting judicial reform. USAID JSDP II has established a network of NGOs and professional associations, and helps them develop effective advocacy and public awareness campaigns and monitoring programs. USAID JSDP II has established a sub grants program to provide financial support to network members. The project also helps expand court monitoring by journalists to make the work of the judiciary better understood and more transparent. USAID JSDP II supports efforts by civil society to develop tangible policy and legislative reform initiatives to improve the administration of justice.

The USAID JSDP II Project Approach

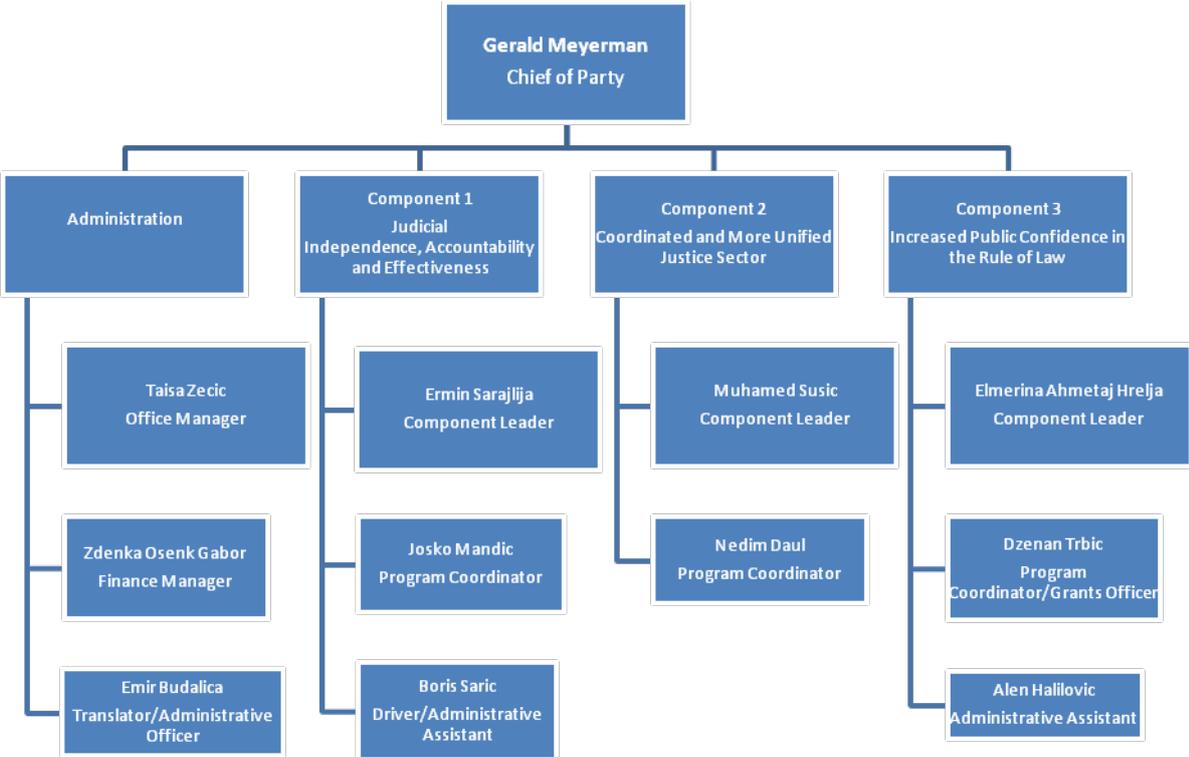
This Work Plan is organized in terms of the specific activities itemized in the Contract however, recognizes that the principal objective of this Project is to enhance coordination and co-operation in the important crosscutting spheres of judicial reform activities. Bosnia Herzegovina is still in the early stages of democratic evolution and, as a result, many essential institutions of government are highly fractured or absent.

In fulfilling the requirements of each activity, USAID JSDP II adopts a holistic approach wherever possible. During the third year of the Project, USAID JSDP II will build on its strategy of “model” activities to achieve noticeable and tangible results with a complementary strategy of designing new policies through the Joint Policy Forum (JPF) and rolling out “demonstration projects” with cooperating entities to ensure that the achievements are sustainable, long-lasting, replicable in other jurisdictions and meaningful to citizens. This approach may necessitate that technical assistance be prioritized to on-going and/or successful activities in jurisdictions which recognize the importance of such initiatives to their judicial system and society.

In taking this approach forward, the USAID JSDP II team will liaise with other donors, civil society, and relevant organization in order to ensure the widest possible dissemination of information and participation. All of the activities identified in the USAID JSDP II project documents require coordination among several institutions and capacity building in multiple areas across 14 jurisdictions. An approach that concentrates on one specific entity or institution is unlikely to be successful, at the same time, in an environment of institutional uncertainty and ongoing negotiations on the final status and form of the judicial sector currently being identified, it is virtually impossible to make progress in all entities simultaneously and to the same extent. By developing demonstration projects, a broader

harmonization of approaches and administrative structures across a broader cross section of entities will result in creating a more effective and credible justice system institutions for the time when BiH accession to the EU presents a unique obligation, and opportunity for the creation of a more unified and coordinated judicial system, harmonized with European standards across the country.

The USAID JSDP II project team will endeavor to avoid duplication and overlap among donors, and try to ensure that capacity building is accomplished in a comprehensive and cost effective manner, with the participation of our project partners, the HJPC, the State MOJ and all other entity governments as well as multiple donors.



USAID JSDP II Team - KEY STAFF and ORGANIZATION TABLE

SECTION II: ANNUAL WORKPLAN BY TECHNICAL COMPONENTS

The Justice Sector Reform Project II was designed to “...build effective and credible justice system institutions that enable BiH accession into the European Union by strengthening the independence, accountability and effectiveness of the judiciary, supporting a better coordinated and unified justice system, and bolstering confidence in the rule of law.”

These objectives are addressed by three separate but integrated project components, as follows:

- Component 1: Strengthening The Independence, Accountability And Effectiveness Of The Justice Sector
- Component 2: Support For A Better Coordinated And More Unified System Of Justice Ready For EU Accession
- Component 3: Bolstering Public Confidence In The Rule Of Law

Each of the Components and the three key results areas is detailed in the following pages in terms of the strategy employed during Year 2 implementation, and interim benchmarks achieved.

COMPONENT 1: STRENGTHENING THE INDEPENDENCE, ACCOUNTABILITY AND EFFECTIVENESS OF THE JUSTICE SECTOR.

SUMMARY HIGHLIGHTS

- By its decisions from November 2010 HJPC abolished two working groups established by the agreed USAID JSDP II Year 1 Work plan (Reviewing and Improving Civil Bench book, and Reviewing and Improving Criminal Bench book) and put one working group on hold until human and material resources within HJPC for its support to that particular working group meet (develop measurement procedures for effectiveness of prosecutors). At the same time HJPC provided full administrative support to remaining working groups and provided fees for working group members.
- Through technical assistance of the USAID JSDP II and through donation of Norwegian Government Working Group on Strengthening HJPC's Selection and Appointment Procedures for Judicial and Prosecutorial Candidates developed pre-draft concept of written testing of candidates, assembled domestic experts who wrote testing questions and reviewed them before they are entered into pool of 3000 questions that will be run by adequate software.
- USAID JSDP II provided technical assistance to HJPC Working Group on Establishing Optimal and Foreseeable Deadlines for Cases before Courts and Prosecutor Offices. WG determined optimal deadlines for majority of case types before the courts and prosecutor offices and started its work on pre-draft of related Book of Rules. USAID JSDP II managed to provide assistance of the Finnish Ministry of Justice to this WG that introduced such deadlines within its judicial system.
- By December 2010 USAID JSDP II finished implementation of first wave of the Model Prosecutor Office Initiative (MPOI). six model prosecutor offices participated in the first wave. In parallel, JSDP initiated and finished Initiative within seven model POs of the second wave. All selected annexes to the Intervention Plan of the initiative

were implemented in all thirteen offices. Wave 1 and wave 2 model POs received field visits and two related trainings by USAID JSDP II domestic experts in the areas of strategic and operational planning, financial management, public relation, information search and gathering and archive management..Through this technical assistance all model POs developed their individual strategic and operational plans and program budgets that also included strategic programs from afore-mentioned areas. For the first time POs will have their budget proposals based on expected results enabling them to produce their own Documents on Framework Budget for a period of next three year and giving

them strong arguments for budget negotiations with executive and legislative authorities. USAID JSDP II donated Wave 1 model POs with computer and other IT equipment as well as with office equipment in amount of 150.000,0US\$. That will significantly contribute to efficiency of work of model POs in particular to their implementation of the prosecutor's case management system (TCMS). Assessment of needs of model POs from the second Wave of the Initiative was conducted and purchasing of IT and office equipment initiated. Tender was also advertized for purchasing of IT equipment for five Wave 3 of the Initiative.

- Domestic experts engaged through MPOI came up with their reports covering their above-mentioned areas of expertise for all thirteen model POs bringing conclusions and recommendations for systematic and improvements of prosecutor office administration for individual model POs.
- The HJPC BIH President and USAID JSDP II Chief of Party sent a joint letter by which USAID JSDP II disseminated the report of the USAID JSDP II expert on the physical status of the premises in the eighteen model prosecutors' offices with conclusions and recommendations to the relevant domestic and international institutions and organizations seeking their support for the implementation of the expert recommendations.
- The USAID JSDP II made, during the HJPC session, a presentation of the program budgets and strategic and operational plans developed at the Model Prosecutor Offices during Wave 1 of the Model Prosecutors Initiative on April 21. Mr. Nijaz Mehmedbašić, Chief Prosecutor of Cantonal Prosecutor Office of Mostar Canton, highly praised USAID JSDP II before the Council for significantly improving expertise at his office in the aforementioned areas, and thanked USAID JSDP II staff and experts for assisting his Office in drafting its strategic and operational plan as well as its program budget. He also underlined the usefulness for his office of other USAID JSDP II expert reports whose findings and recommendations were embodied in his PO's program budget.

MPOI Wave 1 Ceremony in Mostar



(photo by USAID JSDP II)

USAID Acting Mission Director Craig Buck congratulating Nijaz Mehmedbasic, Chief Prosecutor Cantonal Prosecutor Office Mostar for successful completion of Wave 1 Model Prosecutor Office Initiative.

- USAID JSDP II developed and the WG on MPOI approved the concept of a T-Portal that would use as a knowledge management tool by providing information and educational materials for prosecutors and prosecutor offices' administration management and serving as a communication forum for prosecutors and heads of prosecutors' office administration. USAID JSDP II experts together with USAID JSDP II staff developed the design of the T-Portal that was delivered to the HJPC. USAID JSDP II initiated tender procedure for selection of company that would produce software for the T-Portal.
- USAID JSDP II conducted an open selection procedure among its model prosecutor offices and selected three out of eighteen eligible candidates to participate in the NAGTRI Fellows program in June 2011. The program that will take place from 4th to 12th June 2011 in Washington DC and New York and is sponsored by the US National Association of Attorneys General. This year's program topic is trafficking in human beings, and three prosecutors from BIH through USAID JSDP II assistance will share lessons learned with their domestic colleagues. NAGTRI is generously covering all costs associated with the trip.

HIGHLIGHTING ACHIEVEMENTS:

Component I has worked through the High Judicial and Prosecutorial Council as well as with 13 prosecutors' offices throughout Bosnia and Herzegovina to finish remaining activities from the First and to implement the Second Year Work plan. It was decided to work through the HJPC so that the produced results on these reforms would be the product of local consensus and ownership. Since the HJPC didn't have enough capacities to provide all necessary assistance to its working groups established in its agreement with the USAID JSDP II it was decided to abolish two working groups and to put on hold third one. The WG on introducing performance measurement for individual prosecutors was put on hold and will be re-initiated when the HJPC Secretariat obtain enough resources to support their work from administrative and technical assistance point of view. After obtaining HJPC decisions on appointment of the working group members, Component I acted quickly to begin substantive work and achieve results enumerated in Year 1 Annual Report. Since 15 July 2010 USAID JSDP II used momentum to focus and strengthen activities of all the WGs:

1.1 Promoting Independence and Accountability through Improved Appointment and Advancement Processes

1.1.1 Improvement of HJPC examination of judge and prosecutor candidates

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. Judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens¹. This independence exist in relation to society generally and in relation to the particular parties to any dispute on which judges have to adjudicate. The judiciary is one of three basic and equal pillars in the modern democratic state. It has an important role and functions in relation to the other two pillars. It ensures that governments and the administration can be held to account for their actions. With regard to the legislature it is

¹ recital to UN basic principles, echoed in Beijing declaration; and Articles 5 and 6 of the European Convention on Human Rights

involved in ensuring that duly enacted laws are enforced and, to a greater or lesser extent, in ensuring that they comply with any relevant constitution or higher law (such as the European Union laws). To fulfill its role in these respects, the judiciary must be independent of these bodies, which involves freedom from inappropriate connections with and influence by these bodies. Independence thus serves as the guarantee of impartiality. This has implications for almost every aspect of a judges and prosecutors career, from training to appointment and promotion and disciplinary procedures. The public has a strong interest not just in the independence, but also in the quality of its judiciary, especially in times of change. Any objective criteria seeking to ensure that the selection and career of judges are based on merit, qualifications, integrity, ability and efficiency.

In BiH context, the appointment and selection of judges and prosecutors is the central mission of the HJPC what represents one of the most significant post-war reforms in the judicial sector in BiH. Yet, the process of judicial and prosecutorial appointments can be further improved to become more transparent and objective thus ensuring the competence, independence and impartiality which every individual legitimately expects from the courts and prosecutors offices. One of the most effective ways to ensure objectivity in judicial and prosecutorial appointments is to introduce a competitive, written testing that is mandatory for all new candidates². The Law on HJPC explicitly authorizes the HJPC to administer such testing for judicial and prosecutorial applicants.

The HJPC accepted the recommendations of USAID JSDP II to create working group to reform procedures for selection and appointment of judges and prosecutors on its session January 27, 2010. Federation BiH Supreme Court Judge was appointed as a chair of this WG. The Vice-President of the HJPC, two prosecutors from the state and cantonal levels and an RS Supreme Court Judge were also appointed in this WG. All of them are Council members while the two appointees are HJPC vice-presidents. Initial meeting has been organized right after the HJPC decision was adopted but since the HJPC faced difficulties to support this WG their work was put on hold until November 2010 when the HJPC made new necessary decisions.

- The WG held eight more meetings since November 2010. The HJPC Department on Appointments conducted the assessment of the current appointment process and domestic legal framework. The USAID JSDP II, together with the WG members, developed a Scope of Work for international expert in area of judicial exams. In accordance with the SoW, expert was tasked to present parallel best practices and judicial exam concepts in EU countries.
- USAID JSDP II organized a presentation for members of the Working Group given by Ms Yolanta Christova, international expert on April 15, Ms Christova presented systems for entry in the judiciary, typical elements of a judicial entry exam, interview structure, and related issues so they could develop their own concept of written testing for new candidates entering BiH judiciary. Based on the discussion and conclusions of the WG, the USAID JSDP II expert developed and sent to USAID JSDP II “Draft rules and regulations for the exam for first entry of candidates for judge/prosecutor” on 28 April. It served WG members to determine concept of testing that would best suit BiH context. Finally the WG came up with the concept of BoR on written testing that will be shared with international expert and thoroughly discussed among the WG members before sending it in a form of proposal to the HJPC for adoption.

² The Council of Europe European Charter on the statute for judges of July 1998

- At the beginning of 2011 the Council received 100.000,00 KM donation from the Norwegian Government to be used for developing software for written exam. Part of that fund were allocated to finance domestic experts, judges and prosecutors, who would write 3000 testing questions in total with the aim to establish a “Pool of Questions”. WG meeting in March 2011 resulted with a final list of 20 candidates of domestic experts that would write testing questions and six reviewers with defined areas of questioning with percentages of questions within each area. It was also agreed that USAID JSDP II should engage international expert that will provide training to domestic experts on the methodology of composing questions.
- After USAID JSDP II and the WG jointly developed related SoW, USAID JSDP II engaged Ms Jasminka Buljan Culej, international expert on external education evaluation from Croatia. The HJPC completed process of engagement of domestic experts to write questions and reviewers to evaluate their work and Ms Culej delivered training to the WG members and domestic experts on May 13 in Sarajevo. Through follow up after the training Ms Culej assisted the WG to develop set of documents guiding writers of questions, reviewers and lecturers.
- Authors and reviewers submitted questions to the WG who was tasked to make a final evaluation of questions especially these for which there was disagreement between authors of questions and reviewers. At its meeting in July the WG finished its work on half of the questions and continuation and finalization of this activity is expected in half of September 2011.

1.1.2 Development of mechanism for prosecutor performance measurement

As emphasized in the HJPC 2010 Annual Report, while considering results of work of judges and prosecutors the HJPC concluded that there is a possibility of improving current criteria for their performance evaluation. Thus, the HJPC decided to improve existing criteria underlying importance of objective, quantity parameters when evaluating performance of judges and prosecutors. Current criteria's only provides ground for estimating quantity such as orientation prosecutorial quota. Currently there is no formal quota or other performance measurement system for prosecutors in any jurisdiction within BiH. Each PO determines its own orientation quota that is based on obsolete concept of simple record keeping of various kinds of prosecutor's decisions that he/she makes during one month period. This system doesn't distinguish cases of different complexity. Additionally, it doesn't provide objective evaluation either individual prosecutor's effectiveness or effectiveness of the prosecutors' office. As a result, this makes annual performance evaluations of prosecutors rather subjective process. The HJPC intends to develop a performance measurement system for prosecutors but creating prosecutorial time measurement standards is inherently thorny.

- Following the terms of the MoU and accepting the USAID JSDP II Year 1 Work Plan, the HJPC established the Working Group for Development of Mechanism for Prosecutor Performance Management by its decision on 27 January 2010. The Federation BiH Chief Prosecutor was appointed as chairman of the WG which consists of five members. The USAID JSDP II organized the first meeting of this WG that took place on 25 March in Fojnica. Apart from discussion and agreement on WG tasks, timelines and scope of work most of the time was spend on concrete issues related to the problem of definition of the prosecutor performance measurement. Different challenges were discussed such as the different complexity of cases that was illustrated by cases of war crimes and economic crimes as compared with the cases of general crime. Also, the question of the definition of the prosecutors' day-to-day tasks was raised. Prosecutors have differing workloads and duties imposed by new legislation.

Additionally, the workload depends upon the level and competencies of the PO and many other factors (geographical coverage, size of the PO, number of courts “covered”, etc.). Therefore, it is important to take all these elements into consideration in the process of defining prosecutors’ performance measurement. At the end of the meeting further immediate activities were determined but, due to the aforementioned lack of capacities of the HJPC Secretariat to provide necessary support, this WG was put on hold by the HJPC decision of 4 November 2010. The Council did not feel it had sufficient resources to keep up with working group’s timeframe of activities as initially established in accordance with the USAID JSDP II Year 1 Work plan. However, considering that HJPC’s engagement with another working group dealing with measurements for a weighted case system for judges will soon be finished, re-initiation of activities of this working group is expected in September 2011.

1.1.3 Revising judicial performance evaluation

Ensuring transparent and merit-based judicial and prosecutorial appointments is essential to achieving European standards of judicial independence. The Consultative Council of European Judges (CCJE)³ suggested that judicial appointment authorities should introduce, publish and give effect to objective criteria with the aim of ensuring that the selection and career of judges are based on merit, having regard to qualifications, integrity, ability and efficiency. The Venice Commission (VC) has also endorsed this principle.

Under Pillar 1 of the BiH Justice Sector Reform Strategy (JSRS), Strategic Area 1.3 (Accountability and Professionalism), the need to improve the system of performance standards and performance monitoring for judges and prosecutors is recognized. In 2006, with the technical assistance of the JSDP, the HJPC adopted its Criteria for Performance Evaluation of Judges in BiH and Judicial Performance Evaluation Forms. The criteria include meeting established case “quotas,” quality of work, promptness, expertise, work attitude, and use of information technologies (IT) at work. The system is in use in every court in BiH. The evaluations are conducted annually for each judge by his or her court president using Evaluation Form. Presidents of the lower courts are evaluated by presidents of the higher instance courts and the presidents of the Brcko District Appellate Court, the Supreme Courts of Federation BiH and RS and Court of BiH are evaluated by the HJPC. In principal, the evaluation scores of judges are considered in determining appointments.

Assessment and evaluation of the impact of the reforms in this area so far is a necessity for further development of the appropriate judicial appointment system in line with the aforementioned requirements. In accordance with the Year 2 Work plan it was planned to develop a review of the performance evaluation scores since 2006 and use the results for the evaluation of its impact on judicial appointments. The results of the review could then either be used to spur internal reforms that elevate the significance of evaluation scores or to publicize the HJPC’s commitment to merit-based appointments. Nevertheless, the HJPC officials expressed the view that it would not be useful for the Project to do the aforementioned evaluation nor publicizing the results. They believe that most of the judges scored the best grades during their evaluations and doing research of one particular element of such scoring system would not provide any findings useful for improvement of existing system. Instead, emphasis has been given to a new system for weighted case measurement that has been piloted in six courts from April 1, 2010 till October 31, 2010. Review of overall effects of piloting was done in November and December 2010 and additional evaluations and discussions were held during consequent HJPC sessions. Relevant

³ 2001 *Standards Concerning the Independence of the Judiciary and the Removability of Judges*

BOR introducing new system for weighted case measurement will be on the agenda of the HJPC session for adoption in September 2011,.

The resulting system will be used to oversee the time spent by judges on cases, to determine the number of judges needed and to institute a system for assigning cases to judges in a way that ensures equal individual workloads. A court president will be also able to determine whether a judge is working full time and efficiently and thus evaluate a judge more objectively creating a room for career improvement for better performing judges.

- USAID JSDP II welcomed HJPC readiness to devote its resources to improve system of judicial performance evaluation and will provide technical assistance to evaluate use of the weighted measurements in the courts in comparison with expected results and produce report with findings and recommendations.
- USAID JSDP II is also dedicated to assist the HJPC for making public the results of this evaluation coming up with strengthened public trust into the HJPC and the judiciary as a whole by supporting related press conference and one open roundtable with representatives of media and civil society.

1.2 Increasing the Effectiveness of the Judicial System through Improved Management and Administration of Courts and Prosecutor Offices

1.2.1 Establish Model Prosecutors' Office Initiative

The role of prosecutors has changed dramatically in the past five years as the result of the major 2003 reform that both eliminated investigative judges and assigned that role to prosecutors and eliminated municipal prosecutors' offices (POs). As reported by USAID JSDP II's experts, POs often operate in cramped, antiquated facilities with poor working environment. The Model Prosecutor Office Initiative (MPOI) is contributing to the reform of prosecutors' offices by introducing reform packages into MPOs and implementing best practices currently used by other POs in the country. USAID JSDP II's Model Prosecutors' Office Initiative (MPOI) emphasizes local ownership and change management. The MPOI's approach to work with prosecutor offices on management, administrative practices, backlog reduction, public outreach, strategic and operational planning, financial management, improvement of IT services and PO's premises earned the respect of participating prosecutor offices and the HJPC.

The HJPC, at its session of 27 January 2010, made a decision establishing a working group on Model Prosecutor Office Initiative, Matrix of Standards for MPOs and educational video podcasts. The Vice-President of the HJPC was appointed as chairman of this WG which consisted of eight members, including three Council members and the BiH Chief Prosecutor. The composition of this WG illustrates high expectations that the HJPC and POs have with regard to the MPOI.

USAID JSDP II prepared and conducted the first meeting of this WG on 20/21 April in Fojnica. The MPOI, Matrix of Standards and Intervention Plan for Model PO was presented and discussed in detail. General conclusion was that the MPOI is a well focused initiative that could have a huge impact on functioning of the POs. Members of the WG were also introduced to the basic concept of European Standards for POs, received a draft Matrix of Standards developed by the USAID JSDP II and provided USAID JSDP II with concrete feedback. Under the Matrix all POs of BiH will eventually become model prosecutor offices through implementation of standards that reflect best practices of the judiciaries of the EU member states. The WG decided that instead of developing video-podcasts for prosecutor training more useful would be to develop a web portal for prosecutors within the HJPC web page named "T Portal". A timetable, scope of work and expected results were agreed upon.

On 26-27 January 2010 USAID JSDP II organized a conference of all Chief Prosecutors and prosecutor offices Secretaries. The purpose of the conference that gathered top leadership of prosecutor offices in BiH was to present in detail and discuss both the substance and implementation methodology of the MPOI. The meeting resulted with a consensus agreement on the draft version of the MPOI Intervention plan for the model prosecutor offices, draft selection of the annexes to the Intervention Plan for wave 1 model prosecutor office, agreement on three years dynamic of the MPOI implementation and a draft of the related Memorandums of Understanding.

USAID JSDP II assembled its findings from assessment visits to all POs in one overall assessment report and using particular criteria proposed a list of POs

for each of MPOI waves. The HJPC agreed upon that proposal when determining final list of model prosecutor offices within three waves of the Initiative. At its 27 January session HJPC selected prosecutor offices for the first wave of the MPOI, namely Federal Prosecutor Office of the FBiH, Cantonal PO Mostar, Cantonal PO Široki Brijeg, Cantonal PO Goražde, District PO Eastern Sarajevo, and District PO Trebinje. Council selected the POs for other two waves of the MPOI. Republic PO of R Srpska, District PO Banjaluka, Cantonal PO Sarajevo, Cantonal PO Tuzla, Cantonal PO Orašje and Public PO of Brčko District BiH are in the second wave of the Initiative. Cantonal PO Zenica, Cantonal PO Livno, Cantonal PO Bihać, District PO Doboj and District PO Bijeljina will take part at the Initiative in 2011/2012.

Due to late approval of the MPOI (almost six months after initiation of USAID JSDP II) implementation of the Initiative had to be extended to the second year of the Project.

- By December 2010 first wave was successfully implemented. All six model POs received assistance from USAID JSDP II domestic experts from fields of strategic and operational planning and financial management, public relations, archive management, information searching and gathering. After completion of second workshop in Neum, model POs came

Presentation to HJPC on Wave 1 Model Prosecutor Offices



(photo by USAID JSDP II)

The presentation was given by Nijaz Mehmedbašić, Chief Prosecutor of Cantonal Prosecutor Office of Mostar Canton and Joško Mandić, JSDP II Program Coordinator. Mr. Mehmedbašić praised USAID JSDP II before the Council for significantly improving expertise at his office and thanked USAID JSDP II staff and experts for assisting his Office in drafting strategic and operational plan as well as program budget.

up with their own individual strategic plans and program budgets that allowed them to create their own Documents on Framework Budget for a period of three years.

- Each of domestic experts came up with his/her final report with findings and recommendations aiming strengthening prosecutor office administration in related fields.
- USAID JSDP II's assessment of the needs of the first six POs for computer and other IT equipment such as sets for audio taping of suspects' hearings was completed and necessary procurement procedures initiated and finished. Replacing missing and obsolete IT equipment in amount of 150.000,00US\$ significantly contributed to efficiency of work of model POs in particular to their implementation of the TCMS. Donation was delivered to the MPOs by the USAID Mission Director at the ceremony that took place in Mostar Cantonal PO on 11 January 2011. Mission Director delivered certificates to members of the Change Management Teams that successfully finished training during the Initiative. Ceremony was also used as an opportunity to organize a meeting between the Mission Director, Representative of the USAID from Washington, HJPC BiH President, USAID JSDP II Chief of Party, Head and Deputy Head of USAID Mission in BiH Democracy Office, representatives of the US Department of Justice, Cantonal Prosecutor Office Mostar Main Prosecutor, Chief Federal Prosecutor of the Federation BiH Prosecutor Office, Cantonal Prosecutor Office Siroki Brijeg Chief Prosecutor and representatives of legislative and executive cantonal authorities. Purpose of the meeting was to discuss issue of funding for the Mostar Prosecutors Office by raising concerns about practice up to date and using good practice example of the cooperation between Siroki Brijeg Prosecutors Office and respective Cantonal Government. Attempt to gain support from cantonal legislative and executive authorities to budgetary needs of CPO Mostar was successful and Mostar CPO received additional funds for renovation of premises in 2011.
- During an HJPC session on April 21, 2011, USAID JSDP II made a presentation regarding the program budgets, strategic and operational plans developed at the Model Prosecutor Offices during Wave 1 of the Model Prosecutors Initiative. The presentation was given by Mr. Joško Mandić, USAID JSDP II Program Coordinator and Mr. Nijaz Mehmedbašić, Chief Prosecutor of Cantonal Prosecutor Office of Mostar Canton. Mr. Mehmedbašić highly praised USAID JSDP II before the Council for significantly improving expertise at his office within afore mentioned areas and thanked USAID JSDP II staff and experts for assisting his Office in drafting strategic and operational plan as well as program budget.
- On January 26, 2011 the HJPC BiH President and USAID JSDP II Chief of Party sent a joint letter by which USAID JSDP II disseminated the Assessment of conditions of the premises used by eighteen prosecutors' offices in Bosnia and Herzegovina conducted by USAID JSDP II experts. The Assessment included proposals for necessary construction work as well as the relevant cost estimates. The purpose of the analysis, which resulted in the enclosed assessment, was to collect and analyze information on the condition of premises and to set priorities for required remodeling and reconstruction in order to ensure proper working conditions and functioning in all prosecutors' offices. These improvements would also provide a specific contribution to the implementation of respective strategic goals and programs included in the Justice Sector Reform Strategy in BiH and the revised Strategic Plan of the BiH HJPC. USAID JSDP II and the HJPC sent the letter to relevant domestic and international institutions and organizations in the hope that required actions will be undertaken to address the problems identified. USAID JSDP II also expressed its hope that this report would be useful to all other organizations active in this sector and expressed USAID JSDP II readiness to work with them in providing the assistance necessary.
- USAID JSDP II continued with implementation of the Model Prosecutors Office Initiative within the second wave of model prosecutor offices. Under proposal by USAID JSDP II,

the HJPC accepted to include District PO Bijeljina into this wave of the Initiative. Action was motivated by geographical reasons and efficient use of USAID JSDP II resources. Local experts in the fields of strategic planning and financial management, public relations, information searching and gathering and archive management have conducted field visits to wave 2 prosecutor offices so they could develop their draft reports to be used by USAID JSDP II to initiate and/or spur additional system reform in these areas and related improvements in the operations of the individual model prosecutor offices.

- One of the goals of USAID JSDP II is to introduce prosecutor offices' management with a necessity for making strategic plans, to underline strategic goals of prosecutor's offices and to identify significant risks which are an obstacle to reaching established goals. USAID JSDP II organized the first three-day training of the MPOs of the second wave that was held in Hotel Kardial in Teslić 2-4 March, 2011. With the USAID JSDP II experts' assistance MPOs came up with their draft strategic goals and programs including draft budget funding necessary for their implementation. Using their defined priorities, MPOs determined areas for USAID JSDP II's donor assistance.
- USAID JSDP II commenced the second three day workshop for change management teams of seven MPOs of the wave 2 of the Model Prosecutor Office Initiative from June 14-16, 2011 in Bijeljina. Twenty four participants from model prosecutor offices from both entities and Brčko District BIH as well as from BIH Prosecutor Office and HJPC Secretariat gathered. After three days of work with USAID JSDP II experts in the field of strategic planning and financial management, public relations, information search and gathering and archive management they finalized their individual strategic and operational plans and program budgets that also included strategic programs from afore-mentioned areas. For the first time POs will have their budget proposals based on expected results enabling them to produce their own Documents on Framework Budget for a period of next three year, giving them strong arguments for budget negotiations with executive and legislative authorities.
- USAID JSDP II in coordination with the HJPC Secretariat IT department consolidated lists of IT and office equipment and initiated purchasing procedure. Second wave model prosecutor offices will receive donations of approximately \$70,000 in total that shall provide better conditions for implementation of the TCMS system, enabling them to conduct audio-video taping of examination of evidence, and providing for easier and more efficient work of prosecutorial administration.
- Pursuant to Annex 1.5 of the MPOI Intervention Plan USAID JSDP II engaged a short-term expert, who conducted an assessment of the current PR practices in the model prosecutor offices, delivered related training to the model prosecutor offices' change management teams and assisted in development of the individual PR strategies and crisis communication plans for each model prosecutor office. Also, short-term expert provided USAID JSDP II with overall report with assessment of current situation of the PR policies and practices in thirteen MPOs of first two waves with concrete conclusions and recommendations for improvements in this area.
- Pursuant to Annex 1.3 of the Intervention Plan, USAID JSDP II engaged two short-term legal information research experts who conducted an assessment visit to model prosecutor offices, delivered related report with conclusions and recommendations for improvements in accordance with current international standards in this area and provided relevant presentation on using strategies on information research and information gathering to the prosecutors and judicial associates at the prosecutor offices. Report that encompassed MPOs from both waves of the Initiative determined current state of usage of legal information research services by prosecutors and judicial associates in their daily work on cases. Report illustrates advantages and usefulness of modern legal library services for

gathering relevant and timely information necessary for improvement of quality of prosecutorial activities.

- To implement recommendations from USAID JSDP II experts related to the improvement of library services within the Federal Prosecutor's Office of the Federation BiH, USAID JSDP II organized several meetings with Chief Federal Prosecutor and USAID JSDP II experts. Chief Federal Prosecutor agreed to change the Book of Rules on Internal Organization and to introduce a post of Librarian in his Office. He also agreed to adopt other bylaws recommended by the USAID JSDP II expert in the report Analysis of the Situation and of Information Needs of Prosecutors and Associates with Conclusions and Recommendations for Improvements. Federal PO also received USAID JSDP II donation in funds for purchasing necessary library software. The software company POINT from Croatia installed library software and train the librarian at the Federal Prosecutor Office of the FBiH on May 6, 2011,. Today, the library service of the Federal Prosecutor's Office serves as a model for all other POs in the country.
- Pursuant to Annex 1.7 of the Intervention Plan, and to Section 1.2.1 of its Year 2 Work Plan, USAID JSDP II provided expertise by short-term expert who conducted an assessment visit to Wave 2 model prosecutor offices and delivered related report with conclusions and recommendations on improving archive services in accordance with international standards. He provided relevant presentation to the model prosecutor offices' change management teams on the topic of providing modern archive services. Report covering first two waves of the Initiative determined current state of managing archives and usage of information from archives in model prosecutor offices. Reby prosecutors and judicial port also presented to prosecutors advantages and usefulness of modern archive services for providing relevant and timely information necessary for improving quality of prosecutorial activities, underlined methods and tools for improving communication between archives at the prosecutor offices and adequate cantonal and federal archives. During afore-mentioned workshops model POs came up with set of draft internal regulations covering area of archive management.
- Pursuant to Annexes 8 and 9 of the Model Prosecutor Office Initiative Intervention Plan and to Section 1.2.1 of its Year 2 Work Plan, USAID JSDP II provided expertise by short-term experts who visit model prosecutor offices and provide relevant training on the topic of strategic planning, operational planning and financial management/budgeting. The objectives were to train key MPO's staff in strategic and operational planning, to design the process of budget drafting for individual prosecutor offices better adjusted to local needs, achieve greater participation of Chief Prosecutors in specifying budget line items, train Chief Prosecutors and relevant managers from the prosecutor office administration in programming and budgeting. USAID JSDP II used local experts to assess current practices and existing plans of the MPOs and to provide individual assistance for each of the seven selected POs during afore-mentioned follow up training in Teslić and Bijelina on Financial Management and Budgeting. Besides assisting MPOs in drafting their own individual strategic plans and program budgets these experts also produced their report encompassing both waves of the Initiative with related findings, conclusions and recommendations.
- USAID JSDP II continued activities on establishing a T-Portal for prosecutor offices in BiH. Following the concept paper that had been developed and after consultations with the Head of the HJPC Secretariat IT Department, USAID JSDP II conducted meetings with state and entities prosecutors' associations and with possible administrators of the portal. USAID JSDP II short term experts analyzed the type of information and functionalities of the T-Portal that prosecutors at the POs of the second wave of the Initiative found useful and developed the T-Portal design. The design was sent to the members of the WG on Model Prosecutor Offices Initiative and Matrix of Standards for their comments.

Subsequently the design was provided to the HJPC Secretariat IT Department. Related tender was advertised in July 2011.

- During this reporting period the WG on MPOI and Matrix of Standards has been regularly updated on recent developments within the MPOI and members were provided with final consultants' reports for their official adoption. One WG member, the Vice-President of the Council quit from her career in judiciary and some other members didn't have active role in the WG activities due to their heavy workload. The HJPC appointed Ms Enisa Adrovic, Vice-President as a new WG chairman. Component 1 team provided in-depth briefing for Ms. Adrovic who stressed the importance for the prosecutorial system in BiH that this working group achieve set objectives and establish matrix of standards that will lead to higher performance and effectiveness of the prosecutors' offices. USAID JSDP II and Ms Adrovic agreed future steps of this WG. Next meeting of the working group has been scheduled for end of August 2011.
- In agreement with the National Association of Attorneys General in the US, USAID JSDP II called all model prosecutor offices to nominate candidates to participate in the association's NAGTRI Fellows program. The purpose of the NAGTRI International Fellows Program is to provide a forum for elite government attorneys from around the world to learn from each other, explore common issues together, and establish an international network to the mutual benefit of their respective offices. In an open competition procedure, USAID JSDP II selected three prosecutors out of 16 candidates. Three female prosecutors from cantonal Prosecutor Office (CPO) Sarajevo, CPO Tuzla and District Prosecutor Office Banja Luka were selected and they came into pool of all NAGTRI candidates. All three of them were among twenty participants from ten different countries that were finally selected to take part in this year's program. Besides the United States, participating nations included Bosnia, Canada, Czech Republic, Iraq, Israel, Mexico, Russia, Taiwan, and Ukraine. Fellows had the opportunity to meet with and be briefed by various US and state officials as well as representatives from NGOs. The program also included sessions on management issues and legal ethics. The program took place in June in Washington and New York and NAGTRI generously covered all the program costs of the Bosnian participants. USAID JSDP II received a letters from Bosnian fellows and Chief Prosecutors from their MPOs expressing their satisfaction with a quality of program and new skills and knowledge gained during the study visit to the USA. USAID JSDP II will use some of its MPOI activities as a forum for fellows to share their knowledge on recent status of prosecutorial administration with their colleagues from wave 3 MPOs.
- USAID JSDP II visited five prosecutors offices selected for the wave 3 of the USAID JSDP II Model Prosecutors Offices Initiative in July 2011. USAID JSDP II provided briefing to Chief Prosecutors and staff in the Prosecutors Offices based in Travnik, Bihac, Livno, Zenica and Doboj about the Initiative, goals and expectations of the joint work in the next twelve months. Prosecutors Offices appointed Change Management Team and jointly with the USAID JSDP II team conducted in-depth assessment of the equipment and other material resources at their disposal. Final list of IT equipment was joined with the list of IT equipment for wave 2 MPOs and related tender for purchasing was advertised.
- USAID JSDP II assisted USAID Mission in BIH in organizing a visit of US Ambassador Patrick Moon to the District Prosecutor Office in Trebinje on 29 April, 2011. Ambassador Moon met Mr. Milorad Novković, HJPC President and Ms Slobodanka Gacinovic, Chief District Prosecutor and was informed about the current situation within the prosecutorial system in BIH. The meeting was also designed to express the Embassy's support to judicial independence and professionalism and to inform the Ambassador about the effects of technical and other assistance received from USAID JSDP II.

1.2.2 Establishment of HJPC case processing timeframes for courts and prosecutors offices

Efficient case processing within the courts and prosecutor offices is the hallmark of an advanced judicial system and increasingly a focus of attention among European consultative bodies concerned with justice issues. The European Human Rights Convention and the case-law of the European Court of Human Rights require justice systems to ensure effective implementation of the right to a fair trial within reasonable time. The Court is assessing the length of the proceedings in the light of the circumstances of the case having regard in particular to the complexity of the case, the conduct of the applicant and of the relevant authorities and the importance of what was at stake for the applicant in the litigation. Thus, the Court is viewing the length of the proceedings in particular from the perspective of the users of the justice system. The protection of civil rights and obligations has to be effective and not illusory. The length of judicial proceedings has to be assessed integrally, from institution of the proceedings before the court to the moment when a final and binding judicial decision has been enforced⁴.

JSDP had urged the HJPC to undertake the development of optimum and foreseeable case processing timeframes as called for by European Commission for the Efficiency of Justice (CEPEJ) in its report from 2005. The CEPEJ is calling for “a new objective” for judicial systems: the processing of cases within an optimum and foreseeable timeframe. The report noted that the European Court of Human Rights is “submerged” by applications about undue case delays and delivers many judgments against States for their failure to comply with the “reasonable time” requirement under Article 6 of the European Convention on Human Rights (ECHR). CEPEJ’s December 2008 SATURN Guidelines for Judicial Time Management further emphasized the need for optimum timeframes and for monitoring adherence to them by courts. In order to prevent delays or reduce timeframes in the justice systems, states should collect information that would enable them to understand where and why delays occur. The studies undertaken in the framework of CEPEJ activities have shown that many justice systems still do not collect or dispose information that is essential for assessing the length and delays in the relevant types of proceedings. In particular, the results of the Pilot Scheme for evaluating judicial systems⁵ have demonstrated that very few countries were able to fully and accurately respond to the questions with regard to the length of proceedings.

The HJPC Secretariat Director had stated his intent to move forward on this front in 2009, subject to HJPC approval. The HJPC, with the assistance of the USAID JSDP II, established Working Group for development of the case processing timeframes for courts and prosecutors offices. The HJPC Decision on Establishment of the WG on Monitoring the Implementation of the Case Processing Timeframes for Courts and Establishment of the Case Processing Timeframes for Prosecutor Offices in BIH outlined the members, mandate and tasks of this WG. The key task is to develop timeframes (optimum number of days from one procedural event to the next) in each type of case when the time periods are not already established by law. A Member of the Council who is a RS Supreme Court Judge is chairmen of this group which consists of 8 prominent judges and prosecutors.

⁴ The Time management checklist (Checklist of indicators for the analysis of lengths of proceedings in the justice system) adopted by the CEPEJ at its 6th plenary meeting (7–9 December 2005) CEPEJ (2005) 12 REV

⁵ "European Judicial Systems 2002: facts and figures"

The WG commenced its work in April 2010 and came up with plan of activities and division of tasks between the WG members. Just after its first meeting WG had to put on hold its work because the HJPC didn't have enough human and other resources to provide the WG with necessary administrative and technical assistance as well as the WG members with fees for their work.

- Additional resources were provided and working group commenced again its work in February 2011. WG has determined groups of cases within particular case types and developed tables with optimal timeframes for each case group. In accordance with the WG conclusions and following case typology the HJPC Judicial Administration Department provided statistical information about actual length of proceedings before the courts in BIH. WG has been accompanied with two domestic experts, namely court president from District Commercial Court in Republic of Srpska and experienced judge from Municipal Court in the Federation BIH who has dealt with enforcement and commercial cases.
- WG also started drafting relevant Book of Rules.
- USAID JSDP II aims to meet the WG with best European practices in this area of judicial administration. Since 2005, the Council of Europe and the European Commission jointly organize a competition entitled “The Crystal Scales of Justice” to discover and highlight innovative and efficient practices used in European courts for court organization or for the conduct of judicial proceedings and deserving to be drawn to the attention of policy-makers and the judicial community so as to improve the functioning of the public justice system. The Prize has been awarded by Jury of European legal professionals at the main event of the European Day of Civil Justice on 25 October 2010 in Ljubljana (Slovenia). Representatives of the Council of Europe and the European Commission attended this important event. At the event special mention was made of the project “New way of systematic management of delay reduction projects in courts - combining external expertise and internal participation” from Finland. This project brought together the University of Technology and the Finnish Ministry of Justice. Having in mind this Finnish experience in implementing CEPEJ recommendations and guidance in judicial system, USAID JSDP II contacted them with a request to provide expert assistance from Finland to this WG. Representatives of Finnish Ministry of Justice, prosecutor offices and business sector that had won Special Mention recognition by the CoE and introduced optimal and foreseeable timeframes within Finnish judiciary were identified. These experts agreed to meet with the working group at the beginning of September 2011. The aim is to present their experiences to WG members and provide them with guidance for their future activities. The accent will be on what Finland has been doing and achieving so far in light of CEPEJ documents. In particular, experts will provide information about introducing optimal and predictable deadlines for resolving cases before the courts and prosecutor offices and using those timetables and analyzes from their implementation for further improvements of efficiency of courts and POs. Experts will also inform their Bosnian colleagues on Finland’s laws and bylaws regulating issues dealing with the topic. The Finnish delegation will consist of four experts, namely prosecutor, researcher from Lappeenranta University of Technology and two judicial administration staff. This meeting will be also used to select one expert from Finnish team who will continue to provide the WG with technical assistance throughout the process of drafting related Book of Rules. Joint work of the USAID JSDP II, Finnish Team of experts and WG will be also used to initiate deepening of cooperation between judiciaries from two

countries based on necessity of harmonization BIH judicial regulations and practices with EU standards.

- Besides determining optimal case timeframes, WG will develop guidance for courts and prosecutor offices to develop their individual predictable case time-frame. Courts and prosecutor offices will publish them at their web sites so the parties in the proceedings will know when they could expect their case to be resolved. Optimal case timeframes will represent a goal to be achieved by courts and prosecutor offices. Differences between the optimal and foreseeable case timeframes will implicate deficiencies within the justice system and point out possible measures for improvements. WG will draft related BOR containing various case type tables, assess field piloting results and prepare report for the HJPC. Once adopted and implemented, this BOR will help justice system to collect appropriate information and analyze relevant aspects of the duration of judicial proceedings with a view to reduce undue delays, ensure effectiveness of the proceedings and provide necessary transparency to the users of the justice system in BIH.

Bench books

The HJPC agreed upon the USAID JSDP II Annual Work Plan and passed decisions on establishing two working groups for reviewing bench books at its session on 27 January 2010. One bench book is for civil and another for criminal laws. Groups were composed of judges of first and second instance courts from entities, Brčko DC and the Court of BIH working in their civil and criminal departments. Some of these members took part in the JSDP I working groups that created the original benchbooks. The HJPC agreed with the President of the Supreme Court of the FBIH proposal that USAID JSDP II engage judges from two supreme courts in BIH.

USAID JSDP II also worked with the HJPC to ensure delivery of the benchbooks to all judges. The HJPC promoted the civil and criminal benchbooks during its Conference of Court Presidents in BIH which took place on 12-13 May, 2010 in Sarajevo. The HJPC finally disseminated benchbooks to judges and judicial associates in courts in BIH after the conference what created the basic precondition for the USAID JSDP II to organize WG's initial meetings.

Unfortunately, due to lack of human and material resources, the HJPC on its session of 14 October 2010 decided to abolish the Working Group for Updating of the Benchbook for Judges Adjudicating Criminal Cases in Courts in Bosnia and Herzegovina and the Working Group for Updating of the Benchbook for Judges Adjudicating Civil Cases in Courts in Bosnia and Herzegovina. Since the WGs on Benchbooks have been abolished, the HJPC informed USAID JSDP II that it would delegate a representative who would anyway cooperate with the USAID JSDP II on this issue. HJPC asked the USAID JSDP II to engage one reviewer per each Benchbook who would assess if these tools need further updating. Before investing further in the benchbooks, the USAID JSDP II requested the HJPC to confirm that benchbooks have been distributed to all judges but the HJPC didn't have such information. Finally, the USAID decided not to support this activity in Year 3 of the Project.

PROJECT IMPACT

USAID JSDP II's reform activities are of strategic importance for the HJPC. Working groups envisaged by Year I Work Plan and established by HJPC's decisions are programmed to

achieve goals that are also part current Strategic Plan of the HJPC's. USAID JSDP II prepared all necessary decisions, organized all working group meetings establishing forums for producing concrete strategic results for judiciary in BIH. The importance of this work was recognized by the HJPC when enacted decisions making the components of the JSDP Workplan obligatory.

Working Group on Strengthening Selection and Appointment Procedures for Judicial and Prosecutorial candidates made a draft of related BOR covering a whole system of written testing and commenced final editing of 3000 questions that would be entered into software that will be developed in accordance with the WG's directions. It is expected that the WG will start its work on improving system of interviews with candidates in autumn this year. This process already enlarged knowledge of WG members who are at the same time Council's members on testing systems and testing methodologies. It also strengthened capacities of relevant HJPC Secretariat departments. Once in place, improved system will provide objective and transparent system of selection and appointments that will be favorable for best candidates and, at the same time, will be saving precious time to HJPC members working in related panels, giving them extra time to invest in other important Council's competences. Strengthened competition for judicial and prosecutorial positions based on objective and quality criteria will, in addition, result more organized and systematic work with judicial clerks and judicial associates in courts, POs and advocate's chambers. Law faculties throughout the country will come under the pressure to improve their curriculum. Public will have much more respect and confidence into judges and prosecutors selected and appointed under such system than it has it at the moment.

Working Group on Developing Optimal and Foreseeable Deadlines for Cases before Courts and POs developed tables with optimal deadlines for first instance case types before courts and POs in the country. They also started composing related Book of Rules that will go before the Council for initial approval and consequent piloting in selected courts and POs. Thanks to very good CMS data provided by the HJPC Secretariat's Department for Judicial Administration, WG members already became aware that in some courts in BIH predictable deadlines for certain case types are much longer than optimal deadlines. That information asks for further research of reasons for such an outcome. When the WG establishes final optimal case deadlines for all case types and courts and POs develop their individual predictable case deadlines, the HJPC, court presidents and chief prosecutors will in position to detect those court and POs departments that dispose of their cases within optimal time and those that don't. They will have to explore reasons for delays and make distinction between internal and external weaknesses contributing to bad performance. Next step is to and conduct necessary measures to deal with a problem – HJPC for whole system and court presidents and chief prosecutors for their individual institutions. Optimal and predictable deadlines developed by WG could become a tool of early warning and detecting delays in the system and alerting for solutions. As a final outcome, citizens whose right to a fair trial within reasonable time will be resolved in regular procedure without need to apply their case before domestic or international bodies for human rights protection. Thanks to these efforts the court users will have better services and information about predictable duration of their cases.

Through implementation of the MPOI in thirteen model prosecutor offices, USAID JSDP II have given proper attention and expert support to neglected part of judicial branch of governance in BIH. For the first time experts from various fields of prosecutorial administration engaged by the USAID JSDP II gave training to model prosecutor offices staff and conducted overall assessment that resulted with detailed reports. Report outlines achievable improvement solutions for whole prosecutorial system in BIH as well as for individual prosecutor offices.

For the first time the HJPC has been provided with a universal assessment of status of premises of all 18 prosecutors' offices in BiH. By completing the first needs assessment of prosecutors' offices as to premises, USAID JSDP II provided a blueprint for future activity to improve those facilities to the extent that they are efficient and professional. The first fruit of this effort is the acknowledgement of the HJPC that this report deserves particular attention. USAID JSDP II disseminated the report of with conclusions and recommendations and the HJPC President and USAID JSDP II Chief of Party sent a joint letter to relevant domestic and international institutions and organizations seeking their support for the implementation of the expert recommendations. The BIH Ministry of Justice included this report into Documentation System so it could be used for determining future actions relevant for implementation of the Justice Sector Reform Strategy.

Through procurement of the modern IT and office equipment to model prosecutor offices, USAID JSDP II assisted in successful implementation of case management system (TCMS) at model prosecutor offices, improved efficiency of prosecutor offices' administration and contributed to creating solid preconditions for introducing e-justice into BIH prosecutorial system.

USAID JSDP II trained key staff in model POs to conduct strategic planning and program budgeting and enable them to produce their own strategic and operational plans, program budgets and manage properly their finances. This process will help prosecutors offices to determine strategic goals and to identify necessary resources and risks which might be obstacles to reaching established goals. They can also argue better for their budget proposals before respective parliaments and executive branch of power and make stronger request for resources necessary for implementation of their mandate under the law and achieving projected results.

USAID JSDP II developed and the WG on MPOI approved the concept of the T-Portal that would use as a knowledge management tool by collecting, disseminating, and exchanging educational, referential and informational materials for prosecutors and prosecutor offices' administration. T-Portal will serve as a communication forum for prosecutors and heads of prosecutors' office administration. Online Library segment will provide prosecutors with relevant domestic and international regulations and jurisprudence as well as data about confirmed indictments. All of that is necessity for their efficient work on individual cases. Forum for prosecutors will be used to initiate discussion about certain legal institutes, to share dilemmas/questions/problems with other colleagues thus creating a possibility of conducting critical assessment of current regulations and practices and encouraging active participation in reforming substantive and procedural laws. Prosecutorial Administration segment will provide leading administrative staff in POs with all relevant legislation, with all internal regulations from all POs and with application for fixed assets management. Internal regulations as being at one place will use to POs' secretaries and heads of various administrative departments to become aware of recent developments in various areas of prosecutorial administration. Forum will be used to spur related discussions that would result in adoption of best solutions and experiences, ultimately creating standardize and harmonized practice in prosecutors' offices administration. Main goal of this activity is to provide optimal services of prosecutorial administration to prosecutors for their work on concrete cases. Application for fixed assets management will for the first time provide POs with a possibility to have electronic data on their fixed assets and to manage them in much more efficient way. At the same time the HJPC will have possibility to obtain daily accurate data on fixed assets in all POs in BIH. That will raise not only quality of administration in individual POs but will also strengthen level of performance of prosecutorial administration at the HJPC. USAID JSDP II plans to offer administration of T-Portal to one of prosecutorial professional

associations through grants program of Component 2 of the Project. Received grant could provide selected association with means to hire a professional that would be tasked to initiate certain topics at T-Portal forum, moderating discussions and formulating conclusions and recommendations. The professional association could use forum discussions to formulate advocacy for i.e. legislative changes that would result in better formulated or more efficient substantive or procedural legal institutes. These achievements could result in stronger interest of its members to join and support activities and in higher influence of professional society to ongoing judicial reform. Upon agreement with all involved in this activity, the USAID JSDP II prepared and published tender for development of the T-Portal and related applications.

PROBLEMS AND ROADBLOCKS

The main problems encountered during previous years were centered on the capacity and **commitment of the HJPC Secretariat to fulfill its responsibilities under signed memorandum of understanding and the HJPC Strategic Plan.** USAID JSDP II's decision to turn to the Council as our main Project partner and not to Secretariat which doesn't have a capacity to ensure sustainability of Project results proved to be proper one. Council's decisions from November 2010 regulated, among other things that Secretariat will have to provide administrative support to the WGs. The decisions were not implemented first couple of months after their adoption but consequently USAID JSDP II gradually transferred administrative support to the Secretariat. USAID JSDP II also pointed out to WGs' members' necessity of Secretariat's departments to be involved in their activities including transfer of institutional knowledge kept by Secretariat. USAID JSDP II insisted on already agreed procedure that the results of Project (Reports, Decisions or Conclusions) which would be submitted to the Council for adoption should be prepared by the chairman of the WGs and the USAID JSDP II. Only than it would be sent to the Secretariat to be put in appropriate format and distributed to the Council members. It has been agreed that the USAID JSDP II will attend these sessions and receive copy of all material submitted by the Secretariat to the Council. Thanks to this approach, the Secretariat finally started with provision of full administrative support and technical assistance to WGs' members and very good coordination with the USAID JSDP II. USAID JSDP II also managed to obtain support of Council's International Member who underlined that any additional donor assistance if within mandate of particular WG established under USAID JSDP II Workplan, should be implemented under the direct supervision of relevant WG. Consequently Secretariat Director sent a letter to USAID JSDP II proposing that any of activities of the Swiss Project falling under mandate of WG for MPOI and MS should have the WG's final authorization before the implementation. Secretariat becomes an excellent service to the HJPC and its WGs and not vice versa what has been the case before. New internal relationship between the Council and Secretariat, at least concerning WGs established in accordance with JDP II Workplan, proved to be also useful for Secretariat since this way it can focus on its primary (secretariat) role. Periodical renewal of Council's membership could jeopardize this achievement. New Council members will need USAID JSDP II orientation to avoid miscommunication with Secretariat and to hold on to the plan of communication established by the USAID JSDP II.

- **WG on MPOI and MS met just two times so far.** This WG faced significant reducing of its membership by Council's decision from November 2010 (from eight to five). Chairman, Vice President of the Council suddenly left the judiciary leaving temporary this WG with only four members. That caused difficulties to provide participation of at least half of the WG's members in order to have a quorum for its work. USAID JSDP II addressed this issue to the Council and the HJPC by its new decision appointed Ms Enisa Adrovic, Vice-President as a

new chair to this WG in April 2011. USAID JSDP II provided orientation for her with the aim to, as quickly as possible, take over here new tasks. This WG preliminary agreed with a concept of Matrix of European Standards for model POs. Nevertheless it needs to be thoroughly assessed before submission of the final proposal to the Council for adoption. Next meeting is tentatively scheduled for August 30, 2011 having in mind that the USAID JSDP II has to initiate Matrix of Standards in autumn this year.

- **Overlapping with the Swiss project (SP) in MPOI (Strengthening Institutional Capacities of Prosecutor Offices in BIH).** In order to avoid that possibility USAID JSDP II conducted several meetings with the Swiss Project team. USAID JSDP II invited Swiss Project to all relevant events in order to provide adequate flow of information and coordination of future activities. USAID JSDP II has a status of observer at the Steering Board of the SP. So far, USAID JSDP II and SP have shared relevant information and coordinated their activities. Director of the Secretariat, who is Presiding Steering Board of the SP, sent a letter to the USAID JSDP II proposing that any of activities of the Swiss Project falling under mandate of WG for MPOI and MS will have the WG's final authorization before implementation.

PROPOSED PROGRAMMATIC OR TACTICAL CHANGES

During the third year of the Project, USAID JSDP II will build on its strategy of “model” activities to achieve noticeable and tangible results ensuring that the achievements are sustainable, long-lasting, replicable in other jurisdictions and meaningful to citizens. Therefore, assistance provided will be “owned” by the HJPC, implemented more quickly, administered more diligently and result to concrete benefits to citizens.

USAID JSDP II will use the final year of the Project before the Optional period to check out with its counterparts how newly adopted procedures could be implemented into practice and used for benefit of the citizens. USAID JSDP II will explore what kind and a level of USAID JSDP II technical and other assistance is necessary for implementation and sustainability of newly adopted procedures that came as a result of joint efforts of USAID JSDP II, the HJPC and model POs. Special emphasize will be given to sustainability of results gained by model POs through implementation of the Matrix of European Standards.

COMPONENT 2: SUPPORT FOR A BETTER COORDINATED AND MORE UNIFIED SYSTEM OF JUSTICE READY FOR EU ACCESSION

HIGHLIGHTING ACHIEVEMENTS

2.1. Creation of “Forum for Joint Policy (FJP)” with HJPC and MOJ, and building the capacity of MOJ/HJPC policy units for policy analysis and writing of policy proposals

In Year 2 Work Plan USAID JSDP II committed to achieving the following results:

1. “Forum for Joint Policy (FJP)”, will be “up and running”, all activities completed in order to capacitate this unit to start developing policy proposals;
2. FJP works on producing analysis and policy proposals (July 2011);
3. Department for Planning and Strategic Policy (DPSP) of the HJPC’s Secretariat has new stronger and more responsible position, serving as HJPC’s policy unit, providing drafts of strategic policy analysis and policy proposals to the HJPC, and serves as expert support for FJP;
4. SSPACEI provides drafts of strategic policy analysis and policy proposals to the BH MOJ and FJP, and serves as expert support for the FJP;
5. Each policy unit of BH MOJ and HJPC improves their competence for providing the analysis and technical inputs for the mid-level meetings when necessary.

All of these results have been achieved except for No. 3. which was partially achieved due to the internal organization of HJPC and its Secretariat. This organization resulted in a bit different approach in philosophy of internal functioning of strategic planning where other departments of the Secretariat have also been involved in strategic planning depending on their competence. The achievements can be summarized as follows:

Two comprehensive trainings were organized for FJP, one on improving the analytical skills and the second one in writing policy proposals. Both of the trainings were executed by USAID JSDP II international experts. Staff members from BH MOJ and HJPC who will be serving as internal expert support for FJP, as well as SPCs from Entity MOJs and BDJC were also included in these trainings. FJP is now considered ready for production of policy proposals and is already at the initial stage of working on the first topic related to reduction of budget sources for the judiciary in FBH.

- USAID JSDP II provided two comprehensive trainings for the Forum for Joint Policy (FJP) and facilitated 4 meetings which resulted in adoption of Rules on Work for FJP. After the completed trainings, FJP started their work on the first policy proposal related to reduction of budget sources for the judiciary in Federation of Bosnia and Herzegovina (FBH). In addition to this, through discussion over several important topics FJP contributed to better understanding between the two institutions.
- Except for its basic purpose - creation of good quality policy analysis and proposals, FJP became a place where the topics of the interest for BH MOJ and HJPC were discussed, but also the topics of the interest for the whole justice sector in BH. Formation and initial

activities related to FJP drew visible attention of the professional community and civil society organizations.

2.2 Strengthening the capacity of SSPACEI to implement JSRS

In Year 2 Work Plan USAID JSDP II committed to achieving the following results:

- SSPACEI completes all of their obligations arising from the JSRS Action Plan within the established timeframe, especially in view of providing support to the Technical Secretariat for implementation of the JSRS;
- SSPACEI fully capacitated to act as the leading coordinating body in implementation of the JSRS Action Plan;
- Brčko District Judicial Commission, entity and cantonal ministries of justice and their relevant departments and officials involved in the JSRS Action Plan implementation follow the quality practice and positive experiences of SSPACEI;
- Improved functioning of Functional Working Groups (FWG) and increased level of positive interactive influence between FWGs and the Technical Secretariat;
- New assessment methodology of JSRS Action Plan implementation introduced based on Performance Measurement Plan (PMP).

All of these results have been achieved except for the third result which was partially achieved due to variety of reasons, from the lack of political will to the lack of capacities of the justice sector institutions. However, the progress has been made in BDJC, six cantons (Una-Sana, Podrinje, Tuzla, Zenica-Doboj, Western Herzegovina, Herzegovina-Neretva) and partially in both Entity MOJs.

- USAID JSDP II provided guidance and support to SSPACEI in both of the capacities of this Sector - as a part of the internal structure of BH MOJ, and main coordinating point for JSRS AP. In Year 2, USAID JSDP II continued to promote cooperation between participants in the justice sector reform with SSPACEI. This resulted in partially improved level of implementation of JSRS AP in spite of overall political and economical crisis in BH (Chart No.1). All of these activities assisted SSPACEI in becoming more competent for production of analysis and technical inputs for the mid- level quarterly meetings of FWGs.
- USAID JSDP II also supported SSPACEI in fulfilling their role as the main coordinating mechanism of the JSRS implementation. This support, either direct or through cooperation with other players, resulted in progress in quality of preparation and execution

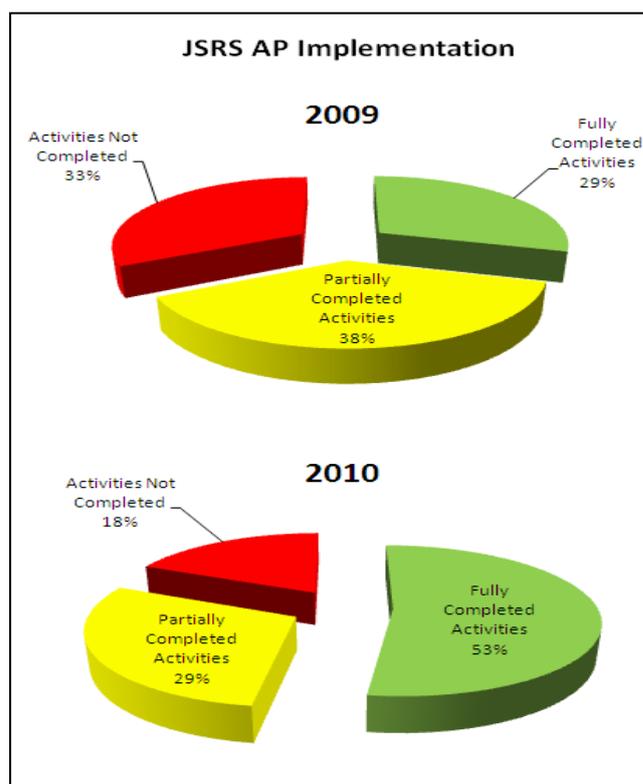


Chart No.1

of meetings of FWGs and TS. Although USAID JSDP II does not provide direct support to SSPACEI in organizing and execution of the Ministerial Conferences, some improvements in this area are direct consequence of our continuing presence and support to BH MOJ and its SSPACEI.

- The cooperation with SSPACEI continued to be on a basis of directing and advising, but in Year 2 it progressed in a sense of the increased interaction as a product of SSPACEI becoming the main coordinating mechanism of the JSRS implementation. Unfortunately, this progressive trend has been negatively influenced by the new staffing shortages. Component 2 assisted SSPACEI by providing training in improving management skills for the chairpersons of FWGs. In meetings with all the chairpersons, we also indicated areas where additional progress could be made. This approach, along with the said training, resulted in improvements in the approach of most of the chairpersons and their increased engagement in preparation and execution of FWG meetings, as confirmed by SSPACEI.
- In Cooperation with SSPACEI, implemented recommendations submitted during Year 1 on improvements of the effectiveness of FWGs work, with emphasis on the role of their Chairpersons, introduced establishment of Thematic Conferences, provided expert assistance in improving JSRS AP assessment methodology.

2.3 Establishment of MOJ Documentation System to track JSRS implementation

In Year 2 Work Plan USAID JSDP II committed to achieving the following results:

1. Utilize the Documentation System established for a more effective monitoring of the implementation of the JSRS;

The result has been completely achieved. Even more, through intensive exploring of DS, their users and in particular the competent staff of the BH MOJ made further improvements providing for its more practical and comprehensive usage.

The Documentation System (DS) is a software program that helps SSPACEI to monitor the JSRS AP implementation in much easier and effective way than before SSPACEI is. It provides necessary support to SSPACEI and the Technical Secretariat in effective monitoring of the JSRS AP implementation and organization of semi-annual Ministerial Conferences, allows mining of specific data, contains all relevant information and documents, allows access to all relevant justice sector institutions, and five civil society organizations monitoring the implementation, to all JSRS related documents (reports, contacts, meeting invitations, calendars, conclusions, etc.). DS establishes simple methods for supply of institutional reports to SSPACEI in real time, thus abandoning the previous complicated and non-efficient system of data collection and mining. In addition to this, DS provides a number of technical innovations which will make SSPACEI more efficient in its very important coordinating position in both BH MOJ and JSRS AP implementation system.

Except on SSPACEI, DS created a positive impact on other participants in the JSRS implementation, but particularly on substance of meetings of the Functional Working Groups (FWG) that monitor JSRS implementation. DS replaced the previous method of manually collecting data and drafting reports, and has been in official use since January 2011.

2.4 Strengthening strategic and policy capacities at the entity and cantonal level, including the Brcko District Judicial Commission.

In Year 2 Work Plan USAID JSDP II committed to achieving the following results:

1. Each ministry of justice at the entity level have accepted to have its Rules on Internal Organization and Systematization (BOR) amended in order to have an organizational unit for strategic issues built in;
2. Staffing of strategic unit in Entity MOJs in progress;
3. Regular coordinating meetings of Strategic Points of Contact (SPCs) held with SSPACEI established and maintained on a regular basis in order to improve coordination regarding JSRS AP implementation;
4. Functional link between the SPCs, SSPACEI and the FWG members upgraded to the level which provides full contribution to realization of specific tasks arising from JSRS AP;

The first two results have been achieved, but with no progress in further staffing of the organizational units for strategic issues, which is a consequence of the above mentioned lack of funds. The third result has been partially achieved due to the lack of political will, but also due to lack of funds to support SPCs presence to the regular coordination meetings held in Sarajevo. However, USAID JSDP II managed to improve the coordination regarding JSRS AP implementation through other forms of activities, such as workshops, joint trainings and meetings over specific issues with SPCs and SSPACEI.

"USAID JSDP II is a project which works to include different institutions and organizations in the justice sector and CSOs in BiH through specific and systematic activities, in order to reach consensus about important issues that relate to implementations of the JSRS in BiH"

Haris Grizović, representative of HJPC in Functional Working Group III

The fourth result has also been achieved in a limited fashion for the earlier quoted reasons, partially due to lack of funds and partially due to lack of political will in some justice sector institutions. But the level of commitment of some justice sector institutions has significantly increased (Please see the list of the justice sector institutions under 2.2. See also Chart No.1 on progress in the JSRS AP implementation under 2.2).

The following should be highlighted:

- USAID JSDP II organized two structured workshops for the members of FWGs, Technical Secretariat and SPCs. During these workshops the most important topics on how to improve the JSRS implementation were discussed and conclusions reached which increased awareness of the participants on the need for better contribution both from their side and their respective institutions. This practice also resulted in identification of a number of professionals ready to engage in processes leading to completion of

Workshop for members of the JSRS monitoring Functional Working Groups



(photo by USAID JSDP II)

tasks from JSRS AP, but also with other challenges in the justice sector.

- Based on SSPACEI proposal, Component 2 provided assistance of an international expert who analyzed the existing system of monitoring of the progress in JSRS implementation. In close cooperation with our partners he created a model closer to the original philosophy at the beginning of the JSRS implementation. Component 2 assisted SSPACEI in drafting Guidelines based on the expert's recommendations, and the new system of evaluation of JSRS implementation progress is now in official use.
- Further efforts of the Component 2 to consolidate the JSRS AP implementation have been directed in proposing to justice sector to concentrate on the most important issues of the AP. Therefore, the proposal for identifying priorities in JSRS AP and organization of Thematic Conferences was introduced, and was accepted by FWGs monitoring the JSRS AP implementation.
- Another visible result of the Project is reactivation of the Brčko District Judicial Commission (BDJC) in the implementation arena. After years of stagnation at the level of merely complete absence, as a result of USAID JSDP II initiative, BDJC appointed members to all five FWGs and is now included in all mechanism of the implementation, giving full contribution based on their long accumulated experience in the judicial reform. BDJC's competent officials were also included in the trainings for JPF and SPCs and chairpersons of FWGs.
- One of the basic tasks for Component 2 is to provide support to the BH MOJ. As part of providing support in their leading coordinative role in the JSRS implementation, and justice sector in general, USAID JSDP II made particular efforts to increase contribution of the Republika Srpska and Federation MOJs (entity MOJs) in this area. These two entity MOJs are among the key institutions in the justice sector in BH. Encouraged by the initial success reached in Year 1, Component 2 worked towards having both ministries properly addressing the issues of strategic planning and European integration process. That would lead to their better contribution in completing tasks defined in JSRS AP. But due to the earlier mentioned deterioration of political situation in the country, post electoral inter regnum period and diverse interest than for the part of the JSRS AP activities, this goal is only partially achieved. In spite of that, regular contacts with these institutions were maintained during Year 2. RS MOJ slightly increased the level of participation in AP implementation, and SPCs of both of the ministries were included in FJP trainings.
- Strengthened strategic and policy capacities in Entity and Cantonal MOJs and BDJC through formal decisions on creation of competent units (Entity MOJs), further increase of cooperation between officials appointed to serve a points of contact for policy strategic planning (SPCs), and greater involvement of BDJC in overall JSRS related activities.
- Improved capacities for policy and strategic planning of SPCs through inclusion in specific trainings for FJP.

2.5 Improving the required Justice Sector reporting to EU/EC

As it had been anticipated by the beginning of the Project DEI was a main partner outside the justice sector with respect to foreseen activities planned under 2.5- Improving the required justice sector reporting to EU/EC. However, DEI's capacities to perform joint activity on improvement in justice sector reporting to EU/EC were not at the desired level. At the same time, DEI was forced to create new Guidelines for all BH institutions regarding reporting on

the progress of Bosnia and Herzegovina in accession to EU which was additional burden to DEI. At the time of writing of the Work Plan for Year 2, the above mentioned Guidelines were still in the process of external consultations.

Due to the importance of this activity for the justice sector, USAID JSDP II decide to closely monitor development regarding the DEI's Guidelines and left the door open for future cooperation with DEI in this matter. USAID JSDP I contacts with ICON Institute (implementing the IPA 2007 European Union's Instruments for Pre- Accession Assistance project of building capacities of the ministries of justice in BH) also continued until the closure of that project.

DEI's Guidelines have not been adopted yet as an operational document. DEI's capacities to deal with required USAID JSDP II goals have not increased. USAID JSDP II kept suggesting to the justice sector institutions that their reporting to the EU/EC should be at the highest professional level possible. This has proven to be an important suggestion on occasion of receiving the first set of questions from the EU for justice sector. Although comprehensive and detailed, the reply to those questions still needs an evaluation on its technical quality and adjustments to the desired format.

2.6 Increasing Independence and Effectiveness through Improved Budgeting Processes

1. HJPC determines Strategic Guidelines for the courts budget with assistance of JSDP II;
2. Common court program budget structure format streamlined;
3. With assistance of HJPC a number of courts produce improved budget proposals linked to their own strategic goals, objectives and needs;

The result has been completely achieved, but the further consultations with competent ministries of justice and ministries of finance will be necessary to have its accomplishment fully confirmed. The following should be highlighted:

- In Year 2 the Activity 1.3 Increasing Independence and Effectiveness through Improved Budgeting Processes was transferred from Component 1 to Component 2. All the obstacles that the project was facing during Year 1 in attempt to establish efficient and effective cooperation with HJPC had to be observed. In addition to this, HJPC decided to abolish some working groups formed during Year 1, including WG 5 (WG on improving judicial and prosecutorial budgets). This made us transfer our cooperation to the HJPC Standing Subcommittee on judicial and Prosecutorial Budgets along with the Budget Department (BD) of the HJPC Secretariat. In practice this means that complexity of the HJPC structure and decision making process directly influenced Project's work on this activity as well.
- The support to HJPC in this area developed in two directions: first one dealt with creation of Strategic guidelines and streamlined budget format for courts and prosecutors' offices, and the second one was completion of the expert analyses which presented legal framework for desired changes in the system of financing of the judiciary in BH.
- Strategic guidelines and streamlined budget format were created by the domestic expert in close cooperation with BD. They were distributed to all regular courts and prosecutors' offices in BH so they could use them in submitting of the budget proposals for 2012. The same expert was supposed to assist BD in the exercise of the set of trainings for the relevant court staff members in program budget, but the understaffed BD was not capacitated to provide the said training.

- USAID JSDP II provided the assistance to HJPC in observing the legal framework for eventual improvements in the system of financing the judiciary. A comprehensive comparative analysis created per request of the HJPC President was a part of the wider set of additional analytical work presented in two analyses. As most of desires of judges and prosecutors regarding judicial budgets were already known, these analyses tried to give answer as to “*how*” instead of “*what*”. They included presentation of legal steps in order to reach goals such as unified budget at different levels, incorporation of court revenues into court budgets, functioning of the budgetary system where the existing roles of MOJ and MOF were excluded, formation of a separate account for judicial budgets, etc.

Handover of the two budget reports done by USAID JSDP II to the HJPC President



(photo by USAID JSDP II)

Left to right: Muhamed Susic, Head of USAID JSDP II Component 2, Richard Gebelein, former USAID JSDP II Chief of Party, Milorad Novkovic, HJPC President, Admir Suljagic, HJPC President's Chief of Cabinet, Zdravko Knezevic, Chairman of the HJPC's Standing Committee for Judicial Budgets

The questions and tasks for experts were developed in close cooperation with PSB and BD. The analyses were completed by the domestic experts, and their presentation immediately created different reactions, including strong support to the unification of judicial budgets in FBH.

The analyses were intentionally left without recommendations to justice sector as to which goals and targets should be defined as priorities. The reason for this is the political situation in the country which would inevitably interfere with any defined goal or target. Therefore the judiciary itself needs to decide which directions they want to go and seek for the assistance of the donors in that regard.

“The budget reports produced by USAID JSDP II are an excellent first step in reducing fragmentation of judiciary in FBH”

Stated during the meeting of the HJPC Standing Committee for Judicial Budgets on 22 March 2011

PROJECT IMPACT

During Year 2, implementation of the set goals was significantly influenced by negative political and economical developments in Bosnia and Herzegovina. A process of slow establishment of government at all levels also produced a negative effect on our efforts to put the institutions of the justice sector in BH into closer working relations. In addition to this, dissatisfaction of the EU structures based in BH resulted in withdrawal of a very ambitious project from IPA 2007 funds, thus USAID JSDP II remained the only interconnecting actor in the overall JSRS AP implementation system.

In spite of these challenges, USAID JSDP II managed to create progress in areas such as building the capacities of the Forum for Joint Policy, developing of the Documentation System and support to HJPC in the area of judicial budgets.

USAID JSDP II work with FJP has demonstrated that the successful cooperation of the two institutions can be achieved even in the environment of different views to a number of issues.

FJP has become a place where topics of the interest for both of the institutions can be discussed in an open manner even if they were not on the formal agenda. Questions such as amendments to BH Law on HJPC, harmonization of criminal legislative and amendments to relevant legislation aimed to reduce the backlog in utility cases and improve enforcement procedure in civil cases were openly and constructively discussed.

USAID JSDP II organized two tailored trainings for FJP, first one aimed to improve their skills in creation of the high quality policy analyses, and the second one dedicated to creation of the policy proposals. Along with the FJP members, nine officials and employees of BH MOJ, HJPC, Entity MOJs and BDJC were included and received high quality trainings. This will automatically improve the capacities of their institutions in facing challenges of the future work, particularly in the area of harmonization of laws on the country's way to the EU membership.

FJP draw the attention of the justice sector institutions and international community representatives who are both eager to see their first performances. Justice Network members also assessed the formation of FJP a success and expressed a wish for close cooperation in the future.

FJP was one of the USAID JSDP II successes in Year 2 which proved that the improved cooperation among justice sector institutions can be built along with the main goal of a specific activity.

Other areas where a visible impact has been achieved was implementation of USAID JSDP II activities related to improved cooperation among justice sector institutions leading to better JSRS AP implementation. Both by strengthening the capacity of SSPACEI to implement JSRS and strengthening strategic and policy capacities at the entity and cantonal level, including the Brcko District Judicial Commission, USAID JSDP II confronted the deterioration of the situation in the country which had its inevitable effects on the justice sector.

Ministerial Conferences proved to be insufficiently suitable for more thorough discussions on specific issues in the justice sector. Therefore, USAID JSDP II promoted the idea that leading justice sector institutions should organize Thematic Conferences (TC) as a new tool which would increase the level of implementation of JSRS AP and allow other important topics possibly arising from the structured dialogue to be discussed in a more detailed manner. TC initiative has been widely supported, and some justice sector institutions have already begun with preparations for organization of TC. Justice Network (JN) members also welcomed this idea and expressed readiness to be involved in activities related to TC in accordance with their mission. Structures of the international community in BH dealing with support to the justice sector expressed their interest in seeing TC as a step forward in discussing burning issues and finding a way to resolve a number of important problems in the justice sector.

Through constant promoting of the advantages of well coordinated and better organized sector, through workshops, trainings, consultations, advising and meetings at all levels, USAID JSDP II managed to maintain the same level of participation of the key justice sector institutions and in some areas this level has increased (See the Pie Chart P ...) which resulted in slight progress in the JSRS AP implementation, USAID JSDP II remained the only player in the theater that works with ALL justice sector institutions in BH regarding their role in the JSRS AP implementation, preparations for EU accession and other important issues in that sector.

The Documentation System provided the participants in the JSRS implementation with a real-time access to all relevant information, but also a tool for better and more efficient reporting. The system allowed participants to translate their professional enthusiasm commitment into timely reporting on the achievements and obstacles, and at the same time denied claims on “complexity” of the previous manual reporting. Access to the Documentation System has been granted also to the five civil society organizations that monitor the JSRS implementation.

“Documentation System will allow the justice sector institutions to exchange information electronically on daily basis, and thus improve and speed up access and use of all relevant”

Report of Civil society Organizations monitoring the JSRS implementation for 2010

USAID JSDP II also deals with improvements in the area of financing of the judiciary. The activity of Increasing Independence and Effectiveness through Improved Budgeting Processes is being implemented through three sub activities that are complementing and form foundations for substantial changes towards more efficient system which provide better financial situation for the courts and prosecutors offices in the future.

Through the activities exercised with our partners, USAID JSDP II created an environment where the justice sector institutions and public became more aware of the necessity of the judiciary for better financing of their needs. By providing HJPC with the assistance of a domestic expert USAID JSDP II helped in creation of the Strategic Guidelines and streamlined budget format. While the expert’s assistance in creation of these documents significantly alleviated HJPC’s efforts in this area, it remains to be further inquired about the quality of the budget proposals submitted by the courts for the 2012 budget, based on HJPC’s documents created with the help of USAID JSDP II engaged expert. Nevertheless, the position of HJPC’s Standing Committee on Judicial and Prosecutorial Budgets (SCB) and Secretariat’s Budget Department became more visible and it has been anticipated with increased interest of the other institutions and officials in the justice sector.

This activity was followed by the delivery of two comprehensive reports created by two domestic budget experts, containing several analyses such as comparative analysis of the financing of the judiciary in BH with the existing systems in the surrounding countries, analysis of the provisions that should be amended if the existing system should be changed in different options, analysis of needs to change existing Law on VAT in case of changing the system of budgeting courts and prosecutor’s offices, etc.

These analyses created an atmosphere of constructive dialogue in the HJPC, where the standpoints of immediate action towards changing the budgetary system for the judiciary in FBH have been taken by SCB and majority of HJPC members. This activity has also drawn the attention of other justice sector institutions, such as FBH MOJ who claimed an undivided support to the idea of reducing the budget fragmentation.

Through the activities of improvements in the area of financing of the judiciary, USAID JSDP II managed to bring back the focus of justice sector institutions, civil society organizations and international community representatives to one the most important vital issues of the judiciary. It also created a direct impact on JSRS AP implementation, where, through the creation of the above mentioned reports some of the activities from AP were marked as “completed”.

PROBLEMS AND ROADBLOCKS

The following are the main problems and roadblocks and ways JSDP II sought to address them:

1. Political situation in the country further deteriorated, bringing additional complications to the institutions of the justice sector in Bosnia and Herzegovina. Either under direct influence of political parties (ministries of justice) or more or less open attempts to influence the judiciary (HJPC), the justice sector institutions are vulnerable to the opponents of further progress in judicial independence and professionalism. In this situation, presence of USAID JSDP II became even more significant. Support that the Project provided to our partners has been of the key importance for maintenance of the existing level of implementation including the minor progress in some of its areas.
2. The BH MOJ as well as the RS and FBH MOJs dedicate more and more time to work on issues which are not directly connected with the strategic activities and programs from JSRS AP. Priorities other than the ones indicated three years ago and built in into the JSRS became more important for the ministers of justice. Yet, there is recommitment among our partners at the technical level to complete as many activities from the JSRS AP as possible.
3. Tendency of insufficient inter-institutional cooperation has continued through Year 2 of the Project. It is one of the biggest problems in the execution of tasks arising from JSRS AP. USAID JSDP II invested efforts in improvement of cooperation between BH MOJ and HJPC through FJP, but also through other forms of cooperation, such as preparations for the specific activities, exchange of comments over drafts of the document important for the implementation, consultations with domestic and international experts, etc. This pattern has not become a practice of other justice sector institutions.
4. Shortcomings in internal communication of the key justice sector institutions remained a significant obstacle for the successful JSRS AP implementation. This problem reached its peak during the period of the transfer of authority to newly elected government, especially in FBH.
5. Understaffing and limited competence of staff members: The continued economic crisis in BH prolonged a period of the moratorium over fulfilling the vacant posts in the justice sector institutions. Both HJPC and most of the MOJs in BH were victims of shortage of staff. In addition to this, some of our key partners, including SSPACEI and DPSP have lost some staff members while the work load increased. As to the limited competence of their staff members, in order to improve their professional skills, USAID JSDP II provided targeted trainings, expert assistance, guidance and counseling to the staff members included in JSRS AP implementation.
6. Following USAID JSDP II recommendations, justice sector institutions in BH managed to remove some inconsistencies from the Action Plan, making the definitions, expected results and other details more clear. In spite of SSPACEI's efforts in this regard, not all the inconsistencies were removed or activities defined in a more precise manner.
7. Post Election Period – USAID JSDP II expected that the election year and post election period may negatively influence the situation in JSRS AP implementation. In that sense, we briefed the professionals involved that their contribution should not depend on the political profile of the competent minister of justice. Many of them have acted positively and constructively, but the overall impact of the political uncertainty could not bypass the justice sector. Appointment of the new Minister of Justice in FBH particularly raised hope

for better involvement of this institution in JSRS AP. But this Ministry has been involved in the establishment of the new Federation Government in a way which did not leave much space for additional engagement in completion of the tasks arising from JSRS AP. Additionally, ten months after the election the new Government at the state level has not been formed, and it is not foreseeable when it is going to happen. The consequences for the justice sector can even be more serious bearing in mind leading coordinating role of BH MOJ in overall implementation.

8. Although reduced to acceptable extent, the absence of the officials to the formal meetings remains one of the most serious problems. The representatives of RS have continued to maintain a low level of presence, and the level of attendance of FBH MOJ officials is not encouraging either. Both could be analyzed in light of the political situation in their ministries or from the point of view of professional motivation or ethics, but the consequence is the same - lack of legitimacy for adopting formal decisions, which leaves the existing JSRS implementation instruments even without their limited authority.
9. Formalization of the internal procedures within HJPC: In Year 1 Component 2 did not have much of activities tied to HJPC except the establishment of FJP, which was successfully implemented. Even through this activity, USAID JSDP II was aware possible pitfalls that may cause problems in cooperation with HJPC. Complicated mechanism of functioning of the information flow and decision-making system still make this institution a rather sensitive partner for JSDP II. In addition to this, there is no guarantee that the Council will accept the recommendation by its Secretariat regarding any issue. Also, it has been noticed that, as an independent body, the Council may modify the requested activity partially or completely, thus causing either a need for reconsideration of the request or proposal, or even inability for it to be implemented. USAID JSDP II built its partnership with HJPC in this activity through careful and consistent development of relationship through HJPC's Presidency and with HJPC Secretariat, which resulted in increased confidence and discussion of topics in an open and constructive manner.

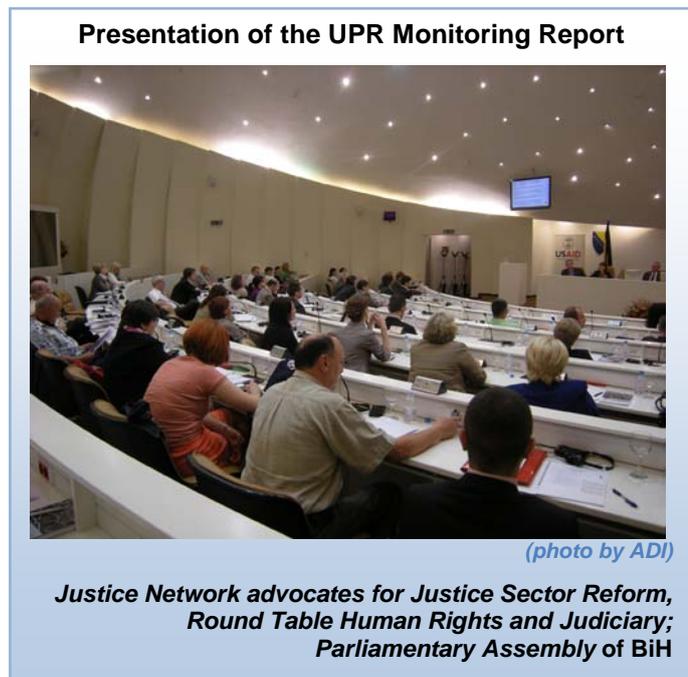
COMPONENT 3: BOLSTERING PUBLIC CONFIDENCE IN THE RULE OF LAW

HIGHLIGHTING ACHIEVEMENTS:

3.1 Development of the Justice Sector Civil Society Network (Justice Network)

In year 2 workplan USAID JSDP II committed to achieving the following results:

1. Justice Network acts in a coordinated and strategic fashion and its activities are well publicized;
2. The first Justice Network annual conference held;
3. Justice Network embraces public policy development and advocacy as one of its main modus operandi;
4. One public policy research analysis of Justice Network, on either equal access to justice or the independence of the judiciary in BiH, developed and publicized, and recommendations contained thereof advocated for;
5. UPR monitoring plan, as it relates to the rule of law recommendations to BiH, and Justice Network annual UPR monitoring report developed and publicized, and recommendations contained thereof advocated for;
6. Justice Network participants receive training in fundraising and the design of project proposals.



All of these results have been achieved, of which the following deserves to be highlighted:

- Through JSDP II support and its partners NGOs, Justice Network engaged in collective advocacy initiatives, which included: 1) the publication and presentation of the first UPR monitoring report '*Human Rights and the Judiciary*' (2010-2011) with specific recommendations as to relevant reform to enhance the independence of judiciary and improve access to justice in BiH; 2) the publication and presentation of a policy document named '*Access to Justice*' which deals with 7 policy issues under this mentioned theme and advocates for among other things the establishment of the Supreme Court of BiH, the adoption of the BiH Legal Aid Law and constitutional amendments relevant to securing equal access to justice to minorities.

- Through JSDP II support and its partner NGOs, Justice Network served as a resource center for its members by providing capacity building in: strategic planning, financial management, monitoring and evaluation, teamwork, project design and planning (in collaboration with EU Technical Assistance for CSOs), public policy analysis and advocacy, as well as legislative advocacy (in collaboration with USAID Parliamentary Strengthening Project).

Consensus building Training for Justice Network



(photo by USAID JSDP II)

Justice Network discusses group decision-making and how to influence and affect change

a. Expansion of Journalist-Based Court Monitoring to make the Work of the Judiciary more Transparent

In year 2 workplan USAID JSDP II committed to achieving the following results:

1. Under BIRN mentorship 10 local journalists from different parts of BiH monitor and report on war crimes trials before 7 selected cantonal and district courts;
2. Results of such monitoring publicized weekly on the especially designed subpage of BIRN website, monthly on radio, and quarterly on TV;
3. Random survey of citizens of selected local communities about war crimes trials carried out and publicized on TV;
4. Through 10 of its in-depth analysis, BIRN reports on: 1) how prepared cantonal and district courts are to try war crimes, with regard to securing access to information and transparency of work, witness protection and support and the right to defense, and 2) the role of entity supreme courts as appellate courts in securing consistency in cantonal and district court practice in war crimes cases.

All of these results have been achieved and beyond by increasing the number of courts which were subject to journalist monitoring and

Award Ceremony



(photo by BIRN)

Participants of the BIRN war crime reporting training for journalists with USAID Mission Director

reporting. The achievements can be summarized as follows:

- Through the support of JSDP II, BIRN provided on the job training and mentoring to 10 local journalists in the independent and objective monitoring of war crimes trials before the following 11 selected cantonal and district courts: Brcko, Sarajevo, Bihac, Zenica, Banja Luka, Mostar, Gorazde, Travnik/Novi Travnik, Trebinje and Dobo. They published in total 172 short reports from trials they observed directly. Through its pool of experienced court reporters, BIRN also monitored these eleven selected cantonal and district courts, to determine how prepared they are to try war crimes, with regard to securing access to information and transparency of work, witness protection and support and the right to defense. The monitoring resulted in 20 in-depth analysis published through BIRN's specialized information agency Justice Report, which included web site and other print media, as well as 11 radio shows aired on 140 radio stations and 3 TV shows aired on 10 TV stations including the BiH national TV.

3.3. Supporting the Development of Justice-Sector Policy or Legislative Reforms by Civil Society

In year 2 workplan USAID JSDP II committed to achieving the following results:

1. Through legislative advocacy and lobbying efforts of HROT, FBiH draft Law on Juvenile Delinquency adopted;
2. Through advocacy efforts of HROT, better conditions for the implementation of the RS Law on Juvenile Delinquency created;
3. Through advocacy efforts of HROT, discussion on the drafting and adoption of the Brcko District Law on Juvenile Delinquency initiated;
4. HROT helped the development and promotion of Criteria relevant to the implementation of alternative measures (based on the model of restorative justice) as set out in the RS Law and FBiH draft law and entity Regulations on the Implementation of Juvenile Correctional Measures adopted in 2010.
5. Through a study tour to Serbia of 6 BiH professionals, regional cooperation on the fight against juvenile delinquency enhanced and the transfer of know-how facilitated.

All, but the first result, were achieved. Because of a 5 month long delay in the establishment of the FBiH government, HROT advocacy efforts did not result in the adoption of the FBiH Law on Juvenile Delinquency. Nonetheless, with changes in the political scene resulting from the elections, a new opportunity has arisen to be taken advantage of in the coming months. That said HROT spent the last quarter in the establishment of an inter-disciplinary expert team to prepare amendments to the draft FBiH Law on Juvenile Delinquency as the best way to influence the legislature, based on public consultations carried out during the last quarter. With the assistance of the expert team, HROT also developed a lobbying plan for the next quarter, which will include meetings with the Minister of Justice of FBiH, the Prime Minister of FBiH and a number of FBiH legislators. Its advocacy activities aiming at promoting restorative juvenile justice also included: 1) a speech delivered to law faculty students at the University of Sarajevo on principles and benefits of restorative justice, 2) participation in public consultations on the draft Strategy on Fighting Juvenile Justice (2011-2014), 3) a two day training to 70 judges and prosecutors from FBiH on the draft Law on Juvenile Delinquency delivered on April 11 and 12 in cooperation with the FBiH Judicial and

Prosecutorial Training Center, and 4) the promotion of Criteria (sentencing guide) for the implementation of alternative measures through 2 radio shows, one in each entity, as well as the publication of a brochure. As a result, HROT managed to convince the FBiH legislature that the existing draft law requires improvements to be achieved through entity-wide public consultations. Consequently, the FBiH parliament invited HROT to help organize these consultations. HROT will continue its lobbying efforts in the coming months with funding it secured from EC, proving viability beyond USAID JSDP II.

In addition, through the use of its small grant program and its teams' expert support, USAID JSDP II is able to highlight the following:

- Through the support of USAID JSDP II in year 2, Justice Network advocated for: access to justice by marginalized groups such as women, minorities and the poor (Foundation of Local Democracy, Human Rights Center Mostar, BiH Law Institute, Women to Women), the efficiency of courts through the reduction of backlog resulting from increased use of mediation in dispute resolution (Plava Sfera and Association of Mediators), the independence of judiciary by improving its funding and appointment process (Youth Initiative for Human Rights, ADI, BiH Association of Judges, BiH Association of Women Judges, BiH Association of Judicial Associates), the transparency of courts (Alternative Kakanj, BIRN, Mediacentar) and similar.
- The public impact of advocacy efforts of Justice Network members, supported by USAID JSDP II, included:
 1. in five months, assistance to 500 women victims of domestic violence, war and trafficking, disabled persons, returnees, members of minority groups in legal aid and representation before court (FLD, HRC Mostar). As a result, for example, 70 women victims of domestic violence who were provided legal advice and representation ceased being victims, whereas 25 women with no income were able to secure social welfare benefits they were entitled to, including financial assistance.
 2. in two months, through the use of ADR, at the mere cost of cca 1,200 KM, assistance in resolving 18 utility cases (the total value of which was cca 50,000 KM), which were filed to the court as early as 1977, 1984, 2000, and involved 12 individuals and 6 small businesses (Association of Mediators and Plava Sfera);
 3. bridge-building between 150 students of 4 law faculties throughout BiH (Sarajevo, Eastern Sarajevo, Mostar and Banja Luka) through consensus building on key justice sector reform relevant to the independence of judiciary and access to justice jointly advocated for through meetings with the executive and judicial branch of government, as well as key political parties (YIHR);



4. bridge-building between the judiciary and citizens through the engagement of 25 judges and prosecutors who presented the judiciary, its role in the society and values it is based on, to more than 400 children, in 6 cities of BiH (Mediacentar);

5. as a result of new witnesses who came forth because of BIRN investigative reporting efforts, criminal investigation and prosecution of: 1) a war crimes case involving a woman perpetrator (first such case in BiH court practice), 2) rape as a crime against humanity committed in a systemic manner in a concentration camp in Foca area and similar.

3.4 Public Perception of Justice Institutions and NGO Sector

In year 2 workplan USAID JSDP II committed to achieving the following results:

1. Through a targeted grant to a media NGO and in cooperation with professional associations, both participants of Justice Network, the work of the judiciary publicized;
2. Judges and prosecutors receive training in their exercise of free speech in line with the ethics code.

Both of these results have been achieved, of which the following deserves to be highlighted:

- USAID JSDP II in partnership with Mediacentar Sarajevo, and in cooperation with judicial and prosecutorial associations, helped engage judicial and prosecutorial staff in direct public legal education, through the judges and prosecutors in classroom program, mock trials or other forms of direct communication with local communities (e.g. open days at courts, PR support to public events of professional associations, guest appearances of judges and prosecutors in radio and TV shows, press briefings). The idea for such effort came from *associations of judges, prosecutors and expert associates in BiH* and Mediacentar Sarajevo, in belief that the combination of knowledge that the two possess, one in legal issues and the other in appropriate ways to deliver information on complex issues to general public, will yield best results. This was the first time that, in the course of 6 months, over 25 judges and prosecutors were able to present the judiciary, its role in the society and values it is based on, to more than 400 children, in 6 cities of BiH. In order to secure institutional buy-in for different forms of public legal education Mediacentar Sarajevo and professional associations also advocated for the continued engagement of judges and prosecutors in public legal education.

Mock Trial at a secondary school in Sarajevo



(photo by Mediacentar)

Secondary school students learn about judiciary and its work through participation in a mock trial Witness cross examination, organized by Foundation Mediacentar with participation of members of professional associations of judges and prosecutors.

- JSDP II in collaboration with entity Judicial and Prosecutorial Training Centers contributed to improved implementation of ethics codes for judges and prosecutors through the development and provision of tailored training on limits of freedom of speech for judges and prosecutors as dictated by their ethics codes. The training was attended by 90 judges and prosecutors of BiH who were: 1) provided guidance on how to deal with increased media attention, and 2) helped to identify self-imposed rather than external limits to their free speech, suitable to the BiH context.

Training "Monitoring of Justice Sector Institutions"



(photo by USAID JSDP II)

Justice Network members work together on the development of a justice sector monitoring report

3.5 Capacity Building for JSDP II Partner NGOs and other JSDP II Grantees

In year 2 workplan USAID JSDP II committed to increase the sustainability of the involvement of partner NGOs in the justice sector by providing to them training in:

1. staff skills (communication, leadership, conflict resolution, consensus building), and
2. monitoring skills relevant to conducting ongoing oversight in the justice sector.

The following achievements can be highlighted:

- Through short term expert assistance of ProMente, a local NGO, USAID JSDP II provided a two day training to its partner NGOs and other grantees on consensus building. The training was interactive and aimed at equipping NGOs with practical skills for their advocacy efforts, such as skills relevant to: 1) attitude change, and 2) group decision making in the Justice Network, relevant to shaping its collective action.
- Through short term expert Lejla Somun Krupalija, USAID JSDP II provided two day training to its partner NGOs and other grantees on monitoring of justice sector institutions. The monitoring training addressed different phases of a monitoring program, such as: 1) the *planning phase* relevant to making decisions regarding the focus and structure of the monitoring program, 2) the *preliminary assessment* to evaluate the appropriate focus, scope, methodology and timing of a monitoring operation (monitoring is not always appropriate for every situation or political context), 3) the *implementation* including methods to increase overall acceptance of the program among various actors through for example coalitions, as well as strategies to secure access to information, 4) *information management* (accuracy, consistency and compilation of information; analysis and findings) and 5) *public reporting and other advocacy activities* (different types of reports, incorporating the monitoring into wider processes of reform by strengthening links with authorities and stakeholders). This training revealed that despite an interest in the topic a poor level of knowledge of NGOs on monitoring methodology and methods results in their

poor utilization. Consequently, these NGOs rarely opt for evidence based advocacy⁶.

PROJECT IMPACT

The overall objective of Component 3 is to enhance public confidence in the rule of law. It is believed that ‘the rule of law is as much a culture as a set of institutions, as much a matter of habits, commitments and beliefs of ordinary people as of legal codes’.⁷ To establish a culture of rule of law is to reach the grassroots and strengthen civil society.

Therefore, the implementation strategy of Component 3 includes action designed to achieve: 1) strengthened capacity of NGOs to conduct ongoing oversight, analysis and advocacy in relation to the justice

‘Justice Network facilitated collaborative action by helping us establish contact with organizations we never worked with before, such as professional associations in the justice sector. It also increased access to information and helped us change our own policy analysis parameters, thus expanding our horizons to include broader view.’

JN member response when asked what was the greatest networking benefit for members,
JN Effectiveness Survey, January-March 2011

sector (**3.1, 3.3 and 3.5 of year 2 workplan**), and 2) increased transparency of judiciary as a result of civil society advocacy and oversight of justice sector and rule of law issues (**3.2 and 3.4 of year 2 workplan**).

Strengthened Capacity of NGOs to Conduct Ongoing Oversight, Analysis and Advocacy in Relation to the Justice Sector (3.1, 3.3 and 3.5 of year 2 workplan)

Component 3 activities focused on engaging civil society with the justice sector through measures based on local needs. To that end, Component 3 worked closely with partner civil society organizations (CSOs) gathered around the Justice Network, established with the support of JSDP II in year 1. In year 2, the Justice Network expanded from 47 to 57 professional associations and NGOs in the justice sector.

⁶ Evidence-based advocacy is a process based on data and information. Needs are assessed with a view to advocating for improving current efforts as well as identifying gaps. The process integrates otherwise independent data from different sectors: research, policy, action groups, clinicians, practitioners etc., into an analysis to inform advocacy.

⁷ Stromseth, Jane, Wippman, David and Brooks, Rosa *‘Can Might Make Rights? Building the Rule of Law After Military Interventions’*, pg. 310

The Justice Network 57 CSOs throughout BiH work together to improve justice for citizens. The Network includes:		
Agency for Local Development Initiatives (ALDI)	DON Prijedor	
Alternative Kakanj	European Law Students' Association BiH	
Analitika – Center for Social Research	Forum of Tuzla Citizens	
Association "Lawyer"	Foundation Mediacentar	
Association for Democratic Initiatives (ADI)	Foundation of Local Democracy	
Association for aid to children and women victims of family violence "Women's Centre"	Helsinki Committee for Human Rights in BiH	
Association for International Law in BiH	Helsinki Committee for Human Rights in RS	
Association of Bankruptcy Trustees BiH	Human Rights Center Mostar	
Association of Bankruptcy Trustees RS	Human Rights Center University of Sarajevo	
Association of Citizens of Republika Srpska "Stop Mobbing"	Human Rights Office Tuzla	
Association of Consumers "Consumer's Club" of Tuzla Canton	Information and Legal Aid Center Zvornik	
Association of Judges BiH	IPAK-Youth Builds the Future	
Association of Judges FBiH	Law Clinic	
Association of Judges RS	Law Institute in BiH	
Association of Legal Associates and Advisors in Courts and Prosecutors' Offices in BiH	League for Protection of Private Property and Human Rights Trebinje	
Association of Mediators BiH	Narko-NE	
Association of Prosecutors BiH	Notary Chamber of Federation of BiH	
Association of Prosecutors FBiH	Open Society Fund Bosnia & Herzegovina	
Association of Prosecutors RS	Plava Sfera	
Association of Sarajevo Law School Students	PRONI Center for Youth Development	
Association of Women Judges in BiH	Research and Documentation Center	
Bread of St Antony	Rights for All	
Center for Civic Cooperation	Track Impunity Always (TRIAL)	
Center for Culture of Dialogue	Vaša prava BiH	
Center for Development and Support	Vesta NGO and Radio	
Center for Development of Civil Society	Women to Women	
Center for Investigative Reporting	Young Lawyers' Association in B&H	
Center for Promotion of Civil Society	Youth Initiative for Human Rights BiH	
Democratic Youth Movement		

The value of networks has been long recognized in the international development because such an approach relies on local resources of developing countries, including the social capital⁸ that these countries possess. 'Social capital relies on interconnectedness and social cohesion, and engenders the trust, reciprocity, and cooperation that are required for effective collaboration. In any form, networks both rely on social capital and contribute to its development.'⁹

'Some of the most commonly cited benefits for network members are: increased access to information; expertise and financial resources; increased efficiency; a multiplier effect, which increases the reach and impact available to member organizations; solidarity and support; and increased visibility of issues, best practices, and underrepresented groups.'¹⁰ In year 2, JSDP II focused on maximizing these benefits through continued capacity building of internal and external organization¹¹, as well as the facilitation of joint advocacy efforts of Justice Network (JN) members.

⁸ Social capital is commonly defined as 'the norms and networks that facilitate collective action'.

⁹ Liebler, Claudia and Ferri, Marisa 'NGO Networks: Building Capacity in a Changing World', Study Supported by Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Private and Voluntary Cooperation, USAID, pg. 22

¹⁰ Ibid, pg. 5

¹¹ Internal organization includes capacity areas such as: strategic planning, financial management, monitoring and evaluation, teamwork, project design and planning. External organization includes capacity areas such as: lobbying and advocacy, public relations and outreach, partnership and alliances, donor relations, networks and knowledge management.

Whether a network has the deliberate intention to build capacity or whether the capacity building is a side effect, JSDP II found through its two surveys conducted in year 2 - one on the effectiveness of the JN and the other on its capacity and needs - that JN members perceive that network's capacity is being built. The capacities being built, which are most frequently cited by JN members are: the creation of new ways of learning and working together, the recognition of possibilities for collaborative action, improved project design and implementation, improved interventions and approaches. Stronger partnerships, collaborations and institutional linkages, as well as the creation and dissemination of best practices among JN members, were identified as areas that required further improvement. It is also worth noting that through work with the JN, JSDP II was able to move away from the traditional concept of knowledge transfer, by applying a partnership methodology and focusing on experiential learning, which supplements and in many cases surpasses the value of knowledge obtained from books and workshops. Finally, networking for the purpose of capacity building is considered to avoid many of the pitfalls associated with technical assistance, such as 'the undermining of local capacity, the distortion of priorities, the selection of high-profile activities, the use of expensive methods, the fixation on targets and ultimately the ignoring of local wishes'.¹²

However, JN is not only a resource center for its members. JN also involves member collaboration and sometimes engagement in mutual and joint activities. To that end, although established as an informal network, JN is moving to a more formalized network, through the creation of ad hoc working groups for more focused work (public policy group and Universal Periodic Report group) and by holding regular thematic meetings, including an annual conference. The desire to ensure participatory relationships and accountability were the primary reasons for pushing JN toward a more formalized structure. This need arose as membership in the network expanded and found it necessary to create specific mechanisms for participation in decision-making.

'Justice Network facilitated better communication between CSOs and contributed to building greater unity among CSOs, which enabled collective action in the justice sector development, such as relevant legislative advocacy initiatives.'

JN member response when asked what was the greatest networking benefit for members, JN Effectiveness Survey, January-March 2011

Through the support of JSDP II in year 2, JN as a social change or advocacy network¹³, advocated for: juvenile justice (Human Rights Office Tuzla), access to justice by marginalized groups such as women, minorities and the poor (Foundation of Local Democracy, Human Rights Center Mostar, BiH Law Institute, Women to Women), the efficiency of courts through the reduction of backlog resulting from increased use of mediation in dispute resolution (Plava Sfera and Association of Mediators), the independence of judiciary by improving its funding and appointment process (Youth Initiative for Human Rights, ADI, BiH Association of Judges, BiH Association of Women Judges, BiH Association of Judicial Associates), the transparency of courts (Alternative Kakanj, BIRN, Mediacentar) and similar.

¹² UNDP Capacity for Development Report

¹³ Social change or advocacy networks, sometimes called alliances and coalitions, are created in order to advance the causes or interests of the network members, often with a specific goal in mind. Most often this goal is related to the social conditions in an area. In contrast to other types of networks, advocacy networks often engage governmental and inter-governmental entities directly, with the aim of producing a desired change. Membership is not limited to organizations, and the networks are often informal in structure (Goodin 2002; Nuñez and Wilson-Grau 2003).

Joint advocacy efforts of Justice Network members included among other things:

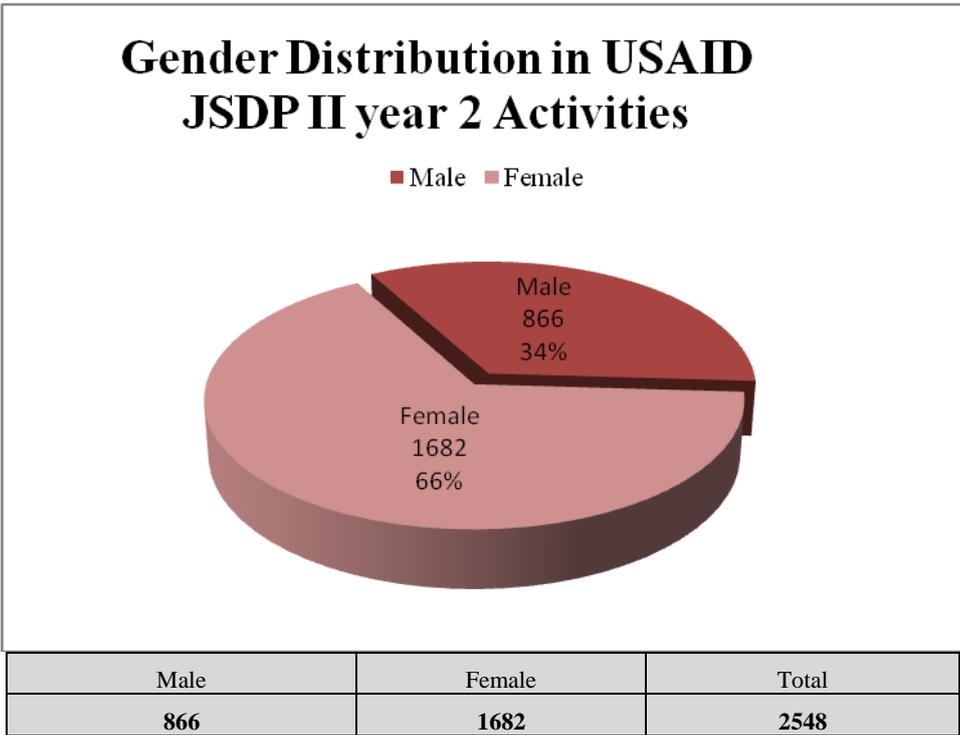
1. the publication and presentation of a policy document named '*Access to Justice*' which deals with 7 policy issues under this mentioned theme, such as:
 - a)(un)equal access to justice due to the BiH fragmented legal system - advocating for the establishment of the Supreme Court of BiH,
 - b)legal aid and how it impacts access to justice - advocating for the adoption of the BiH Legal Aid Law,
 - c)the enforcement of European Court of Human Rights decisions - advocating for constitutional amendments relevant to securing equal access to justice to minorities,
 - d)witness protection and its impact on access to justice - advocating for improved witness protection through inter alia additional funding for judiciary,
 - e)access to information on the status of case and how it affects access to justice - advocating for better implementation of the Law on Freedom of Access to information,
 - f)judicial protection of labor rights – advocating for better implementation of the Labor Law,
 - g)the role of NGOs under the draft Juvenile Delinquency law – advocating for the adoption of improved draft Juvenile Delinquency Law.
2. the publication and presentation of the monitoring report '*Human Rights and the Judiciary (2010-2011)*' which includes 13 different policy sections relevant to securing the implementation of 23 rule of law and justice related recommendations stemming from the UN Human Rights Council Universal Periodic Review of BiH. This monitoring report offers specific recommendations as to relevant reform to enhance the independence of judiciary and improve access to justice in BiH in line with international human rights standards.

The public impact of advocacy efforts of JN members include:

1. in five months, assistance to 500 women victims of domestic violence, war and trafficking, disabled persons, returnees, members of minority groups in legal aid and representation before court (FLD, HRC Mostar). As a result, for example, 70 women victims of domestic violence who were provided legal advice and representation ceased being victims, whereas 25 women with no income were able to secure social welfare benefits they were entitled to, including financial assistance.
2. in two months, through the use of ADR, at the mere cost of cca 1,200 KM, assistance in resolving 18 utility cases (the total value of which was cca 50,000 KM), which were filed to the court as early as 1977, 1984, 2000, and involved 12 individuals and 6 small businesses (Association of Mediators and Plava Sfera);
3. bridge-building between 150 students of 4 law faculties throughout BiH (Sarajevo, Eastern Sarajevo, Mostar and Banja Luka) through consensus building on key justice sector reform relevant to the independence of judiciary and access to justice jointly advocated for through meetings with the executive and judicial branch of government, as well as key political parties (YIHR);
4. bridge-building between the judiciary and citizens through the engagement of 25 judges and prosecutors who presented the judiciary, its role in the society and values it is based on, to more than 400 children, in 6 cities of BiH (Mediacentar);

- 5. as a result of new witnesses who came forth because of BIRN investigative reporting efforts, criminal investigation and prosecution of: 1) a war crimes case involving a woman perpetrator (first such case in BiH court practice), 2) rape as a crime against humanity committed in a systemic manner in a concentration camp in Foca area and similar.
- 6. reporting on local war crimes trials provides public information on the court historical record relevant to reconciliation and peacebuilding.

Despite the fact that CSOs have a large role to play in the process of building understanding, political awareness and will, and creating a better environment for discussion of justice issues, penetrating the justice sector is not easy. In a complicated environment such as BiH this endeavor becomes even more complicated because it requires that CSOs build effective relationships with myriad of institutions. Therefore, JSDP II through a concerted effort of its three components designed and implemented activities which foster the establishment of partnerships of CSOs with courts, prosecutors, Ministries of Justice and the High Judicial and Prosecutorial Council. These activities included: 1) the encouragement of partnership projects of professional associations and NGOs through the small grants program, and 2) the engagement of Justice Network members in a dialogue with government through the Universal Periodic Review. As a result of these activities, in year 2 of JSDP II six out of 10 applications for a small grant were submitted by NGOs and professional associations in partnership, as opposed to only one such application in year 1 of JSDP II out of the total of 13 applications. On the other hand, efforts carried out as part of the UPR monitoring activities secured the participation and support of high level government officials in the Justice Network related events, such as that of members of the BiH High Judicial and Prosecutorial Council, the BiH Deputy Minister of Justice and the BiH Assistant Minister for Human Rights. Furthermore, the BiH Ministry of Justice invited the Justice Network to participate in the government led working group on the development of the Strategy for Sustainable Development of CSOs in recognition of an important role it has to play as the only CSO networks in BiH, which gathers both professional associations and NGOs.



The diagram notes the number of men and women who participated in activities that USAID JSDP II implemented in collaboration with partner CSOs, such as: trainings, meetings, public opinion surveys, round tables, working groups and similar. Please note that the ratio 66% women and 34% men was influenced by the nature of the activities of one of the CSOs (Foundation of Local Democracy), which established the Legal Aid Center for Women and provided assistance to 649 women. If this activity was to be extracted the overall gender distribution in the USAID JSDP II activities of Component 3 would be 55% women and 45% men.

'The work of Justice Report meets the highest standards in journalism. The information provided is always impartial and objective and easy to understand, even though many reports cover very specific legal issues.'

Marek Marczynski, a researcher with Amnesty International for Balkans, on the work of BIRN and journalists it trained in objective and professional court reporting

Increased Transparency of Judiciary as a result of Civil Society Advocacy and Oversight of Justice Sector and Rule of Law issues (3.2 and 3.4 of year 2 workplan)

On the other hand, through its work with media development NGOs (BIRN, Mediacentar), JSDP II has engaged with media and the judiciary in order to: 1) increase public relations efforts of the judiciary and 2) secure greater transparency of the judiciary.

While media ownership in BiH continues to significantly affect editorial policy and newsgathering, it was relevant to continue to work with independent media, such as BIRN, which not only reported directly on trials, but also focused on the development and expansion of beat reporting in the justice sector. In such a way, a base of knowledge on and familiarity with the sector is being built up, allowing journalists to provide insight and commentary on the work of judiciary in addition to reporting straight facts. Anticipated judicial reform stemming from the EU led structured dialogue on justice related reform¹⁴ will increase the demand for such reporting. Efforts to improve the relationship between judiciary and media through agreement on concrete action to be undertaken by both sides, resulted among other things in: 1) agreement that prosecutors share their confirmed indictments with the media with an aim of securing better reporting on a case, which was not the practice thus far, 2) agreement that courts publish their trial schedules, so that journalists are able to directly observe the trials, 3) agreement that the court police and regular police are included in this communication, so that the former do not deny access to media to a trial unless there is such court order and the latter do not leak information which negatively impacts the investigation carried out by the prosecution.

'Participating in the mock trial was great. So far I was able to see a trial only in a movie. It was very interesting to see firsthand what judges and prosecutors do.'

(a high school student who observed the mock trial in the high school in Prnjavor, 27 May 2011)

'I found this exercise to be very rewarding. Working with children is of an utmost importance.'

(a judge of the Basic Court Prnjavor who participated in the mock trial exercise, 27 May 2011)

¹⁴ The call for referendum in RS, the aim of which was to question the fairness and legitimacy of the State Court, prompted the initiation of EU led structured dialogue on justice related reforms within the framework of the Stabilization and Association Process. The structured dialogue was opened on June 6, 2011. <http://www.delbih.ec.europa.eu/?akcija=vijesti&akcija2=pregled&jezik=2&ID=973>

USAID JSDP II in partnership with Mediacentar Sarajevo, and in cooperation with judicial and prosecutorial associations, helped engage *judicial and prosecutorial staff in direct public legal education, through the judges and prosecutors in classroom program, first mock trials in BiH high schools or other forms of direct communication with local communities (e.g. open days at courts, PR support to public events of professional associations, guest appearances of judges and prosecutors in radio and TV shows, press briefings)*. *The idea for such effort came from associations of judges, prosecutors and expert associates in BiH and Mediacentar Sarajevo, in belief that the combination of knowledge that the two possess, one in legal issues and the other in appropriate ways to deliver information on complex issues to general public, will yield best results.* Public Legal Education works on a number of fronts to achieve its aims. It raises awareness of rights and legal issues, as well as teaches people to anticipate and prevent problems. Ultimately, better legal know-how means people can participate in the democratic process by forming and voicing opinions about the laws that affect them.

Finally, JSDP II engaged with Judicial and Prosecutorial Training Centers in securing an improved implementation of ethics codes for judges and prosecutors through the development and provision of tailored training on limits of freedom of speech for judges and prosecutors as dictated by their ethics codes. The training was attended by 90 judges and prosecutors of BiH who were: 1) provided guidance on how to deal with increased media attention, and 2) helped to identify self-imposed rather than external limits to their free speech, suitable to the BiH context.

PROBLEMS AND ROADBLOCKS

Networks, such as JN, are considered to be extremely important in fragile environments such as BiH (a post-conflict and transition country) because ‘the voids left by weak, corrupt or non-existent governments create numerous situations in which collaboration is essential for social change’.¹⁵ Although most networks in such environments are not strong enough to significantly advance social change, they have the potential to do so with the appropriate resources and assistance. USAID Study¹⁶ showed that ‘donor support is most crucial in the network startup phase, lasting approximately five years’. Therefore, JSDP II has supported core funding (through coordination and facilitation activities, as well as capacity building activities) and not just for projects (CSOs monitoring and advocacy through the mechanism of UPR, policy and legislative reform initiatives). ‘Such long-term support in select core areas, such as network coordination, may be essential for many networks that intend to be sustainable over long periods of time.’¹⁷

Furthermore, networks, such as JN, that are formed as a result of external impetuses (donor-driven), are considered to be less sustainable than networks that evolve organically out of existing partnerships. However, if the network builds ownership and connects directly to the interests and concerns of its members, it becomes effective and networks that are effective are sustainable.

¹⁵ Liebler, Claudia and Ferri, Marisa ‘*NGO Networks: Building Capacity in a Changing World*’, Study Supported by Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Private and Voluntary Cooperation, USAID, pg. 32

¹⁶ Ibid

¹⁷ Ibid, pg. 62

To that end, that is, in order to ensure that the network is responsive to its member's needs, JSDP II and its partner NGOs constantly assessed all elements of its functioning and adapted its strategy accordingly. This among other things included decentralization of network coordination and the avoidance of substantive inequity in the amounts of funding available for member organizations that participate in collaborative activities. This was a *programmatic and tactical change* agreed upon in year 2 and reflected in the year 2 competitive grant award process for the support of collaboration with local CSOs which is to take place in year 3 of USAID JSDP II.

Furthermore, JSDP II focused on securing the sustainability of benefits, such as the building of social capital, rather than the sustainability of the structure of the network, by providing for strategic planning opportunities, trust building (through face-to-face meetings, respect for diversity, joint learning) and opportunities for collaboration. This was especially important in order to avoid the bureaucratization of JN, because characteristics of management (hierarchical, politicized, bureaucratized, militarized etc.) that are widely practiced in a particular country can influence the way in which networks are run. Furthermore, JSDP II has fostered strong commitment of Justice Network by having its members make the priorities of the network match their own, and seeing the network as adding value to their work.

'Government officials at all levels were unreceptive to policy advocacy in 2010, except when pressured by heavy media exposure. Public policy research groups are largely ignored, and the government rarely consults with CSOs over policy decisions. On a positive note, the media increasingly turned to CSOs in 2010 for analysis, especially if the CSOs' stances corresponded with their editorial inclinations. In addition, some NGOs said they managed to increase oversight of BiH authorities in 2010.'¹⁸ JSDP II support to JN monitoring and advocacy efforts in year 2 helped its members use the momentum created through the noted increased media interest in activities of CSOs, in order to effect change in the communities. However, CSOs need continued encouragement to move away from mere publication of problems in the justice sector to evidence-based advocacy for policy and legislative change. In order to achieve that, CSOs need to learn to tackle root causes of the identified problem, focus on long-term solutions, use money efficiently, mobilize groups and build collective strength, address wider organizational issues (legitimacy, accountability, representation), build on democratic process and gradually move away from dependency on external funding. Such learning process in order to be successful would also require a change in different donor practices which would lead to greater consistency and standardization.

Finally, for CSOs' learning how to balance cooperation and competition will be crucial in the next decade as donors reduce funding and continue to encourage groups to work together. Partnerships and alliances achieved through networks make the most sense for many organizations, particularly those working on issues for which there is not much funding, such as rule of law and justice sector reform.

¹⁸ Freedom House, Nations in Transit, <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Bosnia.pdf>

ANNEX A: Summary of Performance Indicators

LIST OF INDICATORS, CUMULATIVE TARGETS AND RESULTS (July 2009-July 2011)

No	Indicator name	Unit	Year 1 target	Year 1 results	Year 2 target	Year 2 results	Comments
1.1. Promoting Independence and Accountability through Improved Appointment and Advancement Processes							
1.	Written test for new judge and prosecutor candidates adopted	doc	draft	-	pilot	-	3000 questions written, editing in progress, new target for draft end of 2011, pilot end of year 3
2.	Adjustments to oral interview procedures adopted	doc	draft	-	pilot	-	Draft developed, pilot pending adoption by the WG and HJPC
3.	TA / expertise provided to WG 1* and the HJPC Appointment Department	days	5	-	10	12.5	Additional expert engaged
4.	Number of WG 1 meetings organized	days	3	2	6	16	Expansion of the WG SoW required additional mtg
5.	TA/expertise provided to WG 2 and the HJPC Judicial Administration Department	days	2	-	2	-	In accordance with the HJPC Decision this group has been put on hold
6.	Number of WG 2 meetings organized	days	2	accomplished	-	2	See above
7.	Revision of new weighted case system for judges	Doc	-	-	-	-	-
8.	TA/expertise provided	days	-	-	-	-	-
1.2. Increasing the Effectiveness of the Judicial System through Improved Management and Administration of Courts and Prosecutor Offices							
9.	Model Prosecutors' Office Initiative established	# of MPOs	6	6	12	13	Due to the geographical dispersion of the POs, Bijeljina DPO was included in wave two of MPOI
10.	Matrix of Standards for Model Prosecutor Offices developed	doc	draft	accomplished	pilot	-	Pending adoption by the HJPC
11.	TA / expertise provided to WG 3	days	165	accomplished	330	330	-
12.	Value of assets donated to the MPOs	\$	60000	127000	120000	181960	-
13.	MPOs fulfill standards with the JSDP II assistance	# of MPOs	6	accomplished	12	13	See No 9

No	Indicator name	Unit	Year 1 target	Year 1 results	Year 2 target	Year 2 results	Comments
14.	Number of MPOs meetings organized	days	8	accomplished	18	13	Decrease number of days due to the personal changes in the HJPC
15.	Chief Prosecutors Conference on MoS	event	1	accomplished	-	-	-
16.	Case processing timeframes for courts and prosecutors offices established	doc	-	-	draft	-	Work in progress, new target end of 2011
17.	TA / expertise provided to WG 4 and the HJPC Judicial Administration Dpt.	days	-	-	-	-	-
18.	Number of WG 4 meetings organized	days	3	2	9	24	Development of tables for all types of cases required more working group meetings than originally planned
2.1. Creation of "Forum for Joint Policy (FJP)" with HJPC and MOJ, and building the capacity of MOJ/HJPC policy units for policy analysis and writing of policy proposals							
19..	FJP established and trained	phase	MoC on establishment	FJP established, Training (1)	2 trainings	-	Two trainings in analysis and policy development
20.	Policy proposals drafted by FJP	doc	-	-	-	-	-
21.	Cooperation between the Justice Network and FJP in promoting policy changes	type	-	-	-	-	-
2.2. Strengthening the capacity of SSPACEI to implement JSRS							
22.	SSPACEI implements relevant activities from the JSRS AP	% of activities implemented	50	50-60	75	70-80	SSPACEI implements relevant activities in terms of JSRS implementation, in line with its competencies. The Documentation System additionally contributed to more effective implementation of coordinating activities by SSPACEI.
23.	Improved capacities in strategic planning and management	no. of trainings	1	1	3	3	Two workshops and one training held during Year 2
24.	Justice sector Thematic Conferences organized	thematic conference	-	-	1 (pilot)	No	The TC were formally adopted by the 6 th Ministerial Conference in 2011, and the first TC will take place in October 2011..

No	Indicator name	Unit	Year 1 target	Year 1 results	Year 2 target	Year 2 results	Comments
2.3. Documentation System (DS) for tracking JSRS implementation and enable access for the public							
25.	Documentation System for a more effective monitoring of the implementation of the JSRS established	phase	DS established	-	monitoring	Upgrade proposal based on monitoring	DS will be upgraded for more effective JSRS implementation monitoring in Year 3 based on the suggestions of users
26.	Public allowed access to relevant information from the Documentation System	web page	-	-	-	-	As of Year 3
2.4. Strengthening strategic and policy capacities at the entity and cantonal level, including the Brcko District Judicial Commission							
27.	Strategic Planning Units at entity level established	SP Units	-	-	1	1 (FBH MOJ)	The Federal MOJ established a strategic planning unit based on initiative of USAID JSDP II
28.	Strengthened strategic and policy capacities of the Entity MOJs	training days & mentoring	-	-	1	1	Entity MOJs were included in trainings and workshops organized by JSDP II
2.5. Improving the required Justice Sector reporting to EU/EC							
29.	Software enabling justice sector institutions to follow the progress in the identification of standards, principles and laws and by-laws that need to be harmonized with <i>Acquis Communautaire</i> developed;	software	-	-	-	-	As of Year 3
30.	List of relevant legislation that should be harmonized with <i>Acquis Communautaire</i> identified and shared with justice sector institutions compiled	doc	-	-	-	-	As of Year 3
31.	List of priorities for harmonization with AC	doc	-	-	-	-	As of Year 3
2.6. Increasing Independence and Effectiveness through Improved Budgeting Processes							
32.	Strategic Guidelines for the courts budget for the upcoming budget period	doc	-	-	Concept piloted	Strategic Guidelines developed	JSDP II assisted HJPC in developing Strategic Guidelines that were submitted to 91 courts and prosecutors' offices in BH

No	Indicator name	Unit	Year 1 target	Year 1 results	Year 2 target	Year 2 results	Comments
33.	Improved budget proposals submitted by courts	% of courts	-	-	25	TBD	Results will be determined during Year 3 based on analysis of budget proposals
34.	Reduced budget fragmentation in FBiH through advocacy and lobbying campaign	phase	-	-	Research and analysis	Two budget analysis with recommendations	Budget analyses were adopted by the HJPC and will serve as basis to initiate campaign for amending relevant legislation.
35.	Assist the HJPC in developing plan with time frame for specific steps that should be taken to have the judiciary in FBH financed from the budget of FBiH	type	-	-	As of Year 3	-	-
36.	Courts granted access to financial management software at a cantonal ministry/ministries of finance	no. of courts	-	-	As of Year 3	-	-
3.1. Bolstering Public Confidence in the Rule of Law through Strengthened Capacity of NGOs to Conduct Ongoing Oversight, Analysis and Advocacy in the Justice Sector							
3.1.1. Justice Network Coordination and Facilitation Enables Collective Action of CSOs							
37.	Justice Network – informal network of professional associations and NGOs in the justice sector established	-	established	accomplished	-	-	Achieved in Y1 (in Y2 number of JN members increased to 57)
38.	JN strategic plan and communication strategy developed	doc	draft	accomplished	adoption	accomplished	Available at www.mrezapravde.ba
39.	Decentralized coordination of JN achieved (# of JN members participating in coordination)	#	1	accomplished	1	accomplished	Preparatory work for decentralized coordination of JN (planned to be achieved in Year 3) completed
40.	Steady development of the Justice Network	stage	scoping	accomplished	operational	accomplished	
41.	Internal organization capacity of JN members improved	%	10	accomplished	20	accomplished	
3.1.2. Development of Public Policy Research and Advocacy Activities of Justice Network to Advance the Rule of Law							
42.	Increased number of JN members engaged in policy and/or legislative	#	-	/	2	8	

	advocacy						
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No	Indicator name	Unit	Year 1 target	Year 1 results	Year 2 target	Year 2 results	Comments
43.	Increased score on NGO Advocacy Index for JN members, recipients of JSDP II grants	score	-	-	3.9	3.91	Based on the evaluation of 11 recipients of USAID JSDP II grants
44.	Progress in targeted dimensions of NGO Sustainability Index for JN members, recipients of JSDP II grants	score	3.5	3.5	3.3	3.3	
45.	Justice Network members monitor justice sector reform through UPR process	stage	JN review of justice sector at national and international fore	accomplished	Monitoring/ advocacy of the implementation of UPR justice related recommendations	accomplished	
46.	Increased number of joint/collective advocacy actions of JN members	#	-	1	1	3	
47.	External organization capacity of JN members improved	%	10	10	20	20	
48.	Percentage of specific annual program objectives met for each NGO partner/grantee	%	85	83.33	85	85	
49.	Relationship of JN with government institutions improved	stage	Indifference	-	One-way dissemination	accomplished	
3.2. Public Confidence in the Rule of Law Advanced through Increased Transparency of Judiciary as a Result of Civil Society Advocacy and Oversight of Justice Sector Issues							
3.2.1. Expansion of Journalist-Based Trial Monitoring to make the Work of the Judiciary more Transparent							
50.	Independent and objective journalist-based trial monitoring in selected courts in BiH instituted	# of courts	10	10	10	11	
51.	The number of journalists still on war crimes beat	#	12	12	16	25	After the initial training for journalists (carried out in Year 1) and on the job training in Year 2 the number of beat

No	Indicator name	Unit	Year 1 target	Year 1 results	Year 2 target	Year 2 results	Comments
							reporters is increased to 25 at the end of Year 2.
52.	Increased awareness of court activities related to war crimes (# of re-publications of trial monitoring in media)	#	400	436	450	720	
53.	Courts establish plans to address procedural or transparency shortcomings	#	-	-	4	partially accomplished(2)	Out of 4 planned, 2 courts (cantonal, Mostar and Tuzla) established plan to address shortcomings
3.2.2. Improved Perception of Justice Institutions and NGO Sector							
54.	Increased public understanding of rights and responsibilities and of justice sector reform issues	%	-	-	5	5	TBC through general population opinion survey (Y3).
55.	Increased participation of legal professionals in PLE activities	persons	-	-	20	25	In the course of 6 months, over 25 judges and prosecutors were able to present the judiciary, its role in the society and values it is based on, to more than 400 children, in 6 cities of BiH.
56.	Policy for long-term development of PLE formulated, piloted and advocated for	stage	-	-	Pilot	Yes	
57.	Improved application of ethics codes of judges and prosecutors	%	-	-	5	5	