



USAID
FROM THE AMERICAN PEOPLE

BOSNIA-HERZEGOVINA

BOSNIA JUSTICE SECTOR DEVELOPMENT PROJECT II

Unifying Judicial Financing for the Federation of Bosnia and Herzegovina

SEPTEMBER, 2013

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

Prepared by: Samra Šuškić-Bašić, in cooperation with USAID JSDP II

REPORT WITH RECOMMENDATIONS

The Path to Resolving Structural Deficiencies in the Preparation and Approval of Judicial Budgets

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

Submitted to:

USAID/Bosnia and Herzegovina on November 2013.

Contractor:

East-West Management Institute, Inc.

Disclaimer

This report is made possible by the support of the American People through the United States Agency for International Development (USAID). The contents of this report are the sole responsibility of the East-West Management Institute and do not necessarily reflect the views of USAID or the United States Government.

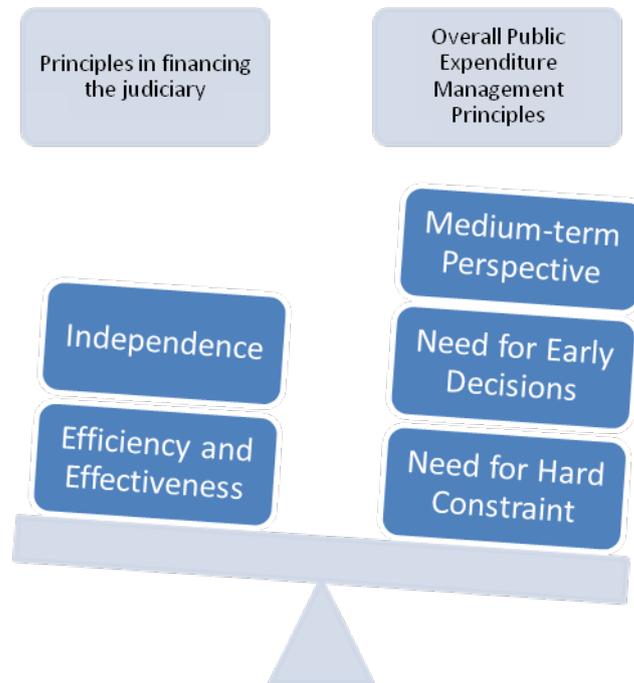
Table of Contents

Table of Contents	3
Executive Summary	4
Introduction.....	8
Overall Principles for Effective Judicial Financing	9
Overall Principles for Effective Public Expenditure Management.....	11
Taking a Medium-term Perspective.....	12
The Need for Early Decisions.....	12
The Need for a Hard Constraint.....	13
Current Judicial Budgetary System in the FBiH.....	13
Deficiencies in the Financing of the Judiciary in the FBiH.....	15
Lack of Predictability.....	15
Lack of Coordination and Communication.....	18
No Links with Outputs or Performance	20
Budgets are Still Far from Developmental	23
Lack of Capacities.....	23
Conclusions.....	24
Dangers due to Fragmentation.....	24
Advantages of Budget Consolidation	25
Practical Benefits and Advantages for the Courts and Prosecutors Offices	25
Advantages for Court Users and Citizens.....	27
Practical Benefits for the Federation Ministries of Justice and Finance.....	28
Practical Benefits and Advantages in Judicial Support to Economic Development	29
General Budgetary and Financial Advantages for Cantons.....	30
Alternative Ways of Funding.....	31
Final Remarks.....	31
Annexes 32	
Annex 1: Overview of 2012 approved budgets in the FBiH compared to HJPC guidelines	32
Annex 2b: Changes in 2013 budgets compared to 2012	34
Annex 3: Backlog Cases in 2011.....	35
Annex 4a: Estimated Unit Costs for Courts (KM of approved budget per case).....	36
Annex 4b: Estimated Unit Costs for Prosecutor’s Offices (KM per reports under work, investigations under work and confirmed indictments)	40

Executive Summary

Judicial financing in its design and practical application should guarantee the following key principles:

Figure 1: Principles of judicial financing



In many regards, the system of financing of judicial institutions in the BiH, and by extension the FBiH, deviate from the principles as outlined above. The constitutional and legal framework in BiH establishes a completely decentralized judicial system, which by extension means a highly decentralised system of financing. In relation to the overall framework for public expenditure management, reforms that have been initiated over the years on all levels of government in the BiH have aimed to introduce the key principles of effective public expenditure management. The specific steps in the budget preparation process exist, firstly, to ensure the budgets are comprehensive and include all revenues and expenditures of the respective governments. They should also foster predictability, efficiency and effectiveness in the spending and use of budgetary funds, as well as achieve greater levels of transparency in public spending. In the long-term, in particular in the relation to the use of program budgeting, the principles outlined in the Budget Law of the FBiH should introduce value-for-money and more closely link budget spending with outputs and performance achieved by public institutions.

However, in actuality the budgetary processes for the judicial institutions in the FBiH manifest themselves differently that what is the legally prescribed norm and, in effect, fail to comply with the basic principles of effective judicial financing and, overall, principles of effective public expenditure management.

The judicial institutions in the FBiH suffer from the same deficiencies as all other budget users in the FBiH, but with much more far-reaching negative consequences on the ability of governments in the FBiH to uphold the basic tenants of the rule of law. They are also marred by a very complex constitutions set-up that severely affects the quality of justice in the FBiH.

Although most of the steps in the budget preparation process, as prescribed by relevant budget laws and laws on courts and PO's, are formally respected, there are several serious issues that occur in practice in the planning of judicial budgets:

- ❖ Lack of predictability;
- ❖ Lack of coordination and communication;
- ❖ Low institutional capacities of ministries of justice and finance;
- ❖ No actual links of budgets with outputs and performance; and
- ❖ Small developmental components of budgets.

The judiciary in the FBiH is faced with the same overall structural deficiencies in the budget planning system as all other public institutions in the FBiH. But the judiciary in the FBiH is faced with additional problems caused by the decentralized system of financing. Furthermore, the decentralized system of judicial financing makes addressing these deficiencies and neutralizing their negative effects even more difficult. It also prevents the HJPC from fully supporting the judiciary and advising government and parliaments on the short-term and long-term funding needs of the judiciary. In concrete terms the current system of budget planning and the fragmentation in the financing of the judiciary in the FBiH are causing the following:

- Judicial institutions, in particular lower-level municipal courts are funded well below their realistic needs, as HJPC recommendations are often not accommodated by cantonal and Federal levels, due to fiscal constraints, systemic weaknesses in the budget preparation process and, most recently, political crises.
- Judicial funding is uneven and as a result different cantons provide different levels of funding for judicial institutions in their jurisdictions. This implies unequal quality of justice in individual jurisdictions. It also provides the judiciary, on an unequal basis, the needed resources to systematically address the issue of backlog cases.
- This results in overall unit costs of the judiciary, i.e. the amount of budget funds per cases to vary greatly between jurisdictions distorting the link between budgets and performance, thus diminishing the long-term perspectives of introducing greater accountability in the judiciary for efficiency and effectiveness of their operations.
- The lack of capacities in ministries of finance and ministries of justice to adequately review and analyze judicial budgets make judicial budgets more prone to arbitrary and ad hoc budget cuts. Likewise, the decentralized system of financing and lack of overall coordination in the justice sector in the FBiH make it difficult to capitalize on the opportunities that the current mandate of the HJPC provides in terms of having a holistic view of judicial needs and areas of development.

In the case of the judicial institutions of the FBiH, the structural deficiencies in the effective planning and execution of judicial budgets cannot even begin to be addressed within the current set-up of the judicial financing in the Federation BiH. The crises of 2011 and 2012 only further exacerbated already present weaknesses in the overall budget planning process in the FBiH and made the judiciary even more vulnerable. Consolidating the financing of the judiciary on the level of the Federation of BiH would in the short-term and long-term provide the following benefits:

Table 1: Benefits for consolidating the financing of the judiciary in the FBiH

<p>Practical Benefits for the Courts and Prosecutors' Offices</p>	<ul style="list-style-type: none"> • Judicial budgets will be more in align with realistic needs and priority setting would be more achievable • A better opportunity for setting priorities would mean that judicial institutions, over time, would become better equipped with needed staff, equipment, facilities and materials • The great disparities that exist in terms of access to justice and quality of judicial services that currently exist in the FBiH would be eliminated • Synergies in use of judicial resources and economies of scale could be better utilized leading to, among other things, the faster reduction of backlog cases and more efficient judicial operations
<p>Advantages for Court Users and Citizens</p>	<ul style="list-style-type: none"> • The existing system of judicial financing fosters inequalities in the funding available to the judiciary and in the quality of judicial services • This means that, currently, the quality of access to justice and the quality of judicial services depends on their place of residence and the ability (or willingness) of local levels of government (i.e. cantons) to provide the needed funding for judicial institutions • Consolidating judicial financing would, over time, even out these current disparities and, thus, create a judicial system that is truly based on equal standards for all citizens, it would increase the quality of judicial services and accountability and efficiency of the judiciary.
<p>Practical Benefits for the Federation Ministries of Justice and Finance</p>	<ul style="list-style-type: none"> • Budget consolidation would, address the issues caused by the lack of planning and analytical capacities in the Federal Ministries of Finance and Justice and would enable the judiciary in the Federation BiH to capitalize on the potential the mandate of the HJPC has for budget planning in the judiciary, as well as provide basis for the further work in developing capacities of the Federal Ministry of Justice to plan judicial budgets that are aligned with realistic needs and that take into account areas needed for development • Budget consolidation would achieve higher levels of transparency regarding the spending of budgetary funds (by establishing a single budgetary centre of operations). This would mean that both the Federal Ministry of Justice and Finance on one side, and HJPC and judicial institutions on the other will have better access to better information regarding available funds and the ways in which they are spent and planned • Differences in levels of funding of the judiciary on different levels of government could be eliminated and budgets of the judiciary can be more aligned with realistic needs and estimated caseloads and workloads. For the Federal Ministry of Finance this would mean achieving greater value for money in one very

	important and significant area of public spending
Practical Benefits in Judicial Support to Economic Growth	<ul style="list-style-type: none"> • A unified system of financing for the Federation BiH could better achieve objectives crucial for economic development, such as independence, efficiency and effectiveness and accountability. • One of the biggest issues currently hindering judicial efficiency is the issue of backlog cases. If the courts and judiciary in general were funded from one source the HJPC could aid the Federal Government in systematically addressing backlog cases and securing that the judicial institutions have the funds and resources needed to tackle the issue of backlog cases on an equal basis, rather than being forced to accommodate the resolution of this issue to the budgetary and fiscal position of each individual level of government in the FBiH. • It would also provide for HJPC's better position in addressing the issue of mobility in justice sector in light of needs of some Courts and Prosecutor's Offices to have additional judges or prosecutors assigned to help with reducing the backlog, resolving specific cases and files, or provide other types of assistance to their colleagues in other Courts and Prosecutor's Offices. • In that regards, consolidating judicial financing would provide a better bases for strengthening the role of the judiciary in fostering economic development and growth.
Generally Budgetary and Financial Advantages for Cantons	<ul style="list-style-type: none"> • Given the severe lack of institutional capacities in Cantonal Ministries of Justice, the consolidation of financing to the Federation level and, by extension, the transfer of responsibility for judicial financing from the cantonal levels would certainly be a benefit for the Cantons. Cantonal Ministries of Justice could redirect staffing resources and efforts to pertinent issues still under their preview, such as free legal aid, juvenile justice and alternative sanctions. • In arranging the consolidation of judicial budgets, care must be made to avoid putting the Cantons, many of which are already in very difficult fiscal circumstances in an even more difficult position. It is hoped that the consolidation of judicial financing on the Federation level will achieve greater efficiency in the use and spending of resources, which will hopefully, lead to if not decreasing than at least avoiding excessive increasing of overall budgetary needs for the judiciary in the Federation and thus imposing further burdens on already limited resources.
Alternative Ways of Funding	<ul style="list-style-type: none"> • Given the overall deficiencies in the public expenditure framework in the FBiH and the specific issues faced by judicial institutions in ensuring judicial funding provides for independence and efficiency and effectiveness in the judiciary, there are a whole array of areas that donor assistance would be most effective in the Federation BiH, but only if judicial financing was consolidated.

All possible solutions, as indicated in previous analyses and studies, must take into consideration the effects these options will have on impact on budgetary positions between the levels of government, the issue of sharing or assignment of court fees and other budgetary fees generated from the work of the judiciary, the issue of institutional arrangements for budget execution and budget accounting through the single treasury account and accounting system, as well as the areas in which capacities for planning, performance management and monitoring need to be further developed.

The fact that the JSRS has emphasized the centrality of this issue also is encouraging and will, hopefully, with donor input and support, lead to the systemic resolution of this issue to the satisfaction of all key stakeholders in all three branches of government, as well as to the satisfaction and ultimate benefits of the courts users and citizens themselves.

Introduction

In July 2009, the East-West Management Institute, Inc. (EWMI) was awarded a contract by the United States Agency for International Development (USAID) to implement the reform of the justice sector through the Justice Sector Development Project II (JSDP II) in Bosnia-Herzegovina (BiH). The goal of the JSDP II is to: (i) strengthen independence, accountability and effectiveness of the judiciary; (ii) assist in developing a better coordinated and more unified justice system ready for EU accession; and (iii) enhance the public's confidence in the rule of law. Component 2 of USAID JSDP II implements project's activities aimed to create more unified and better coordinated justice sector in Bosnia and Herzegovina ready for EU accession. One of the most challenging activities is to assist domestic justice sector institutions (JSI), led by HJPC, to reduce fragmentation of financing the judicial institutions.

USAID JSDP II undertook a set of activities to promote the need for reduction of fragmentation of financing of the judicial institutions. During Year 2 of the Project, budget experts were engaged to complete two sets of analyses necessary to define positions of HJPC and other JSI regarding course of action leading to better financing of the judicial institutions. The two sets of analyses have earned a lot of attention in the justice sector, and were a basis for further action of HJPC in this respect. Based on conclusions and defined directions from the analyses, HJPC decided to initiate activities towards reduction of fragmentation of financing of the judicial institutions in the Federation of Bosnia and Herzegovina, as a first major step towards resolving the issue of comprehensive financing of the judiciary at all levels in BiH from one source. With the support of USAID JSDP II, in March 2012 HJPC organized Thematic Conference during which this institution received undivided support of the professional community for the initiative of reducing the levels of financing of the judiciary in the Federation of Bosnia and Herzegovina. The conclusions of this Thematic Conference called for joint action of HJPC, Federal Ministry of Justice and USAID JSDP II in promoting and advocating for the initiatives which would lead to reduction of sources of financing of the judicial institutions in the FBiH.

The purpose of this paper is to provide necessary input for the advocacy activities planned for the upcoming period in order to achieve agreement on the necessary measures needed for reducing budgetary fragmentation in particular in the Federation BiH judicial system. The intent of this paper is to firstly emphasize the overall and specific risks and deficiencies the current system of public budgetary financing pose on the judiciary in the Federation BiH, building on the analyses already provided through the JSDP II Project, as well as other relevant analyses. Secondly, the paper aims to develop sufficiently strong arguments for

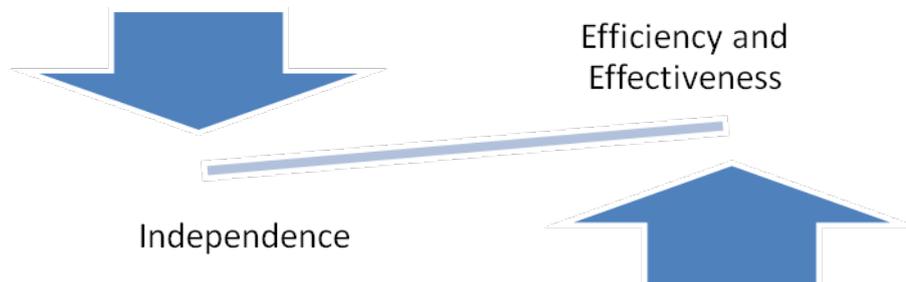
Federation and cantonal political decision-makers that would ultimately gain their support in systematically addressing issues relating to the financing of the judiciary in the FBiH, in particular in relation to its fragmentation. Finally, the paper will aim to identify the impacts and practical advantages for the judiciary, legal professionals and citizens once the budgetary fragmentation is reduced, also highlighting areas in which continued efforts are needed to improve overall financing of the judiciary.

Budgeting and Public Expenditure Management for Judicial Institutions in the FBiH

Overall Principles for Effective Judicial Financing

Judicial financing in its design and practical application should guarantee the following key principles that have to be embedded in the legal framework of judicial.

Figure 2: Principles of Effective Judicial Financing



Ideally both of these principles should be kept in equilibrium and be equally present in the overall system of judicial financing, however that might not always be the case. In some cases, in order to uphold the principles of efficiency in budgetary spending, ministries of justice and finance can have a very strong role in judicial financing thus, in principle, encroaching on the basic principle of independence. Likewise, legal frameworks can provide strong mechanisms that secure budgetary independence for judicial institutions, however equal focus is not put on securing efficiency, and in particular effectiveness of the use of budgetary resources on the side of judicial institutions. Often distinct and sometimes separate processes have to put in place to secure both principles simultaneously.

However, in principle, the way in which judicial budgets are determined, approved and executed should be structured in a way that neutralizes any political influence that can be made through the funding arrangements. Although the budgets for judicial institutions constitute the same “pot” of monies that are used for all other public functions and institutions, most countries have procedures and laws in place that ensure that budgets for the judiciary cannot be unitarily amended without extensive negotiations with the judicial branch of government and without due consideration of effects of budget amendments to the ability of the judiciary to impartially perform its functions.

For instance in the Netherlands, in principle, the judicial system is independent of government and the overall system upholds the principle of separation of powers. However, until 2002, the Government (i.e. the Minister of Security and Justice) was directly responsible for the operational aspects of the courts. In 2002 this changed with the establishment of a

Judicial Council that was responsible for supervising the operation of the courts and, as a result, there is no longer any direct relationship between the Minister and the 16 independent courts. The Minister deals solely with the Council when it comes to operational matters concerning the Judiciary.

The special position of the Judiciary is also reflected in the fact that since 2002 it has had its own separate heading in the justice budget, alongside the central Ministry and the administration agencies¹.

The comparative analysis of judicial financing prepared under the JSDP II project has indicated that countries in the region, likewise, albeit through different modalities, provide mechanisms that aim to protect the independence of judicial financing from undue political influence. The table below gives a general overview of these modalities.

Table 2: Overview of Systems of Judicial Financing in Countries in the Region²

Country	System of Judicial Financing
Slovenia	Supreme Court submits to Parliament proposal of financial plans for all courts. Individual budgets included in budget of Supreme Court. The Chief Prosecutor submits the proposal of prosecutors' offices.
Croatia	The Law on Courts stipulates that court presidents recommend the funds needed for the court, whereas the Budget Law implies the Government submits the budgets for the courts to the Parliament. A similar system is in place for the State Attorney.
Serbia	The High Judicial Council recommends the scope and structure of budget funds for current expenditures based on the opinion of the Ministry of Justice and is responsible for allocating funds to the courts. The High Prosecutorial Council has the same responsibilities for prosecution offices.
Montenegro	There is a separate budget heading for courts and the budget proposal is made by the Judicial Council that submits it to the Government. The same system is in place for the prosecutors' office, provided that the Prosecutorial Council submits budget proposals to the Government.
Kosovo	The laws do not specify the budget procedure for the courts, but the salaries of court presidents are linked to salaries of ministers, and judges' salaries are determined based on coefficients of the court presidents' salaries. Likewise, the laws do not specify the budget procedure for the prosecutors' offices, but the salary of the chief prosecutor is linked to the salary of court presidents, and salaries of prosecutors are determined based on coefficients of the chief prosecutor's salary.
Macedonia	A special Law on judicial budgets establish a separate budget heading for the judiciary (courts and prosecutors), and the Judicial Budgetary Council is responsible for proposing the budget under this heading, as well as allocating funds among the individual courts and prosecutors' offices. The Law determines that 0.8% of GDP must be allocated for the judiciary (including courts and PO's).

¹ Adapted from: „The Financing System of the Netherlands Judiciary: A Brochure“, www.rechtspraak.nl.

² Adapted from: „Comparative Analysis of Judicial Financing in BiH and the Region“, USAID March 2011, Dr.sc. Hrvoje Šapina, Mr.sc. Ranko Batinić.

On the other hand, public funding for the judiciary should provide for the seamless and uninterrupted operation of judicial institutions and thus provide it with the necessary staff, materials and infrastructure to be able to process cases efficiently, effectively and in due time. In effect, judicial financing should be linked to the outputs and performance of the judiciary and as such secure funding that is in line with the work dynamic of judicial institutions. In return for the funding it receives, the judiciary is accountable to deliver justice in a timely, effective and predictable fashion, to the extents possible and given the nature of the judicial procedures.

An example of such an output-based financing system for the judiciary can again be found in the Netherlands. The Minister of Security and Justice provides the Judicial Council with an annual contribution of which a great majority (95%) of this amount is attributable to output funding (price x quantity) and is described by the term ‘output-related contribution’. This output-related contribution is calculated by multiplying the number of case disposals (judgments) by the prices applicable to them. The more cases the judicial system handles the more money it receives, and the lower the contribution for the Judiciary, the fewer the cases that can be disposed of. In January of each year the Council submits a proposal to the Minister for the number of cases to be disposed of in the following year. This proposal is based on inflow and output forecasts drawn up by the Council together with the Minister and partners in the various administration agencies that fall under the responsibility of the Ministry of Security and Justice (such as the Public Prosecution Service and the Immigration and Naturalization Service).

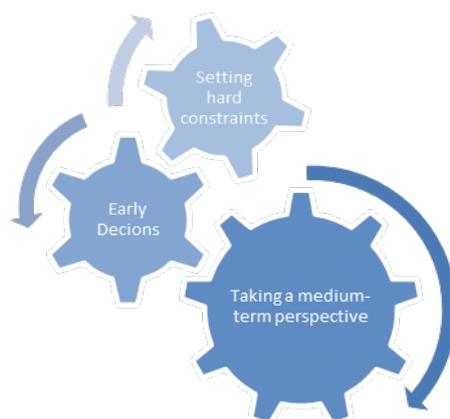
In September the Minister submits the budget for the Ministry to Parliament. In it he indicates how many court cases he proposes to fund. This number may differ from the number in the Council’s budget proposal. Any such differences must be explained in the Ministry’s budget. The “prices” for ten different categories of cases (some 5% of cases are currently excluded from this scheme) that are thus determined are valid for the following three-year period and the overall judicial workload is what becomes subject to negotiations between the Council and the Ministry in the budget preparation process. However, to avoid undue emphasis by the Judiciary on the number of case disposals, the Council has formulated various standards of quality as well³.

Overall Principles for Effective Public Expenditure Management

In addition to this, in general terms, an effective framework by which public funds are planned, approved and executed have to abide to three key principles. These principles are, in effect, the three major conditions that are needed for a budgetary outcome that is both technically sound and faithful to political directions. These three prerequisites are presented below.

³Adapted from: “The Financing System of the Netherlands Judiciary: A Brochure“, www.rechtspraak.nl.

Figure 3: Prerequisites for an Effective and Efficient Budget Preparation Process



Taking a Medium-term Perspective

To be an effective instrument of financial management, the government budget must be, in the first place, credible. To be credible, the expenditure program must be affordable. Therefore, budget preparation must take as its starting point a good estimate of revenue, although the revenue estimate may change before the budget is finalized in order to produce a consistent revenue-expenditure package. To meet the government's objective, the budgeting system must provide a strong link between government policies and the allocation of resources through the budget. However, most policies cannot be implemented in a short time period. One key reason for this is that a large portion of expenditures in the budget is non-discretionary, i.e. the obligations for these payments are usually determined through other laws and processes and cannot be easily changed, particularly within the timeframe of one budget year. Discretionary expenditures are those expenditures over which there is some choice, which is why in circumstances of tight fiscal constraints, it is these expenditures (illustrated on the right-hand side of the graph below) are the ones that are cut first. Salaries of civil servants, debt-serving payment, pensions are examples of non-discretionary spending, i.e. spending that cannot easily be reduced within a single budget year as these costs are determined through different legislation, collective agreements or contracts.

For fiscally constrained countries, such as Bosnia and Herzegovina, the available financial margin of maneuver is typically no more than 5% of total annual expenditures. As a result, any real adjustment to expenditure priorities, if it is to be successful, has to take place over a time span of several years. The introduction of medium-term planning in the form of medium-term expenditure frameworks (MTEFs) was deemed a significant development towards achieving the goals of fiscal consolidation⁴. In the absence of a medium-term framework, adjustments in expenditure to reflect changing circumstance will tend to be across the board and ad hoc, focused on inputs and activities that can be cut in the short term. But often, activities that can be cut more easily are also more important, such as major public investment expenditures.

The Need for Early Decisions

Preparing a budget entails making tough decisions. Political interference, administrative weakness, and the lack of needed information often lead to postponing these hard choices

⁴Narrowly defined, an MTEF is a comprehensive, government-wide spending plan that links policy priorities to expenditure allocation within a fiscal framework – linked to macroeconomics and revenue forecasts – usually over a three-year forward planning horizon.

until budget execution. When revenues are overestimated and expenditure underestimated, sharp expenditure cuts must be made later when executing the budget, often a case in the jurisdictions in BiH. An overoptimistic budget also leads to accumulation of government payment arrears, which create their own inefficiencies and destroy government credibility. Clear signals on the amount of expenditure compatible with financial constraints should be given to spending agencies at the start of the budget preparation process. During budget execution no satisfactory way exists to correct the effects of an unrealistic budget. Isolating a core program within the budget and giving it higher priority during budget implementation are often suggested as means of alleviating problems generated by overoptimistic budgets. In times of high uncertainty of available resource, this approach could be considered as a second-best response to the situation. As general practice, however, it has little to recommend it and is vastly inferior to the obvious alternative of using a realistic budget to begin with.

The Need for a Hard Constraint

Finally, giving a hard expenditure constraint to line ministries and budget users from the beginning of budget preparation favors a shift away from a wish list mentality. Annual budget preparation must be framed within a sound macroeconomic framework and should include a top-down stage, a bottom-up stage, and an iteration and negotiations stage. It is at the top-down stage that the hard expenditure constraint or ceiling should be communicated by the ministry of finance to all spending agencies; it is the most effective way of inducing them to confront the hard choices early in the process.

Current Judicial Budgetary System in the FBiH

In many regards, the systems of financing of judicial institutions in the BiH, and by extension the FBiH, deviate from both the principles for judicial financing and overall principles of effective public expenditure management as outlined above. Firstly, the constitutional and legal framework in BiH establishes a completely decentralized judicial system, which by extension means a highly decentralised system of financing. In the Federation BiH, the budget approved by the Federal Parliament, provides funding for only the Supreme Court of the FBiH and the Prosecutor’s Office of the FBiH, while the cantonal budgets provide funding for cantonal and municipal courts and cantonal prosecutor’s offices. Furthermore, there is a whole array of stakeholders that, according to relevant laws, have a role in the process of preparing and approving judicial budgets. These stakeholders and their key roles are presented in the table below.

Table 3: Key stakeholders in the financing system of the judiciary in BiH

Stakeholder	Role in the financing of the judiciary
Court presidents and chief prosecutors	They are responsible for developing the budget proposals in line with guidelines provided by the ministries of finance and the HJPC and submitting budget proposals to the HJPC for its review As managers of budget institutions, they are responsible for the execution of the budget in line with the funding approved in the annual budgets
Ministries of justice (Federal and 10 cantonal)	Responsible for consolidating the budgets of judicial institutions and submitting them to ministries of finance As judicial budgets are under the ministries of justice in the annual budget documents, they should act on behalf of judicial institutions during the review and approval of budget by ministries of finance and government
Ministries of finance (Federal and 10 cantonal)	Responsible for setting annual and medium-term budget ceilings based on economic and fiscal policies decided by governments and issuing guidelines on

cantonal)	<p>how budgets are to be prepared</p> <p>Prepare final budget drafts and proposals for submission to governments and parliaments</p> <p>It is ultimately the ministries of finance that decide the extent to which judicial budgets are approved and decide on any increases or decreases to budget proposals</p>
High Judicial and Prosecutorial Council	<p>The HJPC is responsible to review all judicial budget requests and provide suggestions to courts and prosecutor's offices</p> <p>The HJPC submits the budget requests to the responsible ministries of justice with their comments</p> <p>By law the HJPC should be consulted by the ministries of justice before making any changes to budget requests and provide explanations in cases budget requests are not approved as originally submitted</p>
Governments (Federal and 10 cantonal)	<p>Define the medium-term budget framework and fiscal policies that should be used as a basis for developing budgets</p> <p>Approve the budget proposals submitted by the ministries of finance</p> <p>Submit the budgets for adoption by parliament</p>
Parliaments (Federal and 10 cantonal)	<p>Review and approve annual budgets</p>

In relation to the overall framework for public expenditure management, reforms that have been initiated over the years on all levels of government in the BiH have aimed to introduce the key principles of public expenditure management as previously outlined. And for all of the levels of government in BiH, including the FBiH, to a large extent this has been achieved, but only formally⁵. Formally, the budgeting system in FBiH is designed to function in line with public expenditure principles that are a result of best international practices and that encapsulate the principles of making early decisions, introducing hard constraints and taking a medium-term perspective. The key steps in the Law on the Budgets in the FBiH (hereinafter: the Budget Law in the FBiH) that define the overall budget preparation process (on the Federal and cantonal levels) that aim to introduce best practices in public expenditure management are as follows:

- April of current year – respective bodies develop a report on the economic and fiscal policy for the following year;
- May of current year – the Ministry of Finance is obliged to submit Guidelines for the economic and fiscal policy for the following three years to be adopted by the Government;
- Ministry of Finance sends instructions to budget users on the preparation of medium-term financial plans, medium-term program budgets, capital investment and development plans;
- These plans are reviewed and consolidated by the Ministry of Justice in a Budget Framework Document that is to be adopted by the Government by June 30th;
- Based on the instructions of the Ministry of Finance (issued by July 1st) budget users submit a budget proposal based on the defined ceilings by August 1st;
- Based on consultations with the budget users the Ministry of Finance sets the total budgetary ceilings and submits a proposal to the Government by October 1st;
- Government submits a budget proposal to Parliament latest by November 1st;
- Parliament adopts final budget by December 31st.

⁵OECD 2012 Assessment on Public Expenditure Management and Control.

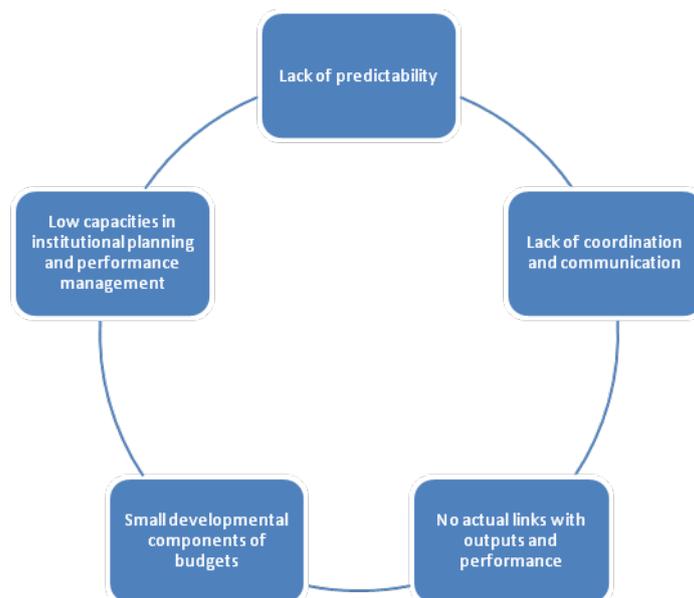
These specific steps in the budget preparation process exist, firstly, to ensure the budgets are comprehensive and include all revenues and expenditures of the respective governments. They should also foster predictability, efficiency and effectiveness in the spending and use of budgetary funds, as well as achieve greater levels of transparency in public spending. In the long-term, in particular in the relation to the use of program budgeting, these principles should introduce value-for-money and more closely link budget spending with outputs and performance achieved by public institutions.

Deficiencies in the Financing of the Judiciary in the FBiH

However, in actuality the budgetary processes for the judicial institutions in the FBiH manifest themselves differently than what is the legally prescribed norm and, in effect, fail to comply with the basic principles of effective judicial financing and, overall, with the principles of effective public expenditure management. The judicial institutions in the FBiH suffer from the same deficiencies as do all other budget users in the FBiH, but with much more far-reaching negative consequences on the ability of governments in the FBiH to uphold the basic tenants of the rule of law. Judicial institutions are also marred by a very complex constitutions set-up that severely affects the quality of justice in the FBiH.

Although most of the steps in the budget preparation process, as prescribed by the relevant Budget Law in the FBiH, as well as the Laws on courts and PO's in the FBiH, are, more or less, formally respected, there are several serious issues that occur in practice in the planning of judicial budgets. These issues are graphically depicted below.

Figure 4: Deficiencies in the Implementation of the Overall Budget Process in the FBiH



The following sections look at how these issues affect and manifest themselves in terms of financing for the judiciary in the FBiH, as well as how consolidating, i.e. unifying the financing of the judiciary on the level of the FBiH will aid the judiciary in addressing or neutralizing some of the negative effects that these issues currently cause.

Lack of Predictability

In general, the need to have a budget calendar with specifically set steps and deadlines for completion exists with the objective of ensuring predictability in the overall budget planning

process. Despite the formal existence of a budget calendar, in practice the process of preparing and approving budgets for the Federation BiH and cantonal levels (although this is the case for all levels of government as well) guarantees very little predictability. All budgets must formally be adopted by December 31st of the current year for the following financial year. For most, if not all, governments in the FBiH, this has seldom happened (as is the case with all other levels of government in the BiH). Almost by rule, budgets are adopted on a temporary financing basis that lasts until March 31st. This leads to the inevitable postponing of tough policy decisions and results in failure to prioritize expenditures, leading to ad hoc and arbitrary budgetary decision-making for judicial institutions in the FBiH, as well as for almost all other segments of public spending.

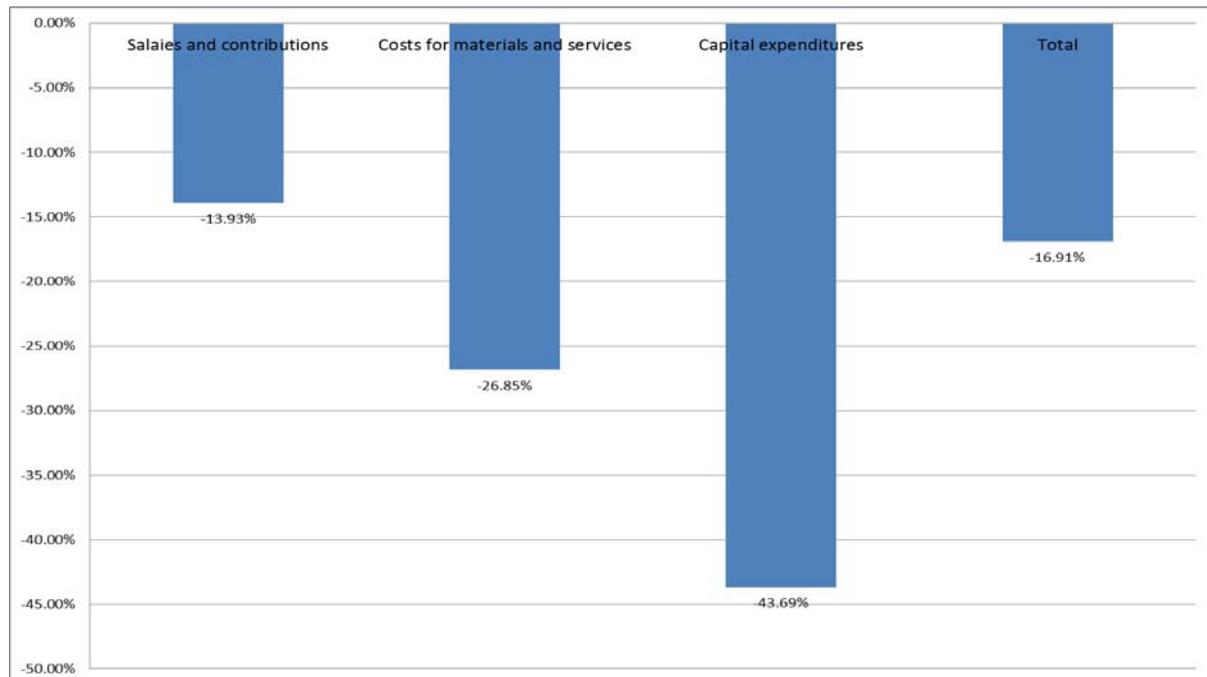
The political turmoil that resulted after the October 2010 elections made the budget processes even more unpredictable, particularly in the FBiH and cantonal levels, resulting, in some jurisdictions, in the formal adoption of budgets after the expiration of deadlines for temporary financing. The fact that budget users function under temporary financing arrangements even further restricts their spending, given that under temporary financing budget users cannot plan or implement new hiring of staff nor any new developmental programs or capital investment programs. Temporary financing arrangements in effect prevent medium-term budget planning, which (as illustrated in Figure 4) is the only way in which non-discretionary spending items can be effectively financed over a certain period of time. As will be discussed later, for judicial institutions in the FBiH this has led to very modest financing in highly needed capital investments and long-term development initiatives for judicial institutions from the domestic budgets.

Furthermore, despite the detailed budget calendar ministries of finance are often pressed for time to complete all the necessary steps in the budget preparation process. These pressures increase even more in cases when government sessions are interrupted and when governments fail to adopt the necessary documents in the budget preparation process. As a result ministries of finance often do not have sufficient time to analyze the budget requests of budget users in great detail or to engage in detail discussions and negotiations with the budget users. The ultimate consequence is that finally adopted budgets greatly differ than those ultimately put forth for consideration by budget users. In this context, budget users have very little incentive to carefully and analytically prepare realistic budgets.

This situation is one of reasons why the Federal and Cantonal Ministries of Justice and Finance fail, almost as a rule, to comply with the recommendations of the HJPC in terms of scope and amounts of budgets for the Courts and Prosecutors' Offices. Another reason is that funding is provided from 11 different sources in the FBiH, and the Federation and individual cantons plan their budgets on different assumptions.

For instance, the finally adopted budgets for 2012 for the judicial bodies in the Federation BiH were 24,219,686 KM less than what was the recommendation of the HJPC. The percentage difference by major expenditure categories is presented in the figure below, and a detail overview is provided in Annex 1.

Figure 5: The percentage difference between the 2012 final approved budgets for the judiciary in the FBiH and the recommendations of the HJPC



As is obvious from the graph, finally adopted (amended) budgets in the FBiH were 17% less than what the HJPC recommended, with salaries 14% less, materials and services budgets 27% and capital expenditure proposal 44% less than what was recommended by the HJPC.

The application of the principle of hard constraints, as explained earlier, in a budgetary system in which budgets are enacted very late in the financial year (often when the budgetary year has started) and where tough political decisions and priority-setting are perpetually postponed and unaddressed results in a budget that, in the case of the judiciary in the FBiH, barely succeeds in providing funding for basic operations. Given that the HJPC bases its recommendation on realistic assumptions and needs that stem from anticipated caseloads, this implies that the judiciary in the Federation BiH receives resources well below the amounts needed for their normal functioning.

Operational planning within the courts and prosecutor’s offices is made very difficult given that they cannot anticipate how much resources will be made available and how much of the HJPC recommendations will be respected, and furthermore they are forced to, almost as a rule, function under temporary financing arrangements. Given the overall unpredictability of the budgetary decision-making process on all levels of government in the Federation BiH, it is very difficult for the HJPC to provide substantive input into the budgetary decision-making process of the judiciary and engage in extensive negotiations with each of the 11 governments to ensure the judiciary receives the funding needed to perform their functions nor is it able to effectively aid Courts and PO’s in setting and defining priorities in spending. This general lack of predictability in the budget process was only further exacerbated during the political turmoil after the 2010 elections, which put the judicial institutions in an even more precarious position than otherwise as any form of systemic planning (budget, strategic, operational or otherwise) became impossible. This made the role of HJPC in advising and assisting the judicial institutions, likewise, impossible as it had to deal with each level facing its own form of crises that had a very detrimental effect on overall budgets. Contending with a crisis in government on one level is difficult in itself, but contending with different crises on different levels can only result in the weakening of the judiciary and in undoing any

positive role the HJPC has achieved in securing the independence of the judiciary through its financing.

Lack of Coordination and Communication

The issue of unpredictability of the budget process is even more pronounced due to the overall lack of coordination and communication within the overall budget process. The Budget Law in the FBiH requires ministries of finance to consult and communicate with budget users and to, in effect, negotiate any reductions made to the budgets proposed by the budget users. This is not always achieved in a systematic way if it is achieved at all. Despite the existence of a medium-term framework for budget planning and a detail budget calendar ministries of finance make arbitrary cuts in all budgets that are across the board and ad hoc, and by rule only focused on inputs and activities that can be cut in the short term.

In the case of the judiciary, the ministries of justice should communicate and coordinate with the HJPC, but because the overall budget process is perpetually rushed and very often based on unrealistic or faulty budgetary assumptions that forces legislature to often adopt amendments to budgets, this is more often than not an exception rather than a rule. Likewise, the HJPC, despite its best efforts, does not have the capacity to fully engage with 11 different ministries of justice and finance and 11 different governments (in the case of the Federation alone, although the HJPC has to deal with 14 levels in total). More often than not, budget proposals are changed without being communicated to the HJPC or judicial institutions and, almost as a rule (as obvious from Figure 6) very often budgets are approved well below the amounts initially requested and needed by the judicial institutions. Furthermore, reductions are often made to operational costs and capital expenditures, which make effective planning of operations and capital investments all the more difficult.

The role of the legislature is weak, both in general terms relating to the overall budgets, and in specific terms relating to judicial budgets⁶. There is little if no coordination and structured negotiations between governments and parliaments during the adoption phase of the budget, and as a result parliamentary review and scrutiny of budgets is very limited. Vertical coordination, i.e. between the Federal and cantonal levels, as minimal as it is, is mostly perfunctory and never achieves full coordination of public policies and ensuring, on a joint basis, that funding is sufficient on all levels to provide the same levels of public services throughout the Federation BiH. In the case of the judiciary the consequence of lack of coordination between levels of government and with the HJPC results in great divergences in the amount of funding available to judicial institutions. This is illustrated in the graphs below that depict the percentage changes in 2012 adopted budgets compared to 2011 and changes in 2013 budgets compared to 2012 budgets by levels of government in the FBiH. A detail overview of these changes by level of government and by individual institutions is provided in Annex 2a and 2b.

⁶ OECD 2012 Assessment of Public Expenditure Management and Control.

Figure 6: Changes to cantonal judicial budgets in 2012 compared to 2011 - percentages

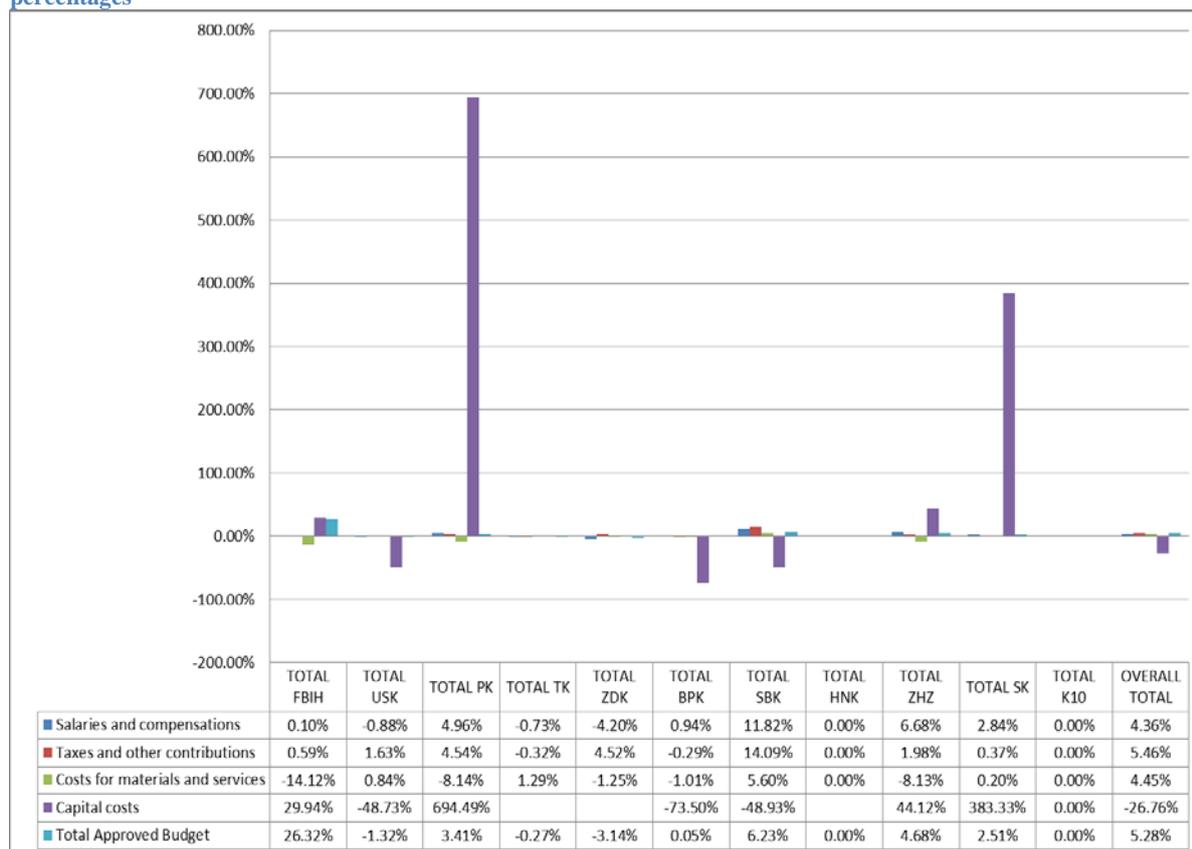


Figure 7: Changes to cantonal budgets in 2013 compared to 2012 – percentages



As the graphs indicate, there can be huge differences in the level of total funding for the judiciary on each of the levels of government from one year to the next, with some cantons planning increases in budget funding for the judiciary, while others plan decreases, despite

the fact that caseloads remain either constant or even increase from one year to the next. This means that the currently decentralized system of financing and the ineffective budget preparation process fosters inequalities in the funding available to the judiciary and in the quality of judicial services.

No Links with Outputs or Performance

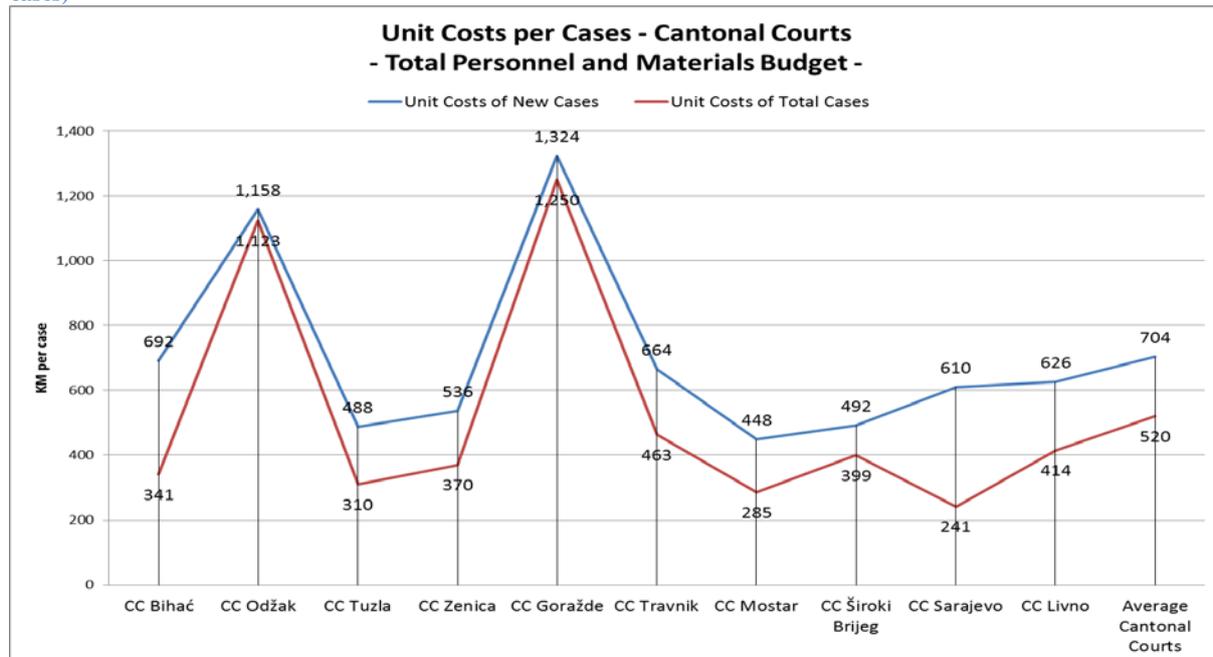
Although several years have been spent in the reform of public expenditure management and the introduction of program budgets, the links between outputs, performance measures and the amounts planned and finally approved in the budgets are still only cosmetic in the FBiH, and the BiH as a whole. Budget planning on all levels of the FBiH remain on an input and incremental basis by which the basis for planning are always budgets executed in the previous year incrementally adjusted to accommodate assumptions newly formed for the new financial year. These assumptions, again, are based on assessments of inputs – staff, material and capital – without links to anticipated or planned performance.

A general criticism of the line-item budget is that it does not deal with key objectives of government policy; their links to the budget; and the search for the most efficient combination of inputs to deliver the services provided by the government. Furthermore, it imbeds inefficiencies and gives no incentive for saving. For instance, the slowness of hiring employees through the Civil Service Agency often causes funds planned for salaries to remain unspent at year-end which results in a smaller amount of money made available for this line-item in the new budget year because budget execution was not complete in the previous year.

The same often happens to funds planned for capital investments that are not spent due to the slowness of public procurement procedures. Finally, monies not spent at year-end for purposes of savings are funds that will not be transferred back to the budget user in the new financial year.

The HJPC uses estimates of case-flows as a basis for preparing its recommendations for judicial financing in an effort to propose realistic budgets that would provide the minimal resources needed for the operations of judicial institutions. However, the overall failure of the budgetary systems in the FBiH to plan budget funds based on expected outputs and performance, as well as the decentralized system of financing of the judiciary results in budgets being adopted for the judiciary that do not reflect the caseloads of the judicial institutions. This is best illustrated through making estimates of unit costs of cases for the courts and prosecutors' office. For this purpose a rough estimate has been made of the amount of approved budgets (for operational costs – i.e. salaries and materials) per cases using figures for 2011. The graphs below give an overview of this estimate for cantonal courts and municipal courts, as well as for the prosecution offices. A detail overview is provided in Annex 4a and 4b.

Figure 8: Estimated Unit Costs of Cantonal Courts (KM of approved operational budget per cases)



As the graph above indicates the unit costs of cases for cantonal courts varies significantly, from 1,324 KM per new case (excluding backlog cases) to 448 KM per new cases. Although this is a crude estimate that does not take into consideration the nature of specific categories of cases it's an indication of how the current system of financing distorts the link between funding and performance in the judicial institutions in the FBiH. It also indicates that funding to the judiciary is not appropriated based on assessments of caseloads, for if it was the disparities in individual unit costs would be much less. The same situation is present in the municipal courts and the prosecutors' offices as evident from the following two graphs.

Figure 9: Estimated Unit Costs of Municipal Courts (KM of approved operational budgets per cases)

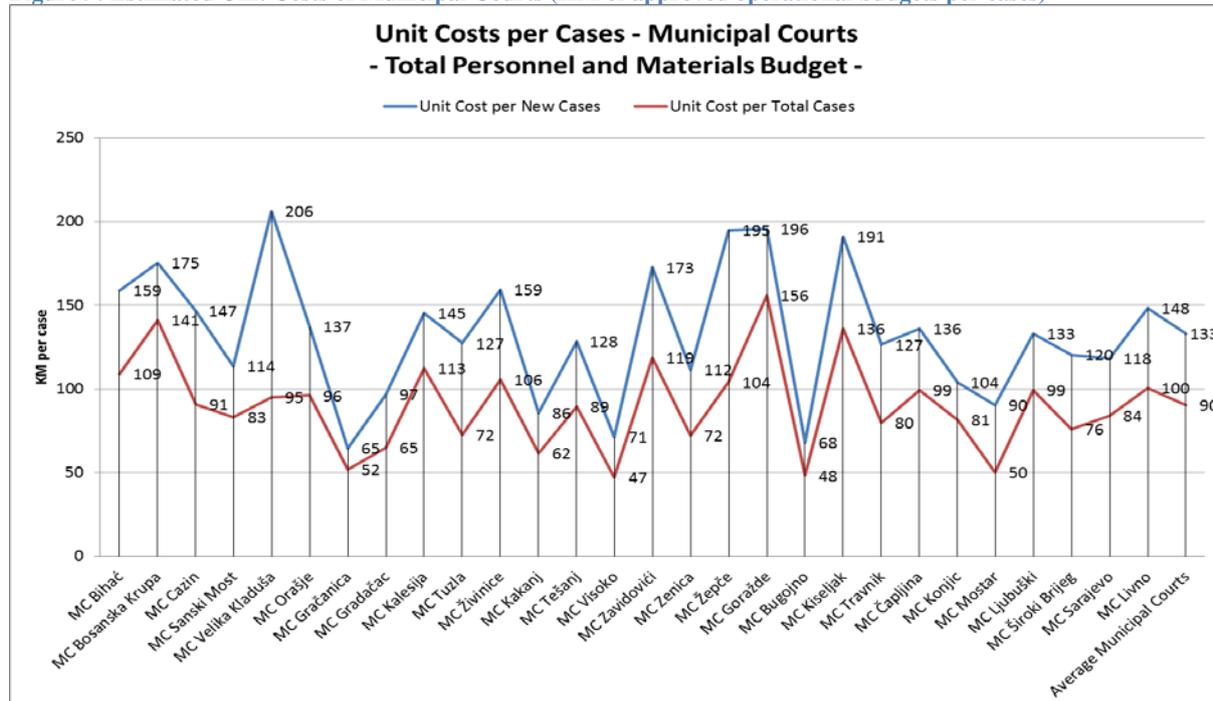
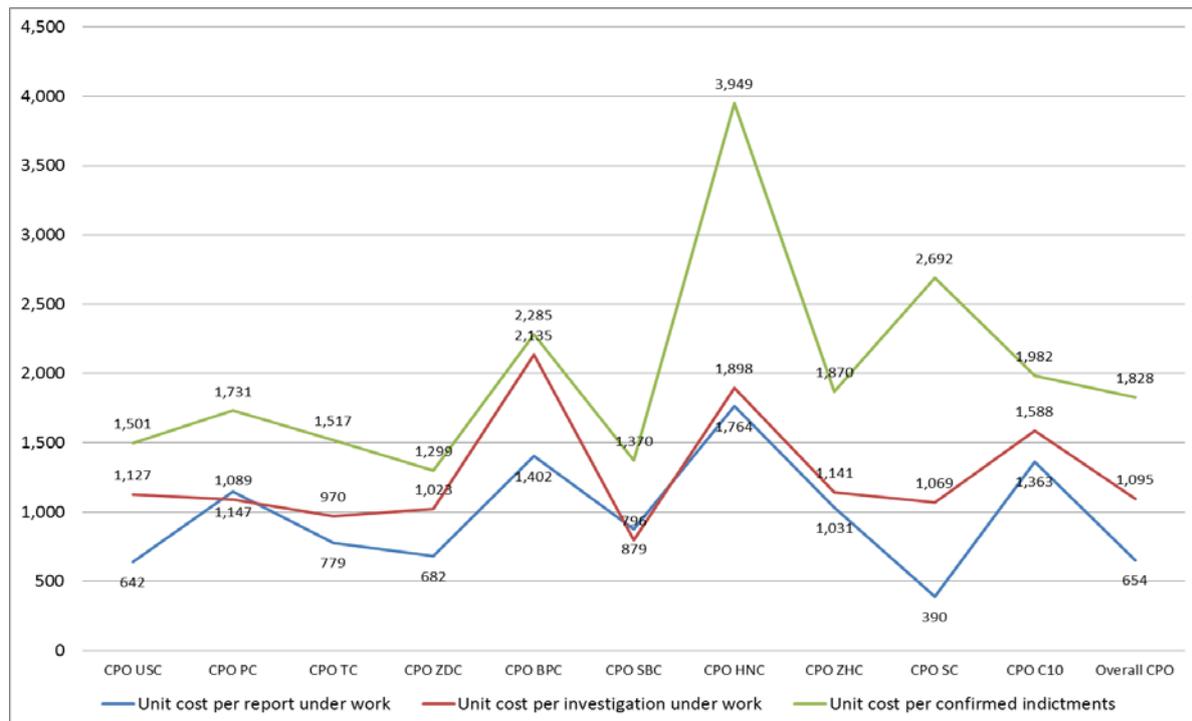


Figure 10: Estimated Unit Costs of Prosecutors' Offices (KM of approved operational budget per reports under work, investigation under work and confirmed indictments in 2011 – excluding cases of organized crime and corruption)



As was earlier stated in the case of the Netherlands, the cost of individual types of cases is fixed for a three-year period and total budget funding is determined based on estimates of inflows for given years. This system provides, firstly, for ensuring that the funding for the judiciary is based on assumptions of realistic costs needed to process specific type of cases. However, it also ensures that the judiciary is accountable for the public funding available to it and ensures money is spent effectively and efficiently, with minimum amounts of waste.

In turn, this makes the judiciary accountable for the timely processing of cases in line with legal requirements and the deadlines set in law. Given the basic deficiencies of the budget planning processes in each of the levels of FBiH, currently, not even the basic preconditions for introducing performance-based budgeting exist⁷. However, this does not mean that efforts for the gradual introduction of performance-based budgeting should be completely abandoned.

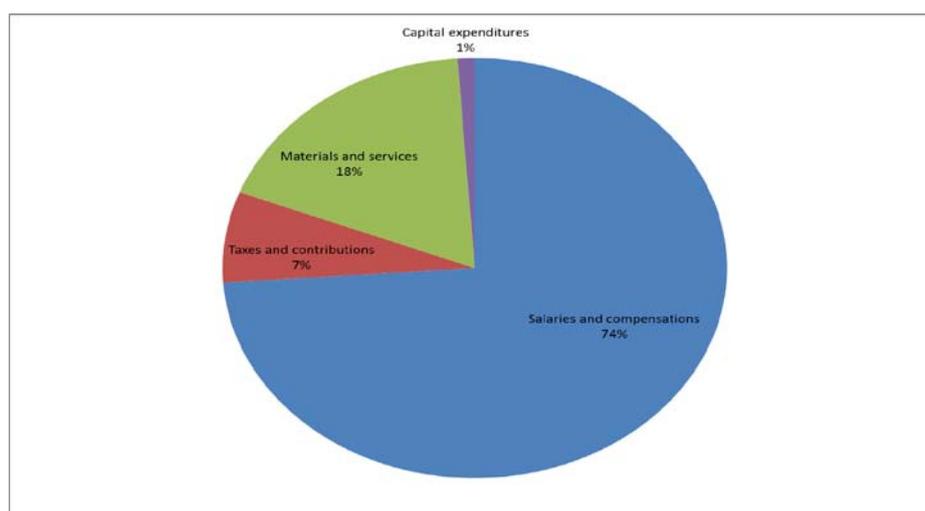
In that regard, the judiciary in the BiH is in a much better position to introduce performance-based budgeting and performance management than most other public institutions in BiH. Firstly, the CMS introduced in the judicial institutions provide a wealth of statistical information that could aid in the development of statistical forecasts of caseloads and workflows. The HJPC has already initiated activities in the development of performance measures through time measures. Once this system is developed, these measures could be used as a basis to develop estimates of unit costs of separate categories of cases. All of this could be done on a pilot basis over the span of several years supported by projects funded by the donor community.

⁷ The OECD made the same conclusion in its 2012 Assessment of Public Expenditure Management and Control.

Budgets are Still Far from Developmental

As indicated in Figure 4, in cases of ineffective budget decision-making it is always the non-discretionary costs, i.e. the costs on the right-hand side of the public spending discretionary span that are reduced or cut. In the case of the judiciary in FBiH, as well as most other public sector institutions, funding for capital expenditures has been very difficult to provide from the domestic budgets, and has mostly been, up to now, donor funded. Although budget users are requested to submit proposals for development programs, finally adopted budgets have a very small portion devoted to developmental activities and capital projects. This is evident from the graph below that shows the average allocation of budgets in the Federation and cantons by basic economic categories.

Figure 11: Average allocation of judicial budgets in the FBiH by basic economic categories



In most case the largest portion of budgets, consolidated and on the level of budget users, are mostly for salaries and rarely provide sufficient funding for long-term development activities or projects. Also, as discussed previously and as illustrated in Figure 8 and 9, capital expenditures are unevenly financed from one year to the next on individual levels of cantons.

Lack of Capacities

Finally, the biggest weakness of current budgetary processes for the judiciary (but in general as well) is the lack of capacities within Ministries of Justice and Finance to perform adequate budget analyses and impact assessments. Ministries of finance in particular often have very little detail knowledge of the operations performed by budget users and judicial institutions, in particular, and as such cannot estimate the effects lack of funding can have on their mandates and operations⁸.

Likewise, judicial institutions also lack the capacities to adequately plan resources. Primarily they lack capacities for medium-term planning, but also lack capacities to plan outputs and performance and, thus, link funding with performance or to assess the impact of current

⁸ This was noted by the OECD in its 2012 Assessment of Public Expenditure Management and Control: „Expert knowledge of civil servants regarding PEM varies significantly from institution to institution, with an uneven understanding of the key aspects of administrative decision-making. More than enough staff are employed in the vast public sector of the country in total, but competent and skilled staff to exercise PEM functions are nevertheless lacking“, p. 5.

funding on performance. Efforts have only recently been initiated to develop strategic and medium-term planning capacities in the judicial institutions as necessary prerequisites to prepare medium-term budgets and program budgets and also to introduce performance management. However, staffing constraints prevent strategic and budget planning capacities to be further developed. Management constraints also exist, given that budget planning is rarely seen as a key role of judicial management and often seen as purely accounting exercises.

The judiciary, unlike most other public institutions, have the benefit of having the HJPC as the only institution that can provide a holistic view of the judiciary, its funding needs and areas of development. However, the potential of the HJPC is squandered within the complex arrangements for judicial financing in the Federation and in the multitude of stakeholders present in the preparation and approval of judicial budgets. Consolidating judicial financing would enable the HJPC to have a more targeted and focused role in securing judicial independence through the budget process, but also enable it to develop long-term improvements to that process (such as introducing performance management and performance-based budgeting as prerequisites for strengthening judicial accountability).

Conclusions

Dangers due to Fragmentation

Based on what has been previously stated, the judiciary in the FBiH is faced with the same overall structural deficiencies in the budget planning system as all other public institutions in the FBiH. But the judiciary in the FBiH is faced with additional problems caused by the decentralized system of financing. Furthermore, the decentralized system of judicial financing makes addressing these deficiencies and neutralizing their negative effects even more difficult. It also prevents the HJPC from fully supporting the judiciary and advising government and parliaments on the short-term and long-term funding needs of the judiciary. In concrete terms the current system of budget planning and the fragmentation in the financing of the judiciary in the FBiH are causing the following:

- The process of planning and adopting budgets is very unpredictable, making operational planning, as well as planning for capital investment and long-term judicial developmental initiatives all the more difficult.
- Judicial institutions, in particular lower-level municipal courts are funded well below their realistic needs, as HJPC recommendations are often not accommodated by cantonal and Federal levels (as demonstrated in Figure 6), due to fiscal constraints, systemic weaknesses in the budget preparation process and, most recently, political crises.
- Judicial funding is uneven and as a result different cantons provide different levels of funding for judicial institutions in their jurisdictions. This implies unequal quality of justice in individual jurisdictions. It also provides the judiciary, on an unequal basis, the needed resources to systematically address the issue of backlog cases.
- This results in overall unit costs of the judiciary, i.e. the amount of budget funds per cases to vary greatly between jurisdictions distorting the link between budgets and

performance, thus diminishing the long-term perspectives of introducing greater accountability in the judiciary for efficiency and effectiveness of their operations.

- The lack of capacities in ministries of finance and ministries of justice to adequately review and analyse judicial budgets make judicial budgets more prone to arbitrary and ad hoc budget cuts. Likewise, the decentralized system of financing and lack of overall coordination in the justice sector in the FBiH make it difficult to capitalize on the potential the given mandate of the HJPC possesses in terms of having a holistic view of judicial needs and areas of development.

Advantages of Budget Consolidation

As explained in the previous section of this paper, the structural deficiencies that prevent the system of judicial budgeting to be effective in its planning and execution cannot even begin to be addressed within the current set-up of the judicial financing in the Federation BiH in which budgets are financed from 11 different sources and approved by 11 different governments and parliaments, with each level possessing its own specific budgetary issues, as well as political issues. The crises of 2011 and 2012 only further exacerbated already present weaknesses in the overall budget planning process in the FBiH and made the judiciary even more vulnerable. Consolidating the financing of the judiciary on the level of the Federation of BiH would in the short-term and long-term provide some of the following benefits:

Practical Benefits and Advantages for the Courts and Prosecutors Offices

As outlined previously, the recommendations of the HJPC regarding levels of annual budgetary funding for judicial institutions are almost, as a rule, not accommodated, resulting in many judicial institutions receiving levels of financing well below their realistic needs. Additionally, operational planning within the courts and prosecutor's offices is made very difficult given that they cannot anticipate how much resources will be made available and how much of the HJPC recommendations will be respected, and furthermore they are forced to, almost as a rule, function under temporary financing arrangements. Unifying the system of judicial financing in the Federation BiH will not, unfortunately alleviate the excessive fiscal constraints imposed on budget users nor introduce greater predictability in the overall budget preparation process, particularly in relation to the final date by which budgets are adopted.

However it will enable the judiciary to better buffer the negative effects that comes from this practice, such as the adoption of budgets that are well below realistic needs, the absence of priority-setting and the systemic and very damaging underfunding of capital investments. It will also enable the HJPC to focus its attention on one level of government in the FBiH and focus their efforts on negotiating the adoption of their recommendations, in particular securing sufficient funds for operational costs and capital expenditures which are, almost by rule, severely under-funded. It would also enable the HJPC to prioritize funding for the judiciary and ensure that funding can be systematically directed from one year to the next in line with the existing budgetary constraints and actual needs of the individual judicial institutions. Over time, this would provide a better basis for achieving equality among the judicial institutions in terms of work conditions, staffing and infrastructure. However, it would also place the HJPC in a better position to, firstly, better prioritize judicial spending and better negotiate with the Federal Ministry of Finance over annual amounts to be approved to the judiciary. Giving the HJPC a better opportunity for setting priorities would mean that

judicial institutions, over time, would become better equipped with needed staff, equipment, facilities and materials.

Placing the funding of the judiciary under a single budget heading and granting, for instance, to the HJPC the possibility to allocate funding to individual judicial institutions, based on set priorities and assessment of realistic needs, would eliminate the great disparities that exist in terms of access to justice and quality of judicial services that currently exist in the FBiH. It would also enable Court Presidents and Chief Prosecutors to focus more on performance management and achieving adequate standards of accountability, as a consolidated financing system would put the onus of negotiating with the Federal Ministries of Justice and Finance on the HJPC and less on them.

As illustrated earlier, the decentralized system of financing of judicial institutions generates pronounced differences in the level of funding on individual levels of government in the Federation BiH from one year to the next. As a result, the degrees to which judicial institutions are funded to perform their functions are also different between the levels of government. This hinders the principles of equal quality and access to justice for all citizens in the FBiH. These differences are the result of different fiscal and macroeconomic assumptions and positions of each of the levels of government, which affect overall funding available to the judiciary. It is also the result of the multitude of stakeholders that participate in the adoption and preparation of judicial budgets (as outlined in Table 3) and lack of effective mechanisms to coordinate these stakeholders so as to ensure equal levels and equal assumptions for the funding of judicial institutions.

In concrete terms, these unequal levels of funding for the judiciary on each of the levels of government hinders, among other things, the ability of courts to appoint additional judges to work on backlog cases and reduce the overall backlog in the individual courts. Although a large percentage of backlogs in courts relate to small-value claims (usually for outstanding debts toward public utilities and communal services), the processing of these cases requires the same amount of time and effort as does any other case within the court system.

To illustrate how budgetary constraints effect, on an unequal basis, the ability of courts to battle these backlogs, the table below gives an overview of how many backlog cases there were in 2011 and how many additional judges were appointed by each level of government. Annex 3 gives a detail overview by each individual court.

Table 4: Backlog cases in 2011 by level of government in the FBiH⁹

	No. of Backlog by 01.01.11.	Inflow in 2011	Total Cases in Work	% of Backlog to total Cases in Work	Additional Judges in 2011
Total Supreme Court FBiH	3,697	4,086	7,783	47.50%	8
Total Courts USK	35,732	64,723	100,455	35.57%	6
Total Courts PK	4,398	10,713	15,111	29.10%	0
Total Courts TK	63,241	109,056	172,297	36.70%	19
Total Courts ZDK	53,711	106,607	160,318	33.50%	12
Total Courts PBK	1,301	5,342	6,643	19.58%	0
Total Courts BPK	34,138	71,121	105,259	32.43%	8
Total Courts HNK	44,616	71,591	116,207	38.39%	2
Total Courts ZHZ	7,872	17,454	25,326	31.08%	1
Total Courts SK	76,526	160,517	237,043	32.28%	18
Total Courts K10	8,002	16,666	24,668	32.44%	1
TOTAL COURTS IN FBiH	333,234	637,876	971,110	34.31%	75

⁹Adapted from HJPC 2011 Annual Report.

The table clearly demonstrates how the individual capabilities of cantonal budgets to finance additional judges affected the capabilities of the courts to reduce their backlogs. If the courts and judiciary in general were funded from one source the HJPC could aid the Federal Government in systematically addressing backlog cases and securing that the judicial institutions have the funds and resources needed to tackle the issue of backlog cases on an equal basis, rather than being forced to accommodate the resolution of this issue to the budgetary and fiscal position of each individual level of government in the FBiH. It could also provide a better basis for consolidating judicial resources (in particular limited staffing resources), as well as other resources. Consolidating judicial financing would also enable judicial institutions to address issues of backlogs more effectively by allowing the use of the limited number of additional judges between jurisdictions, speeding up efforts to achieve full timeliness in the processing of cases. Similar synergies and economies of scale could be explored for prosecutor's offices in relation to complex and time consuming and, by extension, expensive investigations. Other economies of scale could also be looked in to leading to greater efficiency in the use of judicial resources.

It would also create a better position for Courts and Prosecutor's Offices for balanced access to budget funds (judicial institutions in different cantons have different treatment in disposing of the budget funds and furthermore Cantonal Ministries of Finance in some cases obstruct transfer of the relevant information in order to be in position to manipulate with available funds.). Thus, judicial institutions would be able to better implement the principle of equal access to justice to citizens as users of service of judiciary.

Advantages for Court Users and Citizens

As the graphs in Figures 8 and 9 indicate, the decentralized system of judicial financing foster huge difference in the level of total funding for the judiciary on each of the levels of government from one year to the next, with some cantons planning increases in budget funding for the judiciary, while others plan decreases, despite the fact that caseloads remain either constant or even increase from one year to the next. This means that the currently decentralized system of financing and the ineffective budget preparation process fosters inequalities in the funding available to the judiciary and in the quality of judicial services.

Coupled with the complete lack of coordination in relation to judicial policy and securing equal standards of judicial services between the levels of government in the FBiH, the decentralized system of financing impedes the capability of the overall justice sector to secure principles of equal access to justice, as well as equal standards of quality of service. For court users and citizens this means that, currently, the quality of access to justice and the quality of judicial services depends on their place of residence and the ability (or willingness) of local levels of government (i.e. cantons) to provide the needed funding for judicial institutions.

Consolidating judicial financing would, over time, even out these current disparities and, thus, create a judicial system that is truly based on equal standards for all citizens, regardless of place of residence and local governments. A judicial budget funded from one source would ease the planning and execution of much needed capital investments in the judiciary and make them doable within the existing fiscal constraints. As a result this would contribute to the quality of justice be equalized across the Federation BiH and raised to higher levels.

Finally, with the gradual introduction of performance-based budgeting in the judiciary, court users and citizens would benefit from a judiciary made more accountable for the efficiency

and effectiveness in the use of its resources, as well as predictability and timeliness in the execution of their functions. In the long-term consolidating the judicial budget and introducing performance-based budgeting could introduce better levels of accountability of the judiciary for its performance and use of public funding. However, piloting performance measures for the judiciary in terms of linking them with the budget funding can only be possible in the Federation BiH if judicial financing is consolidated on the level of the Federation. Introducing performance budgeting and management for the judiciary requires developing capacities within ministries of finance, justice, governments and parliaments to understand and analyze performance information in a meaningful way. Currently, this cannot be done if it is necessary to deal with 11 different levels of government in the Federation BiH and in cases that judicial funding comes from different sources. Overall this would contribute to the achieving greater standards of judicial proceedings and services.

Practical Benefits for the Federation Ministries of Justice and Finance

As previously stated, the biggest weakness of current budgetary processes for the judiciary (but in general as well) is the lack of capacities within Ministries of Justice and Finance to perform adequate budget analyses and impact assessments. The weakness in analytical and planning capacities of the Federal Ministries of Justice and Finance would still have to be addressed in the event of consolidating the judicial financing. However, these institutions, unlike with other segments of the public sector, has the benefit of using the developed capacities of the HJPC as the only institution that can provide a holistic view of the judiciary, its funding needs and areas of development.

However, currently, the potential of the HJPC is squandered within the complex financing arrangement of judicial financing in the Federation and in the multitude of stakeholders present in the preparation and approval of judicial budgets. Budget consolidation would, therefore, address the issues caused by the lack of planning and analytical capacities in the Federal Ministries of Finance and Justice and would enable the judiciary in the Federation BiH to capitalize on the capacities development in both the HJPC and Federal Ministry of Justice to plan judicial budgets that are aligned with realistic needs and that take into account areas needed for development.

Furthermore, budget consolidation would achieve higher levels of transparency regarding the spending of budgetary funds (by establishing single budgetary centre of operations). This would mean that both the Federal Ministry of Justice and Finance on one side, and HJPC and judicial institutions on the other will have better access to better information regarding available funds and they ways in which they are spent and planned.

Differences in levels of funding of the judiciary on different levels of government could be eliminated and budgets of the judiciary can be more aligned with realistic needs and estimated caseloads and workloads. For the Federal Ministry of Finance this would mean achieving greater value for money in one very important and significant area of public spending. In that regards, in the long-term, the HJPC could work in the Federation BiH, on a pilot basis and with donor assistance, towards the introduction of performance-based budgeting and performance management if the judiciary was funded from one source. This would introduce greater degrees of judicial accountability for performance and for the use of public money.

Consolidating judicial financing on the level of the Federation BiH would not necessary make more funding available for capital expenditures and development activities, but it

would make it easier for the HJPC to assist the Federal Ministry of Justice, the Federal Ministry of Finance, the Federal Government and individual judicial institutions in determining priorities for judicial capital investments and, over the medium to long-term help judicial institutions attain the same standards and levels of services. It would also make the planning of funding for IT upgrades, for instance, or other costs easier as the judicial budgets would benefit from economies of scale, i.e. the rule that the purchase of certain goods on a larger scale produce more savings than buying the same goods on a smaller scale. As mentioned earlier, in the long-term this could lead to the better pooling of judicial resources, not only in terms of money but staff as well. This would aid in the more effective reduction of backlog cases in the Courts, but also, in the case of Prosecutors' Offices, to pool limited resources for investigations in way that are more cost effective and efficient.

Finally, consolidating the financing of the judiciary in the FBiH would enable the judicial institutions, as well as the Federal Government to capitalize on the capacities that already exist in the HJPC in terms of planning and providing the guidelines for future development of the judiciary, but also give the HJPC space for further development so as to become a key institution in aiding the long-term reform of the judiciary in the BiH in particularly in areas aimed at increasing judicial accountability through effective performance management and monitoring of the Courts and Prosecutor's Offices. Unifying the financing of the judiciary on the level of the FBiH would foster better communication and coordination as it would eliminate the multitude of stakeholders and enable the HJPC to negotiate actively with the Federal Government on the funding levels needed for the judiciary.

Practical Benefits and Advantages in Judicial Support to Economic Development

The role of the judiciary in fostering economic development has been recognized in the BiH context through the adoption of the Justice Sector Reform Strategy in which activities strengthening the role of the judiciary in economic development have been identified as one of the strategic pillars of judicial reform. The draft document of the revised Justice Sector Reform Strategy quotes the UN Office on Drugs and Crime and reemphasizes “the centrality of a strong justice mechanism (which) lies in its essential contribution to fostering economic stability and growth, and to enabling all manner of disputes to be resolved within a structured and orderly framework”.¹⁰ It also states how the “World Bank reinforces this concept by underlying that ‘equitable laws and effective justice are *sine qua non* for sustainable development and lasting poverty alleviation’¹¹; it also warns that only long-term and comprehensive judicial reforms carried out with the full commitment of all stakeholders can ensure a positive impact on the economy”¹².

As the JSRS emphasizes “many dimensions of court performance matter for doing business. Firms want courts that are fair and honest, strong enough to enforce their decisions, fast, and

10 UNODC, *Resource Guide on Strengthening Judicial Integrity and Capacity*, p. 1, available at

http://www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf

11 Dakolias, Maria; Freestone, David; Kyle, Peter, *Legal and judicial reform : observations, experiences, and approach of the Legal Vice Presidency*, The Worldbank, 2002, available at <http://documents.worldbank.org/curated/en/2002/07/2067394/legal-judicial-reform-observations-experiences-approach-legal-vice-presidency>.

¹²Draft Justice Sector Reform Strategy 2014 -2018.

affordable”¹³ These goals represent strong challenges for the BiH judicial system. They require a judiciary which is both able to protect its independence from other authorities and, at the same time, can be held accountable for its performances. Professionalism and efficiency of the justice system are key factors to foster economic growth as much as the independence of judges and the autonomy of prosecutors. Only judges and prosecutors that are impartial and perceived to be impartial can satisfy the demand posed by foreign and local investors for security and predictability of their legal relations with the state institutions and other private parties. Ensuring high integrity and competence within the judiciary in settling commercial disputes is a key condition for the creation of a legal space where economy and trade can develop and thrive. Eventually, the benefits of having fair and transparent judicial settlement of economic interests will be felt by the entire population as the rights of the productive segments of the society will be guaranteed against the interests of those acting outside the law.¹⁴

A unified system of financing for the Federation BiH could better achieve objectives crucial for economic development, such as independence, efficiency and effectiveness and accountability. Obviously one of the biggest issues currently hindering judicial efficiency is the issue of backlog cases.

If the courts and judiciary in general were funded from one source the HJPC could aid the Federal Government in systematically addressing backlog cases and securing that the judicial institutions have the funds and resources needed to tackle the issue of backlog cases on an equal basis, rather than being forced to accommodate the resolution of this issue to the budgetary and fiscal position of each individual level of government in the FBiH. It would also provide for HJPC's better position in addressing the issue of mobility in justice sector in light of needs of some Courts and Prosecutor's Offices to have additional judges or prosecutors assigned to help with reducing the backlog, resolving specific cases and files, or provide other types of assistance to their colleagues in other Courts and Prosecutor's Offices. In that regards, consolidating judicial financing would provide a better bases for strengthening the role of the judiciary in fostering economic development and growth.

General Budgetary and Financial Advantages for Cantons

Given the severe lack of institutional capacities in Cantonal Ministries of Justice, the consolidation of financing to the Federation level and, by extension, the transfer of responsibility for judicial financing from the cantonal levels would certainly be a benefit for the Cantons. Cantonal Ministries of Justice are chronically understaffed and could, through the consolidation of judicial budgets on the Federal level, redirect staffing resources and efforts to pertinent issues still under their preview, such as free legal aid, juvenile justice and alternative sanctions, execution of criminal sanctions where applicable, notary service etc..

However, in redesigning the system of judicial financing, care must be made to avoid putting the Cantons, many of which are already in very difficult fiscal circumstances in an even more difficult position. It is hoped that the consolidation of judicial financing on the Federation level will achieve greater efficiency in the use and spending of resources, which will hopefully, lead to, if not decreasing ,than at least avoiding excessive increasing of overall

13 Anderson, James H.; Bernstein, David S.; Gray, Cheryl W., *Judicial Systems in Transition Economies : Assessing the Past, Looking to the Future*, p. 50, 2005, World Bank, available at <https://openknowledge.worldbank.org/handle/10986/7351>

¹⁴Draft Justice Sector Reform Strategy 2014 – 2018.

budgetary needs for the judiciary in the Federation and thus imposing further burdens on already limited resources. These are all aspects that will need to be considered in designing the overall consolidation of judicial financing on the Federal level in BiH.

Alternative Ways of Funding

Given the overall deficiencies in the public expenditure framework in the FBiH and the specific issues faced by judicial institutions in ensuring judicial funding provides for independence and efficiency and effectiveness in the judiciary, there are a whole array of areas that donor assistance would be most effective in the Federation BiH, but only if judicial financing was consolidated. Some of these areas include the following:

- Strengthening the role of Federal parliamentary committees in reviewing and approving the judicial budgets and overseeing judicial performance;
- Strengthening performance-based planning in the judiciary in the FBiH;
- Strengthening capacities in the courts and prosecutor's offices for planning, managing and monitoring performance in the judicial bodies;
- Assisting the HJPC in developing long-term development plans and capital investments plans for judicial institutions in the FBiH;
- Strengthening the role of the Federation Government in analyzing judicial policy and overall effects of judicial performance on crime trends, society and the economy.

Final Remarks

The political crises of 2011 and 2012 have once more demonstrated and further underlined how the current system of judicial financing renders the judiciary vulnerable not only to political interference, but to lack of political accountability and stability. Aside from consolidating the financing of the judiciary on one level in the Federation will, other efforts will need to be made to further secure that undue risks are posed to judicial independence due to political instability and lack of political accountability (such as strengthening the role of parliamentary committees, independent judicial audits, CSO monitoring and reporting mechanisms and etc.). However, budget consolidation will provide better opportunities for the judiciary in the Federation BiH, and BiH in general, to develop its independence, efficiency, effectiveness and accountability. It is encouraging that the HJPC has committed itself to, together with USAID and other donor assistance, in resolving this issue and working with domestic and international stakeholders alike to find the best solutions and approaches to achieving consolidation of judicial financing in, at least, the Federation BiH.

All possible solutions, as indicated in previous analyses and studies, must take into consideration the effects these options will have on revenue sharing arrangements between the levels of government, the issue of sharing or assignment of court fees and other budgetary fees generated from the work of the judiciary, the issue of institutional arrangements for budget execution and budget accounting through the single treasury account and accounting system, as well as the areas in which capacities for planning, performance management and monitoring need to be further developed.

The fact that the JSRS has emphasized the centrality of this issue also in encouraging and will, hopefully, with donor input and support, lead to the systemic resolution of this issue to the satisfaction of all key stakeholders in all three branches of government, as well as to the satisfaction and ultimate benefits of the courts users and citizens themselves.

Annexes

Annex 1: Overview of 2012 approved budgets in the FBiH compared to HJPC guidelines¹⁵

	Finally Approved in 2012	HJPC Guidelines	Difference	% Difference
Salaies and contributions	96,641,408	112,279,462	-15,638,054	-13.93%
Costs for materials and services	21,382,248	29,229,000	-7,846,752	-26.85%
Capital expenditures	947,283	1,682,163	-734,880	-43.69%
Total	118,970,939	143,190,625	-24,219,686	-16.91%

¹⁵ Adapted from the 2012 Annual Report of the HJPC.

Annex 2a: Changes in 2012 budgets compared to 2011

	Salaries and compensations	Taxes and other contributions	Costs for materials and services	Capital costs	Total Approved Budget
PO FBiH	12.38%	13.30%	-18.61%	89.00%	11.75%
Supreme Court FBiH	-3.17%	-2.77%	-12.92%	-5.50%	-3.73%
TOTAL FBiH	0.10%	0.59%	-14.12%	29.94%	26.32%
Cantonal Court Bihać	1.99%	5.77%	-6.54%	-100.00%	-0.23%
Cantonal PO Bihać	-4.06%	-1.66%	-2.26%	-19.72%	-3.97%
Municipal Court Bihać	-0.11%	1.86%	35.50%	-8.39%	5.68%
Municipal Court Bosanska Krupa	-2.94%	3.94%	-10.58%	-97.60%	-5.73%
Municipal Court Cazin	-1.24%	-1.20%	-20.71%	-98.10%	-6.51%
Municipal Court Sanski Most	-1.80%	0.02%	-23.31%	-38.84%	-6.24%
Municipal Court Velika Kladuša	1.55%	2.74%	1.38%	-50.43%	-0.34%
TOTAL USK	-0.88%	1.63%	0.84%	-48.73%	-1.32%
Cantonal Court Odžak	5.85%	6.52%	40.62%	-39.39%	11.19%
Cantonal PO Orašje	-2.33%	-3.35%	3.11%		5.77%
Municipal Court Orašje	7.20%	6.59%	-22.50%	151.88%	-0.48%
TOTAL PK	4.96%	4.54%	-8.14%	694.49%	3.41%
Cantonal Court Tuzla	7.22%	7.85%	6.70%		7.15%
Cantonal PO Tuzla	-6.97%	-6.27%	-15.95%		-8.64%
Municipal Court Banovići					
Municipal Court Gračanica	14.05%	13.61%	9.84%		12.97%
Municipal Court Gradačac	-0.80%	-0.33%	18.16%		3.23%
Municipal Court Kalesija	0.47%	-1.43%	32.91%		7.31%
Municipal Court Lukavac					
Municipal Court Tuzla	-2.90%	-3.14%	-9.28%		-4.33%
Municipal Court Žvinice	-4.78%	-3.22%	2.71%		-3.02%
TOTAL TK	-0.73%	-0.32%	1.29%		-0.27%
Cantonal Court Zenica	4.01%	3.54%	4.73%		4.08%
Cantonal PO Zenica	4.73%	4.25%	-9.49%		2.79%
Municipal Court Kakanj	6.59%	5.96%	-15.77%		1.39%
Municipal Court Tešanj	1.52%	2.17%	6.32%		2.39%
Municipal Court Visoko	0.88%	1.23%	-2.46%		0.25%
Municipal Court Zavidovići	-47.22%	5.89%	16.99%		-37.27%
Municipal Court Zenica	6.24%	7.48%	-2.79%		4.89%
Municipal Court Žepče	-1.13%	-1.78%	-15.55%		-3.94%
TOTAL ZDK	-4.20%	4.52%	-1.25%		-3.14%
Cantonal Court Goražde	2.91%	2.29%	-16.10%	-96.40%	0.91%
Cantonal PO Goražde	3.66%	2.31%	-25.29%	-100.00%	-2.83%
Municipal Court Goražde	-0.69%	-2.27%	7.64%	-40.00%	0.33%
TOTAL BPK	0.94%	-0.29%	-1.01%	-73.50%	0.05%
Cantonal Court Travnik	17.48%	18.90%	6.13%	35.60%	15.81%
Cantonal PO Travnik	7.02%	10.87%	-15.25%	-24.44%	3.04%
Municipal Court Bugojno	5.02%	7.26%	4.62%	-62.61%	-1.23%
Municipal Court Jajce					
Municipal Court Kiseljak	9.15%	10.70%	18.31%	-51.32%	0.11%
Municipal Court Travnik	14.17%	16.39%	0.08%	-65.60%	6.05%
TOTAL SBK	11.82%	14.09%	5.60%	-48.93%	6.23%
Cantonal Court Mostar	0.00%	0.00%	0.00%		0.00%
Cantonal PO Mostar	0.00%	0.00%	0.00%		0.00%
Municipal Court Čapljina	0.00%	0.00%	0.00%		0.00%
Municipal Court Konjic	0.00%	0.00%	0.00%		0.00%
Municipal Court Mostar	0.00%	0.00%	0.00%		0.00%
Municipal Court Čitluk					
TOTAL HNK	0.00%	0.00%	0.00%		0.00%
Cantonal Court Široki Brijeg	3.75%	1.50%	-6.78%	0.00%	2.63%
Cantonal PO Široki Brijeg	12.65%	4.74%	20.37%	0.00%	13.06%
Municipal Court Ljubuški	4.76%	2.00%	-18.85%	0.00%	0.83%
Municipal Court Široki Brijeg	7.60%	0.99%	-14.93%	250.00%	5.53%
TOTAL ZHZ	6.68%	1.98%	-8.13%	44.12%	4.68%
Cantonal Court Sarajevo	3.81%	1.70%	2.62%	350.00%	3.95%
Cantonal PO Sarajevo	0.28%	-1.43%	-3.09%	400.00%	0.20%
Municipal Court Sarajevo	3.20%	0.43%	0.21%	400.00%	2.66%
TOTAL SK	2.84%	0.37%	0.20%	383.33%	2.51%
Cantonal Court Livno	0.00%	0.00%	0.00%	0.00%	0.00%
Cantonal PO Livno	0.00%	0.00%	0.00%	0.00%	0.00%
Municipal Court Livno	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL K10	0.00%	0.00%	0.00%	0.00%	0.00%
OVERALL TOTAL	4.36%	5.46%	4.45%	-26.76%	5.28%

Annex 2b: Changes in 2013 budgets compared to 2012

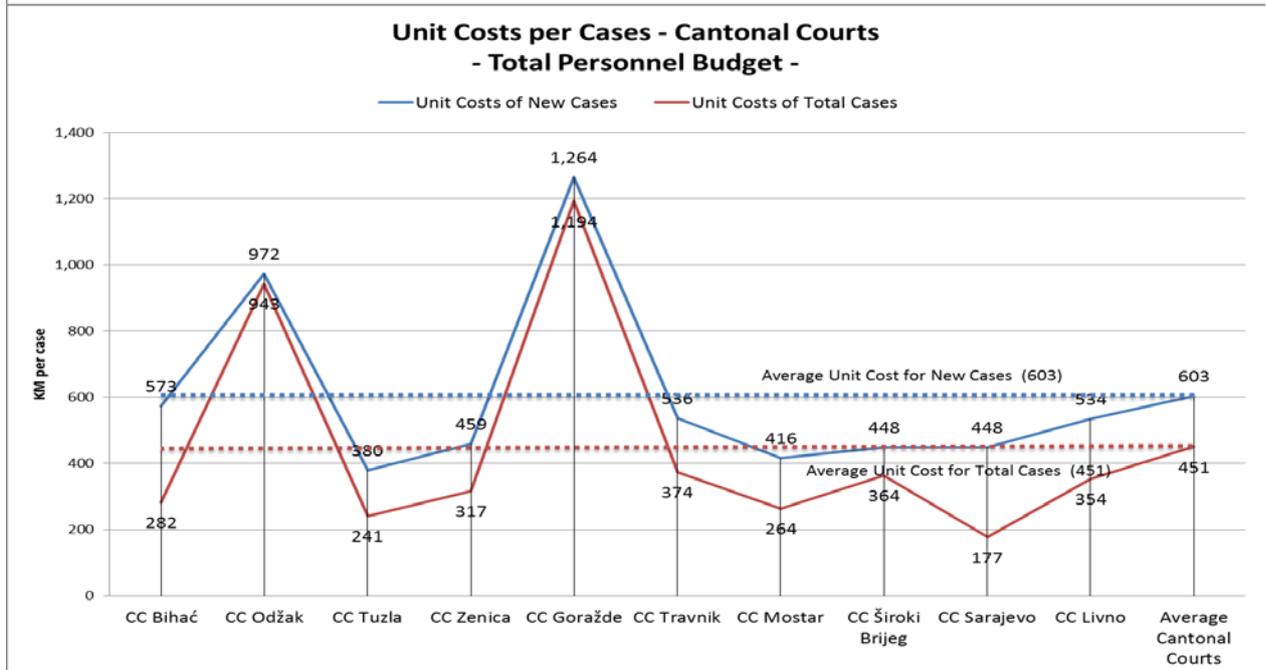
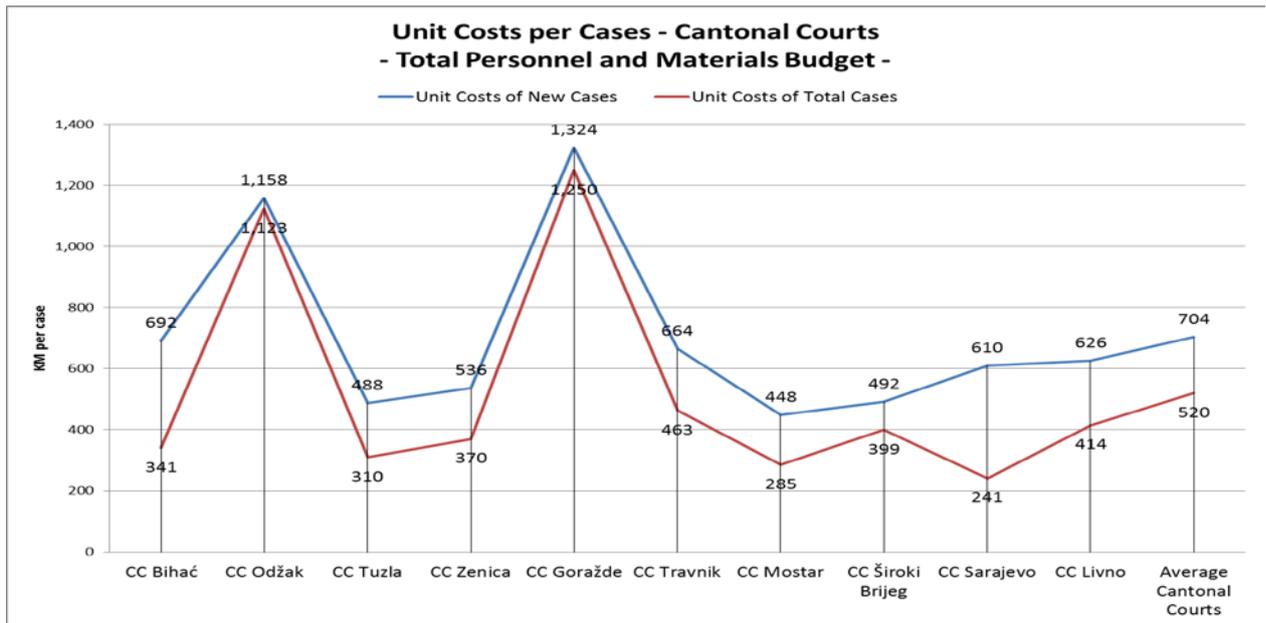
	Salaries and compensations	Taxes and other contributions	Costs for materials and services	Capital costs	Total Approved Budget
PO FBiH	12.73%	12.33%	13.03%	-55.91%	11.04%
Supreme Court FBiH	10.15%	9.99%	9.03%	-24.44%	9.86%
TOTAL FBiH	10.76%	10.54%	9.82%	-41.61%	10.14%
Cantonal Court Bihać	-0.62%	-2.09%	18.02%		2.26%
Cantonal PO Bihać	0.92%	16.20%	17.89%	-100.00%	2.55%
Municipal Court Bihać	0.26%	0.69%	-12.48%	-100.00%	-3.53%
Municipal Court Bosanska Krupa	-1.72%	11.42%	30.84%	13788.89%	11.95%
Municipal Court Cazin	0.58%	7.80%	21.21%	-100.00%	4.73%
Municipal Court Sanski Most	4.50%	6.77%	44.78%	-100.00%	7.70%
Municipal Court Velika Kladuša	2.82%	0.14%	15.00%	-100.00%	3.33%
TOTAL USK	0.75%	5.41%	11.53%	-30.44%	2.63%
Cantonal Court Odžak	6.03%	3.06%	22.25%	-50.00%	8.93%
Cantonal PO Orašje	12.30%	8.83%	-1.43%	-87.84%	2.89%
Municipal Court Orašje	10.68%	6.08%	-4.11%	24.07%	7.38%
TOTAL PK	9.80%	5.83%	3.09%	-74.31%	6.91%
Cantonal Court Tuzla	9.00%	3.40%	-30.00%		0.02%
Cantonal PO Tuzla	13.74%	10.60%	-29.95%		5.81%
Municipal Court Banovići	1380.76%	1114.60%	156.70%		749.28%
Municipal Court Gračanica	7.50%	4.78%	-29.99%		-1.82%
Municipal Court Gradačac	3.03%	-0.13%	-29.90%		-5.12%
Municipal Court Kalesija	6.16%	3.37%	-28.94%		-3.36%
Municipal Court Lukavac	1799.85%	1459.24%	173.27%		869.85%
Municipal Court Tuzla	5.71%	5.18%	-30.02%		-1.84%
Municipal Court Živinice	-4.05%	-7.72%	-29.22%		-10.19%
TOTAL TK	15.27%	12.05%	-25.27%		6.16%
Cantonal Court Zenica	4.54%	1.56%	-3.25%		3.19%
Cantonal PO Zenica	23.82%	21.78%	25.52%		23.86%
Municipal Court Kakanj	4.46%	2.20%	3.18%		4.06%
Municipal Court Tešanj	5.51%	2.16%	-4.78%		3.45%
Municipal Court Visoko	6.01%	2.26%	-2.12%		4.19%
Municipal Court Zavidovići	7.21%	31.20%	-12.50%		4.30%
Municipal Court Zenica	4.70%	1.65%	4.80%		4.49%
Municipal Court Žepče	4.07%	1.30%	1.01%		3.36%
TOTAL ZDK	8.14%	7.63%	1.47%		7.02%
Cantonal Court Goražde	2.56%	0.55%	-20.41%	1033.33%	1.93%
Cantonal PO Goražde	1.95%	0.98%	-5.60%		1.74%
Municipal Court Goražde	2.03%	1.16%	-1.43%	0.00%	1.37%
TOTAL BPK	2.18%	0.95%	-3.53%	126.42%	1.57%
Cantonal Court Travnik	-9.47%	-11.38%	-6.62%	-100.00%	-11.29%
Cantonal PO Travnik	-5.27%	-6.05%	10.85%	-100.00%	-5.44%
Municipal Court Bugojno	-2.66%	-5.95%	-9.96%	-100.00%	-7.86%
Municipal Court Jajce	1059.79%	1064.44%	175.37%	-100.00%	424.12%
Municipal Court Kiseljak	-6.83%	-5.57%	-2.32%	-100.00%	-13.87%
Municipal Court Travnik	-3.37%	-5.71%	-5.47%	-100.00%	-5.98%
TOTAL SBK	0.92%	-1.00%	-0.22%	-100.00%	-3.04%
Cantonal Court Mostar	3.34%	2.06%	-21.15%		1.47%
Cantonal PO Mostar	1.73%	0.47%	8.89%		2.60%
Municipal Court Čapljina	4.67%	0.38%	18.55%		6.16%
Municipal Court Konjic	7.08%	2.47%	9.43%		7.22%
Municipal Court Mostar	4.18%	1.26%	-9.12%		22.64%
Municipal Court Čitluk					
TOTAL HNK	3.97%	1.31%	-0.56%		12.84%
Cantonal Court Široki Brijeg	-7.18%	-8.00%	0.00%	0.00%	-6.65%
Cantonal PO Široki Brijeg	-6.98%	-8.00%	9.74%	0.00%	-4.13%
Municipal Court Ljubuški	-6.80%	-8.00%	0.00%	0.00%	-6.00%
Municipal Court Široki Brijeg	-6.73%	-8.00%	0.00%	0.00%	-6.22%
TOTAL ZHZ	-6.89%	-8.00%	2.58%	0.00%	-5.88%
Cantonal Court Sarajevo	0.05%	0.03%	-23.49%	-97.78%	-6.84%
Cantonal PO Sarajevo	4.42%	12.85%	-41.33%	-98.00%	-6.66%
Municipal Court Sarajevo	-0.79%	0.28%	-35.30%	0.00%	-7.13%
TOTAL SK	0.19%	2.26%	-33.33%	-64.14%	-6.99%
Cantonal Court Livno	-0.64%	-4.26%	56.76%	-66.67%	6.00%
Cantonal PO Livno	17.16%	15.44%	7.60%	-80.00%	12.11%
Municipal Court Livno	9.21%	4.73%	2.20%	-58.82%	6.55%
TOTAL K10	8.69%	4.86%	9.87%	-70.18%	7.52%
OVERALL TOTAL	4.98%	4.82%	-12.49%	42.68%	2.13%

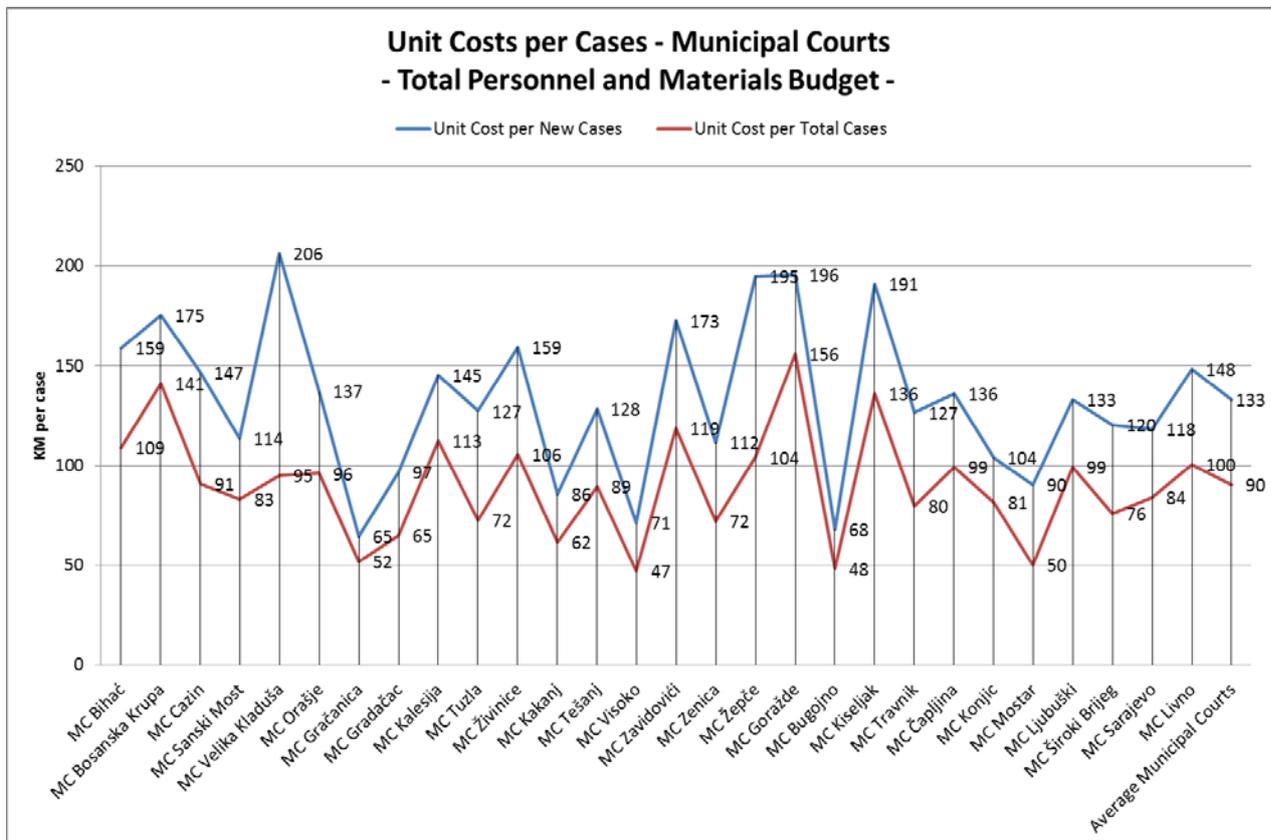
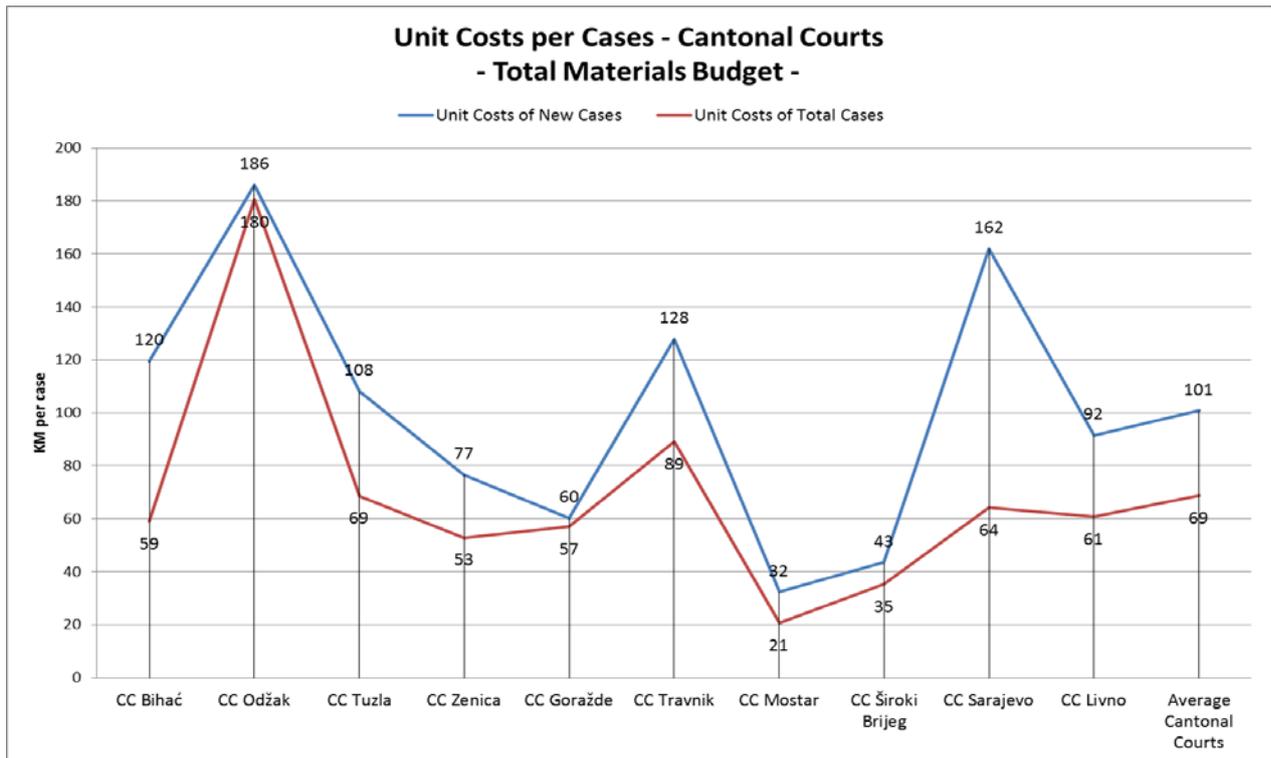
Annex 3: Backlog Cases in 2011

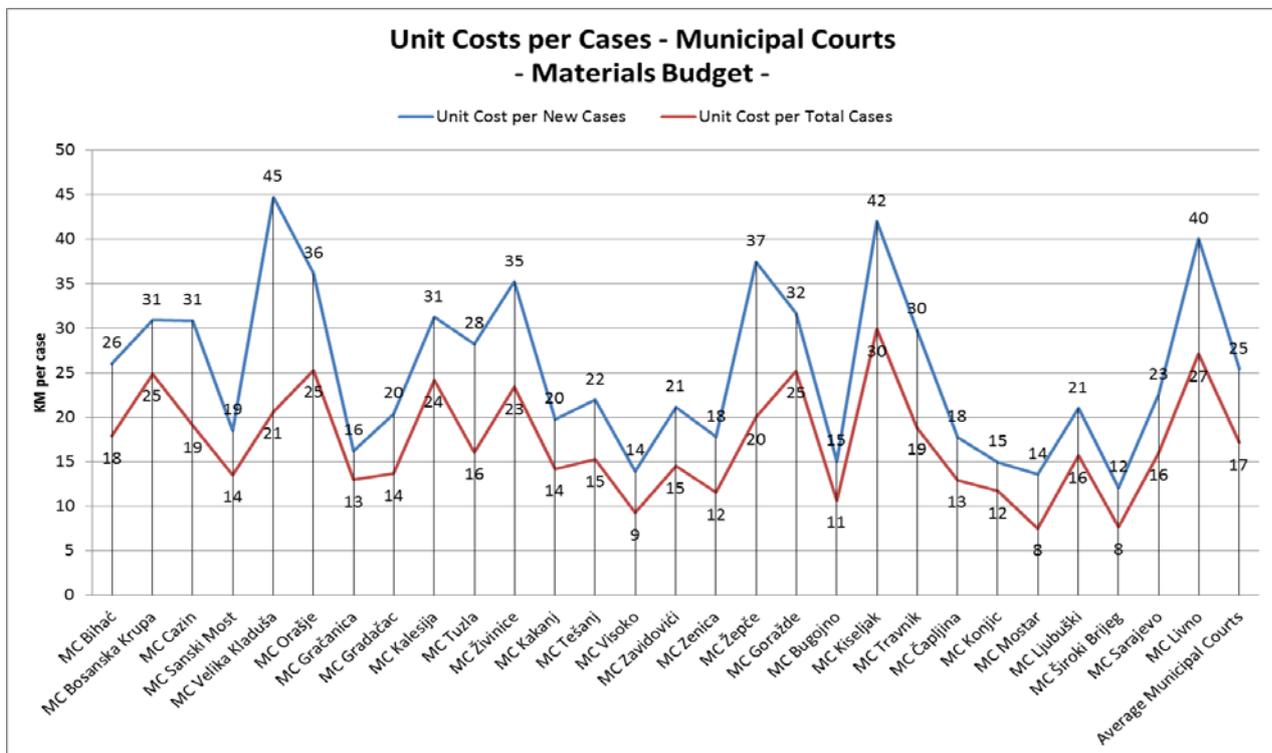
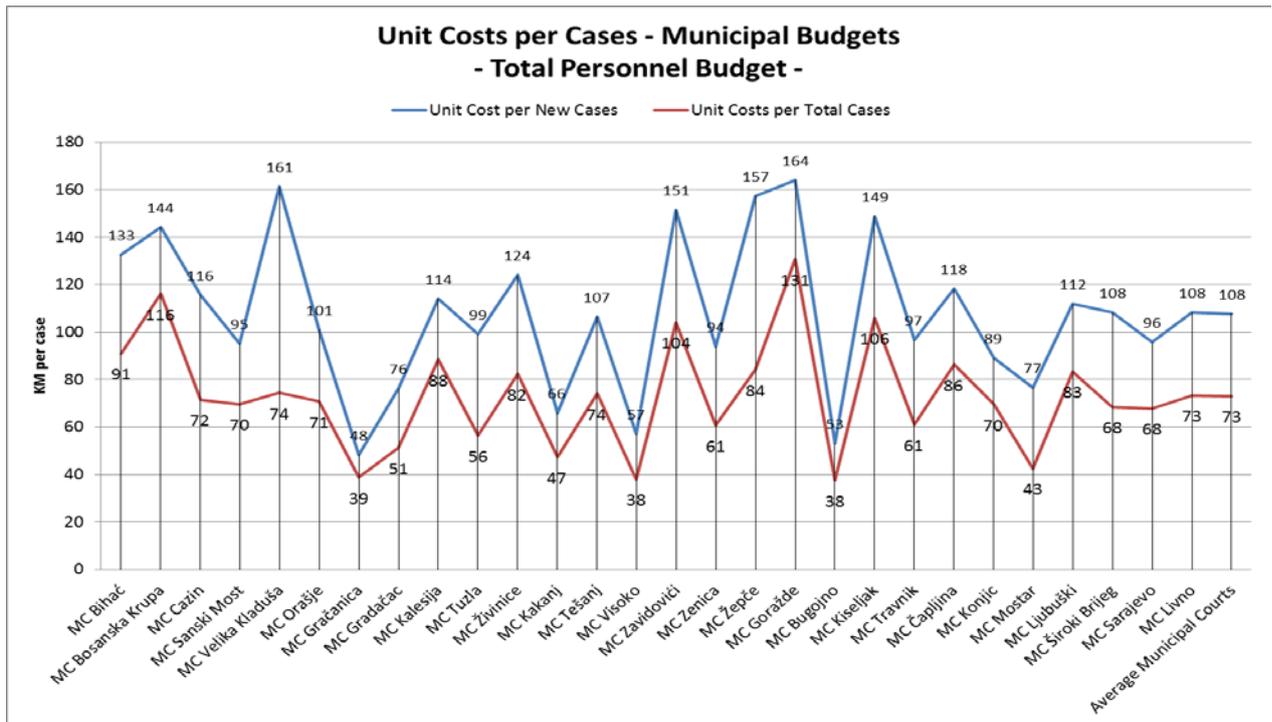
	No. of Backlog by 01.01.11.	Inflow in 2011	Total Cases in Work	% of Backlog to total Cases in Work	Additional Judges in 2011
Supreme Court FBiH	3,697	4,086	7,783	47.50%	8
Total Supreme Court FBiH	3,697	4,086	7,783	47.50%	8
Cantonal Court Bihać	3,666	3,558	7,224	50.75%	3
Municipal Court Bihać	10,050	21,994	32,044	31.36%	0
Municipal Court Bosanska Krupa	1,960	8,062	10,022	19.56%	0
Municipal Court Cazin	6,855	11,123	17,978	38.13%	1
Municipal Court Sanski Most	4,647	12,659	17,306	26.85%	0
Municipal Court Velika Kladuša	8,554	7,327	15,881	53.86%	2
Total Courts USK	35,732	64,723	100,455	35.57%	6
Cantonal Court Odžak	15	486	501	2.99%	0
Municipal Court Orašje	4,383	10,227	14,610	30.00%	0
Total Courts PK	4,398	10,713	15,111	29.10%	0
Cantonal Court Tuzla	3,631	6,324	9,955	36.47%	2
Municipal Court Gračanica	3,440	13,835	17,275	19.91%	0
Municipal Court Gradačac	8,097	16,537	24,634	32.87%	2
Municipal Court Kalesija	1,681	5,766	7,447	22.57%	0
Municipal Court Tuzla	38,156	50,368	88,524	43.10%	13
Municipal Court Živinice	8,236	16,226	24,462	33.67%	2
Total Courts TK	63,241	109,056	172,297	36.70%	19
Cantonal Court Zenica	2,024	4,500	6,524	31.02%	2
Municipal Court Kakanj	4,236	10,817	15,053	28.14%	1
Municipal Court Tešanj	3,748	8,553	12,301	30.47%	1
Municipal Court Visoko	14,186	28,099	42,285	33.55%	0
Municipal Court Zavidovići	6,288	13,808	20,096	31.29%	1
Municipal Court Zenica	20,511	37,713	58,224	35.23%	7
Municipal Court Žepče	2,718	3,117	5,835	46.58%	0
Total Courts ZDK	53,711	106,607	160,318	33.50%	12
Cantonal Court Goražde	20	340	360	5.56%	0
Municipal Court Goražde	1,281	5,002	6,283	20.39%	0
Total Courts PBK	1,301	5,342	6,643	19.58%	0
Cantonal Court Travnik	1,251	2,876	4,127	30.31%	3
Municipal Court Bugojno	13,457	32,840	46,297	29.07%	0
Municipal Court Kiseljak	2,737	6,765	9,502	28.80%	1
Municipal Court Travnik	16,693	28,640	45,333	36.82%	4
Total Courts BPK	34,138	71,121	105,259	32.43%	8
Cantonal Court Mostar	2,593	4,524	7,117	36.43%	0
Municipal Court Čapljina	3,883	10,489	14,372	27.02%	0
Municipal Court Konjic	3,785	13,614	17,399	21.75%	0
Municipal Court Mostar	34,355	42,964	77,319	44.43%	2
Total Courts HNK	44,616	71,591	116,207	38.39%	2
Cantonal Court Široki Brijeg	316	1,357	1,673	18.89%	0
Municipal Court Ljubuški	2,538	7,446	9,984	25.42%	0
Municipal Court Široki Brijeg	5,018	8,651	13,669	36.71%	1
Total Courts ZHZ	7,872	17,454	25,326	31.08%	1
Cantonal Court Sarajevo	14,570	9,536	24,106	60.44%	7
Municipal Court Sarajevo	61,956	150,981	212,937	29.10%	11
Total Courts SK	76,526	160,517	237,043	32.28%	18
Cantonal Court Livno	599	1,176	1,775	33.75%	0
Municipal Court Livno	7,403	15,490	22,893	32.34%	1
Total Courts K10	8,002	16,666	24,668	32.44%	1
TOTAL COURTS IN FBiH	333,234	637,876	971,110	34.31%	75

Annex 4a: Estimated Unit Costs for Courts (KM of approved budget per case)

	Total Operational Budget (Personnel+Materials)			Total Personnel Budget		Total Materials Budget		% of Backlog Cases in relation to Total
	Unit Costs by Backlog cases	Unit Costs New Cases	Unit Costs Total Cases	Unit Costs New Cases	Unit Costs Total Cases	Unit Costs New Cases	Unit Costs Total Cases	
Supreme Court FBiH	1,257	1,138	597	1,070	562	67	35	47.50%
Total Supreme Court FBiH	1,257	1,138	597	1,070	562	67	35	47.50%
CC Bihać	672	692	341	573	282	120	59	50.75%
CC Odžak	37,520	1,158	1,123	972	943	186	180	2.99%
CC Tuzla	850	488	310	380	241	108	69	36.47%
CC Zenica	1,191	536	370	459	317	77	53	31.02%
CC Goražde	22,508	1,324	1,250	1,264	1,194	60	57	5.56%
CC Travnik	1,527	664	463	536	374	128	89	30.31%
CC Mostar	781	448	285	416	264	32	21	36.43%
CC Široki Brijeg	2,112	492	399	448	364	43	35	18.89%
CC Sarajevo	399	610	241	448	177	162	64	60.44%
CC Livno	1,228	626	414	534	354	92	61	33.75%
Average Cantonal Courts	6,879	704	520	603	451	101	69	45.27%
MC Bihać	347	159	109	133	91	26	18	31.36%
MC Bosanska Krupa	721	175	141	144	116	31	25	19.56%
MC Cazin	238	147	91	116	72	31	19	38.13%
MC Sanski Most	310	114	83	95	70	19	14	26.85%
MC Velika Kladuša	177	206	95	161	74	45	21	53.86%
MC Orašje	320	137	96	101	71	36	25	30.00%
MC Gračanica	260	65	52	48	39	16	13	19.91%
MC Gradačac	197	97	65	76	51	20	14	32.87%
MC Kalesija	499	145	113	114	88	31	24	22.57%
MC Tuzla	168	127	72	99	56	28	16	43.10%
MC Žvinice	314	159	106	124	82	35	23	33.67%
MC Kakanj	219	86	62	66	47	20	14	28.14%
MC Tešanj	293	128	89	107	74	22	15	30.47%
MC Visoko	141	71	47	57	38	14	9	33.55%
MC Zavidovići	379	173	119	151	104	21	15	31.29%
MC Zenica	205	112	72	94	61	18	12	35.23%
MC Žepče	223	195	104	157	84	37	20	46.58%
MC Goražde	764	196	156	164	131	32	25	20.39%
MC Bugojno	166	68	48	53	38	15	11	29.07%
MC Kiseljak	472	191	136	149	106	42	30	28.80%
MC Travnik	217	127	80	97	61	30	19	36.82%
MC Čapljina	367	136	99	118	86	18	13	27.02%
MC Konjic	374	104	81	89	70	15	12	21.75%
MC Mostar	113	90	50	77	43	14	8	44.43%
MC Ljubuški	390	133	99	112	83	21	16	25.42%
MC Široki Brijeg	207	120	76	108	68	12	8	36.71%
MC Sarajevo	288	118	84	96	68	23	16	29.10%
MC Livno	311	148	100	108	73	40	27	32.34%
Average Municipal Courts	310	133	90	108	73	25	17	33.43%
Average Courts in Total	2,815	658	402	594	362	64	40	34.31%







Annex 4b: Estimated Unit Costs for Prosecutor's Offices (KM per reports under work, investigations under work and confirmed indictments)

Cantonal Prosecutor's Office	Unit cost per report under work	% of reports to CPO total	Unit cost per investigation under work	% of investigations to CPO total	Unit cost per confirmed indictments	% of indictments to CPO total
CPO USC	642	14%	1,127	13%	1,501	16%
CPO PC	1,147	1%	1,089	2%	1,731	3%
CPO TC	779	17%	970	23%	1,517	24%
CPO ZDC	682	12%	1,023	13%	1,299	17%
CPO BPC	1,402	1%	2,135	1%	2,285	1%
CPO SBC	879	6%	796	11%	1,370	10%
CPO HNC	1,764	4%	1,898	6%	3,949	5%
CPO ZHC	1,031	2%	1,141	3%	1,870	3%
CPO SC	390	42%	1,069	26%	2,692	17%
CPO C10	1,363	2%	1,588	3%	1,982	3%
Overall CPO	654	100%	1,095	100%	1,828	100%