



**USAID** | **BOSNIA-HERZEGOVINA**  
FROM THE AMERICAN PEOPLE

# BOSNIA JUSTICE SECTOR DEVELOPMENT PROJECT II

## MONITORING JUSTICE SECTOR INSTITUTIONS

JUNE 2011

This publication was produced for review by the United States Agency for International Development by the East-West Management Institute, Inc.  
Prepared by: Lejla Somun-Krupalija, in cooperation with USAID JSDP II

# MONITORING JUSTICE SECTOR INSTITUTIONS: WORKSHOP REPORT

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 December 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

<b>TABLE OF ACRONYMS</b> .....	<b>4</b>
<b>I. Introduction</b> .....	<b>5</b>
<b>II. Scope of Work (SOW) and Methodology</b> .....	<b>6</b>
<b>III. Assessments</b> .....	<b>6</b>
<b>IV. Trainings</b> .....	<b>8</b>
<b>V. Challenges</b> .....	<b>9</b>
<b>VI. Recommendations for Improvement</b> .....	<b>10</b>
<b>VII. Appendices</b> .....	<b>11</b>

## TABLE OF ACRONYMS

EWMI	East-West Management Institute, Inc.
USAID	United States Agency for International Development
USG	United States Government

## I. Introduction

In July 2009, the East-West Management Institute, Inc. (EWMI) was awarded a three-year contract (with possible two-year extension) 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.

Per 3.5. of the JSDP II Year 2 work plan, JSDP II will provide training to its partner NGOs aiming at improving their skills in monitoring justice sector institutions. Monitoring, as an activity aiming at systematic gathering of reliable information, is a powerful diagnostic tool that enables the assessment of the functioning of the justice sector, acting as a spotlight to identify areas in need of reform while also providing a direction for these reforms. With that in mind, currently JSDP II NGO partners are engaged in monitoring the implementation of the BiH Justice Sector Reform Strategy, rule of law and justice sector related recommendations stemming from the UN human rights monitoring mechanism - the Universal Periodic Review, as well as access to information in selected municipal courts and war crimes trials in selected cantonal and district courts. While a minor part of these monitoring activities consists of direct observation most of them consist of information-gathering techniques that rely on third party information.

The short-term monitoring, expert-provided, tailor-made training to JSDP II partners aiming at: 1) improving their monitoring skills and 2) equipping them with a monitoring methodology applicable in their everyday work. To that end, training sought to address different phases of a monitoring program, such as: 1) the *planning phase* relevant to making decisions regarding the focus and structure of the monitoring program, 2) the *preliminary assessment* to evaluate the appropriate focus, scope, methodology and timing of a monitoring operation (monitoring is not always appropriate for every situation or political context), 3) the *implementation* including methods to increase overall acceptance of the program among various actors through for example coalitions, as well as strategies to secure access to information, 4) *information management* (accuracy, consistency and compilation of information; analysis and findings) and 5) *public reporting and other advocacy activities* (different types of reports, incorporating the monitoring into wider processes of reform by strengthening links with authorities and stakeholders).

While the assessment of partner NGO monitoring skills and evaluation of current monitoring programs will best identify areas in need of improvement to be addressed through training, the short term monitoring expert provided special attention to the phase of public reporting as part of a wider advocacy strategy that seeks not only to inform, but also to engage and influence authorities and other stakeholders on the need for, and direction of, future reforms.

This initial monitoring training focused on enhancing partner NGOs' skills to monitor: 1) justice institutions similar in nature of their operations, such as High Judicial and Prosecutorial Council, Ministries of Justice, and possibly court and prosecutors' office

administration, and 2) similar processes such as the implementation of strategies, policies and procedures.

## II. Scope of Work (SOW) and Methodology

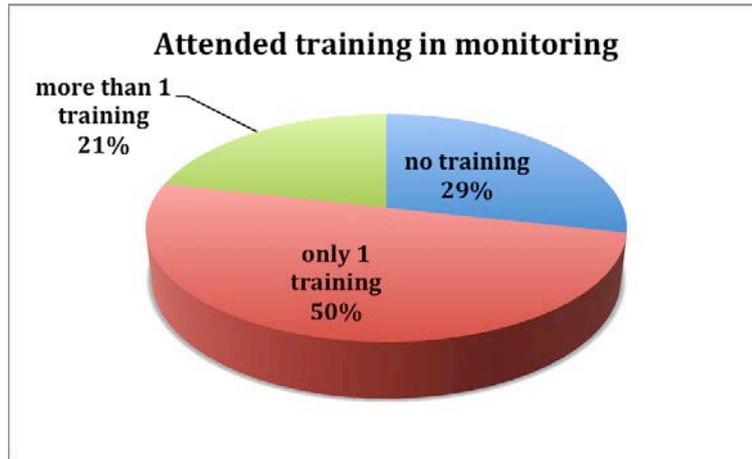
The SOW included a period between February and May 2011, a total of 10 work days in Sarajevo, Bosnia and Herzegovina. The expert assistance included:

1. The assessment of partner NGO monitoring skills, including where applicable review of their current monitoring programs relevant to the design of tailor made training and improvement of existing monitoring programs; (3 days)
2. The development of a training program and materials for two one day and a half long trainings on the topic for up to 15 NGOs in total. The chosen training method should suit the audience, the content and learning objectives. It should enable NGOs to apply and practice what they've been taught, as well as help them retain and transfer what they have learned. To that end, the expert will combine short introductory lectures with discussions and case studies, but give priority to those training methods that actively engage the audience and provide it with practical tools easily applicable in their everyday work. The training program and materials should be developed with BiH justice sector as context in mind, using both regional and international experience with preference given to that experience which BiH NGOs can relate to more easily. (3 days)
3. The delivery of two trainings to up to 15 NGOs in total. (3 days)
4. Writing a short report with recommendations on follow up action. (1 day)

## III. Assessments

The workshop participants, consisting of 18 individuals from 15 partner NGOs and institutions of JDSP II, were provided with a questionnaire (Appendix 1) used to assess their level of knowledge of monitoring and their existing challenges and needs in monitoring justice system institutions. A total of 14 responses, 9 women and 5 men, were received and provided the following input:

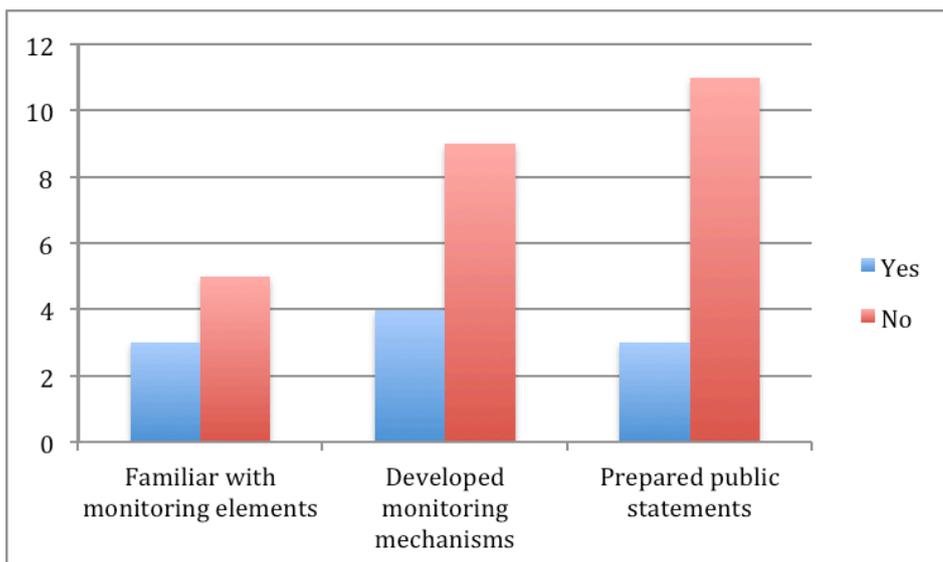
**General knowledge of monitoring:** the participants were of a varying level of knowledge in monitoring, as 4 had no training at all, 7 had attended one training only and 3 had attended more than one training, while only 1 of 14 held a monitoring training themselves.



**Monitoring elements:** despite having been trained in monitoring, only 3 potential participants were familiar with monitoring elements and were able to list them.

**Monitoring mechanisms:** even less potential participants were familiar with monitoring mechanisms; more than 30% had developed monitoring mechanisms.

**Basic lobbying knowledge:** potential participants were asked whether they had ever put together a public statement for media and only some 21% had.



It was clear that the workshop that had been proposed by the 15 NGO partners was well suited to the participants. However, it was clear that some 2/3 participants will have had some prior knowledge and that their expertise can be utilized in the workshop activities.

The participants also reported what their major challenges in monitoring were:

## **PLANNING**

- Clearly defined objectives, results, indicators, instructions on monitoring etc.
- Lack of clearly defined specific objectives and activities for specific time periods
- Unclear major indicators of success in comparison to objectives
- Unclear mandates for monitoring

## **ETHICS**

- Maintaining a neutral standpoint, keeping away from personal impressions and pressure from persons or institutions that are conducting the monitoring

## **METHODS**

- Methods of acquiring and analysis of data
- Developing monitoring methodology, as well as interpretation models.
- Data collection
- Acquiring exact data
- Data analysis
- Lack of access to information (sources of information not prepared to share data)

## **LOBBYING**

- Creating a link with projects, or strategies and programmes
- Use monitoring to help justice system and its institutions in BiH, as well as an easier access to ordinary people to them
- Identify and highlight lack of information and indirect initiative of improving the monitored system.
- Evaluation, presenting of monitoring conclusions.
- Lack of comparative quantitative data
- Limits set by political environment

## **OTHER ISSUES**

- Lack of experience

The acquired information from the assessment was used to define the workshop content and model specific sessions to participants' needs.

Some NGO partners were also willing to share some of their reports and experiences in monitoring through electronic documents that were also used to define workshop content.

## **IV. Trainings**

Two trainings were combined into one workshop that took place in Fojnica, Bosnia and Herzegovina 19-21 April 2011. The rationale for this organization of the workshop was that having one event in place of two would save travelling time for participants and that full 12 hours of training could be combined into one full day and two half-days. (Please see Appendix 2 – Workshop Program). The training contents and the workshop preparation process were discussed in detail on a number of meetings with JDSP II staff in Sarajevo, Bosnia and Herzegovina.

Monitoring justice system institutions can provide an understanding of what is working well and what is wrong in a justice system. Case delay, lack of access to justice, and corruption are the most common user complaints about justice systems. These problems represent obstacles to economic growth; they also disproportionately affect the poor.

How to define, detect and find remedies for these and other problems is the core of diagnostics. Monitoring provides a basis for programming and consensus building, and a baseline for measuring progress. This is in particular true for justice systems undergoing reforms, much like the Bosnia and Herzegovina one.

Based on an examination of monitoring studies (Appendix 3 – References), the workshop was planned to be a methodological introduction for carrying out monitoring of justice system institutions. It provided lessons learned from past experience and an overview of good practices from the world-wide and national institutions.

The workshop included the following topics:

- Introducing monitoring of justice system institutions,
- Planning of a monitoring process: choosing a team, setting the assessment's scope, managing risks, building relationships with counterparts.
- Monitoring process in detail: defining background, problem identification, collection of information, analysis of findings, prioritization of problems and causes, recommendations.
- Methodologies and tools that can be used in an assessment, and their strengths and weaknesses: conventional (documentary sources, analysis of legal documents, informant interviews, direct observation), less conventional quantitative tools (surveys, aggregate statistics, case file analysis), and qualitative tools (evaluating quality of judicial decisions, incentive analysis, focus groups, preliminary reporting feedback and collective interactions).
- Report writing, dissemination and operationalization of recommendations.

The workshop included numerous interactive exercises in groups or pairs and feedback was provided after each session to give comments and guidance.

## V. Challenges

The lack of compiled theoretical and practical information on all types and processes of monitoring justice system institutions is a challenge for organizations that plan to continue their work in monitoring the justice sector.

The greatest challenges in the workshop preparation were related to developing activities that could incorporate lack of knowledge on one hand, and maintain the interest of experienced participants, on the other hand. It was overcome by calling upon the slightly more experienced participants to take active participation in presenting specific workshop topics. It was very well met, but the challenge remained throughout the workshop with one of the participants who took up a lot of space and time and was difficult to facilitate.

The participants were even less experienced than what the assessment questionnaire results showed, some not having had any previous monitoring knowledge.

## VI. Recommendations for Improvement

It is recommended that the 15 NGO partners are provided with the following:

- **One-to-one trainings** for specific monitoring and lobbying skills. The variety of methods used/available and varying degree of experience in monitoring of participants were met by the Monitoring justice system institutions Workshop. All participants are now aware of a list of different methods of accessing data and information. Further development of NGO capacities would be best suited on a case-by-case support by expertise that has already used specific monitoring methods.
- **Handbook for Monitoring Justice System Institutions.** Using case studies, examples and tools, development of a handbook as a practical guide. It would be intended primarily for those who are actually involved in monitoring justice system institutions, but also for the institutions themselves. This handbook would also set clear standards and criteria in methods of data and information collection.
- **Experience sharing/trading.** The 15 NGO partners are already part of a network they established and this network can be used as a tool for sharing experiences. The workshop assessment can be used as a guide to experiences already identified and the NGOs can identify which further skills are required and are present in their network.

## VII. Appendices

### APPENDIX I – QUESTIONNAIRE

JDSP II - Monitoring Workshop  
19-21 April 2011  
**Questionnaire for Participants**

Please complete the questionnaire in electronic form and return it to [email] by 14.04.2011.  
Do attach relevant materials to describe responses to questions below.

	<i>Question</i>	<i>Answer</i>
1.	Name	
2.	Position/Job Title	
3.	Sex	Male <input type="checkbox"/> Female <input type="checkbox"/> Do not wish to answer <input type="checkbox"/>
4.	Email address	
<b>Topic-related questions</b>		
5.	Have you participated in any monitoring workshop or training that had sessions dedicated to monitoring? If so, please let us know the approximate title and dates of training and a brief description of it.	
6.	Did you hold any monitoring training? If so, please let us know the approximate title and dates of training and a brief description of it.	
7.	Would you say you are familiar with the key and basic monitoring elements? Can you name some?	
8.	Have you ever devised methods for monitoring? If so, please give us examples/a brief description.	
9.	Have you ever prepared public statements on monitoring data you collected? If so, please give some examples.	
10.	What are your greatest challenges when it comes to monitoring?	

	<i>Question</i>	<i>Answer</i>
11.	What are your greatest challenges when it comes to advocating/lobbying?	
12.	Please list at least three expectations you have from the Monitoring Training	
	1	
	2	
	3	
13.	Please give us any additional suggestions you have for this training:	
<b>Needs-related questions</b>		
14.	Do you have a disability?	
15.	Are there any specific needs you have related to your disability?	

Thank you!

## APPENDIX 2 – WORKSHOP PROGRAM

JDSP II - Monitoring radionica  
19.-21. April/travanj, 2011.g.

### PROGRAM

<b>1. dan</b>	
12.00	Uvod i upoznavanje
13.00	Ručak
14.00	Za početak – planiranje monitoringa
15.30	Pauza
15.45	Procesi monitoringa
17.15	Kraj 1. Dana
<b>2. dan</b>	
09.00	Metode prikupljanja podataka - konvencionalne
10.30	Pauza
11.00	Metode prikupljanja podataka – manje konvencionalne
12.30	Ručak
13.30	Uobičajene primjedbe na rad pravosuđa
15.00	Pauza
15.30	Metode prikupljanja podataka – manje nekonvencionalne subjektivne
17.00	Kraj 2. Dana
<b>3. dan</b>	
09.00	Izvještavanje
10.30	Pauza
11.00	Distribucija nalaza
12.30	Ručak
14.00	Zaključci i zatvaranje radionice

## APPENDIX 3 – REFERENCES

Anderson, James. [N.d.]. “Corruption in Slovakia: Results of Diagnostic Studies.” World Bank and United States Agency for International Development. Washington, DC.  
<http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/slovrep44.pdf>

CEPEJ (European Commission for the Efficiency of Justice). 2005. “European Judicial Systems 2002.” Council of Europe, Strasbourg.  
[http://www.coe.int/T/DG1/LegalCooperation/CEPEJ/evaluation/default\\_en.asp](http://www.coe.int/T/DG1/LegalCooperation/CEPEJ/evaluation/default_en.asp)

\_\_\_\_\_. 2006. *European Judicial Systems. Edition 2006 (2004 Data)* Strasbourg: Council of Europe.  
[http://www.coe.int/T/DG1/LegalCooperation/CEPEJ/evaluation/default\\_en.asp](http://www.coe.int/T/DG1/LegalCooperation/CEPEJ/evaluation/default_en.asp)

Financial Action Task Force/OECD. 2006. “Financial Action Task Force, AML/CFT Evaluations and Assessments. Handbook for Countries and Assessors.”  
<http://www.fatf-gafi.org/dataoecd/3/26/36254892.pdf>

Livingston Armytage. 2006 “Monitoring Performance of Legal and Judicial Reform in International Development Assistance: Early Lessons from Port Moresby & Phnom Penh,” CENTRE FOR JUDICIAL STUDIES, 18 September 2006.

Kritzer, Herbert M. 1999. “Using Public Opinion to Evaluate Institutional Performance: the Experience with American Courts.”  
<http://www1.worldbank.org/publicsector/legal/KritzerPremNote.doc>

OSCE/ODIHR. 2005 *OSCE Commitments Relating to the Right of a Fair Trial*

OSCE/ODIHR. 2008 *Trial-Monitoring: A Reference Manual for Practitioners*. Warsaw

UNODC (United Nations Organization on Drugs and Crime). 2006. “Assessment of the Integrity and Capacity of the Justice System in Three Nigerian States.” Technical Assessment Report. Vienna [http://www.unodc.org/pdf/corruption/publications\\_nigeria\\_assessment.pdf](http://www.unodc.org/pdf/corruption/publications_nigeria_assessment.pdf)

USAID. 2010 Guide to Rule of Law Country Analysis: The Rule of Law Strategic Frameworks

World Bank. 2007 *Justice Sector Assessments: A Handbook*.  
<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/JSAHandbook.doc>