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MONITORING AND EVALUATION SUPPORT ACTIVITY (MEASURE-BiH)

Judicial Effectiveness Index of Bosnia and Herzegovina (JEI-BiH)

Methodology and 2015 Results

March 2016

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March 2016

Prepared under the USAID's Bosnia and Herzegovina Monitoring and Evaluation Support Activity (MEASURE-BiH)

Submitted to:

USAID/Bosnia Herzegovina, March 2016

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This document is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of the authors and do not necessarily reflect the views of USAID or the United States Government.

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ACRONYMS

ABA	The American Bar Association
ABA RoLI	The ABA Rule of Law Initiative
BiH	Bosnia and Herzegovina
BC	Basic Court
CEPEJ	The European Commission for the Efficiency of Justice
CC	Cantonal Court
CMS	Case Management System
CSO	Civil Society Organization
DC	District Court
EBRD	The European Bank for Reconstruction and Development
EC	European Commission
EU	The European Union
FBiH	The Federation of Bosnia and Herzegovina
HJPC	The High Judicial and Prosecutorial Council of Bosnia and Herzegovina
IT	Information Technology
JEI-BiH	Judicial Effectiveness Index of Bosnia and Herzegovina
MC	Municipal Court
MEASURE-BiH	USAID/BiH Monitoring and Evaluation Support Activity in Bosnia and Herzegovina
MoJ	Ministry of Justice
NGO	Non-governmental Organization
PO	Prosecutor's Office
RS	The Republic of Srpska
T-CMS	Prosecutors' Case Management System
UN	The United Nations
USAID FILE	USAID/BiH Fostering and Investment and Lender Friendly Environment Project (2003–06)
USAID/BiH	The United States Agency for International Development Mission in Bosnia and Herzegovina
WJP	The World Justice Project

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ACKNOWLEDGMENTS

The authors would like to thank the many people who made the development of the Judicial Effectiveness Index of Bosnia and Herzegovina (JEI-BiH) possible. Most importantly, this study would not have been possible without the support and invaluable time offered by USAID/BiH staff who provided the original idea and resources. In particular, we are indebted to Ms. Elma Bukvic Jusic, the USAID/BiH Contracting Officer's Representative (COR) of MEASURE-BiH, for her crucial input, valuable comments, and guidance in all stages of JEI-BiH's development.

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina (HJPC) provided its subject-matter expertise, dedicated its staff's time, and showed utmost responsiveness in providing administrative data and assistance in conducting the survey of BiH judges and prosecutors. We are grateful to all HJPC members and Secretariat staff who helped us understand the BiH justice sector and participated in the JEI-BiH's design and implementation. We are particularly indebted to Mr. Admir Suljagic, the HJPC Secretariat Director, who was actively involved in all stages of JEI-BiH's development and was MEASURE-BiH's contact point in coordinating all HJPC-related activities.

EXECUTIVE SUMMARY

An independent and effective justice system in modern democracies safeguards human rights and is essential for development. Introducing indices to judicial systems globally serves four general purposes: (1) to measure change in a representative group of judicial data points, (2) to track the health of a judiciary from multiple perspectives, (3) to evaluate and predict trends in a judiciary, and (4) to make comparisons among different judiciaries.

USAID/BiH commissioned MEASURE-BiH Activity to develop the Judicial Effectiveness Index of Bosnia and Herzegovina (JEI-BiH), a unique and innovative tool to assess judicial effectiveness in Bosnia and Herzegovina (BiH). It is an empirical device for BiH authorities and other stakeholders (international organizations, development agencies, legal professionals, civil society organizations [CSO]) to make informed policy decisions and monitor progress towards establishing a more accountable, effective, and independent judiciary. JEI-BiH provides information to identify areas of deficiency, thus diagnosing where and what type of improvements are needed.

JEI-BiH tracks a set of indicators and uses a weighting and scoring scheme adapted to the BiH context to capture trends in the BiH judiciary over time — with JEI-BiH 2015 serving as the baseline against which progress in future years will be tracked. JEI-BiH tracks five major dimensions disaggregated into 52 sub-dimensions, for a total of 143 indicators. The Index is designed so that the overall JEI-BiH value and each dimension, sub-dimension, and indicator are scaled to Index values 0–100 (with 0 the worst-case scenario and 100 the best). In other words, the Index measures how far along the current state of the judiciary is, noting that the best-case scenario is based on the BiH-specific context to measure progress in future years against the 2015 benchmark.

Dimensions, sub-dimensions, and indicators used within JEI-BiH are tailored to the context of BiH and its judiciary. Development of JEI-BiH dimensions, sub-dimensions, and indicators was initially based on in-depth review of available international judiciary/rule of law indices. It was further adjusted to take into account BiH judiciary specifics identified through: (1) research on strategic and other relevant material on the BiH judiciary, (2) meetings with stakeholders,[1] and (3) review of available administrative data on court and prosecutor's office (PO) cases in BiH (within the information system of the BiH judiciary [CMS/T-CMS] implemented by HJPC).

JEI-BiH combines three data sources to create an objective snapshot of the BiH judiciary. Administrative data on the entire caseload of BiH courts and POs are paired with data on public perception and professional opinion (collected through the National Survey of Citizens' Perceptions and the Survey of Judges and Prosecutors in BiH, both conducted by MEASURE-BiH) to calculate JEI-BiH scores (both overall aggregate scores and disaggregated scores for each dimension, sub-dimension, and indicator) at different points in time.

JEI-BiH design and development took place throughout 2015. Data collection, processing, and analyses were conducted in the last quarter of 2015, along with the final scoring and production of JEI-BiH 2015 values.

[1] HJPC BiH, EU Delegation in BiH, MoJ BiH, Chamber of Attorneys of FBiH, Chamber of Notaries of FBiH, Chamber of Attorneys of RS, Association of Journalists of BiH, Association for Democratic Initiatives (ADI), ABA RoLI, and International Burch University – Social Sciences Research Center.

The overall 2015 Index value is 55.21 points (on a 0–100 scale). Individual values of each Index dimension are:

1. Dimension on Efficiency: 13.78 points (for the overall Index, on a 0–25 scale) or 55.12 percent of the maximum number of points (on a 0–100 scale);
2. Dimension on Quality: 14.97 points (for the overall Index, on a 0–25 scale) or 59.88 percent of the maximum number of points (on a 0–100 scale);
3. Dimension on Accountability and Transparency: 11.67 points (for the overall Index, on a 0 to 20 scale) or 58.35 percent of the maximum number of points (on a 0–100 scale);
4. Dimension on Capacity and Resources: 6.81 points (for the overall Index, on a 0–15 scale) or 45.4 percent of the maximum number of points (on a 0–100 scale);
5. Dimension on Independence and Impartiality: 7.98 points (for the overall Index, on a 0–15 scale) or 53.2 percent of the maximum number of points (on a 0–100 scale).

Between 2016 and 2019, MEASURE-BiH will continue to produce JEI-BiH on an annual basis (in continued cooperation with the HJPC) in January of each year. HJPC's feedback was taken into account throughout the JEI-BiH design stage – including in selecting dimensions, sub-dimensions, and indicators, and in the weighting and scoring methodology. Such close collaboration of MEASURE-BiH with the HJPC in design and data collection ensures JEI-BiH's practical applicability in BiH judiciary decision-making.

It is expected that upon completion of MEASURE-BiH in 2019, the technical sustainability and independence of JEI-BiH will be preserved through transferring JEI-BiH production to a local organization in cooperation with the HJPC.

This report contains two parts: on JEI-BiH methodology and on the results of JEI-BiH 2015. The JEI-BiH methodology section discusses motivation, technical approach, data sources, weighting and scoring methodology, inputs by USAID/BiH and the HJPC, and planning for the annual production of the index. The JEI-BiH 2015 section covers data collection, results, limitations, and illustrative examples of analyses that are based on the 2015 results.

JEI-BIH METHODOLOGY

1. MOTIVATION AND INTRODUCTION

1.1 OVERVIEW OF THE JUDICIARY OF BOSNIA AND HERZEGOVINA

The Dayton Accords in December 1995 created a post-war constitutional structure for BiH, in which the state consists of two entities – the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS) – with their own ministries of justice. Subsequent international arbitration resulted in the creation of the independent Brčko District, a multi-ethnic enclave that does not fall within the jurisdiction of either entity.

At the BiH level, there are the Court of BiH and the Prosecutor's Office (PO) of BiH. The FBiH has 31 municipal courts, 10 cantonal courts, the Supreme Court, 10 cantonal POs, and the FBiH PO. The RS structure mirrors the FBiH's, with 19 basic courts, five district courts, and the Supreme Court. RS also has courts of special jurisdiction: the district commercial courts and the Higher Commercial Courts. The Law on the POs in RS established five district POs and the PO of RS. Within the PO of Banja Luka, there is a Special Prosecutor's Office for Prevention of Organized and Most Severe Forms of Crimes. In 1999, the Brčko District was allowed self-government and a separate judicial system. BiH has 77 courts and 19 POs, as presented in Annex V.

The subject matter and territorial jurisdiction of BiH courts are regulated by four BiH laws; the organization and jurisdiction of the BiH POs are regulated by 14 laws (including at the cantonal level in FBiH).
JEI-BiH tracks major first-instance court cases, including criminal, civil, commercial, and administrative cases; the enforcement of civil, commercial, and utility cases (where applicable); and criminal, civil, commercial, and administrative appeal cases at the second-instance courts. At the level of the POs, JEI-BiH tracks general crime, corruption, other economic crime, and war-crimes cases. Definitions of these cases, as determined by the High Judicial and Prosecutorial Council of BiH, are used in JEI-BiH.

In accordance with the legislation on the HJPC, it is an independent body in charge of ensuring an independent, impartial, and professional judiciary composed of BiH courts and POs. Among other competences, the HJPC appoints judges and prosecutors, conducts disciplinary proceedings against judges and prosecutors, supervises their training and education, creates methodologies for evaluating the performance of judges and prosecutors, determines the number of judges and prosecutors, directs and coordinates the introduction and use of information technology (IT) in courts and POs, and enacts by-laws on court and PO administration and codes of ethics.

1.2 OVERVIEW AND RATIONALE FOR JEI IN BIH

USAID/BiH commissioned MEASURE-BiH to develop JEI-BiH, an innovative tool to help the donors and BiH stakeholders to track judicial performance. Within its Country Development Cooperation Strategy (CDCS), USAID/BiH has identified "[m]ore effective judicial, executive, and legislative branches of government" as an Intermediate Result (IR 1.1) in achieving the USAID/BiH Development Objective (DO 1) in Democracy and Governance Portfolio: "[m]ore functional and accountable Institutions and actors that meet citizens' needs." This Intermediate Result will be tracked and verified in part through JEI-BiH.

JEI-BiH was designed to meet the following criteria:

1. Provide an independent, objective, scientific, rigorous, and policy-relevant composite judicial indicator in the context of BiH
2. Conduct annual data collection, tabulation, processing, and analysis to produce aggregate JEI results over the period of performance of MEASURE-BiH activity, in collaboration with the HJPC
3. Ensure JEI-BiH's technical sustainability (methodological replication) and independence through transferring JEI-BiH to local organizations upon completion of MEASURE-BiH (expected in 2019)

It is important to understand the need for developing a BiH-specific judicial index, despite the existence of several international judicial indices. Indices and reports prepared by international organizations[2] are intended for general cross-country comparison. This, in turn, implies that these indices: (1) track the areas/topics/issues common to most countries, rather than taking into account the specifics of individual countries, and (2) are limited in that their data source must conform to the quality and quantity of data typically available in countries, rather than being able to make use of additional/higher quality data available in a narrower group of countries. In addition, the development cycle of many international judicial indices usually involves a lengthy process of data collection and analysis to accommodate the comparability of data across a large group of nations. While this maximizes the quality of cross-country comparisons, it substantially delays publication of these indices, making them less useful for actual decision-making.

To be practically useful for identification of issues and designing new policies/procedures/interventions, a custom-made tool fully adjusted to the BiH context was needed. JEI-BiH utilizes high quality, real-time case management data available in BiH and survey data systematically collected annually, thus providing timely useful information for judicial decision-making. The overall JEI-BiH, as well as each dimension, sub-dimension, and indicator, are scaled to Index values of 0 to 100, with 0 being the worst case scenario and 100 being the best. In other words, the Index measures how far the current state of the judiciary is along the distance from the worst to the best case scenario, noting that the best case scenario is defined based on BiH-specific context in order to measure progress in future years against the 2015 benchmark.

JEI-BiH was developed by MEASURE-BiH staff of local and international legal, economic, and statistics experts. USAID/BiH utilized MEASURE-BiH's expertise to establish the methodology and initiate JEI-BiH implementation. This was done in close collaboration with the HJPC, to ensure local ownership, practical usefulness, and sustainability of the Index. This multidisciplinary and participatory approach to JEI-BiH's design contributed significantly to a thorough understanding of the international and BiH domestic legal contexts, as well as to validating JEI-BiH and its weighting and scoring methodologies.

In summary, JEI-BiH provides a tool for BiH authorities and other stakeholders (international organizations, development agencies, legal professionals, CSOs) for informed decision-making and monitoring of progress towards establishing a more accountable, effective, and independent judiciary. It provides information to identify areas of deficiency, thus diagnosing where and what type of improvements are needed.

JEI-BiH includes 143 indicators, grouped into 52 sub-dimensions and five dimensions. It uses a weighting and scoring scheme adapted to the BiH context to capture trends in the BiH judiciary over time, with JEI-BiH 2015 serving as the baseline against which progress in future years will be tracked.

[2] UN Rule of Law index; World Justice Project (WJP) Rule of Law Index; Counsel of Europe – CEPEJ Report on European Judicial Systems Edition 2014.

2. JEI-BIH TECHNICAL APPROACH

2.1 LITERATURE REVIEW AND CONSULTATION WITH STAKEHOLDERS

We conducted extensive desk review of relevant literature at the beginning of JEI-BiH's development, and continued to review and consult the literature throughout the JEI-BiH design stages. Similarly, consultations with stakeholders[3] were conducted early in the JEI-BiH design process, with continuous inputs from the HJPC and USAID/BiH continuing throughout the design and implementation processes.

Desk review of internationally recognized judicial dimensions and indicators focused on the following indices and documents:

- ABA Judicial Reform Index
- ABA Prosecutorial Reform Index
- United Nations (UN) Rule of Law index
- World Justice Project (WJP) Rule of Law Index
- Counsel of Europe – The European Commission for the Efficiency of Justice (CEPEJ) Report on European Judicial Systems Edition 2014
- European Bank for Reconstruction and Development (EBRD) Principles of Effective Judicial Capacity
- World Bank Justice Assessment Sector Handbook

MEASURE-BiH analyzed dimensions, sub-dimensions, and indicators tracked within these indices and documents, paying particular attention to their relevance in the BiH context. MEASURE-BiH also identified additional variables that could contribute towards better tracking of BiH judiciary performance. Through comparative analysis, cross-referencing, elimination of duplicates, and identifying BiH-specific relevant dimensions and indicators, several conclusions emerged about the available data.

First, each of the international indices and measures naturally reflects the area of interest of the international organization conducting it. For example, areas covered by the UN index and the European Commission for the Efficiency of Justice (CEPEJ) report vary greatly, at times resulting in one country being ranked very differently in various indices and reports.

Second, international indices are limited in that their comparative coverage must conform to the level and quantity of data typically available in countries, rather than making use of additional, higher-quality data available in only a subset of the countries of interest. As a result, data sources used by international indices are primarily surveys of public perception, surveys of professional opinion, or structured interviews. Consequently, in most cases the data on quantifiable judicial performance (average duration of case disposition, backlog, etc.) are obtained through perception surveys, rather than from actual administrative data. One case where administrative data are significantly used is CEPEJ reporting. However, CEPEJ publications are bi-annual, and the results can be two years old by the time they are published — a time lag that substantially impedes their usefulness.

[3] HJPC BiH, EU Delegation in BiH, MoJ BiH, Chamber of Attorneys of FBiH, Chamber of Notaries of FBiH, Chamber of Attorneys of RS, Association of Journalists of BiH, Association for Democratic Initiatives (ADI), ABA RoLI, and International Burch University – Social Sciences Research Center

Third, some of the existing indices that track quantitative data on cases do not convert these variables into index scores. Rather, they report only on the direction of trends over time: upward, neutral, or downward in comparison with a previous reporting period. As a result, there is no full integration of those data with the rest of the indicators, and no uniform information on the intensity of change or progress towards the optimal state.

Finally, in many cases the scope of the literature reviewed is not appropriate in the BiH context, since most of the rule-of-law indices go beyond the judiciary to also examine dimensions and indicators in the jurisdiction of executive or legislative authorities in BiH (prison system, police, etc.), which are outside the scope of JEI-BiH.

All these reasons lead to the conclusion that none of the international indices can be used as the prime model for JEI-BiH development.

In addition to international literature and indices, MEASURE-BiH reviewed material related specifically to the BiH judiciary. This included:

- European Commission (EC) Progress Report on BiH for 2014
- 2014 Alternative Progress Report for BiH, produced by the Initiative for Monitoring European Union (EU) Integration of BiH
- Comparative overview of the 2014 Progress Report on BiH by the European Commission and the 2014 Alternative Progress Report for BiH produced by the Initiative for Monitoring EU Integration of BiH
- World Bank Doing Business 2015

Based on a review of the above and other relevant material, the following BiH-specific issues were identified as important to take into account in designing JEI-BiH:

- existing reports of corruption being present generally in the BiH public sector, including the judiciary
- slow progress in tackling organized crime
- lack of full independence and impartiality, including improper influence on the judiciary by political structures
- low public access to justice
- lack of judiciary accountability
- lack of transparency in the appointment of judges and prosecutors
- lengthy court proceedings
- unsatisfactory track record of investigation and prosecution for high-profile cases

A detailed list of findings and sources is shown in Annex IV.

In addition to the documents prepared by the international organizations/NGOs, MEASURE-BiH reviewed strategic documents adopted by the judiciary in BiH. These most notably include the HJPC Strategic Plan 2014–18. Development of this strategic plan took into account all other relevant strategic documents existing in the BiH judiciary sector, including:

- Draft 2014–18 BiH Justice Sector Reform Strategy
- National War Crimes Strategy

- 2012–15 Mid-term Strategy for Induction Training and Advanced Professional Training of Judges and Prosecutors
- 2009–14 Strategy for Combatting Corruption
- Strategy for implementation of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence
- Interim Agreement/Stabilization and Association Agreement with the EU
- Strategy against Human Trafficking in BiH and the 2013–15 Action Plan
- Strategy to Combat Juvenile Delinquency
- Action Plan for Preventing and Suppressing Crimes Involving Motor Vehicles
- Recommendations of the European Commission from the meeting of the EU – BiH Structured Dialogue on Justice
- BH Foreign Investors Council – White Book 2012–13.

The HJPC Strategic Plan also took into consideration the indicators developed by the CEPEJ and the World Bank within the framework of the EU Project for Monitoring and Evaluation Capacity Development in the Western Balkans and Turkey.

Considering the importance and complexity of the issues JEI-BiH is to capture and measure, MEASURE-BiH engaged in meetings with local stakeholders operating in/with the BiH judiciary: HJPC BiH, EU Delegation in BiH, Ministry of Justice (MoJ) BiH, Chamber of Attorneys of FBiH, Chamber of Notaries of FBiH, Chamber of Attorneys of RS, Association of Journalists of BiH, Association for Democratic Initiatives (ADI), American Bar Association Rule of Law initiative (ABA RoLI), and International Burch University – Social Sciences Research Center.

These meetings revealed that all stakeholders recognized some dysfunctions and needs for improvement in the justice sector, although views on specific areas needing improvement varied. Findings from interviews with stakeholders were taken into consideration, to the extent possible, in designing JEI-BiH.

Given JEI-BiH's ultimate goal to be useful for identifying issues and designing new policies by the judiciary system itself, as well as the utmost commitment exhibited by the HJPC, the HJPC was selected as the key counterpart in the development and implementation of JEI-BiH. USAID/BiH was informed and consulted during each stage of JEI-BiH's design and implementation (including through several presentations held by MEASURE-BiH, some attended by the HJPC Secretariat director), and USAID/BiH feedback was incorporated into the JEI-BiH's design.

2.2 JEI-BIH DIMENSIONS, SUB-DIMENSIONS, AND INDICATORS

Based on the literature review and adjustments identified as relevant to the BiH-context, as well as from interviews with stakeholders, the specific JEI-BiH dimensions, sub-dimensions, and indicators were designed in a five-stage process:

- Review of available international indices and extracting corresponding dimensions and sub-dimensions
- Elimination of dimensions and sub-dimensions used in international literature deemed irrelevant to the BiH context
- Addition of sub-dimensions relevant to the BiH context
- Selection of final dimensions and sub-dimensions to be used in JEI-BiH
- Identification of indicators and their data sources

JEI-BiH, as noted, has a three-tier structure: (1) dimensions (groups of sub-dimensions), (2) sub-dimensions (groups of indicators), and (3) indicators. The components of each appear below.

DIMENSIONS

Upon compilation and aggregation, the following five JEI-BiH dimensions were adopted:

Efficiency: the ability to dispose cases in a timely manner and without undue delays

Quality: application of and compliance with the legislation in court/PO proceedings and decisions

Accountability and Transparency: responsibility towards fulfilling the judicial mandate with sufficient levels of public access to information and public confidence

Capacity and Resources: levels of human, financial, and technical resources and capacities available for delivering judicial services

Independence and Impartiality: absence of improper influences on judicial and prosecutorial decisions, including trust in judges and prosecutors

The JEI-BiH dimensions were then assigned sub-dimensions and accompanying indicators in the pattern shown in Exhibit 1.

Exhibit 1. Number of Dimensions, Sub-dimensions, and Indicators in JEI-BiH

No.	JEI-BiH Dimension	Number of Sub-dimensions	Number of Indicators
1.	Efficiency	13	66
2.	Quality	7	13
3.	Accountability and Transparency	13	27
4.	Capacity and Resources	12	15
5.	Independence and Impartiality	7	22
Total		**52**	**143**

SUB-DIMENSIONS

The 13 sub-divisions of the dimension on Efficiency are shown in Exhibit 2.

Exhibit 2. Sub-dimensions within Efficiency Dimension

No.	Sub-dimension	Description
1.1.	Courts: Duration of Resolved Cases	Groups of indicators that measure average duration of cases handled Jan.1–Dec. 31, 2015 (relative to the date of initial filing). Observations are made of both first and second instance courts, covering criminal, civil, commercial, and administrative cases and enforcement of civil and commercial cases.
1.2.	Courts: Age of Unresolved Cases	Groups of indicators that measure average age of unresolved cases as of December 31, 2015 (relative to the date of initial filing). Observations are made of both first and second instance courts, covering criminal, civil, commercial, and administrative cases and enforcement of civil and commercial cases.
1.3.	Courts: Quantity of Unresolved Cases	Groups of indicators that measure the number of unresolved cases as of December 31, 2015. Observations are made of both first and second instance courts, covering criminal, civil, commercial, and administrative cases and enforcement of civil, commercial, and utility cases.
1.4.	Courts: Clearance Rates	Groups of indicators that measure the number of resolved cases in the period, divided by the number of incoming cases in the period January 1–December 31, 2015. Observations are made of both first and second instance courts, covering criminal, civil, commercial, and administrative cases and enforcement of civil, commercial, and utility cases.
1.5.	POs: Duration of Resolved Cases	Groups of indicators that measure the average duration of cases handled in the period of January 1–December 31, 2015 (relative to the date of initial filing). Observations are made of the first instance POs, covering general crime, corruption, other economic crime, and war crimes.
1.6.	POs: Age of Unresolved Cases	Groups of indicators that measure the average age of unresolved cases as of December 31, 2015 (relative to the date of initial filing). Observations are made of the first instance POs, covering general crime, corruption, other economic crime, and war crimes.
1.7.	POs: Quantity of Unresolved Cases	Groups of indicators that measure the number of unresolved cases as of December 31, 2015. Observations are made of the first instance POs, covering general crime, corruption, other economic crime, and war crimes.
1.8.	POs: Clearance Rates	Groups of indicators that measure the number of resolved cases, divided by the number of incoming cases, in the period of January 1–December 31, 2015. Observations are made of the first instance POs, covering general crime, corruption, other economic crime, and war crimes.
1.9.	Collective Quota – Judges	As set by HJPC regulation: the rate of handled cases by judges versus the number of cases prescribed by regulation to be handled in a period of one year.

1.10.	Collective Quota – Prosecutors	As set by HJPC regulation: the rate of handled cases by prosecutors versus the number of cases prescribed by regulation to be disposed in a period of one year.
1.11.	Public Perception on Efficiency of Courts	Groups of indicators that measure the perception of the timeliness of court decisions and trends in courts' backlog. Measured by National Survey of Citizens' Perceptions, conducted by MEASURE-BiH.
1.12.	Professional Opinion on Efficiency of Courts	Groups of indicators that measure the perception of the timeliness of court decisions and trends in courts' backlog. Measured by Survey of Judges and Prosecutors in BiH (designed by MEASURE-BiH and conducted in cooperation with the HJPC).
1.13.	Professional Opinion on Efficiency of POs	Groups of indicators that measure the perception of timeliness of prosecutors' decisions and trends in backlog of POs. Measured by Survey of Judges and Prosecutors in BiH.

In addition to the indicators outlined above, indicators on the inflow of cases are collected, to serve as supplementary data for a thorough analysis and understanding of trends within this dimension (although the data on inflows will not be scored within JEI-BiH values, as it is an independent variable that cannot be influenced by the judiciary).

The seven sub-dimensions of the dimension on Quality are shown in Exhibit 3.

Exhibit 3. Sub-dimensions within Quality Dimension

No.	Sub-dimension	Description
2.1.	Confirmation rate of First Instance Decisions	Groups of indicators that measure the rates of confirmation of the first instance decisions by the second instance (appellate) courts.
2.2.	Success of Indictments	Indicator that measures the ratio of indictments filed to convictions.
2.3.	Perception of quality of Courts	Groups of indicators that measure the perception of the quality of court/ judges' work. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
2.4.	Perception of quality of POs	Groups of indicators that measure perception of quality of POs' work. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
2.5.	Perception of quality of Attorneys	Groups of indicators that measure perception of the quality of attorneys' work. Measured by the National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
2.6.	Perception of quality of Notaries	Groups of indicators that measure perception of the quality of notaries' work. Measured by the National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
2.7.	Public Satisfaction with Court and Prosecutor Administrative Services	Indicator that measures the public's perception of courts' and prosecutors' administrative services received in the past 12 months. Measured by the National Survey of Citizens' Perceptions.

The 13 sub-dimensions of the dimension on Accountability and Transparency are shown in Exhibit 4.

Exhibit 4. Sub-dimensions within the Accountability and Transparency Dimension

No.	Sub-dimension	Description
3.1.	Performance Monitoring System of Judges and Prosecutors	Groups of indicators that measure the perception of existence and application of an effective monitoring performance system. Measured by Survey of Judges and Prosecutors in BiH.
3.2.	Supervision of Inadequate Performance of Judges and Prosecutors	Groups of indicators that measure the application of sanctions and awards for performance. Measured by the National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.3.	Disciplinary Procedures	Groups of indicators that measure the success rate of initiated disciplinary proceedings (measured by the HJPC administrative data), as well as the public perception of disciplinary proceedings (measured by the National Survey of Citizens' Perceptions).
3.4.	Random Case Assignment	Groups of indicators that measure the perception of possibly getting a preferred judge to adjudicate a case. Measured by the National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.5.	Access to Case Files	Groups of indicators that measure the perception of the ability to review one's own case file. Measured by the National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.6.	Access to Hearings	Groups of indicators that measure perception of ability to observe a hearing/trial. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.7.	Access to Judgments	Groups of indicators that measure perception of ability to review final judgments. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.8.	Access to Evidence	Indicator that measures perception of the ability to access all evidence after the confirmation of indictment. Measured by Survey of Judges and Prosecutors in BiH.
3.9.	Access to Reports / Statistics	Groups of indicators that measure the perception of availability of official reports/statistics of the work of courts and POs. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.10.	Media Reporting	Groups of indicators that measure the perception of selectivity and objectivity of media reporting. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.11.	Affordability of Court Fees/Taxes	Groups of indicators that measure the perception of adequacy of court fees. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
3.12.	Absenteeism of Judges and Prosecutors	Indicator that measures professional opinion on abuses of work leaves by judges/prosecutors. Measured by Survey of Judges and Prosecutors in BiH.
3.13.	Code of Ethics	Indicator that measures professional opinion on conducting in accordance with code of ethics. Measured by Survey of Judges and Prosecutors in BiH.

The 12 sub-dimensions of the dimensions on Capacity and Resources are shown in Exhibit 5.

Exhibit 5. Sub-dimensions within Capacity and Resources Dimension

No.	Sub-dimension	Description
4.1.	Speed of Appointing Judges and Prosecutors	Indicator that measures perception of the efficiency of appointments of judges and prosecutors. Measured by Survey of Judges and Prosecutors in BiH.
4.2.	Competence of Judges and Prosecutors	Groups of indicators that measure perception of the competence of newly appointed judges and prosecutors. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
4.3.	Adequacy of Judges' and Prosecutors' Training / Education	Indicator that measures perception of levels of usefulness of the training / education. Measured by Survey of Judges and Prosecutors in BiH.
4.4.	Adequacy of Judges' and Prosecutors' Salaries	Groups of indicators that measure perception of the adequacy of salaries paid to judges and prosecutors. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
4.5.	Adequacy of Attorneys' / Notaries' Compensation	Groups of indicators that measure perception of the adequacy of attorneys' and notaries' compensation. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
4.6.	Timeliness of Judges' and Prosecutors' Salaries	Indicator that measures perception of the timeliness of payment of judges' and prosecutors' salaries. Measured by Survey of Judges and Prosecutors in BiH.
4.7.	Timeliness of Compensations of Attorneys by Courts (for ex-officio defense)	Indicator that measures perception of timeliness of payment of attorneys' compensation. Measured by Survey of Judges and Prosecutors in BiH.
4.8.	Adequacy of the Support Staff	Indicator that measures perception of the competence of the current administrative/support staff in courts and POs. Measured by Survey of Judges and Prosecutors in BiH.
4.9.	Adequacy of the Budget for Operations	Indicator that measures the perception of allocated budgets. Measured by Survey of Judges and Prosecutors in BiH.
4.10.	Adequacy of Facilities	Indicator that measures perception of the adequacy of buildings, court rooms, and support premises for conducting court business and services. Measured by Survey of Judges and Prosecutors in BiH.
4.11.	Adequacy of IT Support	Indicator that measures the perception of adequacy of IT equipment, software, and accompanying support. Measured by Survey of Judges and Prosecutors in BiH.
4.12.	System/Mechanisms to Meet Dynamic Changes (Increase / Decrease) in Case Inflow	Professional opinion on the system's readiness to cope with abrupt changes in inflow of cases. Measured by Survey of Judges and Prosecutors in BiH.

In addition to the indicators outlined above, indicators on the financing of courts and POs, and the number of judges and prosecutors and their support staff, are also collected, to serve as supplementary data for a thorough analysis and understanding of trends within this dimension (although these data will not be scored within JEI-BiH values).

The seven sub-dimensions of the dimension on Independence and Impartiality are shown in Exhibit 6.

Exhibit 6. Sub-dimensions within Independence and Impartiality Dimension

No.	Sub-Dimension	Description
5.1.	Objectivity of Career Advancement Criteria for Judges and Prosecutors	Indicator that measures the perception of objectivity of criteria for advancement of judges and prosecutors and their application. Measured by Survey of Judges and Prosecutors in BiH.
5.2.	Judges' and Prosecutors' Professional Immunity / Tenure	Indicator that measures the perception of adequacy of mechanisms regulating immunity and tenure established by legislative framework and their practical applications. Measured by Survey of Judges and Prosecutors in BiH.
5.3.	Adequacy of Personal Security of Judges and Prosecutors	Indicator that measures the perception of adequacy of mechanisms that ensure the personal security of judges, prosecutors, and their close family members – and their practical applications. Measured by Survey of Judges and Prosecutors in BiH.
5.4.	Independence of Judges and Prosecutors in Acting – Absence of Corruption and/or Improper Influence	Groups of indicators that measure the perception of influences on decisions of judges and prosecutors. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
5.5.	Trust in Judges	Groups of indicators that measure the perception of overall trust in judges. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
5.6.	Trust in Prosecutors	Groups of indicators that measure the perception of overall trust in prosecutors. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.
5.7.	Equal Application of Law	Groups of indicators that measure the perception of absence of various forms of discrimination in the application of law. Measured by National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH.

INDICATORS

We selected 143 indicators for the 52 sub-dimensions. All indicators included in JEI-BiH were constructed using three sources of data (HJPC administrative data, National Survey of Citizens' Perceptions, and Survey of Judges and Prosecutors in BiH). We tried to use more than one source of data whenever possible, to examine different perspectives of the same issue and thus reduce bias. In particular, indicators measuring perceptions were designed to include both public perception and professional opinion whenever possible. We used administrative HJPC data whenever possible, including for almost the entire Efficiency dimension,

for part of the Quality dimension, and for one indicator on disciplinary proceedings of the Accountability and Transparency dimension. Indicators from administrative data were also paired with data from the perception surveys whenever possible.

A full list of all indicators and their grouping and referencing in sub-dimensions is given in Annex I [JEI-BiH 2015]. The HJPC administrative data are shown within JEI-BiH 2015, Annex I. Questions used for indicators based on perception surveys are given in Annex II and Annex III. In addition to the full list of indicators, JEI-BiH 2015, presented in Annex I, also shows their 2015 scores, as well as their weights in JEI-BiH.

3. JEI-BIH DATA SOURCES

MEASURE-BiH used three data sources in constructing JEI-BiH, to create an objective snapshot of the BiH judiciary from all relevant perspectives. Administrative HJPC Court Case Management System / Prosecutors' Case Management System (CMS/T-CMS) data on all cases of BiH courts and POs were paired with data on public perceptions and professional opinion (collected through the National Survey of Citizens' Perceptions and Survey of Judges and Prosecutors in BiH, both conducted by MEASURE-BiH) to construct JEI-BiH scores (overall aggregated scores and disaggregated scores for each dimension, sub-dimension, and indicator). As noted, special care was devoted to using more than one source of data whenever possible, to examine different perspectives on the same issue and thus reduce bias.

3.1 HJPC CASE MANAGEMENT SYSTEM ADMINISTRATIVE DATA

In the past 10 years, the BiH judiciary has made significant efforts to develop and implement its information management systems. Initially developed by USAID/BiH Fostering and Investment and Lender Friendly Environment Project, 2003–06 (USAID FILE), the Case Management System (CMS) was fully implemented under the HJPC umbrella, with international donors' (EC, Sweden, Netherlands, Norway, and Turkey) financial assistance in all courts in BiH, by the end of 2009.

Development and implementation of the T-CMS followed in 2009 and 2010. In the ensuing years, the HJPC made significant efforts to ensure that all pending cases are recorded in the system and that data quality is assured. As a result, beginning in 2012, all cases have been processed through CMS/T-CMS, with satisfactory data quality. Data are available on all case types (including criminal, civil, commercial, and administrative), as well as enforcement cases at both the first and the second instance proceedings. In addition, T-CMS data cover all principal prosecutors' cases (including general crime, corruption, economic crimes, and war crimes). For the above-mentioned case types, data were collected for the average duration of disposed cases, age of pending cases, size of backlog, and clearance rate.

Realizing the tremendous value of the CMS/T-CMS data to all court and PO cases, MEASURE-BiH incorporated the database into JEI-BiH development whenever possible. Out of 143 JEI-BiH indicators, 65 are sourced from the HJPC administrative data.[4]

[4] Business Intelligence (BI) Report – which provides detailed specification of case types used for the extraction of data from the HJPC databases, as well as all filters and constraints applied in data extraction – is available upon request.

3.2 SURVEY OF JUDGES AND PROSECUTORS IN BIH

The Survey of Judges and Prosecutors in BiH was designed by MEASURE-BIH and slightly adjusted to include feedback received from the HJPC's Committee for Efficiency of Courts and its Committee for Efficiency of Prosecutor Offices. The survey included 33 questions with additional sub-questions (as shown in Annex II). Upon piloting the survey with the HJPC-assigned 10 Secretariat members with legal expertise, the survey was sent to all BiH judges and prosecutors (1,459). A total of 458 responses to the survey were received.

The survey collected answers of judges and prosecutors on the efficiency and quality of courts and POs, the competence of appointed judges and prosecutors, performance monitoring system of judges and prosecutors, supervision of inadequate performance of judges and prosecutors, adequacy of judge and prosecutor salaries, objectivity of career advancement, independence of judges and prosecutors in acting, absence of corruption and improper influence, etc. All survey questions are attached in Annex II. Of 143 JEI-BiH indicators, 49 are sourced from the Survey of Judges and Prosecutors.

3.3 NATIONAL SURVEY OF CITIZENS' PERCEPTIONS

Within its activity scope, USAID/BiH tasked MEASURE-BiH with conducting an annual survey of public perceptions on various topics of interest to BiH citizens, local authorities, and the donor community. For the purpose of JEI-BiH construction, MEASURE-BiH designed a special section of the survey to obtain citizens' perceptions of the BiH judiciary. Of 143 JEI-BiH indicators, 29 are sourced from the National Survey of Citizens' Perceptions. (Annex III shows questions used for indicators based on this survey.)

Through stratified random sampling, the survey was conducted on a representative sample of 3,000 BiH households in the period of September–November 2015. The survey collected answers on the efficiency and quality of courts and POs, competence of judges and prosecutors, adequacy of judge and prosecutor salaries, court fees, etc. (All survey questions are attached in Annex III.)

Data analyses and scoring were conducted by MEASURE-BiH. Future annual surveys will be conducted using the same methodology, to ensure time-series comparability.

Exhibit 7 shows the number of JEI-BiH indicators per data source.

Exhibit 7. Number of JEI-BiH Indicators per Data Source

Source of Data	Number of Indicators
HJPC Administrative CMS/T-CMS Data	65
Professional Survey	49
National Survey	29

4. WEIGHTING AND SCORING METHODOLOGIES

4.1 WEIGHTING METHODOLOGY

An essential part of developing a composite indicator, such as JEI-BiH, is making decisions on the weighting, based on different data sources, of: (1) dimensions within the aggregate Index value, (2) sub-dimensions within dimensions, and (3) indicators within sub-dimensions.

Decisions on weighting the five dimensions were made based on the BiH stakeholder's HJPC expert proposal, with the Efficiency and Quality dimensions having 25 percent weight each, the Accountability and Transparency dimension 20 percent weight, and the Capacity and Resources and Independence and Impartiality dimensions each having 15 percent weight.

Exhibit 8. JEI-BiH Weights for Dimensions

JEI-BiH Dimension	Number of Sub-dimension	Number of Indicators	Dimension Weights
Efficiency	13	66	25
Quality	7	13	25
Accountability and Transparency	13	27	20
Capacity and Resources	12	15	15
Independence and Impartiality	7	22	15

Equal weights were applied for all sub-dimensions within each dimension, with the following exemptions based on HJPC expert advice:

- Within the Quality dimension, sub-dimensions on "Confirmation of first instance decisions" and "Successfulness of indictments" were assigned 25 percent weight each, with the remaining weight for this dimension equally distributed across the rest of the sub-dimensions.
- Within the Accountability and Transparency dimension, the sub-dimension on Disciplinary Procedures was assigned 25 percent weight, with the remaining weight for this dimension equally distributed across the rest of the sub-dimensions.

Finally, in weighting indicators within sub-dimensions, equal weights were applied and the following three approaches were used:

1. For sub-dimensions with only one indicator coming from a single survey (either the National Survey of Citizens' Perceptions or the Survey of Judges and Prosecutors in BiH), that indicator's weight was 100 percent.
2. For sub-dimensions with two indicators, one from each of the two surveys, each indicator was assigned a 50 percent weight.
3. For sub-dimensions with multiple indicators coming from multiple data sources (i.e., different administrative data, multiple survey questions, or any combination of these), equal weights were assigned to each indicator.

The only exception, also based on HJPC expert advice, was applied to corruption cases at the PO level, for which corruption cases were weighted 67 percent, versus 33 percent for other cases of economic crime.

4.2 SCORING METHODOLOGY

The JEI-BiH scoring methodology's design was based on the following principles:

- JEI-BiH's annual value between 0 and 100 points, where 0 and 100 are extreme values.
- 0 represents a status of total judicial ineffectiveness.
- 100 represents an ideal status of maximum effectiveness (state of "utopia", a best-case scenario).
- Scoring of all indicators is scaled between 0 and 100.
- Sum of weighted averages of all indicators generates overall JEI-BiH score.

SCORING OF INDICATORS OBTAINED THROUGH SURVEYS

Scoring of indicators from surveys was straightforward. Responses for survey questions were on scales of seven, five, three, or two options, which were then scaled to values 0–100, with responses pointing to the most desirable direction valued at 100.

Exhibit 9 shows an example of scoring a survey question with a seven-scale response.

Exhibit 9. Example of Scoring Methodology for Survey Answers

Question: How satisfied are you with the administrative services of courts and prosecutors' offices in your area in the last 12 months?	Scales (0-100%) (1)	Number of Answers (2)	Total (1)*(2)
1 (Completely satisfied)	100%	200	200
2 (Mostly satisfied)	83%	250	208
3 (Somewhat satisfied)	67%	400	268
4 (Neither satisfied nor dissatisfied)	50%	700	350
5 (Somewhat dissatisfied)	33%	100	33
6 (Mostly dissatisfied)	17%	200	34
7 (Completely dissatisfied)	0	100	0
Did not use the services	N/A	550	
Total		2,500	1,093

Within the sample of 2,500 respondents are 1,950 who have used services within the last 12 months. Points per type of response in relation to the total number of respondents who have used the service

are then calculated as: 1,093/1,950 = 56 percent (i.e., total by type of response, divided by the number of answers scored, noting that only respondents who used the service are taken into account).

Converting 56 percent into Index points on a 1–100 scale would give this indicator 56 Index points.

One exception to the aforementioned scoring rule was made for indicators on the adequacy of salary/compensation of judges, prosecutors, lawyers, notaries, and of court fees/taxes. In these instances, responses *at adequate levels* were scored as 100 percent, while responses of *too low* and *too high* were both scored as 0 (i.e., interpreted as not being adequate).

SCORING OF INDICATORS OBTAINED FROM THE HJPC ADMINISTRATIVE DATA

In incorporating HJPC data in JEI-BiH, comprehensiveness and accuracy of the HJPC data were a great advantage, whereas adapting them into the Index was more complex than for the survey data explained above. Specifically, actual values of indicators sourced from the HJPC data needed to be scaled to Index values of 0 to 100 to achieve the prime purpose of the Index, which is to measure how far the current state is along the line from the worst-case to best-case scenario ("utopia"), noting that the best-case scenario is defined based on BiH-specific context, to measure progress in future years against the 2015 benchmark.

MEASURE-BiH examined options for scaling administrative data to Index values. Defining the best-case scenario based on the best global performers (e.g., data on advanced countries within CEPEJ publications) was impossible due to the lack and/or incomparability of the data on advanced countries with the BiH data. Examples of comparability issues include: (1) different classifications of cases, and (2) large differences in the stock of backlog, which results in different ranges for clearance rates.

Additional challenges included specification of precise definitions to be used for these indicators (e.g., should average case length be calculated based on closed or pending cases, or both), as well as specifying the maximum, theoretically possible extreme values (e.g., maximum clearance rate). Upon careful examination of such issues and detailed analyses of 2012–15 HJPC data, MEASURE-BiH designed two methodologies for scaling administrative data to Index values, as described below.

TYPE I: HJCP DATA EXPRESSED IN INTEGERS AS UNITS OF MEASURE

The first type of JEI-BiH indicators sourced from the HJPC administrative data has integers as the unit of measure. This includes data on number of days and number of cases. Average duration of cases (both open and closed) is expressed in number of days, while quantity of pending cases is expressed in number of cases.

MEASURE-BiH first extracted the 2012–14 HJPC administrative data. These data were used to calculate historical averages, to be set as the central point of the indicator scale (i.e., as 50 on a 0–100 scale). The best-case scenario (100 on the Index scale) is intuitively set as 0 actual value (i.e., 0 days and 0 cases, which represent the best theoretical case — the extreme value possible only in theory). The worst-case scenario (0 on the Index scale) is set as twice the value of the central point. In other words, the assumption is that the BiH-specific worst-case scenario (in which having an Index such as JEI-BiH to track progress becomes irrelevant) is performance that is two times worse than the average 2012–14 performance.

For example, if the average duration of a court case was 300 days in 2012–14 and 240 days in 2015, the value of 600 days is the worst-case scenario (0 on the Indicator scale), 300 days is the central point (50 on the Index scale), and 0 days is the best-case scenario (100 on the Index scale). The 2015 value for this indicator (of 240 days in 2015) is 60 on the Index scale from 0 to 100. Exhibit 10 shows further detail.

Exhibit 10. Example of Scoring Methodology for Administrative Data – Type I

Actual Value (days)	Index Value (0–100 scale)	Interpretation
0	**100**	**The Best Scenario**
60	90	
120	80	
180	70	
240	**60**	**2015 Value**
300	**50**	**2012–14 Average**
360	40	
420	30	
480	20	
540	10	
600	**0**	**The Worst Scenario**

The 2015 value shows an improvement of 60 days in actual value, which represents a 10 percent improvement within the total range of actual values (from 0 to 600 days), thus corresponding to a 10-point improvement in the Index scale (improvement from 50–60 points within the 0–100 Index scale).

Of 65 JEI-BiH indicators sourced from the HJPC administrative data, 43 are Type-I scaled.

TYPE II: HJPC DATA EXPRESSED IN PERCENTAGE AS UNIT OF MEASURE

The second type of JEI-BiH indicators sourced from the HJPC administrative data has percentages as the unit of measure. This includes indicators such as clearance rate and collective quotas.

In theory, most of these indicators should have a maximum value of 100 percent (e.g., if all cases are disposed, the clearance rate should be 100 percent). However, in the BiH context — which is not unique to BiH, as many other judiciaries globally have a similar situation, including some developed countries — the existence of backlogs at all court instances and POs causes the values of these indicators to exceed 100 percent.

MEASURE-BiH examined the 2012–15 HJPC administrative data for these indicators. The 2012–14 data (across different indicators expressed in percentages) fall within the 80–133 percent range (53%, 66%, and 154% are isolated extremes or outliers). With this in mind, for these indicators, the 150 percent actual value is set as the best-case scenario (100 on the Index scale). The worst-case scenario (0 on the Index scale) is intuitively set as 0 percent in actual value (e.g., a clearance rate of 0%, which represents the worst

possible case). Finally, the actual value of 100 percent (e.g., a clearance rate of 100 percent) is set to two thirds of the scale (i.e., 66 points on 0–100 Index scale). In other words, the assumption is that the best-case scenario for the BiH judiciary is rates of 150 percent for this group of indicators. For example, if the clearance rate of a court case was 125 percent in 2015, the 2015 score is 83.3 on the Index scale of 0–100.

Exhibit 11 shows further detail.

Exhibit 11. Example of Scoring Methodology for Administrative Data – Type II

Actual Value (%)	Index Value (0–100 scale)	Interpretation
0	**0**	**The Worst Scenario**
25	16.67	
50	33.33	
75	50	
100	**66.67**	
125	83.34	**2015 Value**
150	**100**	**The Best Scenario**

There is one exception within the scoring rule of this type of indicator. Backlog is not relevant for Sub-dimension on Confirmation of First-instance Decisions, as this Sub-Dimension shows number of confirmed first instance decisions in comparison to the number of reviewed first instance decisions. In other words, in this case, the maximum theoretical and practical extreme value is 100 percent. Thus, for this Sub-dimension, 100 percent actual value is set as the best case scenario (100 on the Index scale).

Of 65 JEI-BiH indicators sourced from the HJPC administrative data, 22 are Type II indicators.

5. USAID/BIH AND HJPC INPUT

MEASURE-BiH presented each stage of JEI-BiH development to USAID/BiH, and USAID/BiH's feedback, as noted, was taken into account throughout the process. This, in particular, helped to shape the strategic direction and purpose of JEI-BiH to serve as a tool for the identification of BiH judiciary trends and needs.

The HJPC played an essential role in the design of JEI-BiH and in data collection. The HJPC appointed an operational team for JEI-BiH development that included a vice president of HJPC, one HJPC member, director of the HJPC Secretariat, and three additional experts from the HJPC Secretariat. MEASURE-BiH and HJPC teams were in continuous written correspondence and held meetings an average of once a month. In the last stages of the weighting and scoring design and data collection, meetings were held as often as twice a week.

In addition to continuous written correspondence with the HJPC and the working meetings with the HJPC technical team appointed to JEI-BiH, MEASURE-BiH held several presentations for the HJPC — including work on design of JEI-BiH dimensions, sub-dimensions, and indicators to the HJPC Committee for Efficiency of Courts and the HJPC Committee for Efficiency of Prosecutor Offices. All of the HJPC Council members were invited to MEASURE-BiH's presentation on JEI-BiH scoring and weighting methodology delivered at the meeting with the HJPC operational team. HJPC's feedback, also as noted, was taken into account throughout the JEI-BiH design stage, including selection of dimensions, sub-dimensions, and indicators, as well as the weighting and scoring methodology. Such close collaboration of MEASURE-BiH with the HJPC in design and data collection for generating JEI-BiH values ensures JEI-BiH's practical applicability in decision-making.

The most notable adjustment to the scope of indicators covered by JEI-BiH, based on the feedback received by both USAID/BiH and the HJPC, was inclusion of additional indicators to track the efficiency of prosecutors' performance.

6. TRACKING JEI-BIH ANNUALLY

Data used to calculate JEI-BiH 2015 were collected during January 2016. The results of the National Survey of Citizens' Perceptions were obtained in November 2015, and the results of the Survey of Judges and Prosecutors in BiH in December 2015.

The HJPC administrative data used in JEI-BiH cover two time periods. For the majority of data used in the HJPC, real-time data are available within CMS/T-CMS, and JEI-BiH used values for the period of January 1–December 31, 2015. In a few cases (collective quota for judges and prosecutors, confirmation rate of the first instance decisions, success rate of indictments and disciplinary proceedings) where real-time data are not available, JEI-BiH used the most recent available annual data. Data for the previous calendar year (i.e., data for calendar year 2014) were used for JEI-BiH 2015, as reported in the 2015 HJPC Annual Report.

MEASURE-BiH will use the same approach to calculate JEI-BiH values in future years, thus ensuring comparability across time. MEASURE-BiH will also continue its close cooperation with the HJPC in the production of future annual JEI-BiH results, to ensure local ownership of JEI-BiH and its relevance for actual decision-making by the BiH authorities.

It is expected that when implementation of MEASURE-BiH is complete in 2019, the technical sustainability and independence of JEI-BiH will be secured through transfer of the mandate for JEI-BiH production to a local organization that will continue to generate annual JEI-BiH values in cooperation with the HJPC.

JEI-BIH 2015

1. INTRODUCTION

JEI-BiH is an innovative tool that was adapted to BiH to capture trends in the BiH judiciary over time, with JEI-BiH 2015 serving as the baseline against which progress in future years will be tracked. In other words, full utilization of JEI-BiH is only possible starting with the 2016 results onward, when JEI-BiH will be able to respond to its main purpose: to track progress over time against the 2015 benchmark values.

In addition to this main purpose, JEI-BiH results can facilitate different types of analyses:

1. JEI-BiH provides a single source of complex, multi-dimensional data in a comparable and reader-friendly format (2012–15 comparable data are shown in Annex I). This covers data on all major case types in both courts and POs in BiH. Obtaining these data prior to JEI-BiH was a lengthy process that included review of multiple reports in which data were presented in different formats. JEI-BiH allows users to quickly compare and identify trends in courts' and POs' performance in the last four years, and to use this information to pinpoint areas of interest that need to be further examined.
2. JEI-BiH combines three sources of information in a single scalar: the administrative HJPC CMS/T-CMS data, public perception (measured by the National Survey of Citizens' Perceptions) and professional opinion (measured by the Survey of Judges and Prosecutors in BiH). This provides a comprehensive and comparative presentation of different perspectives on the same issues and thus reduces bias.
3. JEI-BiH was constructed to be fully adapted to the BiH context, without taking international benchmarks into account. The fact that JEI-BiH is independent of external sources enables judicial policy makers to calculate JEI-BiH scores more frequently (than annually) in tracking the results achieved by taking certain action(s) or introducing new regulation(s).

2. DATA COLLECTION

Partnering with HJPC, we extracted information on 421,020 cases processed by courts and POs across BiH in 2015 from the CMS/T-CMS database. During the preparation of the JEI-BiH results, MEASURE-BiH examined case-by-case micro-data made available by the HJPC. (Note that data on 1,574,517 utility enforcement cases are available only at aggregate levels for the number of unresolved cases and clearance rate, as they are not being entered and tracked by the IT system on a case-by-case basis.)

MEASURE-BiH designed and conducted the National Survey of Citizens' Perceptions on a representative sample of 3,000 households in BiH during September-November 2015. The Survey of Judges and Prosecutors in BiH was designed by MEASURE-BIH and slightly adjusted to include feedback received from the HJPC's Committee for Efficiency of Courts and the Committee for Efficiency of Prosecutor Offices. After being piloted with the HJPC-assigned 10 Secretariat members with legal expertise, the survey was sent to all (1,459) judges and prosecutors in BiH. Four hundred fifty eight responses to the survey were received.

3. RESULTS

Applying the scoring and weighting methodology described in the first part of this report, MEASURE-BiH produced the results of JEI-BiH 2015.

Overall 2015 Index value is 55.21 points (on a 0–100 scale).

Individual values of each dimension are:

1. Dimension on Efficiency: **13.78 points** (for the overall Index, on a 0–25 scale) or **55.12 percent** of the maximum number of points (on a 0–100 scale);
2. Dimension on Quality: **14.97 points** (for the overall Index, on a 0–25 scale) or **59.88 percent** of the maximum number of points (on a 0–100 scale);
3. Dimension on Accountability and Transparency: **11.67 points** (for the overall Index, on a 0–20 scale) or **58.35 percent** of the maximum number of points (on a 0–100 scale);
4. Dimension on Capacity and Resources: **6.81 points** (for the overall Index, on a 0–15 scale) or **45.4 percent** of the maximum number of points (on a 0–100 scale);
5. Dimension on Independence and Impartiality: **7.98 points** (for the overall Index, on a 0–15 scale) or **53.2 percent** of the maximum number of points (on a 0–100 scale).

Exhibit 12 shows the JEI-BiH 2015 aggregate results.

Exhibit 12. JEI-BiH 2015 Results

Judicial Effectiveness Index Bosnia and Herzegovina (JEI-BiH)

JEI-BiH 2015 = 55.21

Dimension		Sub - Dimension	Data Source (HJPC Administrative Data, NS-National Survey of Citizens' Perceptions, SJP-Survey of Judges and Prosecutors)	JEI-BiH Weights	JEI-BiH Points (on 0-100 Scale)
EFFICIENCY	1.1.	Courts: Duration of Resolved Cases	HJPC	1.92%	51.05
	1.2.	Courts: Age of Unresolved Cases	HJPC	1.92%	43.84
	1.3.	Courts: Quantity of Unresolved Cases	HJPC	1.92%	46.71
	1.4.	Courts: Clearance Rates	HJPC	1.92%	68.17
	1.5.	POs: Duration of Resolved Cases	HJPC	1.92%	56.21
	1.6.	POs: Age of Unresolved Cases	HJPC	1.92%	57.57
	1.7.	POs: Quantity of Unresolved Cases	HJPC	1.92%	55.70
	1.8.	POs: Clearance Rates	HJPC	1.92%	76.40
	1.9.	Collective Quota - Judges	HJPC	1.92%	84.00
	1.10.	Collective Quota - Prosecutors	HJPC	1.92%	66.00
	1.11.	Public Perception on Efficiency of Courts	NS	1.92%	9.93
	1.12.	Professional Opinion on Efficiency of Courts	SJP	1.92%	60.22
	1.13.	Professional Opinion on Efficiency of POs	SJP	1.92%	51.05
				25.00%	**55.12**
QUALITY	2.1.	Confirmation rate of 1st Instance Decisions	HJPC	6.25%	88.08
	2.2.	Success of indictments	HJPC	6.25%	60.67
	2.3.	Perception of quality of Courts	NS/SJP	2.50%	50.49
	2.4.	Perception of quality of Prosecutor Offices	NS/SJP	2.50%	45.13
	2.5.	Perception of quality of Attorneys	NS/SJP	2.50%	42.65
	2.6.	Perception of quality of Notaries	NS/SJP	2.50%	48.46
	2.7.	Public Satisfaction with Court and Prosecutor Administrative Services	NS	2.50%	40.20
				25.00%	**59.88**
ACCOUNTABILITY & TRANSPARENCY	3.1.	Performance Monitoring System of Judges/Prosecutors	SJP	1.25%	59.53
	3.2.	Supervision of Inadequate Performance of Judges/Prosecutors	NS/SJP	1.25%	42.18
	3.3.	Disciplinary Procedures	HJPC/SJP	5.00%	57.11
	3.4.	Random Case Assignment	NS/SJP	1.25%	59.49
	3.5.	Access to Case Files	NS/SJP	1.25%	64.56
	3.6.	Access to Hearings	NS/SJP	1.25%	60.67
	3.7.	Access to Judgments	NS/SJP	1.25%	53.59
	3.8.	Access to Evidence	SJP	1.25%	93.49
	3.9.	Access to Reports/Statistics	NS/SJP	1.25%	47.62
	3.10.	Media Reporting	NS/SJP	1.25%	37.37
	3.11.	Affordability of Court Fees/Taxes	NS/SJP	1.25%	31.32
	3.12.	Absenteeism of Judges/Prosecutors	SJP	1.25%	79.03
	3.13.	Code of Ethics	SJP	1.25%	76.28
				20.00%	**58.35**
CAPACITY & RESOURCES	4.1.	Speed of Appointing Judges/Prosecutors	SJP	1.25%	46.60
	4.2.	Competence of Judges/Prosecutors	NS/SJP	1.25%	48.01
	4.3.	Adequacy of Judges/Prosecutors' Training/Education	SJP	1.25%	66.11
	4.4.	Adequacy of Judges/Prosecutors' Salaries	NS/SJP	1.25%	26.75
	4.5.	Adequacy of Attorneys/Notaries' Compensation	NS/SJP	1.25%	18.41
	4.6.	Timeliness of Judges/Prosecutors' Salaries	SJP	1.25%	59.93
	4.7.	Timeliness of Compensations for Attorneys by Courts (for ex-officio defense)	SJP	1.25%	38.00
	4.8.	Adequacy of the Support Staff	SJP	1.25%	60.01
	4.9.	Adequacy of the Budget for Operations	SJP	1.25%	25.34
	4.10.	Adequacy of Facilities	SJP	1.25%	37.94
	4.11.	Adequacy of IT Support	SJP	1.25%	68.98
	4.12.	System/Mechanisms to Meet Dynamic Changes (Increase/Decrease) in Case Inflow	SJP	1.25%	48.33
				15.00%	**45.40**
INDEPENDENCE & IMPARTIALITY	5.1.	Objectivity of Career Advancement Criteria for Judges/Prosecutors	SJP	2.14%	37.47
	5.2.	Judges/Prosecutors' Professional Immunity/Tenure	SJP	2.14%	69.77
	5.3.	Adequacy of Personal Security of Judges/Prosecutors	SJP	2.14%	40.80
	5.4.	Independence of Judges/Prosecutors in Acting - Absence of Corruption and/or Improper Influence	NS/SJP	2.14%	51.77
	5.5.	Trust in Judges	NS/SJP	2.14%	57.70
	5.6.	Trust in Prosecutors	NS/SJP	2.14%	54.43
	5.7.	Equal Application of Law	NS/SJP	2.14%	60.69
				15.00%	**53.20**
Total				**100.00%**	**55.21**

4. LIMITATIONS

The main purposes of the JEI-BiH 2015 are (1) to serve as the baseline against which performance trends in the BiH judiciary in future years will be tracked, and (2) to direct further research into specific details in the areas of identified potential performance weaknesses, based on which appropriate measures can be designed. Given the way JEI-BiH scoring is constructed, it measures how far the current state is along the distance from the minimum and maximum Index value, as defined based on BiH-specific context.

As with all indices, JEI-BiH cannot be used for explanation of causality in any individual values and their trends.

JEI-BiH values should not be interpreted as stand-alone ratings of the BiH judiciary, and – since many indicators in JEI-BiH are calibrated based on average values across all the cases in BiH – they are not suitable for analysis of individual cases, including those of high profile.

Moreover, while MEASURE-BiH had a leading role in developing the weighting and scoring approach to calculating the Index values, we had no control over the quality of data received by the HJPC or influence over answers provided through the surveys.

5. JEI-BIH 2015 ILLUSTRATIVE ANALYSIS

With the three sources of data we have used to construct JEI-BiH 2015, it is possible to conduct two types of analysis:

1. Analysis of HJPC CMS/T-CMS data:
   a. 2012–15 trend of indicators measured in number of days and cases (duration and backlog)
   b. 2015 values of indicators measured in percentages (e.g., clearance rates);

2. A comparison between public perception (measured by National Survey of Citizens' Perceptions) and professional opinion (measured by Survey of Judges and Prosecutors) on the same issues.

5.1 ANALYSIS OF JEI-BIH 2015 RESULTS, BASED ON HJPC CMS/T-CMS DATA

As shown in Annex I, Administrative data are the source for 10 sub-dimensions in the Efficiency dimension, two in the Quality dimension and one indicator in the Accountability and Transparency dimension. Eight sub-dimensions in the Efficiency dimension consist of sub-indicators that disaggregate indicators to average duration of resolved cases, average age of unresolved cases, number of unresolved cases, and clearance rate for first and second instance courts and POs. All values are disaggregated further to individual sub-indicators for all major court (criminal, civil, commercial, and administrative cases, as well as enforcement) case types and PO (general crime, corruption, other economic crime, and war crimes) case types. The sub-dimension confirmation rate of first instance decisions in the Quality dimension is further disaggregated into three indicators for criminal, civil, and commercial appeals. The total number of indicators (individual data points) from administrative data is 65.

For the indicators measured in the number of days and cases (duration and backlog), JEI-BiH 2015 shows how the 2015 actual value of that indicator compares to the average performance of that indicator in 2012–14. For example, a JEI-BiH 2015 of 50 points (on an Index scale of 0–100) shows that the 2015 actual value is exactly the same as the 2012–14 average; any value higher or lower than 50 indicates that the 2015 actual value was above or below the average value in period 2012-2014 (as opposed to annual change comparisons).

For the indicators measured in percentages (e.g., clearance rates), JEI-BiH values can be analyzed at an annual level, as each annual JEI-BiH value can be viewed independently. For example, a JEI-BiH 2015 value of 66.7 points (on a 0–100 Index scale) indicates that the annual clearance rate (annual rate of success of indictments) was 100 percent. (See the Type II indicator calculation example in Exhibit 11.)

It is important to note that analyses of the relationship between clearance rates and number of unresolved cases is dependent on the inflow of newly filed cases; this is a variable that cannot be influenced by the judiciary, and as such, was not scored within JEI-BiH. However, data on the inflow of cases are collected to serve as supplementary data for thorough analysis and understanding of trends within this dimension. Similarly, indicators on financing of courts and POs and the number of judges, prosecutors, and support staff are collected to serve as supplementary data for thorough analysis and understanding of possible reasons for trends in the BiH judiciary; these data are also not scored within JEI-BiH values. The remainder of this section gives examples of interpreting some of the JEI-BiH 2015 results.

The average duration for disposition of cases at first instance courts in 2015 was shorter than the 2012–14 average, while the score of this indicator for the second instance courts in 2015 is below the 2012–14 averages, implying that the average duration for disposition of cases at second instance courts in 2015 was longer than the 2012–14 average. The age of unresolved cases at first instance courts in 2015 mostly remained the same as in 2012–14; at the second instance courts, the age of unresolved cases for all major case types increased, with criminal appeal and administrative appeal cases having JEI-BiH 2015 scores of three and nine points, respectively. Given the trend of increasing duration of both resolved and unresolved second instance cases, the HJPC should consider collecting additional data on this topic to examine the underlying causes for these trends.

First instance courts were mainly reducing their backlog in 2015, while second instance courts were accumulating backlog. This occurred, especially, in criminal appeal and administrative appeal cases, as well as in commercial appeal cases, with JEI-BiH 2015 scores of 13, 12, and 36 points, respectively. In addition, it needs to be noted that at first instance courts any analyses of the backlog should take into account that the vast majority of the backlog is due to utility enforcement cases. (The number of unresolved utility enforcement cases was 1,574,517 in 2015.)

In terms of clearance rate, the first instance courts in general had higher clearance rates and reduced their backlog, whereas the second instance courts were increasing their backlog.

POs' performance in 2015 improved in comparison to the 2012–14 averages – in the duration of resolved cases (56 points in JEI-BiH 2015), age of unresolved cases (58 points in JEI-BiH 2015), decrease of backlog (56 points in JEI-BiH 2015), and clearance rate (76 points in JEI-BiH 2015). The POs seem to have recorded an increase in the number of unresolved corruption cases (31 points in JEI-BiH 2015). However, these results should be taken with caution, since the HJPC system did not track corruption cases as a separate category until 2014. In addition, data on the inflow of corruption cases should be consulted in any further analysis of this issue.

As per the HJPC regulation (*Rulebook on General Guiding Benchmarks for the Work of Judges and Experts Advisers in BiH Courts* and *Rulebook on General Guiding Benchmarks for the Work of Prosecutors in Prosecutors' Offices in BiH*), both judges and prosecutors are prescribed "collective quotas": the prescribed number of cases that should be handled within a year. JEI-BiH shows that courts significantly exceeded their quota (84 points in JEI-BiH 2015), while POs stood exactly at their quota level (66 points in JEI-BiH 2015).

The confirmation rate of first instance decisions, which indicates the quality of the application of law by the first instance, is at 88 percent. (Note that, as this indicator falls into the exception of the rules for scoring administrative data expressed in percentage since its value cannot exceed 100 percent, its JEI-BiH 2015 value is 88 points.)

The rate of final convictions relative to indictments (which indicates the success rate of indictments and thus the quality of POs' work) is 91 percent, corresponding to JEI-BiH 2015's value of 61 points (on a 0–100 Index scale). Similarly, the work of the disciplinary council is quantified through the ratio of initiated disciplinary procedures relative to procedures in which responsibility is determined. This ratio is 80 percent, corresponding to JEI-BiH 2015' value of 53 points (on a 0–100 Index scale).

Generally, indicators tracking court and PO quality were quite stable over 2012–15 (averaging about 90 percent of the nominal value), whereas disciplinary proceedings quality trended downward from 110 percent (in 2012) to 80 percent (in 2015) of the nominal value.

The findings presented above are suggestive, serving only as a starting point for further research into factors influencing judiciary trends and for establishing causality.

As explained above, JEI-BiH collected additional data that can be useful for further analyses of trends evident within JEI-BiH but not scored within JEI-BiH values — because they either represent variables that cannot be influenced by the judiciary or they cannot be objectively scored.

Exhibit 13 shows data collected from the HJPC on court and PO budgets, as well as the number of judges, prosecutors, and support staff.

Exhibit 13. Budgets of Courts, POs, and Personnel

		2012	2013	2014	2015
4.13.1.	Approved budgets of Courts (KM)	164,758,906	171,675,077	174,106,409	177,356,025
4.14.1.	Approved budgets of POs (KM)	41,639,785	43,283,933	46,852,298	48,843,040
4.15.1.	Total Number of Judges	1,073	1,098	1,102	1,088
4.16.1.	Total Number of Prosecutors	310	328	360	365
4.17.1.	Number of Non-judicial Staff	3,098	3,239	3,352	3,420
4.18.1.	Number of Non-prosecutorial Staff	665	687	668	744

Exhibit 14 shows data on the inflow of cases in BiH courts and POs, also collected from the HJPC.

Exhibit 14. Inflow of Cases, 2012–15

	Case Type	2012	2013	2104	2015
First Instance Courts	Criminal	14,853	13,960	12,772	12,562
	Civil	32,441	31,909	31,070	30,556
	Commercial	9,016	8,761	7,195	6,575
	Administrative	10,118	12,089	11,751	10,233
	Enforcement – Civil	62,382	67,098	61,597	66,972
	Enforcement – Commercial	13,967	14,691	13,205	13,170
Second Instance Courts	Criminal Appeal	4,492	4,702	4,850	5,326
	Civil Appeal	14,065	14,606	14,782	13,574
	Commercial Appeal	3,333	3,270	3,649	3,479
	Administrative Appeal	1,422	2,346	2,001	2,022
Prosecutor Offices	General Crime	25,975	25,077	24,339	22,741
	Economic Crime – Corruption	168	302	729	1,138
	Economic Crime – Other	1,506	1,893	1,585	1,704
	War Crimes	563	337	272	288

5.2 ANALYSIS OF JEI-BIH 2015 RESULTS, BASED ON COMPARISON OF PUBLIC PERCEPTION AND PROFESSIONAL OPINION

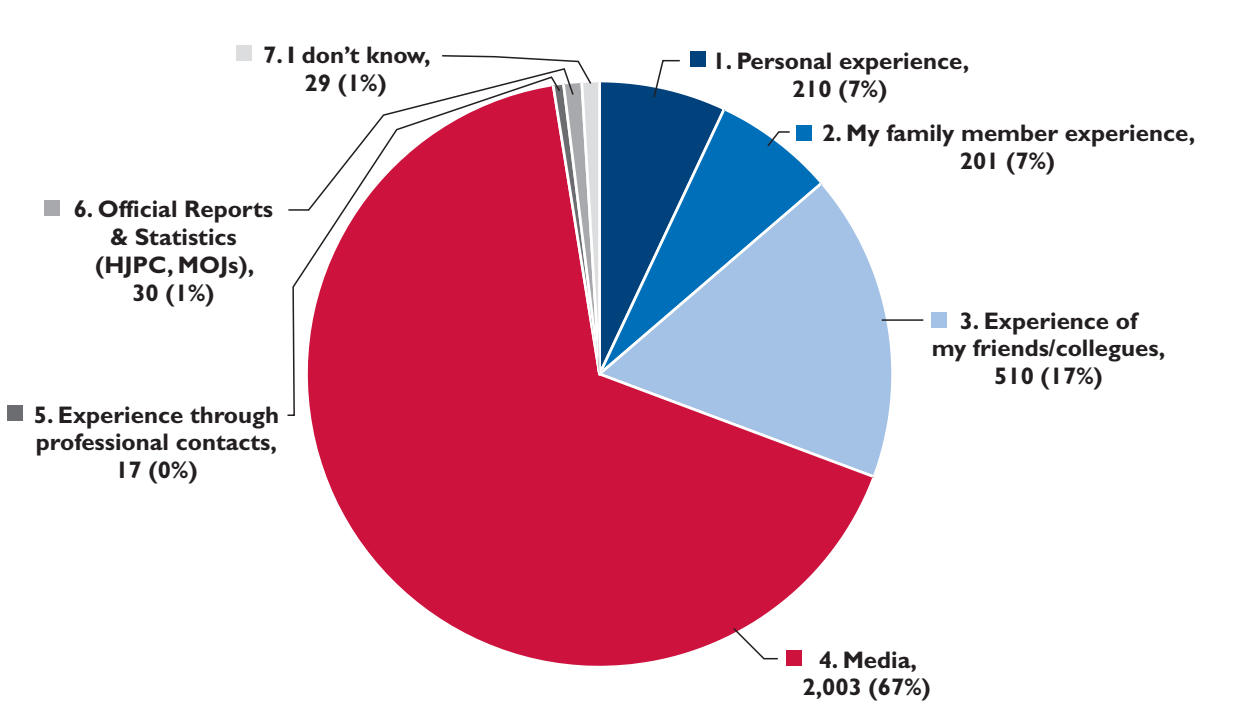
A comparison between public perception (measured by National Survey of Citizens' Perceptions) and professional opinion (measured by Survey of Judges and Prosecutors) on the same issues reveals significant differences between public perception and professional opinion on many questions. Exhibit 15 shows examples.

Exhibit 15. Example of Differences in Citizens' Opinion and the Opinion of Judges and Prosecutors

Sub-Dimension	Source	JEI-BiH 2015	Difference
Trust in Judges	National Survey of Citizens' Perceptions (#Q12A)	37.75%	39.9 percentage points
	Survey of Judges and Prosecutors (#32D)	77.65%	
Trust in Prosecutors	National Survey of Citizens' Perceptions (#Q12B)	37.39%	34.1 percentage points
	Survey of Judges and Prosecutors (#32E)	71.48%	
Equal Application of Law by Courts	National Survey of Citizens' Perceptions (#Q26)	39.21%	42.9 percentage points
	Survey of Judges and Prosecutors (#Q33)	82.16%	

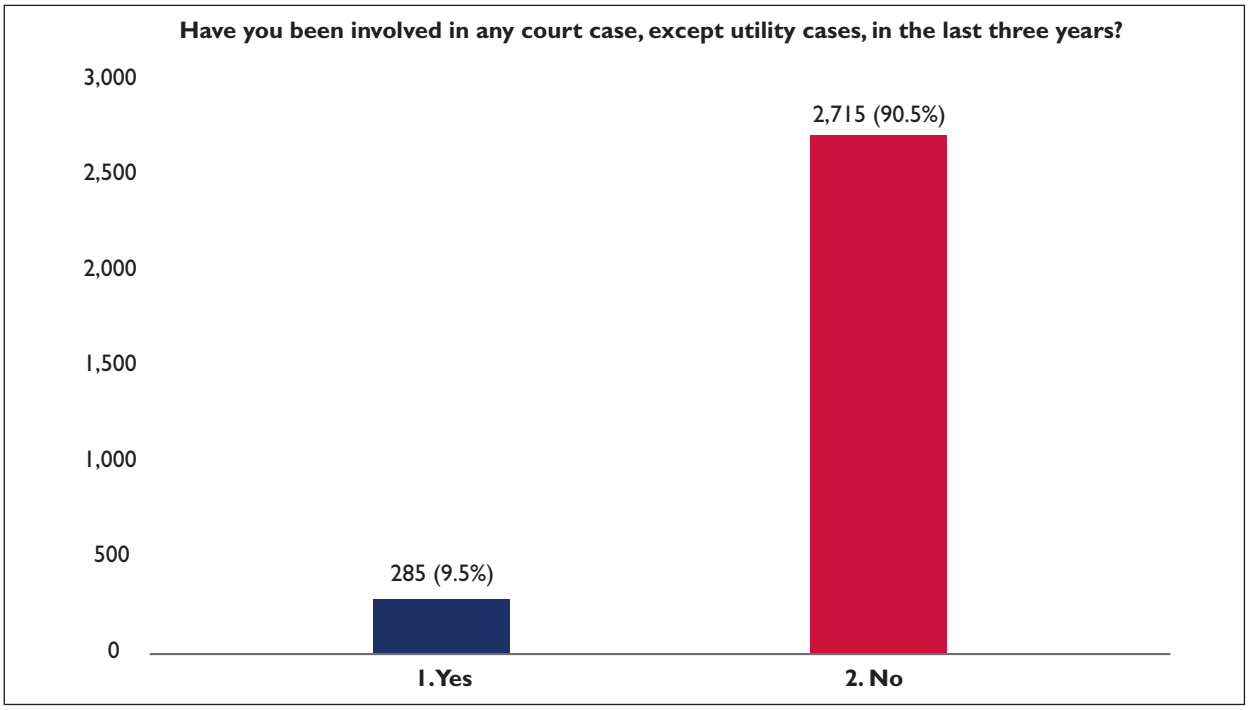
Other analyses (see Exhibit 16 for examples) show that the principal source of information about judiciary used by the public is media (2,003 out of 3,000 respondents, or 67%).

Exhibit 16. Principal Sources of Information about Judiciary for BiH Citizens



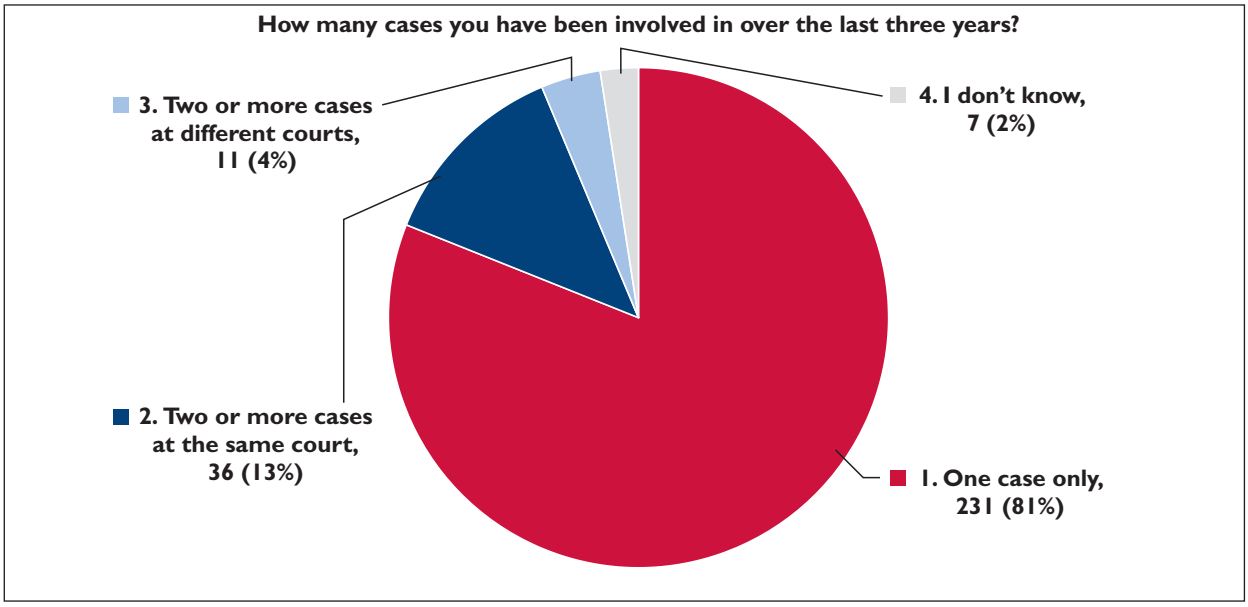
Only seven percent of surveyed citizens reported using their personal experience in interacting with the justice system as their principal source of information about the judiciary. (See Exhibit 17.)

Exhibit 17. Involvement of Citizens in Court Cases



In addition (see Exhibit 18), 9.5 percent of surveyed citizens reported having been involved in a BiH court case or cases in the last three years, of whom 81 percent had only one case and an additional 13 percent interacted with only one court.

Exhibit 18. Number of Cases and Courts in which Citizens Were Involved



Contrary to the large discrepancies exhibited in most areas, the public and judges and prosecutors have similar perceptions of media reporting, with 41 percent of citizens and 33 percent of judges and prosecutors believing that court cases and investigations are selected and presented objectively by the media. (See Exhibit 19.)

Exhibit 19. Example of Similarities in Citizens' Opinion and the Opinion of Judges and Prosecutors

Q: "In your opinion, how often are court cases and investigations selected and presented objectively by the media?"	Source	JEI-BiH 2015	Difference
	National Survey of Citizens' Perceptions	41.28%	7.80 percentage points
	Professional Opinion	33.47%	

These examples of JEI-BiH analyses of data collected from two surveys suggest that the issue of diverging perceptions of the public and judges and prosecutors may need to be analyzed further.

ANNEX I.
JEI-BIH 2015

JEI-BiH 2015 table is attached to the back cover of this Report.

ANNEX II.
QUESTIONNAIRE FOR BIH JUDGES AND PROSECUTORS

USAID | BOSNIA-HERZEGOVINA

FROM THE AMERICAN PEOPLE

Questionnaire for BiH Judges and Prosecutors

1. (1) Do you think the number of unsolved cases, excluding utility cases, is increasing in BiH courts?

- o Yes
- o No
- o I don't know

2. (2) Do you think the number of unsolved cases is increasing in BiH POs?

- o Yes
- o No
- o I don't know

3. (3) Which comes closest to your opinion?

- o Courts decide on cases in reasonable time periods
- o It takes too long for courts to decide on cases
- o I don't know

4. (4) Which comes closest to your opinion?

- o POs decide on cases in reasonable time periods
- o It takes too long for Prosecutors to decide on cases
- o I don't know

5. (5) On a scale from 1 to 7, where '1' is 'extremely poor' and '7' is 'excellent', how would you rate the work of:

	1	2	3	4	5	6	7
Judges/Courts	☐	☐	☐	☐	☐	☐	☐
Prosecutors/Prosecutor Offices	☐	☐	☐	☐	☐	☐	☐
Attorneys	☐	☐	☐	☐	☐	☐	☐
Notaries	☐	☐	☐	☐	☐	☐	☐

6. (6) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
There is a fact-based and transparent system of monitoring work performances of Judges	☐	☐	☐	☐	☐	☐	☐
There is a fact-based and transparent system of monitoring work performances of Prosecutors	☐	☐	☐	☐	☐	☐	☐

7. (7) How much do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Observation of poor work performances of a Judge by a competent supervisor usually results in undertaking of an adequate measure or sanction	☐	☐	☐	☐	☐	☐	☐
Observation of very good work performances of a Prosecutor by a competent supervisor usually results in an adequate award	☐	☐	☐	☐	☐	☐	☐

8. (8) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Disciplinary procedures against Judges/Prosecutors are initiated in all cases prescribed by the law	☐	☐	☐	☐	☐	☐	☐
Disciplinary procedures against Judges/ Prosecutors, once initiated, are fair and objective	☐	☐	☐	☐	☐	☐	☐

9. (9) Disciplinary sanctions rendered in the disciplinary proceedings are:

o Too lenient
o Appropriate
o Too severe
o I don't know

10. (10) Do you think it is possible to get someone's preferred judge to adjudicate his/her case?

o Never
o Rarely
o Sometimes
o Often
o Always
o I do not know

11. (11) In your opinion:

	Never	Rarely	Sometimes	Often	Always	I don't know
Access to case files to parties in the case and their legal representatives is fully and timely granted	☐	☐	☐	☐	☐	☐
The public is granted access to public court hearings	☐	☐	☐	☐	☐	☐

The public can access final judgments (in their original form, after removal of personal data, or in any other form)	☐	☐	☐	☐	☐	☐
Access to all evidences after confirmation of indictment is fully and timely granted to accused and his/her legal representative	☐	☐	☐	☐	☐	☐
Do you have access to courts' and/or prosecutor offices' reports/statistics of your interest	☐	☐	☐	☐	☐	☐

12. (12) In your opinion, how often are court cases and investigations selected and presented objectively by the media?

o Never
o Rarely
o Sometimes
o Often
o Always
o I do not know

13. (13) In your opinion, court taxes/fees are:

o Low
o Adequate
o High
o I do not know

14. (14) Do you agree that:

	Strongly agree	**Agree**	**Somewhat agree**	**Neither agree nor disagree**	**Somewhat disagree**	**Disagree**	**Strongly disagree**
Judges and prosecutors abuse their right to be absent from work	☐	☐	☐	☐	☐	☐	☐

15. (15) Do you agree that:

	Strongly agree	**Agree**	**Somewhat agree**	**Neither agree nor disagree**	**Somewhat disagree**	**Disagree**	**Strongly disagree**
Judges and Prosecutors act in accordance with the Code of Ethics	☐	☐	☐	☐	☐	☐	☐

16. (16) Do you agree that:

	Strongly agree	**Agree**	**Somewhat agree**	**Neither agree nor disagree**	**Somewhat disagree**	**Disagree**	**Strongly disagree**
Appointment of a judge/prosecutor for a newly available position is efficient	☐	☐	☐	☐	☐	☐	☐

17. (17) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Appointments of Judges and Prosecutors are competence-based	☐	☐	☐	☐	☐	☐	☐

18. (18) Do you agree that:

	Strongly agree	**Agree**	**Somewhat agree**	**Neither agree nor disagree**	**Somewhat disagree**	**Disagree**	**Strongly disagree**
Judges and prosecutors receive adequate training/ education on annual basis	☐	☐	☐	☐	☐	☐	☐

19. (19) In your opinion, salaries of judges and prosecutors are:

o Low
o Adequate
o High
o I do not know

20. (20) In your opinion, fees of attorneys and notaries are:

o Low
o Adequate
o High
o I do not know

21. (21) Are salaries of Judges/Prosecutors paid on time?

o Never
o Rarely
o Sometimes
o Often
o Always
o I do not know

22. (22) Are Defense Councils' fees/expenses paid on time?

o Never
o Rarely
o Sometimes
o Often
o Always
o I do not know

23. (23) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Current administrative/ support staff in courts/prosecutor offices is competent	☐	☐	☐	☐	☐	☐	☐

24. (24) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
The budget allocated to courts/ prosecutor offices is sufficient	☐	☐	☐	☐	☐	☐	☐

25. (25) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Courts/Prosecutor Offices are situated in adequate buildings/facilities and have enough space for their work	☐	☐	☐	☐	☐	☐	☐

26. (26) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Courts/Prosecutor Offices have necessary IT equipment and support	☐	☐	☐	☐	☐	☐	☐

27. (27) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Courts/Prosecutor Offices are provided with adequate procedures and resources to cope with significant and abrupt changes in case inflow, if they occur	☐	☐	☐	☐	☐	☐	☐

28. (28) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Criteria for career advancement of judges and prosecutors are objective, adequate, and applied in practice	☐	☐	☐	☐	☐	☐	☐

29. (29) Do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Immunity and tenure of judges and prosecutors is adequately prescribed by the law and applied in practice	☐	☐	☐	☐	☐	☐	☐

30. (30) Is personal security of judges and prosecutors and their close family members ensured when it is needed?

o Never
o Rarely
o Sometimes
o Often
o Always
o I do not know

31. (31) To what extent do you think the court system affected by corruption in this country?

	1	2	3	4	5	6	7
Please answer on a scale from 1 to 7, where 1 means "not at all corrupt" and 7 means "extremely corrupt"	☐	☐	☐	☐	☐	☐	☐

32. (32) How much do you agree or disagree with the following statement:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
The Judiciary is effective in combating corruption	☐	☐	☐	☐	☐	☐	☐
Judges are able to make decisions without direct or indirect interference by governments, politicians, the international community, or other interest groups and individuals	☐	☐	☐	☐	☐	☐	☐
Public officials who violate the law are generally identified and punished	☐	☐	☐	☐	☐	☐	☐
Judges can be trusted to conduct court procedures and adjudicate cases, impartially and in accordance with the law	☐	☐	☐	☐	☐	☐	☐
The prosecutors can be trusted to perform their duties impartially and in accordance with the law	☐	☐	☐	☐	☐	☐	☐
Judges do not take bribes	☐	☐	☐	☐	☐	☐	☐
Prosecutors do not take bribes	☐	☐	☐	☐	☐	☐	☐

33. (33) To what extent do you agree that:

	Strongly agree	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	Strongly disagree
Courts treat people fairly regardless of their income, national or social origin, political affiliation, religion, race, sex, gender identity, disability or sexual orientation	☐	☐	☐	☐	☐	☐	☐

ANNEX III.
PUBLIC PERCEPTION QUESTIONNAIRE

INTRODUCTION:

[Good morning/Good afternoon/Good evening]. My name is [INTERVIEWER NAME]. I work for [SURVEY CONTRACTOR]. We are conducting a public opinion survey across BiH. The study is sponsored by the United States Agency for International Development or USAID. USAID is funding initiatives in BiH to help our country improve our political institutions and systems to strengthen our democratic system.

I am here to conduct a 45-minute survey with [APPLY SELECTION CRITERIA].

BEGIN SURVEY:

SATISFACTION WITH SPECIFIC SERVICES

2. Next, I would like to ask you about your satisfaction with delivery of public services. How satisfied are you with each of the following services in your area in the last 12 months? GIVE RESPONDENT A CARD WITH RESPONSE CHOICES.

Completely satisfied
Mostly satisfied
Somewhat satisfied
Neither satisfied nor dissatisfied
Somewhat dissatisfied
Mostly dissatisfied
Completely dissatisfied
Didn't use this service in the last 12 months

This service is not available to me

A. Power supply
B. Water supply
C. Sewage system/waste
D. Water management
E. Garbage collection

F. Street and town cleaning
G. Street lighting
H. District heating
I. Preschool education
J. School transportation
K. Public transportation
L. Local road maintenance
M. Public park and playground maintenance
N. Primary schooling
O. Secondary Schooling
P. Health care services
Q. Social assistance
R. Pension system
S. Legal aid
T. Support to families with children
U. Support to war veterans
V. Support to civilian victims of war
W. Support to refugees, returnees and IDPs
X. Support to entrepreneurs and exporters
Y. General security
Z. Building and maintaining highways
AA. Protection from and prevention of crime
BB. Protection of private property
CC. Protection of environment
DD. Courts' or the judicial system's administrative services
EE. Management of public resources
FF. Consumer protection
GG. Supporting cultural development

PAYING BRIBES

10. Have you yourself ever had to give money, gifts, services, or similar to any of the following, in order to get better treatment?

A. Doctor	YES/NO/Don't remember/REF
B. A nurse	YES/NO/Don't remember/REF
C. Professor	YES/NO/Don't remember/REF
D. Teacher	YES/NO/Don't remember/REF
E. Judge/Prosecutor	YES/NO/Don't remember/REF
F. Court personnel	YES/NO/Don't remember/REF
G. Police officer	YES/NO/Don't remember/REF
H. Politician	YES/NO/Don't remember/REF
I. Inspector	YES/NO/Don't remember/REF
J. Government employee	YES/NO/Don't remember/REF
K. Any other public official	YES/NO/Don't remember/REF

FIGHTING CORRUPTION

11. To what extent do you think the court system affected by corruption in this country? Please answer on a scale from 1 to 7, where 1 means 'not at all corrupt' and 7 means 'extremely corrupt'.

1|----------|----------|----------|----------|----------|----------|7

12. How much do you agree or disagree with the following statements:

Strongly agree
Agree
Somewhat agree
Neither agree nor disagree
Somewhat disagree
Disagree
Strongly disagree
I don't know

A. Judges can be trusted to conduct court procedures and adjudicate cases impartially and in accordance with the law
B. The prosecutors can be trusted to perform their duties impartially and in accordance with the law
C. Judges do not take bribes
D. Prosecutors do not take bribes
E. The Judiciary is effective in combating corruption
F. Public officials who violate the law are generally identified and punished
G. Different courts collaborate with each other as necessary
H. Judges' poor performance is sanctioned
I. Prosecutors' good performance is rewarded

JUDICIARY AND THE RULE OF LAW

The following questions refer to the court system.

13. On a scale from 1 to 7, where 1 is 'extremely poor' and 7 is 'excellent', how would you rate the work of:

1|----------|----------|----------|----------|----------|----------|7

A. Judges/Courts
B. Prosecutors/Prosecutor Offices
C. Attorneys
D. Notaries

14. How often do you think citizens are allowed to (A/B/C/D) if they wanted to do so:

A. Check their court case file
B. Participate in any court hearing of their interest
C. Review a judgment of their interest
D. Get reports/statistics on the work of courts

Never
Rarely
Sometimes
Often
Always
I don't know

15. Do you think the number of unsolved cases, excluding utility cases, is increasing in BiH courts?

Yes
No
I don't know

16. Do you agree that appointments of Judges and Prosecutors are competence-based?

Strongly agree
Agree
Somewhat agree
Neither agree nor disagree
Somewhat disagree
Disagree
Strongly disagree
I don't know

17. In your opinion, how often are court cases and investigations selected and presented objectively by the media?

Never
Rarely
Sometimes
Often
Always
I don't know

18. To what extent do you agree that Prosecutors abuse their powers in prosecuting individuals?

Strongly agree
Agree
Somewhat agree
Neither agree nor disagree
Somewhat disagree
Disagree
Strongly disagree
I don't know

19. In your opinion, court taxes/fees are:

Low
Adequate
High
I don't know

20. Which comes closest to your opinion:

Courts decide cases in reasonable time periods.
It takes too long for courts to decide cases.
I don't know.

21. Do you think it is possible to get someone's preferred judge to adjudicate his/her case?

Never
Rarely
Sometimes
Often
Always
I don't know

22. In your opinion, salaries of judges and prosecutors are:

Low
Adequate
High
I don't know

23. In your opinion, fees of attorneys and notaries are:

Low
Adequate
High
I don't know

24. Have you been involved in any court case, except utility cases, in the last three years?

Yes TO A
No SKIP TO NEXT Q

A. (IF YES) How many cases you have been involved in over the last three years:

One case only
Two or more cases at the same court
Two or more cases at different courts

25. Your principal source of information about the BiH judiciary, cases and actors is:

Personal experience from my interaction with courts
Cases of my family members
Friends/colleagues
Media
My professional interaction with courts
Official information of judicial institutions (HJPC, Courts, Prosecutors Offices)

26. The next three questions refer to your confidence in the Rule of Law. To what extent do you agree with the following statement: Courts treat people fairly regardless of their income, national or social origin, political affiliation, religion, race, sex, gender identity, sexual orientation, or disability?

Strongly agree
Agree
Somewhat agree
Neither agree nor disagree
Somewhat disagree
Disagree
Strongly disagree
I don't know

27. How much do you agree or disagree with the following statement:

Judges are able to make decisions without direct or indirect interference by governments, politicians, the international community or other interest groups and individuals?

Strongly agree
Agree
Somewhat agree
Neither agree nor disagree
Somewhat disagree
Disagree
Strongly disagree
I don't know

ANNEX IV.
LIST OF FINDINGS ON BIH JUDICIARY FROM REPORTS PRODUCED BY INTERNATIONAL ORGANIZATIONS

Below are the statements made in respective documents which are most relevant to JEI-BiH:

- "The area of **judicial system reform saw little progress**. The Structured Dialogue on Justice remains an important platform to achieve consensus on judicial reforms and has been further broadened to other rule of law related matters" (EU Progress Report);

- "There was little progress in advancing reforms **to reduce corruption**, which continues to affect the entire public sector and remains most acute in the areas of service delivery and access to employment. Political patronage networks are widespread and influence all levels of government. Investigation and **prosecution in high-profile cases remain insufficient** and the overall level of effective investigations, prosecution and convictions is low." (EU Progress Report);

- The TI BiH report on monitoring of prosecutions of corruption in courts and prosecutors' offices in BiH for 2011 and 2012 shows that there has been **no improvement regarding the prosecution of corruption** over the previous period." (2014 Alternative Progress Report);

- "There has been overall **limited progress tackling organized crime**, which remains a serious concern despite some successful joint operations, including through close coordination with neighboring countries. Fighting organized crime and corruption is fundamental to countering criminal infiltration of the political, legal and economic systems." (EU Progress Report);

- The State-level Ministry of Justice has finalized a draft law on the High Judicial and Prosecutorial Council (HJPC) that was reviewed by the Council of Europe's Venice Commission with an opinion adopted in March 2014. **The politicization of the appointment procedures** for the Council's members and that of the Chief Prosecutors at all levels, through involvement of executive and legislative branches, remains problematic. (EU Progress Report);

- "There are persistent flaws in the **independence** and **impartiality** of the judiciary. Political interference has continued. In particular, the political establishment has applied pressure on issues related to processing war crimes";

- "Sources of budgeting for judiciary and prosecution services in Bosnia and Herzegovina continue to be highly fragmented, particularly in the Federation, and capacities for planning within the 14 budgetary institutions remain weak." (EU Progress Report);

- "On accountability, the number of complaints submitted regarding judicial office holders, particularly prosecutors, has increased at the Office of the Disciplinary Council". (EU Progress Report);

- "As regards efficiency, there has been progress on the package of measures and technical reforms provided by the HJPC as well as other relevant stakeholders, reducing the backlog of cases". (EU Progress Report);

- "The judicial information and communication system is fully functional throughout the country." (EU Progress Report);

- "Access to justice has moderately improved, but equality in relation to rights, criteria and procedures is not uniformly guaranteed" (EU Progress Report);

- "Measures to reduce the backlog of cases have successfully started, but the backlog remains high, with a large number of unpaid utility bills cases that need to be addressed with structural solutions as a matter of urgency." (EU Progress Report);

- "The track record of investigation and prosecution in high profile cases remains unsatisfactory and the overall level of effective investigations, prosecution and convictions is low. The capacity to investigate economic, financial and public procurement-related crimes is weak" (EU Progress Report);

- "The independence of judicial institutions: a particular problem in the justice system is the failure to execute court decisions". (2014 Alternative Progress Report);

- "The process of appointment is not transparent because the decisions on the appointment of judges and prosecutors are still not reasoned, but rather mechanical and there is no possibility of lodging an appeal against the decision on appointments". (2014 Alternative Progress Report);

- "BiH still continues to suffer from endemic corruption, mainly due to the lack of political will to effectively fight corruption and insufficient prosecution of corruption" (2014 Alternative Progress Report);

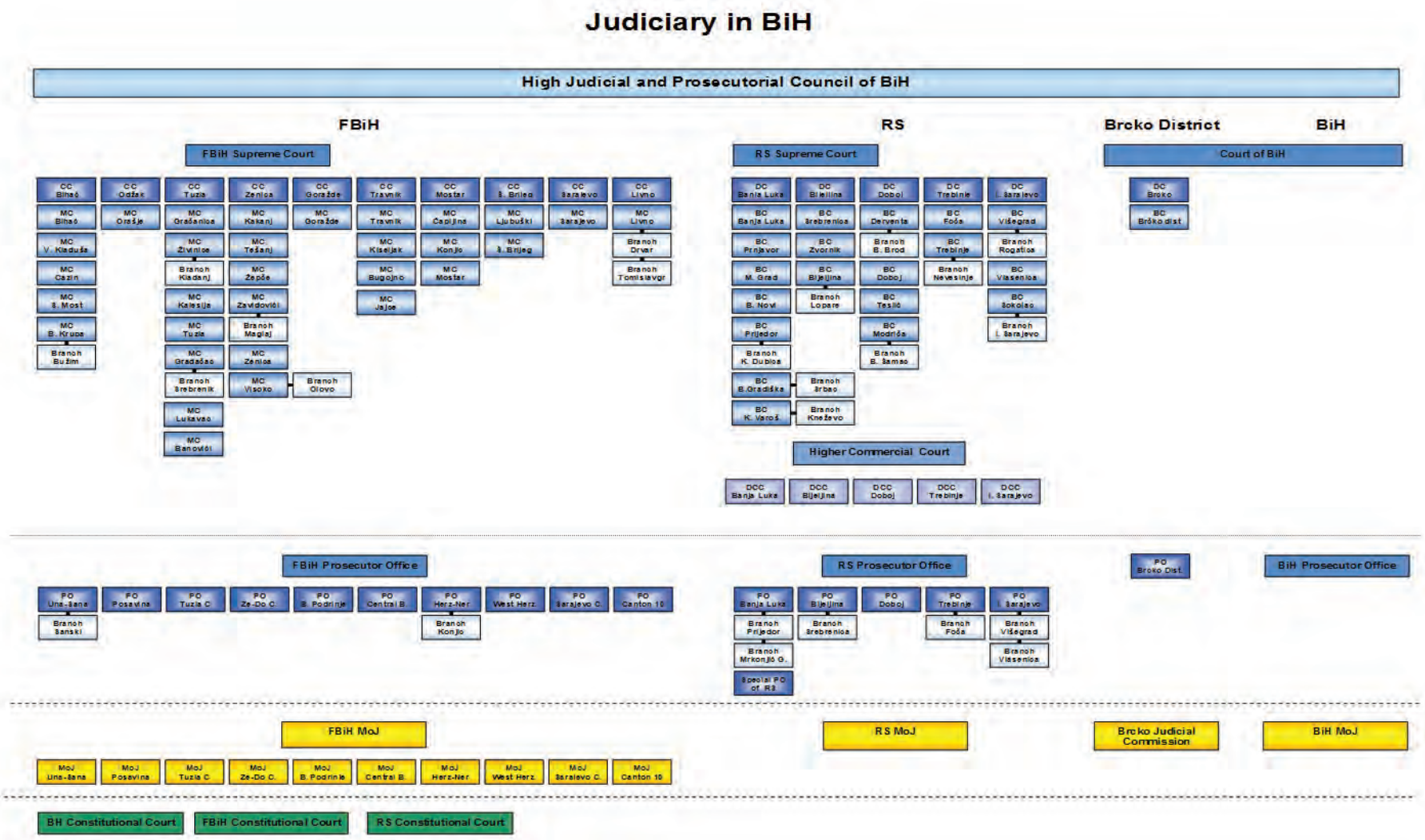
- "The TI BiH report on monitoring of prosecutions of corruption in courts and prosecutors' offices in BiH for 2011 and 2012 shows that there has been no improvement regarding the prosecution of corruption over the previous period." (2014 Alternative Progress Report);

- "Interfering with the operation of the judicial institutions by the executive and legislative branches as well as the political representatives, is a particular problem that the judiciary in BiH faces, particularly the judicial authorities at the state level. (2014 Alternative Progress Report);

- Judicial institutions at all levels should have equal funding in order to avoid creating differences in access to justice and efficiency that can put citizens at a disadvantage depending on the place where they are exercising their rights. (2014 Alternative Progress Report);

- However, although the number of complaints has increased significantly compared to previous years, the capacity of the Office of Disciplinary Prosecutor of HJPC regarding the efficient processing of the applications of the sanctions is still limited. (2014 Alternative Progress Report).

ANNEX V. JUDICIARY IN BIH



MONITORING AND EVALUATION
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