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BOSNIA JUSTICE SECTOR DEVELOPMENT PROJECT II

YEAR 1 ANNUAL REPORT JULY 15, 2009 - JULY 15, 2010

AUGUST 2010

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

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

Submitted to:

USAID/Bosnia-Herzegovina in August 2010.

Contractor:

East-West Management Institute, Inc.

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TABLE OF CONTENTS

I: SUMMARY HIGHLIGHTS

II: PROJECT IMPACT

III. PROBLEMS AND ROADBLOCKS

IV. PROPOSED PROGRAMMATIC OR TACTICAL CHANGES

ANNEXES

I: SUMMARY HIGHLIGHTS

- **HJPC establishes seven working groups to implement the activities planned to strengthen the independence, accountability and effectiveness of the justice sector.** By its decision on January 27, 2010 the HJPC accepted the recommendations of JSDP II to create seven formal working groups to 1) reform procedures for selection and appointment of judges and prosecutors, 2) develop measurement procedures for effectiveness of prosecutors, 3) improve budgeting capacities of courts and prosecutors, 4) develop model prosecutors office initiative, 5) monitor implementation of case processing times for courts and develop case processing times for prosecutors, 6) review and improve Civil Benchbook and 7) review and improve Criminal Benchbook.
- **Development of an electronic information system to track implementation of the JSRS Action Plan.** JSDP II developed and implemented an IT system for use by the Ministry of Justice to track the stage of implementation of each item of the JSRS Action Plan.
- **Establishment of the Justice Network.** JSDP II in cooperation with its partner Association for Democratic Initiatives established a justice sector network made up of civil society organizations and professional associations. The network has grown to include all relevant professional associations within BiH as well as most NGOs that actively work in the justice sector.
- **Adoption of a Model Prosecutors' Office Protocol.** The working group on the model prosecutors' office initiative met in April 2010 and discussed a draft of the Model Prosecutors Office Initiative, Matrix of Standards and Intervention Plan that had been developed by consensus of all prosecutors' offices at a working session sponsored by JSDP II.
- **Modification of the Federation Ministry of Justice Book of Rules to include a strategic planning section.** At the suggestion of JSDP II the Federation Ministry of Justice has amended its Book of Rules to include a unit dedicated to strategic planning.
- **The Justice Network presents at the United Nations Universal Periodic Review hearing in Geneva.** JSDP II suggested that as its first concrete activity the Justice Network participate in this year's UPR for BiH. JSDP II supported the attendance of three representatives of the Justice Network at the formal proceedings in Geneva in June.
- **Obtaining Government Support for improvement of Prosecutors' Office Facilities.** Working with the prosecutors' office in Zenica, JSDP II was able to obtain commitments from the Canton to provide funding for expansion and improvement of the office in Zenica costing 500.000KM and using architectural plans developed by JSDP II.
- **Creation of the Joint Policy Forum.** The HJPC and Ministry of Justice of Bosnia and Herzegovina agreed to the joint formation of a policy forum that would address strategic planning matters relating to the judicial sector. This executive-judicial joint body is unique in Bosnia.
- **Trained 30 local journalists in monitoring and reporting on War Crimes trials and proceedings.** JSDP II through its partner BIRN provided intensive training for 30 local

journalists on the intricacies of following and reporting on war crime trials. This will improve the public awareness of the results of the National Strategy on prosecuting war crimes in local courts.

- **Juvenile Justice Law adopted in the RS.** The juvenile justice law advocated by the Human Rights Office Tuzla was adopted by the Parliament in the RS.

Highlighting Achievements:

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

Component I has worked through the High Judicial and Prosecutorial Council as well as with the 18 prosecutors' offices throughout Bosnia and Herzegovina to implement the First Year Workplan. It was decided to work through the HJPC so that the produced results on these reforms would be the product of local consensus and ownership. There was a delay in obtaining HJPC approval and action to create the necessary working groups to address these very important issues. That delay will be addressed separately in a brief annex to this report. After obtaining HJPC decisions to create and appoint members to the working groups Component I acted quickly to begin substantive work:

- In accordance with the Work Plan and the HJPC decision related to the establishment of a working group on drafting written exam for new judge and prosecutor candidates, reviewing the current oral exam for new judge and prosecutor candidates and to propose possible efficiencies and improvements to streamline procedure and achieve uniformity in process (WG) JSDP II commenced with the preparation and organization of the first meeting of this WG on 19/20 April in Fojnica. JSDP II prepared and distributed all relevant materials (invitation, agenda, JSDP II Work Plan, proposal of the detail work plan for the WG, reference materials such as CEPEJ and CCEP reports, etc.) providing not just technical but complete administrative support to the working group members. A Federation BiH Supreme Court Judge (member of the HJPC) was appointed as a chair of this WG. The Vice-President of the HJPC, two Chief Prosecutors and an RS Supreme Court Judge were also appointed in this WG. JSDP II managed to provide coordination with the Office of European Union Special Representative in this field. Mr. Lucio Valerio Sarandrea, their Legal Adviser on Rule of Law informed the WG on the EUSR's latest draft report on appointment and career advancement procedures in judiciary in BiH, and gave a presentation on preparation and administration of the exam, as well as findings regarding the effect of written examinations on the quality of judges and prosecutors in the Italian and French judiciary. He also expressed full support of the OHR/EUSAR to this WG and readiness to assist further in its work. Scope of work, timelines, coordination and communication with the HJPC, expected results and concrete tasks were discussed and agreed upon at the meeting. The assessment of the current appointment process, legislation and parallel practices was determined as next steps that should be conducted before the next meeting.
- At its session of 27 January 2010 the HJPC also made a decision on establishing a joint Council/JSDP II working group on developing a mechanism for prosecutor performance measurement. The Federation BiH Chief Prosecutor was appointed as chairman of the WG which consists of five members. JSDP II organized the first meeting of this WG that

took place on 25 March in Fojnica. All appointed members attended the meeting but noone from the HJPC Secretariat was present. Apart from discussion and agreement on WG tasks, timelines and scope of work most of the time was spend on concrete issues related to the problem of definition of the prosecutor performance measurement. Different challenges were discussed such as the different complexity of cases that was illustrated by cases of war crimes and economic crimes as compared with the cases of general crime. Also, the question of the definition of the prosecutors' day-to-day tasks was raised. Prosecutors have differing workloads and duties imposed by new legislation. Additionally, the workload depends upon the level and competencies of the PO and many other factors (geographical coverage, size of the PO, number of courts "covered", etc.). Therefore, it is important to take all these elements into consideration in the process of defining prosecutors' performance measurement. At the end of the meeting further immediate activities were determined.

- JSDP II's Model Prosecutors' Office Initiative (MPOI) emphasizes local ownership and change management. The MPOI's approach to working with prosecutor offices on management, administrative practices, backlog reduction, public outreach, strategic and operational planning, financial management, and improvement of IT services as well as of state of PO's premises earned the respect of participant prosecutor offices and the HJPC. HJPC at its session of 27 January 2010 made a decision establishing a working group on Model Prosecutor Office Initiative, on Matrix of Standards for MPOs, and on educational video podcasts. JSDP II prepared and conducted the first meeting of this WG on 20/21 April in Fojnica. The Vice-President of the HJPC was appointed as chairman of this WG which consists of eight members, including three Council members and the BiH Chief Prosecutor. The composition of this WG illustrates high expectations that the HJPC and POs have with regard to the MPOI. There was no one from the Secretariat of the HJPC in attendance. The MPOI, Matrix of Standards and Intervention Plan for Model PO was presented and discussed in detail. General conclusion was that the MPOI is a well focused initiative that could have a huge impact on functioning of the POs. Members of the WG also were provided basic knowledge about the concept of European Standards for POs, received a draft Matrix of Standards developed by the JSDP II, and provided JSDP II with concrete feedback about it. Under the Matrix all POs of BiH will eventually become model prosecutor offices through implementation of standards that reflect best practices of the judiciaries of EU member states. The WG decided that instead of developing video-podcasts for prosecutor training the development of a web portal for prosecutors that would be named "T Portal" within the HJPC web page. Training materials at the portal will be within area of strategic and operational planning and financial management, as well as within public relations strategies. JSDP II could assist trainers to develop discussion at the portal among professional community members. Materials could be used by prosecutors for their own training and discussion groups at the portal and this would lead to improvements of training materials and curricula for future trainings. A timetable, scope of work and expected results were agreed upon.
- On 26-27 January 2010 JSDP II organized a conference of all of the main prosecutors and prosecutor office secretaries. The purpose of the conference that gathered top leadership of prosecutor offices in BiH was to present in detail and discuss with key people/beneficiaries both the substance and implementation methodology of the MPOI. The meeting resulted with a consensus agreement on the draft version of the MPOI Intervention plan for the first wave of model prosecutor offices, draft selection of the annexes to the Intervention Plan for each prosecutor office, agreement on three years

dynamic of the MPOI implementation, and a draft of the related Memorandums of Understanding.

- JSDP II assembled its findings from assessment visits to all POs in one overall assessment report, and using particular criteria proposed a list of POs for each of MPOI waves. The HJPC agreed upon that proposal when determining final list of model prosecutor offices within three waves of the Initiative. At its 27 January session HJPC selected prosecutor offices for the first wave of the MPOI: Federal Prosecutor Office of the FBIH, Cantonal PO Mostar, Cantonal PO Široki Brijeg, Cantonal PO Goražde, District PO Eastern Sarajevo, and District PO Trebinje. Council selected the POs for other two waves of the MPOI. Republic PO of R Srpska, District PO Banjaluka, Cantonal PO Sarajevo, Cantonal PO Tuzla, Cantonal PO Orašje and Public PO of Brčko District of BIH are in the second wave of the Initiative. Cantonal PO Zenica, cantonal PO Livno, Cantonal PO Bihać, District PO Doboje and District PO Bijeljina will take part at the Initiative in 2011/2012. Following Council's decisions of 27 January, JSDP II organized and conducted field meetings with the Wave 1 prosecutor offices in February 2010. Meetings resulted with establishing final list of annexes to the Intervention Plan for each particular PO, adoption of the implementation methodology, agreement on the timeframe of activities, and establishment of the change management teams in all six POs.
- In accordance with the HJPC decision as to the list of MPO to be assisted in the first wave, JSDP II initiated field visits to all six first year MPOs. A total of 12 visits were conducted. As a result, Change Management Teams (CMTs) were established in each Model PO comprised of the Main Prosecutor, the Secretary of the PO, and other key staff. Time-line of activities to be accomplished by the CMTs as well as necessary resources was defined. Intervention Plans were further developed by specification of training and equipment needs and some specific area of assistance for each MPO.
- JSDP II's assessment of the needs of the first six POs for computer and other IT equipment such as sets for audio taping of suspects' hearings was completed and necessary procurement procedures initiated. Replacing missing and obsolete IT equipment will significantly contribute to efficiency of work of model POs, in particular to their implementation of the TCMS.
- JSDP II provided expertise for building improvements through development of related architectural plans or preliminary designs/recommendations for all 18 POs. JSDP II engaged a local expert to assess current status of each PO premises and to develop aforementioned recommendations and/or plans. As the initial step, JSDP II used a local expert who assessed the conditions of premises and identified what kind of assistance related to building improvements was required in all POs. He met with Chief Prosecutors and Secretaries to make this initial assessment and developed a comprehensive Assessment Report that contains a project idea for each of the eighteen POs with a related cost estimation. The assessment report provides each individual PO as well as the HJPC with arguments to require local authorities to budget the funding necessary for bringing their premises into a condition that is optimal for regular work of prosecutors and their administration. This activity was directly responsible for obtaining the commitment of Cantonal Government to provide 500.000KM to improve the prosecutor's premises in Zenica in accordance with JSDP II's plans.

- Pursuant to Annex 1.5 of the MPOI Intervention Plan JSDP II engaged a short-term expert who is conducting an assessment of the current PR practices in the model prosecutor offices, will deliver related training to the model prosecutor offices' change management teams and assist in development of the individual PR strategies for each model prosecutor office. Also, short-term expert will provide JSDP II with assessment of current situation of the PR policies and practices in six MPOs with concrete conclusions and recommendations for improvements in this area. The expert gave initial training to first six model POs and conducted its field visits to them.
- Pursuant to Annex 1.3 of the Intervention Plan, JSDP II engaged two short-term legal information research experts who are conducting an assessment visit to model prosecutor offices, will deliver related report with conclusions and recommendations for improvements in accordance with current international standards in this area, and provide relevant presentation on the topic of using strategies on information research and information gathering to the prosecutors and judicial associates at the prosecutor offices. The objective is to determine current state of usage of legal information research services by prosecutors and judicial associates in their daily work on cases, to present to prosecutors and judicial associates advantages and usefulness of modern legal library services for gathering relevant and timely information necessary for improvement of quality of prosecutorial activities, and to provide JSDP II with a report on assessment of current situation with conclusions and recommendations. JSDP II will use local experts to assess the status of information research and information gathering services for prosecutors' work within first six (6) model prosecutor offices in BIH, and write comprehensive report with conclusions and recommendations.
- Pursuant to Annex 1.7 of the Intervention Plan, and to Section 1.2.1 of its Year 2 Work Plan JSDP II is providing expertise by short-term expert who is conducting an assessment visit to first six model prosecutor offices, will deliver related report with conclusions and recommendations on improving archive services in accordance with international standards, and provide relevant presentation to the model prosecutor offices' change management teams on the topic of providing modern archive services. The objective is to determine current state of managing archives and usage of information from archives in model prosecutor offices by prosecutors and judicial associates in their daily work on cases, to present to prosecutors advantages and usefulness of modern archive services for providing relevant and timely information necessary for improving quality of prosecutorial activities, to improve communication between archives at the prosecutor offices and adequate cantonal and federal archives, and to provide JSDP II with report on assessment of current situation with conclusions and recommendations. JSDP II will use local expert to assess the status of archive services within first six (6) model prosecutor offices in BIH, and write comprehensive report with findings and recommendations for improvements.
- Pursuant to Annexes 8 and 9 of the Model Prosecutor Office Initiative Intervention Plan, and to Section 1.2.1 of its Year 1 Work Plan JSDP II provided expertise by short-term experts who visit model prosecutor offices and provide relevant training on the topic of strategic planning, operational planning and financial management/budgeting. The objective is to design the process of budget drafting for individual prosecutor offices better adjusted to local needs, achieve greater participation of chief prosecutors in specifying budget line items, train chief prosecutors and relevant managers from the prosecutor office administration in programming and budgeting. JSDP II is using a local

experts to assess current practices and existing plans of the MPOs. In addition, JSDP II foresees individual follow up assistance for each of the six selected POs by September 2010 as well as two and a half days follow up training in September on Financial Management and Budgeting.

- From 06/30 till 07/03/2010 JSDP II organized the first training cluster for the first wave of model prosecutor offices. The purpose of the training was to improve Model Prosecutors Offices management of the financial and other resources and to increase their efficiency and effectiveness to meet defined Standards. Training resulted in the MPOs Change Management Teams (CMTs) gaining knowledge and skills in strategic and operational planning, financial management, public relations and managing archives and libraries. Thirty CMT members, five experts and one HJPC staff participated at this training.
- JSDP I had urged the HJPC to undertake the development of optimum and foreseeable case processing timeframes for courts. The key task is to develop timeframes (optimum number of days from one procedural event to the next) in each type of case when the time periods are not already established by law. These were established and are now being implemented. The HJPC Decision on Establishment of the WG on Monitoring the Implementation of the Case Processing Timeframes for Courts and Establishment of the Case Processing Timeframes for Prosecutor Offices in BiH outlined the members, mandate and tasks of this WG. A Member of the Council who is a RS Supreme Court Judge is chairmen of this group which consists of 8 prominent judges and prosecutors. JSDP II prepared all relevant and available documents and organized the first meeting of this WG which took place on 22/23 March in Fojnica. Only one member of the WG couldn't attend while representative from the Secretariat, namely Head of Judicial Administration Department participated at the meeting. The meeting was structured and facilitated by JSDP II staff in the same manner as all other initial meetings of the WGs. Apart from the discussion on the WG scope of work, timelines and individual tasks, lot of time was spend on discussion on concrete substance and best solutions. All participants expressed satisfaction with the prepared reference material that served as a good starting point for further discussion. It was proposed that a judge from the Cantonal Court Novi Travnik join the WG since she is representative in the CEPEJ on behalf of the BiH. This proposal was submitted to the HJPC and approved at the Council session in April. In accordance with the WG conclusions, the Head of the Judicial Administration Department provided statistical information about work of the POs in last four years. This is currently the only available reference for determination of the case processing timeframes for POs. A number of issues was discussed, for example CEPEJ documents are relevant for courts but not for the prosecutors' offices, need to establish two sub-groups, one for courts and the other for POs, proposal to regulate this by bylaw and format and structure of it, definition of different types of cases, etc. Division of individual tasks was agreed at the end of the meeting.
- At its 27 January 2010 session the HJPC agreed upon the JSDP II Annual Work Plan and passed decisions on establishing two working groups for reviewing benchbooks, one for civil and another for criminal law, determining their mandate and goals. Groups are composed of judges of first and second instance courts from entities, Brčko DC, and the Court of BiH working in their civil and criminal departments. Some of these members took part in the JSDP I working groups that created the original Benchbooks. The HJPC agreed with the President of the Supreme Court of the FBIH proposal that JSDP II engage

as peer reviewers judges from two supreme courts in BiH. JSDP II also worked with the HJPC to ensure delivery of the benchbooks previously developed to all courts and judges. The HJPC promoted the civil and criminal benchbooks during its Conference of Court Presidents in BiH, which took place on 12-13 May, 2010 in Sarajevo. After the conference HJPC disseminate benchbooks to judges and judicial associates in all courts in BiH, and created the basic precondition for the JSDP II to organize WG's initial meetings. It was felt that allowing the courts some experience with the Benchbooks before beginning the review process was more efficient.

- In 2006, BiH adopted legislation to modernize budget planning and execution that is followed at state, entity and canton levels of government. It is a 10-step “program budgeting” methodology, based on a mid-term expenditure framework approach. At the central level for its own purposes, HJPC is already using the system. However, application of the new system in the courts was at first deferred but is now mandatory. Understanding of the mechanics of the system and of the basic concept of program budgeting, i.e., budgeting aligned with the achievement of defined program objectives of the institution, is rudimentary inside the courts on the part of the employees charged with these functions. The consequence is that court budget proposals are poorly justified and suffer as a result. The same holds true in budget execution, which generally amounts only to expenditure administration without any relationship to the program budget framework.
- The VAT is the most important source of revenues for all levels of government in BiH. The VAT revenue distribution formula could be revised to provide judicial budget needs at the level of the state or at the level of the entities before revenues are shared downward to lower levels of government. FBiH retention of a part of its VAT allocation from the state level to cover judicial funding needs before making the VAT revenue-sharing allocations to the cantons is quite feasible, if it can be agreed upon. Achieving consensus as to what improvement is politically possible is difficult.
- First meeting of the WG tasked to deal with all these matters was organized on 23/24 April in Fojnica. The Council Presidency member was appointed as a chair of the WG. President of the Federation Supreme Court, President of the largest court in BiH and Deputy Chief Prosecutor were also appointed as members of this WG. From the secretariat the Acting Head of Budget Department participated at the meeting and his involvement into discussions and information that he provided were very useful for determination of the WG scope of work, timelines and concrete tasks. Many of the discussions were focused upon definition of judicial financial independence from the executive and legislative authorities and the current status and deviations with regard to the budget planning and budget execution at different levels. After JSDP II presented its Work Plan and expected results of this WG, members have different views about possibilities to complete all these tasks, especially these that are not directly under the control of the judiciary. They discussed in particular an issue of developing a revised funding formula based on the intergovernmental finance structure built around the indirect tax system (VAT), relevant legal provisions and Assessment of the Budget Preparation and Execution Process in the BiH Judiciary prepared by EWMI expert Joseph J. Bobek. Everybody agreed that capacity building of the judicial institutions to properly plan and execute budget is the priority but they expressed reservation with regard to the current capacities of these institutions to meet accounting and bookkeeping standards required in public financing. The general conclusion was that priority is to provide adequate institutional and organizational capacity to the judiciary in BiH to become

capable to manage its own funds in the most appropriate manner while work with the executive authorities to ensure adequate funding in the transitional period. They also came to a stand that developing technical proposal to create a separate budget account for the judiciary that is not dependent on ministry of justice requires amendments and harmonization of relevant laws at all levels, mainly laws related to functioning of government and budget planning and execution. Working Group will prepare a proposal and conduct meeting with the representatives of the MoFs in the second half of the 2010.

- JSDP II decided during the year that item 1.3 of the first year workplan (reform of budget source) fit more logically within the scope of Component 2 work. Creating a more logical unified budget source necessary for an independent judicial sector would support the creation of the unified justice sector ready for EU accession. As a result this item has been moved to Component 2.

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

Component 2 established a good working relationship with BH MOJ's sector for Strategic Planning, Aid Coordination and European Integrations (SSPACEI). Through the cooperation with SSPACEI, but also with the High Judicial and Prosecutorial Council (HJPC) and its Secretariat, some structures in Entity and cantonal MOJs, and Brčko District Judicial Commission, in Year 1 JSDP II was able to:

- Create conditions and facilitate the establishment of the Forum for Joint Policy (FJP) through signing of the memorandum on Cooperation between these two institutions. FJP is composed of high ranked representatives of BH MOJ and of the HJPC. This Forum will be tasked with making analyses and producing policy proposals of the key strategic importance for the two institutions as well as the justice sector as a whole. The topics will be selected primarily from the Action Plan for the implementation of the Justice Sector Reform Strategy (JSRS AP), but also from the possible issues that may arise from the developments important for justice sector that have not been predicted by the JSRS.
- Develop an electronic Documentation System for SSPACEI. SSPACEI is the most important cell for functioning of the overall coordination of JSRS AP implementation. It provides necessary support to the Technical Secretariat for JSRS AP implementation, creates periodical reports, organizes ministerial conferences, allows access to all relevant justice sector institutions to all JSRS related documents (reports, contacts, meeting invitations, calendars, conclusions, etc.). Through close cooperation with SSPACEI, JSDP II developed and implemented a Documentation System (DS), a software program that helps SSPACEI to monitor the JSRS AP implementation in much easier and effective way than before. DS establishes simple methods for supply of institutional reports to SSPACEI, therefore abandoning the previous complicated and often non-efficient system. In addition to this most important characteristic, DS provides a number of technical innovations which will make SSPACEI more efficient in its very important coordinating position in both BH MOJ and JSRS AP implementation system. Except for SSPACEI, DS will inevitably create positive impact on other participants in implementation, but particularly on substance of meetings of the Functional Working Groups (FWG). We are planning to make all 13 justice sector institutions implementing the JSRS AP to be active users of DS, thus improving reporting and JSRS AP implementation in general.

- Provided day-to-day consultancy, guidance and support to SSPACEI in both of the capacities of this Sector- as the part of the internal structure of BH MOJ, and main coordinating point for JSRS AP. JSDP II undertook series of meetings with other participants in the justice sector reform. One of the topics covered regularly was cooperation with SSPACEI and modalities for improvement of this cooperation. Direct meetings with SSPACEI, sometimes on a daily basis, helped in raising both mutual confidence as well as the collaboration to the level which allowed implementation of the activities from the JSDP II Year 1 Workplan. All of these activities assisted SSPACEI in becoming more competent for production of analysis and technical inputs for the mid-level quarterly meetings of Functional Working Groups (FWG) monitoring the implementation of the JSRS AP when necessary.
- Initiated creation and assisted in drafting rules for chairpersons and members of FWG. These rules regulate important details of FWG chairpersons and members' activities, their relations and duties regarding professional obligations arising from JSRS AP implementation. The rules were adopted in a form of Decision during the Third Ministerial Conference held in December 2009 in Sarajevo. These rules became a tool for interpretation of the roles of professionals involved in the implementation of sets of these very important tasks.
- Made an analysis and formed conclusions as to the situation inside the system of JSRS AP regarding FWGs' status and activities, evaluation of contribution of FWG chairpersons and members, and the internal position of SSPACEI in BH MOJ. Conclusions and recommendations were submitted to BH MOJ.
- Established working contacts with the Entity MOJs regarding the implementation of JSRS AP. Before JSDP II was commenced, coordination between SSPACEI and entity MOJs barely existed. By initiating a joint meeting between SSPACEI and representatives of the FBH MOJ in FWGs at the very beginning of JSDP II Year 1, these two groups gained ground for more active and transparent cooperation in the future. JSDP II continued with its presence in the FBH MOJ, providing similar type of assistance as for SSPACEI. This resulted in an increased level of JSRS AP implementation activities of some FWG members, and also their improved cooperation with SSPACEI. As to the Republika Srpska MOJ (RS MOJ), JSDP II invested lot of effort and time in setting up and holding meetings with the Minister and the key officials for the reform issues. RS MOJ, long known for avoiding cooperation with other participants in the justice sector reform, has now become a regular meeting partner of JSDP II. We were presented some of the achievements of RS MOJ which are well ahead of other participants in JSRS AP implementation, and received assurances that this institution will continue in this direction. Our activities in this respect increased interest and participation of the FWG members from these institutions in the reform activities. At the Fourth Ministerial Conference, RS Minister of Justice confirmed that RS MOJ will take a more active role in implementation of the JSRS AP.
- Encouraged FBH and RS MOJ, as well as 8 cantonal MOJs and the Brcko District Judicial Commission, to appoint points of contacts for strategic issues (SPC). The Strategy as the key document for the justice sector establishes obligation of the entity ministries of justice to form units similar to SSPACEI, in order to create conditions for more effective and efficient inter-institutional cooperation aimed to provide adequate synergy in completion of the JSRS AP tasks. Until JSDP II started tackling this issue,

none of the respective ministries have ever even considered this option. The FBH MOJ SPC was appointed and the creation of amendments to the internal Book of rules on internal organization and systematization (BOR) was initiated in order to provide for creation of a separate internal unit at the FBH MOJ similar to SSPACEI. In our recent contacts with the RS MOJ SPC we presented and discussed the same initiative, which was openly welcomed.

- JSDP II made a field visit to all the FWG members to discuss improvements to their contribution in the JSRS AP implementation. In the same time, we spoke with their ministers and other principles in order to provide the FWG members with an adequate internal support within the institution. We also initiated and supported presence of FWG members to the Ministerial Conference, which proved very useful and allowed them to see *in vivo* how the ministers of justice discuss topics to which FWG members dedicate a significant amount of energy and time. This resulted in improved reporting, more frequent contacts between FWG members and SSPACEI, increased presence to FWG meetings, intensified contacts between FWG members providing for more specific discussions on important reform issues, etc.
- Provided intensive training to members of Forum for Joint Policy and supporting staff on creating justice policy, building justice policy capacities in BH, and cooperation between two institutions in a complex environment such as BH.
- Organized a workshop for FWG chairpersons and members on how the FWG members can contribute to better FWG work, during which the Documentation System was presented and discussed, and also some of the most important topics thoroughly discussed in an open and constructive manner. The success of the workshop lead the FWG members to request JSDP II to continue with this practice at least twice a year.
- Established contacts with ICON Institute implementing the IPA 2007 project of building capacities of the ministries of justice in BiH, and undertook all available steps in order to maintain a coordinated approach to the joint topics and to synergize efforts in execution of the tasks that have similar goals or activities.

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

By working closely with three key partner NGOs – Association for Democratic Initiatives (ADI), Balkan Investigative Reporting Network (BIRN) and Human Rights Office Tuzla (HROT), in year 1 JSDP II:

- Helped establish the network of 46 professional associations and NGOs in the justice sector (Justice Network) to increase BiH civil society's involvement in the development of public policies and legislative reform initiatives that advance the rule of law, as well as to improve the public's understanding of justice-related issues. The network aims to increase public demand for the rule of law, as well as public confidence in justice institutions, and therefore promote the integration of BiH into the European Union.
- Provided strategic planning support to the Justice Network to help: 1) clearly define its purpose, 2) communicate goals and objectives, 3) identify and prioritize action, 4) build teams, 5) share information, and 6) ensure most effective use of network resources. To

avoid donor driven projects, JSDP II worked alongside its partner ADI as the facilitator of strategic planning in a non-directive way.

- Provided capacity building support for participants of the Justice Network through training in: 1) strategic planning, 2) Universal Periodic Review (UPR) – a human rights monitoring mechanism of UN which also focuses on rule of law and justice issues, 3) human rights standards stipulated in the international conventions, BiH constitution and legislation as the touchstone for evaluating whether particular practices comport with the rule of law, 4) project management, and 5) advocacy (including introductory training on the development of a communication plan for advocacy campaigns). Capacity building support was provided based on previously conducted needs assessment of Justice Network participants.
- Helped raise public awareness of and build support for the Justice Network through activities aiming at: 1) enhancing the visibility of the network through the development of its logo, website (www.mrezapravde.ba), information sheet and other public information material, 2) its positioning as one of the relevant advocates in the justice sector through information dissemination on its establishment and activities to justice institutions (Ministries of Justice and High Judicial and Prosecutorial Council) and international partners (OHR/EUSR, OSCE, FCO UK/DFID, Swiss Embassy, UNDP and similar), coordination of activities and efforts to establish partnerships with government institutions through UPR activities, 3) assistance in the development of Justice Network communication strategy.
- Supported the active engagement of Justice Network participants in the UPR, which served as an initial organizing framework of activity for the network and more importantly a means for the network to engage productively with the government on rule of law and justice issues. This was achieved through following activities: 1) initial training to Justice Network participants and representatives of justice sector institutions on the UPR, 2) two public roundtable discussions (Sarajevo and Banja Luka), between government and non-government sector, on justice related issues included in the UPR, and 3) assistance in the preparation of the oral and written statement of the Justice Network to the plenary session of the UN Human Rights Council.
- The written and oral statement of participants of the Justice Network, communicated before the plenary session of the UN Human Rights Council¹ in June 2010, and shared at individual meetings with missions of 7 countries that made rule of law and justice related recommendations to BiH (USA, Canada, UK, Slovenia, Malaysia, Pakistan and Mexico), addressed some of the main deficiencies of the justice sector in BiH through recommendations such as the harmonization of legislation, the establishment of the Supreme Court of BiH, improved financing of the judiciary, the adoption of the BiH Law on Legal Aid and improved access to justice for all citizens of BiH regardless of their place of residence and ethnic/religious/linguistic background.
- Provided intensive training to 30 selected journalists in the independent and objective monitoring of war crimes trials before the following 11 selected cantonal and district courts: Brcko, Sarajevo, Bihac, Zenica, Banja Luka, Mostar, Gorazde, Travnik/Novi Travnik, Trebinje and Doboje.

¹ See <http://webcast.un.org/ramgen/ondemand/conferences/unhrc/fourteenth/hrc100611pml1-eng.rm?start=00:39:18&end=00:41:20>

- By monitoring eleven selected cantonal and district courts, helped prepare in-depth analysis² on how prepared they are to try war crimes, with regard to securing access to information and transparency of work, witness protection and support and the right to defense. These analyses were published through BIRN's specialized information agency Justice Report, which included web site and other print media, as well as radio and TV.
- By supporting an advocacy campaign for legislative reform affecting the juvenile justice system, contributed to the adoption of the RS Law on Juvenile Delinquency.
- Supported advocacy efforts aiming at the adoption of the FBiH draft Law on Juvenile Delinquency through public consultations, policy paper proposing improvements to the draft text of the Law and training for judges and prosecutors on juvenile justice system reforms.
- Conducted both a general and professional public opinion survey to determine the public opinion about justice institutions and the NGO sector. The survey will: 1) contribute to the baseline assessment relevant to project performance monitoring, 2) inform institutional partners and NGOs as to the current state of public opinion in this sector and 3) inform future project action. As such the public opinion and professional community surveys will provide helpful information and contribute to the advancement of project goals.
- Through a competitive grant award process, selected 7 participants of the Justice Network to help implement justice sector reforms as set out in the BiH Justice Sector Reform Strategy or international recommendations to BiH on improvement of rule of law identified through the UN Universal Periodic Review of human rights in BiH. Through these small grants (up to 25,000 BAM): 1) *Alternative Kakanj* will help improve the transparency of work of 6 municipal courts of Zenica-Doboj Canton, 2) *Foundation of Local Democracy* will seek to establish a Legal Aid Center for Women in Canton Sarajevo, 3) *Human Rights Center Mostar* will advocate for improved legislation and practice of legal aid in Herzegovina-Neretva Canton, 4) *BiH Association of Mediators and Plava sfera Banja Luka (consumer protection NGO)*, in partnership, will seek to encourage the use of mediation and negotiation, as forms of alternative dispute resolution (ADR), in utility cases, 5) *BiH Association of Judicial Associates and Advisors in Courts and Prosecutors' Offices* will advocate for legislative changes relevant to securing equal status of judicial associates in courts and prosecutors' offices throughout BiH, and 6) *BiH*

² <http://www.bim.ba/en/193/10/23794/>
<http://www.bim.ba/en/200/10/24791/>
<http://www.bim.ba/en/202/10/25126/>
<http://www.bim.ba/en/216/10/27726/>
<http://www.bim.ba/en/224/10/29029/>
<http://www.bim.ba/en/225/10/29087/>
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<http://www.bim.ba/en/225/10/29144/>
<http://www.bim.ba/en/225/10/29191/>
<http://www.bim.ba/en/210/10/26732/>
<http://www.bim.ba/en/220/10/28445/>
<http://www.bim.ba/en/219/10/28244/>
<http://www.bim.ba/en/222/10/28674/>

Youth Initiative for Human Rights will seek to secure the first massive public support for the judicial independence through activism, such as street ‘marches’ and petitions.

II: PROJECT IMPACT COMPONENT I; STRENGTHENING THE INDEPENDENCE, ACCOUNTABILITY AND EFFECTIVENESS OF THE JUSTICE SECTOR.

JSDP II's reform activities are of strategic importance for the HJPC. Working groups envisaged by Year I Work Plan and established by HJPC's decisions are programmed to achieve goals that are also part of the HJPC's current Strategic Plan. JSDP II actually prepared all necessary decisions, organized first working group meetings establishing forums for producing concrete strategic results for judiciary in BiH. The importance of this work was recognized by the HJPC when it enacted decisions making the components of JSDP Workplan the obligations of its working groups.

Through implementation of the Model Prosecutor Office Initiative Intervention Plan at the first six model prosecutor offices JSDP II gives proper attention and expert support to neglected part of judicial branch of governance in BiH. For the first time experts from various fields of prosecutorial administration, engaged by JSDP II, give training to stake holders in model prosecutor offices and conduct assessment reports that will come up with achievable improvement solutions for whole prosecutorial system in BiH, as well as for individual prosecutor offices. This approach won the support of the Chief Prosecutors of BiH in endorsing the MPOI at their meeting in January.

By completing the first assessment of the needs of prosecutors offices as to premises, JSDP II has provided a blueprint for future activity to improve those facilities to the extent that they are efficient and professional. The first fruit of this effort is the acknowledgement of the Canton Government that substantial expansion and improvement is necessary for the PO in Zenica.

For the first time the HJPC has been provided with a universal assessment of the needs of all 18 prosecutors' offices in BiH.

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

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

JSDP had a long and rich history working with the BiH MOJ and HJPC. Previously achieved results and excellent reputation helped JSDP II in our successful start.

The cooperation with SSPACEI was based on directing and advising rather than on doing a job for them. Through this approach, we raised the level of self confidence and reliability of SSPACEI. We engaged in open discussions with them pointing to problems and advising how we thought they could be resolved. This helped SSPACEI maturing faster and being more capable of properly addressing important issues.

The contacts and cooperation with other ministries of justice and Brčko District Judicial Commission (BDJC) was orientated more towards connecting them closer to each other, for example FBH MOJ with cantonal MOJs, and all of them closer with SSPACEI. It was necessary to take this direction because the initial momentum and ardor started to decline.

The first indication for this was decreased level of contacts and other forms of cooperation. Through regular contacts with entity and cantonal MOJs, JSDP II managed to maintain the level of some activities, and even to increase the quality of others such as dynamics of reports delivery, presence to meetings and conferences, and devotion of some ministers to the goals of the JSRS.

Formation of FJP had a positive echo in both the public and professionals dealing with JSRS AP implementation, but the real positive effect could be noticed from standpoints of BH MOJ and HJPC regarding the establishment of FJP during the MOS signing ceremony. The high expectation and complete devotion of both of the institutions to the successful start and fruitful activity of FJP were expressed in a decisive manner.

The DS was firstly introduced as a tool for simplification of the SSPACEI's position in digesting the data received from the field and creation of documents needed for regular reporting within JSRS AP implementation. But as JSDP II work with SSPACEI continued, the future users realized that installation of DS will not only be useful for the said purposes, but it could improve efficiency of work of institutions of justice sector in Bosnia and Herzegovina, as well as allow the public to follow the developments in the JSRS AP implementation, which is the opportunity not too many countries, especially the neighboring ones, will have.

Particularly positive impact JSDP II produced was the one on the work of entity and cantonal ministries of justice regarding their obligations from JSRS AP. Before JSDP II, some of these institutions were trenched by the limits of their unresolved political, staffing and budgetary issues. JSDP II made them realize that those issues cannot be the justification for the lesser level of engagement of those institutions than expected. In spite of the existence of enthusiastically motivated individuals, these institutions did not invest sufficient efforts to use those individuals in overcoming the weaknesses. After a year of the JSDP II existence, they see that they have at their disposal a strong tool for both proper evaluation of their contribution to JSRS AP implementation, and multidisciplinary assistance that they may use. In this respect, appointment of SPCs in both Entity MOJs is a very important step for further progress in this field.

JSDP II is proud of managing to approach all the levels of structures involved in JSRS AP implementation. But one particular detail is very important - through our contacts we managed to establish very constructive working relationship with FWG members. This proved to be of a great importance for the project because we managed to raise their engagement to the higher level, in the same time enhancing the contribution of some ministries. With this activity we created a group of enthusiastic professionals who will be able to improve the overall quality of work in the reform.

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

A significantly expanded engagement with civil society was a key new area of work for JSDP.

Such engagement was based on the premise that strengthened capacity of NGOs to conduct ongoing oversight, analysis and advocacy in relation to the justice sector will enhance both the effectiveness and credibility of justice system institutions.

JSDP II activities focused on engaging civil society with the justice sector through measures based on local needs. To that end, JSDP II worked closely with three key partner NGOs to achieve project objective.

Through the establishment of the Justice Network and its development JSDP II offered ‘*a systemized model for encouraging active involvement of diverse interest groups in strategy, policy and law development processes in the justice sector thus ensuring better representation for all parts of society, and also helped built capacities of those groups to contribute effectively to such processes.*’³

Furthermore by bringing together professional associations and NGOs in the justice sector in a joint network, JSDP provided an opportunity for them to learn from each other and about each other, the end goal of which is to strengthen their capacity to carry out advocacy of justice sector operations and reform processes. Of the three roles that NGOs play - that of a watchdog, service provider and advocate - advocacy is the least developed in BiH. Reasons for this are: 1) demand related – until recently the international community was the main (if not the only) driver of reforms, leaving little room for such action to BiH NGOs, 2) capacity related – advocacy requires knowledge, skills, a systematic approach and persistence which NGOs often lack, and 3) donor related – many donors prefer supporting quick fix projects.

By working with partner NGOs, JSDP II helped increase the sustainability of their involvement in the justice sector. Good evidence of such increase is the involvement of ADI and HROT in monitoring the implementation of BiH Justice Sector Reform Strategy through funds secured by FCO UK.

By working alongside its partner NGOs, JSDP II was able to provide hands on assistance relevant to building their capacity and that of other participants of the Justice Network. Such examples include: the assistance in the development of participation criteria for the Justice Network and the development of the Justice Network participation agreement, training to journalists on the transitional justice and its mechanisms, expert assistance in preparation of the oral and written statement of Justice Network for the plenary session of the UN Human Rights Council (UPR) and similar.

Through the introduction of program budget for its grantees, JSDP II secured greater transparency and accountability in the work of its partner NGOs. Furthermore, continued close grant monitoring and related advice contributed to their further professionalization.

Through activities of BIRN, JSDP II reached out to local media and helped build relevant capacity for independent and objective reporting of court proceedings. The end goal of these activities is to contribute to improved media-court relationship, transparency in the courts and greater public understanding of judicial proceedings.

Whereas through support to HROT, JSDP II supported the development of a justice-sector policy and legislative reform relevant to improving the juvenile justice system in BiH as required by EU integration processes. By awarding small grants to 7 additional CSOs, participants of the Justice Network, JSDP II worked towards securing relevant support for an additional number of advocacy efforts in the justice sector as indicated above.

³ BiH Justice Sector Reform Strategy, Pillar 3, Care of Court Users and Role of Civil Society

Finally, the public opinion survey JSDP II conducted will help the development and implementation of project activities based on empirical rather than anecdotal evidence.

3: PROBLEMS AND ROADBLOCKS

COMPONENT I; STRENGTHENING THE INDEPENDENCE, ACCOUNTABILITY AND EFFECTIVENESS OF THE JUSTICE SECTOR.

The primary problems centered around the capacity and commitment of the HJPC Secretariat to fulfill its responsibilities under our memorandum of understanding.

- Operational capacity of the Council is very limited, and its work is more dependent on the Secretariat than it should be. At the same time, top management of the Secretariat does not have enough expertise and/or willingness to fulfill its duties to the Council's members and its Presidency where reform projects are concerned. The Secretariat Director indicated that the capacities of the Secretariat to provide administrative support to the Council's working groups established under our Annual Plan are also very limited despite the fact that there are a number of administrative staff being employed at the Secretariat. There is a disturbing lack of communication between the Secretariat and the Council, almost at times equaling miscommunication. The Secretariat effectively controls the work of the HJPC through financial and communication control, especially communication with the international organizations which are, in most cases, initiators of the reform projects. Apart from jeopardizing and delaying implementation of the JSDP II, the Secretariat, in this capacity, does not appear capable to ensure sustainability of the Project results which was the main reason for selecting them as our main project partner. Additionally, their sometimes superficial involvement in our Project often causes misunderstanding between us and the Council, Prosecutors Offices, Swiss Cooperation Office and other international partners.
- Overlapping with the Swiss project in MPOI. In order to avoid that possibility we conducted several meetings with the SP. We invited Swiss Project to all our relevant events in order to provide flow of information between us and coordinate future activities. The Swiss Project invited JSDP II Chief of Party to take part in its workshop on its concept paper on Strengthening Institutional Capacities of Prosecutor Offices in BIH. Unfortunately, the Secretariat of the Council did not inform JSDP II either that adoption of Swiss Project Proposal was on the agenda of the July 5, 2010 Council's session, or about the Council's decision.
- Failure of the HJPC to include requests for funding of the continuation of the Model Courts Initiative and Benchbook updating in its proposed budget.

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

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

- JSDP II was launched at a politically sensitive moment in a complex situation. As the project developed, the political situation influenced the internal relations in some of the key institutions of the justice sector, sometimes determining the level and quality of cooperation of a particular institution with JSDP II.

- Lack of inter-institutional cooperation has been one of the biggest problems in the execution of tasks arising from the JSRS AP. Whether politically motivated or simply a matter of lack of interest or incompetence of the ministers of justice, the consequence is the same - non compliance with the earlier accepted obligation to implement the reform. JSDP II has invested a lot of effort and time in improving communication among the justice sector institutions.
- Shortcomings in the internal communication of the key justice sector institutions was another challenge faced by JSDP II. Although at different levels, these shortcomings appeared in all of those institutions. During the meetings at all levels we mentioned this problem and provided suggestions and guidelines to overcome it. Our observations were taken seriously, but limited success was registered.
- Understaffing and limited competence of staff members: The administration in general in Bosnia and Herzegovina has not yet recovered from its devastation by the war. The state institutions at all levels are in a very bad position caused by the budgetary limitations that arose from the bad economy, which implies inability to offer more attractive salaries and career advancement or employment of additional staff. Most of the civil servants have undergone a number of trainings, but some of them were completely useless for the attendees. JSDP II addressed this challenge by advising as to what should be done by the key justice sector institutions, leaving an open door for an increased advisory role.
- Inconsistencies in the Action Plan: The AP contains a great number of activities and sub-activities that need to be implemented in order to claim success in justice sector reform. Some of these activities were not precisely defined, leaving them unclear to both the institutions responsible for its implementation, and the ones monitoring it. JSDP II kept advising SSPACEI and Technical Secretariat for monitoring the JSRS AP implementation (TS) that the definitions in JSRS AP need to be as clear as possible. JSDP II supported SSPACEI's activity in improving the quality of AP definitions through revision of the AP as required by the Third Ministerial Conference. The improvements of the AP are seen as a constant task which will contribute to its improved implementation.
- Election Year: From the start of JSDP II we have been aware that the upcoming election year may affect the ability of the ministries of justice to dedicate necessary energy to reform. However, we maintained a position that this should not influence the amount of work invested. Nevertheless, towards the middle of the reform timeline a number of ministers will be replaced, and we do not know whether their successors will be more or less proactive in their attitudes towards JSRS AP implementation. That is the reason why JSDP II kept advising staff members and officials involved that their engagement should not be seen as the part of political orientation of a minister, but rather a reflection of their professional commitment.
- Arguably the most important practical problem faced is the lack of presence of officials at the formal meetings. Each institution of the justice sector in Bosnia and Herzegovina has appointed a number of civil servants and officials to the FWG, and key institutions such as BH and Entity MOJs and HJPC did the same for the TS. The formal meetings of the TS and FWG are the most important practical instruments in following the results and level of implementation, as well as undertaking formal steps such as preparation of the Ministerial Conferences (MC). By being absent from any of those meetings, FWG members and chairpersons, as well as TS members, directly undermine implementation.

JSDP II addressed this problem by using every opportunity to remind the ministers of their obligations towards the JSRS AP implementation, and their responsibility to ensure the presence of the representatives of their institutions at the respective meetings.

- Formalization of the internal procedures within HJPC: In Year 1, Component 2 did not have activities tied to HJPC except the establishment of FJP, which was successfully implemented. Even through this activity, JSDP II sensed possible pitfalls that may realistically cause problems in the future. The complicated mechanism of functioning of the information flow and decision-making system make this institution a rather sensitive partner for JSDP II. In addition to this, there is no guarantee that the Council will accept a recommendation by its Secretariat regarding any issue. Also, it has been noticed that, as an independent body, the Council may modify the requested activity partially or completely, thus causing either a need for reconsideration of the request or proposal, or even inability for it to be implemented. JSDP II built its partnership with HJPC in this activity through careful and consistent development of relationships through HJPC's Secretariat, which resulted in increased confidence and discussion of topics in an open and constructive manner.

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

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

- The financial dependence of civil society organizations (CSOs) on donor funding, which impairs the effectiveness and the autonomy of the CSOs. This problem is being dealt with through work performed by Center for Promotion of Civil Society under USAID grant to secure an environment for sustainable development of CSOs, as well as the relevant EC project.
- Lack of active participation by CSOs in the justice sector of BiH, which as noted in the BiH Justice Sector Reform Strategy (pillar 3) negatively impacts on the range of interests that are accounted for in strategy, policy and law development processes. This problem was addressed through efforts to establish and develop the Justice Network.
- The differences between professional associations and NGOs, both participants of the Justice Network, the former often being distrustful of the latter. Efforts to address this problem included joint strategic planning and capacity building sessions of network participants, but will require continued effort.
- The somewhat lethargic government when it comes to building a relationship with the CSOs. This problem was addressed through a mixture of measures: 1) joint efforts which contributed to partnership building (UPR exercise, individual advocacy campaigns which included an element of education), 2) a more proactive approach of CSOs (e.g. HROT efforts when advocating for juvenile justice reforms), and 3) by identifying in the government individuals who are prepared to take a more proactive approach in building a relationship with CSOs and working with them.
- The differences between entity professional associations on some of the key issues relevant to securing judicial independence. This roadblock was dealt with through a mixture of measures: a) by helping develop a system of decision-making that was not

necessarily based on the consensus of the participants of the Justice Network in order to eliminate the possible deadlock (e.g. UPR exercise), and b) by providing good offices.

- Uninformed general public on the role of the judiciary in general and its contribution to the development of a democratic BiH, and reforms thereof, as results of the aforementioned public survey indicated. This problem will be addressed through future public information and education activities.

4: PROPOSED PROGRAMMATIC OR TACTICAL CHANGES

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

- To address the problems faced with the HJPC working groups, USAID/JSDP II could insist that the HJPC find resources in its current or revised budget or to find some external funding as mentioned by Mr. Suljagić, and pay fees to working groups' members in accordance with its internal regulations. This may be unlikely and the HJPC might not have the possibility to obtain the necessary funding. If there are no funds and the WGs consequently decide not to work, JSDP II could only conduct some activities with the WG members such as training, expert presentations, study visits, etc., but no concrete results would be produced in 2010/2011 (draft documents, assessments, Council decisions, etc.).
- Component 1 has had to provide much administrative support to the established WGs at their first meetings, even though this is the obligation of the HJPC's Secretariat. This in addition to the extensive field work required with the MPOI is hampering the component's ability to conduct all activities envisaged by the WP. This problem was addressed by modifying the Work Plan and moving the activities in Article 1.3 and support of that WG to Component 2, since this would better balance the workload and fits logically into creating a more unified justice sector ready for EU integration. In addition, a part time administrative person has been hired to assist in the technical administrative support to the WGs. Nevertheless, it would be unrealistic to expect that such modest administrative support could cover all administrative tasks without the Secretariat's staff engagement. If HJPC does not ensure administrative support to its own working groups then JSDP II could consider two options: 1) limit the number of working groups so realistic results could be achieved; or 2) increase the number of administrative staff within JSDP II (to the extent the budget will allow it) in order to cover all the administrative work necessary for supporting the working groups.
- A systematic solution would be to build institutional capacities of the Council by streamlining a role of the Secretariat into parameters that would prevent it from being dominant over the Council, and to work on the development of a professional code of ethics for the Secretariat staff. In the current situation we should insist that the Council assumes increased control over the work of the Secretariat, at least in the implementation of the JSDP II.

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

- In Year 2 of JSDP II there will be no significant programmatic or tactical changes. Most of the activities planned for Year 1 proved to be realistically assessed and set, and should be continued with increased intensity or upgraded.
- JSDP II will further develop activities regarding the start up and strengthening of FJP. This forum will be given appropriate training and support, and it is expected it will start producing analyses and policy proposals in the first year of its existence.
- Continuing support will be also provided to SSPACEI both in its capacity as the leading coordinating body for the implementation of the Strategy, and a very important unit

within the BH MOJ. The SSPACEI staff will be included in most of the trainings planned for Year 2.

- Special attention will be given to increase the engagement of Entity MOJs in JSRS AP implementation. Meetings with ministers will be more frequent, and also the contacts with relevant staff members intensified.
- JSDP II will intensify contacts with chairpersons of FWGs and in the same time closely observe their contribution to the realization of their respective FRG tasks. The recommendations for improving their contribution will be regularly delivered to the BH MOJ. Also, we will continue contacts with FWG members and their principals in order to maintain the level of engagement of those who were active during Year 1, and to increase it in the case of those who were not.
- Contacts with HJPC will be intensified because of the expected increase of activities regarding FJP, but also because Component 2 is taking over Component 1 Activity 1.3, Increasing Independence and Effectiveness through Improved Budgeting Processes, which became Activity 2.6. Due to the above mentioned situation in HJPC, JSDP II will have to build a more simple way of communication to provide both realization of tasks in a timely manner and to avoid a possible difference in approach to our proposed activities between the Council, its Presidency and the Secretariat.

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

- JSDP II will continue to invest efforts in expanding and strengthening the Justice Network, as well as encourage CSOs to embrace legislative advocacy as a powerful tool in shaping policy. To give Justice Network's action a broader base and greater sustainability, JSDP II will continue to assist it in mobilizing others to exert more pressure, such as media or the general public.
- JSDP II will also provide specific training to its partner NGOs and other grantees to increase the sustainability of their involvement in the justice sector.
- Given that the aforementioned public opinion survey revealed that the public trust in the judiciary is higher in FBiH than in RS, JSDP II will seek to work more closely with NGOs the activities of which target this BiH entity.
- To secure greater project impact and encourage creativity among its partners, JSDP II will favor the award of competitive grants whenever possible. But, when relevant justice sector reforms are neglected by CSOs due to lack of expertise, courage or motivation, JSDP II will seek to use education and targeted grants as a form of encouragement. JSDP II will also provide continued training and ongoing mentoring of grantees, relevant to increasing the transparency of their work and their accountability, such as financial management, performance monitoring and reporting. Finally, JSDP II will invest special efforts in improving project design and implementation capacities of professional associations and further encourage their partnership with NGOs in advocacy efforts relevant to justice sector reforms.

ANNEX A TO ANNUAL REPORT

From the beginning of the project difficulties arose due to the structural inadequacies and internal politics of the HJPC. These difficulties contributed to delay in beginning the substantive work of Component I and required an unusual amount of effort to overcome to the extent that the project could begin to address key issues.

- The Secretariat changed the Council's decisions which had been prepared by JSDP II and adopted as written by the Council at its session. This had enormous negative impact on our Project. The rewritten decisions imposed unacceptable conditions and were not communicated until substantially after the session. Those issues had to be resolved before the Groups met. To address this issue we agreed with working groups' members that the result of our Project (Reports, Decisions or Conclusions), which would be submitted to the Council for adoption would be prepared by the chairman of the WGs and us; that it would be sent to the Secretariat just to be put in appropriate format and distributed to the Council members, and that we should attend these sessions and receive a copy of all material submitted by the Secretariat to the Council related to our Agenda item. This methodology was confirmed at the meeting of the JSDP II with Mr. Novkovic, HJPC President, Ms Zlatković, Vice President and Mr. Suljagić, Head of HJPC Presidency Cabinet on 18 May 2010.
- Proper two-way channel of communication is also an issue between the Secretariat Director and the JSDP II because the Project hasn't been receiving very important feedback information from the Director in timely manner, or hasn't received them at all. We even at this date have not received the Secretariat's comments on our Annual Plan and aforementioned changes came to JSDP II as a complete and unpleasant surprise. Besides, the Secretariat Director indicated that he was unsure what administrative support to working groups actually means and under his request we had to send him a letter explaining substance of that term and requesting such support for the Council's working groups. Letter was sent on April 19, 2010 and we still haven't received his answer so his statement that Secretariat would provide administrative support to at least four working groups should be taken with reserve. Ms Gorana Zlatkovic, the HJPC's Vice-President informed us that the Council's Presidency met with Mr. Tulumovic and requested him to finally determine capacities of the Secretariat to provide requested support to the working groups. Unfortunately that provides him with a room to find excuses not to support activities adopted by relevant Council's decisions. In that way even excellent relationships and cooperation with the Council that has been established so far can become fruitless. Director hasn't replied to our letter so far and in meantime working groups have raised the issue of administrative support, so we had to explain to them the current situation and their conclusion was not to have further meetings until administrative support is provided to them. At the afore-mentioned meeting with HJPC leadership JSDP II expressed an opinion that Director of the Council Secretariat should designate representatives of the Secretariat from relevant departments who would provide administrative support to the working groups and maintain regular contacts with the chairpersons of the working groups in the manner explained in the above-mentioned letter of the JSDP II sent to the Secretariat Director. He would coordinate the work of his employees who would submit regular report to him and the chairpersons of the working groups, for each of them in their domain. The JSDP II would also maintain regular contacts with the delegated officers of the Secretariat, and assist them in performing their administrative and other duties. Mr. Novković and Ms. Zlatković agreed in principle with

this recommendation and they stressed they would try to ensure administrative support for the working groups in the proposed manner, and they would discuss the issue with the Secretariat to check whether the support can be provided in the proposed capacity, i.e. if it is possible to designate one Secretariat officer for each of the working groups.

- Working groups' members raised an issue of fees for their work. At the meeting with the Secretariat Director and JSDP II's contact person Mr. Tulumovic stressed that the HJPC did not have any funding for that purpose because it was not planned in the budget for the year 2010. Component 1 team explained that it was not foreseen in the JSDP II and that it was against the USAID policy to pay fees to the government officials. It was concluded that the issue had to be resolved as soon as possible in order to continue work of the working groups. The issue of fees for the WG members is complex and might jeopardize the implementation of the JSDP II. At the May 18, 2010 meeting with HJPC President, Vice President and Head of Presidency Cabinet they agreed with JSDP II proposal, which said that in a special document – Operative Plan that would be consistent with the Strategic Plan of the Council, the Secretariat should plan for all activities, expected results, resources necessary in order to provide required support to the working groups, including necessary financing/budget funds and persons responsible for implementation of the aforementioned activities. The JSDP II is prepared to assist in the process, providing the Council and the Secretariat with tables of individual working groups with timetables of activities and expected results and impacts. Following the requests made by the members of the working groups in working groups' sessions, and having in mind the USAID rules that preclude such payments, the Council should pay special attention to the issue of appropriation of funds in the budget to pay for the compensations for their work. Mr. Suljagic stressed that he was certain that the Council could pay members of the working groups, and that there were no obstacles upon appropriation of funds (if included in the budget) to pay for those members of the Council involved in the working groups, as well as the other members, but he was uncertain the payments could be made at the moment. However, it is necessary to prepare everything in accordance with the Decision on Criteria to Establish Financial Compensations for the Work on Steering Committees, Supervisory and Other Boards, and Other Working Bodies in the Competence of BiH Institutions, issued by the Council of Ministers of BiH last year. In that case, it is possible to pay all participants in the work of the working groups whose work relates to specific activities from the competence of the Council. But, since the Office of the Presidency is not the competent organizational unit to provide final opinions and decisions, the Council will have to issue instruction to the Secretariat to explore all possibilities, and prepare resolution of this issue in the optimal way.
- The HJPC has not requested in its 2009 budget funds for reinforcement of the Model Court Initiative, which is a precondition to JSDP II's assistance. At the may 18, 2010 meeting JSDP II reminded HJPC it should include funds for reinforcing of the MCI in their 2011 budget request.
- Even knowing of the contents of USAID's RFP and EWMI's Technical Proposal the Director of the HJPC Secretariat didn't include cots of extention of the Model Courts/European Standards Program in its 2010 budget request. JSDP II met with the HJPC Director on 18 May 2010 and agreement was reached that the HJPC would include funding of this activity into the HJPC budget proposal for 2011.

- HJPC under JSDP II proposal and with JSDP II assistance established two benchbook working groups (one for criminal and one for civil law) at its session of 27 January 2010. HJPC first delivered benchbooks (published by JSDP in 2009) to judges and judicial associates May 2010 at the Court Presidents Conference. JSDP II's technical assistance will last until the first review of the benchbooks and publishing the revised page inserts is finished. By adopted Year 1 work Plan the HJPC took an obligation to request budget funds to continue with this activity in the future. Having in mind above mentioned limited capacities and lack of willingness to support reform projects of its Secretariat management there is a possibility that this activity will not be a part of 2011 budget request.

ANNEX B TO ANNUAL REPORT

Staffing and Management JSDP II:

Chief of Party	Richard Gebelein
Component I Head	Ermin Saraljija
Component II Head	Muhamed Susic
Component III Head	Elmerina Ahmetaj-Hrelja

Component I Coordinator	Josko Mandic
Administrative Assistant	Ivana Simic
Component II Coordinator	Nedim Daul
Component III Coordinator	Luna Kalas
Grants Officer	Dzenan Trbic

Office Manager	Taisa Zečić
Finance Manager	Zdenka Osenk Gabor
Translator/Admin. Officer	Emir Budalica

Driver	Boris Saric
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