



ASOCIJACIJA ZA DEMOKRATSKE INICIJATIVE



**Report of civil society organizations (CSOs)
on implementation of the Action Plan
for Implementation
of the Justice Sector Reform Strategy (JSRS)
of Bosnia and Herzegovina**

Reporting period: 1 January – 30 June 2011

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**British Embassy
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1. EXECUTIVE SUMMARY

In February 2010, the five partner civil society organisations signed a *Memorandum on the establishment of monitoring and evaluation mechanisms for the implementation of the Action Plan of the Justice Sector Reform Strategy in Bosnia and Herzegovina* (JSRS) with the Chairman of the Conference of Ministers of Justice of BiH, President of the High Judicial and Prosecutorial Council of BiH and the Judicial Commission of Brčko District of BiH. The established mechanism is unique not only in Bosnia but in neighbouring countries as well. As such, it relies on the best practices of democratic societies of Western Europe in terms of participatory monitoring and evaluation of public policies by civil society organisations (hereinafter CSOs). Five civil society organisations signatories to the Memorandum that committed to the implementation of systematic monitoring, evaluation and reporting on the implementation of reform measures and activities under the Action Plan of the Justice Sector Reform Strategy in BiH are the Association for Democratic Initiatives - ADI, the Helsinki Committee for Human Rights in Bosnia and Herzegovina - HC BiH, Association *Vaša Prava* in Bosnia and Herzegovina, Human Rights Office Tuzla and the Centre for Civil Initiatives - CCI.

Drawing on many years of advocacy experience in the field of democratisation and human rights protection, as well as the knowledge of issues in the justice sector in BiH, these organisations have become involved in the process of monitoring, evaluation and reporting on this important reform policy in order to thus contribute to the efficient establishment of justice system in BiH, which is accountable to all citizens, in full conformity with EU standards and best practices, and guarantees the rule of law in our country.

The establishment and functioning of an independent mechanism for monitoring, evaluation and reporting on the implementation of JSRS for civil society organizations in the past almost eighteen months is an indisputable indicator of positive changes and opening of institutions in the justice sector in BiH towards civil society. This is further evident in the *Memorandum of Understanding to set up a donor fund for the implementation of the Justice Sector Reform Strategy in Bosnia and Herzegovina*, for after considerable time, the Council of Ministers had approved this Memorandum in mid June and sent it to the Presidency of BiH for further procedure. Among other, the Memorandum provides for funding from the future JSRS Fund in the amount of approximately € 30,000 annually for OCDs involved in the process of monitoring, evaluation and reporting on the implementation of JSRS.

In the past, almost eighteen months, these five civil society organisations have developed three quarterly, two biannual and one annual report on monitoring and evaluation of the JSRS AP implementation in BiH. This biannual report by CSOs is an independent assessment of the implementation of reform measures and activities under the JSRS Action Plan by competent institutions in the period from 1 January to 30 June 2011. Each organisation is committed to monitoring the implementation of JSRS within each strategic pillar, in line with the priority action areas for respective organisations. Therefore, ADI is monitoring reform activities relevant to Pillar 1 – Judicial System; the Helsinki Committee for Human Rights is monitoring the Pillar 2 - Execution of Criminal Sanctions, Association *Vaša Prava* in Bosnia and Herzegovina is focusing on Pillar 3 - Access to Justice, Human Rights Office Tuzla is monitoring Pillar 4 - Support to Economic Growth, while CCI is analysing the measures set out in Pillar 5 – Well-Managed and Coordinated Sector.

Although a certain number of the planned activities has been implemented since the adoption of JSRS in BiH, the implementation process for the Action Plan of the Strategy is characterised by a series of difficulties, reflected, among other, in the still underdeveloped institutional capacities for planning and analysis, insufficiently efficient system of horizontal and in particular vertical sectoral coordination and cooperation at the national, entity, cantonal and Brčko District levels in BiH, insufficient level of commitment to the implementation of identified JSRS activities itself, but also to the processes of monitoring, evaluation and reporting on its implementation. Furthermore, analysing the reports of the Technical Secretariat for monitoring the implementation of the JSRS AP in BiH, it can be inferred that there is no uniformity in the level of its implementation at the national, entity, cantonal and Brčko District levels in BiH. This negative trend is evident in this reporting period as well; hence the fear that in the absence of unrelenting commitment of government tiers in BiH to the implementation of the JSRS AP measures and activities, which would result in significant lags in the implementation of reforms, such tiers would greatly undermine the coherence of the entire justice system in BiH.

This reporting period is characterised by heightened political tensions that have inevitably affected the overall level of implementation of the JSRS activities. Specifically, at the proposal of the President of the Republika Srpska, on 13 April 2011 the National Assembly of Republika Srpska adopted the Decision on Referendum for the electorate of this entity to vote on the laws imposed by the High Representative, particularly the Laws on the Court of BiH and the Prosecutor's Office of BiH. The adoption of this Decision has caused major disapproval by political officials in other parts of the country, especially in the Federation of BiH. However, after strong criticism from the international community regarding this Decision of the National Assembly of Republika Srpska, aside intense diplomatic activities, a compromise was reached in terms of initiating a structural dialogue on judiciary in BiH, in accordance with Chapter 23 of the Stabilization and Association Agreement with the EU. Following the agreement, the RS National Assembly repealed its Decision on the referendum which subsequently resulted in the organisation of the first consultative meeting in the framework of the structural dialogue process between authorities from the state and both entity levels in BiH with the EU representatives on the future of judiciary in BiH in the process of EU integration. It is important to note that as a part of the structural dialogue, the European Commission presented a questionnaire to the representatives of BiH, and the responses are currently being prepared. It is expected that the upcoming Ministerial Conference will consider draft responses, or in fact technical information as requested by the European Commission. The final text of the responses from the justice sector institutions in BiH, as inquired by the European Commission, should be submitted to the European Commission by the end of August 2011.

However, repeatedly voiced position of the RS Government and the RS Minister of Justice, Mr. Džerard Selman, in terms of (non)legality and (il)legitimacy of the Government of the Federation of BiH, in addition to the attempts to eliminate the participation of the FBiH Minister of Justice from the structural dialogue on judicial reform in BiH with representatives of the European Union, have in no way assisted the much needed relieve for a rather tense political situation in the justice sector in BiH over the past six months. Overall, the launch of the structural dialogue also pointed to a diametrically different attitudes between authorities in RS and the FBiH on the majority of issues related to the future of the judiciary in BiH, such as the issue of appellate jurisdiction of the Constitutional Court of BiH, the issue of constitutionality of the Court of BiH and the Prosecutor's Office of BiH, the application of the CC of BiH or the CC of SFRY in war crimes cases, the issue of the adoption of the law at the state level on the division of state property and the law on property rights over state property, the issue of establishing the Supreme Court of BiH and other issues. All of this eventually peaked in the withdrawal of support from the RS Government for building a state prison due to the changed conditions for its construction, while at the same time, the Municipality of Istočna Ilidža withdrew its decision to allocate land for construction of the prison and now seeks millions for the land that it previously had ceded free of charge.

Furthermore, although in its technical mandate, at its 153rd session held on 14 June 2011, the Council of Ministers set the Draft Memorandum of Understanding to establish a donor fund for the implementation of the Justice Sector Reform Strategy in Bosnia and Herzegovina, and entrusted the BiH Ministry of Justice to deliver it to the Presidency of BiH for further ratification procedures, while Mr. Bariša Čolak, BiH Justice Minister, was nominated as a signatory. This is indisputably a very positive step forward, although it must be noted that there was no justifiable reason whatsoever for this decision of the Council of Ministers not to be adopted much earlier. However, although the approval of the Memorandum has irrevocably traced the path towards the establishment of JSRS Fund, the act of what is hoped to be the imminent ratification and signing of the Memorandum gives rise to no kind of "euphoria". To wit, bearing in mind that through this MoU, the donors have committed to apply the procedures of Bosnia and Herzegovina for financial and project cycle management, analysis of capacities and skills of personnel in the justice sector institutions in the field of public finance and project cycle management, with the partial exception of the BiH Ministry of Justice and HJPC, there are doubts that the implementation of donor funds through this Fund would go on according to the desired pace and in the most efficient way possible. This particularly applies to the entity Ministries of Justice and the Judicial Commission of Brčko District of BiH, which have almost inexistent capacities to efficiently and effectively take the lead in project cycle management. Also, most of the justice sector institutions, including the BiH MoJ and BiH HJPC, have not yet established capacities and determined adequate internal procedures for public internal financial control (the establishment of capacities and procedures for the exercise of internal control and internal audit), or have done so only partially. In addition, the final signing of the Memorandum will not resolve numerous issues relevant for governing of JSRS Fund, without which it will not be able to function. For example, it is still necessary to develop and agree on Rules

of procedure of the Management Board of the JSRS Fund and the Rules of Procedure of the Technical Secretariat of the JSRS Fund, determine uniform reporting forms, and adopt the Book of Rules on the criteria for selection of priorities for funding from JSRS Fund and Guidelines for the use of resources from JSRS Fund. The experience of the Fund for Public Administration Reform indicates that the last two documents mentioned are of particular importance, since their vaguely and imprecisely defined rules and procedures had cause lengthy delays in funding from the Fund for Public Administration Reform.

For the foregoing reasons, what is set as an imperative is the need for prompt building, that is, strengthening of the existing capacities of the justice sector institutions in BiH for project cycle management. It is important to note that in order to avoid overlapping, the capacities should be improved through establishing support units to senior programming officials for EU assistance (Eng. SPO), naturally, where these officials are formally appointed. This is certainly the obligation of BiH deriving from the Strategy for the application of decentralised implementation system (DIS) for the management of European Community assistance to Bosnia and Herzegovina, which, unfortunately, most institutions in BiH, including the institutions in the justice sector in BiH, have not yet fulfilled.

In order to overcome these shortcomings, a good way ahead would be for donors to the Fund, in cooperation with the EU Delegation to BiH, to consider the possibilities of financing a technical assistance project, which, besides providing assistance in addressing the above issues, would be available to the justice sector institutions in a period of at least 12 months as of the establishment of the Fund in terms of providing mentoring support and guidance for relevant institutions through all stages of project cycle management for projects that are financed from the JSRS Fund. This would ensure that in the second year of operation of the Fund, the institutions of the justice sector take the lead in the implementation of future activities of JSRS Fund in an efficient and effective way.

As for shortcomings in the process of monitoring and reporting on implementation of the JSRS AP that CSOs have been noting since their first report, it is important to note that the justice sector institutions have accepted the comments and recommendations by CSOs and in the meantime, launched activities to improve the existing system. USAID JSDP II project commissioned an international consultant who conducted an analysis and gave recommendations to improve the existing system of monitoring and reporting. Based on these recommendations, the Technical Secretariat for monitoring the implementation of the JSRS AP in BiH adopted the Guidelines for monitoring and evaluation of the implementation of the JSRS AP in BiH. Annexes to the Guidelines list the criteria for assessing the progress of programmes / activities. Furthermore, another novelty is the establishment of an electronic documentation system for institutions in the justice sector to submit their reports in future. Considering that the modified system has only been established, it would be premature at this point to assess the successfulness of its application. However, based on the actual contacts with members of the FWG, it is evident that there is insufficient understanding of the new system with quite a number of institutions. It must be noted that USAID JSDP II project on two occasions offered to provide training to members of all 5 FWGs, but they have not expressed interest, which inevitably had an impact on (lack of) understanding of the new system and the quality of rather meagre and occasionally vague institutional reports. These circumstances continue to question the credibility and reliability of the information contained in the institutional and consolidated report of the justice sector institutions, as well as the very purpose and meaning behind such a complex and demanding task that requires a highly professional analytical skills in each of the institutions of the justice sector in BiH.

An improvement compared to the previous reporting period is the fact that an increasing number of cantonal ministries has accepted and used the new database - OWIS (Documentation system for monitoring the implementation of the JSRS AP - OWIS).¹ It is expected that a more intensive use of this software would result in further improvements in the quality of institutional monitoring reports for JSRS in BiH in the coming period.

Strategic planning was in focus of capacity building for institutions in the justice sector over the past few years. As pointed out in previous reports by OCDs, the results achieved in this regard remain limited, which, among other things, results in still inefficient and untimely implementation of measures and activities from the JSRS AP in BiH.

¹ OWIS (Orka Workflow Information System) is software for workflow management. Its use over the last year has resulted in a more expedient and easier handling of cases and monitoring the results of individual performances in the BiH Ministry of Justice. (<http://www.mpr.gov.ba/bs/str.asp?id=305>).

However, in this reporting period there was a positive achievement in the Federation of BiH. Namely, the Government of the FBiH, with technical assistance from UNDP's programme titled Strengthening Capacities for Strategic Planning and Policy Development, adopted the Regulation on the process of strategic planning, annual planning and reporting in ministries in FBiH (*Official Gazette of FBiH*, No. 22/11). This Regulation mandates all ministries in the FBiH to produce and submit to the FBiH Government their respective institutional strategic plans by November 2011. It is hoped that adoption of this Regulation, aside the appointment of a new minister, would result in a positive turn in the FBiH Ministry of Justice (FBiH MoJ) to comply with this Regulation and prepare an institutional strategic plan to include the measures and activities from the JSRS AP, unlike the last-year's missed opportunity to prepare its strategic plan within the AECID Technical Assistance Project. As for the RS Ministry of Justice, it is essential that it keeps abreast with the FBiH MoJ as soon as possible and adopt its institutional strategic plan that will be aligned with the JSRS AP in BiH. Otherwise, it appears as an inevitable scenario that this ministry will become the bottleneck in the implementation process of JSRS in BiH, as noted in previous CSO reports.

Finally, it is important to note that building capacities and skills for development for public policies in justice sector institutions, including assessment of impacts of public policies and legislation is yet to be addressed. In this regard, last year USAID JSDP II project facilitated the establishment a forum for policy-making between the BiH MoJ and the Secretariat of the BiH HJPC. This initiative should most certainly be extended to include the entity line ministries and the Brčko District JC, as well as cantonal ministries of justice. Experiences of other countries in the region indicate that the successful reform of capacities for policy development requires changes in organisational culture and awareness of the holders of political office. When it comes to justice sector institutions in BiH, a still largely present relapse of the previous system is a lack of experience among civil servants to use their own reasoning, given that they were educated and trained to primarily apply the rules prescribed by laws and other regulations, or at best, to seek certain data and information. The Public Administration Reform Strategy points to the general unavailability of such a specialised and highly skilled staff throughout the country and sets the requirements for building their capacities. Policy development and impact assessments are a matter of science, as much as they are a sort of art, requiring analytical skills and inventiveness above all. The outlines of such capacities can be seen in some institutions of the justice sector in BiH (for example, the BiH Ministry of Justice and the HJPC Secretariat). In addition to further training, they should be given the opportunity to become significantly more prominent. Although it is generally-known that the final decision making is a responsibility of holders of political office, it is quite evident that the ministers in the coming years, with the intensification of activities on the implementation of requirements arising from the process of European integration, would increasingly require expert advice and support from professionals or analysts, capable of far more than merely reflecting on the existing laws and regulations. It will be necessary for them to have at their disposal an assessment of possible impacts of a certain public policy, as well as a politically unbiased and objective assessment of the possible public reaction to this policy. For these reasons, the focus of justice sector institutions in BiH in the future, in addition to building capacities for strategic planning, should be on capacity building for policy development and impact assessment.

Five partner CSOs hereby express their hopes that this biannual report for the period from 1 January to 30 June 2011 would be useful and serve as a source of information to relevant institutions, as well as donors, in the justice sector in the further implementation of reform measures in the justice sector in BiH, and that the proposed recommendations in the following section will be considered and adopted at the 6th Conference of Ministers of Justice of BiH and the President of the High Judicial and Prosecutorial Council and the Judicial Commission of Brčko District of BiH.

Finally, we wish to thank all the institutions, donors and other NGOs active in the justice sector on the information provided, as well as documents and responses to our queries, for without their assistance, this report would be incomplete. Also, we are grateful for the constructive comments received so far, related to reports prepared by CSOs, received from the institutions responsible for implementation of JSRS, which are largely reflected in this biannual report.

Recommendations for Strategic Pillar 1 – Judicial System:

1. Expedite the implementation of reform measures defined in the Action Plan for Implementation of the Justice Sector Reform Strategy in Bosnia and Herzegovina, especially those relating to the adoption of the Law on

Prosecutor's Offices in the Federation BiH, adoption of amendments to the existing or the adoption of new regulations aimed at reducing the backlog, updating the architectural and technical plans for courts and preparation of an architectural and technical plan for prosecutor's offices;

2. Include new measures and activities that will strengthen the independence of the judiciary when it comes to budgeting process, which would provide for non-interference of the executive and legislative branches in the work of the judiciary within the Justice Sector Reform Strategy in BiH.

Recommendations relevant for Strategic Pillar 2 – Execution of Criminal Sanctions:

3. Send a request to the FBiH Ministry of Justice and the FBiH Parliament for the adoption of the Law on Execution of Criminal Sanctions in an urgent procedure.
4. The activities relevant for the construction of the State Prison to be made more transparent, and the basic prerequisite would be a direct cooperation of all institutions involved in implementation of this important project. Hold a topic-based conference on "Consideration of the activities regarding the construction and operations of the BiH State Prison".
5. Send a request to the RS Government to take urgent measures to find financial resources to procure equipment and hire the necessary staff for the Forensic Division with the Sokolac Clinic.
6. Professional training of prison staff conducted continuously.
7. Update the preparation of rulebooks at the level of BiH and the FBiH, regulating the inspections of prison facilities.
8. It is necessary to harmonise the views and attend to drafting and adoption of a common plan of financing health care of prisoners in cooperation with ministries of healthcare.
9. Submit recommendations to the Coordination body for the harmonisation of regulations in the field of execution of criminal sanctions in Bosnia and Herzegovina to conduct an analysis as soon as possible.
10. Rename representatives in the Functional Working Group for monitoring the implementation of the JSRS in BiH for Strategic Pillar 2 - Execution of Criminal Sanctions, and send a letter to the institutions whose representatives do not attend the meetings of working bodies, in order to further the efficiency in the work of FWG 2.
11. Establish priorities for funding through the IPA funds.

Recommendations relevant for Strategic Pillar 3 – Access to Justice:

12. Take effective measures for holders of certain strategic programmes/activities to implement the Action Plan, through a specially reinforced coordination between national activity holders with the entity and cantonal institutions and the Judicial Commission of Brčko District;
13. It is necessary to have an active engagement of the entity and cantonal Ministries of Justice, as well as the BD JC in the implementation of the Action Plan, by including strategic programmes and activities into their respective Work Programmes, in order to create a stronger commitment to implementation;
14. Strengthen the activities of CSOs in monitoring the implementation of the JSRS AP in BiH in the coming period, by collecting information from individual sources, such as the Court of Bosnia and Herzegovina, courts in both entities, the Legal Aid Centre of Republika Srpska, Centre for Judicial and Prosecutorial Training of FBiH and Republika Srpska, EU Delegation, OHR / EUSR.

Recommendations relevant for Strategic Pillar 4 – Support to Economic Growth:

15. Ensure funding from the entity budgets in 2011 for implementation of the Action Plan related to Strategic Pillar 4 - Support to Economic Growth;
16. Complete the Analysis on the necessary amendments to the judicial system, and proceed with drafting and implementation of the complete implementation plan based on the questionnaires received from judges and lawyers;
17. Appoint competent persons for mediation, coordination and monitoring activities of mediation in entity judicial institutions as soon as possible;
18. To ensure the political will for the adoption of a set of laws at the level of the FBiH (the Law on Proprietary Rights and the Law on Cadastre) at the earliest possible time, to enable a more effective reform of land administration;
19. Adopt strategies and policies in the field of land administration, which are a condition for approving funding for the continuation of the land administration reform;
20. Include representatives of the BD JC in the work of the advisory and coordination committee for land administration.

Recommendations relevant for Strategic Pillar 5 – Well-Managed and Coordinated Sector:

21. All institutions in the justice sector in BiH, including the cantonal ministries of justice, should be included in structural dialogue, especially bearing in mind their competencies and responsibility for the functioning of the judicial system in the FBiH. In addition, the structural dialogue process should be depoliticised and enable much greater involvement of key judicial institutions in BiH, primarily the BiH HJPC, in order to avoid the possibility of potentially compromising the independence of the judiciary in BiH.
22. The Entity Ministries of Justice and the Judicial Commission of Brčko District of BiH should urgently establish the organisational capacities which would efficiently and effectively take the lead in project cycle management processes for projects to be funded by the JSRS, as well as EU funds and funds of other bilateral and multilateral donors in the future. Establishment of the organisational capacities in the aforementioned institutions of the justice sector should be conducted in accordance with the requirements of the Strategy for application of decentralised implementation system for management of EC assistance to Bosnia and Herzegovina (DIS Strategy) - DIS Strategy Part III - Road map for application of decentralised implementation of the DIS system in BiH - the establishment of support units for senior officials for the management of EU assistance programmes.
23. BiH MoJ, HJPC, Entity Ministries of Justice and BD JC should establish close cooperation with the Central Harmonisation Unit of the Ministry of Finance and Treasury (CHU) so that with the expert assistance of this body, they could address the establishment of appropriate organisational capacities for public internal financial control, as well as establishing adequate internal procedures of public internal financial control.
24. BiH MoJ, HJPC, Entity Ministries of Justice, BD JC and donors of the JSRS Fund should urgently proceed with the preparation of the remaining instrumental documents for the functioning of the JSRS Fund, including the Rules of Procedure of the Management Board of the JSRS Fund, Rules of Procedure of the Technical Secretariat of the JSRS Fund, unique reporting forms, Book of Rules on the criteria for selection of priorities for financing from the JSRS Fund and Guidelines for the use of funds from the JSRS Fund.
25. Donors in JSRS Fund, in cooperation with the EU Delegation in BiH, should consider possibilities for funding technical assistance project, which, besides providing assistance in addressing the above issues, would be available to the justice sector institutions in a period of at least 12 months as of the establishment of the Fund in terms of providing mentoring support and guidance from relevant institutions through all stages of project cycle management for projects that are financed from the JSRS Fund. This would ensure that the institutions of the justice sector would efficiently and effectively take the lead in the implementation of future activities of the JSRS Fund in the second year of JSRS Fund.

26. In order to overcome the noted shortcomings in the process of monitoring and reporting on the implementation of the JSRS AP, it is recommended that the Ministerial Conference adopts a conclusion to oblige all activity holders in monitoring and reporting on implementation of the JSRS AP in BiH to participate in training on practical aspects of implementing the new system of monitoring and reporting, immediately after summer holidays, as organised by the USAID JSDP II project.
27. In accordance with the Decree of the FBiH Government on strategic planning process, annual planning and reporting in the FBiH ministries, it is necessary that the FBiH Ministry of Justice prepares a three-year institutional strategic plan which would consistently adopt the necessary measures and activities from the JSRS AP. As for the RS Ministry of Justice, it should keep abreast with the FBiH MoJ as soon as possible and adopt its institutional strategic plan that will also be aligned with the JSRS AP in BiH. Cantonal Ministries of Justice and the BD JC should formally adopt their strategic plans, prepared last year with the assistance from the project funded by the Spanish Agency for International Cooperation and Development (AECID). All the above-mentioned institutions should ensure a close link between its strategic plans and documents within the budget, and also, that operational plans are timely and consistently transferred into annual work programs of each of these institutions for 2012.
28. It was crucial to ensure that the measures from the JSRS AP be promptly adopted and further operationalized in the annual work programs of all institutions in the justice sector in BiH, responsible for its implementation. As one of the transitional modes, until the adoption of strategic plans for each of the justice sector institutions, it is suggested that the Technical Secretariat for monitoring the implementation of JSRS in BiH, in cooperation with the secretaries of the responsible institutions in the justice sector in BiH, in early September this year, and before the launch of activities on preparing the annual work program for 2012, inform the competent institutions of the justice sector in BiH on the activities from the JSRS AP for the upcoming fiscal year. Thereafter, the secretaries of respective institutions would then ensure that the institutions incorporate adequate measures from the JSRS AP in BiH in their annual work programmes.
29. It is necessary to significantly intensify the activities of the Policy-making Forum between the BiH MoJ and the Secretariat of the BiH HJPC, and to include in full capacity the entity and cantonal ministries of Justice and representatives of the BD JC in its work. At the same time, all institutions should work to institutionalise the functions of policy development in line with the requirements of the Public Administration Reform Strategy in BiH. In parallel with these activities, it is necessary to continue to work on the institutionalisation and further improvement of capacities for strategic planning within all institutions in the justice sector, also in accordance with the requirements of the Public Administration Reform Strategy in BiH.
30. OCDs reiterate their plea for justice sector ministers in BiH to assume full responsibility for a consistent implementation of the reform obligations undertaken so far, as set out in the JSRS AP and other strategic documents relevant to the justice sector in BiH, which are of importance for further EU advancement of our country.
31. The BiH and entity MoJs, together with HJPC and the BD JC should make maximum efforts for the Technical Secretariat (TS) to finally become functional in its full capacity, which includes greater funding for the work of the TS, a change in its structure, including the replacement of those members who cannot take full responsibility for the commitments assumed in the context of the effective implementation of JSRS.
32. It is necessary to ensure active participation of all members of all functional work groups, as well as a more regular attendance of members of the Technical Secretariat (TS) at timely scheduled sessions, for it is impermissible for sessions of the FWG or TS to be postponed due to lack of quorum. One of the main causes behind such situation is the chronic lack of capacity in most institutions; hence, by redistributing the existing capacities, aside a more efficient planning and coordination within the institutions themselves, shortcomings could be overcome at least in the short term.
33. It is necessary to significantly improve the vertical coordination and cooperation between the FBiH Ministry of Justice and its cantonal counterparts, which was one of the key obstacles to the quality implementation of the

JSRS in BiH in the past. It is evident that, regardless of the existing competencies of these institutions, their cooperation should be much better.

34. There is a continuing need to establish a better coordination and information sharing within the institutions themselves, involved in the JSRS implementation process, especially at the level of the cabinet / board of assistant ministers, secretaries of ministries, and between all sectors responsible for the effective implementation of JSRS in BiH.
35. It is necessary to take further action to establish the capacities within the BiH MoJ, entities, and the BD JC in the field of harmonising its legislation with EU *acquis communautaire*, which should be one of the priorities in the implementation of JSRS.
36. It is necessary to finally address the issues, and with a very serious and responsible approach, to start addressing the restructuring of the cantonal ministries of justice and administration, and through meetings between relevant institutions and political leaders, avoid politicising this important process, which will certainly contribute to a more quality implementation of JSRS. For the above reasons, the question of restructuring the cantonal ministries should be opened at the very next Ministerial Conference, in the presence of ministers and other persons involved in the implementation process of JSRS in BiH, which will, therefore, greatly strengthen the initiative to urgently resolve this important issue.

Recommendations relevant for the quality of monitoring the implementation of the JSRS AP:

37. In order to ensure effectiveness of implementation of JSRS, institutions must be staffed as soon as possible, in terms of both the number and skills of employees, to respond to the needs and demands placed before them by programmatic budgeting through training of existing employees, but also employment of new staff with relevant competencies;
38. The issue of coordination and consultation between the MoJ and the MoF, as well as the legislative branch in the budget process, should be systematically addressed and incorporated into existing practices in order to ensure funding priorities from the JSRS AP in the process of developing budgets;
39. In the shortest time possible, it is necessary to make a Financial plan for the implementation of JSRS and carry out conformity assessment for budget institutions in the justice sector in BiH and the JSRS Financial Plan, as well as assessing the distribution of funds, based on which budgetary measures will be proposed for these institutions in order to ensure the necessary funds for further implementation of JSRS;
40. It is necessary to have continuous work to animate, educate and inform about the importance of JSRS among all the key institutions and individuals who are in some way involved in the implementation of JSRS, in order to establish ownership over JSRS and understanding of its importance for BiH in the process of Euro-Atlantic Integration;
41. Despite the introduction of new methodologies for monitoring the implementation of the JSRS AP, which to a certain extent ensures the quality of monitoring and reporting for Pillar 1 – Judicial System, it is necessary to revise the existing indicators. In addition to the existing process indicators, it is essential to introduce performance indicators, and to identify priorities and quality standards for the implementation;
42. Regularly conduct activities and measures to strengthen public confidence in the judiciary through creation of public campaigns, but also the development of the sector for public relations/outreach within courts and prosecutors' offices, and work on development of cooperation between judicial institutions and civil society organisations and the media.
43. Building capacities of entity ministries of justice and the BD JC, as one of the key institutions responsible for implementation of JSRS in BiH. Specifically, the former *ad hoc* approach to the implementation of the BiH JSRS and significantly limited existing capacity in these institutions, among other things, in the past have led to the need to revise the existing JSRS Action Plan in BiH in so that due to a significant number of planned

activities which were not implemented, the deadlines for their implementation in 2009 were only moved for 2010, which is certainly not a practice that will lead to an effective implementation of JSRS in BiH. However, due to insufficient capacities in these institutions, it is questionable whether this will be a way to overcome this problem of non-implementation of the activities planned for the period from 2009 to 2011, since without urgent and effective action in this regard, there is a risk that these institutions of the justice sector would become the so-called bottlenecks and jeopardize the implementation of the overall strategy.

44. Translating measures from JSRS in BiH into institutional strategic plans and annual work programs of all relevant institutions in the justice sector in BiH. In this regard, the BiH Ministry of Justice and the High Judicial and Prosecutorial Council are the only two institutions in the justice sector in BiH that have assumed measures from JSRS in BiH into its strategic plans. However, it should be noted that there is an ongoing project of the Spanish Agency for International Cooperation and Development (AECID), providing technical assistance to justice sector institutions (the entity and cantonal ministries of justice and the BD JC) in order to develop and adopt respective institutional strategic plans by the end of 2010, as well as annual work programs and programmatic budgets to include measures defined not only in JSRS in BiH, but also measures contained in other strategic documents in the justice sector (the War Crimes Strategy, the Strategy to Combat Juvenile delinquency in BiH, Public Administration Reform Strategy in BiH, the Stabilisation and Association Agreement, European Partnership, the Strategy of Integration of BiH into the EU, etc. ..).
45. Securing funds in the budgets of justice sector institutions to implement JSRS in BiH. It is evident that the current budgets are limited and inadequate for the implementation of such complex Strategy. Bearing this in mind, in cooperation with the Spanish Agency for International Cooperation and Development (AECID), Swedish International Development and Cooperation Agency (SIDA) and the United Kingdom Government, justice sector institutions are finalising activities to set up a joint donor fund for the implementation of JSRS in BiH, which will almost certainly assist in overcoming the problems of scarce, domestic budgetary resources to implement this important strategy.

CONCLUSION

Despite the significant political tensions in the justice sector in BiH over the past six months, some progress has been nevertheless noted in each of the JSRS strategic pillars. The fact remains, however, that far more could have been done, as well as hope, that in the second half of this year, with a gradual relieve in political relations, thanks to the launch of the structural dialogue on the future of the judiciary in BiH, there would be a change in the current course and an intensification of reform processes that will contribute to significant advances in terms of implementation of the JSRS AP. It is essential that the Sixth Ministerial Conference sends an unequivocal message to all responsible institutions in BiH that a consistent and timely implementation of the JSRS AP has no other alternative if the justice sector in BiH indeed wishes to contribute in building a European future for citizens in the country.

This Report does not necessarily reflect the views of the British Embassy in Bosnia and Herzegovina. The expressed views represent the standpoints of their authors.