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FEDERACIJE BOSNE I HERCEGOVINE

XI Professional Counseling for BiH prosecutors Neum, October 01–03 2018

PANEL I – CORRUPTION, ECONOMIC and ORGANIZED CRIME

CONCLUSIONS

Organization of this panel has been supported by the USAID Justice Project in BiH in cooperation with the Association of Prosecutors of the Federation of BiH and Center for Education of Judges and Prosecutors of the Federation of BiH

Note: All references in this document should be deemed neutral in order to ensure respect for the standards and principles of gender equality.



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Topic 1: Corruption in Public Procurement

1. The stage of planning and preparation in the public procurement procedure involves a high risk of unlawful conduct, especially corruption. Therefore, it is necessary to direct the activities of investigating authorities towards the early stages of public procurement, starting from public procurement planning, all with the aim of early detection of criminal offenses and perpetrators, and conducting proactive investigations.
2. It is necessary to develop cooperation mechanisms between the prosecutor's offices and the Public Procurement Agency in order to timely receive information from the monitoring of public procurement that may be of interest to prosecutors.
3. It is necessary to improve the exchange of experience between prosecutors and to strengthen their knowledge and skills in the field of processing corruption in public procurement through education and other mechanisms.
4. The Organizing Committee of the Counseling of Prosecutors should send a proposal to the HJPC to launch an initiative to amend criminal laws in BiH for the purpose of prescribing new criminal offenses specific to the field of public procurement (for a long time known in the comparative-legal practice as criminal offense of Abuse in public procurement and Illegal Benefit), all with the aim of improving the efficiency of the processing of this type of criminal offense.

Topic 2:

Seizure of property gains acquired through criminal acts

5. Prosecutors are urged to apply in their regular work the laws on confiscation of property obtained through criminal offenses applicable in BiH, which in particular implies conducting financial investigations in all types of criminal cases where there is a suspicion that the commission of an act generates a more substantial material gain.
6. In order to fully accomplish the legally prescribed objective of financial investigations, it is necessary to provide the POs with direct access to databases on all aspects of citizens' property (land register, tax, bank transactions, register of business entities, etc.).
7. It is necessary to further improve the quality of the reports submitted by the law enforcement agencies executing the orders of PO which prescribe the conduct of financial investigations. In order to reduce the risk of filing insufficiently substantiated reports, prosecutors are urged to ensure sufficient precision and focus of orders for certain investigative actions in the process of managing the financial investigation.
8. Prosecutors are encouraged to make additional efforts to efficiently and effectively conclude financial investigations, wherein they will be guided by legally prescribed deadlines, and to exercise effective supervision over the performance of tasks entrusted to authorized



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officials throughout the duration of the financial investigation by issuing orders for such investigations.

9. In all cases where joint investigation teams have been formed, it is necessary to ensure that one of the prosecutors from that team assumes the exclusive and full supervision of financial investigation, whereby it is advisable to form joint investigative teams in all instances which include financial investigations in complex cases.

10. It is necessary to adopt priority application of the law on confiscation of property gain obtained through criminal offenses in Bosnia and Herzegovina, by prescribing it as a special regulation, starting from the ratio legis of this law.

11. The chief prosecutors are encouraged to organize special forms of cooperation between the prosecutors' offices, as well as cooperation between POs and law enforcement agencies involved in the conduct of a financial investigation in terms of exchanging experiences and improving the acquired knowledge and skills.

12. Initiate the strengthening of human resources in the judiciary and law enforcement agencies related to the conduct of financial investigations through specialized training of prosecutors, judges and authorized officials, and ensure additional recruitment and training of investigative finance personnel in the prosecutor's offices.

13. In order to achieve equality of all citizens before the law in BiH, it is necessary to fully harmonize the legal regulations in this area (laws on confiscation of property gain obtained through criminal offenses in BiH, the Criminal Procedures Codes in BiH, the Criminal Codes in BiH, as well as the regulations in the field of criminal justice sanctions).

Topic 3:

Presentation of a manual developed within the USAID BiH Justice Project

14. The efforts of the USAID's Justice Project in Bosnia and Herzegovina are welcomed, among other things, in developing the Manuals and Guidelines through good practices in the processing of corruption, criminal offenses with financial elements and criminal offenses of organized crime (Handbook). The handbook, to be published by the end of 2018, is a practical guide through regulations and practice for judges and prosecutors who are for the first-time encountering corruption, financial crime and organized crime and it shows how to act in given situations, but it is also a reminder for experienced judges and prosecutors on the most important aspects of the work on these cases.



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Topic 4:

Importance of transparency and continuous monitoring of public relation in POs

15. Transparency of the work of prosecutor's offices in BiH implies maximum openness towards the public, in accordance with the competencies and legally prescribed restrictions. The chief prosecutors are urged to act proactively and continuously in creating and encouraging such an approach in the POs.

16. The regulation of internal communication should be harmonized and standardized within all prosecutor's offices in a way that will ensure the improvement of communication and coordination between the Chief Prosecutor and other prosecutors with the public relations officer. The public relations officer should be familiar with all current events in the PO, so that he/she can act in a timely manner and provide relevant information to the public.

17. The website is a convenient and suitable way to communicate with the public (publishing indictments, work reports, news and other information relevant to the work of prosecutors' offices), but it is necessary for the site to be regularly updated. The chief prosecutors are urged to regularly control and monitor the state of up-to-date websites, and the quantity and quality of published information in accordance with the criteria in the Public Relations Monitoring and Evaluation Plan, and take timely measures to ensure timely and quality public information.

18. Complete and continuous communication with the public should result in raising public confidence in the prosecution's work, as well as strengthening the confidence of the media. In this way, it is possible to establish useful cooperation between the media and the prosecutor's office, which can contribute to more efficient execution of the mandates of the prosecutors' offices and the media.

19. It is necessary to continue to strengthen the capacities in prosecutors' offices in BiH in terms of continuous upgrading of professional knowledge and practical skills of spokespersons and public relations officers.