Assessment report on Mutual Legal Assistance in Criminal Matters in Bosnia and Herzegovina

IPA 2014 project
“International Cooperation in Criminal Justice: Prosecutors’ Network of the Western Balkans”

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Bosnia and Herzegovina team:
EU MS Seconded Prosecutor Anton Girginov
National Legal Officer Maja Pecanac

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I. Introduction/Background

The present Assessment Report was prepared in the process of implementation of the IPA 2014 project “International Cooperation in Criminal Justice: The Prosecutors’ Network in the Western Balkans” (19/11/2014 – 18/10/2017). The main specific objective of the project is to strengthen the operational capacity and capabilities of the Public/State Prosecutors’ Offices in the beneficiary countries to prosecute and investigate serious and trans-border organized crime, incl. linked cases of illicit trafficking destined to the EU, in particular, trafficking in firearms, drugs and human beings by supporting the work of local counterparts in the area of international judicial cooperation in criminal matters. The target groups of the project are prosecutors, other staff of the prosecution offices, investigators of the police and other law-enforcement bodies, as well as staff of the various Ministries of Justice involved in extradition and mutual legal assistance in combating serious and cross-border organized crime. The project should specifically assist in developing national and regional training modules on: (a) asset confiscation/recovery, (b) exchange of admissible evidence, (c) trafficking in drugs, trafficking in firearms and human beings.

The following assessment reviews the current state of affairs in the area of international judicial cooperation in criminal matters provided to and rendered by BiH. To some extent it touches on the project activities implemented thus far and helps to determine the next developments.

I.1 Terms of reference

The main question of the assessment is to establish the current state of affairs of relevant stakeholders in Bosnia and Herzegovina in the area of international legal assistance in criminal matters. The assessment report will also provide recommendations regarding the organization of the system of international legal assistance in criminal matters as well as identify gaps where the project IPA 2014
“International Cooperation in Criminal Justice: The Prosecutors’ Network of the Western Balkans” project could provide its further support.

I.2 Study procedure/process of preparation of the assessment reports

The project team in Sarajevo has an extensive expertise and experience in the judiciary system of Bosnia and Herzegovina with specific emphasis on the field of international judicial cooperation in criminal matters. A valuable input incorporated into this report has been gathered during frequent meetings and discussions with relevant stakeholders, conducted by the EU MS Seconded Prosecutor and the NLO during the initial project period. As for the statistical data, we have collected new figures regarding the latest developments in BiH, taking into account the optimal period of three years (2013, 2014 and 2015), as recommended by the Ministry of Justice of BiH.

I.3 Membership in relevant international association/bodies/organisations

The Prosecutor’s Office of BiH is a member of the Southeast European Prosecutors Advisory Group (SEEPAG). Moreover, BiH negotiations for signing an agreement with Eurojust have been underway for the last couple of years. The State Ministry of Justice has its representatives who are involved with necessary preparations and consultations.

The major obstacle raised by Eurojust as seen in our project plan [pages 9, 40] is the so-called complex structure of BiH. According to our plan, “Due to the complicated constitutional framework of Bosnia and Herzegovina, it is difficult to have one authority in Bosnia and Herzegovina to negotiate”.

It is important to stress here that this is not quite the case. There are two national authorities and their designated officials who have been tasked to advance further discussions with Eurojust. Namely, these persons are prosecutor Mr. Dubravko Campara from the Prosecutor’s Office of BiH and Mr. Grenko Arapovic from the Ministry of Justice of BiH, an official who shall soon be replaced due to other commitments. We
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will follow up on any relevant changes and remain up to date on the status of BiH consultations with Eurojust.

The structure of BiH is complex indeed. However, this is not relevant to matters of international judicial cooperation in criminal matters and therefore, to relations with Eurojust, in particular. When it comes to international judicial cooperation activities in BiH, they are sufficiently centralized to make the work with any foreign body fully possible and not dependent on domestic (internal) factors pertaining to the organizational structure of the country – please see further clarifications in the text.

I.4 Reference, literature

- “Facilitating Mutual Legal Assistance in the Western Balkans, Towards removing obstacles in international cooperation in criminal matters” drafted in March 2014 by Prof. André Klip;
- “Setting up a network of expertise centres for international cooperation in criminal matters” drafted by two Dutch experts Giel Franssen and Jocelyn van Rijs in 2013;
- Judicial System of Bosnia and Herzegovina in 2014 European Commission Progress Report;
- Laws, codes, bilateral agreements and MoUs.
II. Legal framework

II.1 Short resume of findings in Prof. Klip report

In prof. Andre Klip’s report titled *Facilitating Mutual Legal Assistance in the Western Balkans, Towards removing obstacles in international cooperation in criminal matters*, Maastricht, 2014 it is stated that:

“…the complicated structure of Bosnia and Herzegovina is a real obstruction in the way of international cooperation. The central level does not have any competence to order other entities to do or not do something”

Regarding the complex organizational structure of BiH, it is true that international judicial cooperation in criminal matters [IJC] from and to BiH can be somewhat challenging. However, the said structure is not of decisive importance. Even if BiH was a unitary country rather than having the current complex structure, IJC in BiH would still be facing some of the same difficulties due to current organization and distribution of IJC work in the country and especially, due to its current central IJC authority [CA], the Ministry of Justice [MoJ] of BiH.

The MoJ of BiH is authorized by law to serve as a CA BiH-wide. It is recognized as such by everyone in BiH, including by the two entities, namely: the Federation of BiH and Republika Srpska, and by the Brcko District as well. This is why the quoted sentence that “the central level does not have any competence to order other entities to do or not do something” is misleading. There should be no doubt about the leading position of the MoJ of BiH in the field of international judicial cooperation in BiH, as it represents the vital authority within the field. More specifically, this Ministry is the sole authority to determine whether the applicable requirements for IJC are fulfilled or not. Hence, it has

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1Available at http://pn.datheca.com/publications.wbsp *Facilitating Mutual Legal Assistance in the Western Balkans. Towards removing obstacles in international cooperation in criminal matters. Prof. André Klip*, p 35.
the powers to decide whether both type of requests - incoming and outgoing, are acceptable and shall be further processed. Its decisions are mandatory to all actors in BiH. For example, since the MoJ of BiH is the sole authority in BiH to sign outgoing extradition requests (Article 57.1 of the law), it possesses the formal powers to evaluate whether prerequisites for the preparation of any such request are fulfilled. The same rule applies to decisions on incoming extradition requests – see IV.2.A.

On the other hand, - and this is what actually represents the challenge - the MoJ of BiH appears much more as a channel of communication rather than a decision-maker in approaching foreign countries with outgoing requests for international judicial cooperation. Eventually, neither this Ministry, nor any other authority in BiH, including at the state level, does substantial centralized decision-making for the country with regard to outgoing requests.

Moreover, this is symptomatic for all MoJs, to hold a rather passive demeanor and to adhere to its communication responsibilities. In any case, specialized decision-making is necessary. Otherwise, BiH has to resort very much to the trial and error approach when trying to obtain judicial cooperation from other countries.

The first possible solution to this particular problem could be evolving the MoJ of BiH into a decision-making central authority for matters of seeking international judicial cooperation. However, it is not quite realistic to expect that the MoJ of BiH may become the necessary decision-making CA for IJC serving criminal investigations. The truth is that each Ministry of Justice in the world leans more toward such communication and information exchange role, especially when it comes to pre-trial activities.

Therefore, it can be said that despite the complicated state structure of BiH, centralization in IJC is possible. In fact, this has already been achieved through having a single law on mutual legal assistance in criminal matters, valid for the whole country, incl. the two entities, and a single central authority for communication in IJC matters as the MoJ of BiH receives most of the incoming requests and forwards most of the outgoing requests to foreign countries. Since this center leaves some space for decision-making when acting on outgoing requests, certain horizontal country-wide decentralization might be envisioned, in particular by creating a special prosecutorial unit for IJC in support of investigations. Initially, this unit can have advisory functions but
further on, out of technological necessity, it is likely to assume full decision-making authority: give orders to prosecutors in charge of investigations, have the final professional word on their intentions to approach foreign countries. Hence, the complex state structure of BiH does not represent any serious impediment as the solution to the current problem with IJC is not to centralize it but on the contrary, to specifically decentralize the work by creating of a second (prosecutorial) center in order to allow for more efficacy during criminal investigations.

II.2 International legal framework

The international part of BiH legal framework for IJC consists of different agreements of BiH with foreign countries:

A. Bilateral treaties on international judicial cooperation, such as: the Treaty between the Republic of Algeria and Yugoslavia [BiH is a successor] on Legal Assistance in Civil and Criminal Matters (1982) and the Treaty between BiH and the Republic of Macedonia on Legal Assistance in Civil and Criminal Matters (2006).

B. Multilateral conventions on international judicial cooperation, such as Regional (European) Convention under the auspices of the Council of Europe, e. g. the European Convention on Extradition and the three Additional Protocols to it, the European Convention on Mutual Assistance in Criminal Matters and Second Additional Protocol to it {BiH is not a Party to the 1978 First Additional Protocol}, the European Convention on Protection of Human Rights and Basic Liberties („Official Gazette of BiH“6/99); the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to this Convention, regarding Supervisory Authorities and Trans-border Data Flows [both instruments ratif. by BiH on 31/03/2006], etc; and Universal Conventions in the penal field, e. g.: the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, [succession by BiH on 1/09/1993], the UN Convention against transnational Organized Crime [ratif. by BiH on
It is important to know that, unfoundedly, BiH avoids submitting declarations and reservations to Council of Europe Conventions in the penal field. Instead, the BiH authorities try to produce respective innovations by domestic provisions, even though these innovations fall within the subject-matter of the Conventions. Because the said Conventions take precedence over any national law, the result desired by the BiH authorities is not achieved: the domestic provisions, being weaker in force, change nothing, actually, and remain on paper, often misleading practitioners.

Thus, according to Article 4 (4 and 5) of the Law, in urgent cases requests may also be transmitted and received via Eurojust. However, this result is achievable only by means of a declaration to the European Convention on Mutual Assistance in Criminal Matters as all countries participating in Eurojust are also Parties to the Convention as well. Hence, when it comes to transmission of requests in urgent cases and using Eurojust for this purpose, the said Convention is the applicable instrument: its text and declarations made by interested Parties. The text of the Convention and the declarations to it as well solely govern the issue. As the domestic law is of lower (subsidiary) legal force, it cannot be any substitute of missing declarations. This is the reason why e.g. France, in order to safely use Eurojust for the transmission of certain requests, has submitted a Declaration [contained in the instrument of ratification deposited on 6/02/2012] to the Second Additional Protocol to the ECMACM that the requests in question “may also ... be forwarded through the intermediary of the French national member of the Eurojust judicial co-operation unit”. Understandably, until BiH submits a similar declaration reproducing Article 4 (4) of the Law, the judicial validity of evidence remains uncertain, both produced for and obtained from other Parties. To safely use Eurojust as a communication channel, it is strongly recommendable that an aforementioned declaration is submitted.

Therefore, it must be realized that no domestic law in BiH has the sufficient legal power to regulate issues that fall within the subject-matter of Council of Europe instruments. Domestic laws can neither add new rules to them within this area, nor derogate their provisions. Only declarations and reservations to Council of Europe instruments have
such necessary powers. Hence, declarations to the 2 mentioned Council of Europe instruments are the safe and reliable way to achieve the result aimed at in Article 4 (4 and 5) of the Law.

It is noteworthy that the concern about declarations and reservations is more complex. The practice of BiH with regard to the ratification of Council of Europe conventions stands out for not having made a single reservation. The declarations of BiH merely relate to practical information concerning the addresses of the CA or the individual civil servants to whom requests should be sent. Both declarations and reservations orientate other Parties to the same multi-lateral convention about what they can realistically expect from the issuing Party given its legal tradition. One specific example of the usefulness of declarations: In contrast to most of the Parties to the two main Council of Europe instruments, the European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters, BiH has not availed itself of the opportunity to submit declarations to them (Article 23 of the former and Article 16.2 of the latter, respectively) that incoming requests shall be accompanied by a translation into one of its official languages. Given the absence of such declarations, incoming requests are not accompanied by such a translation. As a result, the lack of declarations might be detrimental to the interests of other countries and eventually, counterproductive to international judicial cooperation.

Finally, under Article 4 (2 and 3) of the Law direct communications with foreign judicial authorities (incl. between prosecutors) are possible only if provided for in international agreements with the respective foreign countries. However, direct communications with foreign judicial authorities (incl. between prosecutors) shall also be possible under reciprocity, especially with those countries whose domestic law on international judicial cooperation contemplates the possibility of such direct contacts without any agreement. This opportunity shall not be missed and used in practice whenever it turns out to be the better option than using the channel between the two Justice Ministries because of the absence of an international agreement. Hence, it is recommendable that the possibility of direct communications with foreign judicial authorities in conditions of reciprocity be established in Article 4 of the Law.
II.3 National legal framework

The national legal framework for IJC consists of Law on Mutual Legal Assistance in Criminal Matters of Bosnia and Herzegovina. As it is valid for the entire country (the state level, the entity level and the Brcko District as well), it authorizes the MoJ of BiH to provide guidelines in the area of international judicial cooperation to all the relevant actors in the country.

In the area of data protection, BiH has produced the following legislation:
The Law on Protection of Personal Data („Official Gazette of BiH“ 49/06, amended: „Official Gazette of BiH“ 76/11), the Regulation on the Manner of Keeping the Records of Personal Data Filing Systems and the pertinent Records Form („Official Gazette of BiH“ 52/09), the Regulation on the Manner of Keeping special Measures of technical Protection of personal Data („Official Gazette of BiH“ 67/09), the Regulation on Supervision Inspection regarding Protection of personal Data („Official Gazette of BiH“ 51/09), the Regulation on Procedure upon Complaint by the Data Subject issued to the Agency for personal Data Protection („Official Gazette of BiH“ 51/09). Furthermore, BiH has adopted LAW ON PROTECTION OF SECRET DATA („Official Gazette of Bosnia and Herzegovina“, 54/05).

Moreover, at the state level, the two entities and Brcko District have their own criminal justice systems governed by two codes: a Criminal Code and a Criminal Procedure Code. Additionally, each entity has a Criminal Assets Recovery Act.

Regarding organic laws on judiciaries in BiH, the important ones are the Law on the Court of BiH and Law on the Prosecutor’s Office of BiH, and similar laws in each of the two entities and in BD as well.
II.4 Current Legislative Developments

The BiH Law on International Judicial Cooperation in criminal matters was recently modified, in 2013. However, space for significant further improvements does exist. The Project is having on-going meetings with relevant representatives from the MoJ of BiH and we are following all relevant legislative developments in the field. We have also provided and prepared a set of legislative proposals to the BiH Law on MLA in criminal matters and these solutions have been presented to the representatives of the MoJ of BiH. Our legislative proposals were well received and further steps to organize a working group to discuss these and other proposals are envisioned, under the auspices of the MoJ of BiH and the Project.

II.5 Secondary legislation

When it comes to outgoing requests, a publication titled ‘Practicum for Mutual Legal Assistance in Criminal Matters’ has been developed and authored by Assistant Minister of Justice of BiH, Mr. Nikola Sladoje. The Practicum offers short explanations on the institutions of international legal assistance, legal sources and their mutual relationship, comments on the BiH Law on Mutual Legal Assistance, a list of applicable international agreements, the texts of treaties commonly used, as well as examples of MLA requests.

During the implementation of the IPA 2010 ‘Fight against Organized Crime and Corruption: Strengthening the Prosecutor’s Network’, a Handbook on Joint Investigation Team was developed in March 2014.
III. National MLA structure

III.1. Ministry of Justice of Bosnia and Herzegovina

The Ministry of Justice of Bosnia and Herzegovina was formed in 2003, in accordance with the Law on Ministries and Other Bodies of Administration of BiH (Official gazette BiH, number 5/2003). The Ministry of Justice is responsible for administrative functions pertaining to Judicial institutions at the state level; International and inter-entity judicial cooperation (mutual legal assistance and contacts with international tribunals); Drafting of relevant legislation; Ensuring that legislation and implementation by BiH at all levels is in compliance with the obligations of BiH deriving from international agreements; Cooperating both with Ministry of Foreign Affairs and with the Entities in the drafting of International Bilateral and Multilateral Agreements; Providing guidelines and monitoring legal education to ensure inter-Entity harmonization and compliance with best practice; Generally acting as central coordinating body for ensuring inter-Entity legislative and justice system harmony and best practice, whether by providing good conditions for discussion or coordinating initiatives; Extradition; Tasks of administrative inspection of legislation governing civil servants and employees of the bodies of administration, of administrative proceedings and special administrative proceedings, as well as of office operations in the bodies of administration; Issues of associations of citizens and keeping of registers of associations of citizens and NGOs operating in BiH; Other tasks and duties which are not within the competence of other Ministries of BiH and which are related to the tasks and duties of this Ministry.

III.1.1 Organisation (HR and IT capacities)

- Minister of Justice BiH
- Deputy Minister of Justice BiH
- Secretary General of Ministry of Justice BiH
- Sector for Personnel, General and Financial-Material Affairs
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- Sector for Judicial Bodies
  - Department of Court Police
- Sector for Execution of Criminal Sanctions and Work of the Penal Institutions
- Sector for International and Inter-Entity Legal Assistance and Cooperation
- Sector for Administration
- Administrative Inspectorate
  - Sector for Strategic Planning, Aid Coordination and European Integrations
  - Detention Unit and Institute for Execution of Criminal Sanction
    - Department of Prison Police at the State Level
- Sector for Civil Society
III.1.2 Jurisdiction/tasks in international legal cooperation

The Sector for International and Inter-Entity Legal Assistance and Cooperation is responsible for the matters of mutual legal assistance in criminal matters. This Sector has the following departments: Department for International Legal Assistance and Cooperation in Criminal Matters; Department for International Legal Assistance and Cooperation in Civil Matters; Department for Inter-Entity Cooperation and Coordination and Department for International Agreements.

The Ministry of Justice of Bosnia and Herzegovina is the central authority for communication with other countries regarding the providing of international legal assistance in criminal and civil matters. International legal assistance includes the complete communication of the judicial bodies of Bosnia and Herzegovina with judicial bodies abroad. In this field, the MoJ of BiH covers International Legal Assistance in Criminal Matters, International Legal Assistance in Civil Matters, International Agreements and Conventions as well as professional trainings.

The MoJ of BiH’s scope of work in the field of International Legal Assistance in Criminal Matters includes:

- All actions of the authorized body of the foreign country undertaken upon the request of the domestic authorized body and vice versa;
- Procedures of extradition, transfer of the convicted persons, transfer of the criminal procedure from one country to another;
- Other procedures established by special International Conventions and Agreements.

Pursuant to a declaration of the BiH Ministry of Foreign Affairs appended to the instrument of ratification of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ECMACM], deposited on 07 November 2007, “all non-urgent requests for legal assistance are to be delivered to the Ministry of Justice of BiH as the Central Authority”. 
It is evident that the MoJ of BiH has the power over these activities in the country. However, when it comes to requests for legal assistance in urgent cases, they can be sent directly to respective judicial authorities, while the MoJ of BiH shall be provided with a copy of the requests. Moreover, particularly for an incoming request for a controlled delivery or covert investigation (Articles 17 and 18 of the Second Additional Protocol to the ECMACM), according to declarations of the BiH Ministry of Foreign Affairs appended to the instrument of ratification of the Second Additional Protocol deposited on 07 November 2007, the designated central authorities are:

- the Prosecutor's Office of BiH as the authority responsible for receiving requests for controlled deliveries and decision making in line with Article 17 (1) of the Protocol, and the Ministry of Security of BiH as the authority responsible for receiving the notice in line with Article 17 (2) of the Protocol;
- the Prosecutor's Office of BiH as the authority responsible for receiving requests for covert investigations and decision making in accordance with Article 18 (2) of the Second Additional Protocol, and the Ministry of Security of BiH as the authority responsible for execution, management and control of undertaken actions in line with Article 18 (3) of the Protocol.

Having these central authorities, BiH is able to approach other Parties, which have also designated such authorities, through the direct channel of communications via Interpol.

**III.1.3 Practice, cooperation with other law enforcement agencies**

The Ministry of Justice of BiH has correct communication with other relevant stakeholders, in respect to international judicial cooperation matters.

**III.1.4 Challenges/shortcomings:**

In some cases, there is evident delay in obtaining relevant feedback on a particular letter rogatory (or no feedback at all) from the requesting country. These postponements are sometimes of objective nature (misplaced letter rogatory,
ineffectiveness from the requesting party, etc.). However, there are cases where letters rogatory sent from BiH are substandard or do not meet the legal requirements of the requested country or have some other defect that can result in poor or no feedback. Besides, a number of prosecutors not only lack of sufficient knowledge in the area of IJC, although they have to prepare the outgoing requests for assistance to the investigations they are in charge of. Many of them, especially outside of the BiH capital, are not aware of the complexity and importance of IJC, nowadays. As a result, the said prosecutors are not interested even in receiving professional support and/or updating the limited information that they possess about the ways they can obtain cooperation from foreign countries.

Since the master of investigation is presently the prosecutor, it would be feasible and recommendable to have a central prosecutorial unit staffed with prosecutors specialized only and exclusively in international judicial cooperation matters for criminal investigations in BiH. Such unit would enhance professionalism countrywide. It should serve all prosecutors working in BiH by providing decisions and recommendations of improved quality in the field of international judicial cooperation in criminal matters.

To create such a prosecutorial unit, BiH could follow the positive experiences of other European countries (Albania, Bulgaria and Serbia are the closest) who have solid prosecution services that are not only leading investigations but also overseeing the IJC matters. Such countries are easily identifiable by studying declarations to Council of Europe Conventions in the penal field. These are the countries that have declared their Central/Head Prosecution Offices as CA for the respective forms of IJC.

The prosecutorial unit in question could become the necessary decision-making authority in substantial matters of IJC relevance. Its prosecutors, possessing more knowledge on investigative methods than any Ministry official, are likely to achieve better results at the international level in support of local investigations than the ordinary prosecutors in charge of the investigations who prepare the necessary requests to other countries now. Besides, the specialized prosecutors of such unit, being a part of the prosecution service, would be in a much better position than any Ministry official to
provide advice, to give orders and/or to control the work in the area of IJC. IJC carried out under this mechanism would be more flexible, adaptable and efficient.

This specialized prosecutorial unit serving all prosecutors in the country would also efficiently facilitate direct contacts between judicial authorities responsible for investigations: mostly, the intensifying direct relations with foreign countries’ prosecutors given the general policy in the world to make the prosecution service responsible for criminal investigations. In any case, the unit (consisting of several specialized prosecutors) should decide on active extradition cases for all investigations on behalf of BiH, namely: whether to try to obtain the extradition of the fugitive suspect or look for another solution, when to draft and circulate outgoing petitions for international search and provisional detention of a given fugitive. Besides, the unit would control: international transfers of prisoners to BiH, especially the ones trying to avoid their potential extradition to BiH, and criminal proceedings against foreigners in BiH together with their consular protection for the purpose of achieving reciprocity with the countries of their nationality in the policies of transfer of proceedings, exchange of evidence and even of protecting own citizens. The unit would also decide on the necessity, volume and appropriateness of outgoing letters rogatory and prepare the majority of them. It should decide on requests for institution of criminal proceedings against nationals of requested countries and also for transfer of investigations to other countries, and participation in joint investigation teams on behalf of BiH.

Nowadays, such a specialization is an inevitable must, given the complex peculiarities of IJC and amount of knowledge it requires to avoid failures and mistakes which are, very often, incorrigible compared to mistakes in domestic criminal proceedings. A prosecutor doing this job should have relevant qualifications and extensive experience to be able to prepare a solid request for extradition or a good letter rogatory. That is why the unit that we propose should have prosecutors assigned with the task of becoming experts on IJC, able to work independently and efficiently in this area. For this purpose any such prosecutor has to exclusively work on IJC issues, e.g. 3-4 extradition cases, 5-6 letters rogatory, several other cases of IJC per month. Only such specialized prosecutors who deal solely with IJC issues may become genuine experts on international judicial cooperation matters. It is noteworthy that the incubation period of
such prosecutors to become experts on IJC is 3 years, at least, given that it takes, normally, 2 years to obtain extradition from abroad. In this period the time for international search and provisional arrest of the fugitive is necessarily included.

III.1.5. Improvements/recommendations:

It would be advisable to establish an international judicial cooperation in support of investigations that would have specialized prosecutors working exclusively on the matters of international judicial cooperation.

III.2 Prosecution Offices in Bosnia and Herzegovina

The prosecutorial system of Bosnia and Herzegovina consists of:

- Prosecutor’s Office of Bosnia and Herzegovina
- Prosecutor’s Office of Brcko District,
- 2 entity prosecutor’s offices,
- 10 cantonal prosecutor’s offices in the Federation BiH,
- 5 district prosecutor's offices in the RS,

(Within the Banja Luka District Prosecutor’s Office there is a Special Prosecutor's Office for Combating Organized and Serious Economic Crime - Special Prosecutor's Office).

The Federal Prosecutor's Office of the Federation of BiH is “supreme” Prosecutor's Office for ten Cantonal Prosecutor’s Offices from the area of the Federation of Bosnia and Herzegovina. The Republic Prosecutor's Office of Republika Srpska is a “supreme “Prosecutor’s Office for five District Prosecutor's Offices from the area of Republika Srpska. The Public Prosecutor's Office of the Brcko District is competent for the area of the District.
III.2.1 Prosecutor’s Office of Bosnia and Herzegovina

In October 2003 the Parliament of Bosnia and Herzegovina adopted the Law on the Prosecutor’s Office of Bosnia and Herzegovina which was enacted by the Decision of the High Representatives of Bosnia and Herzegovina issued in August 2002. The first four National Prosecutors were appointed for their positions in the Prosecutor’s Office of Bosnia and Herzegovina on 16 January 2002. The first International Prosecutor in the Special Department for Organised Crime, Economic Crime and Corruption within the Prosecutor’s Office was appointed by the High Representative in March 2003.

The Constitution of Bosnia and Herzegovina stipulates jurisdiction of the Prosecutor’s Offices at the entity levels whereas the Prosecutor’s Office of Bosnia and Herzegovina was additionally established as an institution with special jurisdiction for proceedings before the Court of Bosnia and Herzegovina against crimes stipulated by the Law on the Court of BiH, Law on Prosecutor’s Office of BiH, Criminal Code of BiH, Criminal Procedure Code of BiH, Law on Transfer of Cases from the International Criminal Tribunal for the Former Yugoslavia to the Prosecutor’s Office of BiH.

The jurisdiction and scope of activities of the Prosecutor’s Office are stipulated by the Law on Prosecutor’s Office of Bosnia and Herzegovina whereby the Prosecutor’s Office is:

- an organ competent for conducting investigations of criminal offences under the jurisdiction of the Court of Bosnia and Herzegovina pursuant to the Criminal procedure Code of Bosnia and Herzegovina and other applicable laws,
- an organ competent for receiving requests for international legal assistance in criminal matters pursuant to the laws, multilateral and bilateral agreements and conventions including extradition or transfer of persons wanted by the courts or organs from the territory of Bosnia and Herzegovina and other States, or the international courts or tribunals,
- an organ in charge of producing statistical reports on its activities (Progress Report) including information on the status of criminality in Bosnia and
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Herzegovina and it points to tendencies in its prevalence. In the conclusion to this information the Chief Prosecutor may propose legal reforms.

The Prosecutor's Office of BiH is a *sui generis* institution and it is not superior to the entity Prosecutor's Offices but its jurisdiction is limited to prosecution of crimes stipulated by the afore mentioned laws.

**III.2.1.1 Organisation (HR and IT capacities)**

The Prosecutor's Office of BiH consists of the following departments:

- Special Department I - Special Department for War Crimes
- Special Department II - Special Department for Organized Crime, Economic Crime and Corruption
- Department III

The Special Department for War Crimes was formed after the issuance of a package of laws adopted by the Parliament of BiH in December 2004. These laws were necessary for the ICTY cases to be prosecuted by national judicial institutions, as well as for taking over the role of the ICTY Rules of the Road Unit which was, prior to its closure, reviewing war crimes cases before national courts could issue a decision to arrest the suspects of war crimes committed in the territory of Bosnia and Herzegovina. The Special Department for War Crimes is responsible for prosecution of cases of war crimes committed in the territory of Bosnia and Herzegovina during the 1992-1995 war conflicts.

The Special Department for War Crimes of the Prosecutor’s Office of BiH commenced its work on 09 March 2005, and inauguration was attended by numerous officials of the BiH judiciary, ICTY, and international community.

The Special Department II has jurisdiction over the prosecution of perpetrators of organized crime, economic crime and corruption. Those crimes include corruption
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involving employees of the BiH institutions, economic and financial crimes including tax evasion, smuggling, customs fraud and money laundering, as well as organized crime including, but not limited to, international trafficking in drugs and people and similar offences under the Criminal Code of Bosnia and Herzegovina.

Department Number III of the PO BiH has authority over following cases:

1. Cases related to all the criminal offences falling within the competence of the Prosecutor’s Office, except for:
   - Criminal offences falling within the scope of work of the Special Department for War Crimes within the meaning of Article II of the Criteria dated July 20, 2007,
   - Criminal offences falling within the scope of work of the Special Department for Organized Crime, Economic Crime and Corruption within the meaning of the newly adopted amendments to internal criteria dated June 30, 2009
2. Cases related to the criminal offences of ‘corruption' committed by official persons and responsible persons who are not highly ranked officials or responsible persons holding highest offices in their companies or other legal entities within the meaning of Article III, Paragraph 3 of the Criteria
3. Cases related to extradition, requests for legal assistance and issues concerning mutual legal assistance and co-operation, and
4. Cases related to issues involving conflict of jurisdiction and cooperation with other prosecutor’s offices, courts, institutions and organizations.

III.2.1.2 Jurisdiction/tasks in international legal cooperation

The decision-making for criminal investigations is done by the prosecutors’ offices in BiH. It is entirely decentralized. Every prosecutor prepares the necessary requests for his/her cases. The current IJC setting does not take into consideration that such cooperation is a diverse, difficult and challenging field of expertise which requires specialized know-how and understanding of international judicial conventions, human rights law and the law of nations, as well as foreign languages. It is quite unreasonable to expect that such expertise would develop easily and efficiently if performed once or twice a month by lawyers who are not specialized in this particular field of work.
III.2.1.3 Practice, cooperation with other law enforcement agencies

In June 2005 the Agreement on Coordination of Institutions from the Field of Intelligence, Security and Police Activities (Ministry of Defense of BiH, Ministry of Security of BiH, the State Investigation and Protection Agency, SBS, OSA, Indirect Taxation Administration of RS, Chief of Police of the Brčko District, Chief of Financial Police of the Federation of BiH, Director of the Taxation Department of RS, Director of the Taxation Department of the Federation of BiH and the Prosecutor's Office of Bosnia and Herzegovina) was signed in order to improve cooperation in the areas of protection of security, territorial integrity of Bosnia and Herzegovina and fight against all forms of serious criminality.

III.2.1.4 Challenges/shortcomings

Deficiency of a prosecutorial specialized unit only for international judicial cooperation matters and infrequent usage of IJC mechanisms and processes throughout the country.

The training on IJC at the two Centres for the education of judges and prosecutors (one in Federation of BiH and one in Republika Srpska) is not extensive or regular. Besides, it is training rather than education: the trainees learn how to use the knowledge they have acquired in law schools. However, they do not acquire knowledge of IJC there. What could improve this situation is possibly having a short university course on IJC in the curriculum of law schools in BiH. At the moment, there are only few lessons provided on the matter in law schools to students. This topic is mentioned usually during the course on criminal procedure law. As a result, students do not gain substantial knowledge on the IJC matters.

III.2.1.5 Improvements/recommendations

To create a specialized prosecutorial unit consisted of prosecutors focused exclusively on the specific field of IJC.
III.3 Courts

At the state level, there are two courts - the Constitutional Court of Bosnia and Herzegovina and the Court of Bosnia and Herzegovina.

The court system of the Federation of Bosnia and Herzegovina is composed of 40 courts, including the Constitutional Court of the Federation of BiH, the Supreme Court of the Federation of BiH, 10 Cantonal and 28 Municipal courts.

In Republika Srpska, there are 32 courts, including the Constitutional Court and the Supreme Court of the Republika Srpska, 5 District Courts, 19 Basic courts, 5 District commercial courts and the High Commercial court.

The Brcko District judiciary system consists of the Basic Court and the Appellate Court.

III.3.1 Organisation (HR and IT capacities) of the courts on the State Level

The Constitutional Court of BiH is a special court, whose main role is to interpret and guard the Constitution of Bosnia and Herzegovina. Its jurisdiction is defined under Article VI.3 and Article IV.3 of the Constitution of BiH.

The Court of BiH was established pursuant to the Law on the Court of Bosnia and Herzegovina and its jurisdiction, organization and structure are regulated by this Law. The Court of Bosnia and Herzegovina has three divisions: criminal, administrative and appellate.

The Criminal Division consists of three Sections:
- Section I for War Crimes
- Section II for Organized Crime, Economic Crime and Corruption
- Section III for all other criminal offenses falling under the Court's jurisdiction
The Administrative Division consists of the following:
- Administrative Disputes Subdivision/section
- Civil Procedure Subdivision/section
- Enforcement Procedure Subdivision/section

The Appellate Division consists of three Sections:
- Section I which rules on appeals/legal remedies from decisions of the Section I of the Criminal Division;
- Section II which rules on appeals from decisions of the Section II of the Criminal Division;
- Section III which rules on appeals from decisions of Section III of the Criminal Division, decisions of the Administrative Division, and deals with complaints regarding election issues.

The Court has a Common Secretariat and a Registry for Section I and Section II of Criminal and Appellate Divisions

III.3.2 Jurisdiction/tasks in international legal cooperation

In addition to regular jurisdiction of the Court, the Court also retains jurisdiction as follows:

- to take a final and legally binding position on the implementation of laws of Bosnia and Herzegovina and international treaties at the request of any entity court or any court of the Brcko District of BiH entrusted with the implementation of a law of Bosnia and Herzegovina;
- to issue practical directions on the application of substantive criminal laws of Bosnia and Herzegovina falling within the competence of the Court, pertaining to genocide, crimes against humanity, war crimes and violations of the laws and customs of warfare, and individual criminal responsibility related to those crimes, ex officio or at the request of any court of the Entities or of the Brcko District of BiH;
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- to decide on any issue related to international and inter-Entity criminal law enforcement, including relations with Interpol and other international police agencies, such as decisions on the transfer of convicted persons, and on the extradition and surrender of persons, requested from any authority in the territory of Bosnia and Herzegovina by a foreign country or international courts or Tribunals
- to decide on any conflict of jurisdiction between the courts of the Entities and the Court of the Brcko District of BiH and between the Court of BiH and any other Court;
- to decide on the reopening of criminal proceedings for criminal offences prescribed in the Laws of Bosnia and Herzegovina.

III.3.3 Challenges/shortcomings

In general, the knowledge of judges on matters of international judicial cooperation could be enhanced and further advanced.

III.3.4. Improvements/recommendations

Further advance the knowledge of judicial actors on matters pertaining to the field of international judicial cooperation.

III.4 Police

The first organizational level of the police in BiH is composed of ten Cantonal Ministries of Interior, following the constitutional system of the Federation of Bosnia and Herzegovina. These Cantonal Ministries are not subordinated towards the Federation Ministry of Interior as they are not an integral part of its organizational structure. They have complete independence in implementation of their duties and tasks, resulting in a decentralized police system with coordination elements in the Federation of Bosnia and Herzegovina.
The second organizational level of the police system in BiH is consisted of police organizations at the entity levels – BiH Federation Ministry of Interior and Republika Srpska Ministry of Interior, as well as the Police of Brcko District BiH.

The Republika Srpska Ministry of Interior is organized in five public security centers (PSC) composed of public security stations and police stations at the municipal level. Public security centers are directly subordinated to the Police Administration and Republika Srpska Ministry of Interior. Thus, the structure of the Republika Srpska Ministry of Interior is centralized, with clear procedures regarding coordination and subordination.

The third organizational level of the police system in BiH is consisted of organizations at the state level which include the Ministry of Security of Bosnia and Herzegovina and the seven administrative organizations that are operating under its auspices: Border Police, State Investigation and Protection Agency, Foreign Affairs Service, Directorate for coordination of police bodies, Agency for forensic examinations and expertise, Agency for education and professional training, and Police support agency.

**III.4.1 Organisation (HR and IT capacities)**

**Responsibilities/tasks in international legal cooperation**

Being responsible for international police cooperation, the police organizations do not have much influence on international judicial cooperation. However, the mistakes that police make when working on their own at the international level (such as: trying to locate fugitives abroad or obtaining preliminary information about some crime from potential witnesses residing in other countries, receiving relevant documents from abroad in an extra-judicial way) are often counterproductive. Many such mistakes benefit alleged or actual (sentenced) criminals by helping them avoid extradition or collection of evidence admissible in court against them. One of the tasks of the proposed centralized unit with prosecutors specialized in IJC would be the control of international police cooperation to prevent police from making the mentioned mistakes.
The same applies to the necessary monitoring and control of the other forms of international law enforcement cooperation, especially the ones used by customs offices.

III.5 Other (Customs, Financial Investigation Unit etc.)

Please Note: the following explanation below focuses on the Indirect Taxation Authority, SIPA [The State Investigation and Protection Agency] and the Republika Srpska [RS] Department for Financial Investigations.

III.5.1 Organisation (HR and IT capacities)

A. The Indirect Taxation Authority of BiH and its Customs Sector in particular, provides the customs service of Bosnia and Herzegovina. In terms of staff, it is the biggest organizational unit within the Indirect Taxation Authority. The sector officials are responsible for the implementation of the provisions related to customs, foreign trade, currency and other provisions referring to the customs policy of the state. The sector officials apply the import and export procedures at 40 road border crossings, 30 customs branch offices, four border crossings at the airports, three postal depots and eight railway border crossings, as well as customs procedures in four free zones. The field activities are coordinated by the Headquarters of the Indirect Taxation Authority in Banja Luka and four regional centres. The sector officials are responsible for the collection of all customs duties, excise duties on imported goods and road taxes as well as for the accounting and collection of VAT on importation. In addition to the collection of fees, the Customs Sector has, in cooperation with other institutions and inspection services, considerable responsibility for the security of the citizens of BiH. The Customs Sector officials and inspection services have responsibility for ensuring the quality and authenticity of goods, fighting against trafficking in prohibited goods and substances, as well as for the prevention of illegal movement of goods and people.

There is also a Law Enforcement Sector within the Indirect Taxation Authority. It is a sector with specific responsibility for Indirect Taxation Authority. The mission of this Sector is to detect, investigate, document and process all types of smuggling, customs
and tax frauds or any other violations of provisions being in effect in BiH that refer to duties, excise duties and value added tax. The Sector plans, organizes and coordinates the activities on collection, classification, assessment, analysis and provision of all data and information relevant to detection and prevention of smuggling or any other type of illegal activities related to movement of goods or collection of duties and taxes for the purpose of intensifying controls conducted by control departments in Taxes and Customs. The Sector officials are authorized to conduct thorough controls and patrolling, as well as to undertake all operational-tactical and pre-investigative activities for the purpose of detecting, proving and processing of criminal activities and violations, including search of premises and apprehension of the suspects.

B. The Financial Intelligence Department (FID) of SIPA is the financial intelligence unit in BiH operating in accordance with binding international standards on the prevention and fight against money laundering and financing of terrorist activities. The Financial Intelligence Department became operational on 28 December 2004 and was admitted to the membership of Egmont Group of Financial Intelligence Units on 29 June 2005. In addition to the Law on SIPA, tasks and competence of the Financial Intelligence Department are provided for by the Law on Prevention of Money Laundering and Financing of Terrorist Activities, based on which the department receives, collects, records and analyses data, information and documents as well as investigates and submits the findings of the analyses and/or investigations, data and documents to prosecutor's offices and other relevant authorities in B&H and abroad. In addition to these tasks, the FID performs the tasks pertaining to the prevention of money laundering and financing of terrorist activities, promotes cooperation between the relevant authorities of BiH, Federation of BiH, RS and BD, as well as with the relevant authorities of other countries and international organisations.

Unlike neighbouring countries, where the financial intelligence units are of an administrative type and operate as independent organisations within ministries of finance, the FID of SIPA is a main organisational unit of SIPA, with all police and investigative powers. In addition to these powers, the FID has the powers prescribed by the Law on Prevention of Money Laundering and Financing of Terrorist Activities, which
provides a special power not only to the FID but SIPA as well and the entire system of combating organised and economically motivated crime in BiH. In case of a suspicion of money laundering or financing of terrorist activities, the FID with strong mechanisms of personal and secret data protection and for the purpose of performing its duties or for the prosecutor’s offices, law enforcement agencies and foreign financial intelligence units, independently, without a court or prosecutorial order, may: (i) collect necessary information and documentation from financial and non-financial institutions and all state-level authorities in BiH; (ii) in compliance with the principles of the Egmont Group, collect / provide information within international law-enforcement cooperation from / to all 146 financial intelligence units, members of the Egmont Group; (iii) issue an order to suspend (block) transactions for up to five working days; (iv) order financial institutions to monitor and report on financial operations of a client, for up to six months.

The Financial Intelligence Department is involved in all major pre-investigations into organised and economically motivated crime in BiH by providing available and/or collected information, carrying out complex financial analyses, providing expert support to prosecutors by participating in investigation teams, or direct guidance of investigations of money laundering / financing of terrorist activities.

C. Lastly, pursuant to the Criminal Assets Recovery Act adopted by the Republika Srpska in 2010 a Department for Financial Investigations has been set up within the RS Ministry of the Interior. It assists with implementation of the adopted confiscation related provisions of the Act.

Articles 48-59 of the Act regulate international administrative requests related to criminal assets, mainly to and from the Department for Financial Investigations. Such requests may be used to eventually obtain information about the assets for the purpose of their freezing/seizure and confiscation. However, these requests are novelties and many countries are hesitant and even reluctant to respond to them. Moreover, some domestic laws on criminal assets recovery expressly postulate that this international cooperation is rendered solely on the basis of international agreements. This makes the
administrative requests even less reliable. Therefore, one should comply with the following rule: if the same information can be obtained through both requests: the letter rogatory and the administrative request, the former should be preferred to the latter.

Administrative requests are less reliable for another important reason as well. They do not guarantee that information can be obtained in case of bank secrecy. This does not apply to letters rogatory. On the contrary, they are the truly appropriate means to obtain such information. According to Article 7 (5) of the 1988 Drug Convention and Article 18 (8) of the Palermo Convention, “Parties shall not decline to render mutual legal assistance ... on the ground of bank secrecy”. Furthermore, all these conventions prescribe that mutual legal assistance ... may be requested for any of the following purposes: ...Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes. Nothing of this sort has been provided for in favor of any administrative request relating to criminal assets and their confiscation.

In 2014 the Criminal Assets Recovery Act came into force in the Federation of BiH. Hence, both entities have a similar department for financial investigations and face similar challenges as well.
IV. Processing MLA requests/working methods

The registration of cases is performed in electronic books. No change in the system would be able to significantly improve the essential IJC work. In any case, it is important to improve the system for keeping track of bilateral judicial relations with foreign countries for the purpose of ensuring reciprocity with each of them.

Incoming extradition requests and supporting documents are sent to the MoJ. Once received, they are immediately forwarded to the Prosecutors’ Office of BiH. The PO BiH assesses whether the request was submitted pursuant to the Law and in case it is incomplete, it asks the MoJ to have the requesting country remove the deficiencies in the request. If the Prosecutor’s Office of BiH establishes that the requesting country has submitted all the documents required for extradition along with the request, the Office forwards the extradition file to the Court of BiH for further action.

The Court of BiH then makes the final decision on the extradition request. If the Court of BiH finds that the requirements for the extradition of an alien have been fulfilled, the Minister of Justice of BiH renders a political decision allowing or not allowing the extradition. In case s/he refuses to extradite the person, the Prosecutor’s Office of BiH may initiate an administrative dispute.

If the Court of BiH establishes that the legal requirements for extradition have not been met, it renders a decision denying the extradition request. The decision is forwarded to the Panel of the Appellate Division of the Court which, upon hearing the prosecutor of the Prosecutor’s Office of BiH, either upholds, revokes or revises the decision. The final decision denying the extradition request shall be delivered to the foreign state through the MoJ of BiH.

As a general rule, incoming requests for international legal assistance [mainly: letters rogatory and request for service of procedural documents] are sent to the MoJ. If the Ministry accepts the request, it forwards it to the local judicial body (prosecutor or court) with the corresponding domestic competence. The materials of execution or the
explanation for non-execution are returned by the judicial body to the MoJ. Subsequently, the MoJ sends the execution result/ the explanation for non-execution or the reason for the rejection of the request, if this is the case, to the requesting country to the requesting country.

There are, however, also direct contacts between local judicial bodies in BiH and judicial authorities of other European countries. This is a result of the Second Additional Protocol to the ECMACM. In a Declaration to this Protocol (7 Nov 2007), BiH has announced that “In line with Article 6 of the Second Additional Protocol {to the European Convention on Mutual Assistance in Criminal Matters}, Bosnia and Herzegovina declares that ordinary courts and prosecutor's office in Bosnia and Herzegovina shall be regarded as judicial authorities for the purpose of the Convention and this Protocol”.

Additionally, if the foreign authority sends a request for international legal assistance directly to a local judicial body in BiH, that authority is expected to send a copy of its request to the MoJ. In another Declaration to the Second Additional Protocol to the ECMACM (7 Nov 2007), BiH requires “that in case of direct addressing of urgent requests in line with Article 4, paragraph 7, of the Second Additional Protocol, copy of the request will be delivered concurrently to the Ministry of Justice of Bosnia and Herzegovina”. Thus, in accordance with Article 15 (1 and 2) of the ECMACM, amended by Article 4 of the Second Additional Protocol thereto, “Requests for mutual assistance, as well as spontaneous information, shall be addressed in writing by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels. However, they may be forwarded directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party and returned through the same channels”. There is no obligation in such cases of direct communication to inform the requested Party’s (incl. BaH) Ministry of Justice, let alone send it a copy of the execution, the explanation for non-execution or the reason for the rejection of the request.

**Execution of requests**
The abovementioned judicial body is assigned with the execution.
Working procedure
This is the procedure of the requested country and the request has to be translated into its official language unless otherwise agreed upon.

During the predecessor project IPA 2012 “Fights against Organized Crime and Corruption: Strengthening the Prosecutor’s Network” a useful Handbook on Joint Investigation Team (March 2014) was developed, serving national judicial actors in delivering beneficial IJC outcomes. The predecessor project has successfully advocated the use of joint investigation teams, as the first such team was formed in the Prosecutor’s Office during 2014. Success and results of this team can be observed as the reason to continue signing the contracts on the establishment of the JITs in the future.

Monitoring system for quality of outgoing requests
As observed in practice, there is a need for the establishment of an efficient and practical monitoring system in BiH.

Decisions/approvals/rejections
The requests are redirected and the BiH MoJ waits for the feedback of the requested country.

Coordination and communication
As explained above in the text.

24/7 system in place (PPO, MoJ)
There is a 24/7 system in place. As for the Prosecutor’s Office of BiH, it has a system of regular duty prosecutors in place 24/7. They rotate according to the number of prosecutors and serve as emergency contact point for police agencies and any other body that needs to get in touch with the state prosecutor. Additionally, each PO in BiH has the same system of 24/7 on duty prosecutors.
Knowledge about law systems abroad
The laws of the former Yugoslavian countries are well known to prosecutorial staff since there are many similarities to BiH national laws. In addition, English speakers are also able to read and interpret the laws of other foreign countries.

Knowledge about MLA, in general.
This knowledge is limited as the matter is quite specific, very large in volume and requires understanding of different areas: procedural and substantive law, human rights, diplomacy, international contracts law, etc.

Language Skills
Knowledge of foreign languages is limited and there is reasonable space for improvement.
V. Statistical Data

Please Note:

Presented statistics are related to the period of three years (2013, 2014 and 2015) as the optimal three-year cross-section of activities in the field of international judicial cooperation in criminal matters. These data are official statistics provided by the Ministry of Justice of Bosnia and Herzegovina.

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Incoming requests</th>
<th>Outgoing requests</th>
<th>Country</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>From income/sending to answering/receiving</td>
<td>Usually, it is much more than one foreign country; a full list is hardly feasible.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extradition</td>
<td>329</td>
<td>153</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Temporary extradition and transit</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Note: Such a combination is never made. Temporary extradition is combined with postponed extradition rather than with any transit.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfer of proceedings</td>
<td>435</td>
<td>422</td>
<td>The highest number</td>
<td>n/a</td>
</tr>
</tbody>
</table>

What about requests for institution of criminal proceedings

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2 Here and below are my necessary remarks in italic. Hope they will be of some help.
<table>
<thead>
<tr>
<th>Against nationals of requested countries?</th>
<th>Of transfer refers to Serbia, Croatia, Montenegro, Austria and Slovenia.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforcement of procedural actions (delivery of documents, criminal records, evidence etc.)</td>
<td>Total of 10 237</td>
</tr>
<tr>
<td></td>
<td>n/a</td>
</tr>
</tbody>
</table>

Note, since this is also evidence (oral) it is not possible to it when combined with above mentioned ones in one letter rogatory.
Interrogation (witness/suspect)
  a. Videoconference/telephone
  b. Conference—no third
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<table>
<thead>
<tr>
<th>conference</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>c. Abroad</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Temporary) Confiscation of property (benefits of crime – <em>not necessarily given the expansion of the unexplained wealth theory</em>)</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Cross border observation</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Controlled delivery</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Use of person with hidden identity</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Joint investigation team</td>
<td>In total: 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfer of execution of judgments</td>
<td>184</td>
<td>124</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Additional observations: As for other topics of mutual legal assistance, such as interviewing suspects and witnesses, the delivery of documents etc., in the period 2013-2015 there were 10 237 such cases, noting that the Ministry of Justice of BiH does not keep individual records for each of these forms of assistance.

Moreover, the number of criminal cases by type, during the same three-year timeframe is as follows:

1. War crimes 408
2. Money laundering 38
3. Crimes of terrorism 10
4. Corruption Offenses 14
5. Organized Crime 119
6. Cyber Crime 15
7. Copyright Violation 9
8. Trafficking in Human Beings 27
It is noteworthy that the requested statistical data does not indicate the capacity for international judicial cooperation and therefore, cannot bring about its enhancement. The percentage of rejected outgoing requests for international judicial cooperation and the reasons for rejection might be much more useful. However, the current situation is so dissatisfactory that the time has not yet come to study even such figures.
VI. Findings/general conclusion

As mentioned above throughout the text, although Bosnia and Herzegovina has a complex state structure, that is no reason not to further improve the already functional system of international judicial cooperation in criminal matters. With certain modifications and improvements, BiH could complement its existing system and improve the process of giving and receiving mutual legal assistance in criminal matters and continue to be an equal partner to countries around the world.
VII. Recommendations

- Continue developing further improvements of domestic laws, including criminal procedure codes, to facilitate IJC and to finalize the BiH Criminal Assets Recovery Act.
- BiH relevant authorities should consider submitting declarations and reservations to related multilateral instruments.
- Taking into account the experience of other Balkan countries (Albania, Bulgaria and Serbia) with regard to the organization of the prosecution service, BiH judicial authorities could improve their IJC system and allow for more efficient IJC activities.
- Clarify with respective foreign countries, e.g. Iraq, in which bilateral treaties with the former Yugoslavia BiH is recognized as a successor, in accordance with the requirements of Article 24 (1) of the Vienna Convention on Succession of States in respect of Treaties.
- Introduce in the curricula of law schools a short university course on IJC and prepare a textbook for the said course.

Please Note: These are the overall and summary recommendations. Individual recommendations on specific issues are listed in the text above.