
BALKAN NETWORK TEMPLATE EMPTY

COUNTRY

Official name in original language	Visoko sudsko i tužilačko vijeće Bosne i Hercegovine
Official name in English	The High Judicial and Prosecutorial Council of Bosnia and Herzegovina
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Brief history (300-400 character)

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina is an independent institution established under the Law on the HJPC BiH on 1 June 2004, with the task of ensuring the maintenance of an independent, impartial and professional judiciary in BiH. The Law establishes the following remit: appointment of judges, prosecutors and legal associates, disciplinary responsibility, judicial administration and statistics, judicial institutions budgets, supervision over professional development, introduction of ICT systems, as well as taking a leading role in the implementation and coordination of reform activities in the BiH justice sector.

The High Judicial and Prosecutorial Council of Bosnia and Herzegovina is also a state-level regulatory body establishing the standards of ethics and professional conduct for judicial community. In accordance with Article 4 of the Law, the Council is composed of representatives of the BiH legal community (judges, prosecutors and lawyers), and the executive and legislature. Council members are elected for a term of four years with the possibility of re-election. Article 4 of the Law also provides that the ethnic and gender composition of the Council shall reflect the structure of the population according to the 1991 census, so that the Council so formed shall be composed of six Bosniaks, five Serbs, three Croats and one member from the rank of Others.

Legal acts regulating the Status of the Organization	Law on the High Judicial and Prosecutorial Council of BiH
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Composition

The Council has a President, two (2) Vice-Presidents and thirteen (13) members.

1. Total number of members:

15

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2. Term of office of the members

Council members serve a term of four years.

3. Election process:

At least three (3) months prior to the expiration of the term of office of a Council member, the Council notifies the relevant authority which, under Article 4 of the Law on HJPC, is responsible for election or appointment of Council members, and it requests that authority to elect or appoint a new member to the Council.

The membership of the Council is generally representative of the peoples of Bosnia and Herzegovina and reflects the gender balance in Bosnia and Herzegovina. The Book of Rules of the Council regulates the procedures necessary to ensure compliance with applicable provisions of the Constitution and laws of Bosnia and Herzegovina regulating this issue.

4. Is there a possibility to be renewed as a member?

Yes

5. Do the members have a full-time position or not?

Only 4 members of the HJPC have full-time position: President, two Vice-Presidents and one full-time member.

Is there a majority of Judges?

No

Presidency

The President and the two vice-presidents of the Council and the member of the Council working full-time with the Council form the Presidency of the Council.

Role of the Presidency

(1) The Presidency shall have the following tasks and competences:

- a) Oversee the performance of the Secretariat;
- b) Monitor the implementation of the strategic plan and work plan of the Council;
- c) Review the proposal budget of the Council;
- d) Review the draft annual report of the Council;
- e) Approve salary increases and decide on awarding cash bonuses (incentives) for employees at the Council, on the proposal of the Secretariat;
- f) Decide on other issues as assigned by the Council.

(2) The Presidency shall decide by consensus, whereas the Council shall decide in the event that a consensus is not reached.

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- (3) The Presidency may decide that a certain member of the Presidency shall be responsible for certain tasks that fall under the competence of the Presidency.
- (4) The Presidency shall report on its performance to the Council every six months.
- (5) Administrative and professional support to the Presidency shall be provided by the Cabinet of the Presidency which is headed by the Chief of Cabinet and who shall be accountable for his or her performance to the President. The organisation and the scope of tasks and duties of the employees of the Cabinet of the Presidency shall be prescribed with the Book of Rules on Internal Organisation and the Systematisation of Posts.
- (6) The Director and the Deputy Director of the Secretariat shall attend the meetings of the Presidency without voting rights and may offer their opinion in connection with any issue that is considered.

Main Competences of the Council:

The Council has the following competencies:

- Appointment of judges, including Court Presidents, lay judges and reserve judges in all courts at the State, Entity, Cantonal, District, Basic and Municipal levels in Bosnia and Herzegovina, including the Brcko District of Bosnia and Herzegovina, but excluding the Constitutional Courts of the State and Entities of Bosnia and Herzegovina;
- Appointment of Chief Prosecutors, Deputy Chief Prosecutors and prosecutors in all prosecutors' offices at the State, Entity, Cantonal and Brcko District level in Bosnia and Herzegovina, including the Brcko District of Bosnia and Herzegovina;
- Making proposals to the relevant authorities in relation to, their proposal and election of judges to the Constitutional Court of Republika Srpska and their nomination of judges to the Constitutional Court of the Federation of Bosnia and Herzegovina. When exercising its competence under this paragraph, the Council shall seek a written opinion of the relevant Constitutional Court before it makes its proposal;
- Receiving complaints against judges and prosecutors, conducting disciplinary proceedings, determining disciplinary liability, and imposing disciplinary measures on judges, lay judges, reserve judges and prosecutors;
- Deciding upon appeals in disciplinary proceedings;
- Deciding upon suspensions of judges, lay judges, reserve judges and prosecutors;
- Supervising the advanced professional training of judges and prosecutors and advising the Entity Centres for Judicial and Prosecutorial Training and the Brcko District of Bosnia and Herzegovina Judicial Commission in their adoption of programmes of advanced professional

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training for judges and prosecutors;

- Determining the minimum amount of advanced professional training to be undertaken by every judge and prosecutor each year;
- Determining the induction training for candidates chosen for judicial and prosecutorial office and supervising the provision of such training;
- Approving the annual report of the Steering Boards of the Entity Judicial and Prosecutorial Training Centres and of the Brcko District of Bosnia and Herzegovina Judicial Commission insofar as it relates to the induction training and the advanced professional training of judges and prosecutors;
- Deciding upon issues of incompatibility of other functions performed by judges and prosecutors;
- Deciding upon the temporary assignment or transfer of judges and prosecutors to another court or prosecutor's office;
- Deciding upon leaves of absence for judges and prosecutors;
- Participating, at the Council's discretion, in the drafting process of annual budgets for the courts and prosecutors offices;
- Making recommendations upon, at the Council's discretion, the annual budget proposals made by governmental bodies and/or governments for courts and prosecutors offices;
- Making and presenting recommendations, at the Council's discretion, for amendments to the proposed budgets made by governmental bodies and/or governments and/or the Brcko District of Bosnia and Herzegovina Judicial Commission before the relevant legislative bodies;
- Collecting and analysing reports and relevant budget and revenue data for courts and prosecutors offices, in order to provide statistical data for the effective operation of courts and prosecutors offices;
- Advocating for adequate and continuous funding of courts and prosecutors' offices in Bosnia and Herzegovina;
- Participating in the drafting of, and approving, Books of Rules for the operation of courts and prosecutors offices in Bosnia and Herzegovina;
- Monitoring and advising courts and prosecutors offices on appropriate and effective budget, administration and management techniques and procedures and initiating training in this regard;
- Initiating, overseeing and coordinating projects related to improving all aspects of the administration of courts and prosecutors offices, including seeking national and international

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funding therefore;

- Setting criteria for the performance evaluations of judges and prosecutors;
 - Setting criteria for the performance of courts and prosecutors offices, and initiating enquiries concerning administrative or financial conduct;
 - Initiating, coordinating and supervising the use of information technology by courts and prosecutors' offices in order to achieve and maintain uniformity in this area between and among courts and prosecutors' offices throughout the country. No court or prosecutors' office shall adopt an automated case-tracking registration, tracking or related system, including backup and storage systems, without obtaining the prior approval of the Council;
 - Determining the number of judges, prosecutors and/or Deputy Chief Prosecutors of each court or prosecutor's office within the Council's competence, after consultation with the relevant Court President or Chief Prosecutor, relevant budgetary authority, and the relevant Ministry of Justice;
 - Collecting information and maintaining documentation on the professional status of judges and prosecutors, including their date of appointment, termination of office, statistical information relevant to their work performance, and any other information which the Council considers relevant to the work of Court Presidents, Chief and Deputy Prosecutors, judges and prosecutors;
 - Providing opinions on complaints lodged by a judge or a prosecutor who considers that his or her rights provided for by this or other law, or more generally his or her independence are threatened;
 - Providing opinions on draft laws, regulations, or issues of importance that may affect the judiciary, initiate the adoption of relevant legislation and other regulations and to provide guidance to courts and prosecutors' offices on matters falling under the Council's competence;
- Issuing codes of ethics for judges and prosecutors.

1. Career of judges and/or prosecutors:

The HJPC BiH appoints judges and prosecutors of all levels at all courts and prosecutors' offices in Bosnia and Herzegovina. Requirements for appointment are foreseen by the Law on HJPC. Every vacant position is publicly announced. The HJPC conducts procedure for election of judges and prosecutors in accordance with the Law and HJPC Rules of Procedure, as well as Book of Rules on Entrance Exams and Written Tests. Candidates' competences are determined by the criteria foreseen by the Article 43 of the Law on HJPC.

Judges and prosecutors have a life time term, i.e. until the age of 70, when they reach the mandatory retirement age. Termination of mandate is regulated by the Law.

2. Judicial training:

Education of judges and prosecutors in Bosnia and Herzegovina, supervised by the HJPC BiH, is organized and conducted by the entity centers for education of judges and prosecutors and in co-operation with the Brcko District Judicial Commission. The HJPC's role in this process is advisory, mainly in process of determining the minimum amount of advanced professional training to be undertaken by every judge and prosecutor each year, as well as determining the induction training for candidates chosen for judicial and prosecutorial office.

3. Discipline:

The Law on the HJPC BiH regulates the competence of the Council to receive complaints against judges and prosecutors, conduct disciplinary proceedings, determine disciplinary liability, impose disciplinary measures on judges, lay judges, reserve judges and prosecutors, decides upon appeals in disciplinary proceedings and decides upon suspensions of judges, lay judges, reserve judges and prosecutors.

The Office of the Disciplinary Counsel (ODC), being an office within the framework of the HJPC, operates as a counsel in prosecuting allegations concerning violations of duty by judges and prosecutors, in accordance with the Law on the HJPC and the Rules of Procedure on the operations of the Council. The ODC is empowered by law to receive and investigate complaints and to initiate disciplinary proceedings against judges and prosecutors. In accordance with the Law on the HJPC, the ODC acts on complaints or on its own initiative and is responsible for assessing the validity of complaints, investigating allegations against judges and prosecutors regarding violations of duty, as well as for initiating disciplinary proceedings and representing disciplinary cases before the disciplinary panels of the Council.

4. Ethics:

The HJPC has adopted the Code of Ethics for judges and Code of Ethics for Prosecutors in 2006 which proscribe basic principles of ethical conduct for judges and prosecutors. Basic principles foreseen by the ethical codes are independence, equality, integrity, responsibility and expertise.

5. Opinions on legislation/other opinions:

Law on the HJPC BiH determines competences of the Council and provides opinions on draft laws and other regulations regarding the judiciary, as well as provides opinions on issues of importance that may affect the judiciary (for example, in relation to laws application or necessity for adoption of certain laws). It was foreseen by the Law that the HJPC can initiate adoption of relevant regulations and this competence of the Council is implemented through submitting initiatives on regulations to relevant authorities.

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6. Others: N/a

Status of decisions (Opinion, authorization, recommendation, decision)

The Council can provide opinions, adopt decisions, recommendations and approvals.

Supervision (Transparency)

The Council sessions are open to public. The web site of the HJPC BiH contains information on work of the Council and Annual reports of the Council are available for the public.

1. Over the Council:

Every year, the HJPC BiH is preparing an Annual report that is delivered for information to the BiH Parliamentary Assembly, BiH Council of Ministers, Parliament of the Federation of BiH, Cantonal assemblies, National Assembly of Republika Srpska, state and entity ministries of justice and Assembly of Brčko district of BiH.

1. Over the decisions:

A decision of the HJPC is final. The decision of the Second Instance Disciplinary Panel may be contested by filing a complaint with the Court of Bosnia and Herzegovina

International relations

1. Global relations:

The HJPC BiH has established global relations with all relevant international institutions and organisations in the country and well as with many countries from the region, EU and more.

2. Regional relations:

The HJPC BiH has established relations with regional judicial bodies and institutions. The HJPC is organiser or participant of numerous regional conferences, seminars, workshops, study trips etc. also the HJPC is using TAIEX tools for enhancing the cooperation with relevant regional institutions.

3. Bilateral relations:

The HJPC BiH has established bilateral relations with many countries, such as Norway, Netherlands, U.K. Sweden, as well as Delegation of EU in BiH.

Ongoing projects

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1. With the European Union:

- Consolidation and Further Development of the Judicial Communication and Information System” (IPA 2013)

Other international projects:

- “Support to the Judiciary in BiH – Strengthening the Role of Prosecutors in the Criminal Justice System, phase 2” (Donor: Government of the Swiss Confederation and the Ministry of Foreign Affairs of the Kingdom of Norway)
- “Improving Judicial Efficiency Project” (Donor: Government of the Kingdom of Sweden)
- “Improving Judicial Efficiency Project II” (Donor: Ministry of Foreign Affairs of the Kingdom of Norway)
- “Human Resources Management Project for the Judiciary in BiH, phase II” (Donor: Ministry of Foreign Affairs of the Kingdom of Norway)

1. Regional:

N/a

2. Internal:

N/a