

**United Nations Development Programme in Bosnia and Herzegovina
Project Document**

Project Title: *Access to Justice: Facing the Past and Building Confidence for the Future*

UNDAF Outcome(s): Relevant institutions at all levels strengthen equal access to justice and the protection and promotion of human rights, gender equality and develop institutional mechanisms for dealing with the past.

Expected Output(s): **Component I: Transitional Justice**
Output 1: Government and stakeholders develop the Transitional Justice Strategy, and operationalise related mechanisms; Technical and logistic support in place for government-led process of a drafting National Strategy for Transitional Justice.

Component II: Confidence Building
Output 2: Government institutions and CSOs develop legal frameworks for better access to justice and observance of human rights providing for increased legal awareness, access to free legal aid and developed communications capacities of judicial institutions and civil society.

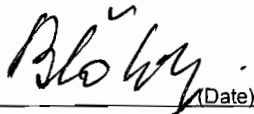
Executing Entity: UNDP Bosnia and Herzegovina
Implementing Agencies: UNDP Bosnia and Herzegovina

Brief Description

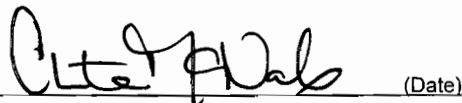
The goal of the project is to increase the accessibility of BiH legal institutions and services for standard court users and systematically address remaining access to justice challenges for victims of the 1992-95 conflict in the country. In spite of various initiatives in BiH since the signing of Dayton Peace Agreement in 1995 to address past abuses related to the conflict, most of the efforts were piecemeal, lacked government engagement and were limited in scope to particular areas of transitional justice. Based on the success of the government's transitional justice consultation supported by UNDP, the BiH government has requested UNDP to set up a Secretariat and provide technical advice to a newly formed Government Working Group tasked with drafting a National Strategy for Transitional Justice. At the same time, overall access to justice in BiH will be strengthened by developing a strategic approach and support for raising the courts' communication capacities, increasing the level of legal awareness and providing free legal aid in BiH, with a focus on gender based violence (GBV) and domestic violence survivors. One of the key objectives is to enable the government officials and service providers at all levels to appropriately respond and to raise public awareness on GBV in the society. These activities will be executed in partnership with the BiH Ministry of Justice (MoJ) within the implementation framework of its Justice Sector Reform Strategy completed in 2008. The two components of the project are mutually reinforcing as they work in parallel towards restoring public confidence in BiH institutions.

Programme Period: 3 years
 Key Result (Strategic Plan):
 Atlas Award ID:
 Start date: July 2009
 End Date: July 2013
 PAC Meeting Date:
 Management Arrangements: DEX

Total resources required: 5,555,766 USD
 Total allocated resources: 2,691,818 USD (BCPR)
 • Regular 2,863,948 USD
 (expected from EC in 2010/11)
 • Other:
 Unfunded budget: N/A
 In-kind Contributions:


 (Date)

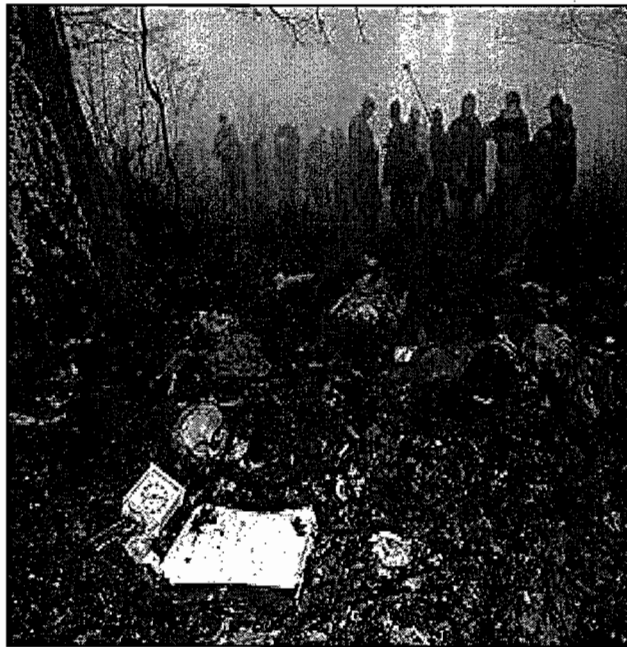
Minister of Justice


 (Date)

UNDP Resident Representative

Access to Justice

Facing the Past and Building Confidence for the Future



2009-2011

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Project Document**

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ACRONYMS

ACT	:	Assisting Communities Together project
APR	:	Annual Project Report
AWP	:	Annual Work Plan
BCPR	:	Bureau for Crisis Prevention and Recovery
BiH	:	Bosnia and Herzegovina
CO	:	Country Office
CSO	:	Civil Society Organizations
DEX	:	Direct Execution
EWS	:	Early Warning System reports
FBiH	:	Federation of Bosnia and Herzegovina, Bosnia and Herzegovina
FBiH GC	:	FBiH Gender Center
GA	:	BiH Gender Equality Agency
GAP	:	BiH Gender Action Plan
GBV	:	Gender Based Violence
GEL	:	BiH Gender Equality Law
HJPC	:	High Judicial and Prosecutorial Council
ICMP	:	International Commission for Missing Persons
ICTJ	:	International Center for Transitional Justice
ICTY	:	International Criminal Tribunal for former Yugoslavia
MoJ	:	Ministry of Justice
MHRR	:	Ministry for Human Rights and Refugees
MPI	:	Missing Persons Institute
OHCHR	:	Office of the High Commissioner for Human Rights, United Nations
OSCE	:	Organisation for Security and Cooperation in Europe
RS	:	Republic of Srpska, Bosnia and Herzegovina
RS GC	:	Gender Centre of the RS Government
SBA	:	Standard Basic Agreement
SC	:	Steering Committee
SGF	:	Small Grants Fund
SV	:	Sexual Violence
TRC	:	Truth and Reconciliation Commission
UNCT	:	United Nations Country Team
UNDAF	:	United Nations Development Assistance Framework
UNDP	:	United Nations Development Programme
VAW	:	Violence Against Women

I. SITUATION ANALYSIS

1. Introduction

- 1.1 Following the signing of the Dayton Peace Agreement, which put an end to the 1992-95 conflict in Bosnia and Herzegovina (BiH), a series of measures have been subsequently taken to recover stricken institutions and provide remedy for conflict-related injustices. According to currently available estimates, upward of 100,000 citizens of BiH lost their lives in the conflict; some 40% of the killed and missing were civilians; more than 2,2 million became either refugees or IDPs; a large number of individuals were subject to unlawful detention, torture and systematic rape (over 50,000 women and children were systematically raped in the BiH war); and a significant portion of the socio-economic structure of the country was destroyed.¹ In the post-Dayton period, significant strides were made to recover the infrastructure of the country, secure the return of refugees and IDPs, strengthen central administration, ensure return of property to the rightful owners, and develop the macro-economic stability of the country. Nevertheless, the legacy of armed violence remains evident in several sectors including the continuing need to strengthen the Rule of Law institutions in BiH.
- 1.2 Among the regions of the former Yugoslavia affected by violent disintegration of the country, including Croatia, FYR of Macedonia, Kosovo, Montenegro and Serbia, BiH by far carried the largest toll in human life and suffering, and destruction of natural and man-made resources. Due to the impact on the political system, the civic fabric of society and economic infrastructure, the recovery period may take longer and addressing the consequences and root-causes of the conflict will take greater effort than in other parts of the former Yugoslavia.
- 1.3 At the same time, putting in place a set of comprehensive measures to provide access to justice for citizens, both women and men, remains one of the key challenges in support of the commitment to accession processes to the European Union (EU). These efforts should not only provide a basis for systematic redress of past abuses, but also ensure sustainable mechanisms for fair and timely delivery of justice to all, including the most vulnerable groups and future generations. On 16 June 2008, BiH took an important step towards EU integration when it signed the Stabilisation and Association Agreement (SAA). With this act, the government and the people of BiH have taken upon themselves a further responsibility to work together towards achieving EU standards of governance, including those that require raising the level of access to justice for all its citizens, men and women. Accordingly, BiH Ministry of Justice (MoJ) has completed a comprehensive Justice Sector Reform Strategy in 2008, designating Access to Justice as one of the four main pillars of the reform.
- 1.4 Recognizing the need for BiH to deal with its past in a systematic and inclusive manner, UNDP Country Office in BiH initiated a project *Supporting National Capacities for Transitional Justice in Bosnia and Herzegovina* in 2006 with support from the UNDP Bureau for Crisis Prevention and Recovery (BCPR), the Government of Switzerland and the Government of Spain. The main activities in the first phase of the UNDP transitional justice programmes in BiH included holding the first multi-stakeholder national consultations, developing TJ guidelines for BiH, and administering a

¹ For more desegregated figures about the victims see Research and Documentation Center website at <http://www.idc.org.ba/presentation/index.htm>.

small grants fund for CSO projects dealing with facing the past. The second phase of the project is committed to community based consultations in BiH to provide TJ strategy development process with local communities input on the specific TJ issues. At the end-stages of this project in 2008, UNDP BiH has reconfirmed its commitment to continue to assist the government and the people of BiH in strengthening national capacity and ownership of the transitional justice processes:

Up until now, BiH's movement along the continuum of transitional justice – whether in the form of existing (entity) reparation programs, the judicial reappointment process (2002) or the creation of a BiH State Court (2004) – has been driven largely by external forces such as the Dayton Agreement, and the Office of the High Representative's role in enforcing that agreement. But, determining the right mixture and make-up of TJ mechanisms needed for BiH to thrive as a nation within Europe is an endeavor which – by definition – must be "state-led", and must incorporate the concerns of BiH citizens from all communities.²

1.5 In implementing the project UNDP BiH will be supported by UNDP/BCPR Global Programme in Rule of Law. In accordance with the UNDP Strategic Plan 2008 – 2011 and UNDP Executive Board's decision that the rule of law constitutes one of UNDP's core businesses in support of democratic governance of the justice and security sectors in crisis and post-conflict situations, BCPR has restructured its Rule of Law, Justice and Security Unit (RoLJS). In 2008, BCPR launched a Global Programme on *Strengthening the Rule of Law in Conflict- and Post-Conflict Situations*, which outlines UNDP's renewed efforts and services to advance justice and security in fragile and transitional societies. The Global Programme especially focuses on:

- a) *Strengthening the Rule of Law within an Early Recovery Framework and during Transitions.* National stakeholders (government institutions, civil society, and displaced populations) will be empowered to respond to the immediate needs related to security, justice and impunity, while also laying a foundation for capacity development of rule of law institutions in the recovery phase.
- b) *Addressing Women's Security and Access to Justice.* Based on Security Council Resolution 1325 and UNDP's Eight-Point Agenda for Women's Empowerment and Gender Equality in Crisis Prevention and Recovery, particular emphasis will be placed on ensuring access to justice for victims of Sexual- and Gender Based Violence (SGBV) and domestic violence.
- c) *Supporting Capacity Development of Rule of Law Institutions.* Technical assistance will be provided to conduct capacity development of critical rule of law institutions, such as the Judiciary, the Ministry of Justice, the Prosecutor's Office, Law-enforcement and Corrections.
- d) *Facilitating Transitional Justice.* Support will be provided to national stakeholders in addressing past legacies of violations of human rights and humanitarian law, while also ensuring parallel capacity development of rule of law institutions.
- e) *Promoting Confidence Building and Reconciliation.* Particular attention will be given to rebuild trust and nurture reconciliation. Cutting across the full spectrum of assistance, confidence-building activities will seek to promote dialogue, communication and peaceful conflict resolution.

The UNDP Global Programme draws on some of UNDP's most comprehensive and innovative rule of law programmes in conflict-affected and post-conflict situations, and establishes close linkages between protection and the rule of law, and between humanitarian action and development

² "Why is Transitional Justice Important for Bosnia and Herzegovina?" by Christine McNab, UNDP Resident Representative and John Furinari, UNDP Chief Technical Advisor for Transitional Justice in *Development Times* no. 17, Sarajevo: UNDP, 2008.

principles. UNDP intends to build on its past successes and lessons learned to develop country specific projects that strengthen the rule of law in conflict / post-conflict countries in order to ensure access to justice for all of its citizens.

2. Background to Transitional Justice Initiative

- 2.1 The process of coming to terms with violent past is very much ongoing in BiH and evident from many public outlets, including current political debates, daily news bulletins, historical discussions and cultural products. The scars of the traumatic past affect both public and private domain. In a UNDP opinion survey from 2005, approximately half of interviewees stated that what happened during the 1992-1995 war is personally very important in their daily life, while another 20% stated that it is important, but there are trying to move on with their lives.³
- 2.2 Over the last 13 years, BiH was largely a testing ground for a number of international, national and local initiatives to do justice for victims and survivors, prosecute the perpetrators, and lift the burden from the coming generations of dealing with conflict-related legacy in BiH. In recent years, these and other issues have been increasingly analyzed through the lens of "transitional justice". Attempts were made to address injustices through four key pillars: a) international and domestic war crime prosecutions; b) truth seeking including truth about the missing persons and their destiny, compilation of oral history, documentation and archiving, and multi-stakeholder dialogues; c) material and symbolic reparations including restitution of property; and d) institutional reform focused on vetting and lustrations.
- 2.3 Following failure to intervene in the spreading conflict in the region, the International Criminal Tribunal for the former Yugoslavia (ICTY) was created by United Nations Security Council Resolution 827 on 25th May 1993, "in response to serious breaches of international humanitarian law on the territory of the former Yugoslavia after 1991". The ICTY was the first such *ad hoc* tribunal since the tribunals at Nuremberg (1945-6) and Tokyo (1946-1948), set up in the aftermath of World War II. The ICTY has jurisdiction over individuals for grave breaches of the 1949 Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity,⁴ but not over organizations, political parties, administrative bodies, or other legal entities. In spite of some earlier criticism, especially in BiH, for not being able to extend its reach to all major perpetrators the Tribunal has managed to detain or put on trial most of its 160 indictees, with only Ratko Mladic and Goran Hadzic remaining at large. In 2008, one of two key accused to stand trial, former president of Republika Srpska, Radovan Karadzic was apprehended in Belgrade and extradited to the custody of the ICTY.
- 2.4 In June 2002, the ICTY announced its intention to refer all cases which did not involve major political and military figures from the Yugoslav wars to the national courts in the region. This referrals policy was primarily motivated by the ICTY's objective, under UN Security Council (UNSC) mandate, of completing all investigations by the end of 2004 and all first-instance trials by the end of 2008, and all appeals were to be concluded by the end of 2010. With the failure of ICTY to finalize the daunting task within these timelines, in subsequent decisions, UNSC extends its mandate on yearly basis. As part of its exit strategy, the Tribunal is gradually handing over much of the remaining caseload regarding mid and lower level perpetrators to national jurisdictions.

³ Early Warning Study: Justice and Truth and BiH, Public Perceptions, Sarajevo: UNDP, 2005.

⁴ See www.icty.org

- 2.5 At the same time, efforts were made since 2003 to develop capacity for national war crimes prosecutions. The newly established Registry for War Crimes and Organized Crime of the Court of BiH began processing the first war crimes cases in September 2005. The Registry is dealing with only a limited number of cases,⁵ while the majority – potentially thousands – will have to be tried by entity-level courts (District Courts in the RS, Cantonal Courts in the FBiH, and the Brčko District Court). Though substantive efforts are made in support of capacity development of the Court of BiH, presently a significant lack of attention is being paid to developing the requisite capacities of these entity-level courts to take on this responsibility.
- 2.6 In the post-Dayton period, there have been continuing discussions about additional ways to deal with the past, for instance by establishing a national truth-seeking body. Three separate initiatives by local CSOs and IOs to establish a national Truth and Reconciliation Commission (TRC) have failed for various reasons, but mainly for the lack of political consensus on its structure and objectives. Truth-seeking efforts have thus far been much better served by localized commissions of inquiry, multi-stakeholders community dialogues and local expert panels dealing with particular episodes of war. Apart from a whole network of local NGO initiatives in this area, there are two organizations that have been consistently active in regard to truth seeking on the national level. In 2005, a Missing Persons Institute (MPI) of BiH has been launched at the state level to facilitate the process of tracing missing persons. Formerly a BiH Federation institution, the Research and Documentation Centre in Sarajevo has turned into a national civil society organization, which is one of the key resources for war crimes documentation, monitoring trials and collecting oral history in BiH.
- 2.7 Regarding individual reparations most progress has been made in restitution of property. Based on decision in 1998 of the Office of the High Representative for BiH (OHR) and UNHCR initiative to support implementation of this legislation by the end of 2004, some 93 percent of the undestroyed 200,000 properties that were subject to a claim under the property laws had been returned to their prewar owners, as compared to 21 percent in 2000. This process can therefore be considered complete. Meanwhile, tens of thousands of houses destroyed during the war have also been rebuilt.⁶ Legislation that provides compensation for various categories of victims in 1992-1995 war is much less far reaching and assigns different set of benefits for citizens of two BiH entities. The issue of symbolic reparations, and especially conditions required for erection of memorials for victims, remains one of the most contested issues in public debate, due to a lack of adequate legislation that would regulate the practice.
- 2.8 The vetting efforts in BiH have received mixed reviews.⁷ Initially, attempts were made by the UN Mission in Bosnia and Herzegovina (UNMIBH) to vet the police force, which took into consideration the wartime record of police officers in its de-certification procedure. However, there is no evidence that these efforts were undertaken in a systematic way throughout the country and there is reason to believe that their impact is limited: only 4% of police officers were in fact decertified under these criteria. In addition, the report from Commission of Inquiry on Srebrenica tasked by Republika Srpska (RS) Parliament at the request of the OHR has compiled a list of names of police officers

⁵ The Registry will deal with three types of case: a) cases forwarded by the Hague Tribunal, in line with Rule 11 of the Hague Tribunal Rules on Procedure and Evidence (around 15 indictees); b) cases forwarded by the ICTY Office of the Prosecutor, where warrants have not yet been raised (around 45 suspects); and c) cases considered to be in line with the Rules of the Road, which because of their sensitive nature should be tried at State-level.

⁶ See, http://www.unhcr.ba/protection/plip/pdf/2005/PLIP_08_2005.pdf.

⁷ See, *Justice as Prevention: Vetting Public Employees in Transitional Societies*, ed. Alexander Mayer-Rieckh and Pablo de Greiff, New York: ICTJ, 2007.

who were allegedly involved in the massacre – a significant number of whom are still on active duty – but no dismissals were made on the basis of this report.

- 2.9 In spite of the wide range of different activities to create remedies for past injustices results so far have been mixed, varying from one area to the other. There are four interdependent reasons that have contributed to such outcome:
- a) Most of the efforts suffered from a piecemeal and stand alone strategy, divorced from other transitional justice mechanisms, broader RoL interventions and efforts towards institutional and social transformation in general;
 - b) Due partly to difficulty of assimilating traumatic past, and partly to social, political and legislative complexity tied to outstanding issues, transitional justice initiatives were largely confined to particular localities and regions of the country and failed to act on national level;
 - c) Most of the interventions to date are carried out by CSOs and IOs, lacking direct government involvement.
 - d) There is no single strategy on the national level to deal with interrelated issues pertaining to the past injustices and recommend a comprehensive set of remedies.

3. UNDP Transitional Justice Project and Lessons Learned

- 3.1 The successful implementation of the *Supporting National Capacities for Transitional Justice in BiH* prepared the ground for this project. The project culminated with a groundbreaking consultation that represented the first time since the end of the war that the Ministry of Justice and Human Rights and Refugees has engaged civil society on the issue of transitional justice with civil society in a substantial way. One of the key results of the dialogue was the government's commitment to prepare legal-framework creating a 'National Strategy for Transitional Justice.' More significantly, UNDP was asked to set-up and support the secretariat charged with developing the strategy. This is the first situation where UNDP has been asked to play such a role anywhere in the world.
- 3.2 A number of key lessons were learned in the implementation of the consultations, namely:
- a) Importance of timing: The politically sensitive nature of TJ creates an important dynamic in implementation realities. The success of the TJ consultation was in part due to its timing with regard to elections. UNDP's decision to launch the project in November 2007, a safe distance from the extremely contentious elections of 2006 is in part a reason for its success. Additionally, UNDP and government partners completed the TJ outreach campaign, and hosted the first national TJ consultation events from April to June 2008, a calmer political period prior to the next election cycle (August-Oct. 2008). Finally, given the potential for many of the TJ recommendations (ie. harmonizing reparations ant the state level) to be used as political issues in forthcoming elections it is important that the timing of different events is properly considered.
 - b) Government commitment is critical: BiH government officials have been supportive of the TJ initiative to date. However, civil society has been highly critical of the actual level of commitment by the government. It was not until the government recently commitment to the development of a TJ strategy that greater trust has been created. Nonetheless, many in civil society remain suspicious of the government's true motives and are awaiting concrete government action.

c) Gender-sensitive approaches to transitional justice mechanisms in country is key to incorporating gender equality - Ensuring that transitional justice mechanisms achieve their objectives of justice, truth, non-repetition and reconciliation will require that the field move beyond merely "adding women." Instead, we must rethink the terrain of the field itself, including the very definitions of these goals.

4. Access to Justice and Situation in the Justice Sector

- 4.1 One of the key challenges in BiH is the underdetermined status of jurisdictions of judicial institutions. The tasks of administering the justice sector is split between state BiH MoJ, MoJs of two entities, Federation and RS and Brcko District Judicial Commission. There is much ambiguity regarding the need to strengthen the highest judicial institutions in the country as the final point of adjudication. Currently, there is no consensus on establishing a Supreme Court as the highest instance of appeal in BiH, and there are also varying interpretations on the proper role and mandate of the BiH Constitutional Court. In addition, the budget of lower level courts, cantonal courts in the Federation and basic court in the RS, is subject to revision and approval of respective cantonal and municipal authorities, creating unequal conditions for the work of courts in different parts of the country. These conditions not only create unequal access to justice for individuals, especially women, and opportunity to "shop-around" for more beneficial facets of the justice system, but also undermine confidence of BiH citizens in the overall ability of the system to deliver justice.
- 4.2 Consequently, BiH is yet to establish a viable and comprehensive legal aid system. Court appointed lawyers are paid months in arrears, if at all, and high costs for defence attorneys result in a reluctance to even inform defendants of their right to a defence attorney. Although some jurisdictions in BiH have locally regulated the provision of free legal aid, there is no consistency. The big challenge in this area is to find a comprehensive system that provides minimum equality before the law for all citizens of BiH, whilst allowing some flexibility for local circumstances and which is also sustainable within the current budget constraints of the justice sector. There is no single international best practice model that can be directly applied in BiH.
- 4.3 Part of the lack of confidence in judicial institutions amongst the public springs from a lack of communication capacity of courts and prosecutors' offices. No lower instance courts have a court appointed person on full-time basis assigned to deal with information dissemination. There is also no systematic or organized approach to the media. In this vacuum, court users directly elicit relevant information from judges and prosecutors assigned to the cases, who are not equipped to adequately deal with public relations. The problems are most acute in cases highly publicized by media involving war crimes, organized crime and gender-based and domestic violence. In addition, there is also no continuous interest in the media for the work of courts. Thus, media coverage is neglecting relative success of judiciary and only highlighting sporadic challenges, creating an overall negative image of the justice system.
- 4.4 The State and the Entity Parliaments have passed the Freedom of Access to Information Act (FOIA)⁸. This is an important law which guarantees minimum standards of accountability and transparency in the way public institutions, including Courts, conduct their business. The provisions

⁸ FOIA was adopted as follows:

BiH-November 2000 ("The Official Gazette of Bosnia and Herzegovina", No. 28/00)

Republika Srpska - May 2001 ("The Official Gazette of RS" No. 20/01)

Federation of BiH - July 2001 ("The Official Gazette of FBiH", No. 32/01)

of FOIA apply to all forms of information held by any public institution. According to the Act, any person or legal entity has the right of access to such information, within limits defined by the Act. Public institutions have various obligations. Under FOIA the Court as a Public Institution has:

- To appoint an Information Officer;
- To create a guide that describes how to access information held by Court;
- To create an indexed register;
- To create FOIA request form.

- 4.5 Although there are no comprehensive studies of the level of legal awareness in BiH, smaller samples of court service users in 6 cantonal and basic level model courts has revealed a concerning lack of legal information. USAID study from 2006 based on 433 respondents shows that 48% do not think that court provides adequate information of its service, as opposed to 36% that finds this information sufficient. Almost a half of respondents (48,1%) do not feel the courts inform them adequately about the handling of significant cases within their local communities and 82,2% of them would prefer to be informed better about the handling of these cases.⁹
- 4.5 The Justice Sector Reform Strategy 2008-2012 that BiH MoJ developed with support from DfiD has defined Access to Justice reform pillar through Strategic areas concerning Free Legal Aid and Care of Court Users. It describes some of the above concerns with the following:

Citizens and NGOs are increasingly demanding greater transparency and efficiency from justice sector institutions. The complex governance arrangements of the country, coupled with persistent fiscal constraints, render the system vulnerable to inequalities. The poor general economic conditions also risk compromising the ability of individuals and legal entities to ensure citizen and institutional rights are legally exercised before justice institutions in BiH. Key factors in increasing equal access to justice include raising public awareness about the ways in which the justice sector should operate and how information can and should be accessed. The lack of a comprehensive legal aid system for criminal and civil cases must be rectified in order to ensure that economic status does not inhibit the capacity of citizens to pursue their rights before the law.¹⁰

In executing the Access to Justice project, UNDP BiH will partner with BiH MoJ, RS MoJ, Federation MoJ, BiH MHRR, and HJPC as the main stakeholders in implementation of the JSRS pillar 3.

5. Access to Justice and Gender-Based Violence

- 5.1 Among the groups on the margin of the justice system due to their socio-economic situation, victims of GBV are particularly impoverished. In BiH, government efforts to combat and prevent GBV have mainly focused on developing and appropriate legal framework to address VAW and SV. In 2003 the *Gender Equality Law of BiH* was adopted: Article 17 of the law prohibits any form of GBV in private and public sphere, and the public authority should prosecute these acts. In 2005, the *Law for Protection from Family Violence* has been adopted on the level of Federation. This law ensures prevention and punishment of family violence and protection of a person exposed to violence. Also in 2005, a new *Family Law of BiH* was adopted, and it partially addresses the issue of family violence. In December 2005 the *Law for Protection from Family Violence in RS* has been adopted.

⁹ See report «Perception Of Court Services Users in 6 Municipalities in Bosnia and Herzegovina» USAID, 2006.

¹⁰ See Justice Sector Reform Strategy, 2008-2012,

The RS *Laws about Public Order and Peace* also has clauses on the issue of family violence, harassment and endangering security of other persons.

- 5.2 A lack of enforcement and implementation of existing laws to protect women and children from violence is evident throughout Bosnia and Herzegovina. There are no state institutions, apart from the Centers for Social Welfare, which are providing the necessary counseling and legal assistance for the victims of violence. This role has mainly been filled by NGOs supported by international donors. There are six active shelters (safe houses) in BH, established by NGOs: in Sarajevo, Mostar, Bihac, Modrica, Zenica and Banja Luka. The capacity of these shelters is approximately 100 places. They are being financed mostly by local non-governmental and international donors.
- 5.3 There is lack of statistical data on acts of domestic violence against women and such acts continue to be underreported and viewed as a private matter. Available data and indicators indicate that the level of violence is much higher than the level of reported incidents of violence. The CEDAW Committee (Recommendations for BiH 2006) strongly recommends formulation and adoption of by-laws and the establishment of relevant structures and institutions needed for implementation of concrete measures to empower women to report incidences of domestic violence. The Committee also urges the State to collect data on incidences of domestic violence against women and, based on such data, to continue development of sustainable strategies to combat this human rights violation.
- 5.4 The Law on Gender Equality in Bosnia and Herzegovina, adopted in 2003, established the Agency for Gender Equality as the state gender equality mechanism. The Agency drafted a Gender Action Plan, which was adopted by the Council of Ministers of Bosnia and Herzegovina in September 2006. Chapter XI of the Action Plan addresses violence against women and designates concrete tasks, the institutions responsible for carrying out those tasks, and the deadlines. The implementation of all gender related activities in the programme will be conducted in close cooperation with the Gender Agencies of BiH and both Entity gender centres.
- 5.5 The state and entity governments have also taken a number of initiatives with regards to strategy development and implementation. At the state level, the Strategy for Combating Domestic Violence, Harassment and Sexual Harassment was developed on the basis of the Entities Strategies. The both Gender Centres are developing action plans to combat VAW and SV on the basis of the Strategy, both due to be completed by mid of 2009. The fact that the focus has been on legislative frameworks, and that not enough attention has been paid to the victims of violence themselves – this project would therefore seek to address this imbalance. One of the reasons for underreporting of GBV is also lack of confidence in the institutions. Victims of GBV face numerous hurdles (psychological, practical, cultural etc.) to reporting such violence and confidence in the support of institutions is paramount to providing a basis for them to do so. Such improvement of legal institutions is crucial to building confidence of vulnerable groups.

6. Confidence Building: A Need for an Integrated Approach

- 6.1 The lack of confidence in BiH institutions amongst the public is due to various factors including complex arrangements amongst, and uneven access to justice institutions in the BiH, inadequate implementation of legislation dealing with GBV and domestic violence, and protracted process of addressing conflict-related injustices. There are strong indicators that these factors are mutually reinforcing low levels of trust in institutions that provide legal and social remedies, and consequently poor civic engagement in support of delivery of justice and security for local communities.

- 6.2 Recent public opinion study commissioned by the UNDP BiH, *Silent Majority Speaks* has shown that issues of trust, willingness for reconciliation, and need for promotion of civic engagement are closely correlated amongst BiH public. The report states:

While there is general public back-up for addressing war injustices in BiH, there is only a minority within BiH society which considers dealing with war criminals as a political priority for the upcoming years. Advocates for reconciliation programmes can be particularly found amongst Bosniak-Muslims, higher educated people, displaced and thereby particularly amongst returnees. These groups are also more likely to trust state-level institutions and more likely to feel affiliated to the BiH state. While ethnicity appears to have the most impact on a person's attitude towards reconciliation, education, age and the displacement status have been outlined as shaping factors, too. As one conclusion, the support for reconciliation programmes is linked to trust in political organizations at the state-level and the identification as a BiH citizen. Dealing with the past in BiH has thus to be accompanied by a social dialogue about an administrative structure as well as a BiH civic identity which includes all social groups in BiH. Otherwise, the reconciliation process runs the risk to exclude certain social groups, thereby failing to provide a solid ground for a future co-existence in peace.¹¹

- 6.3 If confidence building in BiH institutions is indeed one of the key pieces of the puzzle towards building rapprochements between communities, than it should be address directly and in a systematic way. In order to effectively tackle the challenges in regaining trust in the institutions, interventions should be done in an integrated way. They should ideally be based on:
- a) comprehensive approach involving justice sector as a whole with additional multi-sectoral support,
 - b) providing access to justice though free legal aid and accessibility to legal information to broad segment of population and with special focus on women and vulnerable groups,
 - c) addressing simultaneously shortcomings in delivery of justice for current, past (conflict-related), and GBV abuses,
 - c) having a national scope,
 - d) initiatives led by the BiH government,
 - e) initiatives supported by the CSOs.

¹¹ *Silent Majority Speaks report* by Oxford Research International, Sarajevo: UNDP, 2008. See at <http://www.undp.ba/download.aspx?id=1126>.

II. STRATEGY

1. Project Overview and Strategy

- 1.1 The *Access to Justice Project* builds on the success of UNDP's *Supporting National Capacities for Transitional Justice in BiH* but expands the programme in significant ways. The strategy is based on the analysis outlined above and addresses transitional justice while also building the foundation for improving the confidence in BiH institutions. The goal of the project is to deepen the confidence in the legal institutions in keeping with the international and EU standards and the sense of justice within the society more broadly. The project has two principal components and related outputs: Transitional Justice (Output 1) and Confidence Building (Output 2). It should be noted that the gender equality has been mainstreamed throughout the project but is also strengthened by a number of standalone activities.
- 1.2 UNDP BiH will use the momentum and build on the achievement made in the transitional justice field in the country. The results made so far were accomplished in close partnership with the Government of BiH via the TJ project. Subsequently UNDP BiH was requested by the Government of BiH to provide technical assistance and perform the function of the TJ working group Secretariat in the process of a TJ Strategy development. To ensure consistency and safeguard the process UNDP accepted this initiative and is now ready to drive this forward together with the Government in order to secure timely support in place. Thus UNDP BiH and BCPR partnered to design a solution for the Secretariat to present to the Government. This project represents a framework under which the Secretariat will be operational on time and equipped with all the technical skill necessary for this complex and challenging task ahead. UNDP BiH and BCPR share the view to allocate BCPR's assistance predominantly to the output one (TJ). This would ensure smooth continuation of the work already done and timely transition in the second phase. Given the sensitive nature of the whole process it is necessary to ensure safe transition to the next phase.
- 1.3 In the same time UNDP BiH and the Government (MoJ) partnered in the implementation of the JSRS, developing the Transitional Justice Strategy (through the output one) and implementing access to justice pillar of the JSRS (second output). The JSRS's access to justice pillar is the corner stone of the strategy - it is forward looking, builds the confidence in the justice institution and ensures care for the citizens of BiH. In twining the transitional justice and access to justice concepts the holistic approach for better access in BiH is expected to be enhanced. The second programme component will be put for funding by the Government of BiH and UNDP for cost sharing funds by EU IPA funds or alternative sources.
- 1.4 Lastly, in post-conflict situations, sustainable capacity development and just self-governance are central to long term stability. Moreover, the emphasis should be on the development of human resources and on institutional reform which focuses on the most disadvantaged people. Further attention should be given to drafting the necessary legislative to ensure non-discrimination and inclusion of international human rights standards. To implement such legislative framework will require that all key actors are accountable and that judiciary is independent. It also requires that legal aid systems are in place to assist people, both women and men, in seeking justice and that legal awareness of citizens is improved to make them able to monitor the justice system. CSOs also play a key role in this process, and strengthening their credibility and organizational capacity will enhance their ability to monitor judicial process.

2. UNDP Strategic Framework

- 2.1 UNDP's support to the justice sector will be aligned with overarching national policy frameworks as well as the United Nations Development Assistance Framework (UNDAF) 2010 - 2014 for Bosnia and Herzegovina (BiH), the current Country Programme Action Plan (CPAP), and the draft UNDP Country Programme Document (CPD) 2010 - 2014. Under these strategic frameworks, the 20% of funds is expected to be contributed to the achievement of the Millennium Development Goals (MDGs) particularly MDG 3 ("Promote gender equality and empower women").
- 2.2 The project will contribute to the UNDAF outcome one Democratic Governance (DG Outcome 1.3) and of providing government and stakeholders with equal and effective access to justice and develop mechanisms for Transitional Justice. This will be accomplished through increasing the legal awareness of citizens, both men and women, access to formal and informal justice, and supporting the establishment of legal frameworks. Also, it will ensure that the transitional justice strategy is grounded in national consultations and approved mechanisms. Central to its success is also ensuring that civil society is empowered to participate in decision-making and contribute to government accountability.

3. Transitional Justice Strategy

- 3.1 Both the transitional justice and confidence building interventions are striving towards the same goals, ensuring better respect for human rights and achieving set of guaranteed rights, especially for vulnerable segments of society. In order to achieve this, the justice sector needs to be in a position to enable BiH to comply with its international obligations. Although much has been done by the state Ministry of Justice further reform and professional development is still required to respond to the increasing needs. There is evident need for further specialization within courts and prosecutors services in the broad area of access to justice. Only well designed and harmonized initiatives and capacity development programs can ensure uniformity and equal application of relevant laws and conventions by the institutions in BiH. Although the prosecution of individuals accused of war crimes constitutes a key access to justice indicator for BiH, the national strategy for recovery from conflict and wide-spread human rights violations must also address the broader social and economic consequences of such violations by responding to the needs of the society and regaining the trust of citizens in state institutions.
- 3.2 The transitional justice strategy consists of a three-pronged approach: a) providing technical advice and facilitation the consultative process of the government appointed Working Group for drafting National Strategy in transitional justice; b) development of BiH context appropriate models for transitional justice interventions in two critical areas, truth-seeking and symbolic reparations; and c) strengthening CSO capacity to deliver transitional justice remedies on local level. For a successful national transformation regarding dealing with the past, it is crucial to ensure both government's lead in the process, and adequate representation and support capacity of civil society actors. At the same time, it is important to introduce best international practice in critical areas that is adequately thought through and adapted to BiH conditions. The alternatives modelled developed through this process can potentially facilitate implementation of National Strategy in the future.

4. Confidence Building Strategy

- 4.1 The Confidence Building component has two purposes: a) strengthen the confidence in the judicial institutions and b) to ensure better access to justice for all. The regaining of trust in the public institutions will be achieved by developing capacity for accessibility of institutions and services, supporting capacities of non-governmental sector and developing overall better conditions for civic engagement in public institutions and processes. In respect to the former it will work on strengthening communication capacity of courts and prosecutor's offices, raising legal awareness of people and enhancing the system of free legal aid. Also more active engagement of the NGO sector in BiH will be enhanced in order to reach out to the people, raise legal awareness and monitor the justice sector work in BiH. The Confidence Building component result is part of the strategic aims set out in the Justice Sector Reform Strategy (JSRS) developed by the BiH government institutions namely the BiH Ministry of Justice and Human Rights and Refugees, and imputed by the High Judicial and Prosecutorial Council (HJPC) as an independent body responsible for judiciary. The strategic importance of this initiative cannot be overstated as it reaches out to the citizens and disadvantaged groups, brings together both the duty bearers and duty holders in strengthening access to justice tool available to all. The government through its institutions, and CSOs and the citizens both the women and men, will form a coalition in achieving better access to justice goals in BiH. The BiH Ministry of Justice and the HJPC are main partners in this endeavour.
- 4.2 In respect to the role of non-governmental sector in supporting access to justice for the public, the capacity of CSO actors will be developed so as to act as the bridging factor between the courts communication officers, and community and its representatives. Currently there is a lack of active participation by civil society organizations in the justice sector of BiH. Key issues are building a more systemized model for encouraging active involvement of diverse interest groups in the aforementioned processes thus ensuring better representation for all parts of society, and building the capacities of those groups to contribute effectively to such processes. One of the objectives set is to strengthening the role of the civil society in access to justice field especially legal awareness and their role in the process of the justice sector reforms. Thus, the initiative directly supports the Justice Sector Reform Strategy and strengthens the capacities of government institutions in order to have more efficient and effective realizations of the objectives set forth in the Strategy. It would also enable more efficiency at work and clearer competence distribution among relevant judicial institutions. Moreover by fitting in the larger programme strategy it also tributes to process of war wound healing and promoting the stability in the country. Processes set forth will be transparent and in compliance with international and EU standards.

5. Gender Strategy

- 5.1 The gender equality has been mainstreamed in the programme to ensure that gender issues are adequately addressed in all aspects of access to justice interventions including redress for past conflict-related and present day cases of GBV and domestic violence. The issue of gender-based violence is specifically addressed through enhancing legal awareness of women on how to seek legal redress, capacity development for legal aid providers for GBV victims, and developing capacity and providing resources through small grant funds for CSO that work with wartime GBV victims. In order to coordinate activities, 50% of work time of the UNDP BiH Gender Advisor will be dedicated to work on the *Access to Justice* project. S/he will ensure coherence and mutual support between listed activities; liaise with BiH and entities Gender mechanisms and Training Academies. The Gender Advisor will be responsible to developing necessary links to both, the BiH Gender

Action Plan, State and Entity Strategies to combat violence against women Implementation, as well as CEDAW recommendations for BiH implementation. Special attention will be paid on the UNDP Eight Point Agenda implementation (2. Advance Gender Justice and 8. Develop Capacity for Social Change) and promotion. Coordinated by the gender advisor, these activities will be synergized with the other UNDP activities in the area of gender equality and empowerment of women. .

6. Outputs

Transitional Justice

Output 1: Government and stakeholders develop the Transitional Justice Strategy, and operationalise related mechanisms; Technical and logistic support in place for government-led process of drafting National Strategy in Transitional Justice.

Following the successful implementation of the project "Supporting National Capacities for Transitional Justice in BiH" the government requested from UNDP to support the development of National Strategy for Transitional Justice. This strategy will build upon the recommendations and inputs from the national consultation process held from June 4-6 in Fojnica. UNDP will support the government by establishing a secretariat charged with developing the National Strategy in Transitional Justice. The development of the strategy will be strengthened through additional consultations and targeted research including comparative analysis in other national contexts.

Specific Activities

Activity 1.1 : Set up of the Secretariat in support of the Government led Working Group developing National Strategy in Transitional Justice.

A national coordinator will lead Secretariat, which will also be staffed by TJ researchers and a process specialist. Additional external expertise will be made available to the working groups in order to ensure international best practice informs the drafting process.

The secretariat will convene regular working groups within the government and when appropriate civil society to advance the four pillars of the strategy: criminal justice, truth telling, reparations, institutional reform. National consultations will represent an important outreach strategy in ensuring that Working Group develops a strategy involving civil society. The first two years of the programme will focus on the drafting the national strategy. A National Action Plan will be developed for implementing the outreach and roll-out of the strategy in the third year.

The Project will ensure through its implementation presence of minimum Gender balance of 70-30% of the secretariat and in the working groups.

Activity 1.2 : Develop Truth-Seeking and Symbolic Reparations models for context-sensitive transitional justice mechanisms.

In support of the work of the TJ Working Group and to facilitate future implementation of National Strategy international best practice will be introduced in critical areas including truth-seeking and symbolic reparations. International expertise will be used to draw lessons learned from other regions and develop alternative models that are taking into account specific political and social conditions for dealing with the past in BiH.

Since the end of the war, there have been a number of unsuccessful attempts to establish a national truth-seeking mechanism. At the local level, however, there have been examples of innovative process and approaches to addressing the past. Unfortunately, there has been no systematic evaluation or review of the national or level attempts to address this difficult issue. The programme is designed to begin by conducting a thorough review and evaluation of this nature. The final report will also include a range of best-practices from around the world that could be applicable to conditions in BiH. The goal is to develop a number of BiH context sensitive models for truth-seeking.

During the second phase of the project, pilot projects will be initiated based on the truth-seeking evaluation report. The focus will be on local-level truth seeking initiatives that were successful. They will be developed with civil society input and will represent a range of different models developed for the BiH context. It is important to note that different models will be implemented to test the full range of possible options. The expectation is that this process, given its delicate but potentially significant impact on "dealing with the past," will be cautious. This suggests that the actually projects will commence in the third year of the project to ensure sufficient time during the second year of the project is planned for the gradual development of government and civil society support. The WG have to support these initiatives to ensure their well intended impact.

Similar to truth-seeking initiatives, no systematic or comprehensive survey of memorials to the war has been conducted in BiH. As would be expected, memorials represent points of significant tension amongst groups. Memorials are understood in this context as the full range of physical installations (usually sculptures) aimed at memorializing an aspect of the war or identity of the various sub-groups or identities in BiH. In addressing the past, it is important that the way in which memorials are constructed, depicted and maintained does not exasperate future political stability and development. A background paper for an international conference on commemorative practices will be completed in the second year of the project. A conference will showcase the report and bring experts from around the world to share different experiences. This will serve as a more neutral "academic" setting to address what is obviously a highly emotional and politicized topic. The objective is to lead key actors to engage the subject more formally. In this case, this would probably entail a national law regulating the establishment of memorials through a national body representing all key constituencies. Again, given the sensitive nature of this topic, the report and conference represents an important first step in illustrating to key actors that a sensitive, but important, topic can be engaged without causing undue political fallout.

Following development of respective models in truth-seeking and symbolic reparations, the programme will work on implementing respective reports' recommendation. Indicative activities may include piloting truth-seeking mechanisms at the community level and drafting commemorative practice related legislation.

Activity 1.3 : Strengthen capacity of civil society to participate in transitional justice processes and raise public awareness.

While the activities outlined above are critical for creating the enabling legislative environment for transitional justice, it is also important that practical measures are also initiated. A key lesson learned from the success of the TJ Consultation process is the impact and effectiveness of small-grants to initiate tangible actions based on the recommendation of the consultation. In keep with this success, a small-grants program is proposed as a follow-up, expanding the existing program. However, the program has been modified in a number of important ways. First, 60% of the funding will be earmarked for GBV related programming. This will ensure that programming addressing violence against women serves as a central element of the strategy. This strategy is designed to be implemented with strong linkages to the existing and planned gender programming being conducted by UNDP.

The second key change is the community of practice support that is planned to strengthen the small grant process. The goal is to establish a community of practice for TJ practitioners. By linking the grantees, this additional programming will ensure that the small-grant process creates more synergy between projects and initiatives. The community of practice is partially in response to the TJ consultation and the value identified by the participants of continued dialogue and interactions on this topic.

The third augmentation to the previous small-grant program is the advent of a lessons learned reflection among the GBV grantees. The goal is to ensure that the unique challenges of conducting Gender equality and GBV related programming in BiH are highlighted and addressed.

As part of the broader Early Warning mechanisms established by the BiH office, formal mechanisms will be established to measure confidence in the judiciary. The mechanisms will be based on advanced public opinion polling techniques to track the changing perceptions of BiH citizens, both the men and women. The results of the survey serve a number of important functions. Principally, it will document the level of trust in the justice system. This factor has been shown to be a critical indicator of confidence in the broader social contract and serves as an effective early warning indicator. Equally important, the study will serve as the baseline for evaluating the impact of the efforts to increase the confidence in the judiciary. While there are obvious attribution issues for creating a direct correlation between the project and the outcome of the perception survey, it is nonetheless critical to evaluate the success of the collective efforts at judiciary reform and outreach to the confidence levels in the "justice" more broadly.

In conjunction with the other elements, an outreach (Public Information) campaign developed in the previous TJ consultation process will be rolled out across the country. Prior to its launch, a survey on public awareness will be conducted as a baseline for campaign dynamics and dissemination. The goal of the campaign is to raise awareness of TJ and the initiatives presently underway within the country. The campaign is integrated into the other initiatives to promote them but also to solicit input at critical moments. The initiative is based on a multi-media campaign centered on a number of sophisticated TV commercials and talk-shows. The commercials begin with footage of the war as a backdrop to an introduction to the themes of transitional justice and development.

Confidence Building

Output 2: Government institutions and CSOs develop legal frameworks for better access to justice and observance of human rights providing for increased legal awareness, access to free legal aid and developed communications capacities of judicial institutions and civil society.

As outlined in the situation analysis, there is a lack of interaction between the judiciary and the public it serves. It is important to note that this is not a reflection of the effectiveness of the courts per se, but rather the lack of information sharing and interaction with the communities they serve especially in the area of free legal aid. Output 2 addresses this gap by training and deploying a number of actors in the system to facilitate better information exchange and awareness of key issues of public interest (e.g. war crimes, organized crime, SGBV, and domestic violence). Specifically, this will focus on strengthening the communication capacity of the judicial institutions with the goal of improving the transparency of court proceedings.

The complementarities of the National Community Policing (CBP) Strategy intended to improve the rights and freedoms of all citizens of BiH, promote equal access to justice, improve standards of public administration, improve the operational effectiveness of the police agencies and equip our country for EU accession, to this output will be streamlined and strengthened.

Specific Activities

Activity 2.1: Deploy the communications officers within the Courts and Prosecutor Offices and CSO focal points in the selected regions.

Communications Officers will be placed in the Courts and Prosecutors' Offices (PO) in 3 to 4 locations in BiH (3 Cantonal/District Courts and POs). In order to enhance the impact of the Courts and POs communications and reach to the wider public it is also necessary to strengthen the network of CSO (with special attention on women CSOs) dealing with the access to justice. Upon setting up the communication capacities of the judicial institutions regular channels of communication with civil society will be running in 3 to 4 locations determined on regional distribution of cases of particular interest to the public (war crimes, org crime, SGBV, domestic violence). The focal points appointed in the CSO will work together with the Communication Officers to mobilize local community stakeholders, liaise with COs, and promote and distribute legal awareness products.

In addition to the greater transparency, a substantial training program for a range of actors in the judiciary and civil society sector will be developed focusing on GBV. It is important to highlight that this training will be closely linked with the efforts conducted in Output 1.

Activity 2.2 : Raise the level of legal awareness through formal and informal channels in accordance with the Care of Court Users Strategy.

Main task under this activity is to develop and implement the Outreach Strategy related to access to justice priorities and legal awareness objectives targeting 3 to 4 regions in accordance with the JSRS and Care of Court Users Strategy¹². In addition it is important to designing and launching, in close cooperation with BiH Gender mechanisms (BiH Gender Agency, RS Gender Centre and FBiH Gender Centre) and CSOs, the GBV legal awareness campaign as part of the overall outreach efforts in the access to justice (The Eight Point Agenda, 2. Advance Gender Justice and 8. Develop Capacity for Social Change). The strategy will include strong legal awareness components and determine legal information products which have to be developed to increase legal awareness of court users in targeted regions. The legal awareness materials will be designed to address frequently asked questions and the system of legal remedies at the entity and local level. The launching and dissemination of the Strategy and materials prepared will be done through partnership developed between courts, PO's, BiH gender mechanisms and the civil society. The targeted recipients will be citizens - court users especially vulnerable and disadvantaged groups, such as poor, returnees, victims and woman (e.g. single households).

Finally, the intention is to improve the situation in BiH in general with respect to access to justice and legal awareness. Thus the Official Gazette legislation database containing the legislative corpus of state and entity laws of BiH will be upgraded, improved and maintained in order to improve access to justice and legal information accessibility for all citizens, both the men and women - nation-wide. The legislation database of the Official Gazette will allow the general public, legal professionals (judges, prosecutors, lawyers) as well as students and foreign investors to get free, fast and accurate access to relevant BiH laws, through an integrated web portal. The goal is to increase the level of access to information by BiH general public and to complement the overall reform of legal sector in BiH. The full-text search capability of the database followed by improved awareness of availability of legislation database by the wider public and the media through extensive public information campaign will complete these efforts. Finally the database will be available also through expanded link-up of legislation database to legal knowledge repositories at High Judicial and Prosecutorial Council (HJPC), PARCOR and similar repositories as the Legislation database will become integrated part of overall legislation systems within the country.

¹² Care of Court Users Strategy developed by the High Judicial and Prosecutorial Council, Bosnia and Herzegovina.

Activity 2.3 : Develop and monitor implementation of a strategy to establish legal aid system, and develop capacity of legal aid providers also to deal with cases of SGBV and domestic violence.

This activity especially emphasizes gender dimension to the establishment of provision of free legal aid services in BiH (The Eight Point Agenda, 2. Advance Gender Justice, CEDAW recommendations for BiH 14, 25 and 38; BiH Gender Action Plan, Chapter XI). The intention is not only to develop capacities of free legal aid providers in general, but also to focus on GBV so as to support the BiH Gender Action Plan (GAP) in its efforts to establish structures and institutions aiming at empowering women to report and seek help in cases of SGB violence as well as to support the implementation BiH Law on gender equality.¹³ The Study on Possible Models of Free Legal Aid will be conducted to identify power relations that define how men and women are able to exercise their rights, more specifically to review if, and how, the imbalance in terms of “access to justice” of men and women looks like. By including this component to the study we will be ensuring that the proposed model for provision of free legal aid will be gender sensitive and incorporate mechanisms for gender equality. This study should be able to answer the questions:

- When establishing the strategy for provision of free legal aid, who are the duty bearers, what obligations do they have, and do they have the capacities to meet those obligations?
- Who are claim holders? Do they have the capacity to exercise their rights?

By developing the capacities of the JPTC, gender mechanisms and CSOs to deliver training on free legal aid and SGBV and domestic violence the emphasis is put on capacity development of both claim-holders and duty-bearers as it is expected that training of the trainers will have a spin-off effect. In furtherance, by developing capacities of CSOs to support victims of SGBV and domestic violence entering legal proceedings, and by setting up and running an expert network on SGBV and domestic violence, this programme is directly supporting BiH GAP, Chapter XI and CEDAW Committee recommendation on establishment of relevant structures and institutions needed for implementation of concrete measures to empower women to report incidences of domestic violence.

Even though the judiciary is tasked to administer the rule of law in a non-biased manner the individuals working within it are not protected or isolated from the value system that prevails in the society. Hence, when designing and providing the training programme for national court staff and public defenders on free legal aid and SGBV and domestic violence we are also enhancing the capacity of the judiciary so that the principles of gender equality can be fully integrated into legal judgments (BiH GAP, Chapter XI, article 1.7).

¹³ Law on gender equality, Article 17: “The relevant authorities shall undertake appropriate steps to eliminate and prevent violence on the grounds of gender in public and private life, and apply instruments for the provision of protection, assistance and compensation to the victims of violence”.

I. Results and Resources Framework

Intended Outcome as stated in the Country Programme Results and Resource Framework:

UNDAF outcome (draft)

1.3: Relevant institutions at all levels strengthen equal access to justice and the protection and promotion of human rights, and develop institutional mechanisms for dealing with the past.

Outcome indicators as stated in the Country Programme Results and Resources Framework, including baseline and targets:

Applicable Key Result Area (from 2008-11 Strategic Plan):

Partnership Strategy

Project title and ID (ATLAS Award ID):

INTENDED OUTPUTS	OUTPUT TARGETS (YEARS)	FORINDICATIVE ACTIVITIES	RESPONSIBLE PARTIES	INPUTS (in USD)
Output 1: Government and stakeholders develop the Transitional Justice Strategy, and operationalise related mechanisms. Technical and logistical support in place for the government-led process of drafting National Strategy in T.J.	Year 1: Support setting up of the national TJ Working Group (gender balanced). TJ WG Secretariat set and functional.	ACTIVITY1.1 Support to Ministry of Justice Set up of the Secretariat in support of the Government led Working Group developing National Strategy in Transitional Justice.	UNDP and MoJ, MHRR	71300 National consultant - initial support 72500 Stationery 73100 CP rent (2p36m370\$) 74500 Bank charges and miscel
	Year 2: Working processes for drafting National Transitional Justice Strategy in place.	Sub-activities: 1.1.1 Develop a concept note for a Secretariat to support the Working Group set up by the Ministry of Justice to develop a national transitional justice strategy. 1.1.2 Convene a planning meeting with working group members and key strategic partners to develop 12 month action plan.	UNDP and MoJ, MHRR	5,000 21,630 2,300 71400 National Research Coord (1) (36mSB4/1)
Baseline: No strategic approach to transitional		1.1.3 Recruit staff for the Secretariat	UNDP	113,760

<p>justice on national level</p>	<p>Including (see Appendix 1 for sample ToRs): (1) senior national coordinator/researcher to oversee the Secretariat, (2) TJ Researchers, (1) Analyst/process specialist.</p>	<p>71400 Researcher (1) (33mSB3/3) /Gender Advisor + (1) (33mP3/1-ALD) 71400 Process Associate (1) (33mSB3/3) 71600 Travel overall 72400 Communications 74200 Print/Advertisements (4p) 72800 IT equipment (6PC, 1print) 4+PM, PASS 73100 CP rent (36m4p370\$) 72100 RLA (2y12meet50p250KM) 72100 Subcontract meetings (2y6meet2d50p50\$) 74200 Printing (lumpsum) 74200 Publications printing & PR 72100 Launch event 72100 Subcontract PR event - launching 72100 Consultations meeting 71300 National consultant 74200 Printing costs 71200 International consultants</p>	<p>299,310 97,020 30,000 6,900 3,200 13,600 53,680 235,000 60,000 10,000 20,000 10,000 10,000 80,000 20,000 5,000 150,000</p>
		<p>TOTAL: (USD)</p>	<p>1,306,040</p>
<p>Indicators:</p> <p>National Strategy for Transitional Justice and Action Plan for implementation developed</p>	<p>Year 3: Action Implementation Plan for the recommended policies developed.</p>	<p>UNDP and MoJ UNDP, MoJ, MHR UNDP and XX</p>	<p>52,800 8,750 17,620 132,300 171,000 30,000 45,300</p>
<p>Baseline:</p> <p>Lack of adequate evaluation and lessons learned exercise of local truth-seeking initiatives</p>	<p>Year 1: Lessons Learned – Truth-Seeking Models developed based on local and international best practice - Alternative Truth Seeking Mechanism to national TRC</p>	<p>UNDP</p>	<p>71200 International expert (2p35d750\$) 71300 National consultant (1p35d250\$) 71600 Travel and DSA 71400 Project Manager (1p36mSB4/2) 71400 Project support 73400 Vehicle/rent and running 71200 International consultant (2i2p15d750\$)</p>

Lack of technical knowledge related to drafting legislation on memorials for victims of conflict	<p>Year 2: Lessons Learned – Reparation Models developed based on local and international best practice - Legislation regarding memorials and commemorative events</p> <p>Year 3: Pilots / Models and /or projects/events implemented as agreed with the WG</p> <p>Technical assistance and training provided to develop capacity for drafting legislation on memorials for victims of conflict</p>	1.2.2 Conduct study of previous and existing truth seeking mechanisms in BiH and complete a report with lessons learned and three possible models appropriate to BiH;	71600 Travel and DSA		16,100	
		1.2.3 Dissemination of report and lessons learnt in the countries, as well as globally	UNDP	72100 Subcontract workshop 74200 Printing costs	15,000 10,000	
		1.2.3 Identify and recruit experts: (1) international expert on memorials and related legal provisions, and (1) national expert;	UNDP	71200 International expert (1p25d750\$) 71300 National consultant (1p30d250\$) 71600 Travel and DSA	18,900 7,650 8,460	
		1.2.4 International conference on memorials and symbolic reparations	UNDP and MoJ, MHRR	72100 Subcontract conference	72,000	
		1.2.5 Implementation of recommendations of the Survey of truth seeking practices, including indicative activities such as compilation of oral history, consolidation of archival materials, and multi-stakeholder dialogues.	UNDP, Gov, CSOs	71300 National consultants (3p30d250\$) 71600 Travel 72100 Subcontract - conference facility	22,950 4,328 10,000	
		1.2.6 Implementation of conclusions of the conference on symbolic reparations, including indicative activities such as drafting legislation and holding multistakeholder consultations (gender balanced).	UNDP, Gov, CSOs	71200 International consultant (1p20d750\$) 71300 National consultant (1p25d250\$) 71600 Travel 72100 Subcontract - conference facility	15,150 6,400 7,590 10,000	
		1.2.7 Interim and mid-term evaluation	UNDP	71600 Travel and DSA (2 IC10d)	18,760	
				TOTAL: (USD)	701,058	
		Year 1: Initial gender sensitive Early Warning System study	ACTIVITY1.3 Strengthen capacity of civil society to participate in transitional justice processes	UNDP	71400 Project Assistant (1p36mSB3/1)	79,992

<p>designed, conducted and published to set the indicators.</p> <p>SGF phase II implemented.</p>	<p>and raise public awareness.</p> <p>Sub-activities:</p> <p>1.3.1 Administer and support the implementation of a small grants programme to further the TJ strategy and/or deliberation process, 60% of grant funds being focused on GBV related issues under activity 2.3.8 (*).</p>	<p>72600 MCG 73100 CP rent (1p36m370\$) 74200 Communications 74500 Bank charges and miscel</p>	<p>210,000 13,320 5,400 5,000</p>
<p><u>Baseline:</u> Baseline survey to be conducted at inception of project implementation.</p>	<p>Year 2: Evaluation and phasing out of the SGF, and transfer of attainments to the Government.</p>	<p>UNDP 72100 Subcontract workshop 71600 Travel 74200 Printing costs</p>	<p>10,000 5,000 2,000</p>
<p><u>Indicators:</u> Public knowledge of transitional justice processes increased since the previous cycle of public opinion polling</p>	<p>CSO capacitated for CPR activities.</p>	<p>UNDP 72100 Subcontract workshop 71600 Travel 74200 Printing costs 72100 Subcontract EWS</p>	<p>10,000 5,000 2,000 36,000</p>
<p>Capacity of CSOs to conduct local transitional justice projects developed, as indicated through monitoring and evaluation of small grants funds</p>	<p>Year 3: Follow up Early Warning System study conducted and published to measure the progress against indicators set.</p>	<p>UNDP 72100 Subcontract PR campaign</p>	<p>100,000</p>
<p>Output 2:</p>	<p>Year 1:</p>	<p>TOTAL: (USD)</p>	<p>483,712</p>
<p>Government institutions and CSOs develop legal frameworks for better access to justice and observance of human rights</p>	<p>Courts / POS Communication capacities and CSO focal points in place. Outreach Network established gender</p>	<p>UNDP, HJPC, BiH MoJ, MoHRR, RS MoJ, Federation MoJ, Cantonal Authorities, CSOs and Judicial and Prosecutorial Training Centres.</p>	<p>71400 A2J Team Coordinator (1p36mSB4/1) Officers 71400 Communications (6p30mSB3/2@83%) 71400 Training Coordinator (1p30mSB3/2) 72100 Subcontract refurbishment 72200 Furniture 72800 IT equipment (6p)</p> <p>113,760 387,000 77,400 90,000 4,500 12,600</p>

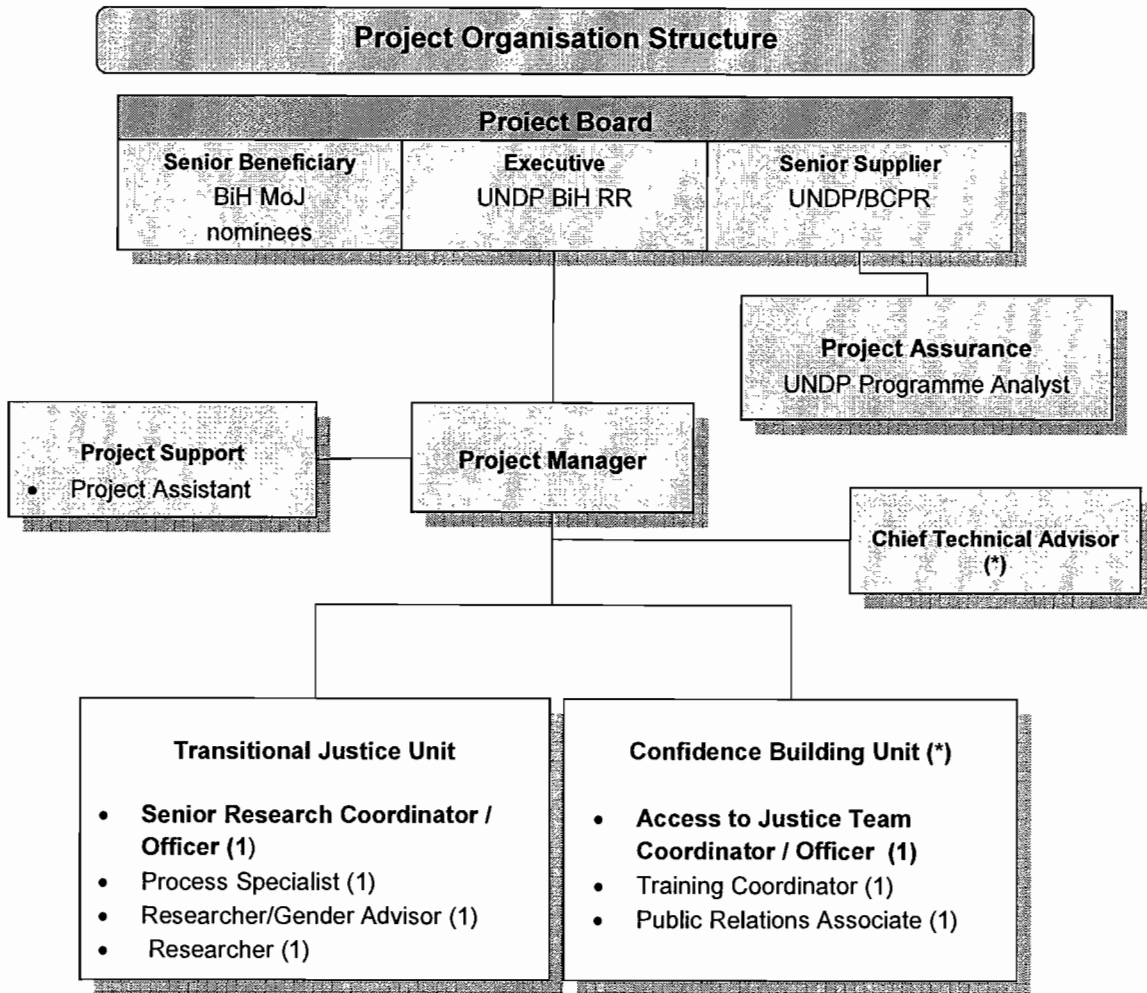
<p>providing for increased legal awareness, access to free legal aid and developed communication capacities of judicial institutions and civil society.</p>	<p>balanced). Year 2: Legal Awareness tools developed and available in targeted communities and Judiciary capacities for court proceedings and public relations developed.</p>	<p>cantonal/district Prosecutor's offices in FBiH and RS.</p>	<p>72400 Communications 8,500 74200 Announcement 1,500</p>
<p><u>Baseline:</u> Lack of public information and communications professionals in prosecutors' offices and cantonal/district courts. System of legal aid nonexistent.</p> <p><u>Indicators:</u> Communications officers for courts and POs established and regular channels of communication with civil society up and running in 4 cantons/districts based on regional distribution of cases of particular interest to the public (war crimes, organized crime, SGBV, domestic violence).</p> <p>Capacity for training in court-related public relations activities developed and available through Judicial and Prosecutorial Training Centers' curricula.</p>	<p>Year 3: Access to justice and legal awareness of people as well as transparency of court proceedings in targeted communities raised.</p>	<p>2.1.1.2 Recruit, deploy and equip 3 CSO focal points to mobilize local community stakeholders, liaise with COs, and promote and distribute legal awareness products.</p> <p>2.1.3 Train COs and CSO focal points in communications techniques related to war crimes, organized crime, GBVs and domestic violence.</p> <p>2.1.4 Raise awareness of judicial authorities in BiH regarding functional benefits of developing communications capacities through study tour and follow up conference.</p> <p>2.1.5 Training of trainers in public relations techniques for judiciary.</p> <p>2.1.6 Support the delivery of pilot training with the JPTC</p>	<p>72600 Grants to NGOs 360,000</p> <p>71200 International experts (2p10d500\$) 10,300 71300 Local facilitator (1p10d250\$) 2,650 71600 Travel 6,004 72100 Subcontract training 7,000 74200 Printing costs 2,000</p> <p>71600 Study tour travel (20p5d680\$) 68,000 72100 Host fee 5,000</p> <p>71200 International expert (2p4d500\$) 4,300 71600 Travel 3,964 72100 Subcontract training 5,000 74200 Translation and printing 3,304 72100 Subcontract training 5,000</p> <p>TOTAL: (USD) 1,177,782</p>

	Year 1:	ACTIVITY2.2 Raise the level of legal awareness through formal and informal channels in accordance with the Care of Court Users Strategy.		71100 Chief Technical Advisor (1p36mALD4) 71400 PR Associate (1p33mSB3/2) 71400 Prgm Assistant/FinanceIPA (1p36mSB3/1) 72400 Communications (PC) 72800 IT equipment (4p-PC, PA, PR and TC) 73100 Rent and utilities (4p36m370\$ - PC, PA, PR and TC)	360,000 85,140 79,992 1,800 8,400 53,280
Baseline:	Year 2:	Communication strategies on legal awareness implemented.			
Indicators:	Year 3:	Level of legal awareness and transparency of court proceedings raised in 4 regions based on partnership on distribution of legal information developed between courts/POs and civil society.		71400 National legal associate (1p20mSB3/3) 72800 IT equipment (1p) 73100 Rent and utilities (1p)	58,800 2,100 7,400
Increase in public awareness and use of the <i>Official Gazette</i> database.		2.2.3 Organizing public events and dissemination of legal information products.	UNDP, CSOs, PR agency	72100 Subcontract facility 74200 Printing costs	12,000 10,000
Level of general legal awareness of the public increased nation-wide.		2.2.4 Organizing media campaign. (*) see ACT3.5		71300 National IT expert (1p30mSB3/2)	77,400
		2.2.5 Upgrade and maintenance, legal expert support for upgrading the database of <i>Official Gazette</i> , the part containing the legislative corpus of state and entity laws of BiH.		72100 Subcontract for legal awareness 72100 Subcontract launch	50,000 5,000
		2.2.7 Final Programme Evaluation	UNDP	71200 International consultant (1p20d750\$) 71300 National consultant (1p20d250\$) 71600 Travel and DSA (2 IC and 1NC)	15,150 5,150 12,520
	Year 1:	ACTIVITY2.3 Develop and monitor	UNDP, H.JPC,	TOTAL: (USD) 71200 International consultant (1p30d750\$)	844,132 22,650

<p>Justice System Reform Strategy recommends establishment of legal aid system, but has no developed strategy for its implementation and monitoring</p> <p>Lack of targeted opportunities and for dealing with SGBV cases and domestic violence across the justice and security sector.</p> <p>Indicators:</p> <p>Strategy for establishment of legal aid providers capacities developed and system of monitoring established</p>	<p>Strategy for establishing legal aid system capacities based on existing legislative framework developed.</p>	<p>Implementation of a strategy to establish legal aid system, and develop capacity of legal aid providers also to deal with cases of SGBV and domestic violence.</p> <p>Sub-activities:</p> <p>2.3.1 Define strategy to develop capacities of legal aid providers based on existing legal frameworks and in accordance with Care of Court Users Strategy in BiH</p> <p>2.3.2 Conduct a study on possible models of free legal aid in BiH.</p> <p>2.3.3 Track public opinion regarding confidence in judicial institutions, legal awareness and transitional justice 2011 (1 EWS)</p> <p>2.3.4 Capacity development (train the trainers) of JPTCs, Gender Agencies and CSO to deliver training on free legal aid.</p> <p>2.3.5 Capacity development (train the trainers) of JPTCs, Gender Agencies and CSO to deliver training on SGBV and domestic violence.</p> <p>2.3.6 Design and conduct a training programme for national court staff and public defenders on free legal aid.</p> <p>2.3.7 Design and conduct a training programme for national court staff and</p>	<p>JPTCs, Gender Agencies and BiH MoJ</p>	<p>71300 National consultant (1p40d250\$)</p> <p>71600 Travel and DSA</p> <p>72100 Subcontract facility (4WGm8p)</p> <p>74200 Printing costs</p>	<p>10,150</p> <p>8,620</p> <p>6,000</p> <p>3,000</p>
<p>Baseline:</p>	<p>Year 2:</p>	<p>71200 International consultant (1p20d750\$)</p> <p>71300 National consultant (1p20d250\$)</p> <p>71600 Travel and DSA</p> <p>74200 Printing costs</p> <p>72100 Subcontract EWS</p>			<p>15,150</p> <p>5,150</p> <p>7,590</p> <p>2,000</p> <p>36,000</p>
	<p>Year 3:</p>				<p>5,150</p> <p>2,650</p> <p>3,516</p> <p>6,625</p> <p>5,150</p> <p>2,650</p> <p>59,000</p> <p>3,516</p> <p>6,625</p> <p>7,150</p> <p>3,650</p> <p>8,532</p> <p>24,500</p> <p>7,150</p> <p>3,650</p>

Capacity to provide training on legal aid, SGBV and domestic violence for judicial, law enforcement and CSO actors developed through Judicial and Prosecutorial Training Centers in cooperation with Gender Agencies	public defenders on SGBV and domestic violence.	71600 Travel and DSA	8,532
	2.3.8 Develop capacity of CSOs to support victims of SGBV and domestic violence entering legal proceedings plus 60% of small grants programme focused on GBV related to the activity 1.3.1 (*).	72100 Subcontract facility	24,500
	2.3.9 Set-up and run an expert network on SGBV and domestic violence (networking, web and conferences 1 per year)	71200 International consultant (1p10d500\$)	5,150
		71300 National consultant (1p10d250\$)	2,650
		71600 Travel and DSA	4,266
		72100 Subcontract facility	12,250
		72600 MC Grants	290,000
		72100 Subcontract facility	5,000
		72100 Subcontract IT web design	10,000
		TOTAL: (USD)	628,172
Security Compliance (1%)			51,409
General Management Service (7%)			363,461
TOTAL BUDGET			5,555,766

Transitional Justice	Output 1	2,691,818
Access to Justice	Output 2	2,863,948
		5,555,766



(*)These positions will be subject to funding availability and resource mobilization related to the Output 2 – A2J.