



Monitoring the Prosecution of Corruption in Courts and Prosecutor's Offices in Bosnia and Herzegovina 2020 Report

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Introduction

Bosnia and Herzegovina is among countries that have fallen back most in the fight against corruption, according to an analysis of the 2020 Corruption Perceptions Index, which is regularly conducted by Transparency International. Also, according to the same source, the country received the worst rating in the last nine years, which clearly shows the refusal of Bosnia and Herzegovina's authorities to confront corruption and implement necessary reforms to reduce the level of corruption in the country.

Proper prosecution of corruption is one of the essential prerequisites to a country's progress, and prosecution of high-level corruption holds particular import in that regard. The EU Opinion on BiH's application for EU membership notes that "Corruption is widespread and all levels of government show signs of political capture directly affecting the daily life of citizens ... Final convictions in high-level corruption cases are very rare and sanctions are not deterrent enough."¹ Furthermore, European Commission's Analytical Report says that "further efforts are needed to establish a track record of proactive investigations, prosecutions and final convictions for corruption, in particular in high-level cases resulting in major damage to public funds."²

The OSCE Mission to Bosnia and Herzegovina states in its report that "The general picture offered by the monitoring of serious cases of corruption (i.e. those categorized as high and medium level) shows a general failure of the criminal justice system which results in *de facto* impunity for many responsible for serious offenses."³

All of the foregoing has greatly diminished public confidence in the judiciary, resulting in a steady reduction in the number of criminal complaints filed. The public opinion poll conducted in late 2019 by Transparency International in BiH (TI BiH) on a representative sample throughout BiH shows that as many as 61 per cent of BiH citizens believe that the level of corruption is very high, citing the judiciary (56.9 per cent), together with political parties (62.5 per cent) and health (61.5 per cent), as the sectors where corruption is most rampant. This finding is disquieting given that the judiciary should be a critical link in the anti-corruption chain.

¹ European Commission, Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union, available at:

http://dei.gov.ba/dei/direkcija/sektor_strategija/Upitnik/misljenje/default.aspx?id=21774&langTag=bs-BA

² European Commission, Analytical Report, available at: http://dei.gov.ba/dei/direkcija/sektor_strategija/Upitnik/misljenje/default.aspx?id=21811&langTag=bs-BA

³ OSCE Mission to BiH, Third Annual Report on Judicial Response to Corruption: The Impunity Syndrome, available at:

<https://www.osce.org/files/f/documents/1/9/471006.pdf>



Since 2009, TI BiH has been carrying out a regular analysis of the prosecution of corruption offences by the courts and prosecutor's offices in BiH based on the official statistics of judicial institutions in BiH. This analysis of the efficiency (and partly also the quality of work) of judicial institutions in detecting, prosecuting and sanctioning corruption offences for 2020 is comparable to previous reports produced by TI BiH, and as such makes it possible to monitor trends in corruption prosecution in Bosnia and Herzegovina.

As in previous years, the subject of the analysis were the statistical data on the work of judicial institutions in 2020 furnished by the High Judicial and Prosecutorial Council of BiH (HJPC).

This monitoring report includes:

- Description of corruption prosecution trends in respect of the total number of complaints handled by prosecutor's offices;
- Description of corruption prosecution trends in respect of the total number of investigations conducted;
- Description of corruption prosecution trends in respect of the total number of indictments brought;
- Description of trends in respect of the number and structure of court judgements for corruption offences; and
- Description of trends in respect of the sentencing policy applied in convictions for corruption offences.

The report also looks at statistical data indicating the degree of efficiency of authorities in prosecuting corruption offences throughout all stages of criminal proceedings. It follows the corruption prosecution trends from the stage of receiving a criminal complaint for a corruption offence, to launching an investigation, bringing an indictment, and passing a judgement for these offences.

Once collected, these data also allow certain conclusions to be drawn regarding the trends in the efficiency of individual judicial authorities (which, besides the competent courts and prosecutor's offices, comprise law enforcement agencies in BiH), as well as trends in the efficiency of judicial authorities with respect to the jurisdiction they belong. It can be considered that these statistics are most commonly used as indicators of the efficiency of the judicial authorities in BiH.

To a certain extent, the report also affords insight into the quality of work and effectiveness of judicial institutions, primarily prosecutor's offices, by providing statistical indicators on the number of convictions, acquittals and dismissals; however, the existing statistics kept by judicial institutions cannot shed light on various other aspects of work of judicial institutions in prosecuting corruption offences which are important in that they provide a reliable indication of the quality and effectiveness of work.



In particular, no statistical data can be obtained on, for example, the number and characteristics of persons being prosecuted, the severity of the offence and the gravity and complexity of the case, the consequences of the offences and the damage caused, and the actions taken by prosecutors and courts in criminal proceedings to establish liability for the offences. Such data indicating the quality of work of judicial institutions cannot be collected because there are no developed parameters that will be duly recorded within the prosecutor's offices.



Description of corruption prosecution trends in respect of the total number of criminal complaints handled by prosecutor's offices in Bosnia and Herzegovina

Data on the total number of criminal complaints handled by prosecutor's offices indicate the number of cases that are in the complaint-processing stage in these judicial institutions. The total number of criminal complaints handled by a prosecutor's office or prosecutorial system is the number of backlog cases at the beginning of the observed year plus the number of complaints received during the observed year. In terms of monitoring the efficiency and workload of prosecutor's offices, data on trends in the total number of complaints handled with a focus on the total number of complaints handled for corruption offences can offer significant findings that can be used, among other things, to plan human resources in prosecutor's offices.

As a rule, prosecutor's offices receive the bulk of the criminal complaints from law enforcement agencies, but can also receive them from any other natural or legal person. Criminal complaints can also be received anonymously.

The table below shows trends in the total number of complaints for all criminal offences and the total number of complaints for corruption offences (classified as so-called KTK cases) for 2020, as well as data for the period 2017–2019 according to the single list of KTK cases adopted by the HJPC. The data about the prosecutorial system are presented by the level of jurisdiction (BiH, FBiH, RS and Brčko District).



Level of jurisdiction	Total number of complaints handled				Total number of complaints for corruption offences (KTK)				Share of KTK complaints in the total number of complaints handled			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	1,549	1,548	1,449	1,467	225	176	131	126	14.5%	11.3%	9.0%	8.5%
Cantonal prosecutor's offices – total (FBiH)	21,286	19,282	18,913	18,577	1,066	1,045	948	865	5.0%	5.4%	5.01%	4.6%
District prosecutor's offices (RS)	10,845	10,304	10,173	10,048	546	529	505	404	5.0%	5.1%	4.9%	4.0%
Brčko District Prosecutor's Office	391	378	347	265	23	13	26	19	5.8%	3.4%	7.4%	7.1%
In total	34,071	31,548	30,882	30,357	1,860	1,763	1,610	1,414	5.4%	5.6%	5.2%	4.6%

Table 1: Comparative view of statistics on the number of complaints handled by prosecutor's offices in BiH and the number of complaints handled for corruption offences for the period 2017–2020



Findings:

- The total number of complaints for all criminal offences has been decreasing steadily throughout the observed period.
- The share of complaints for corruption offences in the total number of complaints handled decreased from 5.2 per cent in 2019 to 4.6 per cent in 2020, the lowest share in the last four years.
- With specific regard to **corruption offences (KTK)**, it is evident that the number of KTK complaints handled has seen a continuing **decline since 2017**. In 2020 there were 196 fewer complaints than in 2019, and as many as 446 fewer than in 2017.
- A decrease in the number of KTK complaints in 2020 over the previous year has been observed in all prosecutorial systems.



Criminal complaints received by prosecutor's offices can be resolved by: issuing the order to conduct an investigation, issuing the order not to conduct an investigation, or resorting to so-called 'other means of resolution'.⁴

Orders not to conduct an investigation are issued in respect of events reported to prosecutor's offices by law enforcement agencies, or other natural and legal persons, and are issued by the competent prosecutors when, based on the collected and presented evidence, they decide that there are no grounds for suspicion that the reported person has committed a criminal offence, or when it is established that the alleged act does not constitute a criminal offence or does not have the characteristics of a criminal offence, etc. The number of orders not to conduct an investigation is essentially tantamount to the number of complaints received which are not viable and as such represent burden on the workload and resources of prosecutor's offices.

⁴ Criminal complaints resolved by 'other means of resolution' are those complaints that have not been resolved by the order to conduct/not to conduct an investigation, i.e. those referred to another prosecutor's office, resolved by the merging of cases, etc.



Level of jurisdiction	Total number of complaints resolved				Total number of orders not to conduct an investigation				Complaints resolved by 'other means of resolution'				Share of non-investigation orders in the total number of complaints resolved			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	124	74	55	51	61	40	24	24	39	20	17	8	49.1%	54%	43.6%	47.0%
Cantonal prosecutor's offices – total	577	632	579	492	313	381	308	317	49	36	29	27	54.2%	60.3%	53.1%	64.4%
District prosecutor's offices – total	398	390	357	268	240	208	218	158	47	49	40	41	60.3%	53.3%	61.0%	58.9%
Brčko District Prosecutor's Office	23	13	26	19	0	0	0	0	0	0	0	0	0%	0%	0%	0%
In total	1,122	1,109	1,017	830	614	629	550	499	135	105	86	76	54.7%	56.7%	54.0%	60.1%

Table 2: Comparative view of statistics on the share of orders not to conduct an investigation in the total number of complaints for corruption offences resolved by prosecutor's offices in BiH for the period 2017–2020



Findings:

- As can be seen in the table above, the number of orders not to conduct an investigation for **corruption offences declined from 550 in 2019 to 499** in 2020.
- However, the share of non-investigation orders in the total number of complaints resolved increased from 54.0 per cent in 2019 to 60.1 per cent in 2020, and represents the highest recorded share of non-investigation orders in the total number of complaints resolved in the last four years and amounts to as much as 61 per cent.

Based on the current trends in all four prosecutorial systems in BiH, it can be concluded that there has been a noticeable decrease in the number of complaints handled for all types of criminal cases, as well as in the total number of complaints for corruption offences (so-called KTK complaints) in 2020 compared to 2017-2019. Also, there is an evident decline in the share of KTK complaints in the total number of complaints received, from 5.4 per cent in 2019 to 4.6 per cent in 2020.



Description of criminal prosecution trends in respect of the total number of investigations handled by prosecutor's offices in Bosnia and Herzegovina

Data on the total number of investigations handled by prosecutor's offices indicate the status and number of cases that are in the investigation stage in these judicial institutions. The total number of investigations handled within a prosecutor's office or prosecutorial system is the sum of the total pending investigations at the beginning of the observed year and the ordered investigations during the observed year. Data on the number of investigations handled are especially important for monitoring the ratio of complaints and investigations, i.e. the efficiency in processing them. The report focuses on the number of investigations related to corruption offences as well as monitoring their trends.

The table below shows trends in the total number of investigations handled for all criminal offences and total number of investigations handled for corruption offences (classified as KTK offences) for 2020. As before, the data about the prosecutorial system are presented by the level of jurisdiction (BiH, FBiH, RS and Brčko District).



Level of jurisdiction	Total number of investigations handled				Total number of investigations handled for corruption offences (KTK investigations)				Share of KTK investigations in the total number of investigations			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	748	750	727	645	45	26	29	33	6%	3.4%	3.9%	5.1%
Cantonal prosecutor's offices – total	11,915	11,512	10,953	9,582	350	342	371	250	2.9%	2.9%	3.3%	2.6%
District prosecutor's offices – total	7,305	7,151	6,937	6,201	159	175	144	118	2.1%	2.4%	2.0%	1.9%
Brčko District Prosecutor's Office	437	463	396	327	28	20	29	23	6.4%	4.3%	7.3%	7.0%
In total	20,405	19,876	19,013	16,755	582	563	573	424	2.8%	2.8%	3.0%	2.5%

Table 3: Comparative view of statistics on the number of investigations handled by prosecutor's offices in BiH and the number of investigations handled for corruption cases for the period 2017–2020



Findings:

- The number of investigations launched by prosecutor's offices in BiH for all criminal offences has been on a steady decrease throughout the observed period. Thus, 2020 saw **a decrease of 11.1 per cent over the previous year, and as much as 17.8 per cent over 2017.**
- When it comes to investigations launched in 2020, after a slight increase in this number during 2019, 2020 saw a drop in the number of investigations for corruption offences by as much as 17.8 per cent over the previous year.
- An increase in the number of investigations launched for corruption offences was observed only at the level of the Prosecutor's Office of BiH, while other prosecutorial levels experienced a decrease in the number of investigations launched. The sharpest decrease was observed in the prosecutorial systems of FBiH and RS, by as much as 32.4 per cent and 23.4 per cent respectively.
- The share of investigations handled for corruption offences in the total number of investigations handled for all cases remains very low, at only 2.5 per cent. As in previous years, only the Prosecutor's Office of BiH (5.1 per cent) and the Prosecutor's Office of BD (7.0 per cent) have a slightly higher share of investigations for corruption offences relative to all criminal cases. The lowest share of investigations launched for corruption offences in the total number of investigations was in the RS prosecutorial system, at a mere 1.9 per cent in 2019.



Investigations can be resolved by: bringing an indictment, issuing the order to terminate the investigation, other means of resolution.⁵ The order to terminate the investigation is a prosecutor's decision taken when the order to conduct an investigation was previously issued in the case. The order to terminate the investigation is issued when, based on the collected evidence, there is no reasonable suspicion that the suspect has committed a criminal offence, and in the event of the suspect's death. The table below shows data on the number of orders to terminate the investigation relative to the total number of investigations resolved.

Level of jurisdiction	Total number of investigations resolved				Total number of orders to terminate the investigation				Investigations resolved by other means				Share of orders to terminate the investigation in the total number of investigations resolved			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	32	11	16	19	21	5	10	7	3	0	2	1	65.6%	45.5%	62.5%	36.8%
Cantonal prosecutor's offices – total	225	234	267	131	75	83	87	51	0	13	21	5	33.3%	35.4%	32.5%	38.9%
District prosecutor's offices – total	116	127	94	77	41	62	49	47	11	3	3	2	35.3%	48.8%	52.1%	61.0%
Brčko District Prosecutor's Office	20	17	25	13	4	3	1	2	7	2	4	0	20%	17.6%	4%	15.3%

⁵ Investigations resolved 'by other means' are those investigations that have not been resolved by the order to terminate the investigation or bringing an indictment, i.e. those referred to another prosecutor's office, resolved by the merging of cases, etc.



In total	397	389	402	240	141	153	147	107	21	18	30	8	35.5%	39.3%	36.5%	43.1%
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Table 4: Comparative view of statistics on the share of the orders to terminate the investigation in the total number of investigations resolved by prosecutor's offices in BiH for corruption cases for the period 2017–2020



Findings:

- The number of prosecutorial decisions ordering termination of investigations of corruption offences decreased in 2020 over the preceding year, and has been steadily declining over the last four years.
- While 2020 saw a drop in the number of orders to terminate investigations in all prosecutor's offices in BiH, mostly as a result of the decrease in the number of investigations launched for corruption offences, **the share of orders to terminate investigations in the total number of investigations resolved was as high as 43.1 per cent in 2020, and increased from the preceding year, when it was 36.5 per cent. A particularly high share of orders to terminate investigations was observed in the RS prosecutorial system – as high as 61 per cent**, i.e., of 77 investigations for corruption offences resolved in the RS prosecutorial system, 47 were resolved by the order to terminate the investigation. On the other hand, a negligible decrease in the number of orders to terminate the investigation was registered only at the level of the Prosecutor's Office of BiH.



Description of criminal prosecution trends in respect of the total number of indictments brought by prosecutor's offices in BiH

Level of jurisdiction	Total number of indictments brought				Total number of indictments brought for corruption offences (KTK indictments)				Share of KTK indictments brought in the total number of indictments brought			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	168	171	172	167	8	6	4	11	4.7%	3.5%	2.3%	6.5%
Cantonal prosecutor's offices – total	8,122	8,063	7,563	6,309	139	138	159	75	1.7%	1.7%	2.1%	1.1%
District prosecutor's offices – total	3,957	3,653	3,488	3,022	68	62	42	28	1.7%	1.7%	1.2%	0.9%
Brčko District Prosecutor's Office	263	314	262	180	16	12	20	12	6%	3.8%	7.6%	6.6%
In total	12,510	12,201	11,485	9,678	231	218	225	126	1.8%	1.8%	1.9%	1.2%

Table 5: Comparative view of statistics on the number of indictments brought by prosecutors in BiH and the number of indictments brought for corruption offences



Findings:

- The number of indictments brought by prosecutor's offices in BiH for all criminal offences has been progressively decreasing over the observed period, by as much as 23.4 per cent from 2017 to 2020.
- Along with the decrease in the number of indictments brought for all criminal offences, 2020 also saw a worrying decline in the number of indictments brought for corruption offences, with 99 fewer indictments than in the preceding year, i.e. the number of indictments for corruption offences dropped by as much as 44 per cent in 2020.
- If we look at different levels of jurisdiction, the FBiH prosecutorial system experienced an alarming 52.8 per cent decrease in the number of indictments for corruption offences, while the decrease was somewhat lower for the Brčko District Prosecutor's Office and the RS prosecutorial system, 40 per cent and 33.3 per cent respectively. An increase in the number of indictments for corruption offences was observed only in the Prosecutor's Office of BiH.
- The share of indictments for corruption offences in the total number of indictments in 2020 remained very low at only 1.2 per cent.



Description of trends in the number and structure of the total number of court judgements⁶ for corruption offences in Bosnia and Herzegovina

The quality of work of prosecutor's offices in Bosnia and Herzegovina is reflected primarily in the structure and types of court judgements passed in criminal proceedings instituted upon issued indictments. In bringing an indictment, given that at that stage there is a reasonable suspicion that a criminal offence has been committed, a prosecutor's office aims for the competent court to pass a judgement of conviction. Court judgements that can be rendered in criminal proceedings are judgements of *dismissal*, *acquittal* and *conviction*.

The expected goal of the prosecutor's office, but also of the wider community, once the indictment has been confirmed by the competent court, is for the court to pass as many judgements of conviction as possible, because it is generally considered that the previous stages of the criminal procedure have exhaustively confirmed the grounds for suspicion that a criminal offence has been committed and who the perpetrator is. The special concern of the professional community, as well as the broader public, is that the quality of work of prosecutor's offices (as reflected in the appropriate ratio of convictions against other court judgements for corruption offences) be high.

The table below shows the number of dismissals, acquittals and convictions, followed by our analysis of the share of convictions in the total number of court judgements.

⁶ Total number of judgements is the sum of final and non-final court judgements over the observed period.



Level of jurisdiction	Dismissals				Acquittals				Convictions			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	0	1	0	0	1	2	1	1	6	5	1	6
Cantonal prosecutor's offices – total	2	0	1	0	19	19	46	20	88	111	155	116
District prosecutor's offices – total	0	0	1	1	6	9	14	4	53	40	51	29
Brčko District Prosecutor's Office	0	0	0	0	2	11	1	3	9	10	17	6
In total	2	1	2	1	28	41	62	28	156	166	224	157

Table 6: Comparative view of statistical data on the type and number of judgements passed by courts in BiH for corruption offences, in criminal proceedings initiated by prosecutor's offices in BiH, for the period 2017–2020



Findings:

- In 2020 Bosnia and Herzegovina saw a 29.9 per cent decrease in the number of **convictions for corruption offences** over the preceding year, from 224 convictions in 2019 to 157 convictions in 2020.
- If we look at different prosecutorial jurisdictions, the number of convictions for corruption offences in 2020 increased over the preceding year only in the Prosecutor's Office of BiH. **On the other hand, in the Brčko District Prosecutor's Office, the number of convictions for corruption offences decreased by as much as 64.7 per cent, in the RS prosecutorial system by 45.1 per cent, and in the FBiH prosecutorial system by 26.4 per cent.**
- Along with the decrease in the number of convictions for corruption offences, the number of acquittals has also decreased. **In 2020, there was a 54.8 per cent decrease in acquittals over 2019.**



Description of trends in the type and structure of the total number of convictions⁷ for corruption offences in Bosnia and Herzegovina

Given that the penalties for corruption offences provided for under BiH criminal codes are much harsher than for other criminal offences, as well as the common perception that the sanctioning policy is generally mild, the report focuses on analysing the sanctioning policy for corruption offences. The practice of court instances regarding the criminal legal response to crime often attracts interest, both by the general public, which is typically acquainted with it through the media, as well as by the scientific and professional community.

Given the often very serious lack of comprehensive data on the sanctioning policy for corruption offences, in particular in terms of continuing trends, TI BIH considers it especially important to monitor the trends, analyse the data, and present the findings to the broader professional and general public.

To that end, the report analyses all types of convictions handed down by the competent courts in all four jurisdictions in Bosnia and Herzegovina.

⁷ Total number of convictions is the sum total of final and non-final convictions over the observed period.



Level of jurisdiction	Fine				Suspended sentence				Prison sentence			
	2017	2018	2019	2020	2017	2018	2019	2020	2017	2018	2019	2020
Prosecutor's Office of BiH	0	0	0	0	2	2	1	1	4	3	0	5
Cantonal prosecutor's offices – total	2	3	2	1	60	84	107	74	26	24	46	41
District prosecutor's offices – total	8	10	15	8	35	21	24	15	10	9	12	6
Brčko District Prosecutor's Office	0	0	0	0	6	9	12	6	3	1	5	0
In total	10	13	17	9	103	116	144	96	43	37	63	52

Table 7: Types of convictions for corruption offences in BiH for the period 2017–2020



Findings:

- At the level of the entire judicial system in BiH, in 2020 the courts passed a total of 154 judgements of convictions for corruption offences, a decrease by as much as 31.2 per cent over the preceding year.
- In terms of convictions for corruption offences with a criminal sanction of imprisonment, in 2020 a total of 52 such convictions were handed down, down from 63 in 2019. **However, the fact that the percentage of prison sentences in the total number of convictions is only 33.7 per cent remains a concern.**
- On the other hand, **as many as 62.3 per cent of convictions for corruption offences result in suspended sentences (probation)**, which is no deterrent at all to potential perpetrators, not least considering the gravity of corruption offences and the damage that corruption causes to society as a whole.
- This clearly shows that in in most cases only petty corruption is prosecuted Bosnia and Herzegovina, while serious cases of corruption are prosecuted very rarely or not at all.
- The fact that a mere **5.8 per cent of convictions for corruption offences result in a fine** shows that this type of sanction is scarcely ever used in the prosecution of corruption offences, and that suspended sentencing remains the most common form of punishment imposed for corruption offences.



Structure of final court judgements for corruption offences in Bosnia and Herzegovina in 2020

Given that, unlike in the past, the High Judicial and Prosecutorial Council was this time able to supply data on final court judgements in corruption cases, below is an analysis of these statistics. Taking into account that the quality of work of prosecutor's offices in BiH is reflected primarily in the structure and types of court judgements, and in particular in final court judgements which were passed based on viable indictments, we believe that these data are extremely important. The special concern of the professional community, as well as the broader public, is that the quality of work of prosecutor's offices (as reflected in the appropriate ratio of convictions against other court judgements for corruption offences) be high.

The table below shows the number of dismissals, acquittals and convictions, followed by our analysis of the share of final judgements of conviction in the total number of court judgements.



Level of jurisdiction	Dismissals		Acquittals		Convictions	
	2019	2020	2019	2020	2019	2020
Prosecutor's Office of BiH	0	0	1	1	0	4
Cantonal prosecutor's offices – total	0	0	13	11	97	77
District prosecutor's offices – total	0	1	6	0	37	21
Brčko District Prosecutor's Office	0	0	1	1	9	3
In total	0	1	21	13	143	105

Table 6: Comparative view of statistics on the types and number of final judgements rendered by the courts in BiH in criminal proceedings for corruption offences initiated by the prosecutor's offices in BiH in the period 2019–2020



Findings:

- In 2020, a total of 119 final court judgements were handed down in corruption cases, of which 105 convictions, 13 acquittals and one dismissal.
- As can be seen in the table above, in 2020 the number of final court judgements for corruption offences decreased by 27.4 per cent, from 164 in 2019 to 119 in 2020.
- The number of final convictions for corruption offences in 2020 dropped by 26.5 per cent over the preceding year, from 143 in 2019 to 105 in 2020.
- At the same time, the number of final acquittals in 2020 increased by as much as 61.5 per cent over the previous year, from 13 in 2019 to 21 in 2020.



Structure of final convictions for corruption offences in Bosnia and Herzegovina in 2020

Given that the penalties for corruption offences provided for under BiH criminal codes are much harsher than for other criminal offences, as well as the common perception that the sanctioning policy is generally mild, the report focuses on analysing the sanctioning policy for corruption offences. The practice of court instances regarding the criminal legal response to crime often attracts interest, both by the general public, which is typically acquainted with it through the media, as well as by the scientific and professional community.

Given the often very serious lack of comprehensive data on the sanctioning policy for corruption offences, in particular in terms of continuing trends, TI BIH considers it especially important to monitor the trends, analyse the data, and present the findings to the broader professional and general public.

To that end, the report analyses all types of final convictions handed down by the competent courts in 2020 in all four jurisdictions in Bosnia and Herzegovina.



Level of jurisdiction	Fine		Suspended sentence		Prison sentence	
	2019	2020	2019	2020	2019	2020
Prosecutor's Office of BiH	0	0	0	1	0	3
Cantonal prosecutor's offices – total	0	0	72	54	25	23
District prosecutor's offices – total	14	5	18	12	5	4
Brčko District Prosecutor's Office	0	0	7	3	2	0
In total	14	5	97	70	32	30

Table 9: Types of final convictions for corruption offences in BiH for the period 2019–2020



Findings:

- At the level of the entire judicial system in BiH, in 2020 the courts passed a total of 105 final judgements of conviction for corruption offences.
- Of the total number of final court judgements for corruption offences, only 30 judgements resulted in a prison sentence, which represents only 28.5 per cent of prison sentences in the total number of final convictions. Yet again this confirms that the judiciary in BiH deals predominantly with petty corruption, while grand or high-level corruption remains woefully out of its focus.
- On the other hand, in as many as 66.6 per cent of cases the courts in BiH have handed down final suspended sentences for corruption offences, which in no way acts as a deterrent to possible perpetrators and once again confirms that the judiciary in BiH focuses solely on prosecuting petty corruption, while the biggest corruption scandals generally remain unprosecuted.
- In 2020 fines were imposed in less than 5 per cent of final convictions, which confirms this type of sanction is rarely used and that suspended sentencing remains the most common form of punishment imposed for corruption offences.



Conclusion

The available statistics reveal that the prosecution of corruption offences in Bosnia and Herzegovina remains well below the level required by the current state and prevalence of corruption in the country, as confirmed by numerous corruption surveys and studies published in Bosnia and Herzegovina and reports by international organisations in charge of monitoring the judiciary in Bosnia and Herzegovina.

The steady decrease in the total number of criminal complaints, both for corruption offences and for all criminal offences, suggests that the BiH judiciary is not doing enough to prosecute crimes, especially corruption offences that have the most deleterious consequences on the functioning of BiH society. Also, the statistics confirm the findings of previous public opinion polls in that they reveal a decreasing public confidence in judicial institutions and identify the judiciary as one of the three sectors most prone to corruption. This is directly manifested in the decreasing number of criminal complaints as citizens feel that they cannot rely on the judiciary to respond adequately to them. The fact that as many as 60.1 per cent of resolved complaints for corruption offences are resolved by the prosecutorial decision not to conduct an investigation is alarming and calls for an analysis of the reasons for such a high share of negative prosecutorial decisions in resolving criminal complaints for corruption offences.

Along with the drop in the number of criminal complaints, the number of ordered investigations into corruption offences has been on the decrease too in the last five years. Thus, in 2020 the number of ordered investigations into corruption offences dropped by as much as 17.8 per cent over the preceding year. A particularly pronounced decrease in the number of ordered investigations into corruption offences was seen in the prosecutorial systems of the RS and FBiH. At the level of the FBiH prosecutorial system, as many as 32.4 per cent fewer cases were opened in 2020 than in 2019, while the number of ordered investigations in the RS prosecutorial system decreased by 23.4 per cent compared to 2019. In terms of negative prosecutorial decisions in the investigation phase, while their number dropped between 2019 and 2020, it still amounts to as much as 43.1 per cent of resolved investigations. A particularly high share of negative prosecutorial decisions in the investigation phase in 2020 was observed in the RS prosecutorial system, as much as 61 per cent, while in the FBiH prosecutorial system the share of negative prosecutorial decisions in the total number of resolved investigations was 38.9 per cent.

Year 2020 saw a worrying 44 per cent drop in the number of indictments for corruption offences over the preceding year, i.e. from 225 indictments in 2019 to only 126 in 2020. If we look at different prosecutorial jurisdictions, **in the FBiH there has been an alarming decrease in the number of indictments for corruption offences – by as much as 52.8 per cent, in the Brčko District by 40 per cent, and in the RS prosecutorial by 33.3 per cent.**



If we look at the total number of court judgements rendered during 2020, which is the sum of final and non-final court judgements, the data show that in 2020 this number dropped by 29.9 per cent compared to 2019, i.e. from 224 convictions in 2019 to 157 convictions in 2020. If we look at different prosecutorial jurisdictions, the number of convictions for corruption offences grew from 2019 to 2020 only at the level of the Prosecutor's Office of BiH, but this is primarily due to catastrophic results at the level of the Prosecutor's Office of BiH in 2019, when the Court of BiH handed down only one conviction for corruption offences. On the other hand, at the level of the Brčko District Prosecutor's Office, the number decreased by as much as 64.7 per cent, at the level of the RS prosecutorial system by 45.1 per cent, and at the level of the FBiH prosecutorial system by 26.4 per cent.

However, based on the structure of convictions, it is obvious that the sanctioning policy for corruption offences remains very lenient, failing to provide a powerful deterrent to potential perpetrators. In 2020, at the level of the entire judicial system of BiH, the courts passed a total of 154 convictions for corruption offences, a decrease from 2019 by as much as 31.2 per cent. The share of prison sentences in the total number of convictions for corruption offences in 2020 was as high as 33.7 per cent, while the share of suspended sentences in the total number of court judgements was a worrying 62.3 per cent. This once again confirms that the judiciary in BiH mostly prosecutes petty corruption, while serious cases of corruption are prosecuted very rarely or not at all.

In order to assess the efficiency of the judiciary, TI BiH also analysed the data on final court judgements passed during 2020 on the basis of data supplied by the HJPC. In 2020, in the total number of final court judgements, 12.3 per cent were acquittals, and 88.2 per cent were convictions. Worryingly, however, in 2020 the number of final judgements for corruption offences decreased by as much as 27.4 per cent, while the number of final convictions in 2020 dropped by 26.5 per cent compared to 2019. On the other hand, the number of final acquittals for corruption offences increased in 2020 by as much as 61.5 per cent over the previous year.

Analysis of the structure of final convictions at the level of the entire judicial system of BiH shows that in 2020 a court judgement resulted in a prison sentence only in 28.5 per cent of the cases, and in a suspended sentence in as many as 66.6 per cent of the cases. If we compare the structure of first-instance and second-instance court judgements, it is evident that the sanctioning policy is further softened in second-instance proceedings. The data show that in 2020 the share of court judgements resulting in a prison sentence in the first instance was 33.7 per cent, and dropping down to 28.5 per cent in the second instance. Also, in 62.3 per cent of the first-instance cases the courts in BiH passed a suspended sentence, while in the second instance that share was higher, at 66.6 per cent.

The analysis of data on court judgements in corruption cases, and especially the structure of convictions, shows that only petty corruption is prosecuted in BiH, while high-level corruption is never or only sporadically prosecuted. This conclusion is confirmed by the findings of the



analysis published by the OSCE Mission to BiH in 2020, where out of 302 analysed cases, only 32 were categorised as cases of grand corruption, 108 as medium-level corruption, and 173 as petty corruption.

More detailed data on the prosecution of corruption offences by prosecutor's offices are available on the Interactive Corruption Prosecution Map (www.mapa.ti-bih.org)





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