

## Sector fiche – IPA National programmes / Component I

### 1. IDENTIFICATION

<b>Title</b>	3. Justice Sector
<b>MIPD Sector Code</b>	2. Justice and Home Affairs
<b>ELARG Statistical code</b>	23 - Judiciary and fundamental rights
<b>DAC Sector code</b>	15130
<b>Total cost (VAT excluded)<sup>1</sup></b>	10,800,000 EUR
<b>EU contribution</b>	9,720,000 EUR
<b>Management mode</b>	Decentralised
<i>Decentralised mngmt:</i> <b>Responsible Unit or National Authority/Implementing Agency(ies)</b>	Central Finance and Contracting Unit (CFCU) - Ministry of Finance and Economy, Department for Contracting and Financing of EU Funded Projects Programme Authorising Officer (PAO) – Assistant Minister at the Ministry of Finance and Economy, Head of Department for Contracting and Financing of EU Funded Projects Mrs. Nataša Šimšić
<b>Implementation management</b>	Nominated SPO at the Ministry of Justice and Public Administration Mrs. Čedomir Backović, Assistant Minister, Department for European Integration and International Projects Beneficiaries: Ministry of Justice and Public Administration (including the Administration for Execution of Criminal Sanctions, Sector for representation of the Republic of Serbia before ECHR), High Judicial Council, State Prosecutorial Council, Judicial Academy, Office for Human and Minority Rights, Commissioner for Protection of Equality
<b>Implementing modality</b>	Sector Based Approach
<b>Zone benefiting from the action(s)</b>	The Republic of Serbia

### 2 RATIONALE

Results and measures have been identified based on the strategic framework presented in the Sector Fiche. In addition, proposed measures are compliant with recommendations from other relevant policy documents such as the EC Progress Report for 2012. Some of the major findings of the Report which will be addressed through the proposed measures are the following: provisions on appointments, promotion and dismissals in the judiciary need to be brought into line with EU standards; rules on regular evaluation of the work and performance of serving judges and prosecutors need to be adopted, a first set of Rules on disciplinary procedure and liability adopted by the State Prosecutorial Council in July 2012 needs to be

<sup>1</sup>The total cost should be net of VAT and/or of other taxes. Should this not be the case, clearly indicate the amount of VAT and the reasons why it is considered eligible.

further aligned with EU standards and the effectiveness of disciplinary proceedings need to be improved as well. However, major imbalances persist in the courts' workload and a comprehensive analysis of the functioning of the new court network is needed. The quality of statistics needs to be improved.

The EC Progress Report for 2012 underlines the importance of ensuring that professional standards and merit-based principles are applied in the judiciary. A proper merit-based career system for judges and prosecutors remains to be fully developed. It is still possible to enter the judicial profession, in particular at higher levels, on the basis of unclear criteria without having passed through the Judicial Academy.

Overcrowding in the *prison system*, poor living conditions in detention facilities, unsatisfactory healthcare and the lack of adequate and specific treatment programs are still a matter of concern as it is stressed in the 2012 EC Progress Report.

The EC Progress Report 2012 states that there has been some progress in the area of anti-discrimination policies. Serbia's anti-discrimination legislation is broadly in line with European standards on combating racism and racial discrimination. The Equality Protection Commissioner's office was active in raising awareness of discrimination and ways of addressing it. Police improved their response to attacks against some groups. However, discrimination based on ethnicity, gender, and sexual orientation remains widespread. Serbian authorities need to develop a proactive approach towards the better inclusion of the LGBT population and a greater understanding across society. Overall, the legislative and institutional framework for the observance of human rights is in place and some active measures were taken to ensure its implementation. However, further efforts to implement international instruments are required.

Additionally, the Recommendation<sup>2</sup> of the Committee of Ministers, adopted on 17 November 2010 at the 1098th meeting of the Ministers' deputies, needs to be implemented into the judicial system in Republic of Serbia. The recommendation states that "the judges' role is essential in ensuring the protection of human rights and fundamental freedoms". Also, the Recommendation envisages as its main priorities and objectives the status of judges. Decisions concerning the selection and career of judges should be based on objective criteria pre-established by law or by the competent authorities. Such decisions should be based on merit, having regard to the qualification. Judges should be provided with theoretical and practical initial and in-service training, entirely funded by the state.

## **2.1 LINKS WITH NATIONAL SECTOR OBJECTIVE(S) AND MIPD SECTOR OBJECTIVE(S)**

**Needs of the Republic of Serbia for International Assistance (NAD) 2011-2013** within the sector **Rule of Law**, defines following priorities (*page 29*): To improve overall security and efficiency in fighting crime, corruption and terrorism; to enhance legal certainty and efficiency of the judicial system and to improve status of human rights and protection of minorities in the Republic of Serbia.

Given this scope, the Sector Fiche corresponds to the following MIPD objectives:

- Strengthening the independence, efficiency, and accountability of the judiciary;
- Strengthening and implementing the relevant legislative framework and improve alignment with European standards.

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<sup>2</sup> Recommendation CM/Rec.(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies.

In the **Multi-annual Indicative Planning Document (MIPD) 2011-2013, Republic of Serbia** (3.1 Justice and Home Affairs, 3.1.3 Sector Objectives for EU support over next three years) “Within the area of rule of law, special attention is to be paid to judicial reform and the fight against corruption and organised crime”. The following specific objectives are that IPA assistance will focus on (*page 17*): To strengthen the independence, efficiency, and accountability of the judiciary; to improve the fight against corruption and organised crime, including through increasing the capacity and expertise of law enforcement bodies – especially in areas such as financial investigations – and enhancing their national and international cooperation: To reduce the prison population through the development of a functioning probation system and improvement of prison conditions. Also, support should be given to help Serbia to strengthen and implement the relevant legislative framework and improve alignment with European standards. Finally, the MIPD emphasizes the need to increase the awareness of citizens about their rights.

The Sector Fiche is in accordance with commitments from the **Stabilisation and Association Agreement (SAA)** to reinforce the institutions and consolidate the rule of law as well as to strengthen institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. *Cooperation shall notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime* as stated in Article 80 of the SAA. By supporting areas of children’s rights protection and process of remobilisation Sector Fiche will contribute to the respect for the democratic principles and human rights as proclaimed in the Universal Declaration of Human Rights and as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Sector Fiche also deal with priorities agreed under the **European Partnership** particularly those regarding improvement the functioning of the judiciary, guarantee its independence, accountability, professionalism and efficiency as well as guaranties of the career development and recruitment of judges and prosecutors which should be based on technical and professional criteria and free from political influence and would ensure proper gender equalities for the staff. Furthermore, SF is related to the mid-term priority on improvement of the penitentiary system with particular attention to security, control, management, vocational training and reintegration schemes, as well as the condition of facilities.

The Sector Fiche is completely corresponding to the conclusions and recommendations from the **EC Progress Report 2012 for Serbia** mainly those regarding the remark that Serbia has made little progress in the area of judiciary. Within the Chapter 23: Judiciary and fundamental rights was founded that the legal framework still leaves room for undue political influence although the High Judicial Council (HJC) and State Prosecutorial Council (SPC) took over the administration of the budget for courts and prosecution services in March 2012. As stated in the Report there is recommendation for the HJC and SPC the rules on regular evaluation of the work and performance of serving judges and prosecutors to be adopted. The foreseen evaluation of the magistrates newly recruited in 2009 for a three year term is in particular pending.

Additionally, further efforts are needed in order to improve the efficiency of the judiciary and application international standards in national courts. A number of laws came into force aimed at improving the efficiency of the judiciary and applying international standards in national courts. Moreover, the Judicial Academy has already provided a variety of in-service programmes for judges, prosecutors, judicial staff and attorneys: these programmes still need to be upgraded by further efforts on improvement of structure and systematization. Further

trainings need to include implementation of relevant international instruments relating promotion and enforcement of human rights. Further support to the Judicial Academy is required as this institution play a key role in ensuring that professional standards are applied in judiciary. This Report emphasise that a proper merit-based career system for judges and prosecutors remains to be fully developed. Major imbalances persist in the courts' workload and a comprehensive analysis of the functioning of the new court network is needed. The quality of statistics needs to be improved. The Report points also the need new strategy for reform of judiciary to be adopted and finalization of anti-corruption strategy as well. Also, further efforts are needed to establish a track record of prosecutions and final convictions for offences related to discrimination.

The Report found that some progress has been made regarding the prison system. Some improvements have been made to prison infrastructure and one new prison facility was opened. But, the prison system continued to face serious problems due to overcrowding and living conditions. Further efforts are needed to improve living conditions, healthcare and provide adequate treatment programs for prisoners. An efficient probation system remains to be introduced.

## **2.2 SECTOR ASSESSMENT – POLICIES AND CHALLENGES**

Although some important steps were taken in the previous period towards reform activities in the rule of law, EC Progress Report concluded that little progress has been made particularly in the area of judiciary. Reform of judiciary was and remains as one of the highest and most important priorities of the Government of the Republic of Serbia priorities aiming to improve independence of the judicial system, impartiality and quality of justice, improvement of competences, accountability and efficiency of judicial system. Ministry of Justice and Public Administration has been conducting intense activities aiming to enable relevant and consistent strategic framework for further reform activities of the judicial system. New National Judicial Reform Strategy for the period 2014-2018 has been adopted on July, 1<sup>st</sup> 2013 by the National Assembly, and the Action Plan will be adopted by the Government of the RS. New National Anti-Corruption Strategy for the period 2013-2018 has been adopted by the Government, and an Action Plan for it's implementation has been drafted. Administration for enforcement of criminal sanctions has started drafting new Strategy for Development of the System for Enforcement of criminal sanctions for the period 2013 to 2020, which will be adopted during 2013.

Having in mind on-going support in the area of judiciary as well as various donor activities, certain areas have been identified as potential subject of IPA assistance or issues requiring assistance and further support. **The IPA 2013 Sector Fiche** is dedicated to the strengthening the capacities of the independent and autonomous bodies High Judicial Council and State Prosecutorial Council which ensure and guarantee independence and autonomy of courts and judges as well as public prosecutors and deputy public prosecutors, further strengthening capacities of the Judicial Academy, improving the uniform application of law in the Republic of Serbia, improving conditions in the Serbian prison system and supporting the human rights.

The independence of the judiciary is guaranteed and ensured by the Constitution of the Republic of Serbia. Reform activities have been started during 2008, when the package of judicial laws was adopted. The new legislative framework pertaining to the judicial system and the two established councils requires significant efforts on the side of all judicial institutions to introduce, implement and monitor a number of novelties, which should contribute towards bringing the Serbian legal framework, institutional and human resources performance in line with the European standards and criteria. After the general elections new

Government decided to continue reform activities in the judiciary. Ministry started immediately with the changes and amendments to the judicial laws, what is in line with its priority to finish improvement of the strategic and legislative work during the 2013.

**The High Judicial Council and the State Prosecutorial Council** were established as the key bodies ensuring accountability of the judiciary. They were set up in their transitional composition in June 2009 and in their permanent composition in April 2011. The High Judicial Council and the State Prosecutorial Council consist of eleven members, of whom three are ex officio members: respectively the President of the Supreme Court of Cassation or the Republic Public Prosecutors Office, the Minister of Justice and the President of the Parliamentary Committee for Judicial Affairs. The other eight members are appointed for five years by parliament: six of them are proposed after a secret ballot respectively among judges or public prosecutors; two are prominent lawyers – one representative of the bar and one professor of law selected by the relevant parliamentary committee. They are also responsible for the administration of the budget for courts and prosecution offices.

The Councils are responsible for defining the total number of positions and for the selection, appointment promotion dismissal and disciplinary measures with regards to the judges and prosecutors. They are also responsible for the administration of the budget for courts and prosecutors. The High Judicial Council and the State Prosecutorial Council took over the administration of the budget of courts and prosecution services in March 2012. The wide scope of their responsibilities and the number of challenges, the two Councils have to face with, identify these two institutions as a priority for assistance to the capacity building.

With support of the USAID's Separation of Power Program, Office for Budget and Accounting within the HJC has been equipped with modern hardware and software. New Office consists of 10 employees. But Ministry of Justice and Public Administration remain responsible for IT and capital expenditure of courts as well for financing of court administrative staff. Total number of 48 positions is planned by the Rulebook on internal organization and job classification in the Administrative Office of the HJC. Administrative Office has been established within the State Prosecutorial Council, and it is planned that all job positions will be filled during the 2013.

Rules on regular evaluation of the work and performance of serving judges and prosecutors have not been yet adopted by the HJC and the SPC, what creates significant influence on the development of the system for professional evaluation of judges as well as development of the career system for judges and prosecutors. Mentioned Rules have been currently in the drafting phase. First set of Rules on disciplinary procedure and liability was adopted by the State Prosecutorial Council in July 2012, but further support is still required for the functioning of disciplinary bodies and their internal procedures, which were established as of May 2013.

Further efforts are needed in order to increase operational capacities of the two Councils, provided both for: a) members of the councils as well as the b) members of their respective administrative offices. New skills, tools and training are necessary for better, efficient and improved discharge of their duties. The wide scope of their responsibilities, lack of experience in management of human resources, financial resources, strategic planning, policy development and monitoring and a number of other challenges, posing before the two Councils in all areas of their work, justify the proposal for this project, which is designed to tackle several aspects of the respective Councils work

In light of the establishment of a consistent judiciary system question of **consistent interpretation and application of law** as it concerns basic human rights protection, is one of the most important legal issues. It is the consistent interpretation of the same provision of the law, regulation or other legal act, followed by the uniform application of law, of which

usually depends the uniformity, predictability of the court practice. The case law has very important roll in court decision making in order to eliminate different court decisions in addressing the same legal and factual grounds referring to the basic human rights protection.

Based on the Decree on the Representative of the Republic of Serbia to the European Court of Human Rights, the decisions of the European Court of Human Rights in cases in which the Republic of Serbia is one of the parties, shall be translated and published in the Official Gazette of the Republic of Serbia, and accessible for all relevant stakeholders

In order to improve consistency and predictability of the judicial system of the Republic of Serbia, where the laws, rules and practice are easily identified, uniformly interpreted and consistently applied, it is necessary to enhance the overall system of analysis, organization and availability of domestic court practice as well as analysis, organization and availability of ECHR case law, as well as with the case law of other relevant international institutions. Harmonization of court practice depends on the harmonized implementation of the law which derives from the uniform interpretation of the law provisions.

The Judicial Training Centre had been transformed into **Judicial Academy**. New Law on Judicial Academy, adopted in December 2009 (Official Gazette number 104/2009), effective from January 2010. It created institutional and legal conditions for Judicial Academy to provide education for judges and prosecutors with a the purpose of contributing to professional, independent, impartial and efficient performance of judicial and prosecutorial function as well as to the professional and efficient performance of duties of judicial and prosecutorial staff.

As a part of the long-term judiciary reform process, it is envisaged as a precondition to be elected as a judge or a prosecutor, that applicants/candidates for the posts, have to complete beforehand, two-year specialized training within the Judicial Academy, which is called initial education. That is namely new competence. Continuous education is stipulated as voluntarily, except in those situations when prescribed that judges, prosecutors and police officers must obtain certificate issued by the JA, in order to deal with certain cases. Those are trainings dealing with juvenile justice, more specifically, cases with juveniles as offenders and juveniles as victims of a crime, and family matters that include juveniles.

In 2010, Judicial Academy initiated development of the comprehensive curricula for judiciary. First generation of applicants (future judges and prosecutors) was enrolled in the Judicial Academy initial education. Furthermore, Judicial Academy developed annual program of the continuous training and created a long term prerequisite of lifelong learning of judges and prosecutors. Activities implemented during 2010 were initially oriented towards development/adoption of comprehensive curricula for initial education, development of continuous education curricula for certain areas identified as priorities, identification of mentors for initial education, establishment pool of trainers in specific areas, analysis and identification of additional learning needs in judiciary. During 2011, Judicial Academy has delivered 154 seminars of continuous education in a line with the Annual program and 28 seminars for initial training in line with the Initial training program. At the beginning of September 2011, the second generation was enrolled. During 2012 Judicial Academy has organized and delivered 332 seminars of both initial and continuous education and enrolled third generation of students. Additionally curricula for continuous education were updated and initial training curricula were drafted.

It is expected that National Assembly appoint the first generation of students during 2013 upon the previous proposal of HJC and SPC. This appointment will represent confirmation of the new system of entry into the judicial system more transparent and impartial.

The Academy has its own premises in Belgrade, Nis, Kragujevac and Novi Sad. Premises in Kragujevac were open in 2011 with the support of the OSCE Mission. Therefore the Academy realized its plan to have offices in all appellate seats. Furthermore, the Academy has 27 employees, distributed in the following departments: regional offices in Nis and Novi Sad, civil law, criminal law, commercial law, juvenile justice, administrative law, international cooperation, evaluation and initial education.

Despite being a newly established institution, the Judicial Academy is considered as a key to improvement of the overall judicial performance, establishment of an appraisal system for judges and prosecutors as well as the delivery of their initial and continuous training. Having in mind all above mentioned there is a serious requirement for further strengthening of the capacities and improvement of the performance of the Academy, all in line with the competences prescribed by the Law. Advanced performance of the Judicial Academy has direct impact on the overall reform of the judiciary in a line with EU standards.

Within the Rule of Law Sector Serbia made some progress regarding the prison system. In accordance to that EC Progress Report identified areas of potential assistance such as improvement of **prison conditions** and development of the alternative sanctions system. In the past few years Administration for Enforcement of Penal Sanctions implemented a number of projects funded from the Budget as well as from the donor assistance programmes and loan, aiming to improve prison system. The Action plan for implementation of the Strategy for reduction of prisons' overcrowding was adopted in November 2011. Among the activities identified in the Action Plan but not finalised yet, are following: construction and refurbishment of facilities for accommodation of inmates, improvement of training and employment programs of convicted persons, improvement in the structure of daily regime for inmates through introduction of additional activities and further strengthening of alternative sanctions system. Since there are no available funds in the budget, implementation some of the planned activities is mainly related to the ad hoc assistance provided through international assistance projects, such as planned introduction of the solar heating system in prison facilities aiming to improve working conditions and much needed energy savings as well as supply of machinery needed for the purpose of increased employment of convicted persons. Both, improved working conditions and new machinery as well as training of prison staff are preconditions for improvement of educational / training activities for inmates.

However, some improvements were made to prison infrastructure, namely a new prison facility with 450 places was opened near Belgrade in February 2012. On the other hand, the prison system continued to face serious problems due to overcrowding with a number of prisoners over 10,500 for some 9.000 places. Overcrowding in the prison system for approx 20% in regard to the capacities, poor living conditions and working standards in detention facilities, unsatisfactory healthcare and lack of adequate and specific treatment programmes are still a matter of concern. Alternative sanction need to be introduced on a larger scale. There is not enough frontline prison staff. An efficient probation system remains to be introduced. Administration for enforcement of criminal sanctions has been continued to implement activities related to the capacity expansion. Two new prison facilities will be built in Kragujevac and Pancevo with a funding from the loan. It is planned that Penal and correctional Institute for juveniles in Valjevo will be reconstructed with a 3,2 million Euros from the Norwegian Programme of bilateral assistance for 2012 as well as renovation and expansion of the existing capacities with approx. 2 million Euros foreseen within in the Budget of the Republic of Serbia. In addition to all aforementioned, Administration works on the adoption of the Law on probation and introduction of the local offices for alternative sanctions (probation services). Till the end of 2013 it will be funded opening of the seven (7) new offices for probation services in Serbia and employment of 30 people as well.

The conditions in which women serve prison sentences in Penal and Correctional Institute in Požarevac are inadequate and do not meet national and international standards. Although 3% to 4% of total prison population in Serbia are women, there was no investment that would significantly improve conditions in the Institute and meet specific needs for women to maintain and improve reproductive health and maternal competence. There are no requirements for special programs meant for foreigners, minors, victims of domestic violence and elder prisoners. No monitoring and impact of the Institute is carried out on process of post penal assistance.

The recidivism has increased. The living conditions are inadequate and compromise the effort of prison staff to ensure order and security within the Institute, as well as to implement all standards and special programs of treatment for female prisoners. Professional engagement and trainings in the Institute are being jeopardized due to the lack of conditions. Health care is insufficient due to lack of space and diagnostics. It is required to broaden the knowledge and skills and to increase opportunities for employment and opportunities for starting of own business. Implemented activities should enable preserving and increasing of working and professional skills as well as to reduce recidivism. It is recognized that female criminality is affected by traditionally gender role of females in a family and society. The influence of sexual and gender based violence towards women determines female criminality.

Strengthening gender identity, power and abilities in families of victims to recognize and prevent domestic violence would be achieved throughout creating conditions for implementation of specific programs in the Institute and post penal protection.

The objectives could be achieved, primarily, by reconstructing the facilities in the Institute, so that inmates under the closed treatment are completely, physically separated from the inmates under the semi-open and open treatment. This ensures optimum safety. It is planned that the main accommodation building accommodates inmates under the closed treatment, in four completely separated accommodations. All activities would be performed in a secured area, separated from the semi-open and open treatment: eating, walking, doing sports indoors and outdoors, health care, employment, cultural activities, etc.

The female prisoners under the semi-open and open treatment would be accommodated in the facilities without physical barriers, according to their treatment. This would meet a standard of human rights of women deprived of liberty. Therefore proposed activities would support of implementation of higher accommodation standards and upbringing of children accommodated in the Institute. Advancing working conditions of employees, especially women, and increasing skills for non-violent actions is one of the priorities. Improvement of working conditions of employees is accomplished through more transparent and safer accommodation, as well as through adequate premises for work and installation of surveillance and other technical security systems, and enhancement of skills through trainings and courses implemented by experts.

Based on the findings of the EC Progress Reports, it can be concluded that further assistance and support in the field of training and employment of prisoners, advancement of the skills and knowledge of prison staff, improvement of working conditions in production and training facilities, including procurement of adequate tools and machinery is essential.

The Report on employment of the convicted persons in the prison system in the Republic of Serbia confirms that the output of the trainings and education for the convicted persons and their employment are at the moment insufficient in terms of number of persons which have been regularly employed throughout the period of the enforcement of sentences. In 2012 employment rate of convicted persons has been in total (production and maintenance work in the penal institutions) 33 %, out of which only 15% is in production (agriculture, metallurgy,



carpentry, printing office) and remaining 18% in maintenance. From total number of employed prisoners only 6 % are related to the agriculture. Having in mind that penal and correctional institutions have significant resources for the purpose of agriculture and industrial production, amongst which approximately 1000 ha of cultivated land for agricultural purposes and a number of production facilities for manufacturing and industrial production, those numbers are extremely low.

Reasons for such an inadequate situation are twofold. On one side there is a shortage of adequate tools and machines which could be used for the daily work and increase productivity that would provide for additional employment possibilities for inmates. On the other side, there is an infrastructural problem which entails lack of adequate spaces within existing facilities and, in general lack of adequate working conditions related to existing safety and health regulations. In this respect problem is primarily inadequate and expensive heating requirements of big production areas.

Presented situation lead to high number of re-offenders, about 70%, partially caused by insufficient education and professional development of prisoners that further reduces their possibility of employment after release.

The analysis of the situation shows that the purchase of machinery and tools would significantly increase the yield of wheat and corns which are the most commonly used crops. The yield would be increased from the current 3 to 4 tons per hectare to 6 tons of wheat and 5 to 6 tons per hectare to 10 tons of corn. The cost of maintenance of the machinery would be reduced up to 50%. The total food production would be increased up to 30%. The new machinery would lead to a better treatment of the agricultural land, which is crucial for better yields. And significantly important increased food production would lead to an increased number of convicted persons who are employed and trained as well.

Administration for Execution of Criminal Sanctions (hereinafter Administration) had prepared Expert *Study on analysis, calculation and simulation of solar systems for heating sanitary water in all prison institutes in Serbia*. Administration has considered the effects of introducing such a heating system (on the basis of solar renewable energy sources) in the accommodation facilities of the Penal institutions with respect to the priorities of the Penal Reform Strategy on improvement of living conditions in prisons.

The effects and the results achieved throughout the implementation of the above mentioned initiatives would resolve some crucial long-term issues, ranging from the expansion of job portfolios, greater employment opportunities and long term perspective for the re-socialisation and employment of the prisoners upon release, towards greater self-sufficiency of the Prison institutions. Increased production efficiency with new machines and efficient use of renewable energy sources would have very favourable financial effects that could be used for improvement living conditions in the Prison and sustainable solutions related to education, training and employment of inmates.

The legal framework securing promotion, implementation and protection of **human rights and protection of minorities** and the prevention of discrimination has largely been adopted. In May 2010, the National Assembly adopted amendments to the Law on Free Access to Information of Public Importance strengthening the enforcement of the Commissioner's for Information of Public Importance and Personal Data Protection decisions. Following the adoption of the Law on the Prohibition of Discrimination (2009), the National Assembly elected the Commissioner for Equality in May 2010. Regarding the anti-discrimination policy the EC Analytical Report for 2011 founded that "the mechanisms for prevention, monitoring and protection of discrimination cases are not sufficiently developed and should be improved". Institutional framework responsible for the promotion, monitoring and protection

of human rights includes: the competent Office, Ombudsman offices (state and local level), the Commissioner for the Protection of Equality and Commissioner for Free Access to Information of Public Importance and Personal Data Protection. Although Serbia has signed and ratified all significant international human rights instruments that are relevant for the protection of human rights the EC Analytical Report for 2011 stresses that “implementation and full enforcement of the guaranteed rights need to be further developed”.

In 2009, the Law on National Councils of National **Minorities** was adopted and in 2010 first direct elections for the National Minority Councils were organised and nineteen national minorities Councils were elected. However, the EC Analytical Report for 2011 stated that “the implementation of the legal framework in this area has still to be improved. The Republican Council has met only twice since it was established. The functioning of the national minority councils still has to be strengthened if they are to be able to carry out their mandate effectively and ensure proper management of their financial resources”.

### **2.2.1. National Sector policy, strategy and context**

The Sector Fiche was developed in a way that relevant strategic and legal framework was considered in order to accomplish the compliance with policy framework already defined in the Republic of Serbia.

The overall strategic framework is reflected in the amended **National Programme for Integration** of the Republic of Serbia into the EU, from December 2009, which underlines the need for further development of the institutions involved in the various sub-sectors relating to the rule of law.

**New National Judicial Reform Strategy for the period 2013-2018**, adopted in June 2013, is continuation of the reform activities, which were defined within the National Judicial Reform Strategy for the period 2006-2011 and within the related Action Plan. New Strategy should ensure continuity in the reform of judiciary and spread scope of the activities as well as to give adequate response to the challenges regarding improvement of the judicial system and to demonstrate willingness of the state to respond to citizens` requests for respect the rule of law and independent, impartial, accountable and efficient judicial system. Specific measures, activities, time lines, institutions responsible for realisation of activities and cost estimation are defined with an Action Plan for implementation of the Strategy.

Main goal of the Strategy is to ensure strategic planning and management of the judicial system. Reform of the Serbian judiciary will be based on five key principals: *independence, impartiality and quality of justice, competence, accountability and efficiency*. Those principles should ensure framework for establishment, development and organisation of judicial institutions aiming to create judicial system, which could protect rights of all citizens and at the same time stream to improve those key principles within each phase of development of judicial and legal system. Transparency is not separate key principle, but it is horizontally extended through all key principals and strategic goals.

Six priorities are identified as the most urgent questions that require urgent measures in order to resolve determined problems in accordance with results achieved within the previous reform. Amongst those, the following two are directly related to this Sector Fiche:

- Improving the status of the High Judicial Council and State Prosecutorial Council and normative regulation of responsibility of two bodies
- Harmonization of jurisprudence

To enhance the efficient prevention and fight against organized crime, Serbia has adopted the **National Strategy for the Fight against Organised Crime** in 2009. The Strategy, foresees

the long-term trends and directions of functioning of the organised crime structures, as well as the capacities of the Republic of Serbia for prevention and its reduction to the lowest possible rate. The reforms envisaged by the Strategy are in line with the obligations foreseen within Chapter 23: Judiciary and fundamental rights and 24: Justice Freedom and Security and therefore will have a positive effect on the process of Serbia's EU accession. The Strategy is drafting with the aim to support Serbia's judicial system to become even more consistent, systematic and responsive to the needs of all its citizens by strengthening an independent, transparent and predictable, accountable and efficient judicial system and system that promotes adherence to the rule of law and which strives to enhance the quality of justice.

In June 2013, the Serbian government adopted **the National Anti-Corruption Strategy**. The strategy defines nine key sectors in which it expects to reach targets related to reducing corruption by 2018. The strategy also has a horizontal approach, through the prevention chapter. In terms of the focus on the judiciary, the strategy foresees the full independence or autonomy and transparency of the judiciary in terms of budgetary powers. It focuses on the process of selection, promotion and accountability of holders of judiciary functions which should be based on clear, objective, transparent and pre-determined criteria. The goals are also to have established efficient and proactive actions in detecting and prosecuting criminal offenses related to corruption. And an improved substantive criminal law and harmonized it with international standards. In terms of capacities, it supports the creation of a unique recording system for criminal offenses related to corruption. In terms of prevention, it supports improved mechanisms for prevention of conflict of interest in judiciary professions, adequate resources in the public prosecutor's office and courts for dealing with cases of corruption and the adoption of a long-term strategy which comprehensively promotes the issue of financial investigations.

**Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia (2010-2015)** was adopted in 2010. The Strategy and its Action Plan consists of two subject matters. The first one is development of alternative sanctions which would relocate number of enforcement sentences out of institutes and by that overcrowding in institutes would decrease. The second one relates to capacity enlargement and improvement of living conditions through investments in new prison facilities as well as through security staff and work with increased number of prisoners. The Strategy has provided preconditions for efficient re-socialization, safe and human accommodation for inmates and functioning of alternative sanction system by the end of 2015. Administration has started drafting **new Strategy for development of the system for enforcement of criminal sanctions for the period 2013 to 2020**, which will be adopted during 2013. It deals with legislative framework and relevant laws to be adopted; improvement of the infrastructure of the prison facilities; respect of human rights of persons serving prison sentences and improvement of their treatment; improvement of conditions, especially for sensitive groups; health protection of persons serving penitentiary sentences; improvement of safety and security; improvement of capacities of the staff of prison facilities; alternative sanctions; establishment of the judiciary police, monitoring issues and the development of IT in this sector.

There are some other international documents relevant for the prison system, which has been signed and ratified by the Republic of Serbia. According to this Serbia is obliged to take in consideration:

- Standards of the Committee for Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT);
- UN Convention on the Rights of the Child (1989);

- UN Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”, UNGA Res. 14/33 of 29 November 1985);
- Council of Europe Recommendation on Social Reactions to Juvenile Delinquency of 1987, Rec. (87) 20;
- UN Standard Minimum Rules for Non-custodial Measures (“Tokyo-Rules”, UNGA Res. 45/110 of 14 December 1990);
- UN Guidelines for the Prevention of Juvenile Delinquency of 1990 (“Riyadh-Guidelines”, UNGA Res. 45/112 of 14 December 1990);
- UN Rules for the Protection of Juveniles Deprived of their Liberty (“Havana Rules”, UNGA Res 45/113 of 14 December 1990);
- Council of Europe Recommendation “New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice” Rec 2003 (20);
- Council of Europe Recommendation “European Rules for Juvenile Offenders subject to Sanctions or Measures” (Rec (2008) 11),
- Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, adopted on 17 November 2010 at the 1098<sup>th</sup> meeting of Ministers’ deputies.

Although there is no integrated comprehensive national strategy for **human rights and protection of minorities**, numerous national strategies are tackling this cross cutting issue:

In order to ensure that all persons with disabilities can exercise their right to adequate education and equal opportunities for learning and development in the local community for all children, youth and adults with disabilities the Government of Serbia adopted the **Strategy for Improving the Position of Persons with Disabilities** in the Republic of Serbia in 2007.

The overall objective of the **Strategy for the Improvement of the Status of Roma** in the Republic of Serbia (2009) is to improve the status of the Roma minority and reduce existing discrepancies in the position of the Roma population compared to the rest of population in Serbia.

In August 2010, the **Strategy for Personal Data Protection** was adopted with the goal to harmonise legal framework with EU standards, support the functioning of an independent body responsible for data protection, professional advancement of public officials in this sector and strengthening of public awareness in this field.

In July 2009, the Republic of Serbia adopted the **Migration Management Strategy**, addressing all aspects of migration, with the aim to monitor and manage migration in line with European standards and regulation in this area.

Other relevant sector strategies are: the **Poverty Reduction Strategy** (adopted in 2003); **Social Welfare Development Strategy** (adopted in 2005) according to which the main goal of the new social policy is an efficient system of social transfers and fulfilment of basic citizens’ needs (therefore social rights and the right to social welfare), which serves the purpose of protecting human rights; National Security Strategy (2009), National Sustainable Development Strategy (2008), National Strategy for the Development of Vocational Education (2006) and National Employment Strategy (2005), National Youth Strategy (2008), Strategy for Development of Adult Education (2006), National Plan of Action for Children until 2015, National Strategy for Children Protection and Prevention from Violence (2008), National Strategy for Improved Status of Women and Gender Equality Promotion (2009), (2010) and National Plan of Action for the Implementation of Goals of Alliance of Civilisations (2009).

Office for Human and Minority rights (OHMR) has coordinated the process of developing the **Strategy for prevention and protection against discrimination**. This process has been

started as a response to the Commissioner for Protection of Equality and CSOs recommendations. **Strategy for prevention and protection against discrimination** was presented to the public in April 2013, and it has been adopted in July 2013. Drafting of the strategy was done through intense consultations with CSOs (a government WG, and nine thematic groups comprising mostly of CSO members were established). The preparation was done through 11 round tables across Serbia so that as many interested parties as possible would participate in the process and in order to ensure transparency.

This is the first strategic document which, *inter alia*, addresses issues regarding LGBT persons and contains measures for promotion of their status. The development of the **Strategy for prevention and protection against discrimination** has been supported by the Embassy of United Kingdom of Great Britain, Embassy of Netherlands, OSCE mission to Serbia and the Balkan Trust for Democracy (BTD).

OHMR has started to prepare the Action plan for the implementation of this strategy.

### **2.2.2. Sector and donor coordination**

The coordination and harmonisation of donor activities in Serbia, with a particular focus on country ownership over coordinating aid-funded activities, will be ensured under the leadership of the Serbian European Integration Office (SEIO) – Sector for Planning, Programming, Monitoring and Reporting on EU funds and Development Assistance.

Coordination of programming at the highest policy level is the responsibility of the Commission for Programming and Monitoring of EU Funds and Development Assistance. The Commission meets annually and is chaired by Vice Prime Minister in charge for European Integration. The Commission is composed of 11 ministers and the Director of the SEIO. "The task of the Commission is to review draft documents that will be presented to donors, suggest priorities for use of resources of international development assistance, and consider and make proposals to the Government on other significant issues related to the use and management of EU funds and development assistance. As a monitoring tool, the EU Delegation and NIPAC have also created monthly "bottleneck meetings" between DEU, NIPAC and line ministries to discuss the progress of IPA funded projects and to ensure their smooth implementation.

The NIPAC and NIPAC Technical Secretariat have eight Sectorial Working Groups (SWGs) to prepare the Needs Assessment Document (NAD) for international assistance in 2011-13, as the basis for identifying annual IPA I programmes, multi-annual IPA III-V programmes and bilateral donor projects. These SWGs comprise representatives from Line Ministries and other beneficiaries as the main actors in programming and project identification. The SWGs contribute to the identification and prioritisation of projects, ensuring sector and donor coordination, co-financing and analysis of project implementation. SWG for Rule of Law corresponds to the MIPD Justice and Home Affairs sector entirely and in addition it encompasses certain aspects of the MIPD social development sector.

Within recently improved Aid Coordination Mechanism informal donor coordination groups (previously mostly donor driven) have been rearranged and their work formalized based on increased national leadership. In JHA national sector, Justice aid coordination group is active and operational on regular base with clearly defined ToR and established trust fund. The group is led by Ministry of Justice and Public Administration while one of three most active donors, WB, OSCE and EUD, is to be assigned for a lead donor. Other donors participating in the group are as follows: Denmark, Slovenia, Norway, Switzerland, DFID, IBRD, CoE, Spain, USAID, GIZ, SIDA, CIDA, UNDP, The Netherlands, UNODC, UNICEF. Within the MDTF (Multi Donor Trust Fund) Ministry of Justice and Public Administration organises

Partners Forum, in order to assess and evaluate on-going projects and programmes supporting justice sector and to ensure coordination among donors aiming to avoid overlapping within their assistance.

In addition to sector aid coordination groups, mechanism envisages the following four cross-sector groups: Local Development, Regional Development, Roma Integration and Gender Equality.

Aiming to include Serbian civil sector in development assistance planning in a substantial way, SEIO decided to establish a consultation mechanism with civil society organisations in the end of 2010. The so-called Sector Civil Society Organisation (SECO), where each SECO was to represent one sector, has been established in the following 7 sectors that corresponds to the NAD classification: Rule of Law, Public administration reform, Civil society, media and cultural rights, Human resources development, Agriculture and rural development, Environment and energy and Competitiveness. During 2012 SECOs as representatives of their associated networks participated in development of SFs by taking part in sectoral working group meetings composed of line ministries and other state bodies by providing inputs for identification of the needs and development of sector (gap) analysis. SECO for Rule of Law covers/corresponds to the MIPD social development sector.

The action plan for programming and reporting on international assistance is prepared annually by the NIPAC Technical Secretariat, to ensure synchronization with national planning and budgeting processes and consider IPA programming specific requirements. By defining activities, timeframe and roles and responsibilities of relevant institutions, it serves as a tool for coordination and instrument for aligning donor activities. ISDA CON, as both a website and database of development assistance and priority projects, serves as a programming, reporting and communication tool.

### **2.2.3. Sector budget and medium term perspective**

With the aim of increasing predictability of public financing for the budget users, as well as of improving transparency of the planning process in general, the Budget system Law prescribes the obligation of presenting the medium term expenditure framework as the three-year expenditure limits for budget users. According to the Fiscal Strategy for year 2013, with Projections for years 2014 and 2015, based on the medium-term macroeconomic projections and the targeted deficit for the respective years, the following funds are planned to be allocated from the state budget to the state institutions associated with the Justice subsector (as the part of the JHA Sector)<sup>3</sup>:

*Budget expenditure limits for 2013-2015 (in EUR\*)*

<b>Institution</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Constitutional court	1,919,599	1,996,388	2,076,237
High Judicial Council	958,620	996,965	1,036,839
State Prosecutors' Council	563,278	585,803	609,239
Ombudsman	1,369,766	1,424,557	1,481,538
Ministry of Justice and State Administration*	95,089,181	98,892,742	102,848,453
Office for Human and Minority Rights	3,165,544	3,292,166	3,423,846
Anti-Corruption Agency	1,419,080	1,475,844	1,534,883
Commissioner for Information Of Public Importance and	1,216,087	1,264,732	1,315,318

<sup>3</sup> The data presented herewith originate from the Fiscal Strategy issued by the Ministry of Finance and Economy in October 2012. This Draft is pending adoption by the Government and the subsequent submission to the National Assembly, the actions which will precede the adoption of the Law on Budget for year 2013 (15<sup>th</sup> December 2012, at latest). As at the moment of drafting of the present fiche the budgetary process is still ongoing, slight changes of expenditure limits per budget users can take place, however without effect to the overall state budget deficit.

Personal Data Protection			
Equal Rights' Protection Commissioner	747,040	776,923	808,002
Public Prosecutor's office	28,136,814	29,262,291	30,432,784
Government's Public Attorney's office	1,935,192	2,012,600	2,093,102

\* *Converted at the agreed budgeting rate of 119.6 RSD: 1 EUR*

\**Total budget of the Ministry in the areas of Justice as well as State Administration at the agreed budgeting rate of 119.6 RSD: 1 EUR*

The **strategic goal** of the Government economic policy on the medium-term 2013-2015 as outlined in the Fiscal Strategy is the ***acceleration of the European integration process*** of the Republic of Serbia, by undertaking activities leading to the initiation of accession negotiations and by implementing systemic reforms leading to the fulfilment of the Copenhagen criteria. To this end, the adoption of the necessary systemic laws shall be accelerated, as well as the implementation of the adopted legislation with the aim of establishing market economy, macroeconomic stability and suppression of the corruption and the organized crime. The document further clarifies that in order to fulfil economic and political criteria for membership to the EU, the resources shall be provided for strengthening of the administrative capacities and for the stability of institutions guaranteeing democracy, the rule of law and the protection of minorities, for the development of market economy and of its potentials to respond to the competition and market pressures from the EU, as well as for creating the stable economic and monetary surrounding.

Having in mind the above strategic goal of the country, the focus of the economic policy in the medium-term perspective shall be on the economic recovery of the country and on the creation of conditions for the sustainable and balanced economic growth based on the increase of investments and export, and leading towards the increase in employment and of the living standard. With this regards, judiciary reform and institutional and functional modernization of judiciary, especially in its part dedicated to execution of court decisions, as well as in fight against corruption and crime, are recognized among the key economic reforms that will be implemented over years 2012-2014<sup>4</sup>.

#### **2.2.4 Sector monitoring system**

Sector performance should be monitored by sector outputs and consequent impacts that will be continuously monitored based on the existing strategies and action plans. Sector monitoring is currently under development. For time being sector monitoring for Rule of Law Sector is based on two key mechanisms: system of performance indicators which have been developed to accompany the document "Needs of the Republic of Serbia for International Assistance 2011-2013" and on periodical review of the implementation of strategies and action plans relevant for the sector.

Result-based system of indicators accompanying document "Needs of the Republic of Serbia for International Assistance" defines baseline and target values (benchmarks) for a four-year period and will be revised annually. Indicators are linked with the relevant sector priorities and measures defined in the document, and are, to the extent possible, taken from sector performance frameworks described in the first paragraph. It is intended that this system of indicators is used in planning and monitoring of EU funds and development assistance and integrated in the relevant planning/ programming documents (including sector/ project fiches).

<sup>4</sup> As outlined in the text of the Economic and Fiscal program of the Republic of Serbia 2012 -2014, published in January 2012. The same priority is not repeated in the exact formulation within the Fiscal Strategy 2013-2015.

New document “National priorities for International Assistance (NAD) 2014-2017 with 2020 projections” is currently being developed and it will be accompanied by the set of indicators for priorities and measures identified within each sector.

The monitoring system under decentralised management of IPA (DIS) is defined in detail in relevant Manuals of Procedures. System is based on a set of monitoring committees examining relevant monitoring reports - IPA Monitoring Committee, Sectoral Monitoring Committees (TAIB MC being one of them) and Sectoral Monitoring Sub- Committees (SMSCs). SMSCs will be examining IPA monitoring reports on activities funded through first IPA component per sector (it is envisaged that 8 SMSCs will be functional in the following sectors: rule of law; public administration reform; civil society, media and culture; transport; energy and environment; competitiveness; human resource development and agriculture and rural development). Progress in achieving the target values per indicator set in the relevant sector / project fiches will be included in the relevant monitoring report and examined at the SMSC and TAIB MC meetings.

### ***2.2.5 Institutional setting***

According to the Law on Ministries, the policies related to the Justice sub-sector sector are predominantly addressed by the following institutions: Ministry of Justice and Public Administration (MoJPA) and the Office of Human and Minority Rights Other relevant institutions are Administration for Enforcement of the Criminal Sanctions, Sector for Representation of the Republic of Serbia before the European Court of Human Rights within (MoJ), Anti-Corruption Agency, Constitutional Court, High Judicial Council (HJC), State Prosecutorial Council (SPC), Judicial Academy, and Commissioner for the Protection of Equality, Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Committees for Inter-Ethnic Relations, Committee for Examining Responsibility for Human Rights’ Violation, National Council of National Minorities, Equal Rights’ Protection Commissioner, Directorate of Restitution.

The Ministry of Justice and Public Administration will perform the role of lead institution in implementation of this fiche and be in charge for overall implementation of relevant measures dealing with judiciary and prisons, while Office for Human and Minority Rights will be lead institution for implementation of measure dealing with human rights and protection of minorities. All other bodies will directly benefit out of the project and will be involved in implementation of project activities in close cooperation with the lead bodies.

The main actors in the consultation mechanism with CSOs are Sector Civil Society Organisations (SECOs). SECO is a consortium of CSOs of maximum three partners, where one is clearly defined as a lead partner.

### ***2.2.6 Macro-economic context and Public Financial Management***

In line with the Report on Fiscal Strategy 2012-2014 of the Government of Serbia adopted in October 2011, the objectives of economic policy in the aftermath of the global economic crisis include macroeconomic stability, sustainable economic growth and development of a competitive economy, public sector reforms, increasing employment and living standards of people, and balanced regional development. Reiterating this document the Serbian Authorities submitted the Economic and Fiscal Programme (EFP) for 2012-2014 to the European Commission in January 2012. The EFP forecasts a macroeconomic scenario with real GDP growth at average rate of 2.8% per year over the period 2012-2014. At the moment of drafting of the SF it is however evident that those figures tend to be lower as the effects of economic downturn are protracted to year 2012. The IMF World Economic Outlook published in April



2012 forecasts 0.5% GDP growth for Serbia in the year 2012 and the substantial increase to 3% for the year 2013.

Key structural reforms will be necessary in the areas of government administration, health, education, pensions and social allowances. Long-term sustainable economic growth depends as much on privatisation and the creation of a competitive environment, as well as conditions for a free market on a level playing field, with minimum transaction costs and adequately regulated monopolies. This anticipates a change of the overall economic growth model from consumption and import to investments and export. Monetary policy will stay focused on maintaining low and stable inflation, maintaining financial stability, and managing the floating foreign currency rate while maintaining adequate level of foreign exchange reserves. The return to sustainable public finances includes significant fiscal calibration, primarily through reduction in public sector costs and, if necessary, appropriate tax adaptation. Fiscal priorities are: implementing the fiscal rules contained in the changes to the Budget System Law; applying strong limits on current public spending; lowering the fiscal deficit and its non-inflationary financing; strengthening tax discipline and lowering the tax burden; increasing public investment, especially in transport corridors; and strengthening financial discipline in public companies on state and local levels.

As of 2015, the Law on Budget System foresees that the national budget should be drawn up according to the programme-based model for all budget beneficiaries, with phased introduction for some of them where direct switch to the new model is not feasible. This will enable more efficient management and utilisation of funds, based on the programmes and activities of budget beneficiaries, thus contributing to the achievement of strategic objectives in accordance with the national economic policy. Since 2008, the programme for developing programme-based budgets has been implemented in five ministries.

Public Financial Management (PFM) in the Republic of Serbia has been reassessed in year 2010 in accordance with the Public Expenditure and Financial Accountability (PEFA) methodology<sup>5</sup>. Therefore, a basis for information and monitoring of PFM, for planning of the reform strategy and capacity development program is now available. Assessment of the PFM institutions, processes and systems has been carried out against several important areas: budget credibility; transparency and comprehensiveness; policy-based budgeting; predictability and control in budget execution; accounting, recording and reporting; external scrutiny and audit; and donor practices. A standardized scoring system is applied in the structure (sub-elements) of each of the topics, so that weaker scoring directly signals the necessity to concentrate efforts on the improvements in a medium-term perspective. The PEFA Report recognizes the dependency between PFM reforms and the EU accession agenda and recommends a more systematic approach and stronger specific leadership to ensure consistency of future PFM reforms.

### ***2.2.7 Sector assessment***

The Government of Serbia is firmly committed to ensure stability of institutions guaranteeing democracy, the rule of law, respect for and protection of minorities within the Justice and Home Affairs sector, in pursuit of its national policy objectives and reform agenda, and the path to European integration and accession to the EU. The needs for international assistance of the Justice and Home Affairs sector for 2011-2013 have been fully articulated by the Sector Working Group for Rule of Law, and described in the "Needs of the Republic of Serbia for International Assistance 2011-2013 (NAD)", adopted by the Government in February 2011. Apart from the consultations with relevant national institutions (held within

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<sup>5</sup> The Republic of Serbia PEFA Assessment and PFM Performance Report 2010 has been published in November 2010

the abovementioned eight sector working groups), the process of drafting the sector chapters of the NAD included consultations with representatives of civil society organisations, the donor community and local self-government. The consultation process was based on a number of sector-specific meetings, in order to present draft documents and discuss recommendations and input provided by CSOs, donor community representatives and local self-government. Recommendations provided were taken into consideration and are reflected in the final text of the document.

The process of IPA 2013 programming extended the already established consultation process developed on a sector basis during the preparation of the NAD 2011-2013 and the IPA 2012 programme preparation. Strategic approach to the programming process has been improved through more systematic approach in identification of the priority needs and earlier involvement of all relevant stakeholders in programming process, including civil society organisations.

A strategic (or gap) analysis has been conducted to identify priority areas relevant for the IPA 2013 programme. The strategic (or gap) analysis has been conducted through a range of actions including analysis of the correlation between the NAD 2011-2013, the MIPD 2011-2013, the analysis of Analytical Report for 2012 and correlation with on-going and proposed 2012 assistance. Analysis has been carried out through the framework of Sector Working Groups (SWG) (SEIO, Line ministries, the EUD representatives and Civil Society Organisations) that have discussed the key messages derived from the abovementioned strategic documents. On the basis of this cross-checking strategic analysis, SWGs during the consultation process have identified a number of IPA I 2013 priority areas for this sector (also commented by the EUD and DG Enlargement) which have been used as basis for development of the SF.

In general terms, besides already implemented improvements, for full implementation of the sector approach it will be necessary in the coming period to create a unified methodology for the development of strategies, review existing strategic framework in relation to the new financial perspective 2014-2020, improve monitoring and evaluation requirements with a focus on results and consequently contribute to improvement of the strategic planning, improve planning of the national budget by linking strategies and action plans with the budget planning and avoid any overlap of responsibilities between different institutions. Finally, it is necessary also to ensure a constant development of project documentation, since without ready projects strategy cannot be implemented.

SEIO in cooperation with the EU Delegation has launched evaluation of international assistance in the rule of law sector for period 2007-2011. The purpose of this contract is to provide an impartial and comprehensive evaluation of effectiveness and efficiency of the international development assistance to the Republic of Serbia per NAD sector. Results of evaluation for the rule of law sector are expected by the end of September 2013.

### **3. DESCRIPTION**

#### **3.1. OVERALL OBJECTIVE OF THE IPA SECTOR SUPPORT**

Improvement of the independence and efficiency of the Judiciary through adequate measures regarding accountability, impartiality and competence of justice actors in order to achieve and strengthen rule of law, legal certainty, better access to justice as well as improvement of the protection of human rights and protection of minorities.

*Measurable indicators:*

- *Level of fulfilment of Action plan of National Judicial Reform Strategy on annual basis;*
- *Level of fulfilment of Strategy for development of the system for enforcement of criminal sanctions for the period 2013 to 2020;*
- *Level of fulfilment of Anti-discrimination Strategy and Action plan;*
- *World Bank Rule of Law indicator.*

### **3.2. SPECIFIC OBJECTIVE(S) OF THE IPA SECTOR SUPPORT**

**Specific Objective 1** - Strengthening the independence, efficiency, competence and accountability of the judicial system by building capacities of the independent bodies and educational institution in order to ensure efficient assumption of the jurisdiction as it is prescribed by the laws

*Measurable indicators:*

- *Increased clearance rate (% of incoming and resolved cases);*
- *Percentage of trained judges and prosecutors according to Law and Programme of JA for continuous training;*
- *Reduced number of violations found by ECHR under ECHR Article 6.*

**Specific Objective 2** - Strengthening capacities for training, education and employment of the convicted persons, and improving living and working conditions within the prison system in the Republic of Serbia

*Measurable indicators:*

- *Decrease of number of re-offenders compared to the total number of persons deprived of liberty;*
- *Ratio of persons deprived of liberty employed during incarceration.*

**Specific Objective 3** - Strengthening and implementing the relevant legislative framework in the area of human rights and protection of minorities in alignment with European standards

*Measurable indicators:*

- *Ratio between implemented and the planned NPI/NPAA activities/measures for Chapters 19 and 23;*
- *Improving ratio of Recommendations implemented, as compared to total number of issued Recommendations concerning cases of violation of constitutional prohibition of discrimination<sup>6</sup>.*

### **3.3. RESULTS**

**Result 1: Enhanced functioning of judicial bodies in the Republic of Serbia by improving their professionalism, management competences and technical capacities for effective and efficient delivery of justice**

*Measurable Indicators:*

- *Level of implementation of Strategic Plan of the High Judicial Council;*
- *Level of implementation of Strategic Plan of the State Prosecutorial Council adopted and activities defined by the Action plan that fit in the lifetime of the project implemented;*
- *Average case processing time shortened.*

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<sup>6</sup> When reporting on this indicator data shall be disaggregated by gender.

## **Result 2: Improved capacities and capabilities of the penitentiary system**

### *Measurable Indicators:*

- *Ratio of persons deprived of liberties that have completed VET training;*
- *Total agriculture production within the prison system*
- *Reduced energy costs per prisoner per day;*
- *Increased spending of public funds on prisoner per day; (Life quality in RSD for direct costs per day and per prisoner ( food , health, clothes, shoes, hygiene etc.)).*

## **Result 3: Improved capacities in the area of human rights and protection of minorities and implementation of anti-discrimination**

### *Measurable Indicators:*

- *Increase in number of reported cases of discrimination;*
- *Increase in level of fulfilment of recommendations issued by the CPE*
- *Increased number of law suits and misdemeanour charges in cases related to discrimination*
- *Increase of public awareness on the fact that discrimination is incriminated by Law.*

## **3.4. MEASURES/OPERATIONS<sup>7</sup> TO ACHIEVE RESULTS**

### **Measure 1.1: Strengthening the strategic and administrative capacities of the Serbian High Judicial and State Prosecutorial Councils**

This measure will support strengthening the capacities of newly established judicial bodies and institutions for new competences, what by the EC Progress Report was identified as one of the weakness within the Serbian judicial system. Aiming to improve and strengthen capacities and performance of two Councils, within its competences, further assistance is needed. This measure will support improvement of the strategic and administrative capacities of the High Judicial Council and State Prosecutorial Council to manage courts and prosecution offices network, to organize access to information and secure transparency of the judicial system through institutional coordination and cooperation with professional and civil society organizations. This measure will also support improvement of structural and functional changes of the councils, mechanisms and standards for quality management, policy development, strategic and budget planning of the judiciary and their capacity in the field of project management and coordination with other institutions. Throughout this measure mechanisms for organizational and performance of the units for financial audit of the courts and public prosecutor offices will be built up. It is very important to support further development of the existing criteria and procedures for the recruitment, evaluation, promotion of judges and prosecutors elected for the judicial position for the first time, and through cooperation with Judicial Academy. Assistance will be provided for implementation of the rules and standards which will be adopted during the 2013. Another important aspect is improvement of the procedure within courts and prosecutor's offices for detecting and reporting complaints. In addition to this intra-institutional management of complaints against judges and prosecutors will be subject matter of this measure as well as mechanisms of coordination between Ministry of Justice and Public Administration, High Judicial Council and State Prosecutorial Council. It will provide exchange of best practice with EU countries aiming to improve preliminary investigation by improvement of knowledge and skills of judges and prosecutors. It will also strengthened communication with general public, media

<sup>7</sup> As defined in Article 6(2) of the IPA Implementing Regulation No 718/2006. IPA Component I programmes are subdivided into sectors (priorities), each of which define a global objective to attain and which shall be implemented through measures, which may be subdivided into operations, or directly through operations. Operations shall comprise a project or a group of projects (implemented by the Commission or the beneficiary country).

and professional organisations in order to obtain more active participation in the judicial reform activities.

This measure will be implemented through one twinning contract for building capacities of the High Judicial Council and the State Prosecutorial Council.

**Measure 1.2: Enhancing educational activities and functioning of new structures within new competences of the Judicial Academy and establishment of the consistent judicial system of the Republic of Serbia**

Three relevant/specific areas will be tackled under this measure: uniform application of the law as it concerns basic human rights protection, further improvement of the performance and functioning of the Judicial Academy.

First part of this measure will mainly focus on the improvement of the **uniform application of the law** as it concerns basic human rights protection by the courts in the Republic of Serbia and in line with the establishment of consistent system of introduction, analysis, organization and access of the court practice of the European Court for Human rights. This measure will lead to improvement of the legislative framework in order to regulate harmonization of court standings and to ensure compliance with the decisions of the ECHR. The follow of practice of the European Court of Human Rights consider that judgments of the ECHR needs to be analyzed, organized and available to the public in special Practice guide. This measure will support preparation of the Practice guide in cooperation with the Judicial Academy, which should be divided by areas of law with cross-references to specific national provisions. The Guide will be available in printed and electronic form and updated regularly. It will provide assistance with respect to the establishment of the methodology of decision making and summaries of ECHR judgments. The continuous training for judges, organized by the Judicial Academy, will be provided in order that all judges are introduced with methodology of decision making process and summary of judgments. Exchange of experience regarding methodology of making judgments and judgments summary, especially modeled to judgments of the ECHR would be supported among other activities. Proposed assistance will lead to improvement of overall performance and work of the Ministry of Justice and Public Administration, Sector for representation of the Republic of Serbia before the ECHR, Judicial Academy, courts, etc.

Republic of Serbia has been committed to keep on reforming judiciary and keep working towards upgrading standards. Since that **Judicial Academy** is responsible for education, theoretical and practical knowledge and skills of judges and prosecutors, further strengthening of functioning and performance of the Academy would significantly contribute to the improvement of the overall judiciary performance. During the period 2010-2011 Judicial Academy initiated development of the comprehensive curricula for judiciary. First generation of applicants (future judges and prosecutors) was enrolled to the Judicial Academy initial education. In addition there were implemented activities regarding development/adoption of comprehensive curricula for continuous education curricula for certain areas identified as priorities. Also there are identified mentors for Initial education and pool of trainers in specific areas has been established. Therefore, further strengthening of the Judicial Academy will be supported, what was clearly stated in the EC Progress Report 2012 for Serbia and defined as requirement since this institution play a key role in ensuring that professional standards are applied in judiciary. Throughout this measure Judicial Academy will be provided with policy advice to advance human resource, management of policy and processes.

In regards to that, one of the aspects which need particular attention is further development of existing information system of the Academy (database to contain all data relevant for trainings, integrating working processes into the information system, distance learning for initial education, etc.). Better management of policy and processes is one of the requests of the screening integration processes of the Republic of Serbia and of the Stockholm programme. In the area of M&E of mentors for Initial education, analysis of the current mentor system is necessary as well as the comparative analysis of the best practice of evaluation of the methodology of the relevant educational institution in EU. Quality assurance with additional testing (both internal and external) is integral part of a successful evaluation. According to mentioned analysis recommendations will be prepared. Exchange of experience with other countries will be organised for Department for Initial education and other relevant JA staff. With regards to the previous deliverables JA will be provided with Guidelines for evaluation of mentor work Manuals for JA mentors in order to enhance transfer of knowledge and assessment of their students. Scope of the activities is further development of the mentoring system as well as reporting.

This measure will lead to further upgrade of Initial and Continuous training activities with a special emphasis of the Human Rights Module. Curricula for both trainings (Initial and Continuous) will be improved. According to the previous review curricula for the judges and prosecutors is going to be developed, which are elected for the three year term and furthermore throughout prepared suggestions the work of the working groups will be supported. Since there is large number of the judges and prosecutors, elected for the first time for the three year term, it is necessary to develop curricula for trainings and practical workshops for mentioned category. Particular attention should be given to the EU law and the existing module of Human Rights, which will be upgraded with respect to introduction of the court practice of European Court of Human Rights and introduction of that module into the Initial training. Existing Module currently refers to the minority rights. Therefore related to the upgraded Module, seminars for both Initial and Continuous education will be delivered. Parallel to this it will be organised Training of Trainers for delivering initial training with regards to the EU law and Human Rights curriculum. Focal points for the Human rights would be strengthened in order to improve their performance and their training activities for Instructors for this Module. This measure will implement activities regarding development of the cooperation between Judicial Academy and EU legal institutions.

Within the assistance to the Judicial Academy, Criminal Law Department for Initial and Continuous training will be supported throughout organisation and delivery of the basic training and advanced level training in the field of organised crime and corruption in accordance with the recommendations and training design proposed by the IPA 2011 project, implemented by the Council of Europe.. Furthermore focal points will be appointed among participants of the training for future transfer of knowledge. According to the already developed curricula it will be delivered ToT and continuous training on prevention and fighting corruption and money laundering. It will be supported work of the Working groups for preparation of curricula on special type of crime, where a need for continuous education is identified (e.g. emerging forms of organised crime, cyber crime, illicit trafficking of cultural property and any other forms of crime that is presently perceived as essential.)

This measure will be implemented through one contract dedicated to technical assistance for strengthening of the consistent judicial system of the Republic of Serbia throughout improvement of unique application of the law and enhancing educational activities and functioning of new structures within new competences of the Judicial Academy.

## **Measure 2: Improving capacities for training, education and employment of the convicted persons and investment in the sustainability of the humane living conditions in prisons**

One part of the measure will be dedicated to the improvement of the possibilities for employment of prisoners after release with a purpose to increase their chances for successful reintegration into the society and reduce very high re-offending rates. Other part of the measure will mainly focus on improving human living conditions within the prison system through reduction of the budgetary expenses for maintenance and other running costs in prisons. Main issue in this respect is insufficient and expensive heating system. Introduction of the heating system based on solar energy in prison facilities, what will reduce expenses for heating, improve living conditions in general and increase use of the production and training facilities

Improvement of the possibilities for employment of prisoners after release can be achieved only through implementation of adequate education and training activities as an integral part of treatment programs. Throughout IPA 2010 project *Further Alignment of Penal system of Republic of Serbia with EU standards and strengthening alternative sanction system*, and VET (Vocational and Educational Training) Component, 60 trainers have been educated and about 500 convicted persons has been trained. Training activities were organised only in three Prison Institutes considered as the largest (Sremska Mitrovica, Nis, Zabela). This intervention is seen as a first step. Based on the experience gathered during the introduction of VET in those large prisons, intention of the Prison Administration is to introduce VET programs in all Penal and Correctional institutions, depending on their specific situation and needs. In order to achieve this it is necessary to locally identify and engage education institutions accredited for VET, to adapt training programs and training material, to provide additional training to VET teachers and trainers/instructors from Penal institutions and to provide them with adequate VET equipment. This measure will perform an evaluation of the effectiveness of finalised VET activities in prisons and produce recommendations for the improvement of the system. This measure will also produce recommendations on the most effective post-release arrangements including instruments for social integration for persons leaving penitentiary, an analysis of the role and improvement of social services, half-way houses and the parole system, including improvement of links with the employment, health and welfare systems. Specific attention of the assessment will be paid to the situation and needs of juveniles.

Apart from introduction of new education and training programs Prison Administration should seek to increase employment possibilities for inmates. In this way persons who are serving sentence will be in position to acquire not only a formal qualification through education and training but also a valuable working experience that will additionally increase their competitiveness on labour market after release.

Employment possibilities of prisoners will be improved throughout purchase of the agricultural machinery and equipment for the purpose of increase in productivity and opening of additional jobs within Penal institutions, but also through improvement of working and living conditions, production facilities do not have adequate heating and therefore their use is limited. Agricultural and other production has huge potential because the demands and requirements of the penal institutions for food, metal and wooden products are high. If Prison Administration could provide required products internally and without outsourcing reduction of costs would be significant so additional resources could be reinvested in education, training and work of prisoners. Second part of the problem is a fact that related prison services do not have adequate capacities to deal with additional training and education programs and increase in production. It is therefore necessary to invest in capacity building of service in charge of

treatment, service in charge of training and employment of prisoners and also service in charge for security. Capacity building should include development and implementation of adequate in-service training programs, engagement of additional staff and trainings of penitentiary staff, including but not limited to staff working on production, guards and vocational education related staff as well as improved communication / information sharing and coordination between different services engaged in treatment.

With total number of prisoners, at the moment, obviously it is needed to continue with training activities as well as to spread those activities on the rest of the prison institutes. Main purpose would be to reduce number of re-offenders.

Part of this measure will be dedicated to the Increasing the level of education, working abilities and professional skills of female inmates in Penal and Correctional Institute in Pozarevac by creating opportunities for education and work in the Institute as well as increasing opportunities for employment after serving the sentence by creating the conditions for implementation of specific programs. Three types of training and education activities are foreseen for this Institute. Program and trainings for employees in the security services in following areas: communication and social skills, program of non-violent communication and mediation in conflicts- accredited program, recognition of threatening suicide and reaction to it and first aid. Training activities intended for the human resource management service related to employment of inmates, such as greenhouse production of vegetables, organic food production, floriculture, tailoring and sewing, on the job training, vegetable production and floriculture , arranging flowers, working with clay, painting the walls, production of jewellery, computer skills, cosmetics, training for personal assistance, traditional crafts. Furthermore, support training activities in Department for treatment in following areas: trans actual analysis, systemic family therapy, psychodrama, social skills training, life coaching, specialization „Social policy and social work“, Non-violent communication program and mediation in conflicts - accredited program (Institute for social welfare of Republic of Serbia), Book of tolerance – education and application of the accredited program (Institute for social welfare of Republic of Serbia), the power of changes – how to establish and maintain support groups and self-help for women who survived domestic violence- accredited program (Institute for social welfare of Republic of Serbia)

Purchase of the equipment for improved heating system is necessary in order to improve existing accommodation and working conditions and to reduce costs for maintenance of Penal and Correctional facilities. EU Progress Report also emphasises low level of prison conditions and a need for improvement. The effects of introducing such a heating system (on the basis of solar or other types of renewable energy sources) in accommodation and production facilities of the Penal institutions will make significant long term savings which would enable reallocation of saved resources into different system needs. Most importantly, the sustainability of energy systems and the improved living conditions in prisons would be ensured. This, together with the purchase of new machinery could be base for further agricultural, industrial and manufacturing production, and greater employment of convicted persons.

Maintaining and improving the quality of life of female prisoners through better accommodation and better health service will be achieved throughout reconstruction of the buildings and facilities in the Penal and Correctional Institute for women in Pozarevac.

This measure will be implemented through one Twinning contract for educational activities, one supply contract for the agricultural machinery and solar equipment and one works contract for reconstruction of the Prison Institute in Pozarevac. Needs Assessment for the purchase of the machinery and equipment for solar heating system based on the detailed



analysis of facility conditions, has been prepared by the Administration for enforcement of criminal sanctions and added as the Annex to this Sector Fiche. One works and one supervision of works contract will be implemented in order to improve the quality of life in the Prison Institute in Pozarevac. Supervision services contract up to 300,000 Euro will be procured through Competitive negotiated procedure.

### **Measure 3: Support to the advancement of human rights and zero tolerance to discrimination**

This measure will support actions aimed at the protection of all forms of human rights and protection of minorities, prevention and fight against violations of these rights, and contribute to the improved response to discrimination against marginalized groups and individuals in Serbia by ensuring further capacity building of relevant national institutions and key sector stakeholders and empowering of institutional accountability and responsiveness to implementation of antidiscrimination policies at national and local level.

This will be achieved through the continuation and further systematization of human rights education for civil servants and civil society representatives both on the central and local level and implementation of particular sets of activities that will further empower key stakeholders in the human rights sector in order to establish sustainable framework for protection of human rights and prevent discrimination of vulnerable groups. Having that in mind the Office for Human and Minority Rights of the Republic of Serbia will in cooperation with the Commissioner for Protection of Equality (using existing criteria developed in the framework of the IPA 2011 project „Implementation of antidiscrimination policies“) identify additional 20 municipalities in Serbia which will be engaged in piloting of preventive and promotional measures against discrimination (using the best practices of IPA 2011 project). Furthermore, the Office for Human and Minority Rights in cooperation with the Human Resource Agency of Government of the Republic of Serbia (SUK) will develop training programs for civil servants from relevant ministries involved in the process of reporting and monitoring of international and regional conventions on human rights (convention specific trainings). Within this framework the additional activities will be developed in aim to further improve the capacity of the Republic of Serbia to collect and disseminate disaggregated statistical data in the field of human rights and protection of minorities (also based on the results of the abovementioned IPA 2011 project). In cooperation with Commissioner for Protection of Equality survey on antidiscrimination law implementation, in order to assess the existing legal framework and propose additional changes based on the experiences shown in the three-year practice of the Commissioner office, will be conducted. Likewise, in a manner of surveys, at the beginning and at the end of the project, data shall be gathered on expert and public awareness of legal remedies/prohibition of discrimination. Furthermore the support to the establishment of three local offices of Commissioner for Protection of Equality will be provided. The local offices will be open in less developed areas of the country comparing to more developed north of Serbia in the cities such as Kladovo, Prokuplje i Uzice, having in mind the number of geographically distributed complaints which the Commissioner has received so far. For newly established offices the referent educational programs will be delivered in the field of anti-discrimination legislation, management of disputes and alternative dispute resolutions techniques, etc. As specific set of activities aimed to improve fight against discrimination the training of national councils of national minorities in the field of implementation of anti-discrimination measures and institutes will be organized in order to enhance their particular role in the protection of national minorities' rights and prevent all sorts of discrimination. As additional component of this set of activities further training for capacity building will be provided in order to improve national councils of national minorities managerial capacities (inter alia due to the their deficiencies in financial reporting to the

Office for Human and Minority Rights). Additional set of activities will be provided in order to support the LGBTI people rights defenders to provide free legal aid.

This measure will be implemented through one twinning contract that will support all institutional building actions.

**Note:** Part of the measure related to access to justice for children has been moved to the Social Development Sector.

### **3.5. OVERVIEW OF PAST OR ONGOING ASSISTANCE, LESSONS LEARNED, MECHANISMS FOR DONOR COORDINATION/SECTOR WORKING GROUP AND/OR POLICY DIALOGUE**

According to the Serbia's Inter Sectoral Development and Aid Coordination Network (ISDACON) database, in the period between 2007 and 2011, it is estimated that a total amount of €72,28 million was actually disbursed in assistance from the international donor community to the Justice sub-sector within the Rule of law sector in Serbia.

In five annual IPA 2007 – 2011 programmes, IPA component is financing projects in the Justice sub-sector of the rule of law sector worth around €37 million (including social and economic rights within the political criteria of MIPD). In the Justice sub-sector the projects financed through IPA funds were oriented towards improvement of efficiency and transparency of the judicial system, the introduction of case management system in the courts and prosecution, criminal asset confiscation, reform of the penitentiary system and strengthening of alternative sanctions, the fight against corruption, the establishment of the Judicial Academy. Due to the broad range of human rights and protection of minorities, the projects through IPA in this field can be divided into two groups. The first group of projects supported development of the policy framework for protection of human rights and protection of minorities, as well as strengthening institutional capacities to implement, monitor and report on its implementation. The second group of projects focused on economic or social rights of individual targeted groups: resolving the problem of refugees and IDPs by finding durable solution to address their situation, enhance their livelihood and ensuring full access to their rights, assuring availability and quality of education for children from marginalised groups, social inclusion and poverty reduction among the most vulnerable groups in the society, and improvement of the quality of life and access to rights of the Roma, Ashkalj and Egyptian communities.

The assistance programmed within the scope of IPA 2012 for the JHA sector is structured in four Project Fiches which aimed at achieving the following specific objectives: improving efficiency, effectiveness and quality of court proceedings, support to newly established system of enforcement of court decisions, enabling coordinated fight against all forms of crime, improving capacity of courts to measure their performance, involving civil society and general public into the evaluation of the criminal justice system; closure of all remaining Collective Centres, improving living conditions of refugees, IDPs and returnees under Readmission Agreements and ensuring sustainable return of IDPs to Kosovo.

Other donors, such as SIDA, UNDP, UNICEF, Italy and Norway, have supported improving Roma access to social services at a local level, implementation of anti-discrimination legislation as well as combating sexual and gender-based violence, policy development and legislative reforms to ensure fulfilment and respect of the rights of the children without parental care or with special needs, and settlement and integration of refugees. The Norwegian Government is also supporting improvement of the delivery of justice and juvenile justice system, as well as institutionalisation of victim witness support service network. In the area of judiciary reform, a World Bank managed, Multi-Donor Trust Fund (MDTF) for Justice Sector Support has been established as a mechanism for coordinated allocation of

foreign assistance. The UNHCR, USA and Germany have also provided resources to assist in resolving the housing concerns of refugees and IDPs. This support was particularly important for consolidating the necessary statistics on the targeted population and their whereabouts. Particular attention shall be deployed to ensure complementarities of interventions envisaged under national IPA projects with actions to be implemented within the scope of the “Joint Programme for Priority Durable Solutions for Refugees and Internally Displaced Persons – Regional Cooperation”. This Regional Programme is agreed between four countries in the region with the aim to comprehensively contribute to a substantive completion of the protracted displacement situation in Bosnia and Herzegovina, Montenegro, Croatia and Serbia due to conflicts in 1991-1995, by providing durable housing solutions for the displaced population and significantly ameliorated access to their rights.

#### Relevant projects related to the Measure 1.1

IPA 2012, component Judicial Efficiency - This Project will focus on improvement of the efficiency of judiciary. One of the main Beneficiaries will be High Judicial Council.

USAID Separation of Powers Program – The project provides assistance to the HJC regarding introduction of the Software Module Profile of court. In addition to that throughout the activities it is supported preparation of the Communication Strategy as well as extension of the Strategic Plan of the HJC.

Norwegian Project “Improving delivery of justice” and its Component 3 have been dedicated to the support of the High Judicial Council. Within this component it is supported establishment of the efficient acting upon complaints, renovation of the HJC facility, preparation of the Court Model Guideline.

OSCE provide assistance to the State Prosecutorial Council throughout various activities. Support to the preparation of the Rules of disciplinary proceedings for the public prosecutors and deputy public prosecutors, Ethical standards for public prosecutors and deputy public prosecutors and Rulebook for standards for evaluation of the work of public prosecutors and deputy public prosecutors. OSCE supported also drafting General integrity plan of the Council and of public prosecutions in the Republic of Serbia in accordance with the Law on Anti-corruption agency.

Embassy of the Great Britain supported also improvement of the work of the State Prosecutorial Council, with a special emphasise to the new budget function of the SPC as well as the establishment of the first support center for the crime victims at the public prosecutor's offices in the Republic of Serbia, in cooperation with international institutions, which would be concrete and direct role of public prosecutors in protecting the citizens of our country.

#### Relevant projects related to the Measure 1.2

IPA 2007 Standardised System for Judiciary Education and Training, (2009 – 2011). Transition of the Judicial Training Centre into the Judicial Academy was supported through the IPA 2007 project “Support to the National Judicial Academy in Serbia”. Within the scope of the project activities three main areas were addressed: Management and Recourse Development, Initial Professional formation for Candidates Judges and Prosecutors and Supervision and Information Management. The project addressed the permanent needs to build strategic planning capacity by stressing the importance of regular planning, developing guidelines for strategic planning, preparing identification and description of priority business processes. Based on the consulted best practices, a position paper was prepared on rules of procedure for recruiting trainers as well as the adopted Guidelines how to develop syllabus and curricula for initial and specialised trainings. In addition, training material was produced and main features for the establishment and use of the electronic library. Based on the project

results Final Report produced a set of recommendations which clearly identified needs for future support to the Judicial Academy in order to strengthen capacity and importance of this institution. The activities proposed in the SF representing the continuation of work in all recommended areas.

The project was implemented successfully and capacities of the Judicial Academy have improved significantly, but Final Report of the project clearly outlines necessity for further strengthening of this institution in the area of capacity, organisation and adequate space, in order to become fully functional and operational.

OSCE Mission to Serbia implemented project - Support to transformation and development of the Judicial Academy. The project supported need analysis of the JA and within it study visit was realized for JA Program Council to the Judicial School of Spain. Furthermore, the project supported work of the working group for the entrance exam and trainings for mentors and lecturers, as well as forming of the regional office in Kragujevac. The project encompassed support segments related to initial training program development and mentor work, as well as expert support to the JA work.

When realizing educational programs in 2012, Judicial Academy was supported by the following donors: EC Delegation in Serbia, USAID (CPC and court managers), UNWOMEN (socio-economic rights of women), UNODC, UNDP (sexually based violence), UNICEF (juvenile justice), OSCE Mission to Serbia (CPC, Anti-Discrimination, Cybercrime), IRZ (commercial court judges) and GIZ (insolvency law), EIPA (EU law in commercial disputes), Council of Europe (human rights).

The OSCE, with financial support from the governments of the Netherlands and Norway, provides assistance to the Judicial Academy in the establishment of an initial training programme for candidate judges and prosecutors and of a mentor system at the Academy; to the HJC in its institution building and in the areas of disciplining and evaluating judges; and to criminal procedure reform. The government of the Netherlands provides support to the Judicial Training Academy in the field of Administration of Justice in Cross-border disputes.

#### Relevant projects related to the Measure 2

IPA 2007 project Improvement of the Penalty System- within this project it was supported construction and reconstruction of the prison facilities in Nis and Krusevac. Project has been implemented.

IPA 2010 project VET support to Serbian Detention Facilities, (2010-2013) Project purpose is to assist the Ministry of Justice in the establishment of a sustainable and productive system of vocational and educational training (VET) in prisons, and the overall objective is to improve the employability of adults serving a prison sentence, thereby facilitating their re-socialisation after release. All aforementioned is fully in line with priorities of Serbian Prison Administration as they are set in a Strategy for the Development of System for execution of Criminal Sanctions. Project will be finalised in September 2013. During its implementation, project will, as pilot activities, implement training programs for 5 vocational clusters (welding, screen printing, fabrication and assembly of furniture, bakery, and production of early vegetables) and provide necessary handbooks and teaching material. Three prisons (Nis, Sremska Mitrovica and Zabela) are enrolled in this project and some 500 prisoners should receive training. Finally, A clear overarching conception for introduction of VET in Serbian detention facilities will be developed based on the results during the pilot implementation in 3 prisons, encompassing at least 500 prisoners in 5 vocational clusters. This Conception will serve as a guideline for introduction of additional vocational clusters as well as for the spreading of the network of Penal institutions in which VET will be available

after the finalisation of this project.

CEB - Ministry of Justice negotiated for the loan from CEB for the Project Modernisation of prison facilities. It was planned to improve conditions within the prison faculties in Pancevo and Kragujevac.

Program of Norwegian bilateral assistance for 2012 supported implementation of the project „Improvement of the accommodation quality and capacity of the Penal and Correctional Institute in Valjevo“, which will be implemented in the period 2013 – 2015. Project will significantly contribute to the improvement of the system for serving sentences for juveniles by upgrading of the facility conditions within this Prison Institute and by strengthening of the specialized educational and treatment programs for juveniles.

### Relevant projects related to the Measure 3

IPA 2007 project Implementation of priorities in the area of human rights and protection of national minority groups has been implemented from December 2010 – November 2011 in the former Ministry for Human and Minority rights (MHMR), and subsequently in the former Directorate for Human and Minority rights (DHMR). The project consisted of four components:

- Components I and II: Strengthening institutional of MHMR and line ministries to monitor human rights and protection of minorities' standards.
- Component III: Capacities of National Minority Councils and Local Governments enhanced to implement Minority Rights standards.
- Component IV: Public awareness raised on the key aspects of human rights and protection of minorities protection.

IPA 2011 project *Implementation of Anti-Discrimination Policies* which recently started, has a purpose to increase effectiveness and efficiency in implementation of anti-discrimination policies in line with EU standards and best practice. Beneficiaries of the project are OHMR and CPE. Activities are divided into three components (one capacity building for each of the beneficiary, and one jointly implemented awareness campaign). Main expected results are:

- OHMR is effectively capable to design and implement promotional and preventive activities in close cooperation with the concerned Local Self Governments (LSGs).
- A system for efficient communication and referral exists allowing victims, their associations and CSOs to increasingly submit cases for CPE's processing in accordance with its mandate.
- Police officers increasingly comply with their duties and obligations towards vulnerable individuals and groups (different types of trainings developed and implemented for police officers on all levels).

The EU Program Progress supported the Commissioner for the Protection of Equality through financing the project 'Going beyond the legislation: promoting implementation and mainstreaming of antidiscrimination and equality in Serbia' (JUST/2011/PROG/AG/1899). The project was implemented in the period December 2011/ December 2012. Main objectives of the project were better implementation of the national antidiscrimination legislation, developing the national policy to combat discrimination and promote equality beyond legislation and fostering the dissemination of information on EU and national policy and legislation in the antidiscrimination field. All this has been achieved through a set activities divided in three components - Increased Capacity of the Judiciary in implementing antidiscrimination legislation, through education of media representatives, and mainstreaming of tools and Capacity Building of the CPE. EU Programme Progress has supported OHMR

(and former DHMR) by engaging a programming advisor for enhancing the coordination of projects by National Councils of National Minorities since April 2012-march 2013.

As there have been a significant number of interventions through development assistance in the respective sector, there are several important key messages and lessons learnt for the more successful implementation of future sector measures. They can be summarized as follows: it is of utmost importance to program only the interventions mature enough for the implementation, maturity being reflected in the preparedness of strategic framework linked to accession priorities, in existence of administrative structures to implement strategic priorities and in commitment of policy decision-makers to pursue the agreed reforms; Given the complexity of the sector scope and the underlying institutional setup – the number and the variety of stakeholders which are the carriers of sub-sector policies - the success of any intervention is directly proportionate to the extent of readiness of institutions to cooperate, share and exchange information; Availability of up-to-date sector assessments and targeted analyses is essential as well as the awareness of sector stakeholders of the data and statistics contained therein; The feasibility of the priorities supported through development assistance is likely to increase with a better convergence of development partners and their synergies in a more formalized manner (the examples of MDTF, Regional Housing Program).

Currently, there is on-going a number of evaluations aimed at providing information on effectiveness of IPA and development assistance in relevant sectors in the past period and drawing conclusions and recommendations for the future planning of assistance. They include: EC funded evaluations of assistance implemented and financed by IPA programs and other donors in the Republic of Serbia per sector; IPA Interim Evaluations and meta-evaluation of IPA assistance, funded by the EC; and Evaluation of Effectiveness and Efficiency of Development Assistance to the Republic of Serbia per sector in the period 2007-2011, initiated by SEIO and implemented with the Sida support. Also, EC has initiated a project “Monitoring and Evaluation Capacity Building in Western Balkans and Turkey”, implemented by the World Bank, in order to assist the beneficiary countries in strengthening capacities in monitoring and evaluation, with a focus on defining the performance indicators on the sector level.

For the mechanism of donor coordination and sector working groups please refer to section 2.2.2.

### **3.6. SUSTAINABILITY**

The sector support needs as presented in the SF involve substantial number of interventions in terms of capacity building, trainings, procedural framework development and equipment supply. The assistance interventions are opted for on the basis of strategies or policy papers adopted by the Government and as such represent steps in attaining objectives contained therein. This increases the sustainability prospects as the IPA assistance shall complement the efforts of national administration - rules, regulations, mechanisms, standards and training curriculums to be developed, will be elaborated in close cooperation with beneficiary departments and together with on-the-job or general trainings will secure sustainable integration into every day practice. The interventions involving supply of equipment are in the most of cases accompanied by technical assistance which shall provide expertise both to national staff directly involved with using/exploitation of the equipment and the technical staff in charge for equipment maintenance tasks or software updating. Maintenance costs after the horizon of IPA support, continuation of trainings programmes, work of local/branch offices, and public awareness shall be supported through government funds.

### **3.7. ASSUMPTIONS AND PRECONDITIONS<sup>8</sup>**

Following assumptions should be considered:

- Political willingness to support the judiciary reform;
- National Judicial Reform Strategy implementation initiated and Action Plan for the period 2013 – 2018 adopted.
- Sound cooperation and coordination between all relevant institutions;
- Adequate national budget allocated to support continuity in the judiciary reform notably to fulfil the entire systematisation / staffing plans of the two councils and the JA prior to project inception;
- National Antidiscrimination Strategy implementation initiated and Action Plan adopted.
- Department for treatment and alternative sanctions and probation unit fully functional and adequately staffed.
- Active interest of the participants on the training sessions;
- Active participation of NGOs and media.

As there are several interventions involving supply contracts, preconditions directly linked to those operations shall consist of elaborating of complete technical specification documents.

The following pre-conditions are to be met and verified before the contracts for measure 1 are concluded:

- The independence of the HJC and SPC continues to be ensured through the relevant strategies and legal framework in Serbia;
- Serbia remains committed and continues to work towards the development of the Judicial Academy as the single entry-point into the judicial professions;
- Project documentation prepared and relevant permits obtained for the implementation of the works for Prison Institute in Pozarevac.
- The supply of equipment for prisons should be pre-conditioned by the confirmation that storage and installation space and appropriate maintenance capacities for the equipment is available, as well as required consumption materials.

## **4. IMPLEMENTATION ISSUES**

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<sup>8</sup> Assumptions are external factors that have the potential to influence (or even determine) the success of a project but lie outside the control of the implementation managers. Such factors are sometimes referred to as risks or assumptions but the Commission requires that all risks shall be expressed as assumptions. Pre-conditions are requirements that must be met before the sector support can start.

#### 4.1. INDICATIVE BUDGET

**Indicative budget (amounts in EUR) (for decentralised management)**

SECTOR TITLE			SOURCES OF FUNDING										
			TOTAL EXPENDITURE	TOTAL PUBLIC EXPENDITURE	IPA CONTRIBUTION		NATIONAL PUBLIC CONTRIBUTION						PRIVATE CONTRIBUTION
	IB (1)	INV (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)
Measure 1.1													
Operation 1.1	X		2,000,000	2,000,000	1,900,000	95	100,000	5	100,000				
One Twinning contract for building capacities of High Judicial Council and State Prosecutorial Council.													
Measure 1.2													
Operation 1.2	X		2,100,000	2,100,000	1,890,000	90	210,000	10	210,000				
TA – Service contract for strengthening of the consistent													



judicial system of the Republic of Serbia and functioning of new structures within new competences of the Judicial Academy.													
Measure 2:													
Operation 2.1.Twinning contract for educational activities	X		1,000,000	1,000,000	950,000	95	50,000	5	50,000				
Operation 2.2.Supply contract for agricultural machinery and solar equipment		X	1,500,000	1,500,000	1,275,000	85	225,000	15	225,000				
Operation 2.3.Works contract for female prison Pozarevac		X	2,700,000	2,700,000	2,295,000	85	405,000	15	405,000				
Operation 2.4Supervisi	X		300,000	300,000	270,000	90	30,000	10	30,000				

on of works													
Measure 3:													
Operation 3.1. Twinning contract	X		1,200,000	1,200,000	1,140,000	95	60,000	5	60,000				
TOTAL IB			6,600,000	6,600,000	6,150,000	93	450,000	7	450,000				
TOTAL INV			4,200,000	4,200,000	3,570,000	85	630,000	15	630,000				
<b>TOTAL SECTOR SUPPORT</b>			<b>10,800,000</b>	<b>10,800,000</b>	<b>9,720,000</b>	<b>90</b>	<b>1,080,000</b>	<b>10</b>	<b>1,080,000</b>				

*NOTE: DO NOT MIX IB AND INV IN THE SAME OPERATION ROW. USE SEPARATE ROWS*

Amounts net of VAT

- (1) In the Operation row, use "X" to identify whether IB or INV
- (2) Expressed in % of the **Public** Expenditure (column (b))
- (3) Expressed in % of the **Total** Expenditure (column (a))

## 4.2. INDICATIVE IMPLEMENTATION SCHEDULE (PERIODS BROKEN DOWN PER QUARTER)

*Dates indicated in the schedule cannot go beyond the contracting and execution deadlines in the financing proposal*

Operations	Start of Tendering/ Call(s) for proposals	Signature of contract(s)	Activity Completion
Operation 1.1- Twinning contract	T + 1Q	T + 3Q	T + 13Q
Operation 1.2 - Service contract	T + 1Q	T + 3Q	T + 13Q
Operation 2.1 - Twinning contact	T + 1Q	T + 3Q	T + 13Q
Operation 2.2 - Supply contract	T + 1Q	T + 3Q	T + 13Q
Operation 2.3 - Works contract	T + 1Q	T + 3Q	T + 13Q
Operation 2.4 - Supervision of works	T + 1Q	T + 3Q	T + 13Q
Operation 3.1 - Twinning contract	T + 1Q	T + 3Q	T + 13Q

All operations should in principle be ready for tendering in the 1<sup>ST</sup> Quarter following the signature of the FA.

## 4.3. CROSS CUTTING ISSUES

### 4.3.1 *Equal Opportunities and non discrimination*

Equal opportunities for men and women will be guaranteed as integral part of implementation of this project. It is expected that gender equality will be fully observed in training component, including designing training curricula and initial and continuous education on Judicial Academy.

Also, male and female prisoners will have same opportunities in terms of education, re-socialization and employment trough the implementation of this project.

All further research and analyses will be conducted using gender-sensitive methodology.

### 4.3.2 *Environment and climate change*

The environmental impact of this project will be limited. It will not have a negative impact on the environment nor jeopardise environment, health and security in the future. The project will be delivered in the most environmentally friendly way possible, including the recycling of paper and the reduction of paper-based activities to the absolute minimum, including through distribution of project materials through uploading them on intranet/internet.

### 4.3.3 *Minorities and vulnerable groups*

The improvement in the judiciary's various institution functioning through several measure planned within this sector fiche will enhance the responsiveness of courts towards all citizens including those belonging to national minority groups. Beside that separate measure is designed to support advancement of human rights and zero tolerance to discrimination.

### 4.3.4 *Civil Society/Stakeholders involvement*

Civil Society in the area of Rule of law is represented by the following organisations: Belgrade Centre for Security Policy, Belgrade Centre for Human Rights and Group 484.

These organisations actively participated in the identification of priority areas for preparation of the document Needs Assessment, in cooperation with the Ministry of Interior and Ministry of Justice and Public Administration, through the consultation process organised and coordinated by SEIO. During sector fiche preparation, the organisations provided constructive comments of the proposals, which contributed to balance and better sector fiche.

During implementation, the civil society will be invited for meetings, and they may suggest improvement of implementation, within the framework of EU project implementation regulations.

#### **4.4. SECTOR MONITORING, EVALUATION AND AUDIT**

Monitoring of the progress in sector support implementation will be done in accordance with the rules and procedures for monitoring under Decentralized Management (DM), as specified in the DM Decree and DM Manuals of Procedures. Manuals of procedures include detailed procedure for monitoring on different levels (contract, sector support/ project, IPA TAIB Sub-Committees, IPA TAIB Committee, IPA MC), with clear responsibilities and deadlines in the monitoring process. Specifically, it is envisaged that on the spot checks (monitoring visits, verification checks and supervisory checks) will be performed throughout the implementation process by the SPO and CFCU, as part of the contract management activities, while regular monitoring of the implementation will be done through the Steering Committee meetings and regular reporting by the Contractor. In addition, IPA monitoring process organized and lead by the NIPAC/ NIPAC TS includes regular meetings of Monitoring Committees on different levels, examining relevant monitoring reports and providing recommendations for ensuring delivery of planned results, as well as follow up of their implementation. With regards to the monitoring of sector support, it is envisaged that responsible SPO submits a Sector Support Monitoring Report to NIPAC twice a year, in a prescribed template. After quality check, NIPAC TS prepares the TAIB Sub-Sector Monitoring Report to be examined by the relevant Sector Monitoring Sub-Committee (SMSC), in this case- SMSC for Justice and Home Affairs/Rule of Law sector. Report examined by the SMSC is envisaged to include information on status and progress in implementation of all relevant sector support/ projects in that respective sector. Depending on the issues/ problems identified, conclusions and recommendations of the SMSC may be taken forward to the TAIB MC and ultimately, the IPA MC. Monitoring process envisages participation of various stakeholders such as EC/EUD, NIPAC/ NIPAC TS, SPO/IPA Unit, CFCU, NF, AA and other institutions and civil society organizations per need.

Evaluation and audit of sector support will be done in accordance with the Decentralized Management rules and procedures, defined in the DM Decree and DM Manuals of procedures. In line with IPA IR, Manuals of procedures envisage responsibility of the national authorities to provide for the IPA Interim evaluation, while other types of evaluation (ex ante, ex post, thematic, etc) may be initiated by national institutions on ad hoc basis and per need. With regards to the audit, procedures on internal controls under decentralized management regulate in detail various types of audit to be performed (internal and external), audit planning, carrying out of audits, following up on audit recommendations and reporting on follow up activities.

