

Inaugural meeting of the “SAA Structured Dialogue on Justice between the European Union and Bosnia and Herzegovina”

Banja Luka (Bosnia and Herzegovina) 6-7 June 2011

First set of preliminary recommendations from the European Commission

On the implementation of the Justice Sector Reform Strategy (JSRS), the European Commission:

- Stresses that the JSRS is mindful of the respective competencies of the different institutions at the State, Entity, Brčko District and Cantonal level, and addresses many issues that are relevant to the future European integration of Bosnia and Herzegovina.
- Recommends that relevant authorities assess the state of their current coordination and cooperation in the implementation of the JSRS. They shall in particular focus on the identification of shortcomings, address them in a timely manner and allow reviving the implementation of the strategy.

- In this regard, encourages all competent authorities to guarantee active, effective and constructive participation in the Working Groups and the Technical Secretariat for the JSRS implementation.
- Encourages all relevant authorities and institutions to engage in a constructive debate for the identification of measures that can further improve independence, professionalism and accountability throughout the sector.
- Stresses the importance of tackling the backlog of cases in an effective and timely manner. In this regard, specific legislative measures to address utility cases shall be finalised as soon as possible, and be implemented systematically, prioritising the most affected courts throughout the country. Additional measures should also be considered to off load courts of cases that can be transferred to other institutions (e.g. notaries).

On the implementation of the National War Crimes Strategy (NWCS), the European Commission:

- Encourages Prosecutors' offices and Courts at all levels to process war crimes cases by dedicating all necessary professional commitment to this endeavour.
- Encourages the relevant Ministries of Justice and Finance to guarantee the requisite financial and human resources to support the processing of war crimes.

- Encourages all competent authorities and institutions to handle the process of referrals of war crimes cases in an expeditious, objective and transparent way.
- Reminds that regional cooperation is an essential objective for the consolidation of the membership perspective of all Western Balkans countries. More specifically, enhanced regional cooperation should also be functional to ensure that no war criminal escapes justice.
- Encourages all relevant authorities to strengthen their efforts in coordinating practices on the use of the applicable law in war crimes cases. A consistent and coherent practice, in full respect of the relevant principles in the European Convention on Human Rights, shall be guaranteed.

On the coordination of competences, the European Commission:

- Recalls that effective cooperation between judicial authorities and institutions is a necessary precondition for the entrenchment of the Rule of Law.
- Underscores the importance of the High Judicial and Prosecutorial Council in the development of the Rule of Law. Welcomes technical discussions to further consolidate its functions by securing a proper balance between independence and accountability.

- Encourages the BiH Ministry of Justice to give a proper follow-up to the debate in the ad hoc working group that in March 2008 finalised a technical opinion on the institutional reform of the appellate system in place at the Court of Bosnia and Herzegovina.
- Recommends that all relevant authorities strengthen their efforts to better assess the possibility of harmonization of the substantive and procedural legislation (Criminal and Civil Codes, Procedural Codes) between the entities, Brčko and the state level in order to ensure the equality of citizens before the law.

On the issues of equal access to justice, juvenile justice and the prison system, the European Commission:

- Calls upon all relevant stakeholders to complete and harmonise the relevant legal frameworks, with a view to ensuring equality before the law and the alignment to European and international standards in these areas.

On budgetary issues, the European Commission:

- Agrees with the largely supported statement that judicial independence and effectiveness of the sector cannot be guaranteed without sufficient financial resources. These shall be consistently

allocated through transparent, properly coordinated and more effective budgetary planning.

On follow up to the inaugural meeting of the structured dialogue, the European Commission:

- Encourages all the relevant authorities to continue the debate on the basis of these recommendations.
- A thorough and detailed follow up shall be given to the request for technical information that was handed over by Commissioner Štefan Füle to BiH Minister of Justice Bariša Čolak at the inaugural ceremony of the structured dialogue.
- All competent authorities and institutions are expected to provide detailed relevant information and, in doing so, guarantee that the deadline of 31 August 2011 be respected.