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**Judicial System Assessment Programme
(JSAP)**

Tuzla Team

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JSAP Final Reports

The attached Final Report is one of seven prepared by the staff of JSAP's regional offices and its special office in Livno. They are intended as "handover documents" to provide the Independent Judicial Commission and other agencies involved in judicial reform with a "snapshot" of the state of the judicial system throughout Bosnia and Herzegovina as of November 2000. There was no standard format for these reports. Each team was able to focus on the particular problems and concerns which it had dealt with in its area of responsibility. The reports do not purport to cover all of the work of JSAP during the period of its mandate (November 1998 – November 2000). Instead, they are intended to serve as a guide for international community and the legal community of Bosnia and Herzegovina in their attempts to reform the judicial system and establish the rule of law.

The views expressed in these reports are those of the regional teams, and may not reflect the opinions of JSAP's Main Headquarters, UNMIBH or the United Nations.

1 Introduction

It is now almost two years since JSAP became fully operational¹ and the Tuzla JSAP team as one of the originally seven regional teams started its work. During this period, our team reported weekly about its activities and also took part in the drafting of several thematic reports published by JSAP. However, the imminent closure of the programme requires a final report which, without being exhaustive, will aim at highlighting the main field of activities undertaken by our team and its achievements.

Prior to that, it may be useful to recall that the Tuzla JSAP team successively comprised one or two international judicial system officers², one national professional officer³, one senior language assistant and one administrative clerk/language assistant⁴. A comprehensive review of the court system in the Area of Responsibility (AOR)⁵ was initially completed, focusing on its institutional aspects while concurrently the Team covered several thematic research work in specific fields such as the implementation of the provisions of the new Federal Criminal Code in Tuzla Canton (TK), or sentencing policies in both Entities.

This report concentrates on activities of special interest undertaken by the team since the arrival of its last Team Coordinator and covers the period mid 1999 – September 2000. It is divided into three parts:

- 2 Problems Affecting the Functioning of the Judiciary and Actions Undertaken by the Tuzla JSAP Team Which Led to Recommendations, Statements or Thematic Reports**
 - 2.1 Provisions of the Laws on Courts Impeding Judicial independence.**
 - 2.2 Obstacles and Actions in the Field of Court-Ordered Evictions in both Entities**
 - 2.3 Problematic Areas of the Minor Offense Proceedings**
 - 2.4 Media Attacks Against Judges: Freedom of Expression Versus Necessary Respect Due to the Judiciary**
 - 2.5 Pilot Study in the Framework of the Judicial Review**
- 3 Indirect and Direct Actions Aiming at Fostering Inter-Entity Cooperation.**
- 4 Monitoring of Sensitive Cases (including the Vikalo case, the Kerovic case and the Bratunac and Janja incidents).**

¹ Security Council Resolution 1184 (1998) of 16 July 1998. Under this Resolution JSAP was set up to monitor and assess the court system as part of an overall programme of legal reform as outlined by the Office of the High Representative (OHR). JSAP is a natural extension of the mandate of the Mission under Annex 11 of the Dayton Agreement, which includes the power to observe judicial proceedings.

² John Cubbon, a lawyer from the UK (Nov. 1998-Feb. 1999), Juan Pablo Ordonez, a prosecutor from Colombia (Nov.1998-April 1999), Ahmed Dabo, a judge from Senegal (April-November 1999), Peter Korneck, a prosecutor from Germany (February-July 2000), and Catherine Marchi-Uhel, a judge from France (March 1999 – October 2000)

³ Nusret Mesic (lawyer, military public attorney before the war)

⁴ Varija Zurapovic and Nenad Trifkovic

⁵ Cantonal and Municipal Courts and Public Prosecutors Offices in Canton 3, Basic and Minor Offense Courts in certain parts of Eastern RS including, Zvornik, Valsenica, Milici, Srebrenica and Bratunac.

2 Problems Affecting the Functioning of the Judiciary and Actions Undertaken by the Tuzla JSAP Team Which Led to Recommendations, Statements or Thematic Reports

2.1 Provisions of Laws on Courts Impeding Judicial Independence.

By mid-1999, the JSAP Tuzla team had focused on the functioning of court departments and identified a few provisions of the TK Law on Courts which permit sessions of court departments and court presidents to have an influence on decisions of panels of judges which could undermine judicial independence. After comparing the TK situation with the one in other Cantons and the RS, JSAP Tuzla discovered that actually the Laws on Courts of nine out of the ten Cantons as well as in the RS were problematic and suggested corresponding amendments. The A/SRSG brought the issue to the attention of the Ministers of Justice of all Cantons, except Zenica-Doboj, on that issue and sent them a recommendation prepared by JSAP on 20 July 1999. The issue was also shared with OHR, which at that time was working on a draft of the corresponding legislation with the RS authorities.

It was observed that the provisions in question whereby conclusions (legal positions) adopted at sessions of a court department are *binding* for all panels of judges within the department might provide a mechanism for political influence on, and control of, the judiciary. JSAP also considered that breaches of Articles 8, 9, 10 or 11 of the European Convention on Human Rights (ECHR) and Article 1 of Protocol 1 of the ECHR may arise because the decisions of court departments are not available to the parties.

The Laws on Courts also permit court presidents to delay the delivery of the transcript of a decision of a panel of judges and initiate a process leading to a review of the case by the panel. This direct intervention by judges who did not sit in the trial panel or attend the hearings is not compatible with the principle of judicial independence enshrined in Article 6(1) of the ECHR.

Several cantons accordingly amended their legislation and that was the case in Tuzla Canton in September 1999, the Cantonal Assembly having adopted the amendments to the TK Law on Courts proposed by the Government upon JSAP recommendation.

2.2 Obstacles and Actions in the Field of Court-Ordered Evictions in Both Entities

In late 1999, JSAP Tuzla conducted an audit of the enforcement of eviction cases in one court in each Entity, since each court has a different approach in that field, for the purpose of comparison. First, at the Tuzla Municipal Court (Federation), fifteen case files were reviewed and two evictions in sensitive cases were monitored; meetings were also organized in order to assist local law enforcement agencies, courts and court police to coordinate their action. This led to a successful sensitive eviction that was the first in a continuous positive and productive process in that arena. Second, at the Bijeljina Basic Court (RS), 26 case files were reviewed. Interviews were also conducted in each court with the judicial officers in charge. The following comments can be drawn from this assessment. In considering the question of eviction through the courts system, JSAP identified three main problems, namely political pressure, the lack of alternative accommodation and its weight in the eviction process and poor cooperation with the local police, as well as security problems for the judges and bailiffs in charge of the enforcement.

As for political pressure, due to its sensitivity, the enforcement of evictions is clearly an area where political pressure is likely. Throughout BiH, eviction cases have been the subject of attempts by authorities at various levels to influence the enforcement of court decisions both on a general and an individual case basis. These unacceptable influences were reflected in delays in court and failure to enforce court-ordered evictions, which as such breach the rights guaranteed by the ECHR. If the plaintiffs are refugees or displaced persons, political influence is also inconsistent with the OHR-inspired legislation and the Dayton Agreement, which recognise the right of all refugees and displaced persons to freely return to their homes of origin and to have restored to them the property of which they were deprived in the course of hostilities since 1991.

In the Federation, in March 1998, after a set of housing laws was passed, the Federation House of Representatives adopted a conclusion on their implementation, including a statement that there should be no forcible eviction unless the evictee was provided with alternative accommodation. More recently, in early September 1999, BiH Presidency Member Alija Izetbegovic made public statements, later “clarified”, suggesting that government officials and members of the judiciary should disregard the law and not issue eviction orders in certain cases concerning refugees.

However, we must stress that even if former influences of that kind affected the enforcement process, recently the judges we talked to denounced this attitude of politicians and we had the impression they used JSAP interest in that field and the support we provided them to adopt a more rigorous and courageous attitude. This was reflected in the fact that they started implementing sensitive evictions that eventually had a positive impact on the whole process.

In the RS, such interference usually echoes the attempts made at local or national levels to influence the administrative authorities dealing with evictions and confirms that the judiciary is far from being yet perceived as an independent institution. A clear example of such practice lies in the conclusions adopted by the RS National Assembly (RSNA) regarding evictions preceding or following the adoption of new property legislation.

This occurred in 1998, and again in 1999 when the RSNA adopted a conclusion that suspended evictions of certain categories of persons from 1 November 1999 to 1 April 2000. It was followed by a Decision of the High Representative, on 16 November 1999, annulling the above Conclusion adopted by the National Assembly. However, JSAP’s assessment of the court reaction to the latter conclusion indicates that evictions have not been suspended in the Bjieljina Basic Court, contrary to what happened in 1998. The judges there even consider that the political and social context is more favorable to the enforcement of court decisions in this delicate field⁶.

As for the lack of alternative accommodation and its weight in the eviction enforcement process, eviction cases can reveal a conflict of different rights: the right of the original occupant or owner to repossess his house or apartment and the right of the evictee to be provided with alternative accommodation. Sometimes both parties are refugees or displaced persons. OHR decisions on property laws aimed to clarify, amongst other things, the right to alternative accommodation by restricting it to those who are in genuine humanitarian need.

⁶ It must be noticed that it occurs at a time where evictions of double occupants by administrative organs in Bjieljina are moving forward under the scope of property commissions at which representatives of administrative organs, court and police officials as well as members of the international community participate.

But despite these decisions, some questions remain. For example, if the person to be evicted is a displaced person or refugee who has a decision from the administrative organ guaranteeing his entitlement to alternative accommodation and he produces this at the court-enforcement stage, how does that affect that process? There is no clear answer. The courts can use this gap to delay or fail to enforce an eviction if the alternative accommodation has not been actually provided. In fact, many judicial officials in either Entity do not hide the fact that they apply, more or less strictly, a rule that has no legislative basis - that no person will be evicted by court process unless they have alternative accommodation. The addition of this condition precedent to any eviction action renders the process impotent in many cases. Plaintiffs are often forced to enter into informal agreements with the defendant-tenant to allow them to move into the premises, ranging from delay in taking possession to cash payment. In most of these cases, the court decision is simply not enforced at all. If the courts do act, multiple postponements allow the defendant and the responsible local authorities time to find alternative accommodation. There were many cases in the Tuzla Municipal Court in which the eviction process has been stretched for more than two years without any final enforcement anticipated. Many attempts are made before an eviction is successful, in one case nineteen.

However, even in this context, improvements were seen after JSAP focused upon evictions in Tuzla, reviewing all outstanding cases⁷ and working together with the officials concerned. With JSAP support, the following strategy was adopted by the court.

Often alternative accommodation was not available or suitable and so the occupants did not want to move out. Previously, the administrative organs had ignored the court's requests for assistance. However, JSAP initiated contact between the institutions and relations improved with useful exchanges of information.

The court prioritised cases where illegal occupants refused to move out even though they had alternative accommodation and cases where persons to be evicted were not entitled to alternative accommodation. If there was a prospect of alternative accommodation, the judge sent a list of the cases concerned to the competent administrative organs, asking for clarification of the status of the persons to be evicted and alternative accommodation possibilities. This resulted in alternative accommodation being provided in a number of cases where the occupants were due to be evicted upon court order.

JSAP and the IPTF monitored a sensitive case of eviction pending since 1996, which eventually proved successful. The case also presented the opportunity to establish a security plan including regular and court police and strengthened the authority of the enforcement department. Investigations were undertaken at the request of the Municipal Prosecutor against persons suspected of obstructing the eviction process and indictments were finally laid against the adults concerned.

However, in a different case, JSAP assessed fourteen unsuccessful eviction attempts by the Tuzla Municipal Court and got the impression that all parties, including the judge and the police officers, were playing to a well-known score. Everybody knew that the eviction was unlikely to be performed (the case was later on eventually enforced after the administrative organs provided an alternative accommodation to the judgement debtor). Both cases illustrate the difficulties and margins of action in this field.

⁷ 75 at mid-1999.

Because of changing methods of keeping statistics and difficulties in interpreting them, it is impossible to provide any definite figures, but it seems clear that there has been a significant improvement in the rate of successful evictions in the Tuzla Municipal Court over the period monitored by JSAP and that this continued in 2000. This might be attributable to a variety of factors, including the attention of JSAP, the allocation of an additional judge to the enforcement department and the improving political environment. The enforcement judges in that court now report that most evictions are carried out within three months of them receiving the case. As of September 2000, the Tuzla Municipal Court does not have any backlog from previous years, which in our perception constitutes a significant improvement.

By contrast to this humanitarian approach, some courts, at least officially, adopt a more legalistic approach, refusing to consider the lack of alternative accommodation as a reason for postponement and do not even contact the administrative organs for that purpose. One example is the Bijeljina Basic Court, although by 1999 that approach had not improved the number of evictions performed (only ten evictions carried out in 1999, an increase of only two from the eight performed in 1998). However, the judges stressed that the context in which evictions are performed has improved. They expected a significant improvement in 2000, although as only one has so far been carried out so far and ten new cases filed, this may have been optimistic.

One of the two judges interviewed considered that several factors facilitate the court's activity in that field: the political context is more favourable due to influence of international organisations; the local police no longer refuse to assist the court; information given in the media focussing on the need to enforce court decisions and evictions has led to a reduced resistance from evictees and encourages them to find alternative solutions before a forcible eviction takes place.

Improvement may be seen, as in the Tuzla Municipal Court, in the relative acceleration of the process. Out of the ten evictions carried out in that court in 1999, six were performed within less than six months and four in less than three. By contrast, two evictions performed in 1998 had taken three and four years. Although police assistance was requested in most of the cases in 1999, a significant amount of the eviction orders were implemented without use of force. It is also remarkable that JSAP discovered very few requests for postponements from administrative and other organs in 1999, although they had been frequent in previous years. The same judge agreed that this new context also allows and requires a significant improvement of the court efficiency in that field (45 cases are still pending including some cases from 1996, 1997 and 1998).

As for the poor co-operation with the local police, another obstacle to enforcement of court ordered-evictions has been the failure of the police to attend evictions on the spot or to execute court-ordered evictions, often challenging the legality and authority of the court's decision.

The judges in charge of evictions at the Bijeljina Basic Court said that obstruction by the police was frequent until 1998 but improved significantly in 1999. The judge in charge of evictions at the Tuzla Municipal Court said that he did not face any obstruction from the police side, but there was clearly a need to co-ordinate when the court started to implement particularly difficult eviction cases. It took place in the context of entry into action of the newly created court police. Where court police do exist, as in Tuzla Canton, both

enforcement of court decisions and the security of judges and other court officials has improved. However, this required co-operation between the different actors involved, which JSAP initiated. This led to the development of the first security plan including court police, and specialised regular police officers experienced in dealing with issues of crowd control and general security in liaison with the Ministry of Interior and the judge in charge. The plan proved successful and even had an impact on the increasing number of persons vacating accommodation and handing over the keys before forcible eviction takes place.

The JSAP Tuzla team has already presented its findings in this sensitive field to the international community and local judiciary members at an International Human Rights Law Group forum of practitioners on the enforcement of judgments (Sarajevo, December 1999). It also participated in a working session on the draft of a new Federal Law on Enforcement of Court Decisions organized by ABA/CEELI (Sarajevo, February 2000). Since then, these findings have been incorporated in a JSAP Thematic Report on the Enforcement of Civil Court Decisions in BiH, to be published by the end of 2000.

2.3 Identification of Problematic Areas in Minor Offence Proceedings

Following up on the JSAP Thematic Report on Minor Offences Courts (MOC), and discussions held on the conclusions of that report with the minor offence court judges, JSAP Tuzla took the initiative, in cooperation with the Ministry of Justice of Tuzla Canton, to organize a meeting for judges in minor offence courts in both Entities, namely Tuzla Canton, Posavina Canton, Bjeljina and Doboje Districts.

The meeting chaired by the Head of JSAP and Tuzla Canton Minister of Justice Trumic, took place on 4 November 1999, at the Hotel Bristol in Tuzla. It focused on "the need for minor offence proceedings to meet the conditions set forth in Article 6 of the European Convention on Human Rights (ECHR)" and also the status of minor offence courts. The meeting, widely attended, was the forum for an unprecedented initiation to the ECHR and inter-Entity exchange of views amongst judges for minor offenses and in conjunction with representatives of the international community about the status of minor offence courts.

Written documentation had been prepared by JSAP Tuzla and was distributed to participants in order to support an oral presentation on this theme. It included a presentation of the above procedural guarantees, as well as a chart comparing those guarantees with provisions of the current Laws on Minor Offences in Tuzla and Posavina Cantons and the RS. For those provisions not in compliance with ECHR requirements, the solutions found in the Federal Criminal Procedural Code were included.

The oral presentation detailed some of the practical applications of these provisions as far as minor offences proceedings are concerned, such as the right to an impartial tribunal; the right to a hearing in one's presence, the right to be informed promptly and in detail of the nature and the cause of the accusation and to have facilities and time for the preparation of one's defense; and the right to defend oneself in person or through legal assistance.

Inconsistency of certain provisions of the domestic Laws on Minor Offences with the principle of a right to a fair trial was also stressed as well as shortcomings observed by JSAP while assessing minor offences proceedings; examples will be given on how the above principle was incorporated into the new Federal Criminal Procedure Code.

With the support of the Council of Europe, all courts represented were provided with a copy of the ECHR as well as the book "Short Guide to the European Convention on Human Rights" in the local language.

Before the meeting, contact had been established with Goran Salihovic, the President of the Tuzla Minor Offences Court and member of the Association of Judges of Minor Offences Courts in the Federation, who welcomed the JSAP initiative as well as the need to amend the existing legislation in order to comply with ECHR requirements. During the meeting he stressed the problem emanating from the existence of twelve Laws on Minor Offence Courts in BiH. He called for JSAP assistance in this project. He then stressed that the gap between salaries of minor offence court judges and regular courts will be huge when the new legislation regarding salaries of the latter will come into force, and will encourage minor offence court judges to leave ⁸. He called for recognition of minor offence courts as courts that shall be as independent as regular courts and fulfill the necessary requirements in terms of qualification. He also stressed the need for unique minor offences procedural rules.

Overall, the meeting was successful. Many judges expressed satisfaction regarding JSAP and the initiative of the Tuzla Canton Ministry of Justice. As such, the participation of judges from both Entities was a success and it was a unique experience for judges for minor offences from both Entities to share views and express their concerns. We heard afterwards that during the breaks, the idea emerged of further contacts between members of the Association of Judges of Minor Offence Courts in the Federation with judges from the RS interested in creating the same kind of association. JSAP was asked to facilitate this project by organizing a special meeting with RS judicial authorities and representatives of the Federation association for that purpose.

Since the Meeting, Mr. Goran Salihovic has presented to JSAP a draft Law on Minor Offences, prepared for the Association of Judges of Minor Offence Courts in the Federation and aiming at replacing the eleven existing laws on minor offenses in the Federation.

2.4 Media Attacks Against Judges: Freedom of Expression Versus Necessary Respect Due to the Judiciary

Concerned about the increase in the second part of 1999 of public statements made in the media comprising unfounded attacks against members of the judiciary in the Tuzla Canton, JSAP Tuzla, after having met several representatives of the local judiciary including judges and prosecutors as well as the Minister of Justice and his Deputy, prepared talking points for the Head of JSAP, including research into relevant ECHR case law, in order to prepare a meeting with the President of the Association of Judges of the Federation of BiH.

As a result of these contacts, a joint public statement was made by UNMIBH and the Association of Judges on 13 January 2000. It noted that the mass media had conveyed statements by persons acting as representatives of political parties or executive authority, in which unfounded allegations have been made regarding the moral character and professional abilities of judges.

While fully respecting the right to freedom of information - which is one of the foundations of a democratic society, guaranteed by the European Convention on Human Rights, and the

⁸ This risk is seriously considered by the TK Government who envisage to include in the 2001 budget the necessary resources for significantly increasing the salary of judges for the minor offence courts.

Constitution of Bosnia and Herzegovina – the statement stresses the lawful limitation to this right due to the need for protection of the reputation or the rights of individuals as well as the protection of the impartiality and independence of the courts, as the guarantors of justice in the society.

Considering the harmful impact of such allegations against the members of the judiciary, balanced against the recognition that courts can be the subject of legitimate criticism, it cautions that such statements, when not accompanied by concrete and convincing arguments, should not be made in public, since they are seen to have a very negative influence on the social context in which the judiciary functions, and may put the proper performance of justice in danger.

It further recalls that the acceptance of defamatory and unfounded allegations in the media against holders of judicial authority, who are by law expected to be persons of honesty and conscience, encourages the unauthorized and irresponsible interference by representatives of political parties and executive authorities in the work of courts, and thus jeopardizes the constitutionally-enshrined protection of the independence of the court system.

It therefore stresses the serious and irresponsible nature of unfounded statements made with disrespect of the dignity and quality of judges and the court system as such, and voices its plea to the media to act with responsibility and cease to give their approval to the release of such statements to the public.

2.5 Pilot Study in the Framework of the Judicial Review

On 17 May 2000 the Law on Courts and Judicial Service in the Republika Srpska, adopted by the RSNA and the Law on Judicial and Prosecutorial Service in the Federation of Bosnia and Herzegovina, imposed by the High Representative, both entered into effect. Both instruments *inter alia* provide for the conduction of a comprehensive review on serving judges and prosecutors. During a review period of 18 months the review will assess the suitability of all judges and prosecutors to hold office. The review is to be carried out by the High Judicial and Prosecutorial Councils in the RS and the Federal Commissions for the Election and Appointment of Judges and Prosecutors in the Federation, in cooperation with Cantonal Commissions.

In coordination with the JSAP Judicial Review Team (JRT) based in Sarajevo, JSAP Tuzla conducted a pilot study aiming at identifying sources of information and methodologies of gathering information that may benefit the Commissions/Councils. The pilot study was limited in scope and primarily served to identify the type of information that would be available to the Commissions/Councils for the purpose of evaluating the suitability of judges and prosecutors.

JSAP Tuzla conducted a general survey of one court in each Entity, namely the Lopare Basic Court and the Zivinice Municipal Court, and then profiled the judges working on these courts, giving special attention to the types of information that may be relevant to the review process. The experience thus gathered and our findings are outlined in a report which does not name the courts in question neither the judges concerned. A short version of this report is included in the manuals prepared by the JSAP JRT as an aid to the Commissions/Councils. The pilot study has also been orally presented by a member of the JRT at the Conference on the Professional Review of Judges and Prosecutors organized by JSAP that took place on 8

September 2000 at Grand Hotel in Sarajevo, to which all members of the Commissions/Councils were invited.

The pilot study describes the internal and external sources of information available (internal: personal files of judges, booklet of employment, evaluation of judges, statistics, registries, court's files including the particularly revealing administration court's files; external: Ministry of Justice and other ministries performing inspections in the Courts, municipal organs, the Federal Ombudsman and the Commission of Human Rights, the Bar, lawyers, and the international community) and whether or not they appeared relevant in the course of the pilot study. It also describes the methodology used by JSAP to conduct the study and in particular how the different sources of information can be combined. Although the pilot study was limited by the fact that it purposely did not include interviews with the judges, use of forms (disclosure and evaluation forms to be used by the Commissions/Councils) or gathering of information from the Bar Associations, it demonstrated that it is possible, when guided by information provided by the international community, to find evidence of unsuitability in Court files. It would appear that this information when combined with information provided by the public and the a/m forms, could provide the Commissions/Councils with adequate grounds to commence an investigation leading to a determination of unsuitability, and subsequent removal of a judicial official from office. Even if such process is time-consuming it could be limited to the judges/prosecutors subject to a subsequent review after having been targeted as a result of an initial review as provided for in the Federal Law.

3 Actions Aiming at Fostering Inter-Entity Cooperation

In spite of the current lack of appropriate legal tools favoring inter-Entity cooperation, JSAP Tuzla has on several occasion undertaken different actions indirectly and directly aiming at fostering such cooperation.

3.1 Indirect Actions

Besides, the above-mentioned meeting organized by JSAP in November 1999, at which judges from minor offense courts from both Entities were able to share views about minor offense court proceedings and status, we also undertook some concrete indirect steps aiming at facilitating inter-Entity exchanges in the judiciary.

One of them consisted in a donation of material means from one court in the Federation to another court in the RS. The Srebrenica Basic Court was suffering from rather poor material conditions. In 1999 one of the courtrooms was totally non-furnished and that impeded an efficient functioning of the court, which had recently been provided with a supplementary judge. This was brought to the attention of JSAP by the President of the Court at a moment where the Tuzla Cantonal Court was to be provided with new furniture. JSAP contacted the President of the Cantonal Court and the Cantonal Minister of Justice and they immediately agreed to provide the Srebrenica Basic Court with the used courtroom furniture. This material and symbolic gesture eventually was realized thanks to UNMIBH logistics in January 2000.

However, we must stress that when informed by JSAP at the end of December 1999 that the solution found to his pressing call for improving the functioning of the Court would result from a donation by a Tuzla Court, the president of the Srebrenica Court made a derogatory

comment expressing hope that a 'Muslim' judge will not be sent together with the furniture. This calls into question the way the court will deal with ten civil law suits recently brought to Court by Bosniaks. It is essential to ensure that in spite of this inappropriate comment from its President the Srebrenica Court is conducting fair proceedings when the minority population is concerned.

3.2 Direct Actions

We also undertook actions aiming at fostering direct inter-Entity cooperation. For instance, on 25 February 2000, following the Tuzla Cantonal Prosecutor's request, JSAP organized a meeting with the District Prosecutor in Bijelina, RS, also inviting the Presidents of the Cantonal and the District Courts, in order to facilitate cooperation with regard to inter-Entity cases. The RS judicial authorities immediately responded positively and decided to advertise the event by inviting the RS Minister of Justice, the presidents of all Basic Courts and Prosecutor's Offices of the District as well as a representative of Bjeljina Municipal Assembly. The meeting was actually attended by many of the officials invited and several media were present during its first part. Similar meetings amongst judges had been held in Tuzla and Prijedor with the assistance of the international community, a debut event for prosecutors of both Entities in this AOR. Several issues were discussed in a formal but positive atmosphere, among others the following:

First, some participants recalled the meeting held in Sarajevo on 23 November 1999, at which the Ministries of Justice and Presidents of the Supreme Courts of both Entities, under the auspices of OHR, adopted conclusions and a plan for exchange/transfer of cases and called for a display to the courts and prosecutors offices of these conclusions. The May 1998, Memorandum of Understanding on Inter-Entity Legal Assistance (MOU) was mentioned by the Presidents of the Brcko and Lopare Basic Courts (RS). They both mentioned having provided or required so far direct legal assistance from court to court rather than through the Entities' Ministries of Justice (the MOU contains very broad and indeterminate range of exceptions to the principle that legal assistance shall be rendered through the latter).

Second, the need for exchange of information from courts of one Entity, to administrative organs of the other Entity was discussed, in cases of court ordered-evictions awaiting enforcement when the person to be evicted is awaiting enforcement of an administrative decision for repossession of his previous accommodation or effective allocation of an alternative accommodation through administrative organs of the other Entity. Judges from both Entities committed themselves to forward to the competent administrative authorities of the other Entity information about scheduled evictions, which until then was done only between the court and the municipal organs of the same town.

Third, a concrete step in response to the Tuzla Cantonal Prosecutor's initiative was also made. Mr. Tankic had prepared five concrete cases of positive conflict of inter-Entity jurisdiction and other cases requiring inter-Entity cooperation and was able to discuss about each of them with the Bjeljina District Prosecutor. Although no agreement has been achieved yet, the request will be discussed with the Municipal and/or Deputy Cantonal Prosecutor in charge, and the District Public Prosecutor promised full cooperation. One of the cases concerns an act of kidnapping that occurred in Janja where the victim is Serb and the alleged kidnappers Bosniak. The suspects are otherwise also suspect for a robbery and currently in pretrial detention in Tuzla Prison upon decision of the Tuzla Court investigating the robbery, while RS judicial authorities are investigating the kidnapping.

As expected due to the number of participants, the meeting lead to expressions of good will rather than to the formulation of plans to be implemented. However, we later on observed more concrete achievements in the criminal field in the above-mentioned cases.

JSAP also facilitated direct cooperation in specific cases. This was the case for instance of a murder committed in January 2000 in Tuzla Canton, the victim being a Bosniak and suspects Bosnian Serbs residing in Doboj. JSAP Doboj and Tuzla liaised with the respective judicial authorities in particular at the onset of the criminal investigations in order to secure the attendance of hearings before the investigative judge by the defendants. We also encouraged the Kladanj Prosecutor to forward to his RS colleague from Vlasenica the information provided by witnesses in a rape case tried in Kladanj concerning some irregularities that might have been committed by the President of the Vlasenica Basic Court when hearing witnesses upon the request of the Kladanj Municipal Court. Actually, the crime took place in Tuzla Canton, the victim as well as several witnesses were Serbs residing in the RS and the Bosniak defendants resided in Canton Tuzla. At the main trial three witnesses pretended that they had not been heard during the criminal investigation phase by the current President of the Vlasenica Basic Court as mentioned in the record of their statements sent by that court. One witness pretended having not been heard at all in the court, one later pretended to have been heard by a clerk and the other by a court trainee. Due to the seriousness of the allegations it appeared clear to JSAP that an investigation had to be made. Although he admitted that if the case had occurred in Tuzla Canton or another canton he would have immediately informed the competent prosecutor, the Kladanj prosecutor was reluctant to inform Vlasenica. He finally conceded after we proposed to follow-up the case in the RS. The Vlasenica Prosecutor did launch an investigation as a result of which witness and court officials concerned were heard; which revealed that all witnesses had actually been heard at the court by a court trainee in absence of the President, who signed all statements afterwards. The result of the investigation was forwarded to the Kladanj Prosecutor.

4 Monitoring of sensitive cases

Among the sensitive cases monitored by JSAP Tuzla during the period covered by this report, three are of particular interest because they underline several aspects of the obstacles affecting the functioning of the local judiciary and also its capacity to overcome it.

4.1 The Vikalo Case

For the first time in BiH, former members of the Cantonal government including the Prime Minister have been charged, convicted and sentenced to imprisonment⁹ on 27 March 2000 for corruption activities by Tuzla Municipal Court. This verdict can be considered as a significant step in fighting corruption in this country. More than one year earlier, a judicial anti-corruption investigation had started in Tuzla Canton which significantly shook the political stability of one of the country's richest cantons and also led to the dismissal of several key prosecutors. Since then, new investigations have been launched by TK prosecutors offices concerning alleged corruption practices consisting of misuse of cantonal

⁹ Mr. Vikalo, the former Prime Minister of Tuzla Canton was sentenced to two years and two months of imprisonment; Mr. Kovac, the former Minister of Finance, was sentenced to six months' imprisonment and Mr. Sinanovic, the former Minister of Health, was sentenced to one year imprisonment. None of these sentences is provided with suspension. The last accused, Mr. Piric, former assistant to the Minister of Finance, was acquitted.

and municipal funds and violation of laws regulating public accounts and procurement (in Tuzla, Zivinice, and Banovici). Within one year, JSAP has observed a significant change in the willingness of the prosecutors offices, under the close eye of the international community, to fulfill their obligations in this field, and some of these cases have now reached the trial phase. Due to the fact that this first verdict has been appealed by the principles (public session to take place on 4 October 2000 at the Tuzla Cantonal Court), it is premature to estimate the efficiency of the anti-corruption strategy in this Canton. However, the assessment made so far in this area already allows some conclusive remarks regarding the problems affecting the process. Due to their political sensitiveness either at cantonal or municipal level, anti-corruption investigations include a high risk of pressure that can affect the functioning of the police and judicial system. They are, however, very revealing in the areas of weakness and dysfunction and most of them relate to the inadequacy of the criminal judicial system itself.

In 1999-2000, JSAP closely monitored the first-instance judicial phase of the first Vikalo case. This included not only attendance at hearings but also contacts with the representatives of the local judiciary involved (cantonal and municipal public prosecutors, investigating judges, and presiding judges). The findings are contained in a thematic report concerning corruption cases in TK drafted by JSAP Tuzla and addressed to JSAP MHQ on March 2000 to be published by the end of 2000. It must also be stressed that part of JSAP's findings regarding this case were presented by the Head of JSAP and JSAP Tuzla team at a COE/OHR Workshop on Anti-Corruption, Organized Crime and Money Laundering (Banja Luka, December 1999).

As for JSAP's role and conclusions at this still early stage of the judicial process it has to be noticed that we faced no obstruction from the judiciary in assessing this case, and if JSAP had been able to translate the huge amount of documents, statements kept at the public prosecutor office or the court file itself, it would have theoretically allowed us to proceed to a complete assessment of the case. However such a time-consuming approach would not have been consistent with our others assignments. This is why we adapted our methodology to those constraints by focusing on the initial investigations. We obtained most of the initial information through our contacts with the IPTF investigators involved, and with OHR representatives. We met with key judicial officials involved, except the Federal Prosecutor and we monitored the main phases of the current trial phase in the first TK corruption case in coordination with OHR.

Part of our conclusions relate to the attitude of the judicial officials concerned, others are more linked with the weakness of the system itself.

The attitude of the judicial officials concerned

- The selective initial approach adopted by the then Cantonal Prosecutor and Municipal Prosecutor, avoiding requesting judicial investigations against all suspects mentioned in the investigator's reports is questionable, and no convincing argument appears to have been given either to JSAP or OHR by the Cantonal Prosecutor regarding this attitude. At least it suggests that he did not want to investigate all aspects of the case, or to delay the course of the proceedings.
- The same conclusion can be made regarding the decision to request an expert opinion only for the "car purchase" part of the case. Regarding that issue, the attitude of the Municipal Prosecutor when the investigating judge decided to extend the scope of the

- expert opinion to all parts of the case (the investigating judge said he was under high pressure from the Municipal Prosecutor when he delivered the first expert opinion order).
- The choice made to assign the Tuzla Municipal Court to try part of the case is also problematic, and future developments in the case will show how it will or will not affect the entire TK anti-corruption proceeding, as well as the initial designation of a judge whose departure to the Cantonal Court was imminent as president of the panel.
 - Prosecutors were often passive at the trial phase, compared to proactive defense lawyers. We often had the impression that representatives of the prosecutor's offices are systematically initially reluctant to adopt any proactive attitude and always envisage procedural tools as constraints.

The weakness of the system itself

- The case allocation system in force opens the door to unacceptable influence within the judicial process and thus undermines the independence of the judiciary
- There is a need for a higher cooperation between the different police agencies involved in the anti-corruption fight (Financial Police, Cantonal and Federal Police) with the prosecutor's office and/or the investigating judge. It is noteworthy that the relations between the cantonal and municipal prosecutors' offices and these organs, in particular the Financial Police, appear to have already improved, in the course of the on-going investigations.
- There is also a need to enhance the respective role of judicial organs in criminal investigations in general. The current investigation phase conducted under the direction of the investigating judge is too often duplicative and inefficient.
- The necessity to separate all statements made by suspects and witnesses before the police from the rest of the file, even at the criminal investigation phase, contributes to the inefficiency of the system. It also, in particular when several accused are concerned, breaches the equality of arms principle and we recommend this problem to be taken into consideration within the legal reform process.
- During the same reform process, the prohibition on using these statements at the trial stage could also be reconsidered.

The Tuzla Municipal Court verdict convicting and sentencing for the first time in BiH former members of a Cantonal government, including the Prime Minister, for corruption activities must be seen as an important step forward in fighting corruption in this country and it hopefully will be a signal of encouragement to prosecutors, investigators and judges in other cantons. However, it should be seen that the main obstacle is fear among the prosecutors, investigators and judges of being prejudiced in their profession due to the political influence of the defendants or even physically injured by the political mafia to which the defendants belong. The inactivity of the prosecutors in the beginning, probably caused by this fear, may have been overcome in this case by the influence of OHR involvement. It should be taken into consideration that fear caused by the political mafia in other cantons may be much stronger than in Tuzla Canton.

4.2 Kerovic Case

JSAP started monitoring this sensitive criminal case of abduction and forcible abortion in December 1999, at the request of Brcko IPTF and UNMIBH Human Rights. At that time the case was halted at the main trial phase in the Lopare Basic Court due to the local position and

high political connections¹⁰ of the main accused, the Director of Lopare Hospital. At one stage he was even covered by immunity due to his elective position in the BiH Parliament. All this of course shed a particular light on the case. According to the information gathered by IPTF, there was pressure exercised by the Pale SDS leadership, at that time upset at the idea of losing such a key local figure as Kerovic during the pretrial-investigation. IPTF and JSAP's close monitoring revealed inappropriate attitudes in particular from several judges including the President of the Basic Court, as well as from the District Court and the Prosecutor's Office, that will have to be taken into consideration by the High Judicial Councils in the judicial review process.

The facts:

Doctor Dragomir Kerovic, married and father of two children, was charged and tried for having kidnapped a young woman at Bijeljina, S. Sadzek (S), and caused her forcible abortion by injection at Lopare Hospital. The main accused and the victim had a short relationship, the latter then became pregnant and refused to abort in spite of the former's insistence (she was in her 29th week of pregnancy at the time of the crimes). Kerovic was assisted by four other men in committing those crimes. He requested one man to recruit the other two, providing them with RS police uniforms and an order for bringing in the victim. They came to her parents' house alleging that she was a suspect in a drug affair and her father was lightly injured trying to prevent them from bringing her to their car, where Kerovic was waiting. During her transportation to Lopare Hospital, a bag was placed on her head and Kerovic administered her an injection. At the hospital another man, never identified, was present and a medical gynecological intervention was imposed on her, which later provoked the abortion. After the intervention, Kerovic and the other men drove the victim to near a military camp and dropped her off on the street; she was finally brought to the gynecological department of Bijeljina Hospital where she delivered a dead fetus.

Judicial process:

IPTF reports contain evidence of several obstructions made not only by certain police officers but also by the Bijeljina Basic Public Prosecutor, Vinko Lazic, who was in charge of the case from the very beginning (i.e. he prevented certain investigations and did not immediately provide the investigative judge with the information according to which Kerovic confessed his participation to the crimes in May 1998). The reports also contain an assessment that Kerovic was informed in details about the investigation results by Prosecutor Lazic. The information contained in IPTF file indicated that Kerovic and the Basic Prosecutor are close friends and both formed the SDS branch in Lopare.

Two of the accused have never give any statement during the judicial investigation, one of them Popovic, because he escaped to Canada with his family. An international warrant order has been made against him and he will be tried in absentia. The second is Kerovic himself. He first invoked his immunity, and after his function as representative at the BiH Parliament terminated, he moved to Yugoslavia without having ever been heard by the investigative judge. Back in Lopare he continued his activity as director of the local hospital while pretending that his mental state prohibited him to stand trial.

¹⁰ He was openly supported by Momcilo Krajisnik, founder of the SDS, arrested by SFOR on 3 April 2000 and charged with genocide and crimes against humanity against Bosnian Moslems and Croats from mid 1991 until the end of 1992.

The criminal investigation had been initially qualified as a simple abduction and thus considered as to be under the competence of the Bjeljina Basic Court, until the defense requested to send it for trial in the Basic Court Lopare, where only part of the facts occurred and the accused lived and occupied an influential position. This request was however not opposed by the Public Prosecutor's Office and was accepted by the District Court. At that time, an arrest warrant had been issued by the former Basic Court due to the fact that the accused, after having lost his immunity, escaped abroad.

From the case file itself, one could easily find out that the initial qualification of the case was inappropriate and that this case shall obviously have been handled by the District Court as first instance, as all court officials concerned interviewed by JSAP eventually admitted. The file review revealed the fact that the Lopare Basic Court accepted the request of the defendant to replace the arrest warrant issued by the investigating judge in Bjeljina when the accused escaped abroad, by a bail, before even being heard in the court proceeding. The file also revealed that the Lopare Basic Court immediately accepted the dubious allegation from the accused that his depressive state did not allow him to stand trial though he was at the same time able to handle a key position in the small town in question. In the same manner, the file reveals that judge presiding over the trial panel did not follow the prosecutor's proposal when it designated a psychiatrist expert.

Actually, in addition to what the file itself revealed, we learned from an interview with one judge of the court that he had initially been asked by the President of the Court to withdraw the arrest warrant in question and was facing problems due to his refusal¹¹. The same judge revealed the fact that a close relative of the presiding judge works in the public enterprise directed by the accused, as well as the fact that the accused himself would be the "Godfather" of the court. In addition to that, the media vigorously criticized the attitude of the Court and stressed the fact that the psychiatrist designated by the Court in spite of the prosecutor's opposition was preparing a thesis under the supervision of a psychiatrist from Serbia, having made an out-of-court statement according to which the mental state of the accused was incompatible with this attendance at the trial. The lawyer of the victim, hired by the NGO Helsinki Committee also made press statements denouncing the attitude of the court.

After JSAP requested explanations from the District Prosecutor's Office and the Presidents of the District and Basic Courts in charge about the qualification and expert witness issues, the Lopare Basic Court declared itself incompetent and forwarded the case to the Bjeljina District Court, where it is now being handled after the District Court rejected an appeal from one of the accused. The District Prosecutor did not hide the fact that his imminent retirement facilitates a more independent approach in this burning case.

The president of the panel now in charge of the case at the Bjeljina District Court gives us the impression that he is keen to solve this case in a proper and professional manner. He expressed his satisfaction that the case is not handled anymore by the Lopare Court where the influence of Kerovic is too evident. The judge has so far not faced any attempt of influence in this case and does not appear to fear any. So far he has designated an eminent expert

¹¹ His dismissal was required by the former RS Minister of Justice and he faced suspension for several months before being de facto reinstated upon a gentlemen's agreement with the President of the Court when JSAP started to investigate it at the judge's request. We discovered that the suspension was allegedly motivated by the judge's poor performance according to the quota and reversal systems, but that was in contradiction with the court's statistics.

neuropsychiatrist from Banja Luka, whose recently-issued report considers Kerovic able to stand trial, thus enabling the court to eventually resume the main trial after almost one year of judicial pussyfooting, and three years after the crime occurred.

We are concerned by the fact that Kerovic, having failed in this last attempt to evade facing its judges is now trying to run for the next election. Since he is presumed innocent, nothing prohibits it. Even if this failed too, we consider that the risk he would simply evade BiH law again is not negligible. Actually, no preventive measure can be envisaged anymore for the latter risk. Having been granted bail, Kerovic could only face pre-trial detention in case he would avoid showing-up in future court proceedings. In any case, it is still a long way before Kerovic will be accountable to the judicial system. One of the last development of what has been so far a judicial farce lies into the fact that the Deputy District Prosecutor in charge of the case recently informed us that a significant part of the file has mysteriously disappeared. UNMIBH has called for an internal investigation and proposed that the Prosecutor's Office facilitate case reconstruction by using copies of the court file kept by IPTF and JSAP.

4.3 Bratunac and Janja security incidents cases

In mid-2000, a series of serious incidents aiming at affecting the return process in northeastern RS took place, in Bratunac and with particular intensity in Janja. First, on 11 May, 2000, the buses conveying approximately 200 Bosniak women, belonging to the groups 'Mothers of Srebrenica' and 'Women from Podrinje' and living in the Tuzla area since the ethnic cleaning of Bosniaks from the Bratunac/Srebrenica area in 1995, were stopped in their attempt to commemorate these tragic events, at their arrival in Bratunac by a crowd of over 400 demonstrators, who blocked the road and attacked the buses with stones. The local police effort did not succeed to control the demonstrators who, after a barrage of stones for fifteen minutes, forced the buses to reverse and flee the area. Several passengers, police officers and an SFOR member suffered minor bodily injuries.

In Janja an eviction of three Serb displaced persons had been scheduled at 1200 on 24 July 2000. A large crowd assembled to block the eviction; some of the protesters were hostile toward the local police and IPTF. The crowd blocked the surrounding roads and eventually gathered in front of the Janja police station. The Bijeljina Mayor met with representatives of the protesters at 1600 hours, and the crowd started to disperse by 1900 hours. However, instead of peacefully returning to their homes, members of the crowd engaged in attacks against Bosniak property owners. These attacks set off a three-day period of violence against Bosniaks. The violence continued on 25 July, and tapered off on 26 July. During these three days, 30 to 50 separate incidents were reported to the local police or IPTF, including severe bodily injuries and arson of houses by use of molotov cocktails. Both incidents seriously disrupted the return process. For instance, the Ministry for Refugees and Displaced Persons did not have a presence in Janja for weeks after the events; a minority-recruited police officer quit his job and the eviction process, which only resumed recently, still faces incidents. Our intention here is not to describe JSAP/IPTF monitoring of the related judicial proceedings, which in most of the cases are still at an early stage, but rather to highlight some aspects of these proceedings of particular interest.

When complex incidents such as these occur, there is usually a diversity of offenses committed, ranging from disturbance of public peace and order, obstruction of officials while performing their duty to bodily injuries, attacks against officials and even, as in Janja, arson of houses.

We observed on this occasion a worrying lack of communication at all levels (within organs including the Ministry of Interior, the uniformed police and the crime department; between the police and the judicial organs, and amongst the judicial organs themselves).

Moreover, we observed a critical tendency of the police to consider as minor offences incidents which clearly constitute crimes¹² and thus only to send requests to the minor offence courts for conducting minor offense proceedings, without even informing or asking advice from the Public Prosecutor (as in Bratunac, where it led to derisory sentences such as a suspended fine, pronounced by the minor offence court for physical assault of a police officer).

A second worrying tendency observed consists in sending parallel reports to the prosecutor and the minor offence court, as in Janja. Legally speaking, parallel proceedings are not problematic if the corresponding facts are different, but we assessed that due to this practice from the police and the lack of coordination, identical incidents are charged before different courts. This is usually the result first of a lack of communication, internal to the Ministry of Interior. The uniformed police tend to send requests for minor offense proceedings to the minor offence courts immediately after the incident, while the crime police department, after further investigation, sends a criminal report to the Prosecutor, who then requires a criminal investigation or directly charges the suspects before the Basic Court (both happened in the Janja case). Judicial officials concerned admitted that some suspects were charged before both courts for the same incidents, under different legal provisions. We must stress that before JSAP brought this problem to their attention, the public prosecutors concerned were not aware that the ongoing minor offence proceedings partly involved similar facts, and the President of the Minor Offence Court did not contact the Public Prosecutor to address the aspect of the incident that obviously should have been treated as crime rather than a minor offence.

As stressed in JSAP's first thematic report on minor offence courts, although domestic laws on minor offence proceedings do not prohibit it, these provisions allowing a person to be the subject of both criminal and minor offence proceedings in respect of the same act are highly questionable from the standpoint of the ECHR and the principle of double jeopardy. This is the case despite the fact that penalty already pronounced by a minor offence court is to be taken into consideration by the criminal court. Article 4(1) of the Protocol No. 7 of the ECHR, directly applicable in BiH and superseding domestic instruments, sets forth this principle according to which:

“No one shall be liable to be tried or punished again in a criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.”

A minor offence charge does not amount under Bosnian domestic law to a criminal charge. However, it must be recalled that the case law of the European Court of Human Rights clearly requires that certain charges considered as minor offenses under the domestic law must be considered as criminal in nature and so classified for the purposes of Article 6 of the

¹² I.e. Physical assault is a minor offence, but it constitutes a crime if it causes a bodily injury, whether light or serious. In the same manner, physically obstructing the road or freedom of movement can be considered as a disturbance of public peace and order, but if it prevents a court, administrative or police officer to implement an eviction it constitutes the crime of obstruction of an official while performing his duty.

ECHR due to the deterrent and punitive purpose of the penalties imposed in minor offences proceedings, and this is the case in particular when imprisonment is encountered (See pages 15-17 of the above report).

In the Janja case in question, we stressed that due to the usual speed of minor offence proceedings the risk is that incidents which could be charged under the criminal offense of obstruction of official on duty and for which investigation or trial is pending could, prior to a final decision having been made by the Basic Court, be decided upon under the offence of disturbance of public order and peace by the minor offence court. In such case the offenders would be entitled to request their release from the criminal charges in accordance with the double jeopardy principle, which supersedes the domestic law. In case the Public Prosecutor will not withdraw his request and/or the court convicts them they could lodge an application to the Human Rights Chamber, after having exhausted the domestic remedies.

Due to the fact that this problem occurs also in the Federation¹³, we recommend the organization of joint meetings at which representatives of the Ministry of Interior, the minor offence courts, public prosecutors and regular courts from both Entities would be presented some sample cases and invited to reach conclusions on how to prevent such problems. UNMIBH/IPTF could facilitate such coordination for which we believe that the public prosecutors shall play a role as focal point.

5 Conclusion

Reaching the end of its mandate, the JSAP Tuzla team wishes to emphasize that the overall JSAP assessment of the functioning of the local judicial system in our region has been a very rich and positive experience for all of us. We believe that JSAP's structure, namely comprising international judicial officers and national legal officers, has certainly played a significant role in gaining the respect and trust of the local judiciary and building a constructive level of dialogue with its members. It also enabled us to understand better the weaknesses and sources of inefficiency within the system and to not only propose solutions but also to succeed in implementing them. A significant part of this dialogue consisted since the early beginning of the team activity in sharing our knowledge of international standards and in particular of the European Convention of Human Rights and the case law of the European Court of Human Rights. This obviously contributed to building a new understanding of this instrument, which will play a paramount role within the BiH legal and judicial system, but which has for too long remained a dead letter. It will certainly be a long time before it becomes a tool as frequently used as it is in many other European countries, but we are sure that at least the judicial officials with whom we had the opportunity of working closely during two years in each Entity are now much more familiar with it and do not hesitate to comment and question their own practice and its compliance with European standards. This was again recently illustrated in Tuzla Canton, during a working discussion between the members of the Criminal Department of the Cantonal Court and the Deputy Federal Ombudsman, at which JSAP intervened as a facilitator.

¹³ JSAP Tuzla observed it in Lukavac after war invalids obstructed an eviction in August and judicial officials concerned expressed the wish to discuss it with MUP representatives at the cantonal level.