Project Proposal to the Government of the
United States of America

Introduction of Victim and Witness Support Services
in the Una-Sana and Central Bosnia Cantons,
Bosnia and Herzegovina
2012 – 2013

April, 2012
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ACRONYMS

IVWSS  Introduction of Victim and Witness Support Services
BiH  Bosnia and Herzegovina
FBIH  Federation of Bosnia and Herzegovina
HJPC  High Judicial and Prosecutorial Council
MoU  Memorandum of Understanding
PO  Prosecutor’s Office
SPWCC  Support to Processing of War Crimes Cases in BiH
UNDP  United Nations Development Programme
VW  Victim and Witness
VWS  Victim and Witness Support
WSO  Witness Support Office
BASIC INFORMATION

Title: Introduction of Victim and Witness Support Services (IVWSS) in the Una-Sana and Central Bosnia Cantons, 2012 – 2013

Location: Una – Sana Canton: Court and Prosecutor’s Office in Bihać, Central Bosnia Canton: Court in Novi Travnik and Prosecutor’s Office in Travnik

Contracting Authority: Government of the United States of America represented by the USA Embassy in Sarajevo, Bosnia and Herzegovina

Implementing Agency: United Nations Development Programme in BiH (UNDP BiH)

Beneficiaries: Cantonal Court and Prosecutor’s Office in Bihać Cantonal Court in Novi Travnik and Prosecutor’s Office in Travnik, victims and witnesses in criminal proceedings in 4 mentioned institutions

Objective: Strengthen the rule of law and fight against impunity for war crimes, human trafficking and other serious crimes, particularly those with transnational impact through the introduction of a modern and comprehensive system to support victims and witnesses

Duration: 18 months

Overall cost: 384,800 USD

INTRODUCTION

In 2010, UNDP introduced a sustainable mechanism in Bosnia and Herzegovina that delivers practical support to victims and witnesses including logistical assistance, emotional and psychological support and a safe environment particularly for vulnerable witnesses, such as victims of sexual and gender violence and children. Since that time, the six support offices established by UNDP addressed the needs of hundreds of beneficiaries and largely contributed to more efficient criminal proceedings. Judges, prosecutors and attorneys increasingly request support services thereby indicating a clear need to further develop and expand similar services throughout BiH, especially in light of the increasing back-log of cases.

The project proposal to the Government of the United States of America aims to replicate UNDP’s Victim and Witness Support model (hereafter: VWS) and apply recommendations resulting from the “Structured Dialogue on Justice between BiH and the EU” to Una-Sana and Central Bosnia Canton based on priorities agreed with BiH judicial authorities represented by the High Judicial and Prosecutorial Council (HJPC) and recommendations from the National War Crime Strategy. Envisaged witness support offices will provide support to vulnerable victims/witnesses (inter alia persons that are traumatized, have specific health problems, are disabled, etc.) in all criminal cases, wherever the need arises (inter alia war crimes, murder, sexual violence, robberies, domestic violence, juvenile delinquency, etc.) as local judicial institutions have subject jurisdiction much broader than war crime processing.

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The following impact and results are expected:

- Enhanced access to justice and public services, taking into account the special needs of children, elderly persons, persons with disabilities and victims of sexual or gender violence;
- Victim/Witness support services integrated in the courts and prosecutor’s offices;
- Public awareness on victim/witness rights enhanced, use of support mechanisms increased;

**SITUATION ANALYSIS**

In the past years, BiH has successfully targeted an increased number of war and organized crime cases. These actions have almost exclusively been taking place within the state level judicial system. A state of the art courthouse (Court of BiH) was purposely built for war and organized crime trials with impressive results. However, with the exception of the state court, BiH lacks institutionalized services to support and protect victims and witnesses in criminal matters as prescribed by national legislation as well as international obligations. The efficient management of witnesses during court proceedings at local level will addressed both, securing the vital evidence for the trial as well as protecting the safety and dignity of victims and witnesses in the judicial process. It is therefore essential to provide adequate support and apply protection procedural measures in the courtrooms at cantonal and district courts in order to secure vital evidence for prosecutions and defence as well as to protect the rights, dignity and safety of witnesses participating in judicial proceedings.

These “courts of every day justice” are therefore functioning beyond their capacities, have inadequate or no safe and secure infrastructure, and no competent means of protecting judges, prosecutors, witnesses, and defendants. In cantonal and district courts, it is not uncommon for victims and perpetrators to come into contact in the hallways of the courthouse. Witness intimidation and re-victimization are occurring every day, infringing on the rights of citizens, hampering judicial effectiveness and negatively impacting on the overall perception of law enforcement.

**PROJECT STRATEGY**

The efficient and compassionate management of witnesses (often, the victims themselves) in judicial processes is an essential element, both in terms of; securing vital evidence for the effective adjudication of criminal cases as well as for the protection of the rights, safety and dignity of persons.

The purpose of this project is to ensure that victims and witnesses have access to adequate support in the courts and prosecutor’s offices (VWS). The information, advice, emotional and psychological support and practical assistance which victims should find during criminal proceedings are crucial to their recovery and help them cope with the aftermath of the crime and the emotional strain of participating in such proceedings. Project will contribute to expanding current victim/witness support model to 2 additional cantons (covering 5 out of 16 locations) and facilitate setting up of a functional network, coordination and uniform approach to victim/ witness support and protection. Project will also strengthen capacities of WSO of state Prosecutor’s Office and , and assess situation in police sector regarding witness support and recommend ways of cooperation between police and POs in this field.

UNDP’s project for Una-sana Canton and Central Bosnia Canton builds upon the design and achievements of UNDP’s earlier project: “Support to Processing War Crimes Cases in BiH”,1 in particular the component establishing witness support services as pilot projects in both, the courts and prosecutors’ offices, in three

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1 Building Capacities of Cantonal and District Prosecutors Offices and Courts in BiH to Process War Crimes Cases (SPWCC), 2009-2012
locations - Banja Luka, Sarajevo and East Sarajevo. Over 500 victims/witnesses received a wide range of support services contributing to the success of 250 cases in Banja Luka and Sarajevo alone. Based on statistical data and inputs from UNDP pilot projects, the main impact of the SPWCC project are summarized as follows:

1. **Uniformed VWS support mechanism developed and endorsed by relevant institutions**
   a) Greater government focus on victim and witness issues and the introduction of a multi-dimensional approach at the local level prompted by UNDP engagement in this field
   b) Mandatory ‘Standards in implementing witness protection measures in courts in BiH’ that reflect minimal capacities required for efficient victim and witness support and protection during proceedings before cantonal and district courts identified by UNDP report ‘Situation and Needs Assessment in the Field of Support and Protection of Witnesses and Victims in BiH’ adopted by the HJPC.²
   c) Ensured sustainability of Witness Support Offices – signing of MoU, defining duties and obligations of all parties with the HJPC and relevant entity and cantonal ministries of justice.
   d) Support services rendered to victims and witnesses appearing in criminal cases, in particular war crimes, juvenile justice, domestic and sexual violence and other forms of serious crime.

2. **Functional Witness Support Offices established**
   a) Physical premises in Banja Luka, Sarajevo and East Sarajevo reconstructed according to national and international witness support and protection standards, including witness waiting rooms³ isolated from the public, with private toilet facilities and with direct access to courtrooms.
   b) Completed education and practical training for professional witness support staff.
   c) Governmental and non-governmental service providers where victims and witnesses can be referred to after their participation in criminal proceedings for long – term support identified as potential referrals network for long-term support and care.

3. **Institutional witness support procedures and training curricula developed**
   a) Rulebooks for Witness Support Offices developed by UNDP which currently serve as the official procedures for institutional services such as court police, legal associates, judges, prosecutors, administration, finance, personnel etc., thereby identifying all interactions, rules, obligations and restrictions in working with victims and witnesses in criminal proceedings. The Rulebook was developed in cooperation with the State Court WS Office in order to ensure a uniform approach to victims and witnesses service throughout BiH.
   b) Judges and prosecutors from Pilot institutions were trained on the importance of victims and witnesses support in criminal proceedings, the role of Witness Support Offices as well as application of procedural support and protection measures in the investigative and trial phases, sensitizing and promoting the needs of victims and witnesses.

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² UNDP REPORT
³ Article 8 of the Council Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA) refers to the obligation of each member state to ensure that the contact between victims and offenders is avoided, when appropriate, by progressively providing court premises with special waiting areas for victims.
WITNESS SUPPORT IN BiH JUDICIAL REFORM

This project supports the objectives and priorities set out in, *inter alia*, the BiH National War Crimes Strategy; the BiH Justice Sector Reform Strategy; recommendations of the 2nd meeting of the EU-BiH Structured Dialogue on Justice; the EU funded project ‘Cooperation in Criminal Justice: Witness Protection in the Fight against Serious Crime and Terrorism (WINPRO)’; the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; the UN Convention against Transnational Organized Crime, as well as UNDP efforts in the fields of judicial reform and Victim/Witness Support offices in BiH and Croatia.

In addition, the project advances regional judicial cooperation supporting enhanced cooperation in the prosecution and investigation of criminal matters, the development of efficient communication procedures and mechanisms to exchange information related to victims and witnesses and mutual assistance, the protection of witnesses of serious crime, the approximation of judicial systems and legal frameworks towards EU standards and the *EU acquis communautaire*.

UNDP’s project provides for the special needs of; children, elderly persons, persons with disabilities and victims of sexual, gender and domestic violence ensuring that appropriate steps are undertaken to protect and support victims and witnesses during courtroom proceedings, particularly vulnerable and those who have suffered trauma.

UNDP’s Model

UNDP’s model provides for the effective and compassionate management of victims and witnesses in all phases of the judicial process, *i.e.*, **Report, Investigation, Adjudication and Resolution**. The model is implemented through its three main components: 1) enhancing police-prosecutor cooperation, 2) establishing VW Support Services in the courts, and 3) networking, *inter alia*, psycho-social, social welfare and witness protection services as referrals for medium and long-term victim/witness care. The manner in which victims and witnesses are protected and supported is consistent with the rights of the accused, judicial utility and procedural requirements.

The above graph depicts the management and flow of information related to victim/witness testimony and evidence through the judicial process as well as additional services such as witness protection, psychological, mental health and social welfare services available through referrals by witness support staff.
LOCATION

To ensure equality of citizens before the law throughout BiH, building on achievements of SPWCC Project, the VWS Project will expand witness support mechanisms to cantonal courts in Bihać and Novi Travnik and cantonal prosecutors’ offices in Bihać and Travnik. Both these courts and prosecutors’ offices have successfully handled a large number of war crimes and other criminal cases. For example, the Cantonal Court in Bihać handles on average more than 800 criminal cases including over 30 war crimes cases, with 9 cases currently pending before the court. The Cantonal Court in Novi Travnik has an average caseload of over 1000 criminal cases per year and has rendered 12 verdicts in war crimes cases while the Prosecutor’s Office in Travnik reports that 230 persons are still under investigation for alleged war crimes.

Given the geographical distribution of crimes committed during the recent conflict, these judicial institutions are expected to receive an increase in workload through implementation of the National War Crimes Cases Strategy and transfer of additional war crimes cases to their material jurisdictions. Increased quantity of cases and strenuous efforts required for their processing have lead these judicial institutions to request support in order to back their ongoing work as they are currently seriously lacking infrastructural conditions and human resources.

OBJECTIVES

The IVWSS Project will focus on increasing judicial efficiency and improving the treatment and position of victims and witnesses in criminal proceedings by establishing integrated and sustainable victim and witness support mechanisms within the judiciary in the Una-Sana and Central Bosnia cantons. WS Officers in the Courts and Prosecutor’s Offices are foreseen to assist in the protection of victim/witnesses by providing a safe environment and being prerequisite for adequate implementation of protective measures (requested by the POs and granted by the Courts)4. Those include provisions of pseudonyms, video link testimony with possible distortion of voice and face, (that is: the witness support office), presence of WS Officers during the testimony etc. All those procedural protection measures do not include witness protection programs5 and role of the police, but WS Officers may act as focal point and coordinate with protection services as requested. Specifically, this Project is not about physical protection but supporting (and protecting) vulnerable witnesses in the courtroom. Regarding the post-trial services, this will be achieved through referrals.

The project will have the following impact:

- Reduction of the backlog of cases and improved judicial efficiency;
- Enhancing the capacities of relevant courts and prosecutor’s offices to support and protect victims and witnesses before, during and immediately after the criminal proceedings;
- Supported implementation of the victim and witness support strategic measures stipulated in the National War Crimes Strategy as well as the recommendations from the second Meeting on the Structured Dialogue on Justice between the EU and BiH;
- Improved position of victims and witnesses and better access to criminal justice system;
- Enhanced awareness of BiH population through outreach activities on available support services for victims and witnesses and the importance of this service within judiciary.

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4 Provision of procedural measures conducted in the courtroom in accordance with the “Laws on protection of vulnerable witnesses and witnesses under threat” (3 relevant laws applicable at state and entity levels).

5 Implementation of “Law on Witness Protection Programme in BiH” applicable at state level.
Additionally, data collected in the past year identified a clear gap in provision of support during the investigation stage due to poor cooperation between law enforcement agencies and prosecutor’s offices as well as lack of victim and witness support mechanisms within police structures.

Therefore, through realization of its activities the Project will achieve the following objectives relevant to development of integrated and sustainable victim and witness support models throughout BiH:

- Improving infrastructural standards at the Witness Support Office of PO BiH to successfully support prosecution of organized crime cases, corruption, terrorism and most complex war crimes cases with a great number of traumatized and sensitive and victims and witnesses.
- Documenting current situation with regards to victim and witness support in law-enforcement agencies in BiH and devising recommendations for potential future interventions in this field.

EXPECTED RESULTS

1. Established integrated, efficient and sustainable victim and witness support offices in cantonal courts and prosecutors’ offices in Bihać and Travnik/Novi Travnik. The new witness support offices will enhance the capacities of these courts and prosecutors’ offices to provide support and protection to victims and witnesses prior, during and after criminal proceedings. Thereby, criminal investigations and cases will be conducted more efficiently, reducing the existing number of cases, while victims and witnesses will have access to support and protection services and legal assistance that will ensure the equality of citizens before the law.

2. Advancement of the established UNDP victim/witness support mechanism concept, through inclusion of law-enforcement sector and improvement of police-prosecutor cooperation.

3. Better informed victims/witnesses, relevant professional staff and the general public on existing services related to providing support prior, during and after participation in criminal proceedings. This in turn will lead to increased awareness of victims/witness’ rights and duties and easier access to legal, social and medical services. Moreover, it will build the citizens’ trust in the judiciary, governmental, social and non-governmental sectors and at the same time enhance the capacity of these sectors to recognize and properly respond to specific needs. The expected domino effect will additionally lead to recognizing the need for establishing victim and witness support services by relevant organs and institutions across the country.

ACTIVITIES AND INDICATORS:

1. INSTITUTIONAL FRAMEWORK

ACTIVITIES:

1.1 Design, construct, refurbish and equip offices for VW staff and waiting rooms;
1.2 Select and hire staff (psychologists/social workers) for witness support offices;
1.3 Organise quarterly supervisory and coordination meetings for new VW support staff;
1.4 Develop internal procedures for witness support offices in respective courts and POs;
1.5 Collection of statistical data on number of victims and witnesses seeking support of Witness Support Offices;

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6 Data collected from regular monthly report from witness support specialists.
1.6 Develop capacities of judges/prosecutors and witness support staff in the field of victim and witness support through trainings, seminars and workshops.

1.7 Draft Memorandum of Understandings with relevant stakeholders ensuring that standardized VWS posts are incorporated in the justice administration by the HJPC BiH and financed from cantonal budgets after the completion of VWS Project and funding by UNDP.

INDICATORS:

1.1.1 Two reconstructed, furnished and equipped waiting rooms and offices at cantonal courts in Bihać and Novi Travnik;

1.1.2 Two reconstructed, furnished and equipped offices at cantonal POs in Bihać and Travnik;

1.2.1 Four selected and employed witness support specialists;

1.3.1 Regular joint supervisory and coordination meetings (3) for witness support specialists for maximum 9 participants;

1.4.1 Rulebooks on Internal Procedure for four Witness Support Offices;

1.5.1 Internal database on number of victims and witnesses that receive assistance from witness support offices;

1.6.1 Two introductory trainings on relevant witness support legislation and role of witness support offices for Bihać/Travnik cantonal criminal division judges and prosecutors.

1.7.1 GOBiH signs the MOUs incorporating VWS in the justice administration and requesting budgetary funding for its support after the completion of the project and funding by the UNDP.

2. LAW-ENFORCEMENT, WITNESS SUPPORT MECHANISM

ACTIVITIES

2.1 Conducting a situation and needs assessment in order to determine the existing situation, challenges and possibilities of police structures in BiH regarding the provision of victim and witness support; Devising a functioning and sustainable victim and witness support mechanism within police.

INDICATORS

2.1 Situation and Needs Assessment Report on inclusion of law-enforcement sector and improvement of police-prosecutor cooperation in provision of VW support.

3. VISIBILITY & ACCOUNTABILITY\(^7\)

ACTIVITIES

3.1 Creation and distribution of victim/ witness support promotional materials (leaflets, brochures, posters etc.).

3.2 Improved webpage presence and contents on victim/witness support issues.

3.3 Organization of official openings of Witness Support Offices.

3.4 Public promotion through electronic and written media.

\(^7\) Donor visibility will be ensured in the implementation of all project activities.
INDICATORS

3.1.1 Design, production and distribution of 5,000 leaflets on the rights and, obligations of victims and witnesses appearing in criminal proceedings and available support services;

3.2.1 User-friendly information available on judicial partner and civil society institution websites;

3.3.1 Promotional event for the inauguration of WSOs in Bihac and Travnik/Novi Travnik (2x);

3.4.1 Media coverage on victim and witness support issues.

SUSTAINABILITY AND IMPLEMENTATION ARRANGEMENTS

Once developed, the VWS offices in the selected locations will provide a sustainable, efficient, integrated, and functional service delivery capable of further development and/or expansion as required. Its sustainability will be secured through commitments (MOUs) signed with relevant stakeholders ensuring that standardized VWS posts are incorporated in the justice administration by the HJPC BiH and financed from cantonal budgets after the completion of VWS Project and funding by UNDP.

The Project will ensure active participation of implementing partners. Beneficiary institutions have committed to provide premises corresponding to the UNDP and national requirements and to incorporate witness support offices into existing institutional structures. Professional Staff and other judicial personnel, meaning judges, prosecutors, other court officers as required will attend capacity development trainings and apply developed procedures in their daily work. Additionally, the relevant ministries of justices have committed to advocate for necessary funding with cantonal governments and assemblies through annual preparation of budgets that will include the offices and new posts.

UNDP will contribute to the implementation of the IVWSS Project by financing the posts of local implementation team for a period of 6 months.

To avoid overlapping UNDP took an additional effort in organizing witness support and protection group coordination meeting that includes all agencies or organizations dealing with witness support and protection issues in BiH (the EU Delegation, OSCE, ICTY, UN, UNDP, ICITAP, NICO/WINPRO). In addition all reconstruction activities will be closely coordinated with the HJPC that is currently implementing the IPA 2009 funded Project, „Improving Technical Conditions at Cantonal and District Courts for Greater Efficiency at War Crimes Trials”, and all court security issues with ICITAP.

RISK ANALYSIS

A number of preliminary strategic and operational risks that may affect the implementation of the project can be identified as follows:

1. Low awareness of VWS for the efficiency of court proceedings and necessity of support and protection in pre-trial and trial stages at the local level of the justice sector.
   **Countermeasures:** Intensify advocacy and promotion of best practices at the local level. Special attention to activities of the HJPC mandated aim at enhancing equality before the law.

2. Complex and demanding national administrative and financial procedures can cause delay in smooth transition of offices
   **Countermeasures:** Intensify advocacy and promotion

3. Lack of staff with necessary experience in these cantons.
   **Countermeasures:** Additional trainings for the hired staff prior to their deployment, continuous coordination and close supervision.

4. Complex and time-strenuous employment procedures in FBiH. Engagement of UNDP contracted witness support specialists through Civil Service Agency of FBiH at the end of the Project requires
an additional 3-4 months and does not guarantee employment of already trained staff due to national balance criteria.

**Countermeasures:** Intensify advocacy with key partners.

5. Limited pool of expert on victims and witness support issues in BiH.

**Countermeasure:** Research and better planning for the use of available experts.

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**MANAGEMENT ARRANGEMENTS**

The IVWSS Project will be implemented under a direct UNDP implementation (DIM). Direct UNDP implementation is a management arrangement whereby UNDP itself assumes overall responsibility for the management of the project activities.

**Project Board**

The Project Board will be accountable for the success of the Project and will have authority for the Project within the remit set by this document. Responsibilities of the Board include providing guidance to staff working on the project, as well as ensuring transparency and participation of the legislation drafting stakeholders. The Project Board will meet quarterly to monitor and review the progress of the Project and to ensure its smooth implementation. The meetings will include updates on progress, issues, problems and solutions presented in the form of quarterly and annual progress reports as well as annual work plans. Final evaluation at the end of the Project will be performed by an independent evaluator during the last quarter.

The Project Board will be comprised of all relevant partners in implementation, established under the administration of the UNDP to oversee the process. It will be comprised of donor, UNDP, MoJ BiH and HJPC representatives. The Project Quality Assurance will be performed by the Justice and Security Cluster Coordinator. The Donors are represented at the Project Board as the Senior Supplier (Government of United States). The Executive role in the Project Board rests with UNDP, while the role of Senior Beneficiary pertains to the BiH Ministry of Justice and the High Judicial and Prosecutorial Council. UNDP will be ultimately accountable for the project, inter alia, project organization, structure, planning and monitoring as well as problem referral.

**Monitoring and Evaluation**

The monitoring the project implementation as well as evaluation of its impact will be assured through regular field visits, client feedback and quarterly progress report write-up. The methodology consists of review of project materials and deliverables and review of existing information relevant to the project context, followed by regular field visits and final progress report write-up. Implementation of individual activities will be measured through established activity indicators. By gathering and reviewing relevant information, the Project Board will be able to monitor effectiveness and, if needed, develop an improved activity plan that responds to specific needs and circumstances in four target institution as they change over time.

**Final Evaluation of the Project performance**

Scope of the Final Evaluation will include the Project from its origin to the end, including its design and implementation. In particular evaluation will be focused on relevance of the proposed project objectives and outputs, efficiency & effectiveness, impact and timeframe. Evaluation will mainly be based on interviews with key stakeholders, while available relevant documentation will be reviewed. Key persons would include governance representatives that have been involved in Project implementation, Project team members and consultants. An independent Evaluation Consultant will assess the extent to which the project produced the intended impacts, distribution of the benefits between different groups and evaluate the cost-effectiveness of the project.

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Evaluation study will in details explore and assess the following main evaluation aspects:

- Effectiveness and efficiency of the project in realizing its deliverables and towards reaching accomplishment of the objectives and output;
- To which extent the expected results have been met, enumerating any unintended effects and highlighting the key lessons learned;
- Quality of project management;
- To what extent the interventions are aligned with the project’s objectives, strategy, methodology, work plan and budget;
- Quality of project’s inputs and outcomes;
- Impact of the project to the target beneficiaries;
- Level of ownership and sustainability of the project and its activities;
- To what degree the project adhered to UNDP implementation, coordination and monitoring arrangements, including capitalizing on opportunities for collaboration and synergies;
- To what extent the project succeeded in gender-mainstreaming;
- Recommendations on gaps and follow-up actions;
- Propose the exit strategy for the project in order to secure the longevity of the project results;