

**REPORT ON THE IMPLEMENTATION OF THE PROSECUTORIAL STRATEGY
FOR WAR CRIMES INVESTIGATION AND PROSECUTION
- Q1 and Q2 2022 -**

The revised Action Plan for Chapter 23 adopted by the Government of the Republic of Serbia in July 2020 designates the War Crimes Public Prosecutor's Office (WCPPO) as one of the bearers of activities in the subchapter of the *Justice, War Crimes* section. Point 1.4.3.5 envisages the monitoring of the implementation of the prosecutorial Strategy for war crimes investigation and prosecution, and it is determined that the supervision of the implementation of that strategy is carried out through quarterly reports submitted to the Public Prosecutor's Office of the Republic. Considering the reporting model established so far, a report for Q1 and Q2 2022 was prepared:

Target 1 - combating impunity for war crimes by increasing the effectiveness of the investigation and prosecution of all serious, mass and systematically committed war crimes listed in the records of war crimes events

Increasing WCPPO efficiency

In order to increase the efficiency of the proceedings, and in accordance with the activities of the National Strategy for War Crimes Prosecution 2021-2026, the Public Prosecutor's Office has started drafting a revised prosecutorial Strategy for war crimes investigation and prosecution and the accompanying Action Plan. The preparation of these documents is in the final stage.

During Q1 and Q2 2022, the WCPPO passed 5 orders on the implementation, i.e. the expansion of the investigation for events from the territories of AP Kosovo and Bosnia and Herzegovina.

Investigations in 19 cases against 67 persons, as well as against 15 unknown perpetrators, are ongoing before the WCPPO. Investigations are pending against 132 persons in 28 cases. In the reporting period, orders to conduct an investigation were issued against 7 persons for criminal offenses committed on the territory of B-H, the Republic of Croatia and AP KiM.

During Q1 and Q2, this Public Prosecutor's Office filed indictments against 9 persons, 4 of whom were high-ranking perpetrators. In regards to 3 persons, indictments were brought after the criminal prosecution was taken over by the Prosecutor's Office of B-H, while 6 persons were charged after an investigation conducted by the WCPPO.

During Q2, the first-instance court confirmed the indictments in two cases in which the investigation was carried out by the WCPPO against a total of 5 persons, for war crimes against the civilian population from Article 142, paragraph 1 of the CC of the FRY and war crimes against prisoners of war from Article 144 of the CC of the FRY.

According to the indictments of the WCPPO, during Q1 and Q2 2022, the first-instance court issued three convictions which sentenced the perpetrators to prison terms of 5,

9 and 10 years each. In the same period, the Appellate Court in Belgrade, the War Crimes Department issued a final conviction against 2 persons who were sentenced to prison terms of 5 and 14 years, while the first-instance verdict against one person was annulled and returned to the first-instance court for retrial and a decision.

According to the indictments of the WCPPO filed in the previous period before the War Crimes Department of the Higher Court in Belgrade, proceedings are being conducted against 32 persons, in 16 cases, among which are Category II cases.

The WCPPO continued to participate in the sessions of the Working Group for the collating of facts and evidence in the investigation of crimes against members of the Serbian people and other national communities in AP KiM.

Intensive work is being done on the realization and preparation of the implementation of the activities that are under WCPPO jurisdiction, established in the Action Plan that was adopted with the new National Strategy for War Crimes Prosecution (NSWCP).

In the WCPPO, a *Commission for the selection of cases based on priority criteria* was formed in order to implement the activities from the revised Action Plan for Chapter 23 and the NSWCP, and in accordance with the goals from the existing prosecutorial Strategy, which foresees as one of its main goals the processing of priority cases of war crimes, with a determination of the criteria for prioritization.

- **Application of new technologies and work methods**

On 20 April 2022, WCPPO staff participated in training for the use of antivirus protection, as part of the ESET Endpoint Protection Advanced project for the needs of judicial authorities in the Republic of Serbia.

Target – Strengthening the institutional and professional capacities of the WCPPO

In the reporting period, 12 persons served as deputy prosecutors in the WCPPO, in accordance with the Decision of the State Council of Prosecutors A. no. 69/21 of 2 April 2021 (Official Gazette of RS, No. 32/2021). Of the existing number, three deputies were sent to the WCPPO based on the decision of the Republic Public Prosecutor.

It is planned to start activities in the next quarter regarding the filling of the post of prosecutor's assistant, in accordance with activity 1.4.1.6 from the revised Chapter 23 Action Plan.

A draft of changes to the 2022 personnel plan has been drawn up in terms of the number of employees in the position of IT specialist in the WCPPO. The draft was sent to the Ministry of Justice and the Ministry of Finance.

The deputy prosecutor attended a meeting on 24 March 2022 organized by the Council of Europe and the Judicial Academy on the topic "Correct interpretation, reference and citation of the European Convention on Human Rights and the practice of the European Court of Human Rights in prosecutorial acts." This meeting is important for the improvement and development of public prosecutor practices.

- **Forming joint WCPPO and the War Crimes Investigation Unit (WCIU) teams**

In the reporting period, the cooperation between the joint teams of the WCPPO and the WCIU have been continued. Meetings are regularly held in accordance with the established dynamics at the level of main representatives, as well as at the level of case handlers for the needs of specific cases.

- **Professional training**

At the end of 2021, the WCPPO sent an initiative to the Judicial Academy to organize training sessions and round tables with the aim of professional staff training, in accordance with the obligation to implement activities that are foreseen by the NSWCP.

WCPPO staff took part in various forms of professional training:

- In January 2022, WCPPO representatives participated in the CEPOL webinar on the topic “Raising awareness of EMPACT - the European multidisciplinary platform for combating criminal threats;”

- In the period from 10 to 12 March 2022, a WCPPO representative participated in the continuation of the training organized by the Ministry of Justice within the EU support project for justice – “Support for Chapter 23” in Vrnjačka Banja. The training session was implemented in order to improve the reporting by contact points and improve knowledge about the existing mechanism for monitoring the implementation of the revised Action Plan for Chapter 23;

- A WCPPO representative participated in the regional conference “The principle of *Ne bis in idem* in criminal proceedings - international standards, national legislation and their application” held on 10 June 2022 in the organization of the OSCE Mission in the Republic of Serbia. Jurists from Serbia and neighboring countries with similar criminal justice systems participated in the conference, and the topics of the conference were related to the presence of this institute in national criminal legislation, in the practice of the European Court of Human Rights and in the practice of constitutional courts;

- The WCPPO took part in the project of the Republic Public Prosecutor’s Office “Establishing a Public Prosecutor’s Practice;”

- A WCPPO representative participated in the seminar “Trial within a reasonable time - domestic application and practice of the European Court of Human Rights.” The seminar discussed the issues of the right to a fair trial, the application of the Law on the Protection of the Right to a Trial within a Reasonable Time, European standards, the procedure for the protection of rights, legal means for speeding up court proceedings, the practice of the European Court of Human Rights and domestic courts regarding the application of the aforementioned legal institutes;

- On 14 April 2022, a WCPPO representative participated in the online presentation of the guide for judges and public prosecutors names “Ethical aspects of the use of social networks,” which was created within the framework of the joint project of the European

Union and the Council of Europe: “Strengthening the independence and responsibility of the judiciary.”

- **Investigation plan**

In accordance with the provisions of the Criminal Procedure Code, acting deputy prosecutors in cooperation with the WCIU defined the steps for each individual case in the investigation, taking into account all relevant actions and measures that need to be undertaken in order for the investigation to be conducted as efficiently as possible.

- **Affirming the application of the plea bargain agreement**

In accordance with the prosecutorial Strategy, in each specific case the possibility of applying the legal option of the plea bargain agreement by the defendant must be considered, and in this reporting period the WCPPO has initiated the application of this agreement and negotiations were conducted, which however, despite the efforts made, did not result in the conclusion of an agreement with the defendant.

- **Ensuring full confidentiality of the investigation process**

In accordance with the relevant legal provisions and by-laws, and in accordance with the activity from the revised Action Plan for Chapter 23, care is taken consistently to ensure the confidentiality and confidentiality of data by WCPPO staff and the implementation of laws and by-laws in this area.

We continued to undertake measures to protect data from unauthorized access, publication and any other abuse, in accordance with the Personal Data Protection Act and other relevant regulations.

Financial investigations and asset forfeiture

There were no legal requirements for the initiation of financial investigations in this reporting period, or the initiating of proceedings for the permanent or temporary confiscation of property resulting from a criminal offense in cases under WCPPO jurisdiction.

In the previous period, the WCPPO initiated the organization of round tables with representatives of institutions involved in the issue of war crimes, with the participation of international institutions on the topic of financial investigations, for the purpose of exchanging experiences (with public prosecutors’ offices and courts), and will propose that the round table give its input, as well as a representative of the Financial Investigations Unit (FIU), in order to share their previous experiences with other participants. Further realization of this activity is expected.

Target – Improving the mechanism for the protection and support for victims and witnesses

- **Protection of victims and witnesses**

The deputy prosecutors for war crimes held regular meetings with the representatives of the Protection Unit (PU) in order to carry out the tasks under their jurisdiction as efficiently as possible.

An individual assessment of victims and witnesses is carried out and, if necessary, the determining of procedural and non-procedural protection measures is initiated, as well as their extension when necessary.

- **Support for victims and witnesses**

During Q1 2022, a special room for the work of the Information and Support Service for victims and witnesses in the WCPPO was equipped and put into operation.

In accordance with the NSWCP activities, the WCPPO sent a proposal to the Prosecutor's Office of B-H to consider concluding an agreement on cooperation with the WCPPO in the field of protection, support and assistance, in order to raise the level of cooperation to a higher level and to facilitate the position and participation of victims and witnesses in criminal proceedings.

In the following period, the implementation of activities regarding the creating of a brochure for victims and witnesses will begin, in accordance with the obligation stipulated in the National War Crimes Strategy 2021-2026.

- **Defense of the defendant**

There were no changes compared to the previous quarter. In every case within their responsibility, the deputy war crimes prosecutors and other case handlers continued to act in accordance with the applicable regulations, respecting the presumption of innocence, the right to a fair trial and the right to a trial within a reasonable time.

During Q1 and Q2 2022, there were no requests to initiate misdemeanor proceedings due to the existence of grounds for suspicion that a misdemeanor has been committed under Article 73 of the Law on Public Information and Media ("Presumption of innocence - in order to protect human dignity, as well as the independence, reputation and impartiality of the court or other competent authority, no one in the media may be labeled as the perpetrator of a criminal offense, that is, declared guilty or responsible before the final court decisions").

Target – Achieving progress in uncovering the fate of missing persons

- **War crime trials and the issue of missing persons**

Cooperation in specific cases with the Commission for Missing Persons (CMP) continued through the exchange of notifications and information. During the next quarter, it is

planned to organize a meeting at the level of the main WCPPO representatives and the CMP with the aim of implementing joint activities (in which other state bodies are also involved) provided for in the NSWCP, at which also discussed will be the need to amend the existing Memorandum on Cooperation concluded in 2018 between the WCPPO and the CMP.

On 14 March 2022, WCPPO representatives took part in a press conference organized by UNDP and the CMP entitled “Families not giving up in the search for truth and justice.”

Target - Improving regional and wider international cooperation in the area of investigation and prosecution of war crimes

Cooperation with the International Residual Mechanism for Criminal Tribunals (IRMCT)

Cooperation with the IRMCT has continued, which included joint work on specific cases, incorporating assistance in criminal proceedings, while the cooperation in two transferred criminal cases in which high-ranking officials were accused was particularly significant. In one of those cases, the cooperation resulted in the filing of an indictment in December 2021, which was confirmed by the competent court in the reporting period, according to which the proceedings were initiated, while in another such case, the investigation is ongoing.

At the initiative of the IRMCT Office of the Prosecutor (OTP), a meeting was held via video conference link between the OTP, the WCPPO and the Prosecutor’s Office of B-H regarding a specific case related to a high-ranking military officer, regarding which in the previous period, according to the indictment of the WCPPO, proceedings were initiated before the Higher Court in Belgrade, the War Crimes Department.

WCPPO representatives and the IRMCT OTP met on 4 May 2022 in Belgrade, as part of the preparations for the regular half-yearly report that the Chief Prosecutor of the Mechanism submits to the United Nations Security Council, and the topics of the meeting were related to regional cooperation and the processing of war crimes in the Republic of Serbia.

A working group was formed between representatives of the Mechanism and the WCPPO, whose main task was to further improve the existing cooperation on specific cases, including providing assistance to the Mechanism in terms of understanding the available evidence and providing additional proof.

The WCPPO was actively involved in the procedure of providing assistance to the OTP in relation to proceedings for criminal acts related to contempt of court and court proceedings for war crimes conducted before the IRMCT.

Some 10 requests were sent to the IRMCT in the period from 1 January 2022, ending with 30 June 2022, and most of the requests have been answered so far.

Case handlers continued to search the database through the Electronic Disclosure System, which provides direct access to a significant part of the IRMCT evidentiary fund, for the purposes of resolving the cases under investigation.

The training of acting deputies in the WCPPO will be continued in the next quarter, which will contribute to easier access to IRMCT documentation and improved handling of downloaded data, as well as a more efficient use of the available IRMCT database.

Cooperation with the IRMCT OTP was raised to a higher level in the reporting period, which also follows from the report that the Chief Prosecutor of the Mechanism submitted to the UN Security Council on 14 June 2022, which states the following: “In regards to the direct cooperation of the Chief Prosecutor’s Office of the Mechanism with the War Crimes Prosecutor’s Office, positive steps have been taken, but some challenges remain. Proceedings are ongoing in three Category II cases that, within the framework of MLA, were forwarded from Bosnia and Herzegovina to the WCPPO of the Republic of Serbia. In addition, the OTP continues to actively cooperate with the WCPPO of Serbia in connection with two previously submitted case files related to high-ranking defendants.”

a) Cooperation with the Prosecutor's Office of B-H and Cooperation and with the State Attorney's Office of the Republic of Croatia

In the reporting period, regional cooperation took place by holding bilateral meetings, exchanging requests for assistance, acting on submitted requests, as well as implementing activities related to taking over criminal prosecution from the Prosecutor’s Office of B-H.

The meeting between representatives of the WCPPO and the Prosecutor’s Office of B-H was held on 5 April 2022, and it was dedicated to the work on current cases on which cooperation was achieved, and in which mutual assistance was requested in certain procedural actions, as well as other related topics with joint cooperation in the fight against impunity for war crimes.

In the first half of 2022, the WCPPO took over the criminal prosecution from the competent authorities of B-H in relation to 3 persons, for the criminal offense of war crimes against the civilian population from Article 142 paragraph 1 of the CC of the FRY, while the proceedings before the competent court have been initiated.

During Q1, the Prosecutor’s Office of B-H submitted a request for assistance in 13 cases. Some 5 requests have been granted, 7 requests are in the works, while 1 request has not been granted. Of these, 8 requests are letters of rogatory for hearing defendants or questioning witnesses, of which 2 have been granted, while 5 letters rogatory are being processed, and 1 letter rogatory has not been granted.

In the same period, the WCPPO sent 71 requests for assistance to the Prosecutor’s Office of B-H. Some 35 requests were processed, while 36 requests remain unanswered.

In Q1 2022, the State Attorney’s Office of the Republic of Croatia (DORH) requested assistance in 10 cases. Of these, 2 requests were letters rogatory for a hearing. Some 3 requests were granted, including 1 letter rogatory, while 1 letter rogatory was not answered. There are 6 requests, of which 1 is a letter rogatory.

The WCPPO submitted 47 requests for assistance to the State Attorney’s Office of the Republic of Croatia, of which 20 requests were processed, while 27 were unanswered.

During Q2, the Prosecutor’s Office of B-H submitted a request for assistance in 18 cases. Some 9 requests have been granted, 9 requests are in the works. Of these, 5 requests are

requests for hearing defendants or examining witnesses, of which 1 request has been granted, while 4 requests are in the processing phase.

In the same period, the WCPPO sent 68 requests for assistance to the Prosecutor's Office of B-H. Some 47 requests were granted, while 21 requests have not yet been answered.

In Q2 2022, the State Attorney's Office of the Republic of Croatia requested assistance in 10 cases, of which 9 are in progress, while 1 request was not granted. Of these, one case includes a request for a hearing and it is in the works.

The WCPPO submitted 21 requests for assistance to the State Attorney's Office of the Republic of Croatia, of which 8 requests were processed, while 13 requests were not answered.

Considering the recognized need to improve cooperation with the State Attorney's Office of the Republic of Croatia, in Q2 an initiative was sent to that prosecutor's office to hold a bilateral meeting. The proposed topics refer to the future implementation of joint activities with the aim of improving efficiency in the processing of war crimes, primarily in terms of handling petitions and requests for assistance, as well as with the aim of achieving other forms of regional cooperation in the processing of war crimes, and establishing cooperation between the Information Service and the support of the WCPPO with a related service in the State Attorney's Office of the Republic of Croatia. Feedback from DORH is awaited.

Preparations for holding the Regional Conference of Prosecutors in order to continue the Palić Process have begun, and it is planned for the end of Q3 2022.

b) Cooperation with the European Union Rule of Law Mission in AP KiM - EULEX and the Provisional Institutions of Self-Government in Priština

As in the previous period, the war crimes deputy prosecutors addressed requests for assistance to EULEX in Priština, in accordance with the MLA procedures provided for in the Technical Protocol for the Implementation of IBM and within the scope of the cases in which they act. A request was sent in one case and it has not been answered so far.

The target of "Raising awareness and improving societal attitudes towards the importance of prosecuting war crimes"

- **The transparency of the WCPPO's work**

The Information Booklet, which is available on the WCPPO website, is regularly updated. The last changes were made in February 2022.

The Booklet is publicly available in electronic form to all interested parties, along with the fact that any interested party can submit a request to examine it, and download a printed copy at the WCPPO.

During Q1 and Q2 2022, the Public Prosecutor's Office, through an authorized person, continued to respond in a timely manner to the inquiries of interested persons, taking into

account the interests of the proper conduct of the proceedings and the protection of personal data to which the inquiries refer.

The WCPPO spokesperson continued with regular communication with media representatives, civil society organizations and victims’ associations. As in the previous period, information was mostly sent to the media and interested parties through written responses and announcements.

At the beginning of Q1 2022, an updated report on the activities of the Public Prosecutor’s Office regarding criminal charges in war crimes cases was published, in accordance with the results indicators. Also in accordance with previous practice, the report includes updated statistical data regarding the submitted criminal charges and initiated investigations conducted in this Public Prosecutor’s Office, as well as the most important data related to court proceedings and court decisions based on submitted indictments.

The revision of the prosecutorial Strategy is in its final phase. It will include the analysis of the results achieved not only in the implementation of the existing Strategy, but also those foreseen in the related strategic documents. Through the revision of the Strategy, needs will be emphasized and activities established in order to improve transparency in the work of the Public Prosecutor’s Office.

An integral part of the strategy is the Action Plan, which will contain numerous activities (and those from related documents) as well as deadlines for their implementation, carriers and indicators of results. This will require the adoption of a new model of reporting to

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