

**REVISED PROSECUTORIAL STRATEGY FOR THE INVESTIGATION  
AND PROSECUTION OF WAR CRIMES OF  
THE REPUBLIC OF SERBIA  
(2022-2026)**

**THE MEANING OF CERTAIN TERMS IN THE REVISED STRATEGY**

WAR CRIMES - common name for all criminal acts under the jurisdiction of the Office of the War Crimes Prosecutor of the Republic of Serbia in accordance with Articles 2 and 3 of the Law on the Jurisdiction of State Authorities in War Crimes Proceedings (Official Gazette of RS no. 67/2003, 135/2004, 61/2005, 101/2007, 104/2009, 101/2001 - other laws, 6/2015 and 87/2018);

INJURED PARTY - common name for an injured party in the sense of Article 2.1 (11) of the Code of Criminal Procedure of the Republic of Serbia (Official Gazette of RS no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 and 62/2021) and the victim in the sense of the provisions of international law;

THE ACCUSED - a term that serves as a general name for a suspect, the accused and convicted in the sense of Article 2.1 (2) of the Code of Criminal Procedure of the Republic of Serbia (Official Gazette of RS no. 72/2011, 101/ 2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 and 62/2021);

PROCEEDINGS – the pre-investigation proceedings and criminal procedure in accordance with Article 2.1 (14) of the Criminal Procedure Code of the Republic of Serbia (Official Gazette of RS no. 72/2011, 101/2011, 121/2012, 32/ 2013, 45/2013, 55/2014, 35/2019, 27/2021 and 62/2021);

CASE HANDLER – the war crimes prosecutor, deputy war crimes prosecutor and prosecutor’s assistant to whom the case was assigned in accordance with Article 3 of the Rulebook on Administration in Public Prosecutor Offices (Official Gazette of RS no. 110/2009, 87/2010, 5/2012, 54/2017, 14/2018 and 57/2019);

FIRST DEPUTY - the deputy war crimes prosecutor designated by the annual work schedule to replace the war crimes prosecutor in case of absence or incapacity in accordance with Article 19 of the Rulebook on Administration in Public Prosecutor Offices (Official Gazette of RS no. 110/2009, 87/2010, 5/2012, 54/2017, 14/2018 and 57/2019).

## *Introduction*

The adoption of the basic Prosecutorial Strategy for the Investigation and Prosecution of War Crimes (hereinafter: Prosecutorial Strategy) for the period from 2018 to 2023 was conditioned by the need to influence the improvement of efficiency in the prosecution of war crimes, as well as to determine a clear strategy for the actions of the Office of the War Crimes Prosecutor (hereinafter: OWCP and Office) in the next five years.

The foundation of the Prosecutorial Strategy rested on the Action Plan for Chapter 23 and the then National War Crimes Prosecution Strategy<sup>1</sup> (hereinafter: NWCPS), as well as the Exit Strategy of the International Criminal Tribunal for the former Yugoslavia.

Its implementation began following the adoption of the Strategy by the OWCP Board at the session held on 4 April 2018.

Meanwhile, the Chapter 23 Action Plan has been revised, and the NWCPS 2016-2020 was replaced by a new National Strategy (2021-2026), which was adopted by the Government of the Republic of Serbia on 14 October 2021. According to the new strategy, the War Crimes Prosecutor is responsible for the implementation of fourteen measures, while measure 1.1 which refers to the improvement of the efficiency of the work of the Office, foresees **the adoption of a revised Prosecutorial Strategy for the Investigation and Prosecution of War Crimes**.

Bearing in mind the fact that a certain number of activities from the current Prosecutorial Strategy (2018-2023) have been fulfilled, and that certain activities need to be corrected to a certain extent and harmonized with the new strategic documents of the Republic of Serbia that refer to the issue of processing war crimes, and all in order to improve efficiency in the actions of this Office, the drafting of the revised Prosecutorial Strategy for the Investigation and Prosecution of War Crimes 2022-2026 was started.

The text of the revised Prosecutorial Strategy includes a brief overview of the results achieved after the start of its implementation for the period from 2018 to the end of 2021, as well as basic guidelines for further action and mechanisms for monitoring the implementation of the Strategy.

**An integral part of the revised Prosecutorial Strategy is the Action Plan** created to facilitate the implementation and realization of the strategy's special goals. It elaborates the activities within each individual goal and measure, determines the deadlines for their implementation and other relevant parameters that need to be defined, which in turn will contribute to an easier and better assessment of the success of the implementation of the Strategy, i.e. the monitoring of its implementation, both by the Office itself and by other state authorities responsible for war crimes proceedings and in charge of monitoring the work of this Office, as well as all interested actors, civil society organizations and the public. The text of the Prosecutorial Strategy and Action Plan will be further improved as needed.

The joint position of the EU in the section "Judiciary and fundamental rights" states that the Republic of Serbia should improve the processing of domestic war crimes cases and foresees that "Serbia adopts and effectively applies the Strategy for the investigation and

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<sup>1</sup>The revised Action Plan for Chapter 23 is available on the official website of the Ministry of Justice, and the National War Crimes Prosecution Strategy is available on the OWCP site.

prosecution of war crimes, monitors the implementation of the Prosecutorial Strategy and assesses its impact when it is necessary and appropriate.”

The revision of the prosecutorial Strategy will contribute to the promotion of the policy of reconciliation, tolerance, regional cooperation and good neighborly relations as a prerequisite for permanent stabilization and progress of the entire region.

The **vision of the Prosecutorial Strategy** implies an efficient handling of war crimes cases that are in line with international standards, within the Constitution and laws of the Republic of Serbia, as well as strong and meaningful regional and wider international cooperation, the protection of witnesses and victims at a high level, and with an active involvement of the War Crimes Investigation Service (hereinafter: WCIS) and the Protection Unit (hereinafter: PU) whenever necessary, clarifying the fate of as many missing persons as possible and improving public information on war crime trials and training on the application of international conventions.

The **mission of the Prosecutorial Strategy** implies strengthened institutional, administrative and other instruments necessary to achieve the vision and general and specific strategy objectives.

The **principles** of the Prosecutorial Strategy remain the same: putting the victim in focus, maintaining the independence of the OWCP, focused investigations and criminal prosecutions, determining the criminal accountability of the most responsible perpetrators regardless of formal rank, putting special focus on the protection of witnesses and victims, strengthening cooperation between relevant institutions, as well as regional and wider international cooperation.

The **GENERAL OBJECTIVE of the Prosecutorial Strategy** was and remains the suppression of impunity for war crimes through effective investigations, as well as strengthened procedural and non-procedural mechanisms for the protection and support of witnesses and victims, high-quality cooperation between state authorities that act in war crimes cases, and regional and wider international cooperation with a reduced number of missing persons and improved transparency of war crimes proceedings.

The focus remains on the same *special objectives* determined in the Prosecutorial Strategy 2018-2023, which are the common goals of other strategic documents in the Republic of Serbia that deal with the improvement of war crimes proceedings:

1. Increasing the efficiency of the investigation and prosecution of all grave, mass and systematically committed war crimes in accordance with the priorities in action set out in this Strategy;
2. Developing the mechanisms for protection and support of witnesses and victims and harmonization of support with EU and international standards;
3. Developing regional cooperation in processing war crime perpetrators;
4. Developing cooperation through EULEX with the Provisional Institutions in Priština, in accordance with mutual legal assistance procedures;
5. Developing cooperation with the International Residual Mechanism for Criminal Tribunals (hereinafter: IRMCT or Mechanism);
6. Achieving progress in clarifying the fate of missing persons;
7. Improving transparency in the work of the Office.

The measures and activities will contribute to the realization of the obligations established by the NWCPS 2021-2026, the revised Action Plan for Chapter 23 and other strategic documents of the Republic of Serbia of which the OWCP is the bearer of activities (such as the National Strategy on the Rights of Victims and Witnesses). Although the aforementioned documents contain deadlines for the execution of activities, the obligation of their timely implementation will be additionally emphasized through the Action Plan along with the Strategy.

The Office will continue to work to combat impunity for war crimes by undertaking and taking over criminal prosecutions from regional prosecutors offices when there are legal conditions for it, by providing legal assistance to other competent prosecutors offices at the regional and international level, regardless of the characteristics and status of the perpetrator or victim and with full respect for the rights of victims and witnesses. Special attention was paid to shedding light on the fate of persons who are still missing and intensifying investigations in the direction of discovering the locations where the remains of those killed in armed conflicts on the territory of the former SFRY were stored.

The following text provides a brief overview of the most important implemented activities from the Prosecutorial Strategy 2018-2023, since detailed reports on activities in the previous period were publicly available through various reports prepared by the Office on a quarterly basis (on the implementation of the NWCPS, the Action Plan for Chapter 23, as well as on the implementation of the Strategy). Also, further general guidelines for future action are provided.

### **INCREASING EFFICIENCY IN PROCESSING**

The main goal of the Prosecutorial Strategy is to increase efficiency in handling. The basic Strategy determined the guidelines for achieving this goal, which include the following:

- 1) the use of existing capacities in accordance with procedural priorities, which include strengthening the institutional and administrative capacities of the OWCP, and the application of new technologies and work methods;
- 2) ensuring full confidentiality of the investigation process;
- 3) developing financial investigations and confiscation of proceeds of crime;
- 4) affirming the application of the institute of plea agreements.

In order to increase work efficiency, a number of activities were carried out after the start of the implementation of the Prosecutorial Strategy, the most important of which are the following:

#### **a) determining the criteria for prioritizing cases:**

In the 2018 Strategy, the criteria for determining priorities were defined within the framework set by the law, the relevant regulations for the actions of the Office and strategic documents - the NWCPS and the Action Plan for Chapter 23.

The emphasis was on the criminal proceedings as the primary criterion while, in addition to the criteria more closely determined by the then valid NWCPS, three more criteria were determined - promptness in handling cases, the existence of an active and passive personal relationship (in accordance with the criterion related to the availability of evidence, suspect, witnesses and victims) and the severity of the violation of protected property (in accordance with the criterion of the consequences of war crimes).

According to the revised Action Plan for Chapter 23, one of the indicators of the effectiveness of the investigation in war crimes cases is the initiation of new priority and serious or major cases.<sup>2</sup>

Although every war crimes case is a serious or major case since the crimes are of such a nature that they fall under serious violations of the norms of international humanitarian law, **the need to further specify the existing criteria for determining priorities was observed.**

Priority in handling will be given to the following:

- cases related to crimes with serious consequences, involving a large number of victims and multiple acts of execution;
- cases with elements of sexual violence
- cases in which the perpetrators at the time of the crime were persons of a high or higher rank in the army, police or civil authorities;
- cases transferred from regional prosecutors offices;
- processing in accordance with the availability of evidence, suspects, witnesses and victims should be taken into account when making a prosecutor decision whether to raise an indictment against one person or more or to transfer the case to another war crimes prosecutor in the region;
- category II cases and those in which the evidence was forwarded by the ICTY/IRMCT.

Among the priority cases, there will also be cases in which criminal prosecution has been taken over from the regional prosecutors offices. Although the Office will primarily direct its capacities towards issuing its own orders on the conduct of the investigation, and then the raising of indictments, where possible, it will proceed immediately to raising the transferred indictments, since they have already been confirmed by the competent regional court and thus can immediately enter the stage of a preparatory hearing, which implies a faster, more efficient and more economical procedure. Taking over criminal prosecution is one of the indicators of the high level of cooperation between regional prosecutors offices.

Also, attention is paid to determining the existence of responsibility of the perpetrators who formally or de facto had a high ranking in the army, police or civilian authorities.

<sup>2</sup>The revised Action Plan for Chapter 23 mandates that “all priority and major charges should be adequately processed in accordance with the Strategy,” as one of the indicators of success for the effective implementation of adequate investigations of charges and equal treatment of suspects.

*Universality, independence, impartiality and the prohibition of discrimination on any basis remain the basic principles of this Office, specified and expressed in the provisions of the Constitution, laws and by-laws, and thus the criteria for determining priorities are based on these principles (in the direction of the prohibition of discrimination and a transitional measure within the revised Action Plan for Chapter 23, in which state bodies dealing with war crimes are reminded of the obligation to ensure the rights of victims and access to justice without discrimination<sup>3</sup>).*

#### *Working group for the selection of subjects according to priorities*

With the aim of creating a list of priority cases and solving all important cases, a *working group for the selection of cases by priority* was formed in the Office in the previous period, whose task will be to deal in detail with all cases in which pre-investigation and investigative procedures are active. After that, the cases will be grouped into 3 categories (I, II and III) in accordance with the mentioned priority criteria, **which are elaborated in detail in a separate act**, and the deadlines in which the case handlers will proceed are to be determined.

The deputy war crimes prosecutors will prepare quarterly reports and inform the War Crimes Prosecutor or the designated deputy about the state of the case and the actions that need to be taken, with the aim of adopting measures to speed up the procedure of making a prosecution decision - orders on conducting the investigation and indictment.

One of the ways of monitoring the increase in the efficiency of the investigation will involve creating a tabular presentation of investigations, prosecutions and judgments of high-ranking/middle-ranking perpetrators of war crimes (military, police and civil authorities).

#### *-Statistical data –*

Since the beginning of the implementation of the Prosecutorial Strategy 2018-2023, the Office has raised 28 indictments against 30 persons. Thereof:

- in 2018, 10 indictments were raised, 6 of which were the result of cases transferred from Bosnia and Herzegovina, while 4 indictments were the result of OWCP investigations;
- in 2019, 4 indictments were raised, of which 3 were transferred cases, while 1 indictment was the result of an OWCP investigation;
- in 2020, 7 indictments were raised against 9 persons, of which 2 were the result of OWCP investigations;
- in 2021, 7 indictments were raised against 9 persons, of which 3 were the result of OWCP investigations.

Beginning in 2020, the increase in the number of indictments that include complex events, with a large number of victims and high- or higher-ranking accused, has intensified, which was recognized in the reports by international institutions that follow the prosecution of

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<sup>3</sup>“Serbia proves effective implementation of adequate investigations of accusations and equal treatment of the accused, without giving the impression that anyone is above the law, regardless of their nationality, ethnicity or whether they are victims.”

war crimes. In 2020, proceedings were initiated against 2 high-ranking persons, and in 2021 against 3 high-ranking persons.

*b) Taking over cases from judicial authorities under general jurisdiction and creating records of war crimes*

From February 2016 until the end of 2021, the Office had taken over cases that could contain elements of war crimes from the Higher Public Prosecutor's Offices in Niš, Vranje, Leskovac, Požarevac, and from the District Courts in Priština, Peć and Prizren. After detailed consideration and processing of the received cases, a total of 1,731 cases remained in the Office, and the other cases were returned to the competent prosecutors offices.

There will be a special focus on creating records of all war crimes.

The sources of data remain the same, and for the purposes of creating records, these were from the WCIS of the Ministry of Internal Affairs of the RS, data from the ICTY, i.e. IRMCT, data from the archives of the Committee for the Collection of Data on Committed Crimes against Humanity and International Law, data collected from regional prosecutors offices, the Commission for Missing Persons of the Government of the Republic of Serbia, and data of relevant civil society organizations that monitor war crimes procedures and other relevant data.

In accordance with the obligation from the NWCPS (2016-2020), the War Crimes Prosecutor initiated a regional database of all cases of war crimes trials at a regional conference in Istanbul in September 2018. The goal means to be achieved by forming such a database is the uniformity of the practice of all war crime courts and panels.

In connection with the aforementioned obligation to create a regional database, taking into account all the relevant circumstances, it can be concluded that, following the initiative of the Office, **the courts (in the Republic of Serbia and the region)** that deal with war crimes cases are responsible for the further implementation of this activity, given that it involves the forming of the **base of court practice**. Also, creating such a database requires a serious commitment of human and material resources, given that it is an international database. Finally, it should be borne in mind that the database on war crimes cases judgments created by the Court of Bosnia and Herzegovina is already publicly available to all interested parties, which also includes judgments handed down by courts in the Republic of Serbia ([link: www.warcrimesdatabase.net](http://www.warcrimesdatabase.net)). Furthermore, this activity has not been foreseen by the accompanying action plan.

*-Relocation of the Committee archives to the premises of the OWCP and classification of cases-*

The archives of the Committee for the collection of data on crimes committed against humanity and international law has been moved to the OWCP premises. The distribution of cases was carried out in order to develop the work of the Office within the available capacities.

A classification of cases according to the territorial principle (Republic of Croatia, B-H and K-M) was completed, and acting deputies continuously use that documentation in their work, whose availability has been facilitated. All items from the archives have been listed, classified and distributed to the case handlers who continuously act on them.

Also, case handler teams were formed according to the territorial principle - the connection of the case with the place where the crime was committed (B-H, Republic of Croatia, AP K-M), and the distribution of cases was carried out accordingly.

In the further implementation of the Prosecutorial Strategy, the composition of the teams will be subject to changes in accordance with staff capacities in order to ensure continuity of work and a proper work schedule, and the **tasks of the teams** will include the following:

- proceedings in cases handled by the Office, which refer to criminal acts committed on the territory of B-H/Republic of Croatia;
- acting on requests for providing legal assistance from the Prosecutor's Office of B-H/Croatia;
- consistent application of relevant acts on cooperation concluded at the state level or with regional prosecutors offices;
- knowledge of court and public prosecutor's practice relevant to handling specific cases;
- active participation in professional development with competent authorities in B-H and the Republic of Croatia;
- preparation and participation in meetings with representatives of the Prosecutor's Offices of B-H and Croatia.

**The task of the teams** for dealing with cases carried out on the territory of the AP K-M will include:

- proceedings in cases handled by the Office related to crimes committed in that area;
- proceedings in cases for the provision of legal assistance at the request of the Provisional Institutions of Self-government in Priština and at the request of the EULEX Mission in accordance with the Procedures of Mutual Legal Assistance provided for in the Technical Protocol for the Implementation of IBM adopted by the Government of the Republic of Serbia by the conclusion dated 3 July 2013;
- monitoring the current provisions of national legislation and international law that could have an impact on the prosecution of war crimes committed in AP K-M;
- monitoring the proceedings before the Specialized Chambers in The Hague.

### ***-The Electronic Disclosure System -***

The EDS system (Electronic Disclosure System) of the IRMCT is continuously being used by persons with access to it.

It is planned that in the next period of implementation, the Office will contact the Mechanism in order to provide access to a wider range of OWCP users.



## STRENGTHENING ADMINISTRATIVE AND INSTITUTIONAL CAPACITIES

The Office capacities were strengthened from 2018 to December 2021. Six persons took over the position of deputy war crimes prosecutor, while 3 persons from other public prosecutor offices were referred to the Office based on the decision of the Public Prosecutor of the Republic. Currently, 11 persons perform the function of deputy prosecutors in the Office. In addition, 2 people are employed in administrative work and two assistant prosecutors, a secretary and a psychologist. Also, in accordance with the Chapter 23 Action Plan, an expert from the military profession, as well as an Office advisor, were hired for the purposes of working on cases.

The lay out of the Office have been somewhat upgraded by adapting and equipping the room used by the WCIS. However, despite this, there is a lack of offices for the OWCP staff.

A Normative and Practice Group was established, which is in charge of monitoring judicial and prosecutorial practice at the domestic and regional levels, the practice of the IRMCT and the ICTY and the European Court of Human Rights.

The material collected by the Group will be systematized by area and legal issues (procedural/substantive law) that are relevant for war crimes cases. Also, the most important decisions of the European Court of Human Rights and IRMCT will be highlighted.

**The activities that the Group will undertake are the following:** researching the practices of the High and Appellate Courts in Belgrade, the Department for War Crimes, the Supreme Court of Cassation and the European Court of Human Rights; researching the practice of the ICTY/IRMCT and the courts/prosecution offices in the region; researching the database of the Republic Public Prosecutor's Office – the 'public prosecutor's practice' section; regular monitoring of cases assigned to regional prosecutors offices; regular monitoring of regulations that are important for the work of the Office (criminal and other laws); participation in consultations that have as their topic the processing of public prosecutors and court practice; digitizing and storing in a manner that would be internally accessible to deputies, assistants and investigators; monitoring the public prosecutor's practice through access to the websites of the Republic Public Prosecutor's Office and the Appellate Public Prosecutor's Offices; proposing new trainings and highlighting the most important works and prosecutorial decisions for the practice of the Republic Public Prosecutor's Office.

### Advanced training

During the period of implementation of the Prosecutorial Strategy, Office staff received professional training in various areas, which was reported on in detail through quarterly reports on the implementation of strategic documents (AP for Chapter 23, the NWCPS) that provided for activities in that direction.

Professional development is inseparable from increasing efficiency, and the revised Action Plan for Chapter 23 and the NWCPS 2021-2026 include numerous activities regarding the participation of representatives of the Office and others in training sessions on the subject

of international humanitarian and international criminal law, as well as investigative techniques, protection and support of victims and witnesses and others.

Therefore, this strategy includes taking the initiative to implement and participate in training sessions in accordance with the aforementioned strategic documents, including training in the field of strategic planning, IT and project management, especially bearing in mind that participation in those trainings was also planned in the basic Prosecutorial Strategy.

In addition, it is necessary to initiate and organize training sessions in the area of application of the International Convention for the Protection of all Persons from Enforced Disappearance (Article 23), as well as additional trainings with the WCIS.

Professional training will be organized in cooperation with the Ministry of Justice, the Judicial Academy, the Republic Public Prosecutor's Office and the State Prosecutorial Council through seminars, and will be realized in the form of trainings, workshops, as well as domestic, regional and international round tables and conferences.

### **The implementation of new technologies**

With regard to the segment of the infrastructure related to IT, important steps have been taken in the previous period towards the improvement of the electronic case management system in public prosecution (SAPO). The implementation of the SAPO electronic system began at the end of 2019 and the technical equipment necessary for the use of this program was delivered to the Office, with its set-up planned for 2022. A large number of employees have completed training on the application of SAPO software during 2021.

The NWCPS 2021-2026 foresees a number of activities related to starting the use of the SAPO program, so full attention will be paid to the implementation of these activities.

Also, if there is a need to develop its own software and computer system for electronic analysis and case management, the Office will initiate all necessary activities in this direction, in cooperation with the Republic Public Prosecutor's Office and the Ministry of Justice of the Republic of Serbia.

### **-Pre-investigation and investigation plan-**

The acting deputies are to make a **pre-investigation plan** during the processing of each case that will include the following points:

- defining a group of potential witnesses and victims;
- defining potential suspects;
- defining the documentation that needs to be obtained (injury lists, death certificates, other medical documentation, documentation related to military service, army booklets, records from the military department, orders, etc.);
- exploration of the IRMCT documentation through the EDS database and through the liaison officer;

- verification through the PIS system (Judicial Information System), (previously it is necessary to ask WCIS to set unique ID for all potential witnesses and suspects; verification of residence; verification of death registers);
- drawing up a schedule for the examination of witnesses and potential suspects (preference given to older witnesses unless differently required due to special tactical reasons);
- obtaining photographs (photographs of potential suspects for identification - through WCIS and BIA, with the special request for the photographs to be obtained through social networks if the competent authorities lack them in their records);
- obtaining photographs of the crime scene, if any.

The Deputy Prosecutors are to prepare short quarterly reports regarding the realization of the stated points from the pre-investigation plan.

Upon completion of the pre-investigation stage, a deputy prosecutor, in cooperation with authorized WCIS officials, will take the following additional steps:

- determine the evidence and data to be obtained, including the evidence and data proposed by the defense, as well as the place where that evidence or data is most likely to be found;
- undertake evidentiary or special evidentiary actions, including those proposed by the defense;
- determine the circle of witnesses that need to be examined, with the determining of their whereabouts and obtaining any previously given statements, i.e. trial transcripts;
- if additional factual material was collected during the pre-investigation stage, it will specify the further direction and scope of the EDS database search in order to obtain data and evidence and to submit a request to the liaison officer to search and obtain evidence related to a specific investigation from the ICTY Prosecution database, as well as to search and obtain relevant transcripts and exhibits from the ICTY Secretariat;
- determine whether the conditions for initiating a financial investigation have been met;
- examine whether it would be expedient in a particular case to initiate the conclusion of a plea agreement with the defendant;
- undertake other measures and actions in order for the investigation to be conducted within the legally set time limit;
- determine the dynamics and manner of reporting on the activities carried out by OWCP and WCIS.

If it should transpire during the investigation that the procedure should be extended to another crime or against another person, the acting deputy prosecutor will issue an order. The acting deputy prosecutor will endeavor to establish the existence of such circumstances at the earliest possible stage of the investigation in order to conduct a unified investigation and avoid a subsequent merging of proceedings and delays.

## **Cooperation with the War Crimes Investigation Service (WCIS)**

Up to now, the Office has had a high-quality cooperation with WCIS, which took place through regular meetings and consultations with the aim of elucidating war crimes and finding their perpetrators.

The head of WCIS and the War Crimes Prosecutor have adopted joint internal rules of procedure. To work on each individual subject, joint teams have been formed that hold regular meetings to coordinate activities. A strategic team has been created to set objectives and decide on issues of common concern, consisting of the War Crimes Prosecutor and the deputies, as well as WCIS members – the Chief and senior staff of the department for investigating crimes against humanity and international law and searching for missing persons.

Also, the Office has organized round tables with WCIS representatives on several occasions, while the last Round Table was organized in December 2021 at the initiative of the War Crimes Prosecutor, when the realization of the topics of future round tables and online seminars to be organized in accordance with activity 1.4.5.1 from the Chapter 23 Action Plan on the topic Basics of Communication with the Media was under discussion.

Further cooperation of the OWCP with the WCIS will continue and, if necessary, intensify, with the aim of speeding up procedures and resolving all disputed issues via the following: joint meetings of the Office and WCIS representatives, the work of joint teams and through joint training and other forms of professional development.

## **Affirmation of the application of the institute of plea-bargaining**

As one of the mechanisms for improving work efficiency in the existing Prosecutorial Strategy as well as in the NWCPS, the need for a wider application of plea bargaining was recognized, first through the conclusion of an agreement between the prosecutor and the accused, and then by passing a verdict based on the concluded agreement.

The benefits of applying this institute are multiple, since its application significantly reduces the costs of the procedure, and on the other hand, it ensures the exercise of the right to a trial within a reasonable time as one of the basic human rights guaranteed by the Constitution and international acts.

In accordance with the obligation established by the NWCPS (2021-2026), the Office will initiate the wider application of this institute, as well as an agreement regarding the testimony of the accused, whenever the conditions prescribed by the law are met.

Within the framework of the OWCP plan and program, an obligation will be established to consider, within the legal framework, whether there is in each individual case a possibility to apply plea-bargaining or the confession of the accused.

The Office is to pay special attention to concluding agreements with the accused that may lead to an uncovering of the fate of persons listed as missing.

The War Crimes Prosecutor will initiate training sessions and expert meetings on the implementation of the mentioned agreements with the aim of exchanging experiences with

other public prosecutor offices, courts and regional institutions dealing with war crime perpetrators for a better understanding and more frequent application of the institute.

### **Ensuring the confidentiality of the investigation and the testimony process**

Improving the process of confidentiality of investigations is one of the measures of the NWCPS (2021-2026) within the specific objective of increasing the efficiency of war crimes proceedings, and the fact that it was included in one of the transitional measures and activities in the revised Action Plan for Chapter 23 (activities under 1.4.4 and 1.4.5) speaks of the importance of this issue. The ultimate objective is to ensure full confidentiality of the investigation and testimony.

Considering that this measure also existed within the first Prosecutorial Strategy, in the current period of the strategy's implementation, the Office has continuously taken measures to protect data from unauthorized access, disclosure and any other abuse, in accordance with the Law on Personal Data Protection.

On 20 March 2019, the Rulebook on the Anonymization of Judgments for the Protection of Personal Data of Participants in Proceedings before the Office was brought. The aforementioned Rulebook uniformly regulates the scope and manner of the anonymization of judgments or indictments and other prosecutorial decisions that are published on the OWCP website and submitted upon request for free access to information of public importance.

On 3 September 2019, the staff member to monitor the protection of personal data in OWCP was appointed. All Office staff are aware of the obligation to keep secret and confidential data in accordance with the provisions of the Law on Confidentiality of Data and other legal and by-laws and the Data Secrecy Law (or the Instructions on the duty to protect and keep secrets and confidential data), with which an overview of the valid material regulations was submitted relating to secrets and confidential data, as well as the obligation to protect and preserve confidentiality and an overview of all the important provisions of regulations related to confidential data.

Thus far, conditions for submitting a request for initiating misdemeanor proceedings due to the existence of reasonable suspicion that a misdemeanor under Article 73 of the Law on Public Information has been committed were lacking.

The OWCP is to ensure a further consistent implementation of all internal acts on the area of personal data protection, as well as the implementation of Article 4.2 of the Criminal Procedure Act.<sup>4</sup>

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<sup>4</sup>Article 10.2 of the CPC reads: "The public prosecutor shall deliver information on whether an investigation is being conducted against a person upon request only to the court, another public prosecutor or the police, and to the accused, his defense counsel or the injured party when the conditions prescribed in Article 297 of this Code are met."

In cooperation with the WCIS and the PU, round tables and lectures on the basics of communication with the media are to be organized in accordance with the obligation from the revised Action Plan for Chapter 23 and the NWCPS.

Given that witnesses and victims in war crimes proceedings are recognized as a particularly sensitive category in the National Strategy on the Rights of Victims and Witnesses, the data and information obtained by VWS staff will also be treated thus.

The War Crimes Prosecutor and the person authorized to access information of public importance will ensure the consistent application of Article 10.2 of the Code of Criminal Procedure and all other relevant acts in the field of personal data protection.

### **The defense of the accused**

Deputy war crimes prosecutors shall act in accordance with applicable regulations, respecting the presumption of innocence, the right to a fair trial and the right to a trial within a reasonable time.

The OWCP has hitherto received no requests for initiating misdemeanor proceedings due to the existence of grounds for suspicion of a misdemeanor under Article 73 of the Law on Public Information and Media. The Office staff in charge of public relations adheres in all respects to the rule that their statements regarding the accused do not violate their rights in any way.

Considering that it occurs frequently that interested persons address the Office with a request for access to information of public importance requesting data from a case that is in the pre-trial or investigation phase, the person authorized to access information of public importance and other authorized Office staff take into account the application of Article 10.2 of the Criminal Procedure Code.<sup>5</sup> The recommendations of the Venice Commission regarding European standards concerning the independence of the judiciary in the conduct of the prosecution are fully respected.

The OWCP will continue to fully respect the presumption of innocence, the right to a fair trial and the right to a trial within a reasonable time, as well as to respect all obligations regarding the rights of the accused established by law and bylaws.

### **Financial investigations and confiscation of property acquired by a criminal offense**

Initiating financial investigations is dealt with by the activities in the new NWCPS, which will be included in the measures and Action Plan accompanying this strategy.

Since the beginning of the implementation of the Prosecutorial Strategy, there have been no legal conditions for initiating financial investigations or initiating proceedings for permanent or temporary confiscation of criminal assets in cases within the jurisdiction of the OWCP.

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<sup>5</sup>Article 10.2 of the CPC reads: “Upon request, the public prosecutor shall submit data on whether an investigation is being conducted only to the court, another public prosecutor or the police, and to the defendant, his defense counsel or injured party when the conditions prescribed in Article 297 of this Code are met.”

In the following period, a working team is to be formed with the task of selecting cases and determining those where there is a possibility of initiating financial investigations against the perpetrators.

The acting deputies will issue an order to initiate a financial investigation after determining the existence of grounds for suspicion that the accused owns property derived from a criminal offense. Upon fulfillment of the legal requirements, the acting deputies will submit a request for temporary confiscation of property or an order prohibiting the disposal of property.

The goal of the activities in the Action Plan is determined in accordance with the NWCPS and implies an increase in the number of procedures in which financial investigations have been initiated. The activities will be focused on cooperation with other relevant state bodies in order to discover assets that are disproportionate to the legal income of the accused, as well as participation in various forms of professional development in order to exchange experiences on the subject of financial investigations in war crimes cases.

## **PROTECTION AND SUPPORT FOR WITNESSES AND VICTIMS OF CRIME**

### ***-Protection of witnesses and victims –***

In war crimes cases, the testimony of witnesses and victims is the most important means of evidence in many cases, impacting the outcome of criminal proceedings. Therefore, their protection and support was and remains the main objective of both the Prosecutorial Strategy and the NWCPS. With the aim of further ensuring the adequate implementation of this special goal, the cooperation between the Office and the PU was raised to a higher level through the Protocol on Cooperation concluded on 6 July 2017.

The Office will continue to directly and in cooperation with the PU provide all the necessary assistance to protected witnesses and witnesses in the protection program, as well as their families, after their testimony at the main trial, especially with regard to their safety and physical and mental health, as well as improving their living conditions. The Office will keep special records on these persons.

Representatives of the Office and the PU have formed joint teams and hold regular meetings in order to more effectively and efficiently carry out tasks under their jurisdiction, all with the aim of improving the protection of participants in criminal proceedings.

In addition to procedural measures for the protection and support of witnesses and victims prescribed by the Criminal Procedure Code, the Law on the Program for the Protection of Participants in Criminal Proceedings prescribes the initiation and implementation of extra-procedural witness protection measures. Acting deputy prosecutors initiate various procedural and extra-procedural witness protection measures whenever the need arises, whether it involves a particularly sensitive witness or a witness whose security is threatened due to giving evidence. This especially applies to witnesses who in a certain way have participated in the committing of a crime but decided to fully disclose their knowledge regarding the crime and the perpetrators.

The Office strives to improve the expertise of all employees who come into contact with witnesses and victims; primarily WCIS members.

The Office provides full support to the work of the PU through active participation in seminars organized by the PU for the purpose of raising awareness of the importance of protection programs among competent authorities in the Republic of Serbia.

The Office and the Protection Unit participate together in numerous training programs and seminars in the field of witness protection. These programs are organized in the reporting period within the WINPRO III project, which is implemented through IPA 2015/370-989.

The OWCP will strive to intensify the requirement of **particularly sensitive witness** status for injured party-witnesses and for witnesses who are considered to be threatened by the perpetrators themselves or persons associated with them, as well as when testifying via a video conference link, when the witness expresses his desire to do so, as well as when the circumstances so dictate.

The Office will insist that the measure to protect identity change from Article 14.1 (4) of the Law on the Program for the Protection of Participants in Criminal Proceedings be implemented in practice, that is, that a legal solution be found for the practical application of that measure.

Regarding the relocation of witnesses, the Office, aware of the importance of this measure in the protection of witnesses, will initiate the signing of agreements with other countries through which it would be possible for a person in the protection program to be relocated abroad.

Support will be requested from the PU in the training of employees who come into contact or can be expected to do with witnesses in the protection program, with the aim of fully understanding the legal and institutional framework for the protection of participants in criminal proceedings, as well as acquiring practical knowledge and skills up to the level of competence required to work in the Office.

The Office has initiated the conclusion of an agreement on cooperation in the field of protection, support and assistance to injured parties with other regional prosecutor offices and courts, which is expected in the coming period; the organization of joint training sessions for judges, prosecutors and employees of victim and witness support services with the aim of an effective implementation of cooperation agreements and improvement of procedural protection, as well as the organization of regional meetings for judges, prosecutors and employees of victim and witness support services with the aim of exchanging experiences, overcoming problems and improvements in process protection.

Office representatives will take part in scientific and professional gatherings organized by the academic community and professional associations, the topics of which are related to the position of victims and witnesses in war crimes proceedings.

In accordance with the activities of the NWCPS (activity under 3.5.1.19), the Office will apply stronger procedural guarantees for victims of war crimes after the adoption and entry into force of the amendments to the Code of Criminal Procedure that are expected in the part related to procedural guarantees.



### ***-Support for witnesses and injured parties-***

Given the special relevance of war crimes cases and the fact that witnesses and injured parties are witnesses to the committing of the most serious crimes which often leave long-term consequences, support and provision of quality basic information before and during criminal proceedings is necessary and furthermore, it is of inestimable importance for the success of criminal proceedings.

The basic document establishing support for victims of crime is Directive 2012/29/EU of the European Parliament and of the Council on the establishment of minimum standards in regards to the rights, support and protection of victims of crime. In accordance with the said Directive and with the aim of improving the position of victims and witnesses in war crimes proceedings, the NWCPS (2020-2025), and especially the National Strategy for Protecting the Rights of Victims and Witnesses of Crimes in the Republic of Serbia (2020-2025) recognizes the issue of support for this category of persons. The importance of supporting victims in war crime cases is also recognized in the EU's Common Position on Chapter 23.<sup>6</sup>

In order for the OWCP to provide support to witnesses and victims, on 3 April 2017, the Support for Victims and Witnesses of Crime in Serbia Service (hereinafter referred to as the Service) was established.

The Service deploys 9 employees: 3 deputy prosecutors, one of whom is the coordinator, 4 assistant prosecutors, a secretary and a psychologist. Thus, together with the Service for Assistance and Support to Victims and Witnesses of the Higher Court in Belgrade, an entity was formed that enables continuity of support and assistance to witnesses and injured parties through all phases of the procedure.

The goal of the revised Prosecutorial Strategy through the activities specified in the Action Plan regarding the provision of support will refer to the further improvement of protection and support mechanisms for witnesses and victims in war crimes proceedings and the harmonization of support with EU and international standards, so that victims and witnesses are appropriately protected.

The Office has participated in the work of the Working Group for the Development of the National Strategy on the Rights of Victims and Witnesses of Crime that was adopted at the session of the Government of the Republic of Serbia on 30 July 2020 (<https://www.mpravde.gov.rs/files/Strategija.docx>). This strategy envisages that the OWCP Service is to be the only such support service within the Office, while the others will be at higher courts. What is particularly important from the point of view of this Office is the fact that, with the aforementioned Strategy, victims of war crimes are recognized as a particularly sensitive category of victims.

The Service should provide victims with the following: information, advice and support about their rights, including access to available mechanisms for compensation for damage caused by a crime; their position in criminal proceedings; preparations for

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<sup>6</sup>“The EU encourages Serbia to harmonize its support for victims and witnesses with EU and international standards and to increase the competencies of the witness protection and support service. The EU reminds Serbia of the *acquis* on victims' rights and urges it to transpose the *acquis* long before accession.”

participation in the procedure; emotional and, if necessary, psychological support; advice on the risk and prevention of secondary and repeated victimization.

The Service at the Office will continue to work within the National Network of Support Services. Taking the necessary technical measures in order to fully comply with the rules and procedures that will regulate the work of the newly established support services at the higher courts is planned. A more detailed description of the actions taken by the Service staff is given in the Rulebook, which will be revised in accordance with the set deadline.

In accordance with the Action Plan for Chapter 23, psychological support is provided by the Service: in January 2021, the Office hired a psychologist to provide professional assistance to victims and witnesses, and during January 2022 a special room was equipped and put into operation.

During the implementation of the Prosecutorial Strategy, the system of informing witnesses and victims about the course of the process was improved through the Office website.

The Office will develop its website in terms of content aimed at informing victims and witnesses about their rights and protection, and at the same time work on raising the awareness of the general public in this area.

Namely, in order to enable victims and witnesses the right to receive information in accordance with Article 4 of Directive 2012/29/EU and the NWCPS, as well as detailed information on the work of the Service, a notice for witnesses and injured parties and a brochure of the Republic Public Prosecutor's Office are posted on the OWCP website (until a new brochure in accordance with the activity from the Strategy is created).

The site will be improved in terms of content aimed at informing victims and witnesses about their rights, but also in the aim of raising awareness of the general public in this area. Data on the work of the Service will also be available through an interactive map that represents a directory of organizations, services and institutions that provide assistance and support to victims of crime in the Republic of Serbia. The map was created after the results of the research of the EU organization for assistance to victims and the Victimology Service of Serbia were announced.

The assistance of the psychologist and other persons assigned to the Service will be directed towards the individual assessment of witnesses and victims and their needs and will include psychological, emotional, administrative and technical support, depending on the needs of the above.

After the implementation of the Prosecutorial Strategy, VWS representatives attended numerous domestic and regional conferences, meetings, round tables and trainings, which were regularly reported on as part of attachments to strategic documents and through annual work reports. Of the more significant ones, training sessions within the WINPRO project should be singled out, as well as regional meetings at the level of witness support providers

within the “Regional Project on War Crimes” supported by UNDP and the Government of the United Kingdom in November 2019 and June 2020.

In order to monitor the work of the Service, the persons assigned to it are to keep accurate statistics on the number of cases and the number of witnesses and victims who have received support, and thereby, the Action Plan foresees activities regarding the submission of reports to the War Crimes Prosecutor on the work of the Service and a precise electronic database regarding the assistance provided to witnesses and victims.

The Action Plan foresees measures to achieve the goal, which includes strengthening the institutional and administrative capacities of the Service through the implementation of strategic documents that already regulate this issue in detail - improving the protection of witnesses and victims of war crimes through strengthening cooperation between relevant institutions, and consistent application of relevant laws and acts from this area, including the protocol on cooperation in the field of witness protection with the PU, professional development and strengthening of the VWS, as well as increasing the competence of the Service whose main objective remains the effective realization of the right to obtain information and the right to access support services in order to facilitate participation in the legal procedure.

Within the framework of regional cooperation, the Office continuously takes over criminal prosecutions from prosecutor offices in the region, especially from B-Herzegovina, in the case when the witnesses and injured parties whose testimony is necessary live in neighboring countries, and a comprehensive organization is needed for their presence at the prosecutor’s office or court.

As a special backup for the above, the Prosecutorial Strategy 2018-2023 envisaged the initiation of direct cooperation between the VWS and the corresponding services from the region.

Since this activity has not been realized, and the same is foreseen in the NWCPS, a new endeavor will be aimed to sign an agreement and its implementation in cooperation between the VWS of the OWCP with the same/similar services in the regional prosecutors offices. The objective is for the agreements to more closely define the procedures regarding contact, organization of travel and other important issues such as the eventual provision of protection in the procedure and the like.

In accordance with the NWCPS, special attention will be paid to the implementation of the Guidelines for the Improvement of Judicial Practice in Proceedings for Compensation of Victims of Serious Crimes in Criminal Proceedings. Victims will be assisted in filling out the form for submitting a property claim in criminal proceedings as part of the primary support program of the VWS.

In the coming period, the Office will standardize the work of the existing Service in the Office for its inclusion in the national network, as well as conduct training on the rights of victims of crimes for police officers, judges, prosecutors and professionals engaged in support services for victims and witnesses.

Office staff will continue to participate in scientific and professional gatherings organized by the academic community as well as expert associations (of victims), whose topics are related to the position of victims and witnesses in war crimes proceedings.

In accordance with the proposal from the NWCPS, the continuing professional training of acting deputies in the area of deciding property claims will be continued, as it would enable the continuous application of the Guidelines adopted by the Supreme Court of Cassation and improve prosecutorial practice in terms of gathering evidence of importance for deciding property claims in criminal proceedings.

### **Cooperation with the International Residual Mechanism for Criminal Tribunals (the Mechanism)**

The importance of cooperation with the Mechanism is established by the most important strategic documents - the NWCPS and the revised Action Plan for Chapter 23, which define and specific activities designed for the development of this cooperation. The court files of the Mechanism, and formerly of the ICTY, as well as the evidence fund of the Mechanism's Office of the Prosecutor (hereinafter: OTP) are extremely important sources of data and evidence for proceedings under the jurisdiction of the Office.

The OTP has on several occasions provided the OWCP with extensive investigative materials submitted to the deputy prosecutors for consideration and processing which had yielded results, given that several proceedings were initiated on the basis of that documentation, especially in 2020 in relation to high-ranking perpetrators of war crimes.

Cooperation is mostly realized through requests for assistance between these two prosecutors' offices. The offices have concluded a Memorandum of Understanding that regulates the procedure for obtaining and providing evidence and data relevant to proceedings within the jurisdiction of the OWCP, through requests for assistance and through direct access to documents from ICTY and the Mechanism databases.

The joint project of the Mechanism and the European Commission called Visiting National Prosecutors was continued, enabling the visit and work of OWCP representatives at the Mechanism. The OWCP held an office on the premises of the Mechanism, but due to the Coronavirus pandemic, starting in October 2020, the liaison officer has been carrying out her/his work from the Belgrade office.

The liaison officer will continue to make requests on behalf of the home prosecutor's office, ensuring they are carried out in an orderly and timely manner, conducting official communication with officials of the Mechanism Secretariat and the OTP working on requests for assistance (holding consultative meetings during which they define the focus of work in accordance with the identified needs and orders of the acting prosecutor in specific cases, submitting additional requests, etc.).

After the beginning of the implementation of the Prosecutorial Strategy, the cooperation has been continued by holding meetings at the level of the Chief Prosecutors and other representatives of these institutions. The meetings were held as part of the preparation of semi-annual reports submitted by the OTP to the United Nations Security Council, as well as numerous working visits to the Mechanism and joint training sessions.

In a number of cases prosecuted before the Office that used documents provided by the Mechanism or the ICTY, statements and transcripts of testimonies of witnesses and victims were submitted, according to which protection measures were applied, although

certain parts of documents were obscured or deleted for the protection of the identity of those persons.

Given the importance of these materials, the deputy prosecutors submitted requests for amendments and a revocation of protective measures and submission of transcripts and statements in their original form, which was preceded by their detailed assessment of the importance of these materials for evidence in particular cases. During 2021, in two criminal cases, OWCP requests were adopted and submitted to the President of the IRMCT for amendment, i.e. the revoking of protective measures against certain witnesses and submission of their statements and transcripts in an integral form.

In cooperation with the Mechanism, two significant training sessions were conducted. “Practical training on research and prosecution of sexual violence related to conflicts as an international crime” was conducted in the period from 8 April to 12 April 2019, and an “Introductory training” was carried out in The Hague at the end of 2019, when the newly elected deputies became acquainted with the work of the Mechanism.

During 2021, a joint project of the Office and the Mechanism was conducted, which included a detailed analysis of all cases of positive cooperation of prosecutors in terms of the analysis of Category II cases, requests for assistance, cases related to regional cooperation, and cases where evidence, documents and information were provided, as well as cases with witnesses.

It was established that a large number of transcripts made before the ICTY and the Mechanism may be relevant to cases prosecuted before the OWCP, as they are abundant with information and, in addition to information on the subject of testimony, provide formal evidence for cases.

In the following period, the War Crimes Prosecutor will once more raise the issue of translating these transcripts into Serbian, in order to enable their use in proceedings in the Republic of Serbia as soon as possible. Until that time, when dealing with specific cases whereupon the Office recognizes the potential significance of certain transcripts, translations will be started immediately.

The Mechanism’s OTP makes a great contribution to the improvement of cooperation at the regional level. Participation in meetings and conferences by Mechanism representatives contributes to strengthening trust between institutions and sends a positive message in the joint fight against impunity for perpetrators of war crimes.

Bearing in mind the above, as well as the measures and activities from the NWCPS and the revised Action Plan for Chapter 23, objective 5 of the revised Prosecutorial Strategy is to improve cooperation with the Mechanism.

The new strategy proposes an intensification of cooperation with the Mechanism, with an emphasis on additional translation and use of transcripts that could be used in proceedings before domestic authorities, and especially the continuation of professional training with Office representatives, and these activities will also be included in the Action Plan.

An active cooperation with the Mechanism will also include joint analysis and processing of cases in the coming period, holding detailed technical discussions, providing assistance in the form of case strategy, assistance in the exchange of available evidence,

provision of additional evidence and support regarding the issue of witness protection, and assistance in cooperation at the regional level.

There is a plan to initiate various types of joint professional training in the coming period, and the Prosecutor has already taken concrete steps in that direction.

Regarding the conduct of proceedings for criminal acts related to contempt of court and court proceedings for war crimes conducted before the Mechanism, the Office, starting from October 2021 onwards, has been actively involved in the procedure of providing assistance to the OTP regarding these procedures.

Maintaining continuity in the cooperation that has been achieved so far is planned, with the intensification of certain activities. The measures and activities set out in the revised Action Plan for Chapter 23 and the NWCPS 2021-2026 are numerous and regulate in detail the forms of cooperation with the Mechanism and aim at its improvement, as well as being incorporated into the Action Plan, along with this strategy. Emphasis will also be placed on the continuation of cooperation in category II cases, which are recognized as a priority in this strategy since their structure can be classified under the category of complex cases.

## **COOPERATION WITH REGIONAL JUDICIARIES**

Due to the nature of the war crimes that are the focus of Office proceedings and which took place on the territory of the former SFRY in the period from 1991 to 1995, strong regional cooperation is a necessary condition for successful prosecution and bringing the perpetrators to justice.

One of the main goals of the Prosecutorial Strategy 2018-2023, as well as the revised Strategy 2022-2026, and in accordance with the Action Plan for Chapter 23, is the improvement of regional cooperation in the field of investigation and war crimes (objective 3).

In order to regulate mutual relations in regional cooperation, numerous agreements, protocols and memoranda have been concluded with countries and prosecutors offices in the region. Also, the basis for regional cooperation can be found in the Law on International Legal Assistance as well as in bilateral agreements (a precise list is available on the OWCP website in the Regulations section - [link](#)). So far, this cooperation has included the provision of information and evidence, the transfer of and prosecution between states, as well as the provision of assistance and support to witnesses and victims, and all the important issues have been largely resolved through bilateral meetings and conferences.

Cooperation with B-Herzegovina has proven to be effective, especially in the area of the application of the transfer of criminal prosecution. Since the beginning of the implementation of the Prosecutorial Strategy, the share of indictments in cases in which criminal prosecution was taken over by the Prosecutor's Office of Bosnia and Herzegovina has been significant and good results have been achieved.

In the period of implementation of the Prosecutorial Strategy 2018-2023, as many as 18 indictments brought against 20 persons are the result of criminal prosecution undertaken by the competent authorities of B-H and are a confirmation of successful regional cooperation with B-H.

Of these, proceedings against 10 persons are ongoing, convictions have been handed down against 6 persons, and indictments against 1 person have been dismissed due to their procedural incapacity, while the proceedings have been suspended in relation to 3 persons due to their demise.

In order to make better use of the capacities at its disposal, it is planned that the Office is to obtain information from the regional prosecutors offices on the approximate number of cases for which there is a possibility of transferal to Serbia, with a determining of the time frame for the transfer.

The Prosecutorial Strategy 2018-2023 envisaged the active commitment of the Office in engaging in the continuation of holding regional meetings and conferences, as well as a more proactive approach when the accused is not available to the competent authorities in the Republic of Serbia.

During the implementation of the Prosecutorial Strategy so far, OWCP regional and broader international cooperation was intensive and included conferences, bilateral and multilateral meetings and expert meetings within the UNDP project named “Strengthening Regional Cooperation in War Crimes Prosecution and Missing Persons” and the “Palić-Brioni Process.” In May 2019, and then in September 2021 and October 2022, at the initiative of the War Crimes Prosecutor in Belgrade and with the support of the UNDP and the OSCE Mission, regional conferences were held, i.e. regional meetings of prosecutors with active participation of regional delegations and the OTP, and the joint conclusion was that there was a need for more war crimes proceedings during the conflict in the former Yugoslavia, as well as that regional cooperation between the prosecutors offices is crucial for achieving that goal.

The exchange of requests for assistance with regional prosecutors offices has been and remains one of the basic instruments for providing assistance and information in specific cases. Beginning in October 2021, the proceedings on the requests of the prosecutors offices of B-H and the RC which referred to the examination of witnesses or interrogation of the accused which were citizens of the Republic of Serbia with residence in their domestic territory were intensified.

**Data on the legal assistance provided by the OWCP at the request of the Prosecutor's Office of B-H after the implementation of the Prosecutorial Strategy 2018-2023**

Year	Requested	Granted	Being processed	Not granted
2018	58	55	3	/
2019	48	42	3	3
2020	49	33	14	2
2021	78	40	27	11

Of the 78 sent requests for assistance from the Prosecutor’s Office of B-H, 39 are letters of rogatory for an examination of the accused or questioning witnesses. The Office

failed to comply with the 10 letters of rogatory, 13 requests were granted, and 16 are being processed.

**Data on legal assistance provided by the Prosecutor’s Office of B-H at the request of the OWCP**

Year	Requested	Granted	Unanswered
2018	43	24	19
2019	61	48	13
2020	107	38	69
2021	154	101	53

**Data on legal assistance provided by the OWCP at the request of the State Attorney’s Office of the Republic of Croatia**

Year	Requested	Granted	Being processed	Not granted
2018	36	18	15	3
2019	39	27	9	3
2020	21	16	5	/
2021	35	11	18	6

**Data on the legal assistance provided by the State Attorney’s Office of the Republic of Croatia at the request of the OWCP**

Year	Requested	Granted	Unanswered
2018	26	13	13
2019	27	13	14
2020	101	18	83
2021	78	42	36

Statistics confirm that cooperation with state bodies of the RC is insufficiently efficient. Also, decisions on trials in absentia are still being made in the RC. The Law on the Nullity of Certain Legal Acts of Judicial Bodies of the Former JNA, SFRY and the Republic of Serbia from 2011 is still in force, which makes cooperation between the two prosecutor offices difficult, meaning that the results of cooperation largely depend on the position of the Ministry of Justice of the Republic of Croatia in each specific case.

The issue of the transfer of war crimes cases in cases of plurality of criminal prosecutions and extradition of domestic citizens in case of dual citizenship remains open, due to legal restrictions related to the extradition of one’s own citizens.

Since the high-quality conduct of pre-investigative and criminal proceedings depends to a large extent on regional cooperation primarily in terms of obtaining evidence, the objective that the revised Prosecutorial Strategy should achieve is strong cooperation with all



regional prosecutor offices and other state authorities that cooperate on war crimes cases, this being stipulated by the Action Plan.

There should be a special focus on cross-border cooperation in the area of assistance and support to victims and witnesses in war crimes proceedings, something the revised strategy follows by stipulating activities regarding the OWCP initiative to conclude an agreement on cooperation between Services for the closer regulation of this issue, as well as in regards to the organization of expert gatherings and regional meetings at the level of Service representatives with the aim of exchanging experiences in current practice.

The NWCPS also recognizes the existence of more possibilities in that direction, suggesting the need to open an additional dialogue for identifying and removing obstacles to comply with the larger number of requests for assistance, as well as establishing joint teams with the aim of a more efficient collection of evidence and exchange of information.

### **Cooperation with the Mission of the European Rule of Law in AP K-M - EULEX and the Provisional Institutions of Self-Government in Priština**

Cooperation with the Provisional Institutions of Self-Government in Priština, AP K-M takes place on the basis of the Mutual Legal Assistance Procedures provided for in the IBM Technical Protocol,<sup>7</sup> the aim of which is to simplify the handling of requests for mutual assistance with the Provisional Institutions in Priština. This cooperation implies the provision of mutual legal assistance in general aspects, such as delivery of acts, documents, exchange of notices, performance of procedural actions and the like.

Acting deputies forward requests for assistance to EULEX through the Ministry of Justice of the Republic of Serbia.

### **Data on OWCP requested legal assistance to the EULEX Special Prosecution Office in Priština -based on the Mutual Legal Assistance Procedure-**

Year	Requested	Granted	Not answered
2018	28	3	25
2019	22	2	20
2020	28	3	25
2021	26	/	26

In the coming period, the Office will work on discovering the most efficient way to improve this type of cooperation. The War Crimes Prosecutor will initiate consultations with the Republic Public Prosecutor's Office and the Ministry of Justice in order to find the best way to cooperate with AP K-M in cases related to war crimes.

## **THE MISSING PERSONS ISSUE**

<sup>7</sup>Procedures of mutual legal assistance foreseen for the implementation of the IBM Technical Protocol adopted by the Government of the Republic of Serbia by the conclusion dated 7 March 2013.

Among the main goals of the Prosecutorial Strategy are professional and efficient investigations in order to discover the sites where the remains of persons killed in the armed conflicts in the former SFRY are stored and to prosecute those responsible.

The Office has so far carried out numerous activities in the direction of making progress in shedding light on the fate of missing persons in cooperation with the competent authorities dealing with this issue.

Of special significance is the Commission on Missing Persons of the Government of the Republic of Serbia, with the mandate to deal with resolving the issue of missing persons in armed conflicts in the SFRY and AP K-M.

The basic type of direct development of cooperation with the Commission was realized through the conclusion of the Memorandum of Cooperation,<sup>8</sup> the application of which facilitates the mutual exchange of documentation, data and information for criminal proceedings and cases of missing persons.

Field searches and exhumations of remains in central Serbia are being carried out by order of the Office and the Belgrade Higher Court, War Crimes Department, while the Commission on Missing Persons provides logistical support and reimbursement of costs.

For the purposes of conducting specific criminal proceedings, the Commission for Missing Persons submits documentation and data from its records at the request of the Office, as well as forwarding information regarding the circumstances of the disappearance of certain persons and possible locations where the human remains are stored.

The Office has participated in the formation of the Expert Group for resolving cases of missing persons in the former SFRY and continuously participates in the work of that group through its permanent representatives. Office representatives regularly accept invitations to participate in working meetings organized by the Commission for Missing Persons of the Government of the Republic of Serbia with regional institutions dealing with missing persons, as well as expert group meetings and sessions of the Commission on Missing Persons.

During 2020, cooperation was intensified by OWCP participation in meetings organized by the Commission on Missing Persons and the Expert Group.

The Office regularly participated in a regional project organized by the UNDP for many years, entitled Strengthening Regional Cooperation in War Crimes Prosecution and the Search for Missing Persons, which aims to increase the effectiveness of cooperation between regional prosecutors offices.

***The Joint Declaration on Missing Persons,***<sup>9</sup> in accordance with the Berlin Process framework, has pointed out the need of ensuring the impartial and efficient investigating of the cases of missing persons in accordance with international human rights standards and to resolve as many cases of missing persons as possible in the next five years, as well as an active engagement of all domestic institutions responsible for locating or identifying missing persons or those involved in the process, in order to explore all possible ways to obtain new information about graves, including the obligation to provide adequate resources to search

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<sup>8</sup>Memorandum on cooperation between the OWCP and the Commission for Missing Persons concluded on 12 June 2018.

<sup>9</sup>London Summit for the Western Balkans 2018, “Joint Declaration on Missing Persons in the Framework of the Berlin Process 2018.”

archives in search of relevant information, and submitting this information to the appropriate central institution.

Objective 6 of the revised Prosecutorial Strategy refers to achieving progress in shedding light on the fate of missing persons.

The activities from the previous Strategy, which are unremitting in their nature, will be continued, primarily with the intensification of investigations in the direction of shedding light on the locations where the remains of those killed in armed conflicts in the former SFRY are stored.

It is necessary to further improve the cooperation of all institutions in the Republic of Serbia that are responsible for the search for missing persons, and new activities will be included in the Action Plan in addition to the revised Prosecutorial Strategy in accordance with NWCPS 2021-2026.

Through the implementation of the measures, it will be possible to fulfill the activities from the revised Action Plan for Chapter 23 in this area, while the basic measures that will enable the realization of the stated goal are the following: improving the cooperation of the Office with the state authorities involved in the process of shedding light on the fate of missing persons and effectively solving the issue of missing persons through a more effective regional cooperation.

## **TRANSPARENCY IN THE WORK OF THE OWCP**

Given the importance of war crimes proceedings, it is necessary for the public to have an easily accessible and unbiased source of information on the prosecution of perpetrators of war crimes.

With that objective in mind, a new website was created during the implementation period of the Prosecutorial Strategy, and on 27 December 2018, a spokesperson for the Office was appointed.

The goal of the Prosecutorial Strategy 2018-2023 in terms of transparency was aimed at raising awareness and improving society's attitude towards the importance of prosecuting war crimes, and specific activities were carried out in that direction:

-in accordance with the provisions of the Law on Personal Data Protection and the Law on Access to Information of Public Importance, the Rulebook on Anonymization of OWCP Indictments was adopted. All data and information that are posted on the OWCP website, as well as those that are submitted to interested persons on the basis of the Law on Free Access to Information of Public Importance, are in accordance with the adopted Rulebook;

-all relevant and current data on the work of the Office are contained in the Information Booklet,<sup>10</sup> which is regularly updated and posted on the website;

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<sup>10</sup>An Information booklet on the work of the OWCP, prepared in accordance with Article 39 of the Law on Free Access to Information of Public Importance (Off. Gazette of the RS, Nos. 120/04, 54/07, 104/09 and 36/10) and with Instructions for publishing the booklet on the work of state bodies (Off. Gazette of the RS, No. 68/10), is available at the link \*\*\*\*\*

-stakeholders are informed about the schedule of the main hearings, while the website renders all important activities carried out by the Office;

-in the current period of the implementation of the Prosecutorial Strategy, the Office has also continuously provided information to stakeholders through the processing of requests in accordance with the Law on Access to Free Information of Public Importance and the Law on Personal Data Protection and other applicable regulations relevant to this area (the person authorized to access information of public importance has responded in a timely manner to all submitted requests).

Considering that publishing data from criminal reports acted on by the Office, as well as data from the investigation, would not be in accordance with regulations requiring the confidential nature of this part of criminal proceedings, the OWCP website publishes information about cases only after the indictment has been raised and the preliminary hearing, which is closed for the public, has ended, in accordance with the provisions of the Code of Criminal Procedure.

The approach of journalists to the issue of war crimes is very important for forming the attitude of the public in regards to the work of the OWCP and in that sense, instructing and training journalists is a precondition for a high quality and objective informing of the public about the criminal proceedings of war crimes.

In order to consider all the aspects of monitoring the proceedings, it is necessary that training sessions are also organized for representatives of the police forces (PU and WCIS) and the OWCP. For that reason, in accordance with the obligation from the revised Action Plan for Chapter 23 and the NWCPS, organizing round tables and lectures on the basics of communication with the media is to be continued.

**Objective 7 of the revised Strategy thus represents a further advancement of transparency in the work of the OWCP.**

The Office will continue to contribute to a timely and objective informing of the public about the handling of specific cases and other activities, taking care not to impair the procedure, while respecting the privacy of participants in criminal proceedings in the way that shall not bring about the disclosure of classified information, as well as the provision of Article 10 of the Law on the Public Prosecutor's Office.<sup>11</sup> During the implementation of the strategy, round tables and lectures were organized on several occasions in order to better understand and improve communication with the media outlets, and due to its importance, this practice will be continued in the future.

The NWCPS stipulates that it is necessary to ensure full transparency of the results of the implementation of the Prosecutorial Strategy and improve dialogue with civil society organizations and the academic community, in order to improve the previously carried out activities and with the aim of ensuring adequate and effective cooperation with the media.

Cooperation with the Judicial Academy is to be initiated with the aim of instructing

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<sup>11</sup>Article 10.2 of the Law on the Public Prosecutor's Office stipulates that the public prosecutor's office can inform the public about individual cases which it is handling but within the limits of its statutory powers and in accordance with the procedure, taking into account the protection of the privacy of the participants in the proceedings.

Academy participants and graduates regarding war crimes, in order to further raise awareness of the relevance and weight of war crimes proceedings as well as instructing future personnel through external PR services.

In accordance with the strategic documents and set deadlines, the Office will prepare reports on its work, which are to be posted on the website as soon as possible after their adoption, in order to inform the public about all important activities in a timely manner.

The mentioned activities, as well as others more closely determined by the accompanying Action Plan, are to enable the implementation of measure 5.4 of the NWCPS – the improvement of the discourse on war crimes trials, the implementation of which is the responsibility of the OWCP.

## **OVERVIEW OF MEASURES FOR ACHIEVING THE OBJECTIVES OF THE REVISED PROSECUTORIAL STRATEGY**

### **OBJECTIVE 1: Increasing efficiency in war crimes proceedings**

#### **Measures for achieving objective 1:**

Measure 1.1: Consistent implementation of the preliminary investigation and investigation plan according to the text of the revised Prosecutorial Strategy; creating a list of priority cases and an efficient handling of those cases; an effective exchange of data with the WCIS.

Measure 1.2: Strengthening the capacity of the OWCP through professional training.

Measure 1.3: Improvement of OWCP administrative, spatial and institutional capacities.

Measure 1.4: Affirmation of the institute of the plea agreement and testimony of the accused, improvement of financial investigations.

Measure 1.5: Ensuring full confidentiality of the investigation process.

Measure 1.6: Improvement of mechanisms for the realization of property-legal claims of injured parties.

### **OBJECTIVE 2: improving the system of protection and support for witnesses and victims and harmonizing their position in the proceedings with EU and international standards**

#### **Measures for achieving objective 2:**

Measure 2.1: Improvement of use of procedural and non-procedural witness and victim protection measures.

Measure 2.2: Improvement of cooperation with the Witness Protection Unit of the Ministry of Internal Affairs of the RS.

Measure 2.3: Improvement of the work of the Service for information and support for victims and witnesses in the OWCP.

Measure 2.4: Enabling wider availability of information in war crimes proceedings to victims and witnesses.

**OBJECTIVE 3: Improvement of regional cooperation in the prosecution of perpetrators of war crimes**

**Measures for achieving objective 3:**

Measure 3.1: Strengthening cooperation through regular meetings and conferences

Measure 3.2: Strengthening cooperation through the improvement of normative acts on cooperation at the level of prosecutors offices and through mutually up-to-date handling of requests for assistance and petitions of regional prosecutors offices.

Measure 3.3: Strengthening cooperation between the OWCP Information and Support Services and related services at the prosecutor offices in the region.

Measure 3.4: Initiation of new proceedings through the transfer of criminal prosecutions between regional prosecutor offices.

**OBJECTIVE 4: Improved cooperation through EULEX with the Provisional Institutions of Self-Government in Priština based on the Mutual Legal Assistance Procedure**

**Measures for achieving objective 4:**

Measure 4.1: Improved exchange of requests for assistance in accordance with the Mutual Legal Assistance Procedures adopted by the Decision of the Government of the Republic of Serbia 05 No. 018-1862/2013-1 dated 7 March 2012.

**OBJECTIVE 5: Improved cooperation with the IRMCT**

**Measures for achieving objective 5:**

Measure 5.1: Maintaining continuity in cooperation with the Mechanism OTP through regular meetings, further exchange of requests for assistance through liaison officers; continuous access to the EDS database, as well as through the training of OWCP representatives and the transfer of knowledge and practice.

Measure 5.2: Implementation of other activities within measure 4.3 of the NWCPS related to access to Mechanism documentation and within activity 1.4.1.5 from the revised Action Plan for Chapter 23.

**OBJECTIVE 6: Achieving progress in shedding light on the fate of missing persons.**

**Measures for achieving objective 5:**

Measure 6.1: Improving the cooperation of the OWCP with other state bodies of the Republic of Serbia involved in the process of shedding light on the fate of missing persons.

Measure 6.2: Improvement of efficiency in solving the issue of missing persons through

stronger regional cooperation.

## **OBJECTIVE 7: Improving transparency in the work of the OWCP.**

### **Measures for achieving objective 7:**

Measure 7.1: Easier access to information related to war crimes proceedings.

Measure 7.2: Improving the overall attitude of society towards the issue of trials for war crimes.

## **FUNDS FOR THE IMPLEMENTATION OF THE PROSECUTORIAL STRATEGY:**

Funds for the implementation of this strategy will be provided from the budget of the Republic of Serbia, from the resources earmarked for carrying out regular activities of budget users who are the bearers of the activities, as well as from donor funds through projects implemented by the UNDP and the OSCE Mission in the Republic of Serbia, in accordance with the NWCPS 2021-2026 and the revised Action Plan for Chapter 23.

The funds provided for the implementation of activities in the accompanying Action Plan for 2022 and 2023 are provided and planned within the budget of the holders of activities from this strategy, the Law on the Budget of the Republic of Serbia for 2022 and the Law on the Budget of the Republic of Serbia for 2023. In the following years of the implementation of the strategy, funds for the implementation of activities from the Action Plan will be planned within the limits set by the Ministry of Finance for all budget users in the process of preparation and adoption of the Law on the Budget of the Republic of Serbia.

A further cost assessment is to be undertaken for a certain number of measures for which financing is planned from the budget of the Republic of Serbia and from donor funds, the costs of which could not be estimated at the time of the adoption of this strategy, after the adoption of the strategy and the associated Action Plan.

## **ACTION PLAN**

An integral part of the revised Prosecutorial Strategy is the Action Plan for its implementation.

The Action Plan more precisely determines the specific activities through which each of the measures adopted within the individual goal will be implemented. In addition, the Action Plan defines success indicators, deadlines and resources for the implementation of activities, as well as the bearers of activities.

## Informing the public

In determining the model of informing the public, the Office was guided by the requirements included in the basic Strategy for the mentioned to be clearly defined, efficient and sustainable.

The public will continue to be informed about the implementation of the Prosecutorial Strategy through quarterly reports, which will be posted within 15 days from the day the report is adopted by the OWCP Board. These reports will be posted on the website of the Office, as before, in the Documents section.

Other important reports regarding the work of the OWCP are also posted on the same site.

The War Crimes Prosecutor and the OWCP Board will be responsible for monitoring the implementation of the Prosecutorial Strategy, as provided for in the revised Action Plan for Chapter 23.

Quarterly analyzes will be made on the implementation of the strategy, as well as possible obstacles, and other issues that arise during its implementation, while the Office will consider hiring an **expert** for the preparation of the reporting model.