

Law on the Organization and Competence of Government Authorities in War Crimes Proceedings (Official Gazette of the RS, nos. 67/2003, 135/2004, 61/2005, 101/2007, 105/2009, 101/2011, 6/2015, 87/2018 – other law)

The actual jurisdiction (legal basis for action) of the Office of the War Crimes Prosecutor of the Republic of Serbia is based on two grounds.

The first is in the provision of Article 3 of the Law on the Organization and Competence of Government Bodies in War Crimes Proceedings, which states, among other things, that the state bodies of the Republic of Serbia are designated by this Law as competent to conduct proceedings for the criminal acts provided for in Article 2 of the same Law, which have been committed on the territory of the former SFRY, regardless of the nationality of the perpetrator or victim.

The second basis is found in the provisions of Article 107 (1) of the Criminal Code of the FRY, which talks about the validity of the Yugoslav criminal legislation in regards to a foreigner who commits a criminal offense against its citizens outside the territory of the FRY (the so-called passive personality principle), which is the case here, given that the victims' families are citizens of the Republic of Serbia. Such a provision existed and still exists in the criminal legislation of the states in the region.

It should be noted that the international conventions related to the protection of civilians in armed conflicts which were signed, ratified and applied by both the Republic of Serbia and the states in the region, also provide the opportunity for such serious crimes to be prosecuted in the state in which the accused are not citizens of that country, that is, on whose territory the war crime did not take place.