



Humanitarian Law Center

Report

on the implementation of
the National Strategy for the
Prosecution of War Crimes
(2021–2026)



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Belgrade,
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Abbreviations

Action Plan	Action Plan for Chapter 23
AP KiM	Autonomous Province of Kosovo and Metohija
B&H	Bosnia and Herzegovina
DORH	State Attorney's Office of the Republic of Croatia
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EC	European Commission
HLC	Humanitarian Law Center
JNA	Yugoslav People's Army
JSO	Special Operations Unit
OWCP	Office of the War Crimes Prosecutor
Protection Unit	Unit for the protection of participants in criminal proceedings
MoLEVSA	Ministry of Labour, Employment, Veteran and Social Affairs
ICTY	International Criminal Tribunal for the former Yugoslavia
IRMCT/Mechanism	International Residual Mechanism for Criminal Tribunals
Mol	Ministry of the Interior
National Strategy/ Second National Strategy	National Strategy for the Prosecution of War crimes (2021–2026)
OSCE	Organization for Security and Co-operation in Europe
Working Body	Working Body for monitoring in implementation of the National Strategy for the Prosecution of War Crimes 2021–2026
RS	Republic of Serbia
SAO	Serb Autonomous Region
SDB	State Security Service
SORZ	War Crimes Investigation Service of the Ministry of the Interior of the Republic of Serbia
Prosecutor	War Crimes Prosecutor of the Republic of Serbia
Prosecutorial Strategy	(revised) Prosecutorial Strategy for Investigation and Prosecution of War Crimes in the Republic of Serbia 2022 – 2026.
Government	The Government of the Republic of Serbia
SCC	Supreme Court of Cassation (as of 10 May 2023 the Supreme Court)
SC	Supreme Court
HJC	High Judicial Council
HPC	High Prosecutors' Council
Request	Request for access to information of public importance
CPC	Criminal Procedure Code



Preface

The Humanitarian Law Center (HLC) has been monitoring and providing support to war crimes trials ever since the first war crimes proceedings conducted in Serbia, in 2002. The HLC is the only organization that has been continuously monitoring and analysing war crimes trials in Serbia and informing the public at home and abroad about them. It has been filing criminal complaints with the Office of the War Crimes Prosecutor (OWCP) against suspected perpetrators, identifying witnesses and encouraging them to give evidence in war crimes trials and thus contribute to bring war crime perpetrators to justice.

The National Strategy for the Prosecution of War Crimes for the Period 2021–2026 (hereinafter: The National Strategy or the Strategy) was adopted in October 2021.¹ In addition to monitoring and analysis of war crimes trials in Serbia, the HLC monitors and reports on the state of implementation of the National Strategy and its achievements in order to assist in the qualitative and quantitative assessment of the measures and activities set forth in the Strategy.

This report on the implementation of the National Strategy (2021–2026) covers the period from mid-October 2021 to 1 May 2024 and is the continuation of the reports published by the HLC during the implementation of the (first) National Strategy for the Prosecution of war Crimes for the Period 2016–2020.²

The report covers the period from **14 October 2021 to 1 May 2024**. It provides an overview of the current situation and the progress made in the implementation of the

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- 1 See the impact indicators at the level of the general objective in: *National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 52. The National Strategy is available online on the official website of the Supreme Court of Serbia: <https://www.mpravde.gov.rs/files/NATIONAL%20STRATEGY%20FOR%20WAR%20CRIMES%20PROSECUTION%201.pdf> (accessed on 8 December 2024).
- 2 *The Initial Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, December 2017, available online on the HLC website at: https://www.hlc-rdc.org/wp-content/uploads/2017/12/Izvestaj_Strategija_1_eng.pdf; *Second Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, June 2018, available on the HLC website at: http://www.hlc-rdc.org/wp-content/uploads/2018/07/Izvestaj_Strategija_2_ENG-ff.pdf; *Third Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, December 2018, available online on the HLC website at: www.hlc-rdc.org/?p=35908&lang=de; *Fourth Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, June 2019, available online on the HLC website at: <http://www.hlc-rdc.org/wp-content/uploads/2019/07/Fourth-Report-on-the-Implementation-of-the-National-Strategy-for-the-Prosecution-of-War-Crimes.pdf>; *Fifth Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, December 2019, available online on the HLC website at: https://www.hlc-rdc.org/wp-content/uploads/2019/12/Fifth_Report_on_the_Implementation_of_the_National_Strategy_for_Prosecution_of_War_Crimes.pdf (all sources visited 6 May 2024).



Strategy during this period. As shown by the findings of the HLC research conducted for this report, no progress has been made in the prosecution of war crimes in the 31 months since the adoption of the National Strategy for the Period 2021–2026.

The number of indictments decreased year by year, war crimes trials continued to be lengthy, no progress was made towards strengthening the procedural rights of victims, fewer missing persons were found decreasing at a lower rate than expected, and no noteworthy progress can be reported in regional cooperation in the prosecution of war crimes.



Introduction

On 14 October 2021, the Government of the Republic of Serbia adopted the *National Strategy for the Prosecution of War Crimes for the Period 2021-2026*. The Strategy defines the mission and vision of the Strategy.³

The Strategy's vision: a legal system in which war crimes proceedings are conducted efficiently and in accordance with international standards with a highest degree of regional cooperation; victims and witnesses are protected and have access to support and assistance services in accordance with international standards, the fate of missing persons is clarified, and public information on war crimes trials and the capacity to inform on these issues are improved.

The Strategy's mission: establishing normative and institutional mechanisms and good practices aimed at the punishment of war crimes, the protection and support of victims, and the clarification of the fate of missing persons as integral elements of the rule of law.

Addressees of the Strategy – Court of Appeal in Belgrade (War Crimes Chamber), High Court in Belgrade (War Crimes Department), Commission for Missing Persons, Ministry of Justice, Ministry of Labour, Employment, Veteran and Social Affairs, Ministry of Foreign Affairs, Witness Protection unit, Ministry of the Interior (War Crimes Investigation Service), Judicial Academy, and Office of the War Crimes Prosecutor.

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In accordance with the Law on the Planning System, the National Strategy has one general and five specific objectives.⁴

The general goal of the Strategy is “to strengthen procedural and non-procedural mechanisms for the punishment of war crimes, the protection and support of victims, the resolving of the fate of missing persons and the creation of a social ambience of tolerance and reconciliation.”

Five specific objectives of the Strategy are:

1. Improving efficiency of war crimes proceedings;
2. Improving the protection and support of victims and witnesses in war crimes proceedings;
3. Improving the mechanisms for resolving the fate of missing persons;

³ *National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 51.

⁴ *The Law on the Planning System of the Republic of Serbia* (Official Gazette of the Republic of Serbia, No 30/2018).



4. Improving cooperation with the International Residual Mechanism for Criminal Tribunals (IRMCT);
5. Strengthening regional and broader international cooperation and other mechanisms in the service of transitional justice.⁵

The Action Plan for the Implementation of the National Strategy for the Prosecution of War crimes for the Period 2021-2026 was adopted together with the Strategy.⁶

By the decision of the Government of the Republic of Serbia of 9 December 2021, a Working Body for Monitoring the National Strategy (the Working Body) was established, composed of representatives of all relevant institutions involved in the implementation of the National Strategy.⁷

At the inaugural meeting of the Working Body, held on 18 March 2022, the *Rules of Procedure of the Working Body*⁸ responsible for monitoring and reporting on the implementation of the National Strategy were adopted.

Methodology for the preparation of the Report on the Implementation of the National Strategy for the Prosecution of War Crimes

The information used in the preparation this report comes from three main sources. The first source is the reports of the Working Body. The second source is the information

5 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, pp. 54–56.

6 *The Action Plan for the Implementation of the National Strategy for the Prosecution of War Crimes for the Period of 2021. do 2026* (Official Gazette of the Republic of Serbia, No. 97/2021).

7 *The Initial Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 1. The members of the Working Group for the Monitoring of the National Strategy are: Nevenka Važić (Supreme Court), Olivera Andelković (Court of Appeals in Belgrade), Zorana Trajković (High Court in Belgrade), Jasmina Stanković (Office of the Republic Prosecutor), Snežana Stanojković (OWCP), Veljko Odalović (Commission on Missing Persons), Goran Živković (MoI), Momčilo Stevanović (MoI), Maja Đorđević (Ministry of Labour, Employment, Veteran and Social Affairs), Jelisaveta Čolanović (Ministry of Foreign Affairs), Dr Dejan Đurđević (Belgrade University Law School), Maja Popović, Justice Minister of the Republic of Serbia and chairwoman of the Working Body, Nenad Vujić, director of the Judicial Academy and deputy chairperson of the Working Body. (Information obtained from the Ministry of Justice of the Republic of Serbia in reply to request for access to information of public importance No 7-00-00126/2024-32 of 18 June 2024, p. 2.

8 See: section *Publications* on the HLC website at: <http://www.hlc-rdc.org/?cat=223&lang=de> (visited 13 June 2018) and section *Cases* at: <http://www.hlc-rdc.org/?cat=234> (visited 7 May 2024).

Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes, p. 1. Reports on the Implementation of the National Strategy are available online (in Serbian) on the official website of the Ministry of Justice of the Republic of Serbia at: <https://www.mpravde.gov.rs/tekst/17978/izvestaj-o-sprovedjenju-nacionalne-strategije-za-procesuiranje-ratnih-zlocina.php>, and on the official website of the OWCP at: <https://www.tuzilastvorz.org.rs/sr-lat/normativni-akti/strate%C5%A1ki-dokumenti/povezani-izve%C5%A1taji/izve%C5%A1taj-o-sprovo%C4%91enju-nacionalne-strategije> (both sources visited 12 August and 12 August 2024).



gathered through requests for access to information of public interest from the bodies responsible for carrying out the activities set out in the National Strategy. And, since the HLC monitors all war crimes trials conducted by the High Court in Belgrade and the Court of Appeals in Belgrade, the HLC's war crimes trials monitoring reports and analyses of trials provided the third source of information for the present report.⁹

Obstacles faced by the HLC in compiling the Report on the Implementation of the National Strategy for the Prosecution of War Crimes

In preparing this report, the HLC found itself confronted with a startling paucity of public information regarding the implementation of the National Strategy.

The main obstacle to gathering information was the late publication of the reports by the Working Body mandated to monitor and report on National Strategy implementation.

During the preparation of this report, the information from the Working Body reports covering 13 months of Strategy implementation (from 31 March 2023 to 1 May 2024) was not publicly available. Although the Ministry of Justice stated, in response to HLC's inquiry, that the Working Body held regular meetings on a quarterly basis and that eight reports had been adopted, only five reports had been published on the official website of the Serbian Ministry of Justice, by November 2024. These reports only cover the period up to 31 March 2023.¹⁰ These five reports are also available on the OWCP website, as required by the National Strategy.¹¹

In addition to being late and not published on time, the reports of the Working Body, contain insufficient information, and their findings often not in line with the activities set out in the National Strategy. They also tend to be repetitive and redundant. Reporting on activities is inconsistent, making it difficult to follow the progress of Strategy implementation. This makes them difficult to read and understand, even for the professional community that closely follows domestic war crimes trials. It is therefore necessary to consult additional sources of information, such as statements by officials,

⁹ See: section *Publications* on the HLC website at: <http://www.hlc-rdc.org/?cat=223&lang=de> and section *Cases* at: <http://www.hlc-rdc.org/?cat=234> (both sources visited 7 May 2024).

¹⁰ Information obtained from the Ministry of Justice of the Republic of Serbia in response to request for information of public importance No 7-00-00126/2024-32 of 18 June 2024, p. 1. On 31 October 2024, five reports of the Working Body were available online on the official website of Serbia's Ministry of Justice in both Serbian and English at: <https://www.mpravde.gov.rs/tekst/17978/izvestaj-ospovedjenju-nacionalne-strategije-za-procesuiranje-ratnih-zlocina.php> (visited 31 October 2024).

¹¹ *National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 61. On 31 October 2024, five reports of the Working Body were available on the official website of the Office of the War Crimes Prosecutor at: <https://www.mpravde.gov.rs/sr/tekst/17978/izvestaj-ospovedjenju-nacionalne-strategije-za-procesuiranje-ratnih-zlocina.php> (visited 31 October 2024).



press releases, news published on government authorities' websites, or scarce media reports on the subject, in order to fully assess the state of implementation of the Strategy. Without regularly monitoring and analysing war crimes trials before domestic courts, it is difficult to obtain a complete picture of the current situation regarding war crimes prosecutions.

The almost complete absence of coverage of National Strategy implementation by the Serbian press and the lack of outreach activities by the institutions responsible for implementing the measures set out in the National Strategy are also adding to the difficulty of gathering information on National Strategy implementation. The official websites of the competent institutions are a poor source of information in this respect.

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The above-described situation, where information on the progress of National Strategy implementation is unavailable and difficult to access, makes preparation of a *shadow* report is very difficult. In such a context, the preparation and purpose of *shadow* reports become paradoxical. Instead of providing additional information, analysis and reflection on the information contained in the official reports by the Working Body, they are, in the absence of official reports, practically the only integrated and systematic set of information on the implementation of the National Strategy. This undermines the transparency of the implementation of the strategy as a document of national importance, while reducing the room for critical appraisal and assessment, qualitative and quantitative, of the implementation of measures and activities set forth in the strategy. Besides, it puts the civil society actors in a position of having to fill the gaps left by the competent institutions. In practice, this means that every single addressee of the National Strategy has to be contacted through requests for information of public importance in order to obtain information on Strategy implementation, which places an unnecessary additional burden on these institutions. It should also be noted that the information requested is not always *information of public importance* within the meaning of defined by Article 2 (1) of the Law on Free Access to Information of Public Importance.¹² However, in the absence of timely reports from the Working Body, requests for information from Strategy addressees are becoming one of the main methods of obtaining information on the implementation of the activities set forth in the Strategy.

12 Article 2, paragraph 1 of the *Law on Free Access to Information of Public Importance*, (Official Gazette of the Republic of Serbia, Nos 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021) states as follows: "Information of public importance, within the meaning of this Law, is information held by a public authority body, created during or relating to the operation of a public authority, which is contained in a document and concerns anything the public has a reasonable interest in knowing."



An analysis of the implementation of the National Strategy for the Prosecution of War Crimes against its specific objectives

Through the implementation of measures and activities, the five specific objectives set out in the National Strategy aim to achieve the following:

1. Improved efficiency of war crimes proceedings;
2. Improved protection and support of victims and witnesses in war crimes proceedings;
3. Improved mechanisms for resolving the fate of missing persons;
4. Enhanced cooperation with the International Residual Mechanism for Criminal Tribunals;
5. Enhanced regional and broader international cooperation and other mechanisms in the service of transitional justice.¹³

With regard to each specific objective, the current state of affairs is described, as well as the key gaps that have been identified and the corresponding outcome indicators.

Improving the efficiency of war crimes proceedings

*Outcome indicator for specific objective 1: Improved efficiency of war crimes proceedings.*¹⁴

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The number of indictments raised during the reporting period demonstrates a persistent annual decline. For example, the 2023 OWCP raised only three indictments in 2023, one of which had been transferred from B&H.¹⁵

More precisely, from the adoption of the National Strategy on 14 October 2021 until 1 May 2024, the OWCP raised a total of **18 indictments** and 15 indictments against 24 individuals were confirmed. Over the same period, in 34 cases investigation orders were issued against 53 individuals.¹⁶ In one case, the OWCP concluded a plea agreement with an accused.¹⁷

13 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, pp. 54–56.

14 *Ibid*, p. 54.

15 Indictment KTO 1/23 against Ilija Krčmar, Svetislav Račić, Željko Bajić, Nikola N. Ćuk and Nikola D. Ćuk.

16 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 6/24 of 2 July 2024, p. 2.

17 OWCP's reply to a HLC's request for access to information of public importance, PI. br. 6/24 of 2 July 2024, p. 2. The plea agreement was concluded with an accused in the case *Srebrenica III* (KTO br. 10/22). The accused was sentenced to five years' imprisonment. The indictment and judgment are available online on the HLC's website at: <https://www.hlc-rdc.org/Transkripti/srebrenica-III.html> (visited 1 August 2024).



During the same period, no **financial investigations** were opened and over the same period¹⁸ and no requests for temporary or permanent confiscation of the proceeds of crime were made in the cases under the OWCP jurisdiction.¹⁹

The Prosecutor's Office of B&H transferred **14 cases** to the OWCP between 14 October 2021 and 1 May 2024, which include **eight indictments** (against 15 individuals), two cases at the investigation stage (against two individuals) and four cases under transfer. At the proposal of the OWCP, the War Crimes Department of the High Court in Belgrade transferred one case to the Prosecutor's Office of B&H.²⁰²¹

Such a low number of indictments in the reporting period covering 31 months indicates there has been no improvement in the efficiency of war crimes proceedings, particularly so bearing in mind that the OWCP put a minimum amount of work into indictments transferred from abroad, because all prosecutorial work had already been completed – the indictments were already been completely prepared before transfer, the investigations were completed and the indictments were filed and confirmed by the competent foreign court.

These quantitative data should be seen in the light of the fact that during the reporting period the OWCP had the War Crimes Prosecutor (since May 2024 Acting War Crimes Prosecutor), ten prosecutors and nine assistant prosecutors.²² Moreover, the OWCP receives substantial funding from the state budget.²³

The Revised Prosecutorial Strategy and the action plan for its implementation were adopted during the reporting period, at the Prosecutors' Collegium on 27 December 2022.²⁴

18 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 12/24 of 16 October 2024, p. 3.

19 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 6/24 of 2 July 2024, p. 2.

20 *Ibid.*

21 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 12/24 of 16 October 2024, p. 1.

22 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 6/24 of 2 July 2024, p. 1.

23 *Report on War Crimes in Serbia During 2023*, HLC, May 2024, p. 9, available at: http://www.hlc-rdc.org/wp-content/uploads/2024/05/Godisnji_izvestaj_2324_eng_CEO_web.pdf (visited 19 September 2024).

24 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 7. *Revised Prosecutorial Strategy for Investigation and Prosecution of War Crimes (2022–2026)* and *Action Plan for the Implementation of the Prosecutorial Strategy for Investigation and Prosecution of War Crimes 2022–2026*, available online in Serbian on the official website of the OWCP at: <https://www.tuzilastvorz.org.rs/public/documents/2023-11/revidirana%20strategija.pdf> and <https://www.tuzilastvorz.org.rs/public/documents/2023-11/AKCIONI%20PLAN%20TS-1.pdf> (visited 7 August 2024).



Election of the War Crimes Prosecutor

On 18 November 2022 the State Prosecutor's Council announced the election of the War Crimes Prosecutor, together with several other prosecutors in prosecutors' offices and high prosecutors' offices.²⁵ At a session held in May 2023, the High Prosecutors' Council decided that Snežana Stanojković would continue to serve as a public prosecutor at the Office of the War Crimes Public Prosecutor. At the same session, the Council decided that Snežana Stanojković, public prosecutor at the Office of the War Crimes Public Prosecutor would appoint an acting Chief War Crimes Prosecutor.²⁶

In March 2024, the election of the Chief War Crimes Prosecutor was marked by a negative opinion of the Collegium of the OWCP on the candidate Snežana Stanojković which was submitted to the High Prosecutorial Council. In its reasoned opinion, the OWCP Collegium stated that Stanojković did not meet the requirements for the position. The Collegium found her to be insufficiently competent and skilled and unfit for the position.²⁷ In explaining this opinion, which was supported by votes of seven out of ten prosecutors, the Collegium cited numerous serious complaints about her work, numerous omissions on her part and extremely inappropriate and unprofessional treatment of fellow prosecutors, which made their work difficult.²⁸

Given the complexity of war crimes prosecutions, it is necessary to elect a person of integrity, whose leadership will improve the performance of the OWCP and lead to more efficient prosecution of war crimes.²⁹

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25 *The Law on Public Prosecutor's Office* (Official Gazette of the Republic of Serbia, Nos 116/2008, 104/2009, 101/2010, 78/2011 – other law, 101/2011, 38/2012 – decision of the CC, 121/2012, 101/2013, 111/2014 – decision of the CC, 117/2014, 106/2015 and 63/2016 – decision of the CC), Art. 78-79; *Rules of Procedure of State Prosecutorial Council* (Official Gazette of the Republic of Serbia Nos 29/2017, 46/2017 and 39/2021), Art. 49- 50.

26 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 7.

27 By decision of the High Prosecutorial Council A no. 321/24 of 14 May 2024, Dušan Knežević, Public Prosecutor at the OWCP, was appointed Acting Chief War Crimes Prosecutor. See the announcement on the OWCP website: <https://www.tuzilastvorz.org.rs/en/news/public-notice> (visited 6 August 2024).

28 *Explanation of the negative opinion on Snežana Stanojković, candidate for the position of the Chief Public Prosecutor, given by the OWCP Collegium at a meeting held on 25 March 2024*. Available at: <https://hlc-rdc.org/wp-content/uploads/2024/05/Obrazlozenje-JTRZ-Snezana-Stanojkovic.pdf> (visited 6 August 2024).

29 *On the occasion of the election of the Chief Public Prosecutor for War Crimes* HLC press release, 10 May 2024, available at: <http://www.hlc-rdc.org/?p=39632&lang=de> (visited 6 August 2024).



Improved protection and support for victims and witnesses in war crimes proceedings

Outcome indicator for specific objective 2: *Victims and witnesses are provided with adequate protection and support in accordance with the relevant international standards.*³⁰

The role of witnesses in war crimes proceedings can be described as crucial because their testimonies are often the only evidence available, and therefore the outcome of the proceedings often depends entirely on them. As giving evidence in court can be a traumatic experience (especially for victim-witnesses), the outcome of a war crime trial depends to a large extent on the effectiveness of witness and victim support measures. The challenges identified in the previous years remained present at the time of the adoption of the second National Strategy and its implementation to date. They include the inadequate application of the existing mechanisms for the protection and support of victims and witnesses, the lack of psychological support for victims, compensation claims not being decided upon during criminal proceedings, and the lack of special protection measures for victims of sexual violence.³¹

According to the information that was available during the preparation of this report, since the beginning of the implementation of the (second) National Strategy, the Protection Unit has been provided with special vehicles and regular training has been organised for its members. Also, meetings were organised between representatives of the OWCP and the Protection Unit.³² Staff of the Victim and Witness Assistance and Support Service at the High Court in Belgrade (part of special departments for organised crime and war crimes) have participated in a number of seminars, training sessions, round tables etc.³³ The Judicial Academy has organised workshops on war crimes, part of which was dedicated to victim protection and support.³⁴

Although planned, the Draft Amendments to the Law on the Protection Program for Participants in Criminal Proceedings have been not prepared during the reporting period. According to the Ministry of Justice, their focus was on drafting laws on judiciary and

30 *National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 55.

31 See: *Initial Report No. 1 on the Implementation of the National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, HLC, December 2017, pp. 13, 32–40, available online on the HLC website at: https://www.hlc-rdc.org/wp-content/uploads/2017/12/Izvestaj_Strategija_I_eng.pdf (visited 1 August 2024).

32 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 27.

33 Higher Court's reply to an HLC's request for access to information of public importance, Su. II no. 17A 120/24 of 17 July 2024, pp. 3–4.

34 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 24–25; Judicial Academy's reply to an HLC's request for access to information of public importance of 25 June 2024.



changes and amendments to the general criminal laws (CC and CPC).³⁵ The identification of the key problems faced by participants in criminal proceedings has yet to be done.³⁶ The paucity and questionability of information presented is evident here as the Report describes this activity as “implemented successfully”, even though the Working Group for amending criminal legislation (CC and CPC)³⁷ was formed but it did not address these activities by the end of the reporting period. Given that the deadline for implementing the activity is the fourth quarter of 2022³⁸, and that the key issues regarding the protection of participants in criminal proceedings have yet to be identified, it is unclear how the Working Body reached the conclusion that this activity was successfully implemented.³⁹

During the implementation of the Strategy thus far, the Judicial Academy has organised trainings courses that covered or partly covered the topic of victims of crimes.⁴⁰ As for other measures aimed at improving the protection and support of victims foreseen in the National Strategy⁴¹, which are related to the measures aimed and enhancing the rights of victims and witnesses of crimes from the National Strategy 2020–2025⁴², the latest available information indicates that these measures have not yet been implemented.⁴³

With regard to the mechanism for adjudicating compensation claims filed during criminal proceedings, there has been no improvement during the implementation of the (second) National Strategy thus far.

35 The Ministry of Justice's reply to an HLC's request for information of public interest No. 7-00-227/2024-05 of 19 September 2024, p. 2.

36 *Ibid.*

37 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 26. The Report covers the period up to 31 March 2023.

38 *The Action Plan for the Implementation of the National Strategy for the Prosecution of War Crimes for the Period 2021–2026* (Official Gazette of the Republic of Serbia, No. 97/2021), activity 2.1.1.

39 *Ibid.*, activity 2.3.1; *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 23.

40 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 31–32; Judicial Academy's reply to an HLC's request for access to information of public importance of 25 June 2024.

41 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 58.

42 *The National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia 2020–2025 adopted at the Government session on 30 July 2020 is available online at the official website of the Ministry of Justice at: <https://www.mpravde.gov.rs/sr/tekst/30567/nacionalna-strategija-za-ostvarivanje-prava-zrtava-i-svedoka-krivicnih-dela-u-republici-srbiji-za-period-2020-2025-godine-19082020.php> (visited 6 November 2024).*

43 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 30–31. The report covers the period up to 31 March 2023.



In October 2019, Serbia's Supreme Court of Cassation (SCC)⁴⁴ presented the *Guidelines for improving judicial practice in handling compensation claims made by victims of serious crimes during criminal proceedings (the Guidelines)*.⁴⁵ The Guidelines provide concrete instructions to both public prosecutors and judges on how to handle these compensation claims in the most economical and effective manner. In the course of criminal proceedings, victims of crime (injured parties) are entitled to make a compensation claim seeking compensation for the harm suffered as a result of a crime.⁴⁶ Nevertheless, thus far, no victim of war crime has had their compensation claim adjudicated during criminal proceedings. Referring victims to pursue their compensation claim in civil proceedings has become common practice rather than an exception.⁴⁷ In doing so, the War Crimes Department of the High Court effectively established a rule that compensation claims cannot be handled in criminal proceedings but only in civil proceedings.

In the course of Strategy implementation, training sessions were organised to present the Guidelines for holders of judicial offices (judges of high courts, public prosecutors and deputy public prosecutors from four appellate jurisdictions) with the support of OSCE Mission to Serbia; nevertheless, the practice of not handling compensation claims in war crimes cases persisted.⁴⁸

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The High Court in Belgrade – War Crimes Department, did not sign the amended Agreement on Cooperation in the field of protection, support and assistance to victims and witnesses with the Court of B&H⁴⁹ during the reporting period, although the draft amended agreement was presented at a regional meeting held in 2021.⁵⁰ No new agreements were signed with other courts during the reporting period.⁵¹ The existence

44 On 11 May 2023 the Supreme Court of Cassation reverted to its previous name of Supreme Court, following the constitution of the High Judicial Council, in accordance with the Law on the Organisation of Courts (Official Gazette of the Republic of Serbia No. 10/2023).

45 Available online on the Supreme Court website at: https://www.vrh.sud.rs/sites/default/files/attachments/smernice%20steta_web.pdf (visited 12 August 2024).

46 Criminal Procedure Code (Official Gazette of the Republic of Serbia Nos 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014), Art. 252–260.

47 See reports and transcripts of war crimes trials in the Republic of Serbia at: <http://www.hlc-rdc.org/?cat=234> (visited 28 July 2024).

48 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 34–55; Judicial Academy's reply to an HLC's request for access to information of public importance of 25 June 2024.

49 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 28; Higher Court's reply to an HLC's request for access to information of public importance Su II No. 17A 168/24, p. 2.

50 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 38; Ministry of Justice's reply to an HLC's request for access to information of public importance Su II No. 7-00-00248/2024-32, p. 1.

51 The Ministry of Justice's reply to HLC's request for access to information of public importance Su II No. 7-00-00248/2024-32, p. 1.



of the Agreement on Cooperation in the field of protection, support and assistance to victims and witnesses with the Court of B&H and the cooperation of the Victim and Witness Assistance and Support Service at the High Court in Belgrade with similar services/departments in the region is considered to be a successful implementation of this activity, and the presentation of the draft amended agreement on cooperation in the field of protection, support and assistance to victims between the High Court in Belgrade and the Court of B&H is considered to be a partial implementation of the activity.⁵²

In November 2022, the Agreement on cooperation in the field of protection, support, and assistance to victims was signed between the Serbian War Crimes Prosecutor and the Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina.⁵³ No other cooperation agreements were concluded in the field of protection, support, and assistance to victims and witnesses during the reporting period. Negotiations were initiated to conclude this type of agreement with the competent Prosecutor's Office of Montenegro.⁵⁴ At this point, it is not possible to assess the quality of cooperation in the area of support and assistance to victims and witnesses. However, it is noticeable that there is an issue with the low response rate of witnesses.⁵⁵

Improving the mechanisms for resolving the fate of missing persons

Outcome indicators for specific objective 3: *Number of missing and the persons who died and whose place of burial is not known during and in connection with the armed conflicts in the former Yugoslavia between 1 January 1991 and 31 December 1995 and between 1 January 1998 and 31 December 2000 in AP of Kosovo.*⁵⁶

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In the National Strategy, the improvement of the mechanisms for resolving the fate of missing persons is based on three strategic pillars: the planned improvement of the legal framework relevant to the clarification of the fate of missing persons (specifically, through

52 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 28, 38-39; Ministry of Justice's reply to an HLC's request for access to information of public importance Su II No. 7-00-00248/2024-32, pp. 1-2.

53 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 28; *Meeting of War Crimes Prosecutor Snežana Stanojković and B&H Chief Prosecutor Milanko Kajganić*, news, 3 November 2022, OWCP website, available at: <https://www.tuzilastvorz.org.rs/en/news/meeting-war-crimes-prosecutor-sne%C5%BEana-stanojkovi%C4%87-chief-prosecutor-bosnia-and-herzegovina> (visited 28 July 2024).

54 OWCP's reply to an HLC's request for access to information of public importance, PI-12/24 of 16 October 2024, p. 1.

55 OWCP's reply to an HLC -a request for access to information of public importance, PI-12/24 of 16 October 2024, p. 1.

56 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 55.



the adoption of the law on missing persons, bringing domestic criminal legislation more in line with the International Convention for the Protection of All Persons from Enforced Disappearance,)⁵⁷ and the amending of the relevant regulations which restrict access to social rights for families of missing persons, in order to achieve full compliance with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance; resolving the institutional status and strengthening the infrastructural capacities of the expert service of the Missing Persons Commission and continuing the cooperation of the Missing Persons Commission with other institutions and organizations in the Republic of Serbia, as well as the cooperation mechanisms established by the London Declaration of 2018.⁵⁸

As regards the improvement of the legal framework relevant to resolving the fate of missing persons, according to the information available at the time of this writing, the Ministry of Labour, Employment, Veteran, and Social Affairs (MoLEVSA) established a working group in January 2021 to draft the Law on Missing Persons.⁵⁹ The working group consisted of 21 members appointed by relevant state bodies and organisations, international organizations (UNDP, ICRC), and representatives of associations of families of missing persons.⁶⁰ By November 2021, the working group had prepared a draft version of the law.⁶¹ On the occasion of the commemoration of the International Day of Missing Persons in 2023, Nikola Selakovic, the then Minister of Labour, Employment, Veteran and Social Affairs, announced that the working group for drafting the law on missing persons would continue its work.⁶² However, according to the information provided by the MoLEVSA to the Humanitarian Law Center in September 2024, the formation of the working group that would continue the drafting of the law **is still in progress**.⁶³ **It appears that the relevant ministry has a pat answer to the question regarding the adoption of the Law on Missing Persons – 'work on the Draft will continue'.** Given

57 *The Law on the Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance* (Official Gazette of the Republic of Serbia – International Treaties, No. 1/2011).

58 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, pp. 58–59.

59 Missing Person Commission's reply to a HLC's request for access to information of public importance, No. 021-01-67/2024 odf17 June 2024, p. 1.

60 *Ibid.*

61 *Ibid.*

62 [The work on the Draft Law on Missing Persons continues], news, 30 August 2023, Ministry of Labour, Employment, Veteran and Social Affairs, available on the official website of the Ministry: <https://www.minrzs.gov.rs/sr/aktuelnosti/vesti/nastavlja-se-rad-na-izradi-zakona-o-nestalim-licima> (visited 14 August 2024).

63 MoLEVSA's reply to an HLC's request for access to information of public importance, No. 002744007 0204 13400 009 001 041 001 od 25 September 2024. The HLC asked many questions about the law but the MoLEVSA's only replied that the process of setting up the working group to continue the drafting of the law is underway.



that the implementation of this activity was planned for the third quarter of 2021⁶⁴, this is an irresponsible delay.

The Law on Missing Person is needed in order to improve the process of accounting for missing persons through a systematic regulation of the competences of state authorities and communication and exchange of information among them. Also, the law should provide for reparations for missing persons' families providing them with appropriate legal and institutional support.

With regard to increasing the level of alignment of domestic legislation with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance, according to the information available to the HLC at the time of this writing, working groups for amending the Criminal Code⁶⁵ and the Criminal Procedure Code⁶⁶ have been established. The Working Body did not address this matter and the Ministry of Justice considers that the alignment with the Convention has already been achieved through previous amendments to the CC.⁶⁷

However, the recommendations of the Committee on Enforced Disappearances for amendments to the Criminal Code have only been partially implemented. For example, the amendments to Article 371 of the Criminal Code recognized *enforced disappearances* as an *actus reus* of a crime against humanity, but the basic form of enforced disappearance under Article 2 of the Convention was not incriminated, nor was the crime of forcible removal of children under Article 25 of the Convention.⁶⁸

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64 *The Action Plan for the Implementation of the National Strategy for the Prosecution of War Crimes for the Period 2021-2026* (Official Gazette of the Republic of Serbia No. 97/2021), activity 3.1.1.

65 The Ministry of Justice's reply to an HLC's request for access to information of public importance, No. 7-00-227/2024-05 of 19 September 2024. The members of the working group are: Zoran Stojanović, Jovan Čosić, Vladimir Vinš, Zlatko Petrović, Biljana Sinanović, Jasmina Kiurski, Vesna Đorđević, Duško Milenković, Zorica Avramović, Leposava Vujanović Porubović, Marina Barbir, Milica Boidžić, Dunja Leković, Vladimir Beljanski, Krsto Bobot and Živorad Lekić.

66 The Ministry of Justice's reply to an HLC's request for access to information of public importance, No. 7-00-227/2024-05 of 19 September 2024. The members of the working group are: Dragomir Milojević, Jovan Čosić, Vladimir Vinš, Zlatko Petrović, Tatjana Bugarski, Tatjana Lagumdžija, Vojislav Isailović, Milena Rašić, Jelena Škulić, Miroslav Filipović, Bojana Stanković, Milica Bondžić, Radomir Popović, Nebojša Stanković, Zora Dobričanin Nikodinović and Biljana Dunjić.

67 The Ministry of Justice's reply to an HLC's request for access to information of public importance, No. 7-00-227/2024-05 of 19 September 2024, pp. 1–2.

68 *National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 33. See: *Criminal Code* (Official Gazette of the Republic of Serbia, Nos 85/2005, 88/2005 – corr. 107/2005 – corr. 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019), Article 371, available (in Serbian) at: <https://www.paragraf.rs/propisi/krivicni-zakonik-2019.html> (visited 14 August 2024).



In addition, the recommendation to abolish the requirement to obtain a death certificate for a missing person as a precondition for family members to exercise their rights has not been complied with.⁶⁹ Furthermore, no measures have been taken to bring the definition of victim in the Criminal Code and the Criminal Procedure Code into line with Article 24 of the Convention.⁷⁰ It is therefore unclear why this activity was foreseen in the National Strategy adopted 2021 if the Ministry of Justice was satisfied with the level of alignment achieved with previous amendments to the Criminal Code, which was last amended in 2019.⁷¹

There was no information regarding the amendment of the regulations that restrict access to social rights for family members of missing persons.⁷² The MoLEVSA did not answer the question on the status of the preparation of the amendments and when they are expected to be adopted.⁷³

No improvement of infrastructural capacity of the expert service of the Missing Persons were made during the reporting period, with the exception of computer equipment procurement.⁷⁴ The construction of a new Missing Persons Commission website is underway.⁷⁵

The Missing Persons Commission does not have a mandate to investigate but to search for missing persons through the registration of missing persons, exhumations, identification and handing over of mortal remains.⁷⁶ The resolution of the institutional status of the expert service of the Missing Persons Commission should strike a balance between its legal powers, its administrative capacities and the role it plays in practice.⁷⁷

69 For more information on the requirement to have declared a missing family member dead in order to have access to certain rights see: *Policy Paper: Accounting for Missing Person from the Armed Conflicts of the 1990s in the Former Yugoslavia*, pp. 10–11, HLC, 2018, available at: https://www.hlc-rdc.org/wp-content/uploads/2018/07/Predlog_prakticne_politike_Potraga_za_nestalima_ENG_stampano_ff_15.07.2018.pdf (accessed 6 August 2024).

70 *Ibid.*

71 *The Law Amending the Criminal Code* (Official Gazette of the RS No. 35/2019 of 21 May 2019, entered into force on 1 December 2019).

72 *Report No. 5 on the implementation of the National Strategy for the Prosecution of War Crimes*, pp. 47–48.

73 MoLEVSA's reply to an HLC's request for access to information of public importance, No. 002744007 0204 13400 009 001 041 001 of 25 September 2024.

74 Missing Persons Commission's reply to an HLC's request for access to information of public importance, No. 021-01-67/2024 of 17 June 2024, p. 2.

75 *Ibid.*; Official website of the Missing Persons Commission: <https://kznl.gov.rs/> (visited 15 August 2024).

76 *Additional information submitted by Serbia under Article 29 (4) of the Convention**, 18 June 2021 p. 3, paragraph 14, available at: <https://documents.un.org/doc/undoc/gen/g21/294/27/pdf/g2129427.pdf> (visited 8 August 2024).

77 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, measure 3.4, p. 59.



The pace at which missing persons numbers are decreasing shows that efficiency of the search for missing persons has not been significantly improved even after the adoption of the second National Strategy. According to the figures of the International Committee of the Red Cross (ICRC) from October 2021, **9945** of the individuals who went missing from the armed conflicts in Croatia, B&H and Kosovo are still unaccounted for. In May 2024 their number stood, at **9747**, according to the same source.⁷⁸

As regards regional cooperation in accounting for missing persons, Serbia participated in the work of the Missing Persons Working Group, which was formed in 2018 at the Hague, as a multilateral mechanism for cooperation in the search for and identification of missing persons from the armed conflicts in the former Yugoslavia.⁷⁹ The WG held several meetings during the reporting period.⁸⁰

In January 2024, the Belgrade-Priština Working group on missing persons met for the first time since 16 April 2021. At the meeting, a report was presented on activities implemented between 16 April 2021 and the end of January 2024⁸¹, i.e., in the period where no meetings were held because the Kosovo delegation refused to work together with the Serbian delegation as long as Veljko Odalović was its Chair.⁸² During the same period, the Forensic sub-working group and the Analytic team (as lower levels of the mechanism) met on several occasions.⁸³ In all countries of the region, as in Serbia, the resolution of the fate of missing persons remains a matter of political will rather than a right that belongs to missing persons' families and all citizens.⁸⁴

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The latest in the series of regular meetings of the Operational Group on the Database of Active Missing Persons Cases from the Conflicts on the Territory of the Former Yugoslavia (Database), organised by the International Commission on Missing Persons (ICMP), took place in Albania in March 2023.⁸⁵ The Operational group worked on the

78 ICRC data from 12 November 2024.

79 The Framework Plan to Address the Issue of Persons Missing from Conflicts on the Territory of the Former Yugoslavia, available at: <https://wapi.gov.me/download/516d1b37-0168-4e7e-97b2-2162c44f9ac5?version=1.0> (visited 12 September 2024).

80 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, pp. 62–63.

81 Working meeting of the Missing Person Group, news, 31 January 2024, available (in Serbian) at: <https://arhiva.kznl.gov.rs/aktuelno.php> (last visited: 12 September 2024).

82 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 60.

83 *Ibid.*

84 *Policy Paper: Accounting for Missing Person from the Armed Conflicts of the 1990s in the Former Yugoslavia*, p. 20, HLC, 2018, available at: https://www.hlc-rdc.org/wp-content/uploads/2018/07/Predlog_prakticne_politike_Potruga_za_nestalima_ENG_stampano_ff_15.07.2018.pdf (visited 12 September 2024).

85 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 59.



integrated database, which was launched at The Hague in November 2022.⁸⁶ The purpose of the Database is to ensure that the continually updated register of missing persons is publicly available at all times. The Database provides an overview of the existing registers and allows anyone to provide information on missing persons to their respective national institutions.

When regards bilateral cooperation, the Working Rules and Procedures for the Implementation of the Protocol on Cooperation in the Search for Missing Persons between the Competent Government Bodies of the Republic of Serbia and Montenegro was signed in June 2023. This document, among other things, further regulates the exchange of available information and documentation relevant to addressing the issue of missing persons.⁸⁷ The signing of the document was discussed at a trilateral meeting between the national institutions responsible for the search for missing person of Serbia, Bosnia and Herzegovina and Montenegro held in Belgrade in November 2022. The last trilateral meeting between these institutions was held in Dubrovnik in February 2024.⁸⁸ In January 2023, a bilateral meeting of Missing Persons Commissions of Serbia and Croatia took place, but without concrete plans for further cooperation.⁸⁹

When it comes to the work on resolving the issue of missing persons from the armed conflict in Kosovo, it should be noted that the President of Serbia and the Prime Minister of Kosovo on 2 May 2023 signed the Declaration on Missing Persons.⁹⁰ In the Declaration they undertook, among other things, to ensure full access to reliable and accurate information that helps to locate and identify missing persons and to make available all domestic and international documentation of significance in determining the fate

86 As part of the Berlin Process, a public database of active missing persons cases from the conflicts in the territory of the former Yugoslavia was launched. The database is available on the Missing Persons Commission website at: <https://arhiva.kzn.gov.rs/aktuelno.php> (visited 31 October 2024).

87 'Working rules and procedure for the implementation of the Protocol on cooperation between competent government bodies for the search for missing persons of the Republic of Serbia and Montenegro were signed', news, 9 June 2023, available on the Missing Persons Commission website at <https://arhiva.kzn.gov.rs/aktuelno.php> (visited 12 September 2024); the document was not published on the Missing Persons Commission website, so the HLC has not have access to it.

88 A trilateral meeting of domestic institutions in the process of accounting for missing persons was held, news, 28 February 2024, available on the Missing Persons Commission website at: <https://arhiva.kzn.gov.rs/aktuelno.php> (visited 12 September 2024).

89 A meeting of the government bodies responsible for the search for missing persons of the Republic and Serbia and the Republic of Croatia was held, news, 30 January 2023, available on the Missing Persons Commission website at: <https://arhiva.kzn.gov.rs/aktuelno.php> (visited 31 October 2024).

90 Belgrade-Pristina Dialogue: Statement by the High Representative on the Political Declaration on Missing Person, news, 2 May 2024, available at: https://www.eeas.europa.eu/eeas/declaration-president-aleksandar-vuc%C4%8Di%C4%87-and-prime-minister-albin-kurti-missing-persons_en (visited 31 October 2024).



of missing persons.⁹¹ The opening of the archives, accompanied by adequate regional cooperation would contribute significantly to reducing the number of missing persons. Information on the signing of the Declaration or the text of the Declaration cannot be found on the official website of the President of the Republic of Serbia.⁹²

Improving the cooperation with the International Residual Mechanism for Criminal Tribunals

Outcome indicator for specific objective 4: *Cooperation with the International Residual Mechanism for Criminal Tribunals facilitates the evidentiary process in war crimes proceedings and improves the knowledge and skills of acting judges and prosecutors in the Republic of Serbia.*⁹³

The National Strategy provides for the following measures to improve cooperation with the International Residual Mechanism for Criminal Tribunals National Strategy: organisation of trainings, i.e. professional trainings with the support of IRMCT; maintaining continuity in the exchange of requests for assistance with IRMCT through the continuation of the EU project “Visiting National Prosecutors” through the liaison officer; facilitating access to documentation held by the IRMCT that has not been disclosed during proceedings before the ICTY/IRMCT; and improving the processing of transferred information and improving the spatial capacity and hardware and software for processing this documentation.⁹⁴

During the reporting period, the liaison officer continued to submit requests for assistance to the IRMCT in relation to specific cases.⁹⁵ The OWCP submitted 44 requests for assistance to IRMCT.⁹⁶ Although the National Strategy stipulates joint training sessions between the IRMCT and the OWCP⁹⁷, no such training sessions took place during the

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91 Text of the Declaration of President Aleksandar Vučić and Prime Minister Albin Kurti on Missing Persons is available at: https://www.eeas.europa.eu/eeas/declaration-president-aleksandar-vucic-and-prime-minister-albin-kurti-missing-persons_en (visited 31 October 2024).

92 See Press Releases on the official website of the President of the Republic of Serbia: <https://www.predsednik.rs/en/press-center/press-releases> (visited 1 November 2024).

93 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 55.

94 *Ibid.*

95 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 66.

96 OWCP’s reply to an HLC’s request for access to information of public importance, PI. No. 12/24 of 16 October 2024, p. 2.

97 *The Action Plan, activities 4.1.1-4.1.3.*



reporting period.⁹⁸ The OWCP approached the IRMCT with this initiative in 2021 and in 2022 it specified the topics to be covered.⁹⁹

A working group between the IRMCT and the OWCP was set up and to improve existing cooperation on concrete cases, including assisting the OWCP in exchanging available evidence and gathering additional evidence.¹⁰⁰ The OWCP had at least 15 meetings with representatives of the IRMCT concerning six cases for which the IRMCT transferred documentation.¹⁰¹ There were also other meetings to discuss access to evidence held by the IRMCT, although the IRMCT database is not as widely accessible as the database of the Prosecutor's Office of B&H.¹⁰²

IRMCT judgment in case against *Stanišić and Simatović* (MICT-15-96-A)

On 31 May 2023, the Appeals Chamber of the IRMCT handed down a judgment in the case against the former heads of the State Security Service (SDB) of the Serbian Ministry of the Interior – Jovica Stanišić and Franko Simatović.¹⁰³ This judgment established beyond doubt the involvement of the Republic of Serbia in the armed conflicts in Bosnia and Herzegovina (B&H) and Croatia, and the responsibility of the Serbian state authorities for the war crimes proved in this case. The top members of the SDB were found responsible, through their participation in a joint criminal enterprise, for crimes committed by members of various Serb volunteer units in Bijeljina, Zvornik, Bosanski Šamac, Doboј and Sanski Most during 1992, for crimes committed in Trnovo and Sanski Most in 1995 and for the murder of Marija Senaši in Daljska Planina, Croatia, in June 1992.¹⁰⁴

The Appeals Chamber found that Stanišić and Simatović, together with other Serb military, political and police leaders of the so-called SAO Krajina, SAO Slavonia, Baranja and Western Srem and the Republic of Srpska, were members of the joint criminal enterprise aimed at the permanent removal of non-Serbs from the territories controlled by Serb forces in B&H and Croatia, i.e., ethnic cleansing.

98 OWCP's reply to an HLC's request for access to information of public importance, PI. No. 12/24 of 16 October 2024, p. 2.

99 *Ibid.* and *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 65.

100 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 68.

101 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 12/24 of 16 October 2024, p. 2.

102 *Ibid.* p. 3.

103 Judgment in *Stanišić and Simatović* (MICT-15-96-A) is available on the IRMCT website at: https://www.irmct.org/sites/default/files/case_documents/IRMCT-Appeal-Judgement-Stanisic-Simatovic-ENG.pdf (visited 26 July 2024).

104 *HLC press release on the occasion of the judgment of the Appeals Chamber of the IRMCT in Stanišić and Simatović*, HLC, 31 May 2023, available at: <http://www.hlc-rdc.org/?p=38860&lang=de> (visited 26 July 2024).



The judgment in case lists numerous proved facts concerning the abuse, detentions, expulsions, killings and other crimes against non-Serb in Croatia and B&H. The responsibility of members of the JNA and special police units for these crimes was also established.

This final judgment in the case of *Stanišić and Simatović* is the last judgment rendered by the IRMCT in cases concerning war crimes committed during the armed conflicts on the territory of the former Yugoslavia. The judgment elicited no reaction whatsoever from the Serbian political leadership or the general public.

Case against Jojić and Radeta (MICT-17-111-R90)

In January 2015, the International Criminal Tribunal for the former Yugoslavia (ICTY) issued a request for the arrest and handover of three officials of the Serbian Radical Party – Petar Jojić, Vjerica Radeta and Jovo Ostojić. The three were suspected of threatening, intimidating, offering bribes to, and otherwise interfering with witnesses who were summoned to testify in the case against Vojislav Šešelj.¹⁰⁵ The Republic of Serbia refused to hand them over to the ICTY¹⁰⁶, on grounds that there were legal impediments to their transfer to the Mechanism, because they were accused of a criminal offence which is not one of the cumulatively prescribed requirements for surrendering nationals of the Republic of Serbia to the Tribunal under the Law on Cooperation with the ICTY¹⁰⁷, because of which their surrender is not possible.¹⁰⁸

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105 See the case of *Jojić et al.* (IT-03-67-R77.5) on the MRKMS website at: <https://www.irmct.org/en/cases/mict-17-111-r90> (visited 11 September 2024).

106 Decision Kv Po2 16/2016 of the Higher Court in Belgrade, War Crimes Department confirming the Decision of the pre-trial judge of the same court that the requirements for the arrest and handover of the accused have not been met: https://www.hlc-rdc.org/wp-content/uploads/2016/05/2st_presuda_Jojic_Radeta_i_Ostojic.pdf (visited 11 September 2024).

107 The Law on the Cooperation of Serbia and Montenegro with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia since 1991 (Official Gazette of FRY No. 18/2002 and Official Gazette of S&M No. 16/2003), Article 29 (2) stipulates that the prerequisites for surrendering a person to the ICTY are that the indictment against the person has been confirmed, that the person is accused of an offence punishable under domestic law, and that the offence falls within the ICTY jurisdiction – war crime, crime against humanity, and genocide (Articles 2, 3, 4 and 5 of the Statute), and that the crime of contempt is not foreseen in the Statute of the ICTY or the law on cooperation of Serbia with the ICTY.

108 *Ibid.*, pp. 2-3. More information on this case can be found in *Fifth Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, December 2019, pp. 42–45.



In June 2018, the IRMCT decided that the case against Jojić and Radeta be tried by the competent court in Serbia¹⁰⁹, but in May the following year revoked this decision¹¹⁰ and requested Serbia to surrender the accused without further delay.¹¹¹ This decision was based on the fact that witnesses stated that they were “categorically unwilling to testify if the case was tried in Serbia [...] as they did not believe that the Serbian authorities could ensure that their identity and place of residents would not be discovered.”¹¹²

Serbia filed a submission against this decision.¹¹³ In February 2020, the IRMCT dismissed the submission in its entirety and confirmed its decision.¹¹⁴ In response to the Serbia’s submission, the *Amicus Curiae* stated that Serbia misunderstood its international legal obligations and the meaning of the “primacy of international law” when it cites its domestic legislation to justify its failure to comply with the IRMCT decision.¹¹⁵ The *Amicus Curiae* further cited the rule in the Rules of Procedure and Evidence of the IRMCT¹¹⁶, which provides that the obligations of States to cooperate with the IRMCT, as set out in the IRMCT Statute¹¹⁷ prevail over any legal impediment to the surrender or transfer of an accused or of a detained witness.¹¹⁸

In its decision of April 2021, the IRMCT notes that Serbia in its submissions reiterated the position that legal impediments in its national legislation prevent the transfer of the accused and stated its willingness to conduct the proceeding, recalled that this position of Serbia has been considered and dismissed, that its willingness to conduct the proceedings is not a relevant factor, and concludes that Serbia failed to comply with its obligations. The IRMCT then requested the President of the Mechanism to notify

109 *Public redacted version of the 12 June 2018 order referring a case to the Republic of Serbia* MICT-17-111-R90 D205 – D191, 12 June 2018, pp. 3 and 5; in the same decision, the IRMCT issued new international arrest warrants against the accused ordering UN member states to arrest Jojić and Radeta if found on their territory and hand them over to the Republic of Serbia.

110 International arrest warrant and order for surrender MICT-17-111-R90 D602 – 593, 13 May 2019, p. 2.

111 Decision re-examining the referral of a case to the Republic of Serbia MICT-17-111-R90 D619 – D593, 13 May 2019, p. 6.

112 *Ibid.*, p. 2.

113 Order assigning Judges to a Bench of the Appeals Chamber MICT-17-111-R90-AR14.1 A105 – A104, 18 June 2019. The submission is not available on the website of the Mechanism, so the HLC has not seen it.

114 Decision on Republic of Serbia’s Appeal against the Decision Re-Examining the Referral of a Case MICT-17-111-R90-AR14.1 D193 – D185, 24 February 2020.

115 Response to Appeal against Decision Re-Examining the Referral of a Case to the Republic of Serbia MICT-17-111-R90-AR14.1 A174 – A169, 18 July 2019, para. 20.

116 Rules of Procedure and Evidence, amended on 26 February 2024, available in Serbian at: <https://www.irmct.org/sites/default/files/documents/MICT-1-Rev-8-ENG.pdf> (accessed on 13 September 2024), Rule 60.

117 Resolution 1966 (2010) Adopted by the Security Council at its 6463rd meeting, on 22 December 2010, para. 9, available at: <https://digitallibrary.un.org/record/695418?v=pdf> (visited 13 September 2024).

118 *Ibid.*, para. 21.



the United Nations Security Council of Serbia's repeated refusal to comply with its obligations.¹¹⁹ In September 2021, the IRMCT granted the *Amicus Curiae's* request for preservation of evidence by special deposition¹²⁰, finding that the conditions of the Rules were met¹²¹, that reasonable efforts had been made to ensure the execution of the arrest warrants and that the execution of the arrest warrants was not likely to take place within a reasonable time.¹²² Petar Jojić and Vjerica Radeta (Jovo Ostojić died in 2017) have not been transferred to the IRMCT to date.

In at least three other contempt-of-court cases, no legal impediments were found to prevent the arrest and transfer of the accused. It is therefore clear that Serbia's persistent reliance on domestic legislation as a justification for non-compliance with its international obligations, in this cooperation with the IRMCT, is untenable.¹²³

Case against Šešelj *et al.* (MICT-23-129-I)

In October 2023, the IRMCT indicted Vojislav Šešelj, Miljan Damjanović, Miroljub Ignjatović, Ljiljana Mihajlović and Ognjen Mihajlović for contempt of the ICTY and the IRMCT. The accused are charged with knowingly and wilfully interfering with the administration of justice, disclosing information in violation of court orders, including orders for the protection of witnesses, and failing to comply, without just excuse, with court orders to cease and desist from publishing confidential information.¹²⁴

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In accordance with its obligation to determine, before proceeding to trial and taking into account the interests of justice and expediency, whether a case should be transferred to the authorities of a State¹²⁵, the IRMCT decided on 29 February 2024 to refer this case

119 Decision on Failure of the Republic of Serbia to Execute Arrest Warrants MICT-17-111-R90 D771 – D765, 16 April 2021, pp. 4-5, available at: <https://ucr.irmct.org/LegalRef/CMSDocStore/Public/English/Decision/NotIndexable/MICT-17-111-R90/MS9373R0000638053.pdf> (visited 13 September 2024).

120 Decision on Amicus Curiae Prosecutor's Request for preservation of evidence by special deposition MICT-17-111-R90-R78.1 D182 – D174, 3 September 2021, p. 7.

121 Rules of Procedure and Evidence, amended on 26 February 2024, available at: <https://www.irmct.org/sites/default/files/documents/MICT-1-Rev-8-ENG.pdf> (accessed on 13 September 2024). Pursuant to Rule 78, evidence may be preserved by special disposition for a future trial if an arrest warrant is not executed within a reasonable time and if the single judge is satisfied that the following conditions are met: a) reasonable efforts have been made to ensure the execution of the arrest warrant, b) the execution of the arrest warrant is not likely to take place within a reasonable time; and c) preservation of evidence by special deposition is in the interests of justice.

122 Decision on Amicus Curiae Prosecutor's Request for preservation of evidence by special deposition MICT-17-111-R90-R78.1 D182 – D174, 3 September 2021, p. 6.

123 *Fifth Report on the Implementation of the National Strategy for the Prosecution of War Crimes*, HLC, December 2019, p. 45.

124 Indictment MICT-23-129-I 161, D161-D120, 5 October 2023, para. 6.

125 IRMCT Statute, 22 December 2010, Article 1 (4)(a) and 6(1).



to the authorities of Serbia.¹²⁶ In making this decision, the IRMCT took into account Serbia's "willingness and preparedness" to accept the case¹²⁷, and the accused's willingness to stand trial in Serbia and before court when summoned.¹²⁸ Despite some reservations as to whether Serbia sufficiently demonstrated that it has an adequate legal framework to incriminate the acts alleged in the indictment¹²⁹, the case was transferred to Serbia, relying on the possibility to revoke the referral¹³⁰ if the proceedings are not completed within a reasonable time or if the court in Serbia waives jurisdiction of the case.¹³¹ This is the first contempt-of-court case to be transferred to Serbia. The OWCP has not published the indictment or confirmed that it has received the case.

Strengthening regional and broader international cooperation and other mechanisms in the service of transitional justice

Specific objective 5: *Strengthening regional and broader international cooperation and other mechanisms in the service of transitional justice.*¹³²

8 of the 18 indictments that have been raised since the adoption of the National Strategy have not been the result of the OWCP's own work but transferred to the OWCP from B&H.¹³³

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Another quantitative indicator of the intensity of regional cooperation is the number of mutual legal assistance requests exchanged between countries in the region. During the reporting period, the Prosecutor's Office of B&H submitted 135 requests for mutual legal assistance to the OWCP (96 have been granted), and the OWCP submitted 738 requests to the Prosecutor's Office of B&H (618 have been granted).¹³⁴ The OWCP submitted 286 requests to the State Attorney's Office of the Republic of Croatia (209 have been), and the

126 Decision of referral of the case to the Republic of Serbia, MICT-23-129-I 10/242 TER, D10-1/242 TER, 29 February 2024.

127 *Ibid.*, para. 12.

128 *Ibid.*, para. 20.

129 *Ibid.*, para. 16.

130 Rules of Procedure and Evidence, amended on 26 February 2024, Rule 14 (C).

131 *Ibid.*, para. 18.

132 *National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, pp. 59–60.

133 OWCP's reply to an HLC's request for access to information of public importance, PI. No. 12/24 of 16 October 2024, p. 2. The cases in which the indictments were transferred from B&H are: KTO 7/21 against Milenko Karlica and Željko Novaković; KTO 4/22 against Jovo Jandrić and Slobodan Pekez; KTO 5/22 against Slađan Tasić; KTO 8/22 against Milorad Kotur; KTO 9/22 against Novak Stjepanović; KTO 11/22 against Lazar Mutlak; and KTO 1/23 against Ilija Krčmar, Svetislav Račić, Željko Bajić, Nikola N. Ćuk and Nikola D. Ćuk.

134 OWCP's reply to an HLC's request for access to information of public importance, PI. br. 6/24 of 2 July 2024, p. 2.



State Attorney's Office of the Republic of Croatia submitted 63 requests to the OWCP (35 have been granted).¹³⁵

The Special State Prosecutor's Office of Montenegro submitted five requests for mutual legal assistance to the OWCP (three have been answered). In the same period, it received five requests for mutual legal assistance from the OWCP (all five have been answered).¹³⁶

The OWCP submitted 46 requests for legal assistance to the EULEX Special Prosecution Office under the *Procedures for mutual legal assistance*.¹³⁷ In response to an HLC request for access to information of public importance, the OWCP stated that none of the requests had been answered.¹³⁸ However, this information should be seen in the light of the fact that in June 2018 the scope of the work of the EULEX Mission was changed. According to the relevant EU Council decision.¹³⁹ According to the relevant decision of the EU Council, its mandate includes monitoring and advising the judiciary and Correctional Service and supporting the Kosovo Specialist Chambers and the implementation of EU-facilitated dialogue agreements on normalisation of relations between Kosovo and Serbia.¹⁴⁰

During the reporting period, only one person was indicted for war crimes committed in Kosovo. The OWCP charged Petrit Dula, as a member of the Liberation Army of Kosovo (KLA) with a war crime against the civilian population.¹⁴¹ The case was finally adjudicated and Dula was acquitted by the Court of Appeal in Belgrade due to lack of evidence.¹⁴² The Court of Appeal found that the first-instance judgment in the case was entirely based on the statements made by the victim and witnesses during the preliminary investigation¹⁴³, which it was not allowed to do under provisions of the CPC in force at the time, as such statements could be used in the proceedings but could not be the basis for

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135 *Ibid.*

136 *Ibid.*

137 OWCP's reply to an HLC's request for access to information of public importance, PI. No. 6/24 of 2 July 2024, p. 2; for more details on the cooperation between the OWCP and EULEX, see the official website of the OWCP, Section *International Cooperation*, at: <https://www.tuzilastvorz.org.rs/en/cooperation/international-cooperation> (visited 16 August 2024).

138 OWCP's reply to an HLC's request for access to information of public importance, PI. No. 6/24 of 2 July 2024, p. 2.

139 *Council Decision CFSP 2018/856 of 8 June 2018 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo*, EULEX KOSOVO, Article 2 (5), available at: <https://www.eulex-kosovo.eu/eul/repository/docs/CouncilDecision-203336.pdf> (visited 16 August 2024).

140 *Ibid.*

141 Case KTO No. 6/22, available at: <https://www.tuzilastvorz.org.rs/en/cases/%D0%BA%D1%82%D0%BE-622> (visited 17 September 2024).

142 Judgment Kž1-Po2 1/23 of 7 April 2023 of the Court of Appeal in Belgrade – War Crimes Department Kž1-Po2, available at: <https://www.hlc-rcd.org/wp-content/uploads/2023/10/Kz1-Po2-1-23.pdf> (visited 17 September 2024).

143 *Ibid.*, p. 4.



a court decision.¹⁴⁴ This raises the question of the purpose of such trials and whether the OWCP had gathered sufficient evidence to bring the indictment, as it was solely based on the statements made to the police by the victim and witnesses in 2011, and because of the time when they were made, the court's decision could not be based on them.¹⁴⁵

Two ethnic Albanians were arrested at border crossings and are under investigation by the OWCP on suspicion of committing war crimes in Kosovo.¹⁴⁶

The performance of the OWCP when it comes to prosecuting crimes committed in Kosovo is inadequate and follows the trend of inefficiency and the low number of indictments.¹⁴⁷ The disproportionality in the number and structure of cases in terms of the ethnicity of the accused and the victims, is far from reflecting the nature of the crimes committed and the extent of the sufferings of the Kosovo Albanian and other non-Serb civilians during the armed conflict in Kosovo.¹⁴⁸ The last indictment for crimes against Kosovo Albanian civilians was issued in 2013. In 2013 alone, the HLC filed nine criminal complaints for crimes committed in Peć, Mala Kruša, Savine Vode, Vučitrn, Goden, Kraljani, Landovica, Poklek and Đakovica. No indictment has yet been issued for any of these crimes.¹⁴⁹

The number of requests for mutual legal assistance exchanged, as a quantitative indicator, shows the dynamism and continuity of communication between prosecutor's offices in the region responsible for prosecuting war crimes. However, it is not an indicator of the content of this cooperation and it is not possible to draw conclusions on the quality of regional cooperation or the potential for its improvement on the basis of the mere number of requests exchanged.

The only plea agreement reached by the OWCP during the reporting period – that with Miomir Jasikovac, is very illustrative of the cooperation of the OWCP with its

144 Criminal Procedure Code (Official Gazette of the Federal Republic of Yugoslavia, Nos. 70/2001 and 68/2002 and the Official Gazette of the Republic of Serbia, Nos. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010), Article 504d, para 4. The CPC currently in force (Article 604, para 1) stipulates that the legality of actions undertaken before the commencement of the application of this CPC on 15 January 2012, for the criminal offences under the jurisdiction of the OWCP shall be determined according to the provisions of the CPC previously in force.

145 *Report on War Crimes Trials in Serbia During 2023*, HLC, May 2024, p. 219, available at: http://www.hlc-rdc.org/wp-content/uploads/2024/05/Godisnji_izvestaj_2324_eng_CEO_web.pdf (visited 19 September 2024)

146 See the press release on the OWCP website.

147 See reports on war crimes trials in Serbia in 2021, 2022, and 2023, available on the HLC website at: <http://www.hlc-rdc.org/?cat=223&lang=de> (visited 17 September 2024).

148 *Ten years of war crimes prosecution in Serbia – Contours of Justice*, HLC, 2014 *Analysis of the Prosecution of War Crimes in Serbia 2004-2013* HLC, September 2014, pp. 17-18.

149 See the HLC press release on the first-instance judgement in the retrial of the *Čuška/Qyshk* case, available at: <http://www.hlc-rdc.org/?p=39621&lang=de> (visited 17 September 2024).



counterparts in the region.¹⁵⁰ Just ten days before the OWCP charged Jasikovac with a war crime against the civilian population, the Prosecutor's Office of B&H charged him for a crime of genocide in relation to the same incident. The indictment of the Prosecutor's Office of B&H includes the real number of victims, around 2,300, in contrast to the OWCP's indictment, in which the number of victims is many times lower and which fails to mention that the crime is related to the genocide in Srebrenica.¹⁵¹ The OWCP did not want to wait for Jasikovac to be beyond the reach of the B&H judiciary, in which case the indictment would be transferred to it, and rushed to indict him on its own.¹⁵² The plea bargain was concluded on the very same day the indictment was issued. Such behaviour of the OWCP is a mockery of regional cooperation in the prosecution of war crimes. It degrades the importance of requests for international legal assistance and thus renders meaningless the efforts made to reach the agreement on cooperation between the institutions in the region.

An analysis of the plea agreements reached so far shows that the only plea agreements reached on the same day as the indictments were issued were the plea bargains with Miomir Jasikovac and Brano Gojković. Gojković's crime was also related to the killing of prisoners of war in Srebrenica.¹⁵³

Trials in absentia

In 2022, the OWCP raised two indictments against citizens of Croatia who are beyond the reach of the Serbian authorities and proposed, for the first time, that the accused be tried *in absentia*. Following the trial without the presence of the accused, the court of first instance rendered a judgment in the case against Branko Tunić (the *Zagreb case* -K. Po2 6/21).¹⁵⁴ It was the only trial conducted *in absentia* at the War Crimes Department of the High Court in Belgrade during the reporting period.

The practice of conducting trials *in absentia* for this type of criminal offence is not new in the region but it has almost always been strongly condemned by the national and international public alike. Although trials *in absentia* are provided for in national criminal legislation, the HLC is of the opinion that they should be avoided in war crimes cases and that such cases should be addressed through regional judicial cooperation.

150 Case No. KTO 10-22, available on the HLC website at: <https://www.hlc-rdc.org/Transkripti/srebrenica-III.html> (visited 20 September 2024).

151 *Report on War Crimes Trials in Serbia During 2023*, HLC, May 2024, pp. 221–224, available at: <http://www.hlc-rdc.org/?p=39701> (visited 6 November 2024).

152 *Ibid.*, p.224.

153 *Ibid.*

154 More information about the *Zagreb case* is available on the HLC website at: <https://www.hlc-rdc.org/Transkripti/zagreb.html> (visited 6 August 2024).



The large numbers of war crimes still awaiting prosecution indicate there is still plenty of room for improvement in regional judicial cooperation. According to the data obtained from the OWCP, there was a total of 27 cases (against 70 individuals) at the preliminary investigation stage and 28 cases (against 82 individuals) at the investigation stage.¹⁵⁵ Moreover, the absence of cases against high-level suspects among the cases shared through regional judicial cooperation suggests a lack of trust between prosecutors' offices in the region.

Improving dialogue

None of the activities aimed at “improving dialogue ... between the institutions responsible implementing this strategy and the academia and civil society organisations”¹⁵⁶ could be said to have contributed to achieving the objectives set, because of the way in which they were defined but also because of the way they were implemented. At the time of this writing, the latest available report on the implementation of the National Strategy was Report No. 5¹⁵⁷ covering the period up to 31 March 2023. There were no annual public presentations of the reports on the implementation of the National Strategy and this activity is not covered by Report No. 5.¹⁵⁸ However, it is unclear how the publication and presentation of the reports can in itself improve referred to above.

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As regards the organisation of expert meetings on the topics covered by the Strategy, these meeting should also include members of academia and civil society organisations. However, the institutions implementing the National Strategy only communicate with other regional or international institutions¹⁵⁹, so this activity cannot be considered as implemented successfully either. In the HLC's view, no progress at all has been made in improving dialogue with academia and civil society organisations.

Improving public discourse on war crimes trials

In contrast to the first National Strategy, which outlined “Improving society's attitude towards war crimes trials” as a specific objective, the new Strategy foresees “Improving

155 OWCP's reply to an HLC's request for access to information of public importance, PI. No. 12/24 of 16 October 2024, p. 2.

156 *The Action Plan for the Implementation of the National Strategy for the Prosecution of War Crimes for the Period from 2021 to 2026* (Official Gazette of the Republic of Serbia, No. 97/2021), activities 5.3.1–5.3.3.

157 On 4 November 2024, five reports of the Working Body (in Serbian and English) were available on the website of the Ministry of Justice at: <https://www.mpravde.gov.rs/tekst/17978/izvestaj-o-sprovedjenju-nacionalne-strategije-za-procesuiranje-ratnih-zlocina.php>.

158 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 78–80.

159 *Ibid.*



public discourse on war crimes trials and the importance of regional and international cooperation in the context of transitional justice” as a specific measure under the specific objective of “Regional and international cooperation.”¹⁶⁰

Part of the activities under this measure include prompt responses to requests for access to information of public importance by the OWCP, the High Court in Belgrade and the Court of Appeal in Belgrade, which activities are superfluous as all government bodies are already required by law to respond to these requests within the prescribed response time.¹⁶¹

During the reporting period, the OWCP did not organise any press conference¹⁶² to inform the public about its work, so the value of this activity in relation to its base value remained the same, i.e., 0. As for the regular updating of the OWCP website, although the Report states that this activity is implemented successfully, the HLC notes that not even the minimum level of transparency in the work of the OWCP has been achieved. For example, the OWCP website does not offer complete information about the holders of the prosecutor’s office¹⁶³, and the OWCP does not provide precise information when asked about the prosecutors representing the indictments.¹⁶⁴

With regard to the updating of information on the website of the High Court in Belgrade, its section announcing trials does not provide information on all upcoming trials but only on those “of interest to the general public.”¹⁶⁵ As the aim is to improve public discourse on war crimes trials, it is not logical for the High Court to make a selection of cases that are of public interest instead of publishing the schedule of all war crimes trials, especially since there are not many of them. It is also important to note that the official Portal of the

160 *The National Strategy for the Prosecution of War Crimes for the Period 2021–2026*, September 2021, p. 60.

161 *Law on Free Access to Information of Public Importance (Official Gazette of the Republic of Serbia, Nos. 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021)*, Article 16.

162 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, p. 83.

163 See Section *About us – Biographies* on the OWCP website at: <https://www.tuzilastvorz.org.rs/en/about-us/biographies> (visited 23 September 2024). According to the information published on the website, there are six public prosecutors at the OWCP, in addition to the Acting Chief War Crimes Prosecutor. However, in response to an HLC’s request for access to information of public importance, the OWCP stated that there were 10 public prosecutors serving at the OWCP in addition to the Acting Chief War Crimes Prosecutor.

164 OWCP’s reply to an HLC’s request for access to information of public importance, PI. No. 6/24 of 2 July 2024, p. 1. When asked how many indictments were represented by a prosecutor, the OWCP omitted to mention Prosecutor Bruno Vekarić, who, according to the information available to the HLC, represented indictments KTRZ-4/10 and KTO No. 5 2/15 during the reporting period. See Section *Individual cases* on the HLC website at: <http://www.hlc-rdc.org/?cat=234>, *Ćuska/Qyshk* and *Srebrenica* cases (visited 23 September 2024).

165 *Report No. 5 on the Implementation of the National Strategy for the Prosecution of War Crimes*, pp. 83–84.



Serbian Judiciary¹⁶⁶ does not include war crimes cases. The activities set out in the Action Plan are not sufficient to improve the public discourse on war crimes trials but only to provide the minimum information the competent institutions should provide.

In light of the above considerations, the HLC considers that no progress was made during the reporting period towards improving the public discourse on war crimes trials, especially in light of the continued relativisation of crimes and denial of facts established in court proceedings. For example, retired General Vinko Pandurević, who was convicted by the ICTY of a crime against humanity and war crimes committed in Srebrenica in July 1995, was awarded a commemorative medal by the Serbian Army in late December 2021.¹⁶⁷ Also, convicted war criminal Vojislav Šešelj ran for a seat in Parliament in the general election and for presidency in the presidential election in 2022¹⁶⁸, and for a seat in the 2023 general and local elections.¹⁶⁹ Convicted war criminals such as Vladimir Lazarević, Veselin Šljivančanin and Nebojša Pavković, to name but a few, received regular media attention.¹⁷⁰ With such a political attitude towards war crimes, it is up to government institutions to talk more about war crimes trials, which was not the case during the reporting period.

166 The Judicial Portal includes all cases of all basic, higher and appellate courts in Serbia and of the Supreme Court of Serbia. By entering the case number, one can check the status of the case, see all the actions taken in the case, and obtain information on the next action to be taken in the case.

167 *Report on War Crimes in Serbia During 2022*, HLC, May 2023, p. 9, available at: https://hlc-rdc.org/wp-content/uploads/2023/05/Godisnji_izvestaj_2022_en.pdf (visited 1 November 2024).

168 *Ibid.*, p.22.

169 *Report on War Crimes in Serbia During 2023*, HLC, May 2024, p. 22, available at: http://www.hlc-rdc.org/wp-content/uploads/2024/05/Godisnji_izvestaj_2324_eng_CEO_web.pdf (visited 1 November 2024).

170 *Ibid.*, pp. 19-23.



Annex

Tabular presentation of the implementation of activities

IMPROVING EFFICIENCY OF WAR CRIMES PROCEEDINGS		
1.1. Improving efficiency of the work of the Office of the War Crimes Public Prosecutor with its existing capacities, including the affirmation of the application of plea agreements and testimony agreements; improving the confidentiality of the investigation process and launching of financial investigations, i.e., submission of requests for temporary/permanent confiscation of the proceeds of crime		
Activity	Time frame	Implementation status
1.1.1. Adoption of the revised Prosecutorial Strategy for the Investigation and Prosecution of War Crimes, valid until 2026.	Quarter 4 of 2021	Implemented
1.1.2. Continuous promotion of plea agreements and agreements on testimony, with the Office of the War Crimes Public Prosecutor ready to initiate the use of these mechanisms whenever the case circumstances and the legal framework allow	Ongoing	Partly implemented
1.1.3. Cooperation between the Office of the War Crimes Public Prosecutor, SORZ, and the Financial Investigation Unit of the Ministry of the Interior in the collection of data to uncover property that is clearly disproportionate to the illegal proceeds of the accused (Article 3, paragraph 1, subparagraph 2 of the Law on Seizure and Confiscation of the Proceeds of Crime), when the circumstances and the collected data indicate disproportion with illegal proceeds	Ongoing	Not implemented



Activity	Time frame	Implementation status
1.1.4. Initiating the organisation of round tables for the exchange of experiences between public prosecutor's offices and courts, both domestic and those from the region, with the participation of international organizations and institutions, on the topic of the application of plea agreements, agreements on testimony, and financial investigations.	Ongoing	Partly implemented
1.1.5. Continuous monitoring of legal regulations and their application through the implementation of data protection measures from unauthorized access, disclosure, and any misuse, in accordance with the Law on Personal Data Protection.	Ongoing	Partly implemented
1.1.6. Initiating the organisation of professional training for the staff of the Office of the War Crimes Prosecutor on the topic of confidentiality in the investigation process in the context of public relations, together with representatives of the Protection Unit, the War Crimes Investigation Service, and the competent courts, in accordance with the activities outlined in the Revised Action Plan for Chapter 23.	Ongoing	Implementation in progress



1.2. Improving the institutional and administrative capacities of the Office of the War Crimes Prosecutor in line with the Revised Action Plan for Chapter 23.

Activity	Time frame	Implementation status
Drafting of amendments to the staffing plan and proposal for amendments to the staffing plan of the Office of the War Crimes Prosecutor in order to increase the number of prosecutor's assistants and administrative staff, at an initiative of the Ministry of Justice	Quarter 4 of 2021	Partly implemented
1.2.2. Election of additional deputy war crimes prosecutors	Quarter 3 of 2022 –Quarter 3 of 2026	Not implemented
1.2.3. Taking of office of the elected additional deputy war crimes prosecutors.	Quarter 3 of 2022 –Quarter 3 of 2026	Not implemented
1.2.4. Recruiting ICT experts to the Office of the War Crimes Public Prosecutor	Quarter 2 of 2022	Not implemented
1.2.5. Strengthening the capacity of the Office of the War Crimes Prosecutor through the professional development of deputy war crimes prosecutors and other OWCP staff through training in international humanitarian law and communication skills	Ongoing	Partly implemented
1.2.6. Organisation of study visits and exchange of experience and best practices.	Ongoing	No information



1.3. Improving the infrastructural capacity of the Office of the War Crimes Prosecutor, including the regular procurement of ICT equipment necessary for the effective functioning of the case management system (SAPO) and the creation of a database of the Office of the War Crimes Prosecutor (modelled upon the ZyLab database)		
Activity	Time frame	Implementation status
1.3.1. Implementation of the SAPO case management system in the Office of the War Crimes Public Prosecutor.	Quarter 3 of 2021	No information
1.3.2. Conducting an analysis of the current state of the ICT equipment and needs of the Office of the War Crimes Prosecutor.	Quarter 4 of 2021	No information
1.3.3. Continuous acquisition of the ICT equipment in accordance with the results of the analysis under activity 1.3.2.	Ongoing	No information
1.3.4. Organisation of training in the use of the new ICT equipment in the context of implementation of the SAPO software	Quarter 3 of 2021- Quarter 1 of 2022	Partly implemented
1.3.5. Continuous digitisation of documents held by the Office of the War Crimes Prosecutor	Ongoing	No information



1.4 Strengthening cooperation with the Missing Persons Commission, the Protection Unit and the War Crimes Investigation Service, as well as with other government bodies in order to ensure as efficient prosecution of war crimes as possible through activities more specifically outlined in the Prosecutorial Strategy

Activity	Time frame	Implementation status
1.4.1. Organization of joint training sessions to strengthen the capacity for joint action in individual cases	Ongoing	Implementation in progress
1.4.2. Convening regular monthly meetings with the aim of effective exchange of information and consultation, both with regard to the handling of individual cases and the identification of the mechanism for improving cooperation under the existing agreements and protocols on cooperation signed with the Commission on Missing Persons, the Witness Protection Unit and the War Crimes Investigation Service.	Ongoing	Implementation in progress

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1.5 Improving the efficiency of the Office of the War Crimes Prosecutor in providing legal assistance within a reasonable time between domestic and foreign government bodies dealing with war crimes trials

Activity	Time limit	Implementation status
1.5.1. Efficient action of the Office of the War Crimes Prosecutor in the procedure for providing legal assistance to the Prosecutor's Office of B&H within a reasonable time	Ongoing	Implementation in progress



Activity	Time limit	Implementation status
1.5.2. Efficient action of the Office of the War Crimes Prosecutor in the procedure for providing legal assistance to the State Prosecutor's Office of the Republic of Croatia	Ongoing	Implementation in progress
1.5.3. Efficient action of the Office of the War Crimes Prosecutor in the procedure for providing legal assistance to the Supreme State Prosecutor's Office of Montenegro.	Ongoing	Implementation in progress
1.5.4. Efficient action of the Office of the War Crimes Prosecutor in the context of cooperation with the European Union Rule of Law Mission in Kosovo (EULEX) and the Provisional Institutions of Self-Government in Priština, in accordance with the Serbian Government Conclusion No. 05 018-1862/2013-1 of 7 March 2012, adopting the text of the Mutual Legal Assistance Procedures	Ongoing	Partly implemented
1.5.5. Efficient action of the Office of the War Crimes Prosecutor in the procedure for providing legal assistance to the prosecutor's offices of other countries (in addition to prosecutor's offices specified under activities 1.5.1-1.5.4)	Ongoing	Implementation in progress



1.6 Improving the capacity of the War Crimes Investigation Service through further investment in service vehicles and modernisation of computer equipment

Activity	Time frame	Implementation status
1.6.1. Procurement of additional computer equipment for the needs of the War Crimes Identification Service	Ongoing	No information
1.6.2. Procurement of additional vehicles for the needs the War Crimes Identification Service	Ongoing	No information
1.6.3. Organisation of training in the use of newly acquired equipment	Ongoing	No information

1.7 Improving the infrastructural capacity of the Special Department for War Crimes of the High Court in Belgrade, through the provision of new, modern equipment, in particular with a view to establishing an uninterrupted videoconference link during trials.

Activity	Time frame	Implementation status
1.7.1. Continuous procurement and maintenance of the computer equipment for the needs of the Special War Crimes Department of the High Court in Belgrade	Ongoing	Implementation in progress
1.7.2. Continuous maintenance and upgrading of equipment necessary for the functioning of the videoconference link as a prerequisite for the efficient conduct of war crimes trials	Ongoing	No information
1.7.3. Conducting training courses on the use of the ICT equipment	Ongoing	Partly implemented



1.8. Improving the infrastructural capacity of the Special War Crimes Department of the Court of Appeal in Belgrade, through upgrading and procuring the ICT equipment, i.e., securing technical conditions for videoconferencing between the judge hearing a war crimes case and the victims, as well as for audio-recording of trials and downloading of transcripts as a result of which any errors or ambiguities would be avoided and the proceedings would be conducted in a more efficient way.

Activity	Implementation status	Time frame
1.8.1. Continuous procurement and maintenance of computer equipment for the needs of the Special War Crimes Department of the Court of Appeal in Belgrade	Ongoing	No information
1.8.2. Continuous maintenance and upgrading of equipment needed for the uninterrupted functioning of videoconference link as a prerequisite for efficient war crimes trials	Ongoing	No information
1.8.3. Preparation of a cost estimate for the purchase of equipment necessary for the audio-recording of trials and for the safe and secure storage of audio recordings and download of transcripts	Quarters 2 - 3 of 2022	Implemented
1.8.4. Conducting training courses on the use of the ICT equipment	Ongoing	No information



IMPROVING PROTECTION AND SUPPORT OF VICTIMS AND WITNESSES IN WAR CRIMES CASES

2.1 Improving the legal framework governing the implementation of the Protection Programme by amending the Law on Protection Programme for Participants in Criminal Proceedings and the corresponding secondary legislation as well as adopting secondary legislation regulating the manner of implementation of the Protection Programme

Activity	Time frame	Implementation status
<p>2.1.1. Formation of a sectoral working group to identifying key issues in the implementation of the Protection Programme and to draft necessary changes to the legal framework, including a list of recommendations for further improvement of the legal framework.</p> <p>This activity is the same as activity 2.3.1.</p>	Quarter 4 of 2022	Implemented
2.1.2. Drafting amendments to the Law on the Protection Programme for Participants in Criminal Proceedings.	Quarter 3 of 2023	Not implemented
2.1.3. Drafting and adoption of by-laws on the manner of implementation of the Protection Programme and the manner of the use of funds for the implementation of the Law.	Quarter 3 of 2023 – Quarter 1 of 2024	Not implemented
2.1.4. Drafting and adoption of a by-law regulating the identity change as a protective measure.	Quarter 3 of 2023 – Quarter 1 of 2024	No information
2.1.5. Provision of training courses on the application of the amended legal framework.	Quarters 2-3 of 2024	No information



2.2 Improving the administrative, material and technical capacity of the Witness Protection Unit		
Activity	Time frame	Implementation status
2.2.1. Procurement of computer equipment for the Witness Protection Unit.	Ongoing	No information
2.2.2. Procurement of weapons, protective equipment, special vehicles, video surveillance systems and secure communications for protected persons, as well as other technical equipment	Ongoing	Partly implemented
2.2.3. Organisation of ongoing training and improvement of the knowledge and skills of the Unit's police officers, through special professional development and training programmes.	Ongoing	Implementation in progress
2.2.4. Participation of members of the Protection Unit in seminars and other forms of training programmes, international conferences and meetings and exchange of experience in solving problems and dealing with the most complex situations with witness protection units of other countries.	Ongoing	No information



2.3 Improving the cooperation among the competent bodies in order to implement the Protection Programme		
Activity	Time frame	Implementation status
<p>2.3.1. Formation of a sectoral working group to identify key issues in the implementation of the Protection Programme and necessary changes to the legal framework and to prepare a list of recommendations for further improvement of the legal framework</p> <p>This activity is the same as activity 2.1.1.</p>	Quarter 4 of 2022	Implemented
<p>2.3.2. Organisation of joint training sessions for representatives of the on topics relating to victimisation, interview techniques, psychological profiling of participants in criminal proceedings, identifying psychological problems and the like.</p>	Ongoing	Implementation in progress
<p>2.3.3. Continue the work of joint strategic teams of representatives of the Office of the War Crimes Prosecutor and the Unit, with the aim of defining joint actions in the area of protection of participants in criminal proceedings and improving the level of performance.</p>	Ongoing	Implementation in progress



2.4 Improving cooperation in relation to procedural protection that witnesses enjoy in proceedings before domestic and foreign judicial institutions including those in the region.		
Activity	Time frame	Implementation status
2.4.1. The signing and implementation of agreements on cooperation in the field of protection, support and assistance to victims with courts in the region	Ongoing	Not implemented
2.4.2. The signing and implementation of agreements on cooperation in the field of protection, support and assistance to victims with prosecutor's offices in the region.	Ongoing	Partly implemented
2.4.3. Organisation of joint training sessions for judges, prosecutors and staff of services for assistance and support to victims and witnesses with a view to effective implementation of cooperation agreements and improvement of procedural protection of witnesses and victims.	Ongoing	Not implemented
2.4.4. Organisation of regional meetings for judges, prosecutors and staff of services for assistance and support to victims and witnesses for the exchange of experience with a view to overcoming problems and improving the procedural protection of victims and witnesses.	Ongoing	Implementation in progress



2.5 Consistent implementation of the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the period 2020-2025 with the accompanying Action Plan for the period 2020-2022 in the part relating to the improvement of the work of the victim and witness assistance and support services at the High Court in Belgrade and the Office of the War Crimes Prosecutor in the context of the establishment of the National Network of Support Services.

Activity	Time frame	Implementation status
2.5.1. Amending the Rulebook on Internal Organisation of Work and Classification of Positions in the Office of the War Crimes Prosecutor, which provides for the creation of a prosecutor's assistant position for support to victims and witnesses of crime (Activity 1.1.6 in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia).	Quarters 1-2 of 2023	No information
2.5.2. Standardisation of the work of the existing assistance and support service at the Special Department for Organized Crime and the Department for War Crimes of the High Court in Belgrade with a view to their inclusion in the National Network (Activity 1.3.3. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia)	Quarter 1 of 2023. – Quarter 4 of 2026	Not implemented



Activity	Time limit	Implementation status
<p>2.5.3. Standardisation of the work of the existing service at the Office of the Office of the War Crimes Prosecutor with a view to its inclusion in the National Network</p> <p>(Activity 1.3.3. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia)</p>	<p>Quarter 1 of 2023. – Quarter 4 of 2026</p>	<p>Not implemented</p>
<p>2.5.4. Conducting training sessions on the rights of victims of crime for police officers, including members of the War Crimes Investigation Service, judges, prosecutors and professionals engaged in support services for victims and witnesses (Related activity no. 1.4.12. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia 2020-2025).</p>	<p>Ongoing</p>	<p>Implementation in progress</p>



2.6 Improving the mechanisms for deciding on compensation claims in the course of criminal proceedings through continuous application of the Guidelines for improving court practice in handling compensation claims made by victims of serious crimes during criminal proceedings, as well as organisation of the training on this issue for judicial officials dealing with war crimes cases

Activity	Time frame	Implementation status
2.6.1. Conducting training courses for public prosecutors and judges dealing with criminal proceedings trained in the application of the Guidelines for improving court practice in handling compensation claims made by victims of serious crimes during criminal proceedings, adopted by the Supreme Court of Cassation.	Ongoing	Implementation in progress
2.6.2. Creation of a single application form for compensation in the context of criminal proceedings. (the same activity as Activity 1.5.3. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the Period 2020-2025)	Quarter 1 of 2022	Implemented
2.6.3. Ongoing implementation of the Guidelines for improving court practice in handling compensation claims made by victims of serious crimes during criminal proceeding and monitoring the results of implementation in order to define corrective measures (the same activity as Activity 1.5.4. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the Period 2020-2025)	Ongoing	Not implemented



Activity	Time limit	Implementation status
<p>2.6.4. Assistance to victims in completing application forms for compensation during criminal proceedings as part of the primary support programme of the Victim and Witness Information and Support Service</p> <p>(same activity as the activity no. 1.5.5. of the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the period 2020-2025)</p>	Ongoing	Partly implemented
<p>2.6.5. Assistance to victims in completing application forms for compensation during criminal proceedings as part of the primary support programme of the Victim and Witness Information and Support Service of the Office of the War Crimes Prosecutor</p> <p>(same activity as Activity 1.5.5. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the Period 2020-2025)</p>	Ongoing	No information



2.7 Standardisation and institutionalisation of training in the field on the rights of victims and witnesses of crimes

Activity	Time frame	Implementation status
<p>2.7.1. Conduct training on the rights of victims of crime for police officers, (including members of the War Crimes Investigation Service and the Protection Unit, judges, prosecutors, lawyers and professionals working in victim and witness support services</p> <p>(related to Activity 1.4.12. in the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the Period 2020-2025)</p>	Ongoing	Partly implemented
<p>2.7.2. Consistent implementation of activities 1.4.1 - 1.4.15. of the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia for the Period 2020-2025)</p>	Quarter 2 of 2022 – Quarter 4 of 2026	Partly implemented



2.8 Further improvement of regional judicial cooperation in the field of support and assistance to victims and witnesses, by concluding and updating appropriate cooperation agreements, memoranda or protocols, but also through continuous exchange of experience, with a view to empowering victims and witnesses to participate in criminal proceedings

Activity	Time frame	Implementation status
2.8.1. Concluding an amended agreement between the High Court in Belgrade and the Court of Bosnia and Herzegovina on cooperation in the field of protection, support and assistance to victims (related to Activity 2.4.1.)	Quarter 4 of 2021	Not implemented
2.8.2. Ongoing implementation of the amended agreement on cooperation in the field of protection, support and assistance to victims concluded between the High Court in Belgrade and the Court of Bosnia and Herzegovina (related to Activity 2.4.1.)	Ongoing	Not implemented
2.8.3. Signing agreements on cooperation in the area of protection, support and assistance to victims with other courts in the region (related to Activity 2.4.1.)	Ongoing	Not implemented
2.8.4. Ongoing implementation of the agreements on cooperation in the area of protection, support and assistance to victims concluded with other courts in the region (related to Activity 2.4.1.)	Ongoing	Not implemented



Activity	Time limit	Implementation status
2.8.5. Drafting, signing and ongoing implementation of cooperation agreements in the field of protection, support and assistance to victims, between the Office of the War Crimes Prosecutor and other prosecutor's offices and courts in the region (related to Activity 2.4.2)	Ongoing	Partly implemented

2.9 Strengthening the administrative and infrastructural capacity for victim and witness assistance and support by providing additional resources for the recruitment of victim assistance professionals in the victim and witness support and assistance services at the Office of the War Crimes Prosecutor and the High Court in Belgrade

Activity	Time frame	Implementation status
2.9.1. Drafting and continuous implementation of the guidelines for the treatment of victims and witnesses of the Victim and Witness Information and Support Service of the Office of the War Crimes Public Prosecutor	Quarter 2 of 2023	No information
2.9.2. Equipping the special premises for the needs of the Victim and Witness Information and Support Service of the Office of the War Crimes Public Prosecutor	Quarter 4 of 2021	Implemented



Activity	Time limit	Implementation status
2.9.3. Hiring at least one more professional (psychologist) in the Victim and Witness Assistance and Support Service at the High Court in Belgrade	Quarter 1 of 2025	Not implemented
2.9.4. Equipping the special premises for the needs of the Service for information and support for victims and witnesses Victim and Witness Assistance and Support Service at the High Court in Belgrade	Quarter 2 of 2024	Implemented

2.10 Raising awareness of the position of victims and witnesses in war crimes proceedings through building a partnership between the institutions responsible for prosecuting war crimes and members of the press and associations of victims and families of missing persons

Activity	Time frame	Implementation status
<p>2.10.1. Improving the content of the websites of the Ministry of Justice, the Office of the War Crimes Prosecutor, the High Court in Belgrade and the Court of Appeal in Belgrade with the aim of informing victims and witnesses about their rights as well as raising public awareness in this regard</p> <p>(related to Activity 3.1.2 of the National Strategy on the Rights of Victims and Witnesses of crime for the Period 2020 - 2025)</p>	Ongoing	Partly implemented



Activity	Time limit	Implementation status
<p>2.10.2. Preparation, printing and distribution of information brochures for victims</p> <p>(related to Activity 3.1.3 of the National Strategy on the Rights of Victims and Witnesses of Crime for the Period 2020 - 2025)</p>	Ongoing	Not implemented
<p>2.10.3. Inclusion of information on the rights of the families of missing and deceased persons whose burial place is unknown in the information on victims” rights published on the websites of the Ministry of Justice, the Office of the War Crimes Prosecutor, the High Court in Belgrade and the Court of Appeal in Belgrade, in accordance with the provisions of the amended legal framework and on the basis of the information prepared by the Missing Persons Commission and submitted to other bodies</p>	Ongoing	Not implemented
<p>2.10.4. Participation of judges and staff of victim support services in national and international scientific and professional meetings organised by the academic community and professional associations on topics related to the position of victims and witnesses in war crimes proceedings</p>	Ongoing	Partly implemented



Activity	Time limit	Implementation status
2.10.5. Participation of prosecutors and staff of victim support services in national and international scientific and professional meetings organised by the academic community and professional associations on the topics related to the position of victims and witnesses in war crimes proceedings	Ongoing	Partly implemented

IMPROVING THE MECHANISMS FOR RESOLVING THE FATE OF MISSING PERSONS

3.1 Improving the legal framework governing the status of missing persons and their families through the adoption of the Law on Missing Persons and accompanying implementing regulations

Activity	Time frame	Implementation status
3.1.1. Drafting the Law on Missing Persons	Quarter 3 of 2021	Not implemented
3.1.2. Drafting implementing regulations of the Law on Missing Persons	Quarters 1-3 of 2022	Not implemented



3.2 Improving the level of alignment of Serbian criminal legislation with the International Convention for the Protection of All Persons from Enforced Disappearance

Activity	Time frame	Implementation status
3.2.1. Establishing a working group to assess the level of alignment of the Criminal Code with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and formulate recommendations for further harmonisation (implemented during the preparation of the Action Plan)	Quarter 2 of 2021	Implemented
3.2.2. Drafting amendments to the Criminal Code in line with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance	Quarter 4 of 2022	Not implemented

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3.3 Amendments to relevant regulations restricting access to social rights for families of missing persons in order to bring them fully in line with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance

Activity	Time frame	Implementation status
3.3.1. Defining the necessary legal changes to allow access to benefits for the families of missing persons, regardless of their financial status	Quarter 3 of 2021	No information



Activity	Time limit	Implementation status
3.3.2. Drafting amendments to relevant provisions to allow access to benefits for the families of missing persons, regardless of their financial status	Quarter 4 of 2021	No information

3.4 Resolving the institutional status of the expert service of the Missing Persons Commission in order to achieve harmony between its legal powers, administrative capacity and the role it plays in practice

Activity	Time frame	Implementation status
3.4.1. Legal regulation of the institutional status of the expert service of the Missing Persons Commission through the adoption of the Law on Missing Persons	Quarter 4 of 2021	Not implemented
3.4.2. Hiring additional personnel in the expert service of the Missing Person Commission	Quarters 2-3 of 2023	Implemented
3.4.3. Conducting training courses on the application of the new Law on Missing Persons for the staff of the Commission's expert service	Quarter 1 of 2022	Not implemented



3.5 Strengthening the infrastructural capacity of the expert service of the Missing Persons Commission in order to enable the Commission to work more efficiently, in line with the emended legal framework.

Activity	Time frame	Implementation status
3.5.1. Procurement of two vehicles for the field work of the Missing Persons Commission	Quarter 2 of 2024	Not implemented
3.5.2. Procurement of computer equipment for the needs of the Missing Persons Commission	Ongoing	Implementation in progress
3.5.3. Creation and regular updating of the new website of the Mission Persons Commission	Quarter 2 of 2023 – Quarter 4 of 2026	Implementation in progress
3.5.4. Securing additional workspace for the Commission, in accordance with its new legal powers.	Quarter 4 of 2023	Not implemented
3.5.5. Procurement of other equipment necessary for the Commission's field work	Ongoing	Implementation in progress



3.6 Ongoing cooperation of the Missing Persons Commission with the Office of the War Crimes Prosecutor, the War Crimes Investigation Service and other institutions and organisations in the Republic of Serbia		
Activity	Time frame	Implementation status
3.6.1. Conducting training courses on the implementation of the new Law on Missing Persons for employees of the Office of the War Crimes Prosecutor, the War Crimes Identification Service, the Ministry of Defence, the Military Security Agency, the Security Information Agency, the Serbian Red Cross, local governments, the Ministry of Labour, Employment, Veteran and Social Affairs	Quarter 1 of 2022	Not implemented
3.6.2. Organising joint training courses on the use of equipment for field research for employees of the expert service of the Missing Persons Commission and the Ministry of the Interior	Quarter 4 of 2021	Partly implemented
3.6.3. Holding regular meetings of the expert group for solving cases of persons gone missing on the territory of the former SFRY	Ongoing	Not implemented
3.6.4. Ongoing cooperation with the associations of families of missing persons	Ongoing	Implementation in progress



3.7 Continuation of effective cooperation for resolving of the fate of missing persons, in accordance with the established cooperation mechanisms including those based on the provisions of the Framework Plan stemming from the London Declaration

Activity	Time frame	Implementation status
3.7.1. Holding regular meetings of the Working group for persons reported missing in connection with the events in KiM, the Forensic sub-group and the Analytic team.	Ongoing	Partly implemented
3.7.2. Holding regular meetings of the Group for missing persons	Ongoing	Implementation in progress
3.7.3. Holding regular meetings of the Operational group for unidentified mortal remains	Ongoing	Implementation in progress
3.7.4. Holding regular meetings of the Database operational group	Ongoing	Implementation in progress
3.7.5. Organisation of regular bilateral meetings with bodies responsible for the search for missing persons in the region	Ongoing	Partly implemented
3.7.6. Organisation of regular meetings with international organisations working in the field of the rights of missing persons and their families	Ongoing	Implementation in progress
3.7.7. Launching an initiative for the establishment of a joint Belgrade-Priština laboratory	Ongoing	Partly implemented



IMPROVING COOPERATION WITH THE INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS.

4.1 Improving cooperation with the International Residual Mechanism for Criminal Tribunals through the organisation of trainings, i.e., professional trainings with the support of the IRMCT, including on sexual violence as a type of crime within the jurisdiction of the Office of the War Crimes Prosecutor

Activity	Time frame	Implementation status
4.1.1. Conduct an assessment of joint training needs, including training topics, number and structure of potential trainees and trainers and training dynamics.	Quarter 1 of 2022	Implemented
4.1.2. Develop a training plan and programme	Quarters 2-3 of 2022	Partly implemented
4.1.3. Organise training in accordance with the results of the training needs assessment under Activity 4.2.1.	Ongoing	Not implemented

4.2 Maintaining continuity in the exchange of requests for assistance with the IRMCT by continuing the EU project „Visiting National Prosecutors“ through the liaison officer

Activity	Time frame	Implementation status
4.2.1. Intensifying the submission of requests from the OWCP to the Mechanism	Ongoing	Partly implemented
4.2.2. Periodical meetings regarding specific requests for the purpose of reporting on the outcome of the request proceedings and coordination of action	Ongoing	Implementation in progress



4.3 Facilitating access to documentation held by the International Residual Mechanism that has not been disclosed during previous proceedings before the ICTY/IRMCT and improve management of the received data

Activity	Time frame	Implementation status
4.3.1. Initiative of the Office of the War Crimes Prosecutor to allow wider access to the Mechanism's database, following the example of the Prosecutor's Office of B&H	Quarter 4 of 2021	Partly implemented
<p>4.3.2. Strengthening the administrative capacity to access the database and manage the documentation received from the IRMCT through:</p> <p>Improving foreign language skills of employees through additional training courses;</p> <p>engaging employees with experience in international legal assistance and language skills to work continuously in this area at the Office of the War Crimes Public Prosecutor;</p> <p>improving the knowledge and skills of OWCP staff necessary for the use of the ICTY/IRMCT database.</p>	Ongoing	Partly implemented
4.3.3. Improving the use of data received from the IRMCT, by translating transcripts, decisions and other documents in order to make the best use of the data and information contained in them and enable them to be used in proceedings before national bodies	Ongoing	Implementation in progress



4.4 Work towards improving the physical capacity and the hardware and software for managing documents received from the IRMCT in order to ensure better management of documents and evidence received from the IRMCT

Activity	Time frame	Implementation status
4.4.1. Conduct a needs assessment in terms of space, hardware and software needs for proper management of documentation received from the IRMCT	Quarters 2-3 of 2022	Partly implemented
4.4.2. Work on improving the spatial capacities to adequately handle of documentation received from IRMCT	Quarter 4 of 2022 – Quarter 4 of 2026	No information
4.4.3. Work on improving hardware capacities to adequately manage documentation received from IRMCT	Quarter 4 of 2022 – Quarter 4 of 2026	No information
4.4.4. Work on improving software capacities to adequately manage documentation received from IRMCT	Quarter 4 of 2022 – Quarter 4 of 2026	No information



IMPROVING REGIONAL AND WIDER INTERNATIONAL COOPERATION AND OTHER MECHANISMS IN THE SERVICE OF TRANSITIONAL JUSTICE

5.1 Affirmation of the instrument of transfer of criminal proceedings from one country to another in cooperation with the Prosecutor's Office of Bosnia and Herzegovina and the State Attorney's Office of the Republic of Croatia in accordance with the applicable regulations and the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes and Ongoing regional cooperation of the Office of the War Crimes Prosecutor with prosecutors' offices in the region dealing with war crimes cases, with the participation of representatives of the International Residual Mechanism for Criminal Tribunals, through regular regional conferences such as the "Palić Process" and the regional project „Strengthening Regional Cooperation in the prosecution of war crimes“

Activity	Time frame	Implementation status
5.1.1. Improving the exchange and processing of information at the Office of the War Crimes Prosecutor related to the collection of data in relation to the transfer of criminal proceedings, through an active and up-to-date exchange of information with the competent authorities	Ongoing	Implementation in progress
5.1.2. Organisation of periodical meetings between the Office of the War Crimes Prosecutor and the State Attorney's Office of the RH	Ongoing	Not implemented
5.1.3. Organisation of periodical meetings between the Office of the War Crimes Prosecutors and the Prosecutor's Office of B&H	Ongoing	Implementation in progress
5.1.4. Continuation of cooperation with prosecutor's offices the region within the framework of the Palić process	Ongoing	Implementation in progress



5.2 Cooperation of the Office of the War Crimes Prosecutor with the European Union Rule of Law Mission in Kosovo (EULEX) and the Provisional Institutions of Self-Government in Priština in accordance with the Serbian Government Conclusion No. 05 018-1862/2013-1 of 7 March 2012, adopting the text of the Mutual Legal Assistance Procedures

Activity	Time frame	Implementation status
5.2.1. Ongoing requests for legal assistance submitted by the Office of the War Crimes Prosecutor to the Provisional Institutions of Self-Government in Pristina in accordance with the Serbian Government Conclusion No. 05 018-1862/2013-1 of 7 March 2012, adopting the text of the Mutual Legal Assistance Procedures	Ongoing	Partly implemented
5.2.2. Prompt actions in response to requests received from the Provisional Institutions of Self-Government in Pristina in accordance with the Serbian Government Conclusion No. 05 018-1862/2013-1 of 7 March 2012, adopting the text of the Mutual Legal Assistance Procedures	Ongoing	Not implemented



5.3 Improving the dialogue on reform processes between the institutions responsible for implementing the National Strategy, the academic community and civil society organisations, both at the national level and through regional exchange of experience through scientific and professional forums

Activity	Time frame	Implementation status
5.3.1. Regular publication of reports on the implementation of the National Strategy for the Prosecution of War Crimes Prosecution Strategy on the websites of the Ministry of Justice and the institutions involved in the implementation of this strategic document no later than two weeks after the adoption of a report	Quarter 1 of 2022 – Quarter 4 of 2026	Partly implemented
5.3.2. Organisation of annual public presentations of the reports on the implementation of the National Strategy for the Prosecution of War Crimes on an annual basis, with the participation of representatives of all relevant institutions, international organisations, the academic community, civil society organisations and the press	Quarter 4 of 2022 – Quarter 4 of 2026	Not implemented
5.3.3. Periodically organise or participate as a partner in the organisation of national, regional and international academic and professional meetings on topics covered by this strategy	Ongoing	Partly implemented



5.4 Improving public discourse on war crimes trials and the importance of regional and international cooperation in the context of transitional justice		
Activity	Time frame	Implementation status
5.4.1. Prompt action of the Office of the War Crimes Prosecutor upon receipt of a request for access to information of public importance	Ongoing	Implementation in progress
5.4.2. Prompt action of the High Court in Belgrade upon receipt of a request for access to information of public importance	Ongoing	Implementation in progress
5.4.3. Prompt action of the Office of the Court of Appeal in Belgrade upon receipt of a request for access to information of public importance	Ongoing	Implementation in progress
5.4.4. Organisation of press conferences by the Office of the War Crimes Prosecutor	Periodically from Quarter 4 of 2021	Not implemented
5.4.5. Regular updating of the content of the Office of the War Crimes Prosecutor's website	Ongoing	Partly implemented
5.4.6. Regular updating of the content of the website of the High Court in Belgrade by publishing information on war crimes trials and judgments rendered in these trials	Ongoing	Partly implemented
5.4.7. Regular updating of the content of the website of the Court of Appeal in Belgrade by publishing information on war crimes trials and judgments rendered in these trials	Ongoing	Implementation in progress



5.4.8. Development and regular updating of the new website of the Missing Persons Commission (this activity is the same as Activity 3.5.3.)	Quarter 2 of 2023 – Quarter 4 of 2026	Implementation in progress
5.4.9. Organization of joint training sessions on reporting on war crimes trials for members of the press and representatives of institutions involved in uncovering, investigation and prosecution of war crimes.	Quarter 4 of 2022 – Quarter 4 of 2026	Partly implemented







**Report on the Implementation of the National Strategy
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