



Humanitarian Law Center

MODEL STRATEGY FOR  
THE PROSECUTION OF WAR  
CRIMES COMMITTED DURING  
AND IN RELATION TO  
THE ARMED CONFLICTS  
IN THE FORMER YUGOSLAVIA

Period: 2015-2025

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**USAID**  
FROM THE AMERICAN PEOPLE

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# Contents

<b>Acronyms and Abbreviations</b> .....	5
<b>Foreword</b> .....	7
<b>Introduction</b> .....	9
1. Enhancing efficiency in the prosecution of war crimes.....	10
1.1. OWCP’s strategy for acting in cases of war crimes.....	12
1.2. Strengthening capacities of OWCP and WCIS.....	14
1.3. Cooperation with prosecutions in the region, the ICTY, and other institutions.....	16
2. Enhancing the capacity of the Department for War Crimes of the Higher Court and the Court of Appeals in Belgrade.....	19
3. The protection of witnesses and victims.....	21
3.1. Procedural protection.....	21
3.2. The measures of nonprocedural protection of witnesses.....	22
4. Victims/Witnesses Support.....	24
5. Defence of the accused.....	27
6. Representing war crimes trials in public.....	29
7. Application of the Strategy and Monitoring.....	32
7.1. Mode of operation and support to the work of the Monitoring Body.....	32
<b>Annex I</b> .....	33
<b>Annex II</b> .....	36



# Acronyms and Abbreviations

**Appeals Court Department** – the Department of War Crimes of the Court of Appeal in Belgrade

**Assistance and Support Service** – Service for assistance and support to witnesses and victims within the Department of War Crimes of the Higher Court in Belgrade

**CPC** – Criminal Procedure Code

**EU** – European Union

**HCC** – High Court Council

**Higher Court Department** – the Department for War Crimes of the Higher Court in Belgrade

**HLC** – Humanitarian Law Center

**ICTY** – International Criminal Court for the Former Yugoslavia

**Law on the Prosecution of War Crimes** – Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings

**OWCP** – Office of the War Crimes Prosecutor

**OWCP's Strategy** – OWCP's Strategy for acting in cases of war crimes

**Prosecutor** – War Crimes Prosecutor

**SPC** – State Prosecution Council

**Strategy** – Strategy for the prosecution of war crimes committed during and in relation to the armed conflicts in the former Yugoslavia

**WCIS** – War Crimes Investigation Service





# Foreword

The objective of the Model Strategy for the Prosecution of War Crimes Committed during and in relation to the Armed Conflicts in the Former Yugoslavia (Model Strategy) is to stimulate the relevant institutions to adopt an official state strategy for the prosecution of war crimes committed in the armed conflicts during the 1990's on the territory of the former Yugoslavia, and provide a comprehensive, informative and objective contribution to the production of this Strategy.<sup>1</sup>

The Model Strategy is based on the research undertaken by the Humanitarian Law Center (HLC), 'Ten Years of War Crimes Prosecution in Serbia - Contours of Justice (Analysis of the Prosecution of War Crimes in Serbia 2004-2013)', and the conclusions reached during five consultative sessions with the key actors involved in the prosecution of war crimes in Serbia. The analyses of political and media discourse on war crimes trials published by the HLC in November 2014 also represent the factual and analytical basis of the Draft Strategy.<sup>2</sup>

The HLC has been monitoring and supporting war crimes trials since the first proceedings conducted in the Republic of Serbia in 2002. The HLC is the only organization which has been continuously monitoring and analyzing war crimes trials in Serbia, and informing the local and international public thereof. It has been representing victims (injured parties) through an attorney, filing criminal complaints with the OWCP against suspects, and providing documents on the war crimes committed. The HLC has also been identifying and encouraging witnesses and victims to testify in cases of war crimes and thus contribute to establishing justice regarding the crimes committed in the past.

Having an insight into the prosecution of war crimes in Serbia for a number of years and, HLC began the process of producing the Model Strategy in 2013. During 2013 and 2014, the HLC conducted research into the most significant aspects and problems encountered in the work of institutions specialized in bringing suspected war criminals to justice, during the first ten years of their existence. The Analysis of the Prosecution of War Crimes 2004-2013 was published in September 2014 on the basis of this research. The research was founded to a great extent on interviews with representatives of the OWCP, the current and former judges of the specialized war crimes chambers, representatives of the Ministry of the Interior,

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1 The notion of 'war crimes' encompasses the acts from Chapter 16 Crimes Against Humanity and International Law in the Federal Republic of Yugoslavia Criminal Code ("Official Gazette of the SFRY" no. 44/76, 36/77, 56/77, 34/84, 37/84, 74/87, 57/89, 3/90, 45/90 and "Official Gazette of the FRY" no. 35/92, 37/93, i 24/94); these include the acts under the jurisdiction of the Office of the War Crimes Prosecutor according to the Law on Organization and Competence of Government Authorities in War Crimes Proceedings (Official Gazette of the Republic of Serbia nr. 67/2003, 135/2004, 61/2005, 101/2007 and 104/2009).

2 'Political discourse on domestic war crimes trials in Serbia 2004-2013' and 'Media discourse on war crimes trials in Serbia, 2003-2013' available only in Serbian.

defence counsel, representatives of non-governmental organizations, victims, former witnesses from the Protection Programme for the participants in the criminal proceedings, legal experts, and the analyses of judgments and other documents rendered with regard to war crimes proceedings conducted in the country and the region of former Yugoslavia. During the research, the HLC's collocutors agreed that the adoption of a state strategy for the prosecution of war crimes would represent a significant stimulus for this important social process and a tool for addressing a number of issues in this area. The Analysis also contains 75 recommendations addressed to the state bodies of the Republic of Serbia and to international actors, for the purpose of enhancing various sectors of war crimes prosecution in Serbia, and particularly with an eye to harmonization with international standards in certain areas.

After publishing the Analysis, the HLC organized five consultative meetings with representatives of institutions of Serbia and other actors who participated in the production of the Analysis.<sup>3</sup> During the consultative meetings, the representatives of institutions and experts provided their assistance in the further articulation of recommendations for the improvement of certain aspects of the prosecution of war crimes in Serbia. The conclusions and recommendations from these sessions are embodied in the Model Strategy.

The Model Strategy defines the activities, activity leaders and resources necessary for the fulfilling of objectives aimed at the resolution of the problems encountered in the prosecution of war crimes, and also at the significant intensification of the work on these cases in the following 10 years. The Model Strategy covers the period 2015-2025, since this period represents the key period for bringing responsible individuals to justice. In the period following 2015-2025, the intensity of court proceedings is expected to drop, owing to the passage of time and life span of witnesses, perpetrators, and survivors; however, it is not expected to stop completely. In this sense, the Model Strategy represents a valuable guideline for the work of institutions even in the period following 2025.

8 |

War crimes trials represent a precondition for the democratization of a society, affirmation of the culture of human rights and the rule of law, and reconciliation between peoples in the region. Following the completion of the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY), local judicial institutions represent the only mechanism for establishing criminal justice for the wrongdoings committed during the nineteen-nineties. In addition to this, the establishing of individual criminal responsibility for war crimes on the territory of the former Yugoslavia represents part of the formal conditions for Serbia's accession to the European Union, as integrated in the negotiation chapter 23 (Rule of Law).

The HLC believes that the adoption and the implementation of the Strategy would be the key guarantee of the dedication of government authorities to this significant social process, and the fulfillment of the legal and civilizational obligations of the Republic of Serbia towards victims of the war crimes committed during the 1990's.

The HLC calls for the Republic of Serbia's Ministry of Justice to establish a task force for the discussion of the Model Strategy, thus initiating the process of the production of a government strategy for the prosecution of war crimes in Serbia for the period 2015-2025, and an accompanying action plan, which would then be proposed to the Government of the Republic of Serbia for adoption.

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3 List of participants enclosed in Annex 1.

# Introduction

The political crisis and the break-up of the Socialist Federal Republic of Yugoslavia resulted in five international and internal armed conflicts – in Slovenia (June-July 1991), Croatia (1991-95), Bosnia and Herzegovina (1992-95), Kosovo (1998-99), and Macedonia (February – August 2001). The conflicts were marked by serious, systematic and mass violations of international humanitarian law. The conflicts resulted in more than 130,000 casualties, most of whom were civilians. More than 11,000 people are still registered as missing. Tens of thousands of people were detained in camps and collection centres, where they endured torture, sexual violence, inhuman treatment, and other sorts of violence and humiliating treatment. Approximately 4.5 million people were forced to leave their homes. The conflicts were marked by large-scale destruction and looting of private and public property, industrial facilities, cultural and religious facilities, etc.

The Government of the Republic of Serbia's stance is that every case of war crimes has to be investigated and appropriately punished in accordance with the applicable domestic and international provisions, regardless of the national or religious background, or any other personal characteristic of a victim or a perpetrator. All individuals who are suspected of committing war crimes, either in the capacity of direct perpetrators, or as commanders or persons responsible for these crimes on the basis of command responsibility, have to be brought to justice in accordance with domestic and international law.

The establishing of individual criminal responsibility for war crimes committed during the nineteen-nineties represents a necessary condition for the rule of law and the strengthening of the credibility of institutions, particularly the credibility of the judicial bodies of the Republic of Serbia. In the light of the strong determination of the Republic of Serbia to become a member of the European Union (EU), the prosecution of individuals responsible for the most serious violations of human rights represents a strong expression of the affirmation of basic principles that the EU rests on – the principle of the rule of law and the principle of respect for human rights and freedoms. The prosecution of war crimes also represents the most significant step towards the building of good neighbour relations, reconciliation between peoples, and sustainable peace in the region of the former Yugoslavia.

After the adoption of Resolution 1503 by the UN Security Council in 2003, which announced the completion of the mandate of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and called on the successor states of the former Yugoslavia to reinforce their domestic capacities for the prosecution of war crimes, the Republic of Serbia passed the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings (Law on the Prosecution of War Crimes), which established specialized institutions for the prosecution of war crimes – the Office of the War Crimes Prosecutor (OWCP), specialized trial chambers, police investigation and witness protection units, and the service for the witnesses/victims support. Other laws and bylaws have also been passed

and agreements have been signed, thus creating important conditions for the prosecution of war crimes.<sup>4</sup> Over the period of 11 years that the specialized institutions have existed, 46 persons have been convicted of crimes committed in Croatia, BiH, and Kosovo. 156 individuals have been indicted in a total of 50 cases.

On the other hand, the OWCP deals with a large number of unresolved cases in its work – more than 800 pending cases. Such a large number of pending cases is certainly a result of the objectively large number of crimes committed and individuals suspected of their commission, but it is also a result of some significant problems that the institutions involved in the prosecution of war crimes are encountering in their work. These problems include the insufficient capacities of these institutions, an ambiguous normative framework, and the lack of political support for the prosecution of war crimes.

Bearing in mind the magnitude of the crimes committed in the former Yugoslavia, the large number of unpunished crimes, and the moral and legal obligations not only towards victims and survivors of crimes, but also towards society as a whole, the prosecution of war crimes represents a defining task for the institutions of the Republic of Serbia for at least two decades, or until all objective means for bringing responsible individuals to justice are exhausted.

The objective of the Strategy for the prosecution of war crimes committed during and in relation to the armed conflicts in the former Yugoslavia (Strategy) is to significantly suppress impunity for war crimes committed during the 1990's by removing the existing shortcomings in the normative and institutional framework, and providing the necessary conditions for the intensification of war crimes prosecution.

The basic assumption for the efficient implementation of the Strategy is the existence of public political support to the implementation of the Strategy and cooperation between all relevant institutions with the bodies directly involved in the prosecution of war crimes. With regard to this, during the implementation of the Strategy, all institutions should show clear support and dedication to cooperation with all the activity leaders defined by this Strategy.

## **1. Enhancing efficiency in the prosecution of war crimes**

The efficiency of the institutions specialized for the prosecution of war crimes in Serbia may be assessed according to a number of quantitative and qualitative criteria, as well as on the basis of a comparative analysis of the institutions with identical competences in the region of the former Yugoslavia and with a similar number of cases pending.

At the end of March 2015, the OWCP filed a total of 50 indictments against 156 individuals. The chambers of the Higher Court and the Court of Appeals in Belgrade responsible for the first, second and third instance proceedings in cases of war crimes, have convicted 46 individuals and acquitted 26 individuals. Proceedings against 66 individuals are still ongoing.

The analysis of the number and characteristics of the indictments that have been filed so far shows that the level of intensity in the prosecution of war crimes has recently dropped in Serbia. The dominating indictments relate to events involving a smaller number of victims and a smaller number

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<sup>4</sup> List of all laws and other relevant acts provided in Annex 2.

of perpetrators, and these are indictments raised against perpetrators who held lower ranking positions in the political, military and police hierarchy. The decisions of the OWCP to file indictments in certain cases has pointed to the lack of clear criteria according to which cases are being selected from the group of unresolved cases which are pending pre-investigation phase, before the launching of investigations. Certain indictments, according to the assessment of the expert public, have represented an irrational spending of resources, bearing in mind a number of other cases with serious evidentiary material collected by the ICTY, with regard to which the OWCP has never launched investigations.

Compared to the prosecution offices which have the same competences in the region, in BiH and Croatia in particular, the indicators of the OWCP's work are visibly poorer. Due to the small number of cases ongoing before the trial chambers in the period 2011-2014, their capacities have remained unused, and the judges sitting in these chambers were appointed to act in cases of organized crime. The results of the work of the OWCP do not meet the expectations of a concerned public, or of the survivors and families of victims of war crimes committed.

As for the cases in which prosecution has yet to begin, there are more than 800 pending cases in the OWCR records. Alongside the new cases that the OWCP will certainly take up in its work, the pending cases represent a serious challenge for the prosecution of war crimes in Serbia, and point to possible failures in establishing justice in the case of a large number of crimes committed during the 1990's.

Considering the current dynamics in the work of the OWCP, it is clear that during the forthcoming period of 10 years, less than 10% of the existing pending cases will be completed if the OWCP maintains the current dynamics - and this assessment excludes the new cases. These anticipated results of the work of the OWCP point to the need for a new approach in order to resolve a substantial number of unresolved cases in the foreseeable period of time.

There are a number of reasons leading to this unsatisfactory level of efficiency. The OWCP lacks the clearly defined working strategy necessary for efficient operation in a complex field such as the prosecution of war crimes. The OWCP and the War Crimes Investigative Service (WCIS), as the key institutions responsible for the investigation and prosecution of war crimes cases, do not have sufficient financial and human resources for work on such a larger number of cases, certain of them very complex. A number of problems have also been identified in the work and communication between these two institutions. The problems concerning protection of insider witnesses also affects the possibility of starting a larger number of cases.<sup>5</sup>

On the other hand, there are a number of circumstances, which may have a positive effect on the likelihood of more efficient work by the institutions specialized in the prosecution of war crimes, the OWCP in particular; hence they should be utilized more during the forthcoming period. By this is meant that, during its mandate, the ICTY collected substantial amounts of documents which are invaluable for the prosecution of war crimes, which are available to the OWCP today through various mechanisms. A number of crimes have been reconstructed, as well as the contexts in which they were committed, as have the structure of the armed forces and political authorities on the basis of the factual and legal conclusions reached by this court. The OWCP also has direct cooperation with the prosecution offices of the same competences in the region, which allows for an easy exchange of evidence and information.

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5 See Chapter 3.2. for more information on problems and measures for enhancing non-procedural protection.

**General objective:** By 2025, the OWCP will have prosecuted all priority cases of war crimes against perpetrators accessible to the institutions of the Republic of Serbia; it will also have provided evidence for the prosecution of other perpetrators before the state institutions of the countries to which these perpetrators are accessible by means of regional cooperation, and it will have prosecuted at least half of the mid-priority cases.

### 1.1. OWCP's strategy for acting in cases of war crimes

According to the information by the OWCP, there are more than 800 cases against identified and unidentified individuals pending pre-investigative phase and it is certain that this number will increase in the forthcoming period.

The prosecutor offices responsible for cases of war crimes in the region of the former Yugoslavia, which deal with similar workloads of unresolved cases (BiH and Croatia), have adopted strategy documents expressing their determination to achieve the resolution of priority and the most complex cases, and defining the criteria to be followed in the identification of these cases, action plans for these cases, required resources, etc.

The adoption of a similar strategy document is important for the future work of the OWCP and efficient prosecution of war crimes in Serbia, for a number of reasons. First of all, the OWCP's Strategy for acting in unresolved cases of war crimes (OWCP's Strategy) would establish objectives and deadlines for action in cases and in the cases that will be assigned to OWCP in the future. This would contribute to a more rational use of the OWCP's resources and the establishing of measurable criteria for the assessment of the success of the work of this institution. The OWCP's Strategy will introduce transparency to the work of the OWCP and contribute to the strengthening of the credibility of this institution in the eyes of the public.

Prior to the beginning of the production of the OWCP's Strategy, it will be necessary to establish the exact number and nature of unresolved cases of war crimes under the jurisdiction of the OWCP. It will also be necessary to establish the exact number of cases of war crimes still pending before courts of general jurisdiction and initiate their transfer to the jurisdiction of the OWCP, owing to the lack of capacities in the courts and prosecution offices of the general jurisdiction to prosecute cases of war crimes.

**Specific objective no. 1:** All cases of war crimes and other criminal offences which could be characterized as war crimes which are pending before the courts and prosecution offices of general jurisdiction, are transferred to the jurisdiction of the OWCP.

#### *Activities:*

- a) The Ministry of Justice will initiate the procedure for the amendment of Article 20 Paragraph 2 of the Law on the Public Prosecutor's Office, hence extending the power of the Republic Public Prosecutor to authorize the Prosecutor for Organized Crime to act in cases from the competence of another prosecutor, for the purpose of a more efficient prosecution or some other important reasons to the War Crimes Prosecutor as well.
- b) The Republic Public Prosecutor shall, in accordance with Article 20 Paragraph 1 and Article 29 Paragraph 3 Item 2 of the Law on the Public Prosecutor's Office, will conduct supervision of the cases of war crimes and other criminal offences committed during the armed conflicts, to be

qualified as war crimes according to the circumstances of the event, and which are under the jurisdiction of the prosecutors of general jurisdiction, and render decisions on the transfer of these cases to the jurisdiction of the OWCP, or it will authorize the OWCP to act in these cases.

- c) The Republic Public Prosecutor will publish a list of these cases on its web page.

**Specific objective no. 2:** The OWCP will have detailed and comprehensive records of unresolved cases of war crimes.

***Activities:***

- a) The Prosecutor shall form a Team for recording cases comprising two deputy prosecutors and an associate, who will be tasked to prepare detailed records of all cases pending in the OWCP; the records will consist of information on the most significant elements of each case (short description of the criminal offence, qualification of the act, number of victims, affiliation to the party to the conflict, and the rank of the suspects, number of victims, available evidence, etc.).
- b) The Records Team shall update all subsequently received cases and forward them to the OWCP Strategy Drafting Team.

**Specific objective no. 3:** The OWCP shall have prepared and adopted the Work Strategy for the period 2015-2025.

***Activities:***

- a) The Prosecutor shall form OWCP Strategy Drafting Team (Team), which will comprise two deputy prosecutors and an associate, who will, after the adoption of the OWCP's Strategy, have the task of monitoring its application (Team for the Monitoring of the Application of the Strategy).
- b) The Team shall organize expert consultation with prosecutors from the OWCP, the Republic Public Prosecutor's Office, judges of the Higher Court Department, the Appeals Court Department, ICTY representatives, legal experts, prosecutors from the region, organizations monitoring war crimes trials, and other relevant collocutors, on the criteria for the prioritization of cases. Among the criteria that will be discussed during the consultation, although not necessarily exclusively, are: i) the severity of consequences (the act of commission) and the extent of the crime (the number of victims, the proportion of destruction of property and cultural and religious facilities); ii) the role of the accused (formal and *de facto* position in military/paramilitary/police/political hierarchy); iii) availability of suspect/s; iv) availability and quality of evidence; v) cruelty and recklessness when committing the criminal offence; vii) the interest of the public.
- c) A catalogue of criteria shall be created by the Team for case prioritization.
- d) According to the criteria established, the Team shall determine the categorization of cases, including A, B, and C categories: category A includes priority cases, meaning the cases which fulfil most of the criteria established; category B includes middle priority cases; and category C includes the lowest priority level.

- e) The Team shall create a draft Strategy for the OWCP, which will include (but will not be limited to) the following elements:
  - i. Catalogue of cases listed by categories;
  - ii. Action Plan for work on cases in A and B categories up till 2025;
  - iii. Preliminary assessment of necessary resources for the meeting of objectives and deadlines established by the OWCP's Strategy and accompanying Action Plan;
  - iv. Guidelines for the use of the evidence and facts established before the ICTY, the application of provisions of international law (particularly the provisions relating to command responsibility and crimes against humanity), the support to the injured parties for the purpose of proving their compensation claims during the criminal trial, etc;
  - v. Action Plan for investigations into property acquired through the commission of war crimes;
- f) The Prosecutor shall discuss and adopt the OWCP's Strategy upon receiving the opinion of the Republic Public Prosecutor;
- g) At a press conference, the Prosecutor shall present the criteria for case categorization, the quantitative elements of the OWCP's Strategy and Action Plan and other aspects of the OWCP's Strategy, the publication of which is not to jeopardize any investigations and the work of the OWCP in certain cases.

14

**Specific objective no. 4:** The OWCP shall implement the Strategy of the OWCP in line with the objectives and deadlines set.

***Activities:***

- a) The Prosecutor and his deputies shall have annual work schedules for the following year completed by December 31<sup>st</sup>, in line with the Action Plan of the OWCP's Strategy, and submit them to the Team for Monitoring of the Application of the OWCP's Strategy;
- b) The Team for the monitoring of the application of OWCP's Strategy shall coordinate the application and submit quarterly reports to the Prosecutor;
- c) The OWCP shall produce annual reports on the implementation of the Strategy and submit them to the Republic Public Prosecutor, the Ministry of Justice and the Committee for the Judiciary of the National Assembly;
- d) The Committee for the Judiciary of the National Assembly shall discuss the report on the implementation of the Strategy in a session attended by the Prosecutor, and adopt the conclusion;
- e) the Prosecutor shall present summary results from the annual report at a press conference.



## 1.2. Strengthening capacities of OWCP and WCIS

Strengthening the capacities of the institutions responsible for launching criminal proceedings represents one of the key conditions for enhancing efficiency in the prosecution of war crimes. The OWCP and WCIS do not have adequate capacities at the moment for the efficient implementation of a greater number of investigations and of investigations in more complex cases, which would result in the filing of viable indictments. The financial resources that they have are not sufficient even for the implementation of their basic competences. The OWCP did not obtain a minimum increase of the budget after it assumed the competence for launching investigations in accordance with the amendments to the Criminal Procedure Code (CPC) in 2012. As for human resources, both institutions share the same problems: an insufficient number of employees, the lack of continuous training, etc.

It is necessary to harmonize the employment policy, the hiring policy in the WCIS and the process of evaluation of the work of the WCIS with the needs emerging from specific nature of the prosecution of war crimes. At the moment, there are no legal acts or bylaws defining vetting procedures for job candidates in the WCIS with regard to their engagement during the armed conflicts, which in practice leads to having former colleagues of the suspects conducting investigations. Besides this, the Chief of the WCIS does not have efficient sanctions for employees who do not meet the expected professional standards of work.

**Specific objective no. 1:** The OWCP and WCIS shall have all the financial and human resources necessary for the efficient prosecution of a greater number of cases and of more complex cases in accordance with the objectives and deadlines set by the OWCP's Strategy.

### *Activities:*

- a) The State Prosecutorial Council (SPC) shall create a task force comprising representatives of the SPC, OWCP, Republic Public Prosecutor, and expert with the requisite profiles, which will produce an analysis of the needs of the OWCP with regard to the objectives and deadlines set by the Prosecution Strategy, and taking into account the preliminary assessment of necessary resources prepared by the Team for the drafting of the OWCP's Strategy; the analysis will establish needs with regard to financial resources, technical equipment, the number of employees and associates, the scope of their tasks, the type and level of training and the form of engagement of experts of the specific profiles necessary for conducting investigations in complex cases, etc.
- b) The Ministry of Interior shall create a task force comprising representatives of the WCIS, OWCP, Ministry of Interior Joint Affairs Department, and experts with the requisite profiles, which will produce an analysis of the needs (budget, equipment, human resources, need for training) with regard to the objectives and deadlines set by the Prosecution Strategy;
- c) The Prosecutor shall render new Rules of Systematization and Organization of Work, in accordance with the report produced by the Task Force on the needs of the OWCP;
- d) The responsible ministries shall implement the plans for enhancing the capacities in accordance with the analysis;
- e) The Ministry of the Interior shall create a task force, which will define the amendments to the Rules on the internal organization and systematization of job positions in the Ministry of Interior, which

would: i) introduce special criteria for employment in the WCIS, which would provide for not having persons who participated in the armed conflicts in any capacity employed in this department; ii) introduce mandatory professional training for members of the WCIS in the field of the methodology of war crimes investigation and international humanitarian law; iii) reinforce the powers of the chief of the WCIS with regard to dismissals, appointments, and awards given to members of this service;

- c) The Ministry of Justice shall initiate an amendment to the Law on the Prosecution of War Crimes which will, in accordance with the Judicial Reform Strategy, Law on the State Prosecution's Council, and the Law on the Judicial Academy, introduce a mandatory training for prosecutors acting in cases of war crimes on matters relating to international humanitarian and international criminal law;
- d) The Programme Council of the Judicial Academy shall, during the creation of a programme of continuous mandatory training for prosecutors and a special training programme for assistant prosecutors and legal trainees hired in the OWCP, particularly consider their needs regarding the acquisition of professional knowledge regarding the practice of international criminal courts, and the practice of the courts in the region in the war crimes cases.

**Specific objective no. 2:** An improved organizational structure for the OWCP and a normative framework for mutual cooperation shall be put in place.

**Activities:**

- a) The Ministry of Justice shall create a task force consisting of representatives of the Ministry of Justice, Ministry of Interior and OWCP, which will create a Protocol on cooperation between the OWCP and Ministry of Interior in the criminal investigation of war crimes, regulate the obligations and procedures for action of the and OWCP during investigation and pre-investigation activities, in line with the CPC;
- b) The Minister of the Interior shall adopt amendments to the Rules on the internal organization and systematization of duties in the Ministry of Interior according to which: i) the WCIS will get higher position in the Ministry of Interior hierarchy, meaning the rank of Department; ii) an Operation fund shall be established for the financing of WCIS operations in pre-investigation proceedings, as well a procedures for the use of this Fund.
- c) The OWCP will organize regular meetings with the Ministry of Justice, , and other bodies and units, involved in the prosecution of war crimes, the topic of which would be the discussion of current problems and challenges in war crimes prosecution.

### **1.3. Cooperation with prosecutions in the region, the ICTY, and other institutions**

The armed conflicts in the former Yugoslavia and their consequences were of a regional and cross-border nature. During the armed conflicts, the state borders were porous. Armed forces controlled by one state would cross to the territory of other states and carry out operations in which mass crimes were often committed. Civilians, including victims' families and survivors of crimes, were exposed to systematic forced relocations and deportation.

Upon the cease of hostilities, a significant number of displaced persons failed to return to their pre-war residences. The facilitated conditions and procedures for obtaining citizenships in some of the

successor states of the former Yugoslavia enabled a great number of individuals to have multiple citizenships of these states. Today, victims, witnesses and perpetrators of a crime often reside in different states. All these circumstances, along with the fact that the successor states of the former Yugoslavia forbid extradition of their citizens to other countries, make the prosecution of war crimes committed in the former Yugoslavia almost impossible without the cooperation of the responsible institutions in the region of the former Yugoslavia.

In 2005, the OWCP signed memoranda on cooperation with the State Attorney's Office of the Republic of Croatia and the Prosecutor's Office of BiH, thus allowing for direct cooperation and communication between the respective prosecutions.<sup>6</sup> The cooperation between the OWCP and the Prosecutor's Office of the Republic of Montenegro was established by the signing of a memorandum on cooperation in 2007. The OWCP collects evidence in Kosovo independently through the facilitation of the EULEX Mission, on the basis of a memorandum on cooperation signed between the Ministry of Interior and EULEX. At this moment, the OWCP does not have direct cooperation with Kosovo prosecutors.

The key importance of memoranda on direct cooperation lies in the opportunity to provide evidence and information by one signatory party to another, enabling the prosecution of suspects because of their accessibility to the authorities of this party. By the end of March 2015, thanks to the cooperation between the prosecutions in the region, the OWCP filed indictments against 37 persons. At the same time, the OWCP delivered evidence to the prosecution offices in the region and the EULEX Investigation Unit, which resulted in a significant number of indictments.<sup>7</sup> Despite the existence of the signed memoranda on cooperation, in several cases the OWCP insisted on conducting investigations against suspects who were inaccessible to the prosecution authorities in Serbia, which led in practice to "parallel investigations"; thus violating regional cooperation based on the principle of mutual trust.<sup>8</sup> The possibility of having parallel investigations led the OWCP and the State Prosecutor's Office of BiH to sign an additional Protocol on cooperation in January 2013, by which each party was obliged to inform the other party within three months from the signing of the agreement about all proceedings conducted against citizens of the other party.<sup>9</sup> The same Protocol envisaged the creation of a list of priorities in the cooperation between OWCP and the State Prosecutor's Office of BiH. The OWCP, at this time, does not have such protocols signed with other countries in the region.

17

The documents collected by the ICTY during its mandate represent important sources of information and the evidentiary basis for the prosecution offices acting in cases of war crimes committed in the region of the former Yugoslavia. The OWCP has access to all the data bases of this court, including the non-public database of the ICTY Office of the Prosecutor, through direct access as well as through "liaison officers" - the OWCP officers physically located in the office of the ICTY Office of the Prosecutor. In the perspective of the work of OWCP, the use of evidence from the ICTY judicial databases is of key significance for bringing suspected war criminals to justice. In that sense, it is

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6 By 2005, the legal framework of cooperation between the OWCP and institutions in BiH and Croatia were based on conventions regulating international legal aid and bilateral agreements between countries on judicial cooperation in criminal matters.

7 Only the State Attorney's Office of the Republic of Croatia (SAORC) keeps a list of individuals indicted on the basis of the cooperation with OWCP, while the Prosecutor's Office of BiH does not keep such a list.

8 Cases of Tuzla Convoy, Ganić, Divjak, Bosnian, Marić, Šeks, and others.

9 Item 3, Protocol of the Prosecutor's Office of Bosnia and Herzegovina and the Republic of Serbia Office of the War Crimes Prosecutor on cooperation in the prosecution of perpetrators of war crimes, crimes against humanity, and genocide, January 2013.

necessary to remove all the obstacles to obtaining relevant documents and reinforce the internal capacities of the OWCP in the search for these documents. Also, it is very important to address the matter of the fate of the non-public database of the ICTY Office of the Prosecutor, on which the Security Council has not yet rendered a decision.

The archives of institutions like the Ministry of the Interior, Ministry of Defence, Military Archive, Military Security Agency, Security Information Agency, courts of general jurisdiction and others are very valuable for the investigation of war crimes. However, some of these institutions have refused to deliver documents which are in their position to the OWCP, with the explanation that the documents have been destroyed or that they do not exist, thus violating the obligation of all state authorities according to the Law on the prosecution of war crimes to deliver every piece of evidence which they possess, at the request of the OWCP. The additional problem is the legal regime regulating the confidentiality of documents, particularly the right of certain institutions to make certain documents important for establishing criminal responsibility for war crimes inaccessible to the public.

**Specific objective no. 1:** Improved cooperation shall be achieved between the prosecution offices in the region through the enhancement of the normative framework and the establishing of priorities in cooperation.

***Activities:***

- a) The OWCP shall initiate the amendment of the existing agreements on cooperation with BiH, Croatia, Montenegro, which would regulate:
  - i. the creation of joint investigation teams in cases of a cross-border character;
  - ii. the organization of the quarterly meetings of investigation teams;
  - iii. the establishment of the obligation to inform the other party on the procedures initiated against their citizens (with Croatia and Montenegro);
  - iv. The establishment of a list of priority cases for cooperation (with Croatia and Montenegro).
- b) The Ministry of Justice shall initiate the signing of the Agreement between the OWCP and the EULEX Mission, which would lay down the framework of cooperation between the OWCP and the Kosovo prosecutors in the exchange of evidence and cooperation in the prosecution of war crimes;
- c) The OWCP shall implement entirely the agreements signed with prosecutors in the region.

**Specific objective no. 2:** An increased amount of evidence from ICTY material shall be used by the OWCP in its work.

***Activities:***

- a) The OWCP shall initiate consultation with representatives of the ICTY and the prosecution offices in the region with regard to the easy provision of documents and to the future use and access of the ICTY Office of the Prosecutor database;
- b) The OWCP shall initiate with the ICTY the training of prosecutors and associates in the

OWCP regarding the skills of searching ICTY databases.

**Specific objective no.3:** Archival material of institutions relevant for the prosecution of war crimes shall be made accessible to the OWCP and the public.

**Activity:**

- a) The National Assembly, the Prime Minister and the President of the Republic will withdraw the categorization of confidentiality, in line with Article 26 of the Law on the confidentiality of information, from all documents possessed by the Ministry of Interior, the Ministry of Defence, the Military Archive, the Military Security Agency, and other institutions which refer to the involvement of representatives of these institutions in the armed conflicts in the former Yugoslavia; exceptionally, the Ministry of Defence, Military Security Agency, Security Information Agency and Ministry of Interior can demand certain information in this category of documents to remain confidential, the decision on which shall be rendered by the Commissioner for Information of Public Importance.

## **2. Enhancing the capacity of the Department for War Crimes of the Higher Court and the Court of Appeals in Belgrade**

The Department for War Crimes of the Higher Court in Belgrade (Higher Court Department) and the Department for War Crimes of the Court of Appeals in Belgrade (Appeals Court Department) that conduct war crimes proceedings in first, second and third instance trials act promptly, without undue delays in the conduct of the proceedings and passing of judgments. According to the experts, the judgments are in most cases fair and in accordance with the law. However, in some cases it has been noted that there is a deviation from the facts established before the ICTY, and that there is not sufficient reference to the provisions of international humanitarian law and international criminal law. What is more, when it comes to penal policy, the courts use the institute of mitigating circumstances without adequate explanation and established standards, and they also use the institute of reduction of sentence below the statutory minimum.

19

The system of appointing judges to trial chambers established by the Law on the Prosecution of War Crimes does not contain principles and guidelines for the professional training of judges that enable them to work on war crimes cases. Judges with no experience and training in the application of international humanitarian law and international criminal law are appointed to trial chambers. This is particularly apparent when it comes to the third instance chamber, which decides on complex matters of the international humanitarian law. This chamber is composed of judges who have no experience or training in this field of law. On the other hand, judges who have acquired a certain specialized knowledge and experience by working in these chambers are sent to work on cases of general or organized crime. This system does not provide the necessary standards of judges' competence, particularly bearing in mind the need for the increase of the number of cases and the prosecution of more complex cases.

The Higher Court Department lacks significant funds for covering the costs incurred in connection with the conduct of proceedings, such as financing the defense, experts, etc.

**General objective:** The financial, human and technical capacities of the trial chambers conducting the war crimes trials is improved.

**Specific objective no.1:** The Higher Court Department and Appeals Court Department have all the financial and human resources necessary to conduct a larger number of cases and more complex cases of war crimes.

**Activities:**

- a) The High Judicial Council shall form a task force composed of representatives of the Higher Court Department, the Appeals Court Department, and expert of the requisite profile, who will create an analysis of the needs of the departments in respect to the objectives and deadlines set down by the OWCP's Strategy; the analysis will establish the needs of the departments in regard to the number of chambers, financial means, technical equipment, the number of employees and associates, the scope of their duties, the type and level of training, the conditions and form of engagement of experts of the requisite profile for expert support to the work of the judges, etc;
- b) The relevant ministries shall implement plans for the enhancement of capacities in accordance with the above-mentioned reports;

**Specific objective no. 2:** The level of judges' expertise in international humanitarian law, as well as in the practice of international criminal courts and courts in the region and their application in proceedings for war crimes, shall be enhanced.

**Activities:**

- a) The Ministry of Justice will initiate an amendment to the Law on the Prosecution of War Crimes which will introduce continuous mandatory training on international humanitarian law and international criminal law for the judges who deal with war crimes cases in the first, second and third instance courts, in accordance with the Judicial Reform Strategy, the Law on the State Prosecution Council and the Law on the Judicial Academy;
- b) When creating the continuous mandatory programmes for judges and the special training programmes for judicial assistants and interns who are engaged by the OWCP, the Programme Council of the Judicial Academy shall specifically address their needs in terms of acquiring expertise in relation to the practice of international criminal courts and practice of the courts in the region;
- c) The Ministry of Justice shall initiate an amendment to the Law on the Prosecution of War Crimes, which will introduce the possibility that the Chamber may, at its own initiative or at the request of parties, and after hearing the parties involved, decide to accept as proven the facts established by a final judgment rendered by the ICTY;
- d) The Ministry of Justice shall initiate an amendment of the Court's Rules according to which the President of the Higher Court Department will have the obligation of convening a session of the department once every two months;
- e) The Ministry of Justice shall initiate the holding of annual conferences for judges dealing with war crimes cases in the region of the former Yugoslavia.

### 3. The protection of witnesses and victims

Witnesses are the most important and the most frequently used means of evidence in war crimes cases. For the purpose of effective case management, it is necessary to ensure that witnesses testify without fear, threats or other forms of pressure during the investigation and the trial. The effectiveness of witness protection mechanisms significantly affects the decision of persons who have information about the crimes committed on whether to participate in criminal proceedings against the perpetrators of the war crimes.

In the current practice regarding war crimes prosecution in Serbia, the witness protection system has not been very effective, because some of the procedural protection mechanisms have not been applied when necessary. In addition, the nonprocedural measures for protection of insider witnesses (former and active members of the armed forces of the Republic of Serbia) has proved to be completely unsuccessful.

#### 3.1. Procedural protection

The legal framework of the witness protection system in the cases of war crimes is regulated by the CPC.<sup>10</sup> The procedural protection measures are applied in the investigation when undertaking investigative actions, and during the trial. During the trial, they are applied by the court, and during the investigation, by the prosecutor.<sup>11</sup> Procedural protection of witnesses includes: measures to protect the integrity of the witness, measures to protect particularly vulnerable witnesses and measures for protection of witnesses whose lives, health, liberty or property are endangered because of their testifying.

In cases of war crimes in Serbia, there have been examples of witnesses being insulted by the defence and the defendants who were not sanctioned by the court, or inadequately sanctioned (by the pronouncing of informal warnings instead of the infliction of the sanctions prescribed by the CPC). Inadequate protection of witnesses during the testimony causes psychological trauma, and is for witnesses - injured parties (victims) a secondary victimization.

21

A particular challenge is represented by the protection of victims of sexual violence during the trial interrogation. The biggest problems in this area, besides the fact that the current legislation, contrary to international standards, does not contain specific measures to protect victims of sexual violence, is that the judicial institutions do not use the existing legal mechanisms consistently.

**General objective:** The effective, consistent and timely protection of the personal integrity and dignity of the witnesses during the trial shall be assured.

**Specific objective no. 1:** The provisions of the CPC on the punishment of attacks on the integrity of witnesses are being consistently applied.

#### **Activities:**

- a) The authorities participating in the proceedings (the public prosecutor, the court), instead

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10 *The Official Gazette of the Republic of Serbia* nos. 72/2011, 101/2011, 121/2012, 32/2013 and 45/2013

11 *The Criminal Procedure Code, The Official Gazette of the Republic of Serbia* nos. 72/2011, 101/2011, 121/2012, 32/2013, and 45/2013, Articles 102 to 111.

of pronouncing informal warnings, shall pronounce formal reprimands and sanction the participants of the proceedings who insult a witness during the examination, in accordance with the CPC;

- b) When pronouncing the sentence or a reprimand to a participant in the proceedings, the Presiding Judge of the Higher Court Department chamber shall explain the reasons behind the sanctioning of the conduct towards the injured party or witness;
- c) The judges of the Higher Court Department shall inform the Bar Associations regularly on penalties pronounced to defense counsel, in accordance with Article 370, paragraph 3 of the CPC of the Republic of Serbia, and submit a disciplinary complaint to the Bar Association against lawyers who violate;
- d) The Department for criminal defence in war crimes cases within the Ministry of Justice shall, as part of the training programme for defense lawyers, organize a special training programme on victims' rights and needs;<sup>12</sup>

**Specific objective no. 2:** The injured parties – victims of sexual abuse shall receive an effective protection during the trial, in accordance with international standards.

**Activities:**

- a) The Ministry of Justice shall form a task force composed of the representatives of the Ministry of Justice, the Republic Public Prosecutor, the OWCP, the departments for war crimes of the Higher Court in Belgrade and the Court of Appeals in Belgrade and experts in the fields of criminal and criminal procedural law. The task force shall propose amendments to the CPC which would introduce special rules of evidence in the cases of sexual offences: i) a prohibition on acceptance of earlier sexual conduct of the victim as evidence in the proceedings; ii) the rule of evidence, by which for the proof of rape it is not necessary to corroborate it with other evidence; and iii) the rule that the consent of the victim is not grounds for exemption from responsibility of the perpetrators, if the victim feared for their own life or the life of persons close to them.
- b) The judges and prosecutors shall consistently apply mechanisms for the protection of witnesses and injured parties – victims of sexual violence.

### **3.2. The measures of nonprocedural protection of witnesses**

The measures of nonprocedural protection are applied to witnesses who, because of their testimonies, are exposed to threats to life, health and property, which are addressed to them personally or their family. Non-procedural witness protection is achieved through the use of regular institutional mechanisms for the protection of fundamental human rights and freedoms (non-procedural protection in the narrow sense), and through the special protection programme in criminal proceedings (Protection Programme). The legal framework for non-procedural protection is the CPC and the Law on the Protection of Participants in Criminal Proceedings.

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12 See section 6 on Defense for more information on the establishing of the Department for criminal defence in war crimes cases within the Ministry of Justice and the jurisdiction of this body.



In the current practice of prosecuting war crimes in Serbia, it is evident that the measures of nonprocedural protection do not achieve their purpose when it comes to insider witnesses – former or active members of the armed forces of Republic of Serbia who participated and/or have knowledge of the crimes committed, owing to the inconclusive legal framework and insufficient political support for this most vulnerable aspect of the prosecution of war crimes. Among the numerous problems that hinder an effective protection of insider witnesses and thus seriously threaten prosecuting the persons responsible for committed war crimes, those that stand out are: an inadequate legal framework for the protection of insider witnesses who do not enter into a protection programme, weak mechanisms for the control and supervision of the witness protection programme, non-transparent and *ad hoc* procedures for the investigation of misconducts of members of Protection Unit, as well as the public support of government representatives for war crimes suspects. The problems in the system for the protection of insider witnesses in Serbia have been registered by several international institutions and organizations.<sup>13</sup>

**General objective:** The lives, health and property of witnesses and insider witnesses shall be protected by effective measures of non-procedural protection, in an atmosphere of clear political and public/social support for the participation of insider witnesses in the cases of war crimes.

**Specific objective no. 1:** An effective mechanism of protection of witnesses and insider witnesses who do not enter into a witness protection programme is established.

**Activities:**

- a) The Ministry of Justice shall form a task force composed of representatives of the Ministry of Justice, the OWCP, the Higher Court Department and Appeals Court Department, the Ministry of the Interior and legal experts, who will: i) formulate amendments to Article 102, paragraph 5 of the CPC, to introduce the obligation of the court and prosecutor to seek protection from the police for witnesses who report being threatened during the proceedings, and their obligation to inform the participants of the proceedings of the measures taken; ii) the same task force will draft a Protocol on the procedure in cases of threats addressed to witnesses in war crimes cases; iii) review any further amendments to the CPC and other regulations for the purpose of strengthening this component of witness protection.
- b) The prosecutors, judges and the representatives of the Ministry of the Interior shall consistently apply the mechanisms established.

**Specific objective no. 2:** A reliable, functional and viable witness Protection Programme shall be established.

**Activities:**

- a) The Ministry of Justice shall form a task force composed of representatives of the Ministry of Justice, the Ministry of the Interior and the Victims and Witnesses Section of the ICTY. The task force shall prepare amendments to the Law on the Protection of Participants in Criminal Proceedings which will:

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13 Council of Europe, European Commission, European Parliament, OSCE and Amnesty International.

- 24
- i. Establish a mechanism for investigation into complaints filed by persons under protection, to be carried out by the body composed of representatives of the Protection Unit, the OWCP and the Chief of the Ministry of the Interior Internal Control Sector;
  - ii. Specify the content and procedure for the implementation of the Protection Unit's duties when it comes to persons in the protection programme, as regards social, economic, legal and psychological assistance, as prescribed by the Law on the Protection of Participants in Criminal Proceedings, and establish a mechanism of control over the fulfillment of these duties;
  - iii. Strengthen the mechanism for the monitoring of the work of the Commission and the Protection Unit by the competent committees of the National Assembly, by introducing a mandatory review and evaluation of reports made by the Commission and the Protection Unit on the implementation of the Programme, by the parliamentary committees in charge of justice and security;
  - iv. Establish the formal subordination of the Chief of the Protection Unit to the Prosecutor, by requiring binding opinion of the Prosecutor when appointing a chief for this unit, and including the role of the Prosecutor in the career advancement of the members of this unit;
- b) The Ministry of Justice shall form a task force composed of representatives of the Ministry of Justice, the Ministry of the Interior, the Ministry of Public Administration and Local Self-Government and the OWCP. The task force will prepare proposals for bylaws which will regulate the the procedure for the identity change of persons in the Programme for Witness Protection;
- c) The Ministry of Justice shall formulate and initiate amendments to the Law on Ministries and the Law on the Protection Programme for Participants in Criminal Proceedings, with the aim of transferring the Protection Unit from the jurisdiction of the Ministry of the Interior to the jurisdiction of the Ministry of Justice, and the introduction of specific criteria for employment in the Protection Unit, which will ensure that this service does not employ persons who had in any capacity participated in the armed conflicts in the former Yugoslavia.

#### **4. Victims/Witnesses Support**

The main objective of the measures of support for victims (injured parties) and witnesses during the criminal proceedings, is their protection from (re)traumatisation and (secondary) victimization. On a broader scale, the measures of support for victims and witnesses represent an important element of institutional support for war crimes trials, and a message to the wider community that participation in war crimes proceedings is the concern and responsibility of the entire society.

When it comes to providing support to victims, clear international standards that regulate the obligations of institutions to the victims of criminal acts before, during and after criminal proceedings, have been established. The most important document is Directive 2012/29/EU of the European Parliament and the Council of Europe on the establishment of minimum standards of rights, support and protection of victims of crimes. According to the Directive and other international standards, among other things, the support measures must be implemented in the earliest stage of the criminal proceedings, and on the basis of assessment of the individual needs of the persons they are intended for. The institutions and other participants that come into contact with victims must be trained to work with them.

The support measures for victims which are applied by Serbian institutions in war crimes cases are not in accordance with international standards. Among the many deficiencies, the ones that are most apparent are: the lack of a system for informing the victims about the development of the case, non-existent psychological support before, during and after the trial, the weak capacity and narrow jurisdiction of the Service for assistance and support to witnesses and victims within the Higher Court Department (Assistance and Support Service).

Support for witnesses and victims in war crimes cases before the Department of the Higher Court, which is provided by the Assistance and Support Service, includes two types of measures - logistical assistance in travel organization, and emotional support before, during and immediately after the trial. The other objective needs and rights of victims and witnesses guaranteed by international standards are not addressed. In addition, the procedures relating to contacting witnesses and victims from the region and organizing their trips are substantially and formally inconclusive. Thus, in terms of victims and witnesses from Kosovo and BiH, the Assistance and Support Service does not have any kind of communication with the witnesses and victims before their arrival at the court, which, among other things, makes it difficult to establish a relationship of trust between the representatives of the Assistance and Support Service and the victim/witness – a trust which is essential for providing emotional support during a trial. Communication with the victims and witnesses from Croatia is carried out thanks to good interpersonal relationships with the Department for the support of victims and witnesses with the Ministry of Justice of the Republic of Croatia, but with no formal protocol on cooperation between the two services.<sup>14</sup>

Furthermore, in view of the fact that the Assistance and Support Service is part of the Higher Court Department, by introducing the new concept of criminal proceedings (January 2012), in which the investigation is transferred to the jurisdiction of the OWCP, the support for victims and witnesses in the investigation stage is formally exempted from the jurisdiction of the Assistance and Support Service. At present, during the investigation, certain measures of support are provided by the employees of the OWCP and the Assistance and Support Service, but with the approval of the President of the Higher Court in Belgrade.

**General objective:** A comprehensive system of support for victims and witnesses in proceedings for war crimes in accordance with the EU and other international standards is established.

**Specific objective no. 1:** Strengthening the role and the capacity of the Assistance and Support Service.

**Activities:**

- a) The Ministry of Justice shall initiate the creation of a task force which will be composed of representatives of the Ministry of Justice, the Higher Court Department, the OWCP, the representative of the Assistance and Support Service, a judge with experience the first instance cases of war crimes and an expert with the requisite profile. The task force will formulate amendments to the CPC and the Court's Rules which will enable the psychologist from the Assistance and Support Service to: i) be present in the courtroom during the trial; ii) exercise the obligation to warn the presiding judge if it comes to a deterioration of the psychological state of the victim; iii) exercise the right to suggest to the court that a witness be granted the status of a particularly sensitive witness;

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14 Full name: The Department for the Support of Victims/Witnesses in Criminal Proceedings and Proceedings for War Crimes.

- b) The same task force will formulate amendments to the relevant regulations and acts in order to expand the competences of the Assistance and Support Service, by establishing:
- i. the obligation to provide measures of support for victims and witnesses during the investigation;
  - ii. the obligation of the Assistance and Support Service representative to meet the victim (and, if the need arises, to meet the witness as well) before appearing in court;
  - iii. the obligation to draw up a psychological profile of the victim before the testimony, which will provide a better assessment of the needs of the victim during and after testimony - a profile which will also be delivered to the prosecutor and the trial chamber;
- c) The President of the Higher Court in Belgrade will form a task force which will be composed of the representatives of the Higher Court Department, the OWCP, the Assistance and Support Service and a expert with the requisite profile. The task force will assess the needs for human and financial resources of the Service in accordance with the set objectives of the OWCP's Strategy, and international standards in the field of victims' support, particularly in connection with the recruitment of employees with different job profiles (psychologist, psychiatrist, sociologist, Albanian translator etc.), engagement of volunteers, etc;
- d) The competent Ministries will implement the plans for the improvement of capacity in accordance with the analysis.

**Specific objective no. 2:** A regional Protocol on cooperation in providing support for the victims and witnesses in the war crimes cases shall be adopted and applied.

26

**Activities:**

- a) The Ministry of Justice shall initiate the signing of the regional protocol on cooperation in providing support for victims and witnesses with Croatia, BiH, Kosovo and Montenegro, which will define the procedures in terms of contacting witnesses and victims, travel arrangements, providing protection, information on procedural issues and other matters in situations when witnesses and victims reside in the territory of one party to the agreement and need to testify before the court of a different party to the agreement.
- b) Within the same initiative, the Ministry of Justice will initiate the creation of a common central register of all institutions and NGOs on the territories of signatory parties which provide assistance and support to victims.

**Specific objective no. 3:** The system of support for victims of war crimes outside of the courtroom shall be improved.

**Activities:**

- a) The Ministry of Justice shall map all the institutions and NGOs that provide assistance and support to victims, their activities, resources and needs in implementing programmes of support to victims;

- b) In accordance with the needs identified, the Ministry of Justice shall, in cooperation with the Ministry of Finance, establish a long-term and sustainable system of financial support for the institutions and NGOs providing assistance to victims;
- c) The Ministry of Justice shall, in cooperation with the mentioned institutions and NGOs, initiate and implement a campaign of informing victims about the work of these institutions and the NGOs, as well as about the content of the measures of support that they can receive;
- d) The OWCP shall, in cooperation with the Assistance and Support Service, formulate a protocol for the mandatory informing of victims about all aspects of their cases about which they have an interest in knowing (the judgement, the provisional release of the defendant, etc).
- e) The Ministry of Justice shall initiate the creation of a task force composed of representatives of the Ministry of Justice, the Ministry of Health and the Ministry of Labour, Employment, and Veterans and Social Policy, Assistance and Support Service and representatives of NGOs who have relevant longtime experience in providing support to victims and experts with requisite profiles. The task force will conduct wider consultations with relevant experts, institutions and NGOs on the needs, existing legal and institutional frameworks, experience and good practices in providing support to victims, with a special focus on the role, resources, practice and needs of the centers for social work and healthcare institutions, in connection with providing psychosocial support to victims;
- f) The competent Ministries shall implement the recommendations of the task force in order to improve the system of support to victims and witnesses.

**Specific objective no. 4:** A system of continuous education of all representatives of all institutions that come into contact with victims is established.

- a) The SPC and the HCC will hand down a decision on the introduction of a special programme of continuous training for prosecutors, as well as for judges who conduct war crimes trials, on working with victims, and their rights and needs; and the identification of needs, creation of training content and implementation of the training will be the responsibility of the Judicial Academy, in accordance with the Law on the Judicial Academy;
- b) The Ministry of Justice and the Ministry of the Interior shall initiate the creation of mandatory continuous education for the court guards and other officials who come into contact with victims, and/or allow accredited domestic and foreign institutions and organisations to provide this type of training.

## 5. Defence of the accused

An efficient and competent defence counsel is one of the basic preconditions for the fairness and credibility of court proceedings in cases of war crimes. Having professional defence counsel has a positive effect on the efficiency of the proceedings and thus on the saving of institutional resources.

The imperative of having a continuous professional development for the defence counsel in the field of international humanitarian law and international criminal law emerges from the complex nature of war crimes trials, the limited opportunities for gaining training and knowledge in the these areas of

law before local courts, and the constant evolution of this branches of law. The Law on the Prosecution of War Crimes does not establish a criterion of expertise for attorneys in the subject of international humanitarian law and international criminal law as a precondition for acting as defence counsel in cases of war crimes. The conditions for the defence counsel appointed by the court are 10 years of experience in the field of criminal law and a certificate on the understanding of human rights law.

Besides these problems, the accused also deal with problems in the financing of a competent defence counsels. Defence in cases of war crimes is one of the most expensive, due to the complexity of criminal law relating to war crimes and due to the severe punishments prescribed for these acts. Very often the accused withdraw the power of attorney issued to the defence counsel of their choosing during the course of the proceedings, because they are no longer able to pay for the defence.

The defence of the accused is not in an equal position when compared to the OWCP with regard to the acquirement of evidence outside the territory of Serbia. While the OWCP has signed memoranda of understanding on direct cooperation with prosecution offices of the same competences in the region, defence lawyers are advised to undertake long-lasting international legal aid procedures or to acquire evidence on their own.

**General objective:** Standards of defence in cases of war crimes is improved.

**Specific objective no.1:** Improved professional capacities of defence counsel in cases of war crimes.

***Activities:***

- a) The Ministry of Justice shall form a task force consisting of representatives of this Ministry, the Bar Association of Serbia, the Lawyers Chamber of Belgrade, the Higher Court Department and experts from the requisite areas of interest, who will prepare a draft law on amendments to the Law on the Prosecution of War Crimes, which would introduce two cumulative conditions for defence counsel acting in cases of war crimes, acting in the capacity of counsel for the accused choosing or as appointed counsel – the condition of expertise and the condition of knowledge; the amendments will also envisage establishing a special body of professionals – a Department for criminal defence in war crimes cases, which would be responsible for the verification of the conditions met and the implementation of programmes necessary for fulfilling the condition of knowledge;
- b) The same task force, with the participation of experts of requisite profile, shall also prepare a draft document with the amendments to the Rules for the systematization and organization of the Ministry of Justice, which will establish the Department for criminal defence in war crimes cases, as part of the Ministry of Justice Judicial Department, and also the Rules of procedure for this body; the Department for criminal defence in war crimes cases shall have the following powers: i) to provide legal and administrative support to defence counsel in cases of war crimes; ii) to determine criteria for fulfilling the conditions related to knowledge and expertise, and to verify fulfilment of these conditions by defence attorneys; iii) to design and organize professional training for attorneys who intend to represent in cases of war crimes, for the purpose of fulfilling the condition of knowledge; iv) to organize other training programmes; v) to execute other tasks important for the improvement of the standard of criminal defence in cases of war crimes;
- c) The President of the Higher Court in Belgrade shall render a decision on the assignment to the

Department for criminal defence in war crimes cases of adequate facilities in the building of the Special Court in Ustanička Street.

**Specific objective no. 2:** The system for the financing of *ex officio* defence in cases of war crimes shall be improved.

**Activities:**

- a) The Minister of Justice shall amend the Regulations on the Fee for the work of the Appointed Attorneys, so that fee will be 75% of the fee defined in the Bar Association Tariff for representation in the main hearing in war crimes cases.
- b) The Ministry of Justice shall provide regular financial resources to the Higher Court in Belgrade and the Court of Appeals in Belgrade in order to pay fees to the appointed attorneys.

**Specific objective no. 3:** An agreement shall be signed allowing for the simplified acquisition of evidence in cases of war crimes by defence counsel.

**Activity:**

- a) The Ministry of Justice shall start an initiative for the signing of an inter-governmental agreement with the successor states of the former Yugoslavia on a simplified procedure of acquisition of evidence in cases of war crimes by defence counsel.

## 6. Representing war crimes trials in public

An important part of the process of dealing with the past is informing the public about war crimes trials and the facts about the crimes that have been judicially established. The acceptance of the judicial facts about the crimes committed is one of the key preconditions for having an objective image of the past and for the creation of a social memory of the crimes committed. The significance of the objective, continuous and timely informing of the public about war crimes trials has been recognized by the international criminal tribunals.

Only the OWCP in Serbia has a developed programme for informing the public about war crimes trials and the work of this institution, and it is carried out by the OWCP's Outreach Office and the OWCP's web page. However, this service does not have the resources necessary for the implementation of the activities envisaged. The reports by non-governmental organizations, the Humanitarian Law Centre in particular, which monitor and analyse war crimes trials and inform the local and international public about them, also contribute to the process of informing the public about war crimes trials.

The Higher Court Department and Appeals Court Department, acting in the first and the second instances in war crimes cases do not have special Outreach offices. They inform public through public relations offices of the Higher Court in Belgrade and the Court of Appeals in Belgrade. However, information about war crimes trials provided by these offices is scarce and sporadic, and they provide only basic information about each case. When there is need of a professional explanation of court rulings, the media do not have a person to turn to, and it often happens that representatives of the OWCP provide these explanations instead of the court. Trial chambers do not have their basic web pages, whilst the rulings rendered by the Department of the Higher Court are not available online at

the web page of the Higher Court in Belgrade.

These problems have made a significant contribution to the poor visibility of war crimes trials in Serbia. The research into public opinion in Serbia shows that most of the citizens are not able to name even one war crimes case prosecuted before the local courts, and not able to state a single institution participating in the prosecution of war crimes.<sup>15</sup>

Non-governmental organizations and the media monitoring war crimes trials are facing obstacles in accessing judicial documents and the broadcasting of trials due problematic interpretation of the relevant legal provisions by courts. Namely, the Higher Court Department and the Appeals Court Department limit access to judgments through the so-called process of anonymization (redaction, blackouts) of certain parts of the judgments containing personal information which should be protected in accordance with the Law on the Protection of Personal Information. What happens in practice is that a substantial part of the judgements relating to witnesses and the accused are blacked out, and the blacked out parts spread to information which is not considered personal information, and the reader is thus deprived of access to the facts established by the judgment in question. Also, the rules for anonymization of judgments rendered by the Appeals Court Department and the Higher Court Department differ, because the Higher Court in Belgrade has not yet adopted the Rules of Anonymization, whereas the Appeals Court Department applies the Rules on minimum anonymization in court decisions rendered by the Court of Appeals in Belgrade.

Unlike in cases of organized crime, the media have not broadcast the main hearings held in cases of war crimes, despite the existence of a legal provision which allows this (Article 16a of the Law on the Prosecution of War Crimes). In practice, the media are prevented from doing so, because a stricter procedure, prescribed by the Court's Rules instead of Article 16a of the Law on the Prosecution of War Crimes, is being applied. According to the Court's Rules, the President of the Court may grant permission for the recording of the main hearing only with the consent of the Presiding Judge, parties to the proceedings, and participants in the actions that are being recorded (Article 60).

**General objective:** The visibility of war crimes trials in public shall be strengthened.

**Specific objective no. 1:** A outreach offices within the of the Higher Court Department and the Appeals Court Department shall be established.

***Activities:***

- a) The Ministry of Justice shall create a task force consisting of the representatives of the Ministry, of the Higher Court Department and the Appeals Court Department, and of the Supreme Court of Cassation, and expert of requisite profile, which would propose a model for the public relations office in the Higher Court Department and the Appeals Court Department;
- b) The President of the Higher Court in Belgrade and the President of the Court of Appeals in Belgrade shall amend the Rules on Internal organization and Systematization of Workplaces in the Higher Court in Belgrade and the Court of Appeals in Belgrade, thus establishing outreach offices in line with the findings and recommendations of the task force;

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15 Belgrade Centre for Human Rights, „Attitudes towards war crimes issues, ICTY and the national judiciary“, public survey, October 2011, available at <http://www.osce.org/serbia/90422?download=true>.



- c) Responsible ministries shall enforce the recommendations by the task force.

**Specific objective no. 2:** Public relations offices shall carry out professionally designed programmes for the professional and continuous informing of the public, and promotion of the facts established in war crimes cases.

**Activities:**

- a) The outreach offices of the OWCP, the Higher Court Department and the Appeals Court Department shall produce annual activity plans, which prescribe the continuous, professional and timely informing of the media and general public about cases of war crimes, the triggering of a broader discussion on issues relevant to war crimes trials and dealing with the past, and the promotion of judicially established facts about crimes, etc;
- b) Along with the annual activity plan, the offices shall make an assessment of the financial resources needed for the implementation of these programmes;
- c) The Prosecutor and President of the Higher Court Department and President of Appeals Court Department shall adopt annual plans and budgets of the services;
- d) The responsible Ministries shall allocate the financial resources necessary for the implementation of the annual plans of the offices;
- e) The outreach offices of the OWCP, the Higher Court Department and the Appeals Court Department shall create brochures about the work of the OWCP, trial chambers, the procedure for obtaining information, interviews, and other matters important for the work of the media and NGO's.

**Specific objective no. 3:** A uniform standard of anonymization of court documents, harmonized with the Law on the Protection of Personal Data, the Law on Access to Information of Public Importance and the general principle of public trials, shall be established.

- a) The Ministry of Justice shall create a task force consisting of representatives of this ministry, the Republic Public Prosecutor's Office, the OWCP, the Supreme Court of Cassation, the Higher Court Department and the Appeals Court Department, the Office of the Commissioner for Information of Public Importance and Personal Data Protection, and expert of requisite profile, which will define a uniform set of rules for anonymization in cases of war crimes;
- b) The same task force will design a questionnaire in which victims and witnesses who are not subject to protection measures, will be able to express their wish with regard to the anonymization of their personal information and names in judgments which are made available to public.

**Specific objective no. 4:** Audio and video recordings of main hearings in cases of war crimes will be made available to the public via the media.

- a) The Ministry of Justice shall initiate the amendment of Article 60 Paragraph 1 of the Court's Rules in accordance with Article 16 of the Law on the Prosecution of War Crimes, in order to harmonize the rules on recording the main hearings in war crimes cases prescribed in the Law with the Court's Rules;

- b) The public relations offices of the OWCP, the Higher Court Department and the Appeals Court Department shall prepare a brochure for the media relating to the procedure and conditions for the recording of main hearings, and publish it on their web pages.

## **7. Application of the Strategy and Monitoring**

For the purpose of monitoring the efficiency and quality of the implementation of the measures from the Strategy and assessment of the results achieved, the Government of Serbia shall establish a monitoring body, which will monitor and coordinate the work of all institutions responsible for the application of the measures.

At the proposal of the Ministry of Justice, the Government of the Republic of Serbia will form a standing and professional Monitoring Body within 30 days from the day of the adoption of the Strategy, which will be tasked with monitoring the application of the Strategy. Representatives of the Ministry of Justice, Ministry of the Interior, HCC and the SPC will be appointed to this Monitoring Body.

### **7.1. Mode of operation and support to the work of the Monitoring Body**

- a) All institutions engaged in the execution of the measures prescribed by the Strategy shall report twice a year to the Monitoring Body regarding the activities undertaken;
- b) The Monitoring Body shall meet twice a year;
- c) The Monitoring Body shall file annual reports to the Government of Serbia on the execution of measures from the Strategy, which may contain proposals of further measures for the enhancement of the implementation of the strategic measures, or the definition of new specific objectives. These proposals cannot be in contradiction with the existing objectives of the Strategy;
- d) The Monitoring Body shall have decided on the manner of participation of representatives of the civil society, media and international organizations in the process of Strategy application monitoring;
- e) The Ministry of Justice shall provide professional, administrative and financial support for the work of the Monitoring Body.

# Annex I

## **1<sup>st</sup> consultative session: Support for victims and witnesses**

Date: October 9<sup>th</sup>, 2014

Venue: Library of the Humanitarian Law Center

### Participants:

Biljana Sinanović, Judge, Supreme Court of Cessation

Dušan Jovanović, OSCE Mission to Serbia

Edmir Veljović, Humanitarian Law Center

Gojko Pantović, Belgrade Centre for Human Rights

Igor Bošnjaković, City Centre for Social Welfare (Belgrade)

Ivan Jovanović, Legal Expert

Jasna Šarčević Janković, Office of the War Crimes Prosecutor, Outreach Office

Milica Kostić, Humanitarian Law Center

Mirjana Cvetković, Delegation of the European Union to the Republic of Serbia

Nikica Vidmar Hamer, Republic of Croatia Ministry of Justice, Victims/Witnesses Support Department

Nikola Čukanović, Attorney at Law, Legal Representative of injured parties, Humanitarian Law Center

Sandra Orlović, Humanitarian Law Center

Slavica Peković, Service for Assistance and Support to Victims and Witnesses, War Crimes Department of the Higher Court in Belgrade

Vesna Tekić, Ministry of Labour, Veteran and Social Affairs

Vladimir Jović, Psychiatrist, International Assistance Network

Saša Paunović, Protection Unit of the Ministry of Interior

Jasmina Nikolić, Victimology Society of Serbia

3 | 3

## **2<sup>nd</sup> consultative session: Pre-trial phase in cases of war crimes**

Date: October 28<sup>th</sup>, 2014

Venue: Library of the Humanitarian Law Center

### Participants:

Alberto Pasquero, OSCE Mission to Serbia

Bruno Vekarić, Deputy Prosecutor, Office of the War Crimes Prosecutor

Dejan Marinković, Head of the Serbian Ministry of Interior War Crimes Investigation Service  
Dušan Jovanović, OSCE Mission to Serbia  
Edmir Veljović, Humanitarian Law Center  
Gordana Tadić, Deputy Chief Prosecutor, State Prosecutor's Office of Bosnia and Herzegovina  
Isidora Stakić, Belgrade Centre for Security Policy  
Ivan Jovanović, Legal Expert  
Izet Odobašić, Deputy Chief Prosecutor, State Prosecutor's Office of Bosnia and Herzegovina  
Jasna Ristić, Bureau for International Cooperation and EU Integration, Ministry of Interior  
Maurizio Salustro, former EULEX Prosecutor  
Milica Kostić, Humanitarian Law Center  
Mioljub Vitorović, Deputy Prosecutor, Office of the War Crimes Prosecutor  
Mirjana Cvetković, Delegation of the European Union to the Republic of Serbia  
Mirjana Ilić, Judge, War Crimes Department of the Higher Court in Belgrade, President of the Department  
Miroslav Alimpić, Court of Appeals in Novi Sad, Judge  
Nikola Čukanović, Attorney at Law, Legal Representative of injured parties, Humanitarian Law Center  
Sandra Orlović, Humanitarian Law Center  
Snežana Nikolić Garotić, Judge, War Crimes Department of the Higher Court in Belgrade  
Stanko Blagić, Deputy Chief Prosecutor, State Prosecutor's Office in Bosnia and Herzegovina  
Svetislav Rabrenović, Expert Associate, Office of the War Crimes Prosecutor

### **3<sup>rd</sup> consultative session: Protection of witnesses and victims of war crimes**

Date: November 6<sup>th</sup>, 2014

Venue: Library of the Humanitarian Law Center

#### Participants:

Alberto Paquero, OSCE Mission to Serbia  
Donal O' Sullivan, Witness Protection Programs Expert  
Edmir Veljović, Humanitarian Law Center  
Ivan Jovanović, Legal Expert  
Marina Kljaić, Attorney at Law, Legal Representative of injured parties, Humanitarian Law Center  
Milan Dilparić, Investigative Judge, War Crimes Department of the Higher Court in Belgrade  
Milica Kostić, Humanitarian Law Center  
Mioljub Vitorović, Deputy Prosecutor, Office of the War Crimes Prosecutor  
Mirjana Cvetković, Delegation of the European Union to the Republic of Serbia  
Miroslav Alimpić, Judge, Court of Appeals in Novi Sad  
Sandra Orlović, Humanitarian Law Center  
Siniša Vazić, Judge, War Crimes Department of the Court of Appeals in Belgrade, President of the Department  
Tatjana Vuković, Judge, Court of Appeals in Belgrade

#### **4<sup>th</sup> consultative session: Application of command responsibility and crimes against humanity for the crimes committed during nineteen ninties**

Date: November 17<sup>th</sup>, 2014

Venue: Library of the Humanitarian Law Center

##### Participants:

Dušan Jovanović, OSCE Mission to Serbia

Dušan Ignjatović, Attorney at Law

Edmir Veljović, Humanitarian Law Center

Ivan Jovanović, Legal Expert

Jasna Šarčević Janković, Office of the War Crimes Prosecutor, Outreach Office

Marija Sekulović, OSCE Mission to Serbia

Marina Kljaić, Attorney at Law, Legal Representative of injured parties, Humanitarian Law Center

Milica Kostić, Humanitarian Law Center

Miodrag Majić, Judge, War Crimes Department of the Court of Appeals in Belgrade

Mioljub Vitorović, Deputy Prosecutor, Office of the War Crimes Prosecutor

Miroslav Đorđević, Attorney at Law

Nenad Vujić, Judicial Academy

Nikola Čukanović, Attorney at Law, Legal Representative of injured parties, Humanitarian Law Center

Sandra Orlović, Humanitarian Law Center

Siniša Važić, War Crimes Department of the Court of Appeals in Belgrade, President of the Department

Tatjana Vuković, Judge, Court of Appeals in Belgrade

Zlatko Bučević, Deputy of the District Attorney, District Attorney's Office in Osijek

315

#### **V consultative session: Presentation of war crimes trials in public**

Date: November 21<sup>st</sup>, 2014

Venue: Media Centre, Belgrade

##### Participants:

Edmir Veljović, Humanitarian Law Center

Ivan Jovanović, Legal Expert

Jasna Šarčević Janković, Office of the War Crimes Prosecutor, Public Relations Office

Jelena Krstić, Humanitarian Law Center

Katarina Ristić, Researcher, Center for Area Studies University Leipzig

Marija Ristić, Journalist of the Balkan Investigative Reporting Network (BIRN)

Milica Kostić, Humanitarian Law Center

Mirjana Piljić, Media Coordinator, Court of Appeals in Belgrade

Sandra Orlović, Humanitarian Law Center

Marina Kljaić, Attorney at Law, Legal Representative of injured parties, Humanitarian Law Center

Jelena Stevančević, Coalition for RECOM

# Annex II

## Relevant regulations for the establishment and jurisdiction of the institutions in war crimes proceedings

1. The Constitution (Official Gazette of the RS, No 98/06)
2. Law on Organization and Competences of Government Authorities in War Crimes Proceedings (Official Gazette of the RS, No 67/03, 135/04, 61/05, 101/07, 104/09 and 101/11 - other law)
3. Law on Judges (Official Gazette of the RS, No 116/08, 58/09 - decision of the CC, 104/09, 101/10, 8/12 - decision of the CC, 121/12 and 124/12 - decision of the CC)
4. Law on Public Prosecution (Official Gazette of the RS, No 116/08, 104/09, 101/10, 78/11 - other law, 101/11, 38/12 - decision of the CC and 121/2012)
5. Law on Courts (Official Gazette of the RS, No 46/91)
6. Law on Organization of Courts (Official Gazette of the RS, No 63/01, 42/02, 27/03, 29/04, 101/05 and 46/06)
7. Law on Organization of Courts (Official Gazette of the RS, No 116/08, 104/09, 101/10, 31/11 - other law, 78/11 - other law, 101/11 and 101/13)
8. *Law on the Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Offices* (Official Gazette of the RS, No 116/08)
9. *Law on Transfer of Jurisdiction of Military Courts, Military Prosecution Offices and Military Attorney's Offices to the Authorities of the Member States* (Official Journal of SCG, No 55/2004)
10. Law on Assumption of Jurisdiction of Military Courts, Military Prosecution Offices and Military Attorney's Offices (Official Gazette of the RS, No 137/04)
11. Law on Military Courts (Official Journal of the FRY, No 11/95, 1/96, 74/99, 3/02, 37/02)
12. Law on the Protection Programme for Participants in Criminal Proceedings (Official Gazette of the RS, No 85/05)
13. Law on Mutual Assistance in Criminal Matters (Official Gazette of the RS, No 20/09)

14. Law on Cooperation of Serbia and Montenegro with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (Official Journal of the FRY, No 18/02 and Official Journal of SCG, No 16/03)
15. *Rules on Internal Organization and Systematization of Work Posts in the Higher Court in Belgrade* (SU No 9/10 - 2 of 30 April 2010)
16. Rules on Criteria and Benchmarks for Evaluating the Work of Public Prosecutors and Deputy Public Prosecutors (Official Gazette of the RS, No 58/14)
17. Rules on Criteria, Benchmarks, Procedure and Bodies for Evaluating the Work of Judges and Presidents of Courts (Official Gazette of the RS, No 81/14)

### **National material and procedural criminal legislation**

1. Criminal Procedure Code (Official Journal of the FRY, No 70/01 and 68/2002 and Official Gazette of the RS, No 58/04, 85/05, 115/05, 85/05 - other law, 49/07, 20/09 - other law and 72/09)
2. Criminal Procedure Code (Official Gazette of the RS, No 72/11, 101/11, 121/12, 32/2013 and 45/13)
3. Criminal Code of the Federal Republic of Yugoslavia (Official Journal of the SFRY, No 44/76, 36/77, 34/84, 37/84, 74/87, 57/89, 3/90, 38/90, 45/90 and 54/90 and Official Journal of the FRY, No 35/92, 37/93, 24/94 and 61/01)
4. Criminal Code (Official Gazette of the RS, No 85/05, 88/05 - corr., 107/05 - corr., 72/09, 111/09 i 121/12)

317

### **International Sources**

1. Charter of the United Nations of 24 October 1945
2. Statute of the International Military Tribunal in Nuremberg
3. Charter of The International Military Tribunal for the Far East of 19 January 1946
4. International Covenant on Civil and Political Rights of 19 December 1966
5. Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949
6. Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949

7. Geneva Convention (III) relative to the Treatment of Prisoners of War of 12 August 1949
8. Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949
9. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977
10. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977
11. Convention on the Prevention and Punishment of the Crime of Genocide (Official Gazette of the Praesidium of the General Assembly of the FPRY, No 2/50)
12. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (Official Journal of the SFRY - International Treaties and other Agreements, No 50/70)
13. The Hague Conventions and Rules (1899 and 1907)
14. The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954)
15. Statute of the International Criminal Tribunal for the Former Yugoslavia
16. Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia
17. Rome Statute of the International Criminal Court (1998)
18. Law on Ratification of the European Convention for the protection of Human Rights and Fundamental Freedoms (Official Journal of SCG - International Treaties, No 9/03)
19. Law on Ratification of the European Convention on Extradition with Additional Protocols (Official Journal of SCG - International Treaties , No 9/03)
20. Law on Ratification of the *European Convention on Mutual Assistance in Criminal Matters* with Additional Protocol (Official Journal of the FRY - International Treaties, No 10/01)
21. Law on Ratification of the *European Convention on the Transfer of Proceedings in Criminal Matters* (Official Journal of the FRY - International Treaties, No 10/01)
22. Treaty on Mutual Legal Assistance in Civil and Criminal Matters between the Republic of Serbia and Montenegro of 29 May 2009 (Official Gazette of the RS - International Treaties, No 1/10)



23. Agreement on Cooperation in Prosecuting Perpetrators of Criminal Offences against Humanity and Other Assets Protected by International Law concluded between the Office of the War Crime Prosecutor and the Supreme State Prosecutor of Montenegro of 31 October 2007
24. Agreement Memorandum on Realization and Enhancement of Co-operation in Fighting all Forms of Grave Crimes between the Public Prosecutor's Office of the Republic of Serbia, the Office of the War Crimes Prosecutor of the Republic of Serbia and the Prosecutor's Office of Bosnia and Herzegovina of 1 July 2005
25. Protocol on Cooperation between the Ministry of the Interior of Serbia and EULEX of 11 November 2009
26. Treaty on Mutual Legal Assistance in Civil and Criminal Matters between Serbia and Montenegro and Bosnia and Herzegovina of 24 February 2005 (Official Journal of SCG - International Treaties, No 6/05)
27. Treaty on Mutual Legal Assistance in Civil and Criminal Matters between Serbia and Montenegro and the Republic of Macedonia of 6 July 2004 (Official Journal of SCG - International Treaties, No 22/04)
28. Treaty on Mutual Legal Assistance in Civil and Criminal Matters between the Federal Republic of Yugoslavia and the Republic of Croatia 15 September 1997 (Official Journal of the FRY - International Treaties, No 1/98)
29. Memorandum on Realization and Enhancement of Co-operation in Fighting All Forms of Grave Crimes between the Public Prosecutor's Office, the Office of the War Crimes Prosecutor and the Chief Prosecutor's Office of the Republic of Croatia of 5 February 2005
30. Agreement on Cooperation in Prosecuting Perpetrators of War Crimes, Crimes against Humanity concluded between the Office of the War Crime Prosecutor of Serbia and the State Prosecutor's Office of the Republic of Croatia of 13 October 2006
31. Treaty on Mutual Legal Assistance in Civil and Criminal Matters between the republic of Serbia and the Republic of Slovenia (Official Gazette of the RS - International Treaties, No 9/11)

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