



REPUBLIC OF SERBIA

**NATIONAL STRATEGY FOR THE
PROSECUTION OF WAR CRIMES**

FOR THE PERIOD 2016-2020

-DRAFT-

NOVEMBER 2015

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GENERAL PART

1. INTRODUCTION

1.1 DEFINITION OF THE TERM „WAR CRIMES“ IN THIS DOCUMENT

The term „war crimes“ in this document shall be understood to mean all crimes set out in Articles 2-5 of the Statute of 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 (grave breaches of the Geneva Conventions of 1949; violations of the laws or customs of war; genocide and crimes against humanity), all the crimes being set forth in Chapter 16 of the Criminal Code of the Federal Republic of Yugoslavia (*SFRY Official Gazette*, Nos. 44/76, 36/77, 56/77, 34/84, 37/84, 74/87, 57/89, 3/90, 45/90 and *FRY Official Gazette*, Nos. 35/92, 37/93 and 24/94), as well as crimes under the jurisdiction of the War Crimes Prosecutor of the Republic of Serbia pursuant to the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings (*RS Official Gazette*, Nos. 67/2003, 135/2004, 61/2005, 101/2007 and 104/2009).

1.2. HISTORICAL BACKGROUND

Armed conflicts in the former Socialist Federal Republic of Yugoslavia were characterized by grave, large-scale and systematic violations of international humanitarian law. According to estimates by various organizations during the wars in Slovenia (June-July 1991), Croatia (1991-95), Bosnia and Herzegovina (1992-95), in Kosovo and Metohija and during the bombing of the Federal Republic of Yugoslavia (1999), as well as in the Former Yugoslav Republic of Macedonia (February-August 2001) - more than 130,000 people lost their lives, with civilians accounting for the majority of them. More than 10,755 people are still missing¹. In addition to wilful killing of civilians in these conflicts numerous cases were registered of enforced displacement of the civilian population, unlawful imprisonment, torture, sexual violence, inhumane treatment, as well as looting and destruction of property, economic assets, cultural and religious buildings on a large scale. War crimes were committed by all parties to the armed conflicts.

Even before the adoption of this strategy, the judiciary of the Republic of Serbia was committed to investigating and prosecuting war crimes. In that respect, they achieved certain results which will be presented in more detail in Chapter 2.

¹ According to the data of the International Committee of the Red Cross of October 2015

Investigations and prosecution of war crimes were also pursued by 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 (hereinafter: the International Criminal Tribunal for the Former Yugoslavia), which was established in 1993 by the Security Council of the United Nations. The International Criminal Tribunal for the Former Yugoslavia had supremacy over the national judiciaries in the countries of the former Yugoslavia, and today, as part of its Completion Strategy implemented by the residual Mechanism of the International Criminal Tribunals of the United Nations, it has provided assistance to national jurisdictions by transferring cases and submitting evidence. The competent authorities of the Republic of Serbia have achieved full cooperation with the International Criminal Tribunal for the Former Yugoslavia, the residual Mechanism for International Criminal Tribunals, as well as national authorities of other countries of the former Yugoslavia in charge of prosecuting perpetrators of war crimes.

1.3. THE COMMITMENT OF THE REPUBLIC OF SERBIA

The Government of the Republic of Serbia is aware that war crimes constitute *delicta contra juris gentium* and that their prosecution is a concern of the international community as a whole, not just one national judiciary. The Government's position is that all grave, large-scale and systematically committed war crimes have to be investigated and the perpetrators punished in accordance with international standards, regardless of national, ethnic and religious affiliation or status of the offender and the victim.

The Government of the Republic of Serbia firmly believes that domestic trials for war crimes committed during the armed conflicts of the 1990s constitute one of the most important steps in the process of reconciliation, development of good neighbourly relations and lasting peace in the region of the former Yugoslavia. Efficient war crimes trials are also a prerequisite for full democratization of society through the affirmation of the rule of law and respect for the principles of humanitarian law, as well as achievements of contemporary humankind.

1.4. CURRENT NORMATIVE AND INSTITUTIONAL FRAMEWORKS

After the adoption of Resolution 1503 in the Security Council of the United Nations in 2003, which announced the end of the mandate of the International Criminal Tribunal for the Former Yugoslavia and called upon the successor states of the former Yugoslavia to strengthen their national capacities to prosecute war crimes, the Republic of Serbia adopted the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings (*RS Official Gazette*, Nos. 67/03, 135/04, 61/05, 101/07, 104/09) establishing the institutional framework for the prosecution of war crimes. In addition to the mentioned law, the currently applicable normative framework in the area of prosecution and punishment of those accused of war crimes in the Republic of Serbia includes: the Criminal Code (*RS*

Official Gazette, No. 121/12); the Criminal Procedure Code (*RS Official Gazette*, Nos. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14)²; the Law on Mutual Assistance in Criminal Matters (*RS Official Gazette*, No. 20/09); the Law on the Protection Programme for Participants in Criminal Proceedings (*RS Official Gazette*, No. 85/05); the Law on Cooperation with the International Criminal Tribunal for the Former Yugoslavia (*FRY Official Gazette*, No. 18/02 and *SaM Official Gazette*, 16/03); Law on Migration Management (*RS Official Gazette*, no. 107/2012); Decision on the establishment of the Commission for Missing Persons of the Government of the Republic of Serbia on 8 June 2006 (*RS Official Gazette*, Nos. 49/06, 73/06, 116/06, 53/10 and 108/12); Memoranda of Understanding concluded between the competent authorities of the Republic of Serbia and the competent authorities of the countries in the region (Croatia, Bosnia and Herzegovina, Montenegro) and the Protocol on Cooperation with EULEX, which are aimed at establishing direct cooperation and more efficient exchange of information on war crimes and their perpetrators.

Pursuant to Article 2 of the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings, the jurisdiction for war crimes in the Republic of Serbia includes:

- 1) The criminal offenses referred to in Articles 370 to 386 of the Criminal Code;
- 2) Serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991 in accordance with the Statute of the International Criminal Tribunal for the Former Yugoslavia;
- 3) The criminal offense defined in Article 333 of the Criminal Code - aiding an offender after the commission of the offense, if committed in connection with criminal offenses set out in items 1) and 2) of Article 2 of the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings.

The institutional framework for the prosecution of war crimes in the Republic of Serbia comprises:

- 1) Ministry of the Interior, War Crimes Investigation Service;
- 2) Ministry of the Interior, Protection Unit;
- 3) Office of the War Crimes Prosecutor;
- 4) Higher Court in Belgrade, War Crimes Department;
- 5) Court of Appeal in Belgrade, War Crimes Department;
- 6) Service for Assistance and Support to Victims and Witnesses within the Higher Court in Belgrade;
- 7) Commission for Missing Persons of the Republic of Serbia.

1.5. REASONS FOR THE ADOPTION OF THE STRATEGY

² The Criminal Procedure Code was amended several times, and the full implementation of the Criminal Procedure Code of 2011 in war crimes proceedings commenced on 15 January 2012, two years earlier than in the public prosecutor's offices of general jurisdiction. Amendments to the Criminal Procedure Code have entrusted the prosecutor's offices with broader jurisdiction including, *inter alia*, to lead the investigation.

Bearing in mind that a long period of time has elapsed since the end of the conflict in the former Yugoslavia, for which reason it has become more difficult to investigate and prosecute war crimes, careful planning and consistent implementation of comprehensive measures is necessary, with a view to ensuring that crimes are investigated and war crimes proceedings conducted lawfully, within a reasonable time, with full respect for the rights of all those participating in the proceedings. This would enable adequate punishment of those responsible for war crimes, justice for victims, and location of the bodies of the missing.

The Government of the Republic of Serbia is aware of the existence of certain criticism of the current quality of investigations and proceedings for war crimes, coming either from the professional and scientific public, civil society organizations, international organizations or the European Commission.³ The most frequently made objections are related to:

- 1) Number of indictments filed in the course of a year compared to the relatively high number of cases at the investigative stage;
- 2) The lack of clear and transparent criteria for setting priorities in investigations and indictments;
- 3) An unsatisfactory level of regional cooperation in war crimes investigations;
- 4) Poor quality of the evidence, which results in an increase in the number of acquittals;
- 5) The need to improve the mechanism of protection of and support to witnesses and victims of war crimes;
- 6) Insufficient expertise and technical equipment of the public authorities responsible for the investigation and prosecution of war crimes, especially when compared to well equipped institutions of the same jurisdiction in the states of the region;
- 7) The need for raising the level of general social awareness about the importance of punishment for perpetrators of war crimes.

³ An analysis of the current situation in the field of war crimes and a list of identified problems were prepared by the Joint Working Group for drafting the National Strategy for the Prosecution of War Crimes, comprising as members the representatives of the Office of the War Crimes Prosecutor, the Court of Appeal in Belgrade (Criminal Department), the Court of Appeal in Novi Sad, the Higher Court in Belgrade (War Crimes Department), the Protection Unit (Ministry of the Interior), the War Crimes Investigation Service (Ministry of the Interior), the Department for European Integration and International Projects (Ministry of Justice), the Bar Association, the Novi Sad Law Faculty, the Embassy of the Republic of Serbia in The Hague and the Institute for Criminological and Sociological Research in Belgrade, based on a number of relevant documents in this field such as: the 2014 European Commission Progress Report for Serbia, the 2013 European Commission European Commission Progress Report for Serbia, the 2012 European Commission Progress Report for Serbia, the Screening Report for Serbia, Chapter 23 - Judiciary and Fundamental Rights, The OSCE Mission in Serbia Report *War Crimes Proceedeings in Serbia* (2003-2014); The Humanitarian Law Center Report *Ten Years of War Crimes Prosecutions in Serbia: Contours of Justice (Analysis of the Prosecution of War Crimes in Serbia 2004-2013)*, the 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*, the Expert Report of the EC Fact-finding Mission, Chapter 23 –*War Crimes* 13 March 2015.

Due to the above, the Government is of the opinion that it is necessary to adopt a strategy to prosecute war crimes at the national level, whose objectives and activities would provide a comprehensive and clear strategic framework for improving all areas where problems have been identified, in accordance with the directions set out in the Action Plan for Chapter 23 as a clear reflection of the undeniable commitment of the Republic of Serbia to the effective punishment of war crimes.

Through the adoption of this National Strategy, the Government of the Republic of Serbia will publicly express its full support to all local judicial and executive bodies involved in the process of investigating, raising indictments and trying war crimes, as well as all international and local organizations that monitor and report on these proceedings as independent observers.

1.6. THE SCOPE AND OBJECTIVES OF THE STRATEGY AND ITS RELATIONSHIP WITH OTHER RELEVANT STRATEGIC DOCUMENTS

The scope of the Strategy for the Prosecution of War Crimes is the analysis of the current situation and the definition of the objectives and necessary measures for improving the legislative framework, as well as institutional and administrative capacities for more effective prosecution of war crimes.

The objective of the National Strategy is to significantly improve the efficiency of the investigation and prosecution of war crimes in the Republic of Serbia, to be reflected in:

- a) suppression of impunity for war crimes, regardless of the features and status of the offender;
- b) support to the judiciary through the promotion of regional cooperation and harmonization of jurisprudence in order to achieve proportionality of punishment; and
- c) improved mechanisms for the protection and support of witnesses and victims.

In line with the above identified problems and defined priorities and objectives, the first steps in the strategic approach to the issue of war crimes trials have already been made in the Action Plan for Chapter 23, as part of negotiations with the EU. The Action Plan represents a direct response to recommendations made by the European Commission in the Screening Report. The Action Plan envisages activities for all state bodies involved in the prosecution of war crimes, as well as building the capacity of, and support to agencies, in order to achieve better results and greater efficiency. This strategic document specifies, besides the entities responsible for the implementation of reform activities, the time limits for their implementation, while clearly presenting the budgetary aspects of each activity. As the Action Plan also depends on methodological requirements with respect to its generality, the task of the National Strategy is to define, by following the reform guidelines outlined in the Action Plan, in a comprehensive but concise manner, a system of activities which, both as standalone

activities and in synergy with other activities, have a direct impact upon the efficiency of the war crimes prosecution in the Republic of Serbia.

On the basis of this national strategic document, the Office of the War Crimes Prosecutor of the Republic of Serbia will draw up its own strategy for the same period of time, in order to:

- 1) increase the efficiency of investigations and the indictment process; and
- 2) get closer to the stage at which it will complete its work, taking into account the lapse of time and the age of witnesses and suspects.

2. ANALYSIS OF THE CURRENT SITUATION

2.1. The Situation regarding Institutional and Administrative Capacities of the State Authorities Responsible for Investigating and Prosecuting War Crimes

The currently deployed capacity of most national authorities involved in the prosecution of war crimes significantly affects the quality of evidence and court decisions, and are not sufficient to meet the objectives set by this strategy, or to carry out the activities envisaged by the Action Plan for Chapter 23.

Shortcomings of the administrative capacity are reflected first and foremost in the field of number and composition of staff and then in the absence of continuous specialized training.

When it comes to the number and composition of staff, it is important to note that, first, there is a gap between the needs and the current situation at the level of acts on job classification, which do not always correspond to the workload and structure of the tasks. In addition, the number of employees is far lower than the number of positions under the current acts on job classification.

The current capacity of the authorities responsible for investigating and prosecuting war crimes are as follows:

- 1) Ministry of the Interior, War Crimes Investigation Service: Head of Service, Deputy Head, two department heads, four section chiefs, 43 members of the Service;
- 2) Ministry of the Interior, the Protection Unit; the Section for Assistance and Support to Victims and Witnesses: the number of employees - three
- 3) Office of the War Crimes Prosecutor: the Prosecutor, six Deputy Prosecutors, two Advisors, three Assistants;
- 4) Higher Court in Belgrade, War Crimes Department: six judges, one preliminary proceedings judge;
- 5) Court of Appeal in Belgrade, War Crimes Department;
- 6) Service for Assistance and Support to Victims and Witnesses: the number of employees - three.

7) Commissariat for Refugees and Migration, the Sector for Reception, Accommodation and Sheltering, Readmission and Durable Solutions, Department for Missing Persons (as administrative and technical support to the Commission for Missing Persons): the number of employees - three.

The Office of the War Crimes Prosecutor, as the primary body that can contribute to the increase in efficiency of war crimes prosecution, operates with inadequate capacity, both in terms of the number of deputy prosecutors and of prosecutorial assistants. After examining the administrative capacity of relevant prosecutor's offices in the region, it is obvious that the current administrative capacity of the Office of the War Crimes Prosecutor in Serbia is not adequate. In the previous period, the existing number of employees had to respond to the increased statutory obligations which the Criminal Procedure Code imposed on the OWCP two years prior to its application in prosecutor's offices of general jurisdiction. The OWCP also devoted part of its capacity to regional cooperation, i.e., the establishment of joint teams with the prosecutor's offices in the region, which was an additional burden on its generally insufficient capacity.

Similarly, scope has been identified for increasing the administrative and professional capacities of state bodies which, at various stages of the criminal proceedings, come into contact with victims and witnesses of war crimes. The analysis has shown that in the area of psychological assistance and support to witnesses and victims certain state authorities do not have professional staff that could adequately perform this task; alternatively, where such staff exist, it is necessary to work on their continuous training and professional advancement.

Moreover, there is also a need to strengthen the professional capacity in terms of command of foreign languages, information technology, strategic planning and project management.

When it comes to capacity building through training, one of the central problems is related to the fact that most of the training courses is of an *ad hoc* nature, due to project financing, and that comprehensiveness (both in terms of program units, and in terms of course takers), the continuity and sustainability of the budget are lacking.

2.2. Strategic Approach to the Prosecution of War Crimes

In the past 12 years there was no clear strategy, nor defined criteria to determine priorities in the prosecution of war crimes. Therefore, it happened that the already limited capacity of the Office of the War Crimes Prosecutor was used to prosecute cases with less serious criminal law consequences. At the same time, there were no cases against high-ranking perpetrators.

2.3. Results of the Justice System of the Republic of Serbia in War Crimes Proceedings

The Office of the War Crimes Prosecutor has indicted 175 persons since its establishment. Out of the total of 38 cases which have so far been concluded by final and binding decisions, judgments were pronounced for 101 persons, of whom 68 persons were convicted and 33 acquitted. Another eight first-instance judgements are on appeal; in these first-instance judgments, 17 people were convicted and 14 acquitted. Twelve first-instance trials are under way against 43 accused. Twenty-four investigations against 89 suspects are also conducted, as well as a number of preliminary investigations.

In recent years, the number of indictments for war crimes has been steadily decreasing compared to the previous period. The reports of relevant institutions present data indicating that most of the indictments in the last three years were received through international cooperation; hence, the number of indictments arising from investigations carried out in Serbia is even lower relative to the total number.

Also, an increasing number of cases involve events with less serious criminal law consequences, a lower number of accused persons or victims, or isolated events, compared to the previously prosecuted war crimes cases or cases before the ICTY. Finally, the number of acquittals before the court of first instance is rising significantly, as is the number of judgements set aside by the second-instance courts.

2.4. Database on War Crimes

The Archival Database (*ZyLAB* archiving system) used by the War Crimes Investigation Service constitutes a solid basis for the establishment of a comprehensive database that would store information on all mass war crimes committed during the conflicts in the former Yugoslavia. Still, a significant problem is posed by the fact that, due to scarcity of funding in recent years, it has not been possible to adequately maintain and upgrade this base, as well as to implement further training of its existing and new users. There are no accurate records on potential war crimes cases that are in general jurisdiction prosecutor's offices. A further problem is the unsatisfactory level of regional cooperation in exchanging information that would help to avoid the situation that certain serious war crimes cases are not prosecuted by any prosecutor's office in the region.

2.5. Cooperation among State Bodies

Despite the fact that their relationship is defined by the Criminal Procedure Code⁴, the analysis of the situation in the area of war crimes (EC Expert Report) has shown that cooperation between bodies prosecuting war crimes was not always satisfactory. The same situation is in the field of cooperation among the authorities in the protection and support of

⁴ Chapter 15 of the CPC regulates the preliminary investigation and powers of the preliminary investigation bodies; Articles 280 - 294 define the powers of the public prosecutor's office and the police; also, Chapter 16 of the CPC, which regulates the investigation, powers of and relationships among authorities

witnesses and victims, where it often happened that protected witnesses, because of different pieces of information about the possibilities of the protection system, permanently or temporarily lost their confidence in the whole system.

2.6. The issue of missing persons

Commission on Missing Persons of the Government of the Republic of Serbia was established by a Republic of Serbia Government Decision of 8 June 2006 (RS Official Gazette, No. 49/06, 73/06, 116/06, 53/10, and 108/12) with a mandate to deal with the issues of persons who went missing during the armed conflicts in the territory of SFRY, and AP Kosovo and Metohija.

The commission monitors, studies and develops proposals for dealing with the issues of missing persons, collects data and provides information on the persons who went missing in and in relation to armed conflicts in the territory of the SFRY and the Autonomous Province of Kosovo and Metohija, fulfils obligations arising from international treaties and agreements relating to the issue of missing persons, coordinates the work of competent authorities and organisations in the process of search for missing persons, exhumation and identification, cooperates with competent authorities, families of missing persons and their associations for the purpose of resolving the status related issues of missing persons and humanitarian issues of their families.

The professional, administrative and technical tasks for the Commission on Missing Persons are performed by the Commissariat for Refugees and Migrations, Division for Reception, Accommodation and Sheltering, Readmission and Durable Solutions, Missing Persons Section.⁵

⁵ Under Article 10[4] of the Law on Managing Migrations, the Section shall:

- maintain a single set of records on persons who went missing in armed conflicts and in relation to armed conflicts in the territory of SFRY from 1991 to 1995 and Autonomous Province of Kosovo and Metohija from 1998 to 2000; maintain records on exhumed, identified and unidentified mortal remains from individual and mass graves; issue certificates about the facts pertaining to its official records;
- collect and process data on the basis of which the cost of exhumation, identification, funeral supplies, and transport of the remains of identified persons to the place of burial in the Republic of Serbia, to the border in the case of cross-border transport of the remains, as well the costs of forensic medicine experts or teams of forensic experts of the relevant forensic medicine institutions engaged for the purposes of the Commission on Missing Persons' work; costs of cash benefit for the burial of identified remains in the territory of the Republic of Serbia;
- award funds for the financing of the associations of families of missing persons;
- collect and process data on missing persons and mortal remains, collect information on locations of individual and mass graves, cooperate and coordinate in the process of exhumation of the remains in the territory of the Republic of Serbia;
- Prepare and organise discussions on missing persons with the competent authorities of other states, cooperate with them in the process of searching for missing persons, exhumation and identification, as well as surrendering of mortal remains of the persons who went missing in relation to armed conflicts, buried in the territory of other states;
- Collect and process data on exhumed and taken over mortal remain in the territory of other states, and accordingly organise, coordinate and cooperate in the identification process;
- Prepare data and documentation from its purview for the purposes of other ministries and competent bodies;
- Cooperate with associations of families of missing persons and also cooperate with international organisations (ICRC, ICMP) on the issues within its purview.

A separate working group was established to deal with the issue of missing persons in the territory of Kosovo and Metohija, as part of the dialogue between Belgrade and Priština.

The United Nations Committee on Enforced Disappearances commended the Republic of Serbia for its measures so far undertaken in the areas of relevance for the issue of missing persons and pointed to the need for further harmonisation of the normative framework with the Convention for the Protection of All Persons from Enforced Disappearance.⁶

The need to continue effective work within the Working Group on Missing Persons was particularly emphasised, considering that over 1,650 persons from the Kosovo conflict are still considered missing, of whom many may have been victims of enforced disappearance.⁷

Efficient determination of the fate of missing persons is also affected by limited resources, primarily in terms of insufficient administrative capacity of the Missing Persons Section relative to the volume of work, and in terms of material resources required for the discovery of mass graves.

Further improvement is always possible in the field of cooperation of state bodies, particularly in the field of regional cooperation.

2.7. Cooperation with the International Criminal Tribunal for the Former Yugoslavia

The Law on Cooperation with the International Criminal Tribunal for the Former Yugoslavia was adopted in 2002. It governs the establishment of the National Council for Cooperation with the International Criminal Tribunal for the Former Yugoslavia; powers of the International Criminal Tribunal for the Former Yugoslavia to undertake investigative actions in the territory of Serbia and Montenegro; referral to the International Criminal Tribunal for the Former Yugoslavia of the criminal proceedings pending before a national court; the procedure for the handing over of defendants; provision of legal assistance to the Tribunal, the execution of its judgments and other important issues.

Over the last fifteen years, Serbia has significantly contributed to the work of the International Criminal Tribunal for the Former Yugoslavia: it executed its arrest warrants, even against the highest-ranking state officials, namely in a number that has never been requested from any UN state, either before or after the establishment of the Tribunal; it supplied the Tribunal and the parties to its proceedings with a vast amount of evidence, including strictly confidential documents and the testimonies of its top-ranking officials. The Republic of Serbia has fulfilled all its obligations in respect of arrest warrants against those accused of war crimes

⁶ Committee on Enforced Disappearances: Concluding observations on the report submitted by Serbia under article 29, paragraph 1, of the Convention, at its 124th and 125th meetings (CED/C/SR.124 and 125), held on 4 and 5 February 2015.

⁷ Par. 27 of the Report

before the Tribunal. Four indictees who were long sought for were also found and the last indictee was extradited to the Tribunal in July 2011. When it comes to requests for assistance by the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia referring to the gathering of documents necessary for preparing proceedings before the Tribunal, and relieving witnesses of the duty to keep state, military or official secrets, out of the total number of requests filed (2166), the Republic of Serbia has fully responded to nearly all requests received, and still pending are only those that are more recent. No request made by the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, or by defence attorneys of the defendants, to gain access to archives of the state authorities of the Republic of Serbia has been rejected. All the witnesses for whom the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia and defence attorneys of the accused before the Tribunal, requested to be relieved of the obligation to keep state, military and official secrets, about 757 – have been relieved of this duty. The state authorities of the Republic of Serbia acted upon all requests of the International Criminal Tribunal for the Former Yugoslavia for providing protection to witnesses who are in the territory where the Serbian authorities have jurisdiction.

The Government is aware of the opinion of the ICTY Prosecutor that Serbia has reached a level of execution of the requests of the International Criminal Tribunal for the Former Yugoslavia for legal aid that is far more expeditious than the process between any two European countries pursued under a bilateral agreement on mutual legal assistance in criminal matters.

On the other hand, it is well known that the Government of the Republic of Serbia cannot be satisfied by the penal policy pursued by the Office of the Prosecutor of the Tribunal, as well as by certain controversial decisions made by trial chambers. The Government has expressed particular dissatisfaction at the fact that in almost all important cases in which the victims were groups or individuals of Serbian ethnicity, the accused were absolved of responsibility.

Regarding requests for assistance by the Serbian Office of the War Crimes Prosecutor and Court, the cooperation with the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism has been problematic with respect to receiving redacted witness statements in the possession of the Tribunal. The Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia has very rarely positively responded to the requests made by the Serbian Prosecutor's Office. Without these statements, the process of detecting the perpetrators of war crimes is much more difficult, because these witness statements constitute one of the most important evidentiary means; hence, a way has to be found to grant Serbia's requests.

2.8. Regional Cooperation

In 2006, the War Crimes Prosecutor of the Republic of Serbia concluded with the State Prosecutor's Office of the Republic of Croatia the *Agreement on Cooperation in Prosecuting Perpetrators of War Crimes, Crimes against Humanity*; with the Supreme State Prosecutor of

the Republic of Montenegro, he concluded the 2007 *Agreement on Cooperation in Prosecuting Perpetrators of Criminal Offences against Humanity and Other Assets Protected by International Law*, and in early 2013 with the Prosecutor's Office of Bosnia and Herzegovina the *Protocol on Cooperation in the Prosecution of Perpetrators of War Crimes, Crimes against Humanity and Genocide*. The Government is firmly committed to the full implementation of the existing bilateral agreements, under constant and effective monitoring of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, or the Mechanism for International Criminal Tribunals.

The Government has also noted that in the meantime the War Crimes Prosecutor of the Republic of Serbia, with the financial support of the Kingdom of the Netherlands, has exchanged liaison officers with the BiH and Croatian Prosecutors, and that Prosecutors have formed joint investigation teams in certain cases. The joint action by the Prosecutors and police forces of BiH and Serbia in the Strpci case in 2014, resulting in the synchronized arrest of 15 suspects in the territories of both countries, is the best example of effective regional cooperation.

The Government of the Republic of Serbia, however, is not satisfied with the current level of regional cooperation among war crimes prosecutors. For the successful completion of the prosecution of those responsible for war crimes in the region of the former Yugoslavia, it is necessary to significantly enhance mutual trust, as well as cooperate more sincerely in the provision of legal assistance. The Office of the War Crimes Prosecutor of the Republic of Serbia has registered numerous cases in which its regional partners have not acted upon the information and evidence which it had sent to them, especially in the cases in which the victims were persons of the Serbian ethnicity.

2.8.1. General Overview of the Ethnicity of Persons Indicted for War Crimes in Serbia, BiH and Croatia

A) Serbia:

Out of 178 accused persons, two are Bosniaks; two are Croats (one is a Croatian national, the other a BiH national), 21 ethnic Albanians (of whom 17 have been recently released) and 153 Serbs. The OSCE Mission in Belgrade and several local non-governmental organizations have closely followed all the previous trials, and the decisions that Serbian courts have rendered in these cases have never been second-guessed as biased or unfair to defendants who were not of the Serbian nationality or ethnicity.

B) Bosnia and Herzegovina:

The Court of BiH has so far confirmed the indictments against 471 persons in war crimes cases. Out of this number, 273 persons are of the Serbian nationality, accounting for 57.2% of the total number of indictees. The number of indicted persons who are members of the other two constituent peoples is far lower and amounts to 204, of whom 125 or 26.2% are Bosniaks and 79 or 16.6% are Croats.

In terms of the length of prison sentences imposed by the Court of BiH, about four-fifths of the sentences were imposed on Serbs.⁸

C) Croatia:

According to the State Prosecutor's Office data of 12/04/2014,⁹, when a summary overview of war crimes proceedings was last presented, by the end of 2013 the Republic of Croatia indicted as many as 3,446 persons, of whom 2,999 (mainly Serbs) were indicted *in absentia*. Data on ethnicity of the remaining 448 persons are not available. According to the information available to the D.I.C Veritas, the number of prosecuted members of the Croatian Army in the total number of prosecuted persons (under investigation and the accused) in 2011 amounted to 3.07%.

The Government of the Republic of Serbia condemns in particular the adoption of the 2011 Croatian *Law on the Nullity of Certain Legal Acts of the Judicial Bodies of the Former Yugoslav People's Army, Yugoslavia and the Republic of Serbia* (NN 124/11), declaring null and void all legal acts under which nationals of the Republic of Croatia were suspects, indictees and/or convicted of crimes committed during the civil war in Croatia. Article 3 of the Law on Nullity stipulates that the Croatian judicial authorities will not act upon the letters of request sent by Serbian judicial bodies in criminal proceedings, if such letters of request are "in conflict with the legal order of the Republic of Croatia and harm its sovereignty and security." This vague wording is certainly not an invitation to *bona fide* regional cooperation.

The Government of the Republic of Serbia, moreover, has taken note of the initiative of Croatian MPs in the European Parliament, launched in January 2015, which requires restriction of the territorial and personal jurisdiction of the Serbian Office of the War Crimes Prosecutor, as well as the Resolution of the European Parliament on the 2014 Progress Report for Serbia, which "calls on Serbia in the spirit of reconciliation and good-neighbourly relations to consider its Law... in cooperation with its neighbours and with the Commission" (paragraph 14). The Serbian government will certainly consider this and all other outstanding issues in cooperation with its neighbours, but will at the same time proceed from a reasonable expectation that its neighbours must have the same approach to the issue of war crimes as Serbia has, i.e., that they, too, are ready to prosecute those responsible for war crimes without any discrimination based on national, ethnic or religious affiliation.

Cooperation with the judicial bodies of the provisional institutions in Kosovo and Metohija has been established on the basis of the *Mutual Legal Assistance Procedure* adopted by the Government of the Republic of Serbia on 7 March 2013. That mutual legal assistance is facilitated by the EULEX mission, but needs to be more efficient and expedient.

⁸Republika Srpska, Ministry of Justice, Center for Research on War, War Crimes and Missing Persons of Republika Srpska (2015): Information Note on the Work of the Prosecutor's Office and the Court of Bosnia and Herzegovina and Other Institutions in Relation to the Prosecution of War Crimes, Banja Luka, p. 5-10.

⁹The Report of the Office of the State Prosecutor of the Republic of Croatia for 2013, A-427/13, tab. 27, p. 156-158.

The Government commends the significant cooperation between the Office of the War Crimes Prosecutor of the Republic of Serbia and the EULEX bodies, in particular in discovering mass graves in Kosovo and Metohija.

The Government has also commended the assistance provided by the Office of the War Crimes Prosecutor to the EU Special Investigating Team for war crimes and organized crime established on the basis of Dick Marty's Report *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, submitted to the Parliamentary Assembly of the Council of Europe in 2010, and expects to see the concrete judicial results of those investigations.

2.9. Mechanisms for Protection and Support to Witnesses and Victims of War Crimes

In the previous period various problems were encountered in the nonprocedural system for the protection and support to witnesses and victims. They included the abandoning of the protection system by protected witnesses, disclosure of the identity or location of protected witnesses. As stated above, there have been cases of failures with respect to certain witnesses, due to insufficient coordination among state authorities involved in the protection system, which did not, after all, result in a concrete risk for their safety. In the process of identity change, which is one of the most important measures provided for by the Law¹⁰, it was observed that the legal framework, including bylaws, for ensuring the implementation of this measure, is not complete, which has given rise to problems in issuing personal documents, with civil registries, in the penal system when serving the sentence, and all in the case of protected persons. As a consequence of these individual problems, the reputation of the entire system of witness protection is now called into question.

The Service for Assistance and Support to Victims and Witnesses was established in 2006 within the then District Court in Belgrade, the War Crimes Chamber, and it provides support to all witnesses testifying before the Special Departments. The primary role of this Service is to assist a witness to approach the court, as easy as possible for himself/herself and as efficient as possible for the judicial proceedings, in order to give testimony. Its core activity is to make an assessment of psychological, medical, social and logistical needs of witnesses, and to provide technical, logistical and emotional support and help.

In the previous period, the Service for Assistance and Support provided assistance to a total of 2,856 witnesses. Out of that number, 782 witnesses were the victims. 716 witnesses are not nationals of the Republic of Serbia. Since the beginning of its operation, the Service has been engaged in 292 cases (in cases of war crimes, both at the investigative stage and during trials, in cases based on letters of requests, and since 2010 also in organized crime cases).

¹⁰The Law on the Protection Programme for Participants in Criminal Proceedings (*RS Official Gazette*, No. 85/2005)

Until the introduction of the prosecutorial investigation in 2012, witnesses and victims had the support of the Service, both during the investigation, and at the trial, as well as in the proceedings based on letters of request. With the introduction of the concept of prosecutorial investigation, the continuity in the provision of support is lost, and witnesses get support from the stage of the trial.

Furthermore, the problem is posed by the insufficient number of employees in the Service, and there is also a need for their further professional development. The provision of better technical and infrastructural conditions would contribute to more efficient work of the Service.

The procedural position of victims and witnesses is adversely affected by inadequate knowledge on the part of the holders of judicial office and defence attorneys, about the issue of preventing secondary victimization, as well as the inconsistency in the implementation of the measures of procedural discipline at trials.

2.10. General Social Awareness about the Importance of Punishment for Perpetrators of War Crimes

In the last decade the Republic of Serbia has come a long way in the process of raising the level of general social awareness about the events in the former Yugoslavia and the need to detect, investigate and prosecute war crimes, and to punish their perpetrators, regardless of their national, ethnic and religious affiliation or their ranking.

In order for this process to continue developing in the positive direction, it is necessary to constantly engage several segments of society.

The timely, impartial and objective informing of citizens about war crimes trials is their right, but also a shared obligation of the education system, the media and bodies engaged in the prosecution of war crimes. All three segments could be significantly improved, since the information that students receive about the conflicts in the former Yugoslavia is incomplete and inconsistent, and reporting on war crimes trials is often subjective, biased and sensationalist, which is mainly caused by the lack of education of journalists in this area, and partly by the lack of relevant and objective information, which is often compensated by publishing unverified data, originating from sources of questionable credibility.

3. PRIORITIES AND OBJECTIVES IN THE PROSECUTION OF WAR CRIMES

Bearing in mind the problems identified above, priorities for action, and objectives whose achievement is expected through the implementation of this Strategy include:

1. That all priority and serious allegations of war crimes are properly investigated and then prosecuted in accordance with the standards of international criminal law;
2. Achieving proportionality of punishment (sentences);
3. Ensuring equal treatment of suspects, regardless of their national, ethnic and religious affiliation or their social status;
4. Enhanced safety of witnesses and informants, as well as improved work of the Protection Unit;
5. Ensured confidentiality of investigations and testimonies of war crimes;
6. Enhanced capacity of the Service for Assistance and Support to Victims and Witnesses;
7. Promoted regional cooperation the field of investigation and prosecution of war crimes;
8. A raised level of awareness and an improved public attitude toward the need for war crimes trials.

SPECIFIC PART

1. INCREASING EFFICIENCY OF THE WAR CRIMES PROCEEDINGS BEFORE THE REPUBLIC OF SERBIA BODIES

1.1. Investigations and Indictments

The autonomy of the War Crimes Prosecutor, within the meaning of Article 156 of the Constitution of the Republic of Serbia, is a *sine qua non* for efficient proceeding in investigations and the process of issuing indictments.

The Government and all other state bodies and institutions are obligated to provide full support to autonomous and efficient work of the prosecutor. All state bodies have a duty to abide by the law and cooperate with the Prosecutor's Office in good faith, and provide it with all the data and documents in their possession upon request and without undue delay, within the meaning of Article 282 of the Criminal Procedure Code.

Equal treatment of each suspect, regardless of his or her position, status, or affiliation, should remain one of the guiding principles of the Office of War Crimes Prosecutor and the police (the War Crimes Investigation Service of the Ministry of the Interior). The same applies to victims.

Following recommendations from several independent domestic and international expert reports, the Government encourages the War Crimes Prosecutor to apply the appropriate legal

standards which are in line with the rules of international humanitarian law, positions of the European Court for Human Rights and the laws of the Republic of Serbia.

The Government further encourages the Prosecutor to firmly apply the proper standards of proof, which should be in conformity with the seriousness of charges for war crimes.

Objective 1

The Office of War Crimes Prosecutor has adopted and implements its Strategy in accordance with the objectives and time limits provided for in the National Strategy for the Prosecution of War Crimes and the Action Plan for Chapter 23.

The existence of clearly defined priorities will enable the prosecutor to use the available material and human resources in the most effective manner. The Prosecutorial Strategy should contain, inter alia:

- 1) performance indicators for strategy implementation;
- 2) model of reporting to the Republic Public Prosecutor's Office and the Secretariat for the Implementation of the Action Plan for Chapter 23 on the implementation of the Strategy, as well as
- 3) public information model.

Activities:

The Office of War Crimes Prosecutor will draft and adopt the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes in the Republic of Serbia, taking into consideration the Completion Strategy of the International Criminal Tribunal for Former Yugoslavia and the Draft National Strategy for the Prosecution of War Crimes, through a transparent and consultative process with all relevant stakeholders.

The Prosecutorial Strategy should define the criteria for the selection of war crimes cases and compiling a list of priority and major war crimes cases that should be prosecuted to fulfil the obligation that all priority and important cases are prosecuted.

The Government fully supports the position of the Office of War Crimes Prosecutor that the criteria for setting priorities should be the following:

1. Consequences of the war crimes: crimes with a large number of victims and/or crimes in which the perpetrator acted with particular cruelty should have priority in investigations.
2. The cases against high ranking suspects, *de jure* or *de facto*, should also have priority in the prosecutor's work.
3. The availability of evidence, suspect(s) and victims should be taken into account in making the Prosecutor's decision whether to issue an indictment against certain individual(s) or to refer the case to a fellow prosecutor in the region. In making that decision, the Prosecutor should also have in mind the need for keeping good neighborly relations with other states and the regional stability in general, on the basis

of knowledge whether the same person is already being prosecuted for the same or similar acts in the region or has already been convicted. The Government gives full support for the practice of avoiding trials in absentia.

4. The effect of certain case to the local community should also be taken into account.
5. The need for a balanced geographical distribution of investigative efforts should also have a role in the determination of the priorities.

The Strategy should be based on the following principles:

- maintenance of the autonomy of the Office of War Crimes Prosecutor, by helping provide adequate capacity, among other things;
- focussed investigations and prosecutions;
- investigation and prosecution of the most responsible perpetrators of war crimes regardless of rank;
- greater concern for the interests of the victim in the course of investigation and proceedings;
- devoting special attention to witness protection;
- strengthening cooperation among state bodies.

Time limit: Quarter 1 of 2016

Objective 2:

The Office of War Crimes Prosecutor will have accurate records of the events that may be qualified as war crimes, and records on unresolved cases, to be used, on the basis of clearly defined criteria, for the prioritisation of cases pending and development of a five year plan for priority case processing.

Activities:

- The War Crimes Investigation Service will prepare a database on mass crimes committed during the armed conflicts in former Yugoslavia, which will serve, together with the records on the prosecutor's pending cases, as a means to set work priorities and develop a separate five-year plan of investigations and indictments.

Time limit: Quarter 2 of 2016

The Office of War Crimes Prosecutor shall endeavour to register and take over all the war crimes cases still pending before the domestic courts of general jurisdiction. The Republic Public Prosecutor will monitor and enable the transfer of cases from the prosecutors' offices of general jurisdiction.

Time limit: Quarter 4 of 2016

Objective 3:

The Office of War Crimes Prosecutor applies the measures to increase its working efficiency.

With the aim of increasing working efficiency, the War Crimes Prosecutor should undertake the following **activities**:

- Use the existing capacity in line with the above stated prosecution priorities to be defined in the prosecutorial strategy;
- Apply, whenever appropriate, the legal institution of plea agreement referred to in Articles 313-320 of the Criminal Procedure Code;
- Ensure full confidentiality of the investigation process;
- Examine during the investigation whether the suspect holds any assets acquired through war crime and if yes, to submit to the court the relevant procedural request in that regard pursuant to the Law on Criminal Asset Recovery.¹¹

Time limit: Continuously.

Objective 4:

Enhanced capacity of the Office of War Crimes Prosecutor.

Activities:

The number of deputy prosecutors and other staff of the Office of War Crimes Prosecutor will increase in line with the time frame envisaged in the Action Plan for Chapter 23, as well as in accordance with the recommendations on the required experience in international criminal law of future employees.

Time limit: Continuously.

Continuing training on international humanitarian and international criminal law will be provided to the present and newly employed / newly appointed staff and deputy public prosecutors in the Office of War Crimes Prosecutor as envisaged in the Action Plan for Chapter 23, as well as appropriate training relating to the approach to victims and witnesses to avoid the risk of secondary victimization. Special attention will also be devoted to the organization of training in the field of strategic planning, information technologies and project management, enabling the streamlining of internal processes and use of resources, and improving the planning process and obtaining project support.

Time limit: Continuously

Objective 5:

¹¹ Law on Criminal Asset Recovery (*RS Official Gazette*, No. 32/2013)

Improved status and efficiency of the War Crimes Investigation Service.

Activities:

The defining of specific measures to be undertaken for the purpose of improving the status and operations of the War Crimes Investigation Service requires that the Ministry of the Interior prepares an analysis (report) on the legal and factual situation and needs of the War Crimes Investigation Service within the Ministry of the Interior, aimed at determining the need for the Service reform. Special attention should be devoted to the following issues:

- status of the War Crimes Investigation Service within the organisational structure of the Ministry;
- if the hiring process should be reformed, considering the need to have competent and highly motivated professionals and staff assigned to the War Crimes Investigation Service, as well as potential influence of prior participation of a candidate in the conflicts that took place in the territory of former Yugoslavia;
- if incentives should be introduced for the purpose of attracting professional staff;
- if the War Crimes Investigation Service has a sufficient number of investigators and analysts and if it applies appropriate methodology;
- establishment of joint investigative teams and working procedures between the Office of War Crimes Prosecutor and the War Crimes Investigation Service.

Time limit: Quarter 1 of 2016

On the basis of the above analysis, the Ministry of the Interior will urgently undertake measures to ensure the optimal status and capacity of the War Crimes Investigation Service, which will contribute to the improvement and efficiency of police investigations of war crimes as provided for in the Action Plan for Chapter 23.

Time limit: Continuously, commencing from Quarter 2 of 2016

Adoption of joint internal operating rules of the Office of War Crimes Prosecutor and the War Crimes Investigation Service, at the initiative of the War Crimes Prosecutor.

Time limit: Quarter 1 of 2016

1.2. Trials

The Government takes note, with satisfaction, that the war crimes proceedings before the Serbian courts have so far been evaluated by the independent observers as fair and unbiased, regardless of the national or ethnic affiliation of defendants and victims. The courts are highly commended for that achievement.

It is, however necessary that the first instance trial chambers invest additional efforts in the statements of reasons, specifically relating to the decision on sentencing (aggravating, extenuating and mitigating circumstances), to enable the domestic and international public to better understand the practice of punishment and rationale of our criminal justice system.

In addition, it is necessary to ensure continuous improvement of expertise of the holders of judicial office and staff engaged in war crimes cases, as well as appropriate infrastructure in order to improve trial efficiency.

Objective 1:

Harmonised jurisprudence of all war crimes courts and chambers in former Yugoslavia, to the greatest extent possible.

For the same reason, the Government believes that the principle of justice and equity requires that the jurisprudence of all the war crimes courts and chambers in the region of the former Yugoslavia is harmonized to the greatest extent possible. Accountability for war crimes is a concern of our region as a whole.

Activities:

The War Crimes Prosecutor should start negotiations with his counterparts in neighbouring states on the establishment of a regional database of war crimes case trials, which would be available electronically to all courts and parties to the proceedings, as well as the general public, provided personal data are protected, which would considerably contribute to harmonization of jurisprudence. Considering its importance for the entire region, this project could be funded from EU IPA funds.

Time limit: Continuously, commencing from Quarter 1 of 2016

Objective 2:

Improved conditions in courtrooms where war crimes trials are conducted.

Activities:

The Ministry of Justice shall endeavour, through the applications for IPA funds submitted to the EU, on the proposal of the High Judicial Council, to provide adequate technical equipment for the courtrooms in which war crimes trials are held.

Time limit: Continuously, commencing from Quarter 1 of 2016

Objective 3:

Continuous improvement of expertise of the holders of judicial office and staff engaged in war crimes cases

Activities:

At the initiative of the Office of War Crimes Prosecutor, and in cooperation with the High Judicial Council, the State Prosecutorial Council and the Judicial Academy, a system of training and additional education will be established for judges, prosecutors, assistants, deputies and police investigators in the fields of international criminal and international humanitarian law, first through the development and adoption of special programmes, followed by providing training. The training should be designed as initial (intended for the judges who are yet to be allocated to war crimes departments or express interest in this type of training) and continuous, intended for holders of judicial office, assistants, associates, advisors and police officers who are already engaged in war crimes investigations and proceedings.

Time limit: Continuously, commencing from Quarter 1 of 2016

2. PROTECTION OF WITNESSES AND VICTIMS

The Government of the Republic of Serbia is dedicated to the full implementation of the principles contained in UN General Assembly Resolution 60/147(2005) and Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

The Government expresses its full commitment to further strengthening of the national victim and witness protection system. The activities envisaged in this Strategy aim at increasing the safety of witnesses in the protection system and enhancing trust in the protection system. The information from war crimes investigations containing data on protected witnesses may not be accessible to the public. It is necessary to ensure that witnesses of war crimes give their testimonies without fear. They must be free from any threats, intimidations or any other form of psychological pressure.

Objective 1:

Improved normative framework for effective functioning of the witness protection system in war crimes proceedings in Serbia.

Activities:

A Ministry of Justice working group will prepare an analysis of court practice in the implementation of Article 102 of the CPC with the aim of establishing the need for the amendments to the law to improve witness and victim protection.

Time limit: Quarter 1 of 2016

The Ministry of Justice will establish a working group that will review the provisions and results of the implementation of the Law on the Protection Programme for Participants in Criminal Proceedings to date and formulate conclusions and recommendations with respect to the need for any changes of these laws and supporting bylaws with the aim of improving the system of protection.

Time limit: Quarter 1 of 2016

Objective 2:

Enhanced institutional capacity for witness protection in war crimes proceedings.

Activities:

The Ministry of the Interior will initiate and, in cooperation with the Commission for the Implementation of the Protection Programme for Participants in Criminal Proceedings, prepare the analysis of the status and needs of the Protection Unit, with special emphasis on:

- A) process of hiring staff bearing in mind the potential impact of prior participation of candidates in the conflicts in former Yugoslavia;
- B) implementation of an appropriate work methodology and existence of the appropriate technical capacity;
- V) determining the sufficient number of employees and allocation to this Unit of competent highly motivated professionals, including a psychologist, and other staff.

Time limit: Quarter 1 of 2016

On the basis of the above analysis, the Ministry of the Interior will urgently undertake measures to ensure the optimal status and capacity of the Protection Unit.

Time limit: Commencing from Quarter 2 of 2016

Objective 3:

Improved position of witnesses and victims during the criminal proceedings through consistent application of procedural disciplinary measures.

Activities:

Criminal law chambers consistently apply the provisions of the Criminal Procedure Code regulating the sanctioning of participants in the procedure who violate procedural discipline, particularly if they attack the integrity of the witnesses or victims¹².

¹² Articles 102, and 369-374 of the Criminal Procedure Code

Time limit: Continuously

Competent public prosecutors, the State Prosecutorial Council and the competent bar association regularly notify the court about the measures undertaken with regard to the caution referred to in Article 374 of the Criminal Procedure Code.

Time limit: Continuously

Objective 4:

Enhanced cooperation of state bodies involved in the witness protection system.

Activities:

Improvement of rules of procedure by the Commission for the Implementation of the Protection Programme and the Protection Unit fully respecting the interests of the criminal proceedings in which the protected person is placed under protective measures

Time limit: Continuously

Improvement of cooperation between the Protection Unit and the Office of War Crimes Prosecutor

Time limit: Continuously

3. SUPPORT TO VICTIMS AND WITNESSES

The Government commends the Service for Assistance and Support to Victims and Witnesses within the Higher Court in Belgrade for its dedicated work in this field.

Improvement of the support to victims, witnesses and informants on war crimes both during and outside the criminal proceedings is one of the main objectives of this Strategy.

Objective 1:

Improvement of the normative framework regulating the status of victim and witness.

Activities:

The Ministry of Justice will perform an analysis of the level of harmonization of the normative framework with recommendations for the purpose of effective adoption of the minimum standards on the rights, support and protection of victims in accordance with

Directive 2012/29/EU, in order to set the direction of changes of the normative framework and incorporate certain victims' rights (such as the right to understand and be understood, rights of victims when making a complaint, right to receive information, right to interpretation and translation, right to access victim support services, rights relating to victim protection and recognition of their specific protection needs, including individual assessment).

Time limit: Quarter 1 of 2016

The Minister of Justice will establish a working group to propose amendments to the normative framework with the aim of harmonization with the notion of victim in international human rights treaties, and of effective application of minimum standards on the rights, support and protection of victims of crime/injured parties in order to harmonize with the Directive 2012/29/EU in accordance with the gap analysis.

Time limit: Quarter 2 of 2016

The Ministry of Justice will issue a bylaw regulating the mandatory provision of information to victims on all aspects of the criminal proceedings of interest to them in accordance with Article 6 of Directive 2012/29/EU.

Time limit: Quarter 2 of 2016

The Ministry of Justice, in cooperation with civil society organisations, will create and distribute a brochure containing the information about victims' rights (legal aid, psychological support, protection, etc.) in accordance with Article 4 of the Directive 2012/29/ EU.

Time limit: Quarter 3 of 2016

Objective 2:

Enhancing the capacity of the bodies providing support to the witnesses of war crimes during all phases of the criminal proceedings, such as: the Service for Assistance and Support to Victims and Witnesses within the Higher Court in Belgrade, the Office of War Crimes Prosecutor and the Ministry of the Interior Protection Unit.

Activities:

The Service for Assistance and Support to Victims and Witnesses within the Higher Court in Belgrade will hire an expert for the provision of psycho-social support.

Time limit: Quarter 4 of 2016

The Protection Unit of the Ministry of the Interior through the changes in job classification act will enable the engagement of professional staff for the provision of psycho-social support.

Time limit: Quarter 4 of 2016

To meet the needs of the Service for Assistance and Support to Victims and Witnesses staff, the Higher Court in Belgrade and the Judicial Academy, with the support of the High Judicial Council and the Ministry of Justice, and in cooperation with the academic community and civil society organizations, will occasionally organise additional training and encourage the participation in professional conferences, to ensure continuous enhancement of their professional capabilities.

Time limit: Continuously, commencing from Quarter 2 of 2016

To meet the needs of the Protection Unit staff, the Training Centre of the Ministry of the Interior, in cooperation with the academic community and civil society organizations, will occasionally organise additional training and encourage the participation in professional conferences, to ensure continuous enhancement of their professional capabilities, particularly in the field of victims' rights, their protection and prevention of secondary victimisation.

Time limit: Continuously, commencing from Quarter 2 of 2016

Improvement of infrastructural and technical capacity of the services for assistance and support to victims and witnesses.

Time limit: Continuously, commencing from Quarter 2 of 2016

Objective 3:

Establishment of the national network of services for assistance and support to victims and witnesses and integration of the Service for Assistance and Support to Victims and Witnesses of the Higher Court in Belgrade, taking into consideration the specificities of war crimes proceedings and the need for the witnesses for the defence to receive the same treatment by the Service for Assistance and Support to Victims and Witnesses as the witnesses for the prosecution.

Activities:

Establishment of a countrywide network of services for assistance and support to victims and witnesses during the investigation and all stages of the criminal proceedings, in accordance with a comprehensive analysis, including:

- normative aspect (current normative framework, best comparative solutions, international standards);
- financial assessment (sustainable financing, adequacy of premises and staff, need training needs);
- access to support services (network coverage, distance, mobile support teams).

Time limit: for the analysis – Quarter 1 of 2016; for the network establishment - continuous commencing from 2018

Objective 4:

Improved regional cooperation in the field of providing support to victims and witnesses.

Activities:

The Ministry of Justice will initiate a regional conference on the improvement of cooperation in the provision of support to victims and witnesses, to discuss past cooperation and possibilities of its improvement through the signing of regional and bilateral cooperation agreements, regional experience sharing programmes, and the training of persons engaged in support services.

Time limit: Continuously, commencing from Quarter 3 of 2016

4. DEFENCE OF THE ACCUSED

Defendants' rights must be strictly respected, in accordance with the Constitution of the Republic of Serbia and the Criminal Procedure Code. The presumption of innocence is one of the guiding principles of war crimes proceedings, in accordance with Article 34[3] of the Constitution of the Republic of Serbia.

Nobody can be convicted without clear determination of the individual criminal liability in the specific case. The Government encourages the criminal law chambers to apply the recommendations provided in this regard by the OSCE Mission to the Republic of Serbia.

The defendant must retain his/her right to a free choice of defence attorney.

Objective

Increasing the quality of (court) appointed and selected defence attorneys in war crimes proceedings.

Activities:

Developing a program of initial and continuous training in international humanitarian and international criminal law for the lawyers representing defendants in war crimes cases, in cooperation between the Serbian Bar Association, the Office of War Crimes Prosecutor, the War Crimes Department of the Higher Court in Belgrade, and the Judicial Academy

Time limit: Quarter 2 of 2016

Implementation of the continuous training in the fields of international humanitarian and international criminal law for the lawyers representing defendants in war crimes cases, in cooperation between the Serbian Bar Association and the Judicial Academy

Time limit: Continuously, commencing from Quarter 2 of 2016

Objective 2

Improved system of financing the costs of the (court) appointed defence attorneys in war crimes cases.

Activities:

The working group established by the Minister of Justice will prepare an analysis of the provisions and results of the application of the Rulebook on the Remuneration for (Court) Appointed Attorneys in war crimes cases, including the recommendations for any changes thereof.

Time limit: Quarter 3 of 2016

5. WAR CRIMES TRIALS AND THE ISSUE OF MISSING PERSONS

The Government is aware of strong mutual links between the work of the Office of War Crimes Prosecutor in the preliminary investigation proceedings and the Commission on Missing Persons; their successful cooperation so far deserves recognition.

The regional cooperation in this field, in cooperation with relevant international institutions is welcome. The example of the joint activity of the Office of the War Crimes Prosecutor and the Commission for the Missing Persons of the Republic of Serbia on one side, and the Croatian bodies on the other, in the case of discovery of the mass grave in Sotin is highly commended. Such activities should be intensified in the future, especially in the cases of mass graves in neighboring states that contain the mortal remains of the victims of Serb ethnicity. In spite of the information repeatedly provided by the Commission for the Missing Persons and D.I.C Veritas, many mass graves are still waiting for exhumation, while the discovery of

new locations is still expected. Additional efforts need to be invested in the enhancement of the normative framework, regional cooperation and provision of adequate resources.

Objective 1:

Improved normative framework of relevance for determining the fate of missing persons.

Activities:

The Republic of Serbia will continuously work on fulfilling the recommendations of the Committee on Enforced Disappearances and notify the Committee on achieved results.

Time limit: Continuously

Objective 2:

Further improvement of prosecutorial activity aimed at discovering information about mass gravesites.

Activities:

The War Crimes Prosecutor uses his discretionary right to enter into plea agreements whenever it can result in the cooperation of the suspect in the discovery of a new mass grave.

Time limit: Continuously.

Objective 3:

Enhanced institutional and administrative capacities of the state bodies involved in the process of determining the fate of missing persons, and their mutual cooperation.

Activities:

Perform the analysis of the organisational structure and status of the support service (persons permanently engaged in the Commission's work) with the aim of improving efficiency and sustainability in the context of volume and specificity of tasks within the Commission's purview.

Time limit: Quarter 3 of 2016

Improve mutual cooperation of the Commission on Missing Persons and other state bodies involved in the process of investigation and prosecution of war crimes for the purpose of enhancing the exchange of data of importance for establishing the fate of missing persons, through periodically organised round tables where identified issues would be discussed and recommendations for more efficient acting and communication specified.

Time limit: periodically (at least once per year)

Objective 4:

Enhancement of regional and broader international cooperation in the field of determining the fate of missing persons.

Activities:

The Ministry of Foreign Affairs initiates the procedure for the signing and becoming party to the Agreement on the Establishment of the International Commission on Missing Persons (ICMP) granting the Commission the status of an international organisation.

Time limit: Quarter 4 of 2016

The Government encourages the Commission on Missing Persons of the Republic of Serbia to establish, in cooperation with the EU, ICMP and other international organisations, funds and donors, a special cash fund for the support of competent state bodies in obtaining all available data on the location of gravesites of the persons still missing.

Time limit: Continuously

6. COOPERATION WITH THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Despite dissatisfaction with certain trial chambers' decisions, the Government of the Republic of Serbia has never stopped cooperating with the ICTY, but has continued to fulfil its international obligations in good faith. This approach will be maintained in the future, both in relation to the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals.

The greatest efforts will be invested in the creation of the social milieu in which the legacy of the Tribunal to the peoples of the former Yugoslavia will be assessed objectively.

The Government particularly welcomes the programme of regional liaison officers implemented by the Office of the Prosecutor of the Tribunal, whereby significant assistance is given to Serbian and other regional war crimes prosecutors by providing them with the documents, information and evidence used in the proceedings before the Tribunal.

Objective:

Intensifying of cooperation with the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals so that evidence on committed war crimes is transferred to the national judiciary and priority cases opened on the basis of such evidence.

Activities:

- Fully access and examine the archive of the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals (relating to the war crimes committed in the territory of the Former Yugoslavia, and which contains documents not only from Serbia, but also from Bosnia and Herzegovina, Croatia), analyse the discovered documents through appointed liaison officers on the basis of the EU project ensuring that all priority and serious allegations of war crimes are adequately prosecuted in accordance with the prosecutorial strategy.
- Identify the materials and evidence of the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals relevant for the priority cases as part of the activities and hand over to the Office of War Crimes Prosecutor the discovered documents and evidence from the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals.

Time limit: Continuously, commencing from Quarter 2 of 2016

Continue the transfer of knowledge and experience from the International Criminal Tribunal for the Former Yugoslavia, to gain both general knowledge and specific knowledge about individual cases.

Time limit: Continuously

Continue with the practice of *ad hoc* presence of the advisors from the Office of War Crimes Prosecutor in the offices of the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals related to the national cases, as well as the analysis of the case files of the Office of the Prosecutor of the Tribunal and development of a plan for specific cases to be prosecuted before the Higher Court in Belgrade.

Time limit: Periodically

7. REGIONAL AND BROADER INTERNATIONAL COOPERATION

7.1. Regional Cooperation

Efficient investigations and prosecutions of the war crimes committed in the territory of the former Yugoslavia are impossible without a well organized cooperation of the war crimes prosecutors.

Objective 1:

Normative regulation of the issues of regional cooperation in regard to prosecuting war crimes, as well as other related issues.

Activities:

The Ministry of Justice will initiate a regional conference to achieve an intergovernmental agreement (signed and ratified international treaty) with the Republic of Croatia, Bosnia and Herzegovina, and Montenegro on the following open issues:

- 1) establishing regional rules on the division of jurisdiction for proceeding in war crimes cases;
- 2) enhancement of regional cooperation with regard to proceeding upon letters of request in war crimes cases;
- 3) setting up a facilitated procedure for obtaining evidence in the territory of another state by defence attorneys in war crimes cases;
- 4) uniform proceeding of states in the region with regard to determining the fate of missing persons.

Time limit: Quarter 1 of 2017

The Ministry of Justice will establish a working group to prepare proposals of topics and normative issues for the Regional Conference.

Time limit: Quarter 2 of 2016

Objective 2:

Proceeding upon letters of request of the Republic of Serbia sent to the states in the region is improved through joint action of the Office of War Crimes Prosecutor and the Ministry of Justice, and the number of cases in which the evidence is exchanged between prosecutors' offices through regional cooperation is increased.

Activities:

The Office of War Crimes Prosecutor will initiate the continuation of the Palić Process¹³ with the presence of international observers, as well as regular quarterly meetings between regional prosecutors to discuss specific submitted cases and issues arising in regional cooperation in relation to those cases, with the presence of the representatives of international organisations.

Time limit: Continuously, commencing from Quarter 1 of 2016

¹³ Under the auspices of OSCE, towards the end of 2004 a need for the representatives of the judiciaries in the region to meet at the regional level was recognized. The first meeting was held in November 2004 on the topic of cooperation between the states in prosecuting war crimes. The meeting agreed on concrete steps to be undertaken by representatives of the state in order to strengthen regional cooperation in this field. Such mechanism, in the meantime, became known as the "Palić Process".

The Office of War Crimes Prosecutor will initiate the establishment of joint records of war crimes cases at the regional level the resolving of which commenced through regional cooperation, to enable monitoring of the successfulness of cooperation.

Time limit: Continuously, commencing from Quarter 2 of 2016

The War Crimes Prosecutor will report to the Ministry of Justice and the Ministry of Foreign Affairs on each case of failure of his regional counterparts to execute its letter of request or act upon his information and evidence on war crimes and perpetrators. The Ministry of Justice will immediately react upon each of these reports by addressing its regional counterpart. The Ministry of Foreign Affairs will also react to such cases in the appropriate diplomatic manner, with the aim of drawing the attention of international organizations and relevant stakeholders in the field of mutual legal assistance in international criminal law.

The Government hereby calls on international community, particularly organs of the EU, the Genocide Network of the Eurojust, the prosecutors of the International Criminal Tribunal for the Former Yugoslavia and the residual Mechanism for International Criminal Tribunals, the UNDP Regional Office for Cooperation and the NGO sector to closely monitor the investigative results and war crimes proceedings in the former Yugoslavia, in order to ensure that those responsible for war crimes meet the appropriate punishment.

Objective 3:

Enhanced cooperation with the judicial bodies of the provisional institutions of Kosovo and Metohija¹⁴.

Activities:

Improving cooperation between the judicial authorities of the Republic of Serbia and of the Service for War Crimes with the Provisional Institutions of Self-Government in Pristina, conducted fully in accordance with Resolution of the Government of the Republic of Serbia 05 No 018-1862 / 2013-1 of 07.03.2013, through which the text Procedure of mutual legal assistance was adopted.

Time limit: Continuously

7.2. International Cooperation

Objective 1:

Enhanced international cooperation through the presentation of work of the national judicial bodies.

¹⁴ This designation is without prejudice to the status of Kosovo in accordance with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

The Government supports international cooperation of all national judicial bodies dealing with issues of war crimes.

Activities:

Active participation in seminars on international humanitarian law and professional conferences, among other things, to present local case law and overall achievements of our judicial bodies in this area, which would make the results of the Serbian judiciary an integral part of a broader corps of international criminal case law, brought to the attention of international experts.

The Ministry of Justice, in cooperation with the Office of War Crimes Prosecutor and High Judicial Council, will apply to the EU (IPA funds) for financial support of the project of translating domestic judgments (or relevant parts thereof) into the English language, so that they can be included in the *Legal Tools Project*, the electronic data base of all legal documents of international criminal law existing on the web site of the International Criminal Court.

Time limit: Continuously, commencing from Quarter 1 of 2016

8. OUTREACH

Objective 1:

Easier access to information on war crimes trials

Activities:

- Improvement of the web site of the High Court in Belgrade, where all the necessary information about the judgments in war crimes cases will be publicly available, fully respecting the rules of personal data protection;

Time limit: Continuously.

- Regular publishing of substantive reports on the work of judicial institutions responsible for prosecuting war crimes;

Time limit: Continuously.

- Regular publishing of reports on the implementation of all relevant strategic documents in the field of prosecuting war crimes (the Action Plan for Chapter 23, the National Strategy, the Strategy of the Office of War Crimes Prosecutor);

Time limit: Continuously.

-Attendance of the meetings between the Negotiating Group for Chapter 23 and the National Convention on the EU by the representatives of the Office of War Crimes Prosecutor.

Time limit: Continuously

Objective 2:

Enhancement of capacity of media professionals for appropriate reporting on war crimes proceedings.

Activities:

-Periodical organisation of courses, workshops and trainings for journalists reporting on war crimes trials.

Time limit: Continuously

Objective 3:

Improvement of the curricula in the manner that allows the students/pupils to obtain a sufficient quantity of relevant information on the conflicts in the former Yugoslavia, war crimes committed during that time, and norms of the international humanitarian law.

Activities:

The Ministry of Education, Science and Technological Development will perform an expert analysis of the best manner of presenting the history of the conflicts in the former Yugoslavia, the mass war crimes committed in those conflicts, the work of the ICTY and the continuing need for prosecuting those responsible for them as part of the school curriculum. The Ministry will urgently implement the measures proposed in the analysis.

Time limit: Quarter 3 of 2016

Objective 4:

Public presentation of the National Strategy as the tool to express firm and unequivocal commitment of the Republic of Serbia to undertake measures preventing impunity of war crimes.

Activities:

- Publishing of the National Strategy text on the website of the Ministry of Justice, the Office of War Crimes Prosecutor, the Higher Court and Court of Appeal in Belgrade.

Time limit: Quarter 1 of 2016

- Following the adoption of this National Strategy, the highest State officials, led by the Prime Minister and the Minister of Justice, will publicly declare their support for the work of all domestic bodies dealing with the war crimes issues, for the fight against impunity and for the respect for the rule of law.

Time limit: Quarter 1 of 2016

III VALIDITY OF THE STRATEGY, IMPLEMENTATION MECHANISMS AND RISKS

The National Strategy shall be valid and implemented for a period of five years (2016-2020), after which the Ministry of Justice of the Republic of Serbia will re-establish the working group tasked with reviewing the performance up to that time and defining further steps.

The supervision of the implementation will be entrusted to a ten member working body to be established for the period of its validity by a decision of the Government of the Republic of Serbia issued not later than 30 days after the adoption of the Strategy. In the process of appointing the members of the working body, special attention will be given to the representation of all relevant institutions in the field of war crimes prosecution, Negotiating Group for Chapter 23, the academic community and civil society organisations. The working body will meet at least four times per year and review the performance in Strategy implementation on the basis of the reports of all relevant institutions participating in the implementation of this strategic document. The working body will develop conclusions and recommendations to competent institutions and report on a quarterly basis to the Secretariat for the Implementation of the Action Plan for Chapter 23 and to the Government of the Republic of Serbia. The tasks and functioning of the working body are to be regulated in detail by the Rules of Procedure. The administrative and technical support to the working body will be provided by the Ministry of Justice and the Office of War Crimes Prosecutor.

Despite the commitment of the Republic of Serbia to consistent and effective prosecution of war crimes, as well as clearly defined issues, priorities, objectives and activities directed at the

improvements in this area, there is a range of factors that could jeopardise the pace and scope of implementation of the National Strategy.

The first group of risks arises from the fact that the criminal offences from the scope of competence of the Office of War Crimes Prosecutor were committed in the territory of other states, and a significant part of evidence is frequently inaccessible to the OWCP. In such cases the OWCP has at its disposal the mechanism of regional cooperation, through which it should obtain all the relevant evidence (witness testimonies or documents) located in the territories of other states. The Government calls upon all the countries in the region to commit in good faith and with dedication to the enhancement of regional cooperation in order to prevent avoidance of liability for war crimes.

Another group of risks relates to the resources for Strategy implementation. This issue was already identified in the development of the Action Plan for Chapter 23, and, despite the awareness of the scale of the need both for the strengthening of administrative capacity and the procurement of means of work, the funds envisaged for the area of war crimes had to remain in line with the austerity measures of the Republic of Serbia Government. The planned reform activities are, therefore, primarily based on the change of strategic approach to prosecuting war crimes, better use of existing resources (with particular attention to improved relations between state bodies), and the optimal use of the new, increased capacities, to the extent possible.

The third group of risks relates to the fact of lapse of time. Between sixteen and twenty-five years have passed since the critical events. The memory of the events inevitably pales, and numerous perpetrators and direct witnesses to crimes have passed away in the meantime. The willingness of all state bodies to act as soon as possible in accordance with their obligations and guidelines provided herein are of key importance for the success of this National Strategy.

IV Annexes

Literature

Normative Framework - Main sources of law used to develop the National Strategy for the Prosecution of War Crimes

- The Constitution of the Republic of Serbia (*RS Official Gazette*, No. 98/2006)
- Criminal Code (*RS Official Gazette*, No. 121/12);
- Criminal Procedure Code (*RS Official Gazette*, Nos. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14);
- Law on Mutual Assistance in Criminal Matters (*RS Official Gazette*, No. 20/09);
- Law on Criminal Asset Recovery (*RS Official Gazette*, No. 32/2013).
- Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings (*RS Official Gazette*, No. 67/2003, 135/2004, 61/2005, 101/2007 and 104/2009)
- Law on the Protection Programme for Participants in Criminal Proceedings (*RS Official Gazette*, No. 85/05);
- Law on Cooperation with the International Criminal Tribunal for the Former Yugoslavia (*FRY Official Gazette*, No. 18/02 and *SaM Official Gazette*, No. 16/03);
- Law on Migration Management (*RS Official Gazette*, no. 107/2012);
- Decision on the establishment of the Commission for Missing Persons of the Government of the Republic of Serbia of 08 June 2006 (*RS Official Gazette*, Nos. 49/06, 73/06, 116/06, 53/10 and 108/12);
- General framework and the Working Rules of the Working Group for persons who are listed as missing in connection with events in Kosovo in the dialogue Belgrade - Pristina (these documents specify the cooperation with UNMIK in resolving the problem of missing persons in Kosovo and Metohija);
- Joint document of UNMIK and the Federal Republic of Yugoslavia, signed in November 2001 in Belgrade
- Memorandum on Cooperation concluded between the Office of the War Crimes Prosecutor of the Republic of Serbia and the competent authorities of the Republic of Croatia
- Memorandum on Cooperation concluded between the Office of the War Crimes Prosecutor of the Republic of Serbia and the competent authorities of Bosnia and Herzegovina
- Memorandum on Cooperation concluded between the Office of the War Crimes Prosecutor of the Republic of Serbia and the competent authorities of the Republic of Montenegro
- Protocol on joint verification teams on hidden prisons;
- Protocol on cross-border repatriation of identified remains signed on 11 February 2002, in Belgrade;

- Protocol on Cooperation between the Commission of the Federal Government of the FRY for Humanitarian Affairs and Missing Persons and the Commission for Detained and Missing Persons of the Croatian Government signed on 17 April 1996 in Zagreb;
- Protocol on Cooperation between the Ministry of Interior Serbia and EULEX, of 11/09/2009;
- Protocol on cooperation in the prosecution of perpetrators of war crimes, crimes against humanity, and genocide between the Republic of Serbia Office of the War Crimes Prosecutor and the Prosecutor's Office of Bosnia and Herzegovina of 2013
- Protocol on cooperation in the search for missing persons between the Government of the Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina signed on 05 November 2015 in Sarajevo, Bosnia and Herzegovina;
- Protocol on cooperation in the search for missing persons of the Commission for Missing Persons of the Government of the Republic of Serbia and the Commission for Missing Persons of the Government of Montenegro signed on 25 April 2012 in Belgrade;
- Protocol on the exchange of forensic experts and expertise
- Mutual Legal Assistance Procedure of 07/03/2013
- Agreement between the Federal Republic of Yugoslavia and the ICRC signed on 14 June 1994 in Belgrade;
- Agreement on the continued cooperation in the process of exhumation and identification of missing persons between the Commission for Missing Persons of the Republic of Serbia and ICMP of June 2014
- Agreement on Cooperation in Prosecuting Perpetrators of Criminal Offences against Humanity and Other Assets Protected by International Law between the Office of the War Crime Prosecutor of the Republic of Serbia and the Supreme State Prosecutor of the Republic of Montenegro of 2007
- Agreement on cooperation in the prosecution of perpetrators of war crimes, crimes against humanity and genocide between the War Crimes Prosecutor of the Republic of Serbia and the State Attorney of the Republic of Croatia of 2006;
- Agreement on cooperation between the Federal Republic of Yugoslavia and the Republic of Croatia in the search for missing persons signed on 17 November 1995 in Dayton;
- Agreement on cooperation in the search for missing persons of the International Commission on Missing Persons (ICMP) and the Commission of the Federal Government of the FRY for humanitarian issues and missing persons, which regulates cooperation in the process of exhumation and identification of remains by DNA, signed in Belgrade on 05 April 2003.

Documents consulted in the drafting of the National Strategy for the Prosecution of War Crimes:

- Statute of the International Criminal Tribunal for the Former Yugoslavia

- UN SC resolution 1503 (2003)
- UNGA resolution 60/147 (2005)
- Directive 2012/29/EU of 25 October 2012
- Committee on Enforced Disappearances: Concluding observations on the report submitted by Serbia in accordance with Article 29, paragraph 1, of the Convention, at its 124th and 125th meeting (CED / C / SR.124 and 125), held on 4 and 5 February 2015;
- Report of the International Committee of the Red Cross in October 2015
- 2014 Serbia Progress Report
(http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/Izvestaj_o_napretku_dec14.pdf)
- 2013 Serbia Progress Report,
(http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_2013.pdf)
- 2012 Serbia Progress Report,
(http://www.seio.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izve%C5%A1taj_napretku_2012.pdf)
- Screening report for Chapter 23 - Judiciary and Fundamental Rights,
(<http://www.seio.gov.rs/%D0%B4%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D0%B0.1132.html>)
 - Expert Report of the EC Fact-finding Mission, Chapter 23 – “War Crimes” 13 March 2015
 - Information Note on the Work of the Prosecutor’s Office and the Court of Bosnia and Herzegovina and Other Institutions in Relation to the Prosecution of War Crimes, Republika Srpska’s Ministry of Justice, Centre for Research on War, War Crimes and Missing Persons of Republika Srpska of 2015.
 - Report of the Chief Prosecutor’s Office of the Republic of Croatia for 2013 (A-427/13, tab.)
 - Mr Dick Marty, *Inhuman treatment of people and illicit trafficking in human organs in Kosovo**, which was submitted to the Parliamentary Assembly of the Council of Europe in 2010.

Strategic documents

- Action Plan for Chapter 23 - Judiciary and Fundamental Rights
(<http://www.mpravde.gov.rs/files/Akcioni%20plan%20PG%2023%20Treci%20nact-%20Konacna%20verzija1.pdf>)
- Ten Years of War Crimes Prosecutions in Serbia: Contours of Justice (Analysis of the Prosecution of War Crimes in Serbia 2004-2013)
(http://www.hlc-rdc.org/wp-content/uploads/2014/10/Analiza_2004-2013_srp.pdf)
- Model Strategy for the Prosecution of War Crimes Committed during and in relation to the Armed Conflicts in the Former Yugoslavia, period 2015-2025
(http://www.mc.rs/upload/documents/saopstenja_izvestaji/2015/Model-Strategije-za-procesuiranje-ratnih-zlocina-u-Srbiji.pdf)

Comparative and rescinded regulations

- Law on the Nullity of Certain Legal Acts of the Judicial Bodies of the Former Yugoslav People's Army, Yugoslavia and the Republic of Serbia (NN 124/11)
- Criminal Code of the Federal Republic of Yugoslavia (*SFRY Official Journal*, Nos. 44/76, 36/77, 56/77, 34/84, 37/84, 74/87, 57/89, 3/90, 45/90 and *FRY Official Journal*, Nos. 35/92, 37/93 and 24/94)