



REPUBLIC OF SERBIA

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

FOR THE PERIOD 2016-2020

JANUARY, 2016

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Based on Article 45, paragraph 1 of the Law on Government ("Official Gazette of RS", no. 55/05-correction, 101/07, 65/08, 16/11, 68 / 12- CC, 7/14 - CC and 44/14),

Government adopts

THE NATIONAL STRATEGY FOR THE PROSECUTION OF WAR CRIMES

I GENERAL PART

1. INTRODUCTION

1.1. 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 (1992-1995), 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.

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

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

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.

1.2. 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).

1.3. THE COMMITMENT OF THE REPUBLIC OF SERBIA

Domestic trials for war crime committed during the armed conflict of the 1990s, constitute one of the most important steps in the reconciliation process, the 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..

Given that war crimes constitute *delicta contra juris gentium* and their prosecution is a concern of the international community as a whole, not just one national judiciary the Republic of Serbia shall continue to do everything in its power in the forthcoming period to ensure that all grave, large-scale and systematically committed war crimes are 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, and to promote policy of reconciliation, tolerance, regional cooperation and good neighbourly relations, as a prerequisite for lasting stabilization and prosperity of the entire region.

1.4. CURRENT NORMATIVE AND INSTITUTIONAL FRAMEWORKS

The commitment of the Republic of Serbia to efficiently detect and prosecute war crimes committed in the former Yugoslavia resulted from the establishment of normative and institutional framework for the prosecution of war crimes in the judicial system of the Republic of Serbia. 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, 101/11 oth.law and 6/15.) 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. 85/05, 88/05- corr, 107/05- corr., 72/09, 111/09, 121/ 12,104 /13 and 108/14); 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

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.

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

Despite the unquestionable commitment of the Republic of Serbia on unacceptability of impunity for war crimes, the fact is 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. Therefore, 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.

In the past, certain criticism could be heard from the professional and scientific community, civil society organizations, international organizations or the European Commission, regarding the current quality of investigations and proceedings for war crimes.³ The most frequently made objections are related to:

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 Proceedings 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.

- 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.

Due to the above, 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.

The adoption of the National Strategy constitutes a sign of 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 NATIONAL STRATEGY AND ITS RELATIONSHIP WITH OTHER RELEVANT STRATEGIC DOCUMENTS

The scope of the National Strategy 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 create the conditions 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;
- c) improved mechanisms for the protection and support of witnesses and victims;
- d) effective mutual cooperation of state bodies involved in the detection and prosecution of war crimes
- e) improved attitude of the society towards the importance of punishing war crimes.

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 European Union. 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.

The National Strategy represents a type of link between the Action Plan for Chapter 23 and Prosecutorial strategy for investigation and prosecution of war crimes in the Republic of Serbia, which will be adopted by the War Crimes Prosecution, based on the Action Plan for Chapter 23, in accordance with the principles set forth in the National Strategy, in an attempt to improve the efficiency of investigations and prosecution. Due to the specifics related to the partial substantive overlap between the three strategic documents of different types and levels of generality, the National Strategy also contains a precise timetable for the implementation of planned activities. While this represents certain methodological deviation, attributing the National Strategy a partial character of the action plan, it contributes to avoiding a potential mismatch and discontinuity in the implementation of reform measures contained in all three strategic documents.

Considering the authority of the Government of the Republic of Serbia, on the basis of Article 45, paragraph 1, to adopt development strategies in areas under the jurisdiction of the Republic of Serbia, as well as a partial overlap with the activities of the National Strategy envisaged in the Action Plan for Chapter 23, as a strategic document adopted the National Assembly, which as such obliges institutions of the three branches of government, as well as the issues that will be discussed in detail in the Prosecutorial strategy for investigation and prosecution of war crimes in the Republic of Serbia, the basic principle underlying this strategy is that it does not jeopardize in any way the constitutional guarantees of judicial independence and autonomy of public prosecution, and all activities therein should be interpreted in accordance with this principle.

In order to secure adequate financial resources required for the implementation of this strategy, during the consultation process that preceded its adoption, an approval from the Ministry of Finance was obtained on the evaluation of the effects of the National Strategy.

The indicators of efficient implementation of the National Strategy are the following:

- 1) The processing of cases based on the priorities established in accordance with the criteria defined by the Prosecutorial strategy;
- 2) The increase in the number of indictments in relation to the number of investigations;
- 3) The increase in the number of finalized proceedings in relation to the number of indictments;
- 4) The shorter average duration of war crimes proceedings;
- 5) Positive evaluation by the European Commission on the alignment of the system of protection and support to victims and witnesses in the Republic of Serbia with the European Union standards;
- 6) Increased number of initiated and resolved cases due to regional cooperation;
- 7) Reduced number of missing persons whose fate has not been clarified;
- 8) Positive reports of the Chief Prosecutor and the President 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, to the Security Council;
- 9) Positive reports from other relevant governmental and non-governmental organizations;

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 the Republic of 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 (European Commission 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 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 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, whose jurisdiction is determined in Article 4, paragraph 10 of the Law on Managing Migrations.⁵

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

⁵

A separate working group was established to deal with the issue of missing persons in the territory of Autonomous Province 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

-
- maintains 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.

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

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 the Republic 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, the Republic of 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; 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 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.

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 could be improved with respect to receiving redacted witness statements in the possession of the Tribunal, given that these witness statements constitute one of the most important evidentiary means; hence, a way has to be found to grant the Republic of 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 Republic of Serbia is committed to the full implementation of the existing bilateral agreements.

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 Bosnia and Hercegovina and Croatian Prosecutors, and Prosecutors have formed joint investigation teams in certain cases. The joint action by the Prosecutors and police forces of Bosnia and Hercegovina and the Republic of 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.

Nevertheless, there is still room for improvement of the 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 sincerely in the provision of legal assistance.

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

A) Serbia:

Out of 178 accused persons, two are Bosniaks; two are Croats (one is a Croatian national, the other a Bosnia and Hercegovina 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 courts of the Republic of Serbia 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 Bosnia and Hercegovina 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 Bosnia and Hercegovina, about four-fifths of the sentences were imposed on Serbs.⁸

C) Croatia:

According to the State Prosecutor's Office data of 12/04/2014⁹, 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 Documentation Information Centre 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%.

An additional problem is 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 judicial bodies of the Republic of Serbia 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 quality of regional cooperation shall also be affected by the initiative of Croatian MPs in the European Parliament, launched in January 2015, which requires restriction of the territorial and personal jurisdiction of the 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 Republic of Serbia is ready to consider this and all other outstanding issues in cooperation with its neighbours, in the spirit of the idea that war crimes must be prosecuted 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, and the Republic of Serbia will continue to do everything in its power in order to be more effective.

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 Hercegovina 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.

Significant cooperation has been achieved 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 Office of the War Crimes Prosecutor provides assistance to the European Union 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. The obligation of the state authorities is to provide citizens, in the spirit of full respect for freedom of speech, directly or through the media, complete information on war crimes proceedings. Early education about conflicts that resulted in war crimes and promotion of ideas of tolerance, reconciliation and cooperation, represents a significant step in building a society in which the idea of impunity of crimes is unacceptable. By providing the media representatives with an opportunity to familiarize themselves with the issues of war crimes, the Serbian authorities would ensure that information that citizens receive about the conflicts in the former Yugoslavia is not incomplete and inconsistent, and reporting on war crimes trials is not subjective, biased and sensationalist. Transparency of state bodies and their readiness to cooperate with the media are a prerequisite that the lack of relevant and objective information is not 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.

II 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. The same applies to victims.

Objective 1

The Office of War Crimes Prosecutor has adopted and implements Prosecutorial Strategy for Investigation and Prosecution of War Crimes (hereinafter: Prosecutorial 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 Prosecutorial Strategy should be based in the following principles:

- 1) Equal treatment of any suspect, notwithstanding his or her position, status, nationality, ethnicity or religious beliefs. The same applies to victims.
- 2) Full compliance with the Completion Strategy of the ICTY, the Action Plan for Chapter 23 and the National Strategy;
- 3) Precise definition of impact indicators and results of strategy implementation;
- 4) Clearly defined 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
- 5) Efficient and sustainable 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.

Some of the criteria for setting priorities could 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 criminal offence which is subject of the proceedings to the local community should also be taken into account.

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 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 4 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, international criminal law and investigative techniques 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:

Improved status and efficiency of the War Crimes Investigation Service.

Activities:

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

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 of Interior;
- 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, based on clear and transparent criteria, 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 2 of 2016

Improving cooperation between the Office of War Crimes Prosecutor and the War Crimes Investigation Service through:

- Organization of joint trainings;
- Establishment of a joint strategic team to define guidelines and directions of acting in matters of common concern;
- Formation of joint operational teams;
- Periodic mutual organization of round tables in order to exchange experiences and improve joint operation.

Time limit: Continuously

1.2. Trials

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.

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:

Improved efficiency of trials for war crimes, by ensuring continuity in the composition of the judicial chambers.

Activities:

Consistent application of Articles 10 and 10a of the Law on the Organization and Jurisdiction of Government Authorities in War Crimes Proceedings, in respect of the period for which judges are assigned to the War Crimes Chamber;

Determination of additional judges in cases in which there is a reasonable fear that due to the expiry of the term of the presiding judge instructed to the department for war crimes, the trial had to start over again.

Time limit: Continuously

Objective 1:

Harmonised jurisprudence of all war crimes courts and chambers in former Yugoslavia, through the establishment of a regional database.

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 an obligation 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.

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.

Pursuant to Article 354 of the Criminal Procedure Code, presidents of the Higher and Appellate Court in Belgrade will strive to ensure the maintenance of hearings in adequate courtrooms in other courts through cooperation with the High Judicial Council.

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, Higher and Appellate Court in Belgrade, 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, as well as case management, 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 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 2012¹² establishing minimum standards on the rights, support and protection of victims of crime, for the purpose of 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:

Inter-sectorial Working group of the Ministry of Justice will prepare an analysis of court practice in the implementation of Article 102 of the CPC as well as the analysis of the provisions and results of the implementation of the Law on the program of protection of participants in criminal proceedings and formulate conclusions and recommendations on the needs of any amendment to this law or the accompanying bylaws in order to improve the protection system, with the aim of establishing the need for the amendments to the law to improve witness and victim protection.

Time limit: Quarter 1 - 4 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:

¹² Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

- 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 victims¹³.

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

¹³ Articles 102, and 369-374 of the Criminal Procedure Code

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

- Organization of joint trainings;
- Establishment of a joint strategic team to define guidelines and directions of acting in matters of common concern;
- Formation of joint operational teams;
- Periodic mutual organization of round tables in order to exchange experiences and improve joint operation.

Time limit: Continuously

3. SUPPORT TO VICTIMS AND WITNESSES

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/EU¹⁴, 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,

¹⁴ Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

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 3 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 4 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

Cooperation between the Office of War Crimes Prosecutor in the preliminary investigation proceedings and the Commission on Missing Persons so far, as well as regional cooperation in this field and 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:

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 3:

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

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.

Of the great importance is 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

The Republic of Serbia shall endeavour to maintain good practice of 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

The Republic of Serbia shall endeavour to maintain good 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:

The Republic of Serbia shall invest efforts to develop 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 Process¹⁵ 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

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 Office of War Crimes Prosecutor will promote the establishment of *joint cross-border investigative prosecutorial teams* with the countries of the region as a method to achieve better cooperation.

Time limit: Continuously

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,

¹⁵ 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".

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 Republic of Serbia will continue to promote the idea of regional cooperation to ensure the effective prosecution of war crimes, when necessary, under the supervision of the EU, the EUROJUST Genocide Network 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.

Objective 3:

Enhanced cooperation with the judicial bodies of the provisional institutions of Kosovo and Metohija¹⁶.

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.

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

Activities:

Active participation of judges and public prosecutors who handle war crimes cases 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.

¹⁶ 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 Ministry of Justice, in cooperation with the Office of War Crimes Prosecutor and High Judicial Council, will invest efforts to secure 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:

- Increased frequency of acting by presidents of the competent courts in accordance with Article 16a of the Law on the Organization and Jurisdiction of Government Authorities in War Crimes Proceedings;

Time limit: Continuously.

- 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, with a gradual increase of the numbers of the actual decisions (in accordance with measures to improve the availability of case law provided by the Action Plan for Chapter 23), 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.

With the support of the Council for the implementation of the Action Plan for Chapter 23 and the Negotiating Group for Chapter 23, the inclusion of representatives of the institutions responsible for the prosecution of war crimes in the mechanism of cooperation with civil society organizations through their participation in occasional meetings with the National Convent of the EU.

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, in cooperation with media organizations, judicial institutions and international organizations, where, with the help of judges, public prosecutors and independent experts, they would acquire additional skills to facilitate provision of public information on war crimes proceedings.

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:

In accordance with activities 3.8.1.9. and 3.8.1.10. of the Action Plan for Chapter 23, the quality and content of the curriculum that tackles issues related to the history of the conflict in the former Yugoslavia and the crimes that were committed during those conflicts, is continuously monitored and upgraded in accordance with the mechanisms of the Ministry of Education, Science and Technological Development. These mechanisms include the active role of the National Education Council, the Institute for Improvement of Education, the Institute for Evaluation of Education and Training, and in particular the National Councils of National Minorities in the process of granting the status of textbooks, bearing in mind the principles of tolerance, non-discrimination, reconciliation and the need to build good neighbourly relations.

Time limit: Continuously

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 Government of the Republic of Serbia, 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

Members of the Government of the Republic of Serbia and MPs, in accordance with the provisions of the newly adopted Code of Conduct for members of the Government and MPs, refrain from unauthorized commentaries of the work of the judiciary.

Time limit: Continuously

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.

Monitoring of the implementation will be entrusted to a twelve- member working body 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. In delegating

the representatives for membership in the working body, the institutions shall ensure that they are extremely highly ranked in a hierarchical structure of the institution, which would provide a more effective impact on the implementation of the Strategy. 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.

The Working body for monitoring the implementation of the Strategy shall organize regular meetings twice per year with representatives of all stakeholders involved in the prosecution of war crimes, monitoring of war crimes and transitional justice. These stakeholders are the judges of the Department for War Crimes, employees of the Office of the War Crimes Prosecutor, War Crimes Investigation Unit, Ministry of Justice, Ministry of Interior, the Protection Unit, as well as other interested organizations.

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, success in achieving the goals set forth in this Strategy also depends on the specific factors that are beyond its influence, such as the fact the criminal offences from the scope of competence of the Office of War Crimes Prosecutor were committed in the territory of other states, due to which there is a need to rely on the mechanisms of regional cooperation, for the efficiency of which the Republic of Serbia shall consistently strive, as much as for ensuring that risk factors such as the need for fiscal consolidation, or the passage of time, have the least influence on efficiency of the implementation of the National Strategy.

IV ANNEXES

This Strategy includes Annex 1, which is its integral part.

V PUBLICATION

This strategy shall be published in the "Official Gazette of the Republic of Serbia".

Annex 1

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. 67/03, 135/04, 61/05, 101/07 and 104/09)
- 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 (*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)