



# FUNCTIONAL REVIEW OF THE PROSECUTION SYSTEM IN SERBIA

January, 2019



Kingdom of the Netherlands



SWEDEN



WORLD BANK GROUP

© 2017 The World Bank  
1818 H Street NW, Washington DC 20433  
Telephone: 202-473-1000; Internet: [www.worldbank.org](http://www.worldbank.org)

### **Some rights reserved**

This work is a product of the staff of The World Bank. The findings, interpretations, and conclusions expressed in this work do not necessarily reflect the views of the Executive Directors of The World Bank or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of The World Bank concerning the legal status of any territory or the endorsement or acceptance of such boundaries.

### **Rights and Permissions**

The material in this work is subject to copyright. Because The World Bank encourages dissemination of its knowledge, this work may be reproduced, in whole or in part, for noncommercial purposes as long as full attribution to this work is given.

Attribution—Please cite the work as follows: “World Bank. January 2019. Functional Review of the Prosecution System in Serbia. © World Bank.”

All queries on rights and licenses, including subsidiary rights, should be addressed to World Bank Publications, The World Bank Group, 1818 H Street NW, Washington, DC 20433, USA; fax: 202-522-2625; e-mail: [pubrights@worldbank.org](mailto:pubrights@worldbank.org).

# Functional Review

## Of The Prosecution System In Serbia

---

January 2019



# ACKNOWLEDGEMENTS

The World Bank and the Multi Donor Trust Fund for Justice Sector Support in Serbia (MDTF-JSS) is implementing a number of activities aimed at strengthening prosecution system in Serbia. The Functional Review of Prosecution System analyzes the function of the Serbian prosecution system to provide an objective and data rich basis to Serbian authorities on efficiency and quality of prosecution system, governance and management over the system, as well as available resources and their influence on system performance.

The Analysis was prepared by the MDTF-JSS team, composed of Mr Srđan Svirčev, (Senior Public Sector Specialist and Task Team Leader), Ms Ellen Kelly (Consultant) and Dr Marina Matić Bošković (Justice Reform Expert). The Bank team was supported by an exceptional group of regional consultants throughout the process, including Ms Ana Krnić Kulušić (Justice Reform Expert), Ms Svetlana Djukovic (Human Resource Management Expert), and Dr Miloš Marković (Financial Resource Management Expert). The production of this report would not have been possible without the excellent support of Mr. Nenad Milić and Mr. Amir Beslagić who supported extensive data collection process. The special appreciation goes to Ms. Bisera Nurković for organizing missions, processing manuscripts and Dr Jelena Kostić for providing valuable insights along the way.

The team would like to thank for the valuable guidance of Dr Linn Hammargren in development of methodology and outline of the Prosecution Functional Review.

A special thanks is due to Margaux Veronica Roussel for her diligent proofreading of the report.

This Functional Review was requested by State Prosecutorial Council, and the team would like to thank stakeholders for their engagement in this analysis. Particular appreciation goes to officials from the State Prosecutorial Council and Administrative Office, Prosecutors Offices, as well as prosecutors, prosecutorial staff, judges and attorneys for their time, hospitality, and willingness to discuss issues in an open manner. Several stakeholders provided detailed comments on drafts, and this improved the quality of the Analysis. The team is also grateful to the international partners for their support and suggestions.

# Acronyms and Abbreviations

<b>AO</b>	Administrative Office
<b>AVP</b>	Automated case management
<b>BEX</b>	Budget execution system
<b>BPMIS</b>	Budget preparation management information system
<b>BSL</b>	Budget System Law
<b>CCJE</b>	Consultative Council of European Judges
<b>CCPE</b>	Consultative Council of European Prosecutors
<b>CEPEJ</b>	European Commission for the Efficiency of Justice
<b>CMS</b>	Case management system
<b>CPC</b>	Criminal Procedure Code
<b>DBB</b>	Direct budget beneficiaries
<b>ECHR</b>	European Convention on Human Rights
<b>ENCJ</b>	European Network of Councils for Judiciary
<b>EU</b>	European Union
<b>EUD</b>	European Union Delegation
<b>EUR</b>	Euro
<b>FINPLAN</b>	Financial planning software
<b>FMIS</b>	Budget execution software
<b>GRECO</b>	Group of States Against Corruption
<b>HJC</b>	High Judicial Council
<b>HR</b>	Human resources
<b>IBB</b>	Indirect budget beneficiaries
<b>ICT</b>	Information and communication technology
<b>JA</b>	Judicial Academy
<b>KTN</b>	Cases for which a suspect has not been identified
<b>KTR</b>	Various criminal cases which have not reached the formal investigative stage
<b>LCF</b>	Law on Court Fees
<b>MEI</b>	Ministry of European Integration
<b>MDTF-JSS</b>	Multi-donor Trust Fund for Justice Sector Support in Serbia
<b>MoF</b>	Ministry of Finance
<b>MoI</b>	Ministry of Interior
<b>MoJ</b>	Ministry of Justice
<b>NJRS</b>	National Judicial Reform Strategy
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PAS</b>	Prosecutors Association of Serbia
<b>PPO</b>	Public Prosecutor Office
<b>RPPO</b>	Republic Public Prosecutor Office
<b>RSD</b>	Serbian dinar
<b>SAPO</b>	Standardize Software Application for Prosecution Organization
<b>SPC</b>	State Prosecutorial Council
<b>TNA</b>	Training Needs Assessment
<b>ZUP</b>	An accounting software
<b>WB</b>	World Bank
<b>WEF</b>	World Economic Forum
<b>WJP</b>	World Justice Project

# TABLE OF CONTENTS

<b>1. OBJECTIVE, SCOPE AND STRUCTURE</b>	<b>1</b>
<b>2. OVERALL CONCLUSIONS AND PRIORITIES</b>	<b>7</b>
<b>3. OVERVIEW OF THE PROSECUTION SYSTEM IN SERBIA</b>	<b>19</b>
<b>4. GOVERNANCE AND MANAGEMENT</b>	<b>29</b>
Main Findings	29
Recommendations	32
<b>5. QUALITY</b>	<b>45</b>
Main Findings	45
Recommendations	47
<b>6. EFFICIENCY, TIMELINESS AND PRODUCTIVITY of prosecutors' offices</b>	<b>59</b>
Main Findings	59
Recommendations	63
<b>7. FINANCIAL RESOURCE MANAGEMENT</b>	<b>71</b>
Main Findings	71
Recommendations	73
<b>8. HUMAN RESOURCE MANAGEMENT</b>	<b>81</b>
Main Findings	81
Recommendations	83
<b>9. ICT MANAGEMENT FUNCTION</b>	<b>93</b>
Main Findings	93
Recommendations	95
<b>10. INFRASTRUCTURE MANAGMENT</b>	<b>103</b>
Main Findings	103
Recommendations	103



1

---

**OBJECTIVE, SCOPE  
AND STRUCTURE**

OBJECTIVE, SCOPE AND STRUCTURE



# 1 OBJECTIVE, SCOPE AND STRUCTURE

**1. This Functional Review (FR) is the most comprehensive examination to date of the workings of Serbia's prosecutorial system, and includes options and recommendations to assist Serbia achieve the requirements of Chapter 23 of the European Union's (EU) Acquis Communautaire.**

One of the principal goals of the Review is to present an objective baseline of current sector performance, including assessments of the progress towards the prosecutorial goals of Serbia's 2016 Action Plan for the implementation of the National Judicial Reform Strategy 2013-2018 (NJRS) for Chapter 23,<sup>1</sup> which centered on the transfer of competences for the prosecutorial system from the Ministry of Justice (MoJ)<sup>2</sup> to the State Prosecutorial Council (SPC) and improvement of capacities of the SPC. The second principal goal is to provide options and recommendations for Serbia's National Judicial Reform Strategy 2019-2024, and its accompanying Action Plan.

**2. The structure of this Functional Review tracks the structure of the Serbia Judicial Functional Review conducted by the Multi-Donor Trust Fund for Justice Sector Support in Serbia, World Bank, 2014.** Accordingly, it includes elements of both external and internal performance assessments. The external performance assessment aspects of the Review examine how well the prosecutorial system serves Serbia's citizens in terms of the quality and efficiency of the system. The internal performance assessment aspects examine how financial and human resources, information and communications technology (ICT), and infrastructure are managed. The Review begins with a detailed assessment of the governance and management of the system, since the continued shared authority of the MoJ and the SPC for running many aspects the prosecutorial system affects all internal and external aspects of the system's operations.

---

<sup>1</sup> The Strategy is available at: <https://www.mpravde.gov.rs/tekst/2959/nacionalna-strategija-reforme-pravosudja.php>, and the Action Plan is available at: <https://www.mpravde.gov.rs/tekst/2963/akcioni-plan-za-sprovođenje-strategije.php>

<sup>2</sup> Prior to May 2014, the MOJ was the Ministry of Justice and Public Administration. In this report, it will be referred to as the MOJ.

**3. The analyses draw on a mix of quantitative and qualitative data, including statistical analysis of case management, finance and human resource data, and key informant interviews.**

The focus throughout this Review has been to present the most objective and realistic picture as possible, with the goal of helping Serbia continue its progress towards aligning the performance of its judicial system with that of European Union Member States, and to improve the performance of the system for the benefit of the consumers of judicial system services.

**4. This Review focuses primarily on three years – 2014, 2015 and 2016 – in which Serbia’s prosecutors adjusted to extensive changes in the nation’s Criminal Procedure Code (CPC) that were introduced in all courts in 2013.**

At the same time, leaders of Serbia’s political and judicial systems were under continuous pressure to make major additional structural changes to the governance and management of the country’s prosecutorial functions as part of Serbia’s accession to the European Union. By 2018, when the analysis for the Review was conducted, prosecutors and judges had approximately five years of working with and considering the implications of the new CPC.

**5. The Review’s recommendations are designed to be actionable and specific.**

Serbian authorities will determine which of the recommendations to adopt, and how those adopted should be sequenced and funded. The recommendations for each chapter are accompanied by a series of steps to implement the recommendation. Each step also notes the institution proposed to be responsible for taking the recommendation forward, as well as the other institutions whose collaboration is necessary for effective implementation. Suggested timeframes are indicated for each step, from short term (12 months), to medium term (2-3 years) and long term (5 years), commencing from 2019, which is the anticipated date for the launch of the Action Plan for Serbia’s National Judicial Reform Strategy 2019-2024.

1

3



# 2 OVERALL CONCLUSIONS AND PRIORITIES

---



## 2 OVERALL CONCLUSIONS AND PRIORITIES

**6. Additional alignment of Serbia’s prosecutorial system with EU norms will not occur unless Serbia provides the financial and specialized human resources to build a comprehensive performance management system.** The European integration process has provided direction for reforms, but also resulted in frequent changes in the organization, position, and competence of Serbian prosecutors. Despite these changes the performance of Serbia’s prosecutors match those of their EU counterparts in many respects.<sup>3</sup> However, this Review’s analyses show there is no uniformity of many processes, staffing patterns or performance results across Public Prosecution Offices (PPOs), even those of the same size or jurisdiction levels. Neither the PPOs nor their primary governing body, the State Prosecutor Council, have adequate manual or electronic systems to collect enough detail about the system’s operations for continuous, real-time improvements in management.

**7. Serbia has not followed earlier recommendations to provide a unified case management system and corresponding equipment in all PPOs.** This has left administrators and leaders without the detailed data they need to design and implement comprehensive performance management, reward the most effective PPOs, staff and prosecutors, and to replicate successful practices throughout the system. The lack of data and visible improvements contribute to cynicism among those both inside and outside the system, and the relatively low integrity and independence ratings of Serbia’s judicial system in rankings like the World Justice Project Rule of Law Index 2017–2018 and the 2018 World Economic Forum’s Global Competitiveness

<sup>3</sup> Prosecutors improved the average total clearance rates overall from 2014 through 2016. For instance, while most clearance rates remained below 100 percent, indicating there were more cases coming into the system than cases resolved, this result was far from unique to Serbia: 2014 data analyzed by CEPEJ in 2016 shows more than 70 percent of the states for which data was available showed a negative clearance rate, while only 10 states or federated entities had a clearance rate greater than 100 percent. Serbian prosecutors also have been willing to embrace additional techniques for moving cases through the system. Of the 45 countries covered by a CEPEJ report covering 2014 data, only six had more cases “concluded by a penalty or a measure imposed or negotiated by the prosecutor,” including deferred prosecutions.

Report.

**8. Proposed Constitutional amendments currently under consideration should move Serbia closer to compliance with EU best practices for governance of its prosecutorial system.** The proposed amendments would retain the current features of the SPC that comply with the emerging EU norms for prosecutorial governance. At the same time, the proposed amendments would move Serbia into closer compliance with the norms, by adopting measures to ensure the SPC cannot function purely as instruments of self-government, and that its structure includes safeguards for the SPC to remain politically neutral by removing much of the National Assembly's power for appointment of SPC members.

**9. Even without the Constitutional changes, the SPC has committed itself to the principles of independence for the SPC and individual prosecutors.** The system has definitive rules prohibiting those outside the system from trying to influence prosecutors to take certain steps or follow particular tactics in individual cases. To add weight to these measures, in 2017 the SPC established its Commissioner for Autonomy.<sup>4</sup> The Commissioner reports to the public on claims of undue influence on prosecutors, a development which has drawn praise from EU experts.<sup>5</sup> It also has generated significant favorable publicity for the system, but public opinion of the system is so low that long-term public outreach is required to change the system's image and give the public more of a sense that justice is being done.

**10. Serbia also has continued to establish appropriate prosecutorial offices to deal with cases of corruption, organized crime and other matters of particular public interest.** Specialized departments in the Higher PPOs of Serbia's four largest cities (Belgrade, Novi Sad, Kragujevac and Nis) started work on March 1, 2018, as authorized by the Law on Organization and Jurisdiction of State Bodies in Combating

---

<sup>4</sup> Article 9 of the SPC Rules of Procedure (Official Gazette No. 29/2017 and 46/2017) introduced the Commission for Autonomy as a measure to implement the Screening Report for Chapter 23 recommendations. The Screening Report recommended that judicial and prosecutorial councils should introduce mechanisms for reducing the pressures of external and internal pressure. The EU 2016 Report explicitly identified that external pressure was being exerted on the judiciary by the many public comments made about investigations and ongoing cases, some of them from the highest political levels, and without adequate protective measures being taken by the HJC and SPC.

<sup>5</sup> From the Serbia 2018 EU report SWD(2018) 152 final: "Pressure on the judiciary (including from authorities within the judiciary) remains high. Public comments by government officials, some at the highest level, on investigations and ongoing court proceedings continue and are perceived as pressure on judicial independence. . . . A more elaborate mechanism has been put in place by the State Prosecutorial Council for both ad hoc and regular reactions in cases of alleged political interference. The SPC's newly appointed Commissioner for Autonomy has a mandate to take action on individual complaints by deputy prosecutors and has already processed several cases."

Organized Crime, Terrorism, and Corruption.<sup>6</sup> Plans call for these departments to be staffed by financial forensic experts as well as prosecutors. There are also specialized departments in some Belgrade PPOs for commercial offenses, domestic violence, and combating high-tech crime. Since 2003, Serbia also has had a Special Prosecutor's Office for War Crimes and a Special Prosecutor's Office for Organized Crime, which were established in line with Council of Europe recommendations for the prosecution of particular offenses.

**11. Serbia's political leaders have to implement an effective, no-tolerance policy for the unwillingness of police to follow prosecutors' instructions during all investigative phases of a case.**

Otherwise, all the management training and ICT in the world will not be enough to produce consistent improvements in the quality and timing of case resolutions or increased public confidence in the judicial system. The lack of police cooperation also will mean that Serbia's efforts to develop an independent judicial system and public recognition of the importance of the judiciary in protecting human rights and democratic processes

will fail. Under the CPC which took effect throughout the system in late 2013, prosecutors rather than judges

are responsible for directing the investigation once there is a determination that a crime has been committed. However, prosecutors and judges interviewed for this Review reported that the Ministry of Interior (MoI), which includes most police agencies, considers itself to be an independent actor under no obligation to follow the instructions of any prosecutor, no matter what the CPC says to the contrary. Interviewees indicated the lack of cooperation arises in all types of cases, and especially in those in which political interests might be involved.

*The mandatory qualifications for SPC members do not include managerial experience, and any management experience of prosecutorial SPC members is predominantly acquired on the job. The top staff in many PPOs also lack management experience.*

*The official involvement of the Ministries of Justice and Finance in the management and administration of the system, and the de facto involvement of the Ministry of Interior in day-to-day prosecutorial functions all limit the system's independence and effectiveness, and its ability to fight corruption.*

**12. The fractured nature of institutional responsibility for prosecutorial operations between the Ministry of Justice, Republic Public Prosecutors Office (RRPO) and State Prosecutorial Council also undercuts the performance possibilities of Serbia’s prosecutors.** The Consultative Council of European Prosecutors (CCEP)<sup>7</sup> norms and principals provide that prosecutorial systems, even when they lack full management autonomy, should have significant authority for preparing and negotiating their budgets and spending their allotted funds.<sup>8</sup> However, the Serbian executive still has an important role in the approval of funds for the prosecutorial system. The country’s 11-member SPC manages PPO budgets for wages and wage-related expenses of prosecutors; most of the non-staff expenses of the system, and fines and penalties. The MoJ hires and manages the budget for wages and wage-related expenses of non-prosecutorial staff, and the capital expenditure of PPOs. The MoJ also plays a critical role in setting the amount of the annual budget

<sup>7</sup> *The Consultative Council of European Prosecutors (CCPE), a consultative body to the Committee of Ministers of the Council of Europe, recognizes the importance of closely involving the Public Prosecution services of its member States in developing common policies and legal instruments related to their functioning and professional activities.*

<sup>8</sup> *CCPE, Opinion No. 9 (2014) on European norms and principles concerning prosecutors.*



administered by the SPC and negotiating all aspects of the prosecutorial system budget with the Ministry of Finance (MoF). The 2013 National Judicial Reform Strategy<sup>9</sup> and Action Plan for Chapter 23<sup>10</sup> called for the transfer of many of these responsibilities to the SPC by the first quarter of 2017. There was no transfer by the end of 2018.

**13. The lack of reliable performance management data makes it hard to assess whether the prosecutorial system as a whole receives enough funding to perform as well as it might.** The budget preparation processes for PPOs have not entailed any budget performance assessments. In 2014, Serbia ranked among the top spenders on prosecutorial systems among the sample of European countries in CEPEJ<sup>11</sup> reports on efficiency and the quality of justice<sup>12</sup> and Serbia's reported expenditures represented 0.11 percent of GDP. However, Serbia's system was underfunded when expenditure was put in the context of affordability as measured by GDP per capita. When compared to the EU sample, Serbia's prosecutorial expenditure could almost double before it reached the average.

**14. It is clear that substantial investment is needed in ICT, infrastructure, and staffing adjustments needed to improve prosecutorial operations.** The current level of ICT equipment serves only the basic needs of the prosecutorial system and, as noted above, there is no system-wide case processing software in place for PPOs. All prosecutors and support staff have access to personal computers and there is software that supports some different business processes, but the primary use of working stations remains word processing and e-mail communication. Most working stations in the system are between three and five years old; there are significantly more computers older than seven years than there are relatively new ones. A 2017 EU project report calculated 1,611 printers were needed in PPOs but there were only 773. The report noted most PPOs did not have a scanner or enough dictating equipment, and most data was stored only on local hard drives, which carries significant operating and security risks.

---

9 National Judicial Reform Strategy, activities 1.2.3.1 transfer of budget competences and 1.2.3.2 transfer of infrastructure competences.

10 Action Plan for Chapter 23, activity 1.1.4.7. transfer of budget competences.

11 "European Judicial Systems – Efficiency and Quality of Justice" available at [https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/REV1/2016\\_1%20-%20CEPEJ%20Study%2023%20-%20General%20report%20-%20EN.pdf](https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/REV1/2016_1%20-%20CEPEJ%20Study%2023%20-%20General%20report%20-%20EN.pdf).

12 These observations should be interpreted with caution given certain methodological inconsistencies regarding the scope of expenditure captured in the CEPEJ report (e.g., reported figures for some countries may exclude investigation-related expenditure).

**15. The system needs to hire staff with specialized management and analytical skills, within the SPC and some of the PPOs with the largest or most demanding caseloads.** The extent of these personnel needs cannot be estimated with any precision, however, until the SPC conducts or directs a more thorough analysis of what staff it needs, and with what particular skills. Mandatory and sustained management training for members of the SPC and its staff, prosecutors and senior PPO staff at all levels would improve many of the prosecutorial performance indicators addressed in this Review.

**16. As is true for other Functional Reviews, the findings in this Review are inter-related and the recommendations are mutually reinforcing.** In particular, the findings and recommendations contained in the Governance and Management and Quality chapters are relevant to improving the performance of all prosecutorial functions, and increasing the transparency of and public confidence in the system.

**17. The Functional Review team suggests leaders and donors focus on the following five priorities to achieve the greatest performance improvements in the long run.** The first two, in particular, require political commitments from the leadership of Serbia's major parties, because if implementation of those priorities is not permanent, the message to Serbians and the world at large will be that Serbia is not committed to maintaining its status as a modern democracy and the principles of the rule of law. Since the needs underlying these priorities are so fundamental to the system, if the priorities are not addressed the system will stagnate instead of progressing.

**a. Adopt the pending Constitutional proposals to reform the selection of SPC members and the composition of the SPC.** The proposed amendments have been prepared, and it is unlikely the EU will agree to Serbia's accession if the amendments are not adopted. However, the amendments in and of themselves may not be enough to guarantee that prosecutors have the type and amount of independence commensurate with the norms of a modern democracy. (See Recommendation 1, Governance and Management section, below.)

**b. Give prosecutors effective and not simply theoretical supervision and control of the police during criminal investigations.** This is the most difficult priority, since it requires a sea change in the attitude of at least some political and security leaders towards the distribution of power in Serbia, and in the expectations of the public about the appropriate role of police in a modern democracy. For example, it has not been unusual for Serbia's judiciary and individuals within it to be the targets of direct attacks and innuendos planted in certain media by political leaders. It also is generally believed that information used in those attacks came from people working within the Ministry of Interior.

This Review contains recommendations that, if implemented, would provide the technical basis for appropriate cooperation between prosecutors and police. They include the adoption of Constitutional, legislative and administrative procedures to minimize the lack of cooperation, make the reform process transparent, and ensure that the necessary steps are taken to make the new processes work. Croatia adopted a protocol on cooperation in 2011<sup>13</sup> that might serve as an example for Serbia, but no model will work if there is not sufficient will on the part of public leaders or pressure from civil society to enforce it. (See Recommendation 1, Quality section, below.) The philosophical and political steps needed to make the necessary changes for prosecutors to exercise appropriate supervision and control of police in Serbia is beyond the scope of this Review.

**c. Design and implement a unified case management system in all PPOs, and provide the**

---

13

See <https://www.mup.hr/UserDocImages/topvijesti/Protokol.pdf>.



**necessary staff and ICT for the prosecutorial system to work.** The need for a prosecutorial CMS has been recognized for years, but it still has not been implemented. Instead, Serbia has kept the cost of its prosecutorial operation unrealistically low by funding neither a CMS nor all the staff the SPC and PPOs need for their efficient, effective and professional operation. Even if Serbia obtains funding for prosecutors' CMS and ICT needs from EU-based or other international sources, it has to commit its own resources to fund continuing personnel and maintenance costs. In the long term, given the volume of cases and need of the public for more efficient, accountable and transparent prosecutorial operations, Serbia has no choice. It has to rely on computerized, modern case management systems for the administration of its prosecutorial system, and it has to provide the funds and personnel to keep those systems running. (See Recommendation 1, Efficiency, Timelines and Productivity of Prosecutor's Office section, below.)

**d. Introduce a system of regular performance audits of all aspects of prosecutorial operations.** Prosecutors should have the primary technical responsibility for monitoring the system in which they work and correcting any problems they find. To date, however, neither the RRPO nor the SPC has the staff or policies needed to determine whether those within the system are following prescribed or recommended procedures for any aspects of their system, be they related to the day-to-day investigation and prosecution of crimes or the management of the RRPO, SPO and individual PPOs. This Review has documented there are PPOs performing efficiently, but there has been no documentation of which of the policies or other tools might produce similar results in other PPOs. Analyses of the top-performing PPOs would contribute to the development of regular performance audits. (See Recommendations 2, 3, 6, Governance and Management section, below.)

**e. Determine the best methods for providing training needed for members of the SPC, prosecutors and their staffs at least in the short- and medium terms.** A recurring theme of this Review is the need for those working in the system to receive more and continuous training. The need for training includes staff with specialized duties as well as prosecutors with active caseloads and/or management responsibilities. To date, Serbia has relied on the official Judicial Academy (JA) and occasional programs funded by donors to train its prosecutors and staff, but those efforts have not met the sector's management or case-handling needs. Given its governing structure, staffing limits and funding, it is not realistic or reasonable to expect the JA could or should provide all the necessary training. Particularly since many of the subjects for which training is needed are not Serbia-specific (e.g., various management and performance analysis techniques, forensic and other investigatory subjects

and adversarial trial techniques), experts or vendors who have furnished similar training elsewhere could provide it in Serbia much more quickly than similar programs could be arranged by the JA. (See Recommendation 2, Governance and Management section; Recommendation 5 and 6, Quality Section, below).



# 3

---

## OVERVIEW OF THE PROSECUTION SYSTEM IN SERBIA



# 3 OVERVIEW OF THE PROSECUTION SYSTEM IN SERBIA

**18. The prosecution of criminal suspects is an integral part of any country's criminal justice system.** The status and organization of prosecution services differ widely across Europe. However, all prosecution services are empowered to prosecute cases in criminal courts.

**19. Prosecutors are central actors in implementing the rule of law and serve as the link between police investigations and court adjudications.**<sup>14</sup> Prosecutors can be the most powerful figures in any country's criminal justice system, since they decide what crimes to prosecute, whom to charge, what charges to bring, whether to plea bargain, trial tactics and what sentences to propose.

**20. The European integration process has provided direction for reforms, but also resulted in frequent changes in organization, position, and competence of Serbian prosecutors.** The 2006 and 2013 Judicial Reform Strategies were shaped by the EU requirements for an efficient, quality, and independent judicial system. The 2016 Action Plan for Chapter 23<sup>15</sup> is a strategic document which focuses on independence and efficiency of the judiciary, as well as impartiality, accountability, and professionalism/competence of its key players. The activities set forth in the Action Plan centered on the transfer of competences from the Ministry of Justice to the State Prosecutorial Council and improvement of the capacities of the SPC. They also focused on the implementation of the following Recommendations from the European Commission's Screening report: (1) "The Councils should bear the responsibility for taking decisions on promotion, demotion or dismissal"<sup>16</sup> and (2) "Sufficient administrative capacities and financial authority over their own budget needs

<sup>14</sup> E. Luna, M. Wade, "The Prosecutor as Policy Maker, Case Manager, and Investigator. Introduction", in: *The Prosecutor in Transnational Perspective*, Oxford, Oxford University Press, 2012b, 1-19.

<sup>15</sup> Republic of Serbia, Action Plan for Chapter 23, April 2016, <https://www.mpravde.gov.rs/files/Action%20plan%20Ch%2023.pdf>.

<sup>16</sup> Recommendation 1.1.3. Action Plan for Chapter 23. Screening report Serbia – Chapter 23 – Judiciary and Fundamental Rights, MD 45/14, 15.05.14. "A fair and transparent system of promotion of judges and prosecutors needs to be established, together with a periodical professional assessment of judges and prosecutors' performance. A system to

to be ensured to allow the High Judicial and the State Prosecutorial Councils to effectively perform their tasks. Their work should be governed by transparency and institutional accountability.”<sup>17</sup> Some of the 2016 EU recommendations called for amending Serbia’s Constitution to ensure judicial independence and remove any possibility of political influence in the judicial system.<sup>18</sup>

**21. The 2006 Constitution guarantees the autonomy and the unitary nature of Serbia’s prosecution system.**<sup>19</sup> The principal purposes of the system are the prosecution of perpetrators of criminal offenses and other punishable actions (e.g., misdemeanors and commercial offenses), and taking measures to protect constitutionality and legality.<sup>20</sup>

**22. Prosecution services are not formally part of the judicial or executive branch, instead occupying a *sui generis* position.** As well as the Constitution, the Law on Public Prosecution<sup>21</sup> specifies that the chief principles guiding prosecutors’ work are constitutionality, legality, independence, impartiality, and transparency. The Law also provides that all prosecutors are to be independent in their work, and that influence by the legislative or executive branch is prohibited.<sup>22</sup>

**23. The 2006 Constitution led to changes in the organizational structure of the prosecutorial system, which includes public prosecutor offices of both general and specialized jurisdiction.** General jurisdiction offices include the Republic Public Prosecutor’s Office, Appellate Public Prosecutors’ Offices, Higher Prosecutors’ Offices, and Basic Prosecutors’ Offices. The RPPO is the highest prosecutors’ office in the country and supervises all lower level prosecutors to ensure their work is efficient and in accordance with the law. It also handles the application of extraordinary legal remedies.<sup>23</sup>

*monitor and evaluate the application of those standards in practice should be established. The Councils should bear the responsibility for taking decisions on promotion, demotion or dismissal”.*

17 Recommendation 1.1.4. Action Plan for Chapter 23.

18 Screening Report Serbia – Chapter 23: “With the support of external experts, Serbia should make a thorough analysis of the existing solutions/possible amendments to the Constitution bearing in mind the Venice Commission recommendations and European standards, ensuring independence and accountability of the judiciary.”

19 Article 156 of the Constitution of the Republic of Serbia, Official Gazette, No. 98/2006.

20 Article 156 of Constitution of Serbia.

21 Official Gazette, No. 116/2008, 104/2009, 101/2010, 78/2011, 101/2011, 38/2012, 121/2012, 101/2013, 111/2014, 117/2014, 106/2015, 63/2016.

22 Article 5, Law on Public Prosecution.

23 Extraordinary legal remedies are requests for reopening of criminal proceedings and requests for protection of legality, and are regulated in the Criminal Procedure Code, articles 470-494.

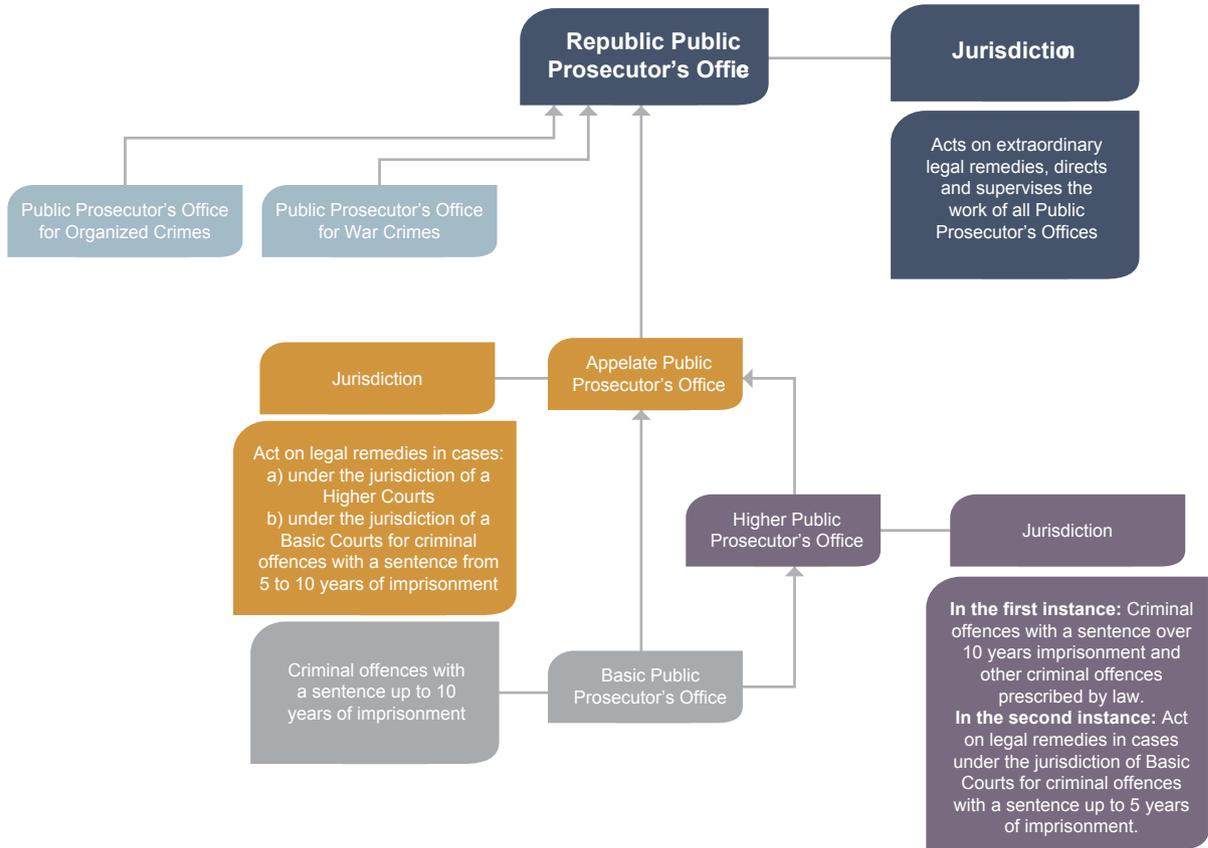
**24. The four Appellate PPOs have jurisdiction in appellate procedures that review the decisions of both Basic and Higher Courts.** They handle all criminal appeals from Higher Courts, and appeals from Basic Courts involving maximum possible imprisonments of five to 10 years.

**25. The 25 Higher PPOs have both first- and second-instance responsibilities.** In the first instance, they address cases with a minimum penalty of 10 years of imprisonment and cases involving hate crimes, juvenile justice, money laundering, and disclosures of state secrets. In the second instance, they handle appeals of Basic Court decisions for criminal offenses that carry fines or a maximum possible imprisonment of up to five years.

**26. The 58 Basic PPOs have first-instance jurisdiction for criminal offences with a maximum of 10 years of imprisonment.** Offences involving fines and up to 30 days of imprisonment are handled by the 44 Misdemeanor Courts, but prosecutors did not handle any Misdemeanor Court cases from 2014 through 2017. Commercial offences are handled by the 16 Commercial Courts and the PPOs with territorial jurisdiction corresponding to the Commercial Courts.<sup>13</sup>



Figure 1 - Public Prosecutor's System in the Republic of Serbia



**27. Serbia also has two specialized PPOs established to handle especially complex cases: the Special Prosecutor’s Office for Organized Crime<sup>24</sup> and the Special Prosecutor’s Office for War Crimes.<sup>25</sup>**

Both are located in Belgrade, but work throughout the nation. The Special Prosecutor’s Office for Organized Crime is responsible for the prosecution of organized crime and terrorism. The Special Prosecutor’s Office for War Crimes has competence for prosecution of perpetrators of war crimes and crimes against humanity conducted after January 1, 1991, in the territory of former Yugoslavia.

**28. The prosecution structure in Serbia is highly hierarchical.** The Law on Public Prosecution<sup>26</sup> makes lower- ranked Public Prosecutors subordinate to their immediately higher-ranked Public Prosecutors, and lower-ranked PPOs subordinate to their corresponding Higher PPOs. Basic PPOs rank lower than Higher PPOs, and Higher PPOs are ranked lower than Appellate PPOs. The Republic Public Prosecutor is superior to all other prosecutors, and the RPPO is superior to all other PPOs, including the special jurisdiction PPOs. Every PPO is heading by a Public Prosecutor. All other prosecutors within a PPO are Deputy Public Prosecutors.

**29. The SPC was created by the 2006 Constitution and ensures autonomy of all prosecutors.**

The structure and competencies of the SPC mirror those of the High Judicial Council. The SPC is chaired by the Republic Public Prosecutor and its composition, selection, mandate, organization, and manner of work are regulated by the Law on the State Prosecutorial Council.<sup>27</sup> The SPC proposes candidates to the National Assembly for the initial appointments of Deputy Public Prosecutors and the election of Public Prosecutors. It also determines whether a given Deputy Public Prosecutor receives a permanent appointment; prepares budgets for PPOs and the SPC; submits an annual report on its work to the National Assembly, and performs other tasks as prescribed by legislation.

**30. The prosecutorial system has undergone two significant reorganizations the past eight years.**

The prosecutor’s office network was reduced from 109 municipal PPOs to 34 in 2010, which also was the year that Appellate PPOs were introduced. Starting in 2014, the number of PPOs was changed to 58 Basic PPOs,

---

<sup>24</sup> *Law on Jurisdiction and Competences of State Bodies for Suppression of Organized Crime, Terrorism and Corruption, Official Gazette, No. 94/2016.*

<sup>25</sup> *Law on Jurisdiction and Competences of State Bodies for Suppression of War Crimes, Official Gazette, No. 67/2003, 135/2004, 61/2005, 101/2007, 104/2009, 101/2011, 6/2015.*

<sup>26</sup> *Article 16, Law on Public Prosecution.*

<sup>27</sup> *Official Gazette, No. 116/2008, 101/2010, 88/2011 and 106/2015.*

25 higher PPOs, four Appellate PPOs, and the RPPO.<sup>28</sup>

**31. Due to the two system reorganizations and several legislative amendments, three re-elections of prosecutors have occurred since 2001.** The first re-election was organized in 2003 based on amendments to the Law on Public Prosecution. The second was held in 2004, based on additional amendments of the Law on Public Prosecution, and the third occurred in 2009, after implementation of the 2006 Constitution and the 2006 Constitutional Law on the Implementation of the Constitution.

**32. Legislative amendments introduced substantial changes in the responsibilities of prosecutors, as well as instability in the system.** The philosophical basis for the Criminal Procedure Code was changed three times – in 2001, 2006, and 2011, as Serbia went from an inquisitorial system to the introduction of adversarial elements. During the last decade, the Criminal Code has been amended seven times<sup>29</sup> to align criminal acts with the requirements from international treaties or the recommendations given by international organizations and bodies (GRECO, MONEYVAL, FATF, etc.).

**33. As of October 1, 2013, when the 2011 Criminal Procedure Code (CPC) took effect, prosecutors, rather than investigative judges, became responsible for supervising the investigation of criminal cases.** One objective of the 2011 Code was to shorten the investigative phase of a case by giving prosecutors specific authority over several aspects of case management. These include managing pre-investigation proceedings and giving directions to the police; deciding whether to undertake or defer criminal prosecution; conducting investigations; concluding plea agreement, agreements on alternative sentences and agreements on the testimony of a defendant against other perpetrators; filing and pursuing indictments before a competent court; dropping charges; filing appeals, and submit extraordinary legal remedies against final court decisions.

**34. The 2011 CPC also gave Public Prosecutors and Deputies Public Prosecutors discretion to make prosecutorial decisions, deferring prosecution for all charges that could result in up to five years of imprisonment.** These provisions of the CPC are not in line with the Constitutional provisions on the position of a prosecutor that were drafted while investigation judge had control over investigation. As a consequence the Constitution does not provide necessary guarantees to public prosecutors to act independently and resist undue influences, by initiating and pursuing proceedings when politicians or other powerful people are involved in a case.

<sup>28</sup> *Law on Seats and Territories of Courts and Prosecution Offices, Official Gazette, No. 101/2013, Articles 9-11.*

<sup>29</sup> *Official Gazette, No. 5/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016.*

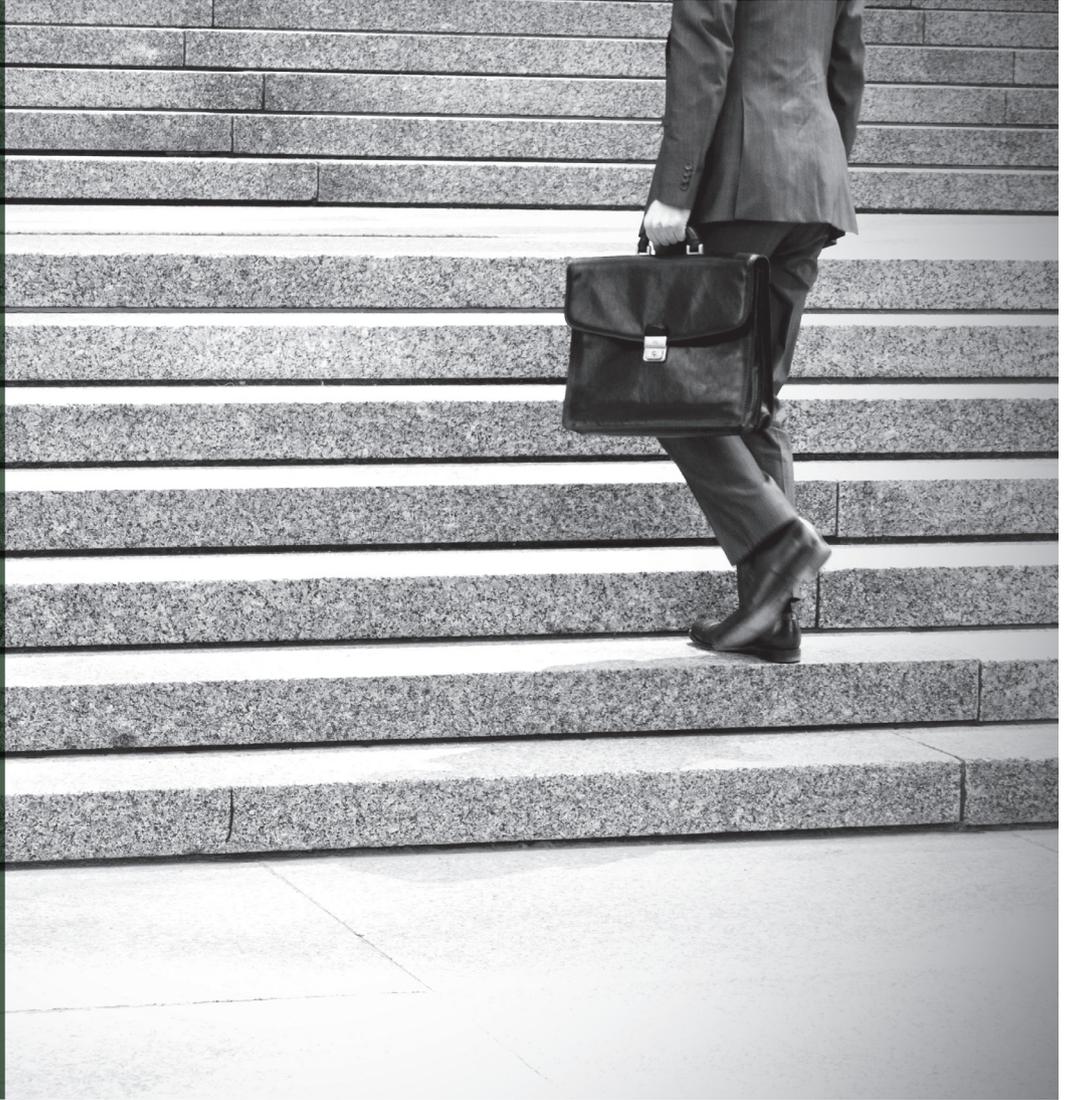




4

---

GOVERNANCE  
AND MANAGEMENT



# 4 GOVERNANCE AND MANAGEMENT

## Main Findings

**35. The Ministry of Justice, Republic Public Prosecutor Office and State Prosecutorial Council are the key governance bodies for the prosecution system in Serbia.** While the MOJ and RPPO are traditional governance bodies, the State Prosecutorial Council (SPC) was established relatively recently, in line with European trends.

**36. The creation of the State Prosecutorial Council in Serbia's 2006 Constitution was designed to promote the independent functioning of Serbia's prosecutors, by removing them from direct control by the executive branch, specifically the MoJ.** The SPC now plays a significant but not exclusive role in the recruitment and selection of new prosecutors. It also has ultimate responsibility for the career management of prosecutors (e.g. their evaluation and promotion), and the handling of complaints against prosecutors.

**37. The SPC's powers related to the appointments, promotions, and dismissals of prosecutors are more limited than those promoted by European and international standards.** Currently, Serbia's National Assembly approves the initial appointment of all prosecutors, as well as the appointment and dismissal of Heads of PPOs. Appointments by the Parliament are rare in Europe<sup>30</sup> and they raise concerns for the independence of prosecution in Serbia.<sup>31</sup>

*Despite past reforms, Serbia's National Assembly and executive branch still play significant roles in the selection of prosecutors and funding of the prosecutorial system.*

<sup>30</sup> Justice Scoreboard 2017, see [https://ec.europa.eu/info/sites/info/files/justice\\_scoreboard\\_2017\\_en.pdf](https://ec.europa.eu/info/sites/info/files/justice_scoreboard_2017_en.pdf).

<sup>31</sup> European Commission for Democracy through law (Venice Commission) Opinion on the Constitution of Serbia, adopted by the Commission at its 70th plenary session (Venice, 17-18 March 2007); CDL-AD(2007)004, Opinion No.

**38. The SPC and MOJ still share responsibilities for several key aspects of governing and managing the prosecutorial system, which inhibits the efficiency and effectiveness (if not the independence) of the system's performance.** Under the present Law on Public Prosecution the MoJ and SPC share responsibilities for setting and implementing some prosecution resources and operations with the RPPO, which inhibits system performance. Management of budgeting and financial resources also is split between the MoJ and the SPC. The MoJ is responsible for capital and investment costs, while the SPC is responsible for the operation and maintenance costs for infrastructure. However, this division is not always clear, as shown by the infrastructure funds spent by the MoJ and the SPC. While the RPPO is responsible for analyzing workload, the SPC is responsible for estimating the number of prosecutors needed per PPO, and the MoJ has the final decision about the number of prosecutors.

**39. The effectiveness of the SPC was hampered by its lack of staff with specialized skills and there has been no analysis of the needs or structure of the SPC Administrative Office.** The qualifications and role of the SPC's Secretary General also need to be expanded and specified. The SPC also has no specialized staff for roles such as analysis and planning, except in

*The First Belgrade Basic Prosecutor Office established investigation department in 2013 when Criminal Procedure Code entered into force with the aim to accelerate work of the Office and to deal with higher inflow of cases. Eight prosecutors' assistants are assigned to this department to deal with cases with up to eight years of imprisonment. Seven out of eight assistants were assistants to investigative judges prior to the new CPC. If cases are complex, custody cases or media interesting cases a deputy prosecutor will handle them, although it is case with sanction of up to 8 years of imprisonment. This organization of work allows deputy prosecutors to focus on complex cases.*

---

405/2006. "The involvement of parliament in judicial appointments risks leading to a politicization of the appointments.... Article 160 makes the Republic Public Prosecutor accountable to the National Assembly, Public Prosecutors accountable to the and the National Assembly and Deputy Public Prosecutors responsible to the Public Prosecutor. The meaning of accountability in this provision seems unclear. In any case, the parallelism of accountability to higher prosecutors and to the National Assembly suggests political interference in prosecutions and is disturbing."

the budget planning department, and it has no staff trained or specializing in performance audits.

**40. The delay in the appointment of many permanent Public Prosecutors left those PPOs without the stable leadership needed to run the offices properly.** Given the broad responsibilities of Public Prosecutors for the operation of each PPO, the delay affected all aspects of PPO operations.

**41. The system also suffered due to the lack of management experience among members of the SPC, Public Prosecutors and Secretaries of the PPOs.** The lack of staggered terms for SPC members represented another lack of institutional memory and experience in the management of the system.

**42. Variations in the management of PPOs may have affected performance results as well as staffing patterns and budget execution from 2014-2016, but the SPC did not have the analytical staff or data to determine the correlation between management approach and performance.** Administration of PPOs is regulated in detail by the Rules on Administration of Public Prosecution, but the rules do not cover all contingencies.

**43. Although European countries do not have uniform rules governing the relationship between the public prosecution and other government branches,<sup>32</sup> European standards encourage provisions that enhance the independence and autonomy of prosecution services.<sup>33</sup>** Serbia has a range of legal safeguards in place to protect the autonomy of prosecutors and prosecution services in Serbia. However, there was still a widespread perception that the judicial system is corrupt and not independent.

**44. Integrity of the prosecution system, as well as the perception of integrity, directly influences the quality of justice service delivery.** According to the World Justice Project (WJP) Rule of Law Index 2017 – 2018, Serbia ranks 74th out of 113 countries when it comes to absence of corruption in the executive branch, the judiciary, the police/military and parliaments. In this index, Serbia seriously lagged behind EU Member States<sup>34</sup> with only Bulgaria ranking lower. While the overall score for absence of corruption in Serbia was 0.43 out of 1.00, the judiciary was rated at 0.44 and the police/military at 0.53. The National Assembly

<sup>32</sup> *There are substantial differences in the status of Public Prosecutors despite the clear recommendations expressed in Rec (2000) 19 and IAP standards. In certain countries, the status of the Public Prosecutor is equal to the status of the judge. See P. J. P. Tak, Report on the relationship between judges and prosecutors, Working paper of the Consultative council of European judges (CCJE-GT(2009)4), 16<sup>th</sup> meeting, 2009.*

<sup>33</sup> *CCPE Opinion 9 of 2014 “on European norms and principles concerning prosecutors.”*

<sup>34</sup> *See World Justice Project Rule of Law Index 2017 – 2018, <https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018>. (Data for some EU Member States were unavailable.)*

was the lowest-ranking institution, at only 0.26.

45. Transparency was high on the PPOs' agenda during the period under review but implementation was still a challenge.<sup>35</sup>

## **Recommendations**

### **Recommendation 1**

**Align the composition and competence of the State Prosecutorial Council with European standards and ensure clear division of competences between the SPC, MoJ and RPPO, to ensure the SPC's effective administration of the prosecution system.**

<sup>35</sup> According to research of CRTA and ActionSEE, "Openness of judiciary authorities in the region and in Serbia", prosecutor offices fulfill 25 percent of openness indicators.



- **Complete the process of amending the Constitution to align the composition of the SPC and the selection of its members with European standards, and to allow the National Assembly to elect members based on a qualified majority of two-thirds of Assembly members. (MoJ, short term)**
- **Make the necessary legislative and regulatory changes to transfer all budget, human resource and ICT operations and maintenance responsibilities from the MoJ to the SPC. The MoJ would remain responsible for capital ICT investments. (MoJ -- short term)**
- **Institute a formal system to ensure compliance with the rules governing the transfer of prosecutors between offices, and that the RPPO and SPC confer about all proposed transfers. (SPC and RPPO – short term)**

### ***Recommendation 2***

---

**Increase managerial and analytic capacities of the SPC to ensure informed decision-making.**

- **Include managerial training and/or experience as criteria for assessment of candidates for the SPC and Public Prosecutorial Positions. (SPC, JA – medium term)**
- **Introduce a formal Inspector General function within the SPC to conduct mandatory, regularly scheduled performance audits of PPO, SPC and RRPO operations.** It would be appropriate but not mandatory to place this function under the Commissioner for Autonomy, since that position already is designed to undertake independent internal reviews of some aspects of the prosecutorial system.
  - **Establish a long-term working group to draft detailed plans for conducting performance audits of all aspects of the prosecutorial system.** The group should review how the performance audit function is conducted in other CEPEJ countries; propose methods, schedules and maximum completion times for the audits, and propose a formal scheme for the use of performance audits to improve the performance of the prosecutorial system. **(SPC, short term and ongoing)**
  - **Draft/amend the necessary legislation and rules to institutionalize the performance audit function.** The laws and Rules should make it mandatory for the SPC to review the results of performance functions at a formal meeting within a specified time of the **(MOJ, SPC,**

short term)

- Adopt the necessary legislation and Rules. (MOJ, SPC, short term)

- Obtain and allocate the necessary resources for the performance audits to begin and continue. (SPC, short term)

- Publicize the results of all performance audits. At a minimum, full reports of performance audits should be posted on the website of the SPC, with the exception of personal information about individuals protected from disclosure by any Serbian laws. (SPC, medium term)

- Follow through by remedying shortfalls identified in the performance audits. (SPC, medium term)

- Make greater use of local contractors and EU-based consultants with specialized skills to assist with the audits, research and studies needed to improve prosecutorial operations, and to conduct specialized training of prosecutors and SPC staff on research methodologies aimed at improving prosecutorial efficiency. The trainees would be prepared to help with the design of functions to be included in a prosecutorial CMS. The training curricula could be made available on free, inexpensive platforms for prosecutors and staff to watch on demand. (SPC, RPPO, JA - short term and ongoing)

- Incorporate the resulting research curricula in a program to be presented on a regular basis at the Judicial Academy. This would equip future leaders of the system with the necessary analytical background to improve efficiency over the longer term. (SPC, RPPO, JA - medium term and ongoing)

### ***Recommendation 3:***

---

Ensure that all portions of the annual statistical reports of the RPPO are legible, accurate and prepared in a format that users can search electronically, and that the data is assembled in formats usable for electronic assembly of the reports. These steps should be taken no matter how long it takes to introduce a system-wide CMS.

- Establish and appropriately staff a department within the RPPO for the collection and analysis of statistical data on PPO workloads and caseloads. (RPPO – short term)
- Conduct audits and statistically valid, random sampling on a regular basis to verify the accuracy of all information provided by individual PPOs to the SPC/Republic Public Prosecutor. (RPPO, short, medium and long term)
- Assess and revise current reporting tables to make them legible, accurate and usable. (RPPO – short term)
- Prepare detailed instructions about the new reporting requirements, and require all PPOs to provide their statistical information in numerical tables that comply with the instructions. (RPPO – short term)
- Organize trainings for the registry offices of all PPOs on the new reporting procedures (RPPO – short term)



- Develop a new format of the Annual Report designed to improve communication with public and media. (RPPO – short term)
- Publish the Annual Reports in the new format, accompanied by infographics and facts sheets. (RRPO – short term)
- Organize media conferences to present the Annual Report. (RRPO, starting in the short term)

#### ***Recommendation 4***

---

Based on consultations with the Council of Europe, the CCPE and European Network of Councils for Judiciary (ENCJ), assess the effectiveness of the administrative and management structure of the SPC and its Administrative Office (AO).

- Propose a new systematization of the AO that includes detailed descriptions of the tasks involved and accompanying required skills. (SPC – short term)
- Establish and appropriately staff a department within the SPC for the collection and analysis of statistics regarding all aspects of PPO operations. (SPC – medium term)
- Fill all empty SPC administrative and management positions described in the revised systemization. (SPC – medium term)
- Revise the job description and title of the SPC Secretary General to conform to the actual responsibilities and duties of the position. (SPC – short term)
- Revise the description and title for PPO Secretaries to conform to the actual responsibilities and duties of the position and to ensure they become permanent managerial positions (MOJ, SPC – medium term)

#### ***Recommendation 5***

---

Once the detailed study is completed of the investigation, case-handling, management and administrative processes of the most effective PPOs (recommended as part of the Efficiency,

Timeliness and Productivity Chapter below), develop recommended staffing ratios and staffing plans for PPOs of different sizes, jurisdiction and workloads.

- **Conduct a survey of past and present Public Prosecutors to assemble a list of factors affecting the quality and efficiency of PPOs.** The survey should cover the following non-exhaustive subjects: which are the most significant factors that determine whether a PPO is operating in compliance with the applicable statutes, rules and norms; which management roles and which types of cases require staff with particular expertise or particular staff ratios; which duties should be handled by particular types of staff members; the most effective ratios of different types of staff members to PPO workloads, and which management and logistical functions, if any, are best handled by and/or shared with their corresponding courts. **(SPC and RPPO – medium term)**
- **The survey also should ask the Public Prosecutors for their reactions to the specific results of the study of high-performing PPOs.** This would help system leaders to gauge how much resistance the SPC will have to overcome in instituting system-wide processes to improve the performance of the system. **(SPO and RPPO – medium term)**
- **Draft jobs descriptions and staffing ratios for PPOs of different sizes, jurisdictions, workloads and case types.** **(SPO and RPPO – medium term)**
- **Conduct a series of conferences with Public Prosecutors, their deputies and top PPO management to discuss the draft descriptions and ratios.** **(SPC and RPPO – medium term)**
- **Draft and implement a final set of job descriptions and staffing ratios** **(SPC and RPPO – medium term)**

### **Recommendation 6**

Ensure random allocation of cases to the maximum reasonable extent.

- **Draft and adopt a Rule requiring Public Prosecutors to justify, in writing, every reassignment of a case he or she approves.** This could be done through the Public Prosecutor's signature on a check-sheet developed by the RPPO that lists the possible reasons for reassignments. **(RPPO – short term)**

- **Conduct audits and statistically valid, random sampling on an annual basis to verify the compliance with all Rules relating to the deviation from the random assignment of cases, and reassignments of cases. (RPPO – short term)**
- **Include the results of the audits in the annual profiles of each PPO, the websites of the RPPO, SPC and individual PPOs.** The profiles are discussed in more detail in Quality section, Recommendation No. 3, below. **(RPPO, SPC – medium term)**
- **Ensure that the system-wide CMS for prosecutors tracks all deviations from the random assignment of cases, the reassignment of cases, and Public Prosecutors’ justifications for reassignment of cases.** Design and implementation of the CMS is discussed in more detail in Efficiency, Timeliness and Productivity of Prosecutor’s Offices chapter, specifically Recommendation No. 1, below. **(RPPO, SPC – medium term)**



### ***Recommendation 7***

---

**Confirm the proper use of instructions from the Republic Prosecutor, Public Prosecutors and their higher-  
instance Public Prosecutors.**

- **Conduct anonymous surveys of prosecutors in each PPO annually to assess the effect on the independence of Deputy Public Prosecutors of (1) instructions issued by the Republic Prosecutor, (2) the broad discretionary powers of the Public Prosecutor in each PPO and (3) instructions from the higher-instance Public Prosecutor for each PPO.** For each of the three categories, the first annual surveys should ask about instructions issued during prior years as well as the current year. The surveys should be conducted by teams of prosecutors and representatives of NGOs, to ensure the objectivity of the results. **(SPC – starting in the medium term)**
- **The surveys also should ask deputies how often they received oral instructions from their Public Prosecutor, and how often the oral instructions were not confirmed by the Public Prosecutor in writing (SPC – starting in the medium term)**
- **Tabulate and publish the results on the SPC’s website. (SPC – starting in the medium term)**

### ***Recommendation 8***

---

**Increase the transparency of prosecutorial operations by regularly providing current and reasonably complete data and other information about the workings of the prosecutorial system and cases of interest to the public.**

- **Improve the RPPO and SPC websites to highlight data and information about the functioning of the system and particular projects.** The contents should include advance agendas for SPC sessions; minutes from its meetings; an easy-to-read description of the prosecutorial process; key contact information for public inquiries and the members of all Groups; working groups and committees on which any SPC members are involved, and, to the extent permitted by law, decisions on disciplinary proceedings, **(RPPO and SPC, short term).**
- **Design and provide templates for individual PPO websites to ensure uniform minimum contents and uniform presentation of the information.** Each PPO website should include descriptions of each

PPO's territorial and jurisdictional limits; its caseloads and workloads; links to a description of the prosecutorial process on the SPC website; status reports on cases of public interest handled by that PPO, and copies of press releases issued by the PPO. The instructions for the template should protect against the release of protected personal or official information. **(SPC, short term)**

- **Draft and adopt a Rule requiring each PPO to have an individual website and to use the SPC-furnished templates for the minimum consents of the websites. (SPC, short term)**
- **Public Prosecutors and Deputy Public Prosecutors hold public information sessions for the public, schools, clubs, etc., to explain what can and can be expected of a prosecutorial system, based both on the need to achieve justice and to protect individual rights.** These could be done in conjunction with courts, law faculties and/or bar associations. These outreach efforts should be included in PPO reporting to the RPPO about the PPO activities and included in PPO profiles. **(Individual PPOs, short, medium and long terms)**
- **Public Prosecutors hold at least occasional interviews with media covering general issues (rather than individual cases) pertinent to prosecutorial operations.** These outreach efforts also should be included in PPO reporting to the RPPO about the PPO activities and included in PPO profiles. **(Individual PPOs, short, medium and long terms)**







5 QUALITY



# 5 QUALITY

## *Main Findings*

**46. The introduction of adversarial proceedings as part of the current CPC found many prosecutors ill-equipped to deal with their new roles in developing the theory of a case and presenting it at trial.** Before the advent of adversarial procedures, the role of Serbian prosecutors during trials was relatively passive compared to the role of defense counsel or the judge. Some of those interviewed for this Review reported a significant number of even experienced prosecutors are not able to adapt their questioning of witnesses or arguments at trial to points made by defense counsel. This indicates a need for significantly more training on adversarial trial techniques: there was no Judicial Academy training on trial techniques for prosecutors in 2017 or 2018.<sup>36</sup>

**47. While conviction rates for Basic and Higher PPOs were stable at approximately 88 per cent in 2015 and 2016, available data did not explain the variations of conviction rates of PPOs within the same categories of PPOs.**

**48. The lack of official guidelines and political will for cooperation between police and prosecutors impeded the effective and appropriate investigation of cases.** This was true especially but not exclusively for cases in which there might be political implications because of the persons or issues involved. Police answer to the Ministry of Interior rather than any common authority shared with prosecutors, and prosecutors have no practical options for compelling police to follow their directions. If Serbia cannot move significantly closer to true prosecutorial control of investigations, Serbia's reputation for corruption within the judicial

---

<sup>36</sup> The Organization for Security and Co-operation in Europe (OSCE) organized three days of training for 239 Public Prosecutors and Deputy Public Prosecutors on trial advocacy skills in 2015, and the U.S. Department of Justice/Office of Overseas Prosecutorial Development Assistance and Training (OPDAT) provided three days of similar training for 157 Public Prosecutors and Deputy Public Prosecutors in 2016.

system as well as the quality and efficiency of case processing will continue to suffer.

**49. Overlapping criminal and misdemeanor charges still caused problems for defendants and could have led to violations of the European Convention on Human Rights (ECHR).**<sup>37</sup> These inconsistencies mostly occurred in situations in which the National Assembly prescribed two identical offenses, one as a criminal offense and one as a misdemeanor.

**50. The relative lack of information about the reasons for dismissals limits the usefulness of the available data for assessing the quality of prosecutorial operations.** From 2014 to 2016, almost 30 percent of the cases disposed of by Basic PPOs and five to eight percent in Higher PPOs were dismissals.<sup>38</sup> Dismissals in Basic PPOs remained stable while dismissals in Higher PPOs decreased slightly in the given period. The CEPEJ 2016 report, based on 2014 data, found Serbian prosecutors discontinued 0.79 cases per 100 inhabitants, which was lower than the averages for the EU (1.68), EU11<sup>39</sup> (1.06) and Western Balkans<sup>40</sup> (0.86).

*The system had no guidelines to help prosecutors determine which cases should be appealed or for the higher-instance PPO to decide whether to approve or reject a suggested appeal.*

**51. The number of cases concluded by plea bargaining consistently increased from 2014 to 2016, except for PPOs within the region headed by the Appellate PPO in Novi Sad.** Serbia also has used deferred prosecution effectively even though it is a relatively recent introduction. Of the 45 countries covered by the 2016 CEPEJ report, only six<sup>41</sup> had more cases than Serbia “concluded by a penalty or a measure imposed or negotiated by the prosecutor,” including deferred prosecutions. The report concluded that of all cases prosecuted in Serbia (dismissals excluded), 0.53 cases per 100 inhabitants were concluded by a penalty or a measure imposed or negotiated by the prosecutor. This compares to the average for all CEPEJ Member States of 0.50, and the EU11 average of 0.16, which was more than three times lower than Serbia’s

<sup>37</sup> This issue arose before the European Court of Human Rights (ECtHR) in the case *Maresti v. Croatia*.

<sup>38</sup> The FR team could not obtain any dismissal data for Appellate PPOs from 2014-2016.

<sup>39</sup> EU11 countries are: Bulgaria, Croatia, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia, and the Slovak Republic.

<sup>40</sup> Western Balkan states are: Albania, Bosnia and Herzegovina, Montenegro, Republic North Macedonia, Kosovo and Serbia.

<sup>41</sup> These are Denmark (1.11), France (0.87), Norway (1.30), Sweden (0.71), Switzerland (4.63) and Scotland (1.39). All numbers refer to cases per 100 inhabitants. For more details see CEPEJ 2016 Report, p. 220.

rate.

**52. The low appellate success rate for some PPOs indicates prosecutors often pursue appeals which were not justified.** On average, Serbian Basic PPOs appealed in 16 percent of cases in 2016, and were successful in only three percent of their appeals.

**53. Serbia has introduced several provisions to reduce the opportunities for undue influence on the work of prosecutors, but further reforms are needed for Serbia's measures to align with European standards.**

## **Recommendations**

### **Recommendation 1**

**Eliminate impediments to cooperation between the prosecution and police.**

- **Establish a standing working group that includes prosecutors, police, attorneys and civil society, to identify the specific impediments, recommend solutions and provide funding to implement the solutions. (MoJ, RPPO, SPC and police authorities, short term)**
- **Survey all prosecutors to determine the extent of the problem and whether there are any patterns to the lack of cooperation (e.g., whether the problems occur more often in some PPOs than others, whether they are more likely to involve particular types of charges or whether they are more likely to involve defendants from particular social, political or economic groups). (Standing working group, short term)**
- **The group would identify which Constitutional, legislative provisions and police and prosecutorial procedures should be added or changed to eliminate or at least minimize the problems.** For instance, Croatia adopted a protocol on cooperation in 2011<sup>42</sup> but legislative or Constitutional changes may be required to rectify the lack of cooperation in Serbia. **(Standing working group, short term)**
- **Draft proposed additions and changes, and the proposal and justifications for them should**

---

42

See <https://www.mup.hr/UserDocImages/topvijesti/Protokol.pdf>.

be posted on RPPO website, to encourage their adoption. (Standing working group, short term)

- Take the necessary steps to have the recommended additions or changes adopted and implemented. (MoJ, RPPO, SPC and police authorities, short term)
- Audit compliance with the procedures on an annual basis, and publicize the results. (SPC, short term and continuing)

### ***Recommendation 2***

---

**Reconcile the case numbers of the courts with the corresponding PPOs.** The resulting information would be critical for political and judicial system leaders to consider as they determine what resources should be used to support Serbia's social, democratic and financial needs.

- Form a joint judicial and prosecutorial working group to conduct a statistically valid random sample of corresponding court and PPO caseloads and workloads. (RPPO and Supreme Judicial Council, short term)
- Determine the rationale(s) for the different case accounting systems and determine what legislative and/or regulatory steps would be necessary to reconcile them. (Working group, short term)
- Draft the necessary measures to ensure reporting on the caseloads of the two systems is as close as possible. (Working group, short term)
- Shepherd the new or changed measures through to adoption. (RPPO and Supreme Judicial Council (SJC), short term)

### ***Recommendation 3***

---

**Prepare annual profiles of each PPO using the efficiency, quality, human resource, financial and ICT indicators examined in this FR.** The profiles can be compared to determine strengths and weaknesses of PPOs individually, by size, district, and as a whole. Eventually a uniform CMS system would assemble these profiles, but the profile information is too important to the improved quality (and efficiency) of prosecutorial operations for the assembly of the information to wait for the CMS. To implement this

recommendation, Serbia should:

- **Appoint a working group to determine which factors should be included in the profile.** In addition to members of the SPC, Public Prosecutors, experienced Deputy Public Prosecutors and RPPO, SPC and PPO senior staff members, members of the working group should include financial, human resource and ICT experts working in the system. **(RPPO and SPO, short term)**
- **Information from the charts also can be selected for the dashboard for each PPO to be displayed on the PPO's web site.** (RPPO, SPC, short term)
- **he results also should suggest which problems can be addressed by individual PPOs, and which require system-wide solutions.** (RPPO, SPC, short term)

#### ***Recommendation 4***

---



**Develop a mandatory form for all prosecutors to complete explaining the reasons for the dismissal of any charge.** In most instances, the reasons would not have to be extensive (a checklist may be sufficient), and completing the form would not burden the prosecutor involved.

- **Develop forms for dismissal justifications (RPPO, medium term)**
- **Train prosecutors on appropriate use of the forms (RPPO, medium term)**
- **Provide the completed dismissal forms to the RPPO, so the reasons for dismissal can appear in the annual RPPO reports by rationale, case type and PPO. (Individual PPOs, medium and long term)**
- **Incorporate the same information into the system-wide CMS, once the CMS is in place.**
- **Improve the policies and practices of informing victims about dismissals, including issuing a RPP General Instruction to all PPOs (RPP, short term)**

#### ***Recommendation 5***

**Regularly update the contents of training to increase prosecutors' knowledge of the implications of the CPC and sharpen their skills as advocates.** Depending on the topic, some of the training should be mandatory for all prosecutors and judges.

- **Conduct an impact assessment of the adversarial procedures in the CPC by surveying prosecutors and judges handling cases that implement these procedures, to identify challenges posed by the procedures and collect proposal to address the challenges to them. (SPC, HJC – short term)**
- **Create a standing advisory committee consisting of prosecutors and judges, to meet at last four times a year and consider what additional training on the CPC, including adversarial skills, should be provided and by which persons or institutions. Initially, the committee should factor the survey results into their conclusions. (SPC, HJC, JA – short term)**
- **Recruit experts to advise the committee on what training is needed on the substantive provisions of the CPC and consult experienced prosecutors on what training is needed on adversarial techniques. The experts should help the committee monitor criminal procedure code**

developments in other European countries. (Committee chair, short, medium and long term)

- **Convene a conference with prosecutors from other European countries that have incorporated adversarial procedures, to discuss the challenges they've faced and the solutions they've introduced.** (Committee chair, short term)
- **Draft proposed changes to legislation and rules necessary to implement any recommendations.** (Committee members and designated experts, short, medium and long term)
- **Propose the resulting legislative changes to the National Assembly and the resulting rule changes to the RPPO and SPC** (Committee report, short, medium and long term)
- **Consult with the JA to develop and deliver relevant training for judges and prosecutors.** (Committee members designed by the committee, short medium and long term)

### ***Recommendation 6***

---

**Regularly update the training needed for prosecutors to keep abreast of developments in forensic subjects.** Basic forensic training also should be mandatory for judicial and prosecutorial trainees, and the contents of the basic training updated at least every two years. Depending on the topic, some of the training should be mandatory for all prosecutors, judges and police.

- **Create a standing advisory committee, consisting of prosecutors, judges and police to meet at least three times a year, to suggest revisions to and subjects for training on forensic topics for prosecutorial trainees, prosecutors, judges and police.**
- **Recruit experts to assist the committee in monitoring forensic training provided in other European countries.** (Committee chair, short, medium and long term)
- **Consult with the JA to develop and deliver relevant training for judges and prosecutors.** (Committee members designed by the committee, short medium and long term)

### ***Recommendation 7***

---

**Eliminate overlapping charges that could lead to ECHR challenges of convictions.**

- **Create a working group, consisting of prosecutors and judges and a member of the Judiciary Committee of the National Assembly to identify overlapping criminal and misdemeanor charges for the same offense. (Government – short term)**

- **Recruit experts to examine the handling of similar challenges in other European countries.** In particular, the experts and working group should determine whether the solutions involve allowing discretionary dismissals of some charges by prosecutors, or judges at the request of the prosecution without affecting the remaining charges, and/or the ability of an appellate court to uphold some of the charges while dismissing others after reviewing all the evidence in a given case. **(Committee chair, short term)**

### **Recommendation 8**

**Develop a set of criteria that all prosecutors should follow in determining whether or not to pursue**



any appeal

- **Draft a form justifying the filing of the appeal to be made part of the case file for each case in which an appeal is filed.** The form should require the responsible prosecutor and the responsible higher-interest Public Prosecutor to explain the rationale for filing an appeal. In most instances, the reasons would not have to be extensive, and setting them out would not burden the prosecutor involved. A checklist may be sufficient. The collected information should explain at least some of the reasons for the present low success rates for prosecutorial appeals, and would allow the tracking of success rates in the future. **(RPPO - short term)**
- **Each Public Prosecutor collects the forms and provides them to the RPPO (Individual Public Prosecutors, short, medium and long terms) (Individual Public Prosecutors – short, medium and long terms)**
- **The reasons for the appeals are collated by rationale, case type and PPO and the results are reported annually (RPPO – short, medium and long terms)**
- **A statistically valid sample of appellate decisions is compared against the tabulated information about appeals at least every three years. (RPPO – starting in the medium term)**

### **Recommendation 9**

**Furnish the specific additional resources and training prosecutors or police might need to achieve higher conviction rates, for cases involving charges of misuse of the position of a responsible person**

- **Survey prosecutors and judges about any legislative and other factors affecting the outcome of misuse of position cases.** The survey should specifically address the abuse of office by public officials, private sector managers, abuse in public procurement, etc. **(RPPO, SCC - short term)**
- **Create a working group of prosecutors and judges to review the results of the survey and determine what additional steps should be taken to increase conviction rates in these cases.** The committee may decide to retain experts to examine challenges in handling of similar challenges in other European countries. **(SCC, RPPO - short term)**
- **Draft recommendations regarding the additional steps, and publicize them by convening a conference with prosecutors from other European countries to discuss them (Committee members and designated experts – short term)**

- Propose any resulting legislative changes to the National Assembly and rule changes to the RPPO and SPC (Committee report – short term)

### ***Recommendation 10***

---

Update the forms and templates to be used by prosecutors for various charges and at various states of criminal proceedings.

- Create a committee of prosecutors to collect the forms and templates created by prosecutors, and any modifications they have made to the templates provided earlier by the RPPO. (RPPO – short term)
- Committee assembles a proposed set of formats and templates to be used by prosecutors at various jurisdictional levels (Short term)
- RPPO approves or modifies the proposed set of forms and templates. (Short term)

### ***Recommendation 11***

---

Increase the consistency and transparency of cases in which deferred prosecution is applied.

- **Provide detailed guidance for application of deferred prosecution.** The guidance should cover circumstances in which measures other than cash payments are appropriate, the types of cases eligible and/or recommended for deferred prosecution, and describe eligible defendants (e.g., should public officials be considered eligible and if so, in what circumstances). (RPPO – short term)
- **Issue regular reports to the media and post information on the RPPO web site about the frequency for which different types of deferred prosecution are applied.** (RPPO – short, medium and long terms)
- **Develop and maintain an electronic registry of defendants for whom deferred prosecutions are applied.** The registry should categorize the defendants by the charges against them, the stage of the case at which the deferred prosecution was applied, and the PPO handling each case. (RPPO – short, medium and long terms)





The image features a solid blue background. A white rectangular area is positioned in the upper-left quadrant, containing the main text. A horizontal orange line is located above the text.

# 6 EFFICIENCY, TIMELINESS AND PRODUCTIVITY OF PROSECUTORS' OFFICES

EFFICIENCY, TIMELINESS AND PRODUCTIVITY  
OF PROSECUTORS' OFFICES





# 6 EFFICIENCY, TIMELINESS AND PRODUCTIVITY OF PROSECUTOR'S OFFICES

## *Main Findings*

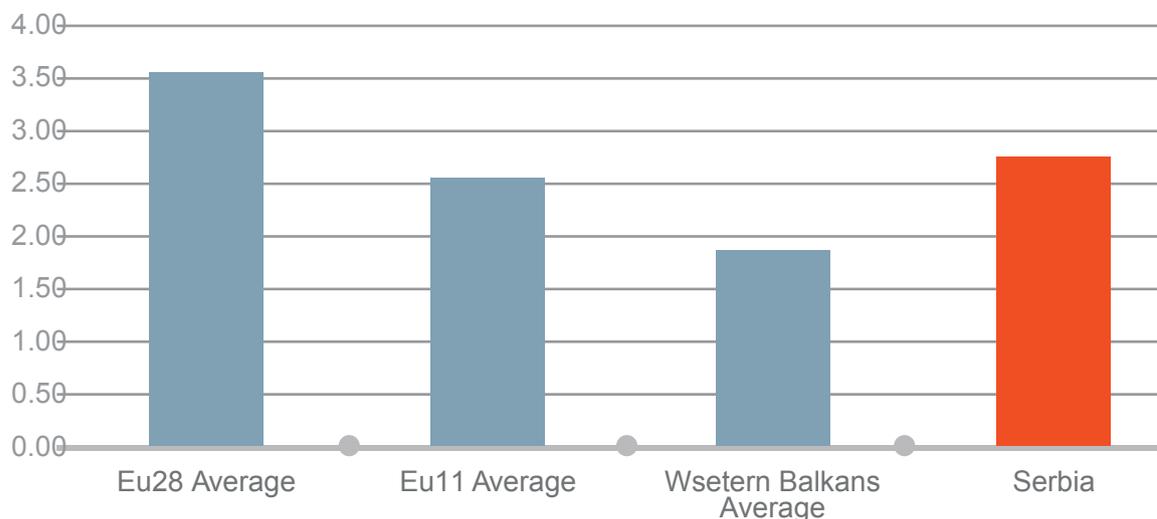
**54. Most of this Review's recommendations to improve the quality of prosecutions and governance and management of the system would also increase the efficiency and efficacy of prosecutions.** Data produced by those recommendations would identify staffing and procedural norms that could improve all aspects of PPO operations.

**55. According to the CEPEJ 2016 report, based on 2014 data,<sup>43</sup> the demand for prosecutor services in Serbia was lower than in EU Member States, and decreased from 2012 to 2014.** As measured relative to population, Serbian prosecutors in 2014 received 2.77 cases per 100 inhabitants, while the average of EU28 was 3.55. However, Serbian prosecutors faced higher demand than their EU11 and Western Balkans peers, which reported 2.55 and 1.90 received cases per 100 inhabitants, respectively.<sup>44</sup> The number of cases received by every Serbian prosecutor per 100 inhabitants in 2014 decreased from 3.15 to 2.77, although data analyzed for this review indicates the work of prosecutors increased from 2014 to 2016 due to criminal procedure reforms and the introduction of the adversarial system.

<sup>43</sup> See CEPEJ Report on "European judicial systems – Edition 2016 (2014 data): efficiency and quality of justice" <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680789851>.

<sup>44</sup> CEPEJ reports data aggregated and disaggregated for 47 Member States. In this analysis, these data were used for calculation of European Union and Western Balkans averages. EU28 stands for all European Union Member States while EU11 is made up of the 11 newest Member States – Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic, Slovenia, and Croatia. The "Western Balkan" countries are Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, and Kosovo.

Figure 1 - Number of Cases Received by the Public Prosecutor  
per 100 Inhabitants according to CEPEJ in 2014



Source: CEPEJ 2016 report (2014 data)

**56. In 2016, Basic, Higher, and Appellate PPOs received 297,354 new cases of the types included in this review, which represented a 10 percent increase from 2014.** Seventy-seven percent of the 2016 total, or 227,555 cases, were received by Basic PPOs. Less than one fifth or 49,675 cases were received by Higher PPOs. Less than one tenth of the 297,354 total, or 20,124 cases, were received by Appellate PPOs.

**57. Generally, Appellate PPOs were the only level of PPOs to resolve as many cases as they received.** Average total clearance rates of Serbian PPOs consistently increased overall from 2014 through 2016, from 83 percent in 2014 to 94 percent in 2016, as prosecutors became more experienced in working with the CPC that took effect in 2013. Despite these gains, most clearance rates remained below 100 percent. This result was far from unique to Serbia: in its 2016 report,<sup>45</sup> the CEPEJ concluded that over 70 percent of

the states for which data was available showed a negative clearance rate, while only 10 states or federated entities had a clearance rate above 100 percent.

**58. Many aspects of prosecutorial performance are not readily categorized in Serbia.** The country's urban areas do not always have the largest demand for prosecutorial services. There is also no concentration of demand in any particular region or in relation to PPOs of any particular size, and the efficiency levels of a given PPO does not always correspond to the relative numbers of prosecutors or staff in the PPO.

**59. Prosecutors in some PPOs received up to six times the number of cases as prosecutors in other offices, indicating an inefficient distribution of prosecutors.** Incoming caseloads per prosecutor grew each year in Basic and Appellate PPOs while they were relatively constant in Higher PPOs.

**60. The variation in performance applied to both incoming and carried-over cases.** While many in the system assume the answer to any problem of efficiency is the addition of more case-handling prosecutors, the performance range of PPOs of similar size and jurisdiction levels indicates improvements in communication and case-handling processes could produce at least as many improvements as the addition of prosecutors.

**61. Even clearance rates of more than 100% did not guarantee the oldest and/or most complicated cases were concluded within reasonable timeframes.** The pressure to resolve more cases as quickly as possible often meant older and more difficult cases continued to age in many if not all judicial courts, a result that undercuts public confidence in prosecutors and the judicial system overall.

**62. Police and prosecutors need to improve their cooperation and coordination.** If this situation does not improve, public faith in both institutions and the criminal justice system will decline even more.

## **Recommendations**

**The following recommendations already made also apply to this chapter:**

**From Governance and Management, above:**

Recommendation 5. Develop recommended staffing ratios and staffing plans for PPOs of different sizes, jurisdiction and workloads.

---

<sup>45</sup> See CEPEJ 2016 report (2014 data), p. 224, <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680789851>.

**All of the recommendations from Quality, above:**

1. Eliminate impediments to cooperation between the prosecution and police.
2. Reconcile the case numbers of the courts and the corresponding PPOs.
3. Prepare annual profiles of each PPO using the efficiency, quality, human resource, financial and ICT indicators examined in this FR.
4. Develop a mandatory form for all prosecutors to complete explaining the reasons for the dismissal of any charge.
5. Regularly update the training needed to increase prosecutors' knowledge of the implications of the CPC and sharpen their skills as advocates.
6. Regularly update the training needed for prosecutors to keep abreast of developments in forensic subjects.
7. Eliminate overlapping charges between misdemeanors and criminal cases.
8. Develop a set of criteria that all prosecutors should follow in determining whether or not to pursue any appeal
9. Furnish the specific additional resources and training prosecutors or police might need to achieve higher conviction rates for cases involving charges of misuse of the position of a responsible person.
10. Update the forms and templates to be used by prosecutors for various charges and at various states of criminal proceedings
11. Increase the consistency and transparency of cases in which deferred prosecution is applied

**Additional recommendations:**

***Recommendation 1***

**Fully develop and roll out the CMS for PPOs, including a detailed, adjustable reporting module.** The CMS should allow the generation and manipulation of the recommended PPO profiles

- **Perform gap analyses to identify which data, reports, alerts, and searches will be needed for sole reliance on the CMS. (SPC, RPPO – medium term)**
- **Specify which reports should be automatically and regularly produced by the CMS, and align with internal and external reporting needs. (SPC, RPPO – medium term)**
- **Specify which alerting mechanisms in the CMS would facilitate case processing and enable prosecutors to manage their workload more efficiently. (SPC, RPPO – medium term)**



- Amend bylaws and rules accordingly. (SPC, RPPO – medium term)
- Migrate all existing data to the CMS. When necessary, enter legacy data manually through simplified forms, and support the RPPO, SPC and PPOs in transferring hard copy data to the digital system. The migration should include all relevant data from the courts' CMS. (MoJ, RPPO, SPC and PPOs – medium term)
- Eliminate paper registries in PPOs. (SPC, RPPO – long term).

### ***Recommendation 2***

**Introduce specialized investigation departments in all appropriate PPOs.**

- Conduct a study of the department in the First Basic PPO in Belgrade to determine what aspects of that department should be duplicated in other Basic and Higher PPOs, and what resources would be necessary for the duplication. Even if it is not practical for all investigative



cases to be handled by a separate department, it might be appropriate for some categories of cases. (RPPO, SPC – short term)

- Obtain the necessary resources for the new departments to operate. (SPC, RPPO – short term)

### ***Recommendation 3***

---

**Regularly monitor prosecutors' tasks to assess their caseload and performance.** This recommendation addresses prosecutors' concerns that their work on cases that significantly increase their workload is not adequately taken into account both during the distribution of cases and their performance assessments.

- Identify the relevant cases and analyze their impact on the performance of PPOs. (SPC, RPPO – short term)
- Consider using CMS for classification of KTR cases, so their impact on the performance is evaluated. (RPPO, SPC – medium term)
- Unify data entry and interpretation of KTR cases among PPOs and avoid double registering of cases (RPPO – short term)
- Determine how much work prosecutors are investing into these cases, and develop means to quantify it. (SPC, RPPO – short term)

### ***Recommendation 4***

---

**Regularly archive KTN cases so they do not burden the system once their statutes of limitations expire.** (RPPO – short, medium and long term)

### ***Recommendation 5***

---

**Develop a backlog reduction plan to reduce the number of carried-over cases and, particularly, cases which have been pending for longer than two years.** The judiciary should be included in most if not all of the following steps as needed, but there also may policies or programs activities that prosecutors can pursue internally to monitor timeliness an reduce backlogs in PPOs.

- **Establish a permanent working group to draft and monitoring implementation of the backlog reduction plan.** Membership of the group may change over time but its function cannot, since backlogs are a permanent threat to the efficiency and quality of all prosecutorial systems. **(RPPO – short term and continuously)**
- **The plan should include methods of developing and updating a list of aging cases being handled by each PPO.** The lists would contribute to the detailed design of a CMS for all PPOs as well as backlog reduction plans for the PPOs. The lists should be updated at least every six months, and responsibility for assembling and updated the plan should be one of the items covered by the working group. **(RPPO – short term and continuously)**

#### **Recommendation 6**

**Conduct a detailed study of the investigation, case-handling, management and administrative practices of the most efficient PPOs in each size category.** The study would identify processes or policies that could help other PPOs improve their case disposition times and numbers, and reduce the age and numbers of cases carried over from one year to the next. **(RPPO, SPC - short term)**

- **Prepare a report detailing the most efficient practices** and the preconditions for putting them into practice in other PPOs. **(RPPO, SPC – short term)**
- **Prepare relevant Rules and “bench books”** to record the steps necessary to put the recommended practices into effect. **(SPC, RPPO – short term)**
- **Rollout efficient practices to lower-performing PPOs** through peer exchange programs, workshops, JA trainings, etc. **(SPC, RPPO, JA – short term)**
- **Develop incentives for the highest performing and most improved prosecution offices.** This might be modeled on the existing award program for the best-performing courts. **(RPPO, SPC – medium term)**



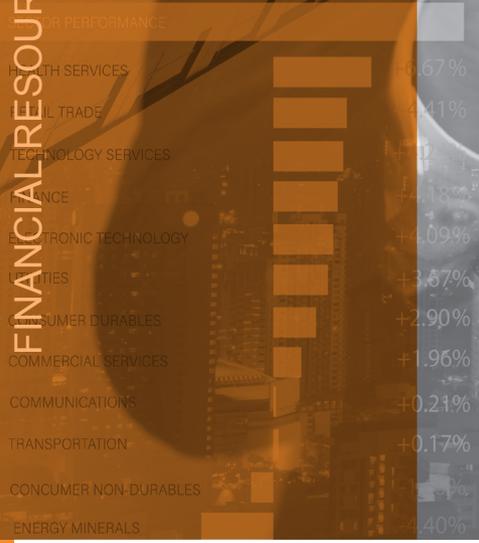


7

---

FINANCIAL RESOURCE  
MANAGEMENT

FINANCIAL RESOURCE MANAGEMENT



# 7 FINANCIAL RESOURCE MANAGEMENT

## Main Findings

**63. The overlapping authority and responsibility of the MoJ and the SPC for planning and executing PPOs' budgets reduced the transparency of the prosecutorial system budget and affected all aspects of running PPOs.** This created a chain of coordination problems and while the situation has improved, many of the coordination problems remain. The complicated nature of the PPO budgetary framework reduced the transparency of the prosecutorial system budget and created difficulties within the budget execution process.

**64. The SPC and MoJ coordinate the budget preparation process for PPOs but the process does not entail any budget performance assessment.** PPOs prepare their budget requests on an annual rolling basis based largely on money spent in previous years, without any assistance from information management systems. The SPC and MoJ also did not associate expenditure data with service delivery indicators such as clearance rates, incoming cases, disposition per prosecutor or number of pending cases.

**65. Total expenditure of the prosecutorial system grew by 16 percent from 2014 to 2016.** This was driven largely by increased defense and expert witness fees, increases caused by the transfer of responsibility between courts and PPOs with regard to investigation of criminal acts. These expenses also were insufficiently budgeted.

**66. The cost per case decreased by 11 percent in the observed period, with large variations among individual offices.** Higher PPOs had higher per-case costs compared to Basic PPOs, which may have reflected the differences in the complexity of cases handled by Higher PPOs. In 2016, there were large variations in the total costs per active cases even among PPOs in the same category.<sup>46</sup> For instance, total cost per active case for the Basic PPO in Nis was RSD 2,645, compared RSD 9,938 for the Basic PPO in

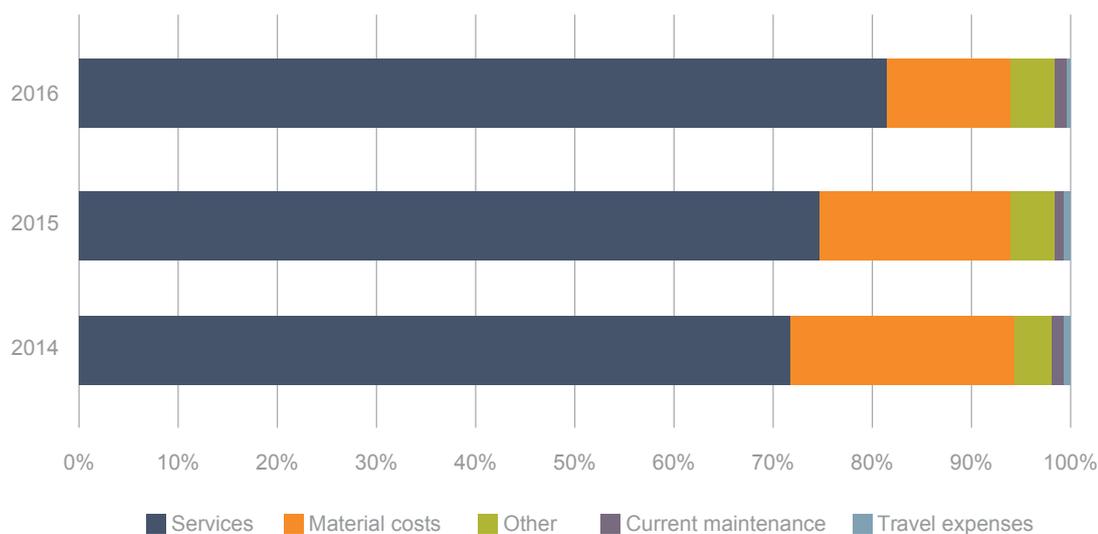
<sup>46</sup> It was not possible to determine total cost per case for different PO categories for 2014 and 2015 since budget data from the MoJ were not broken down to the level of individual offices for those years.

Prokuplje<sup>47</sup>.

**67. Wages and wage-related expenses made up the largest share of the total budget from 2014-2016.** On average, these expenditures accounted for an average 70 percent of the total budget, which corresponded to the average share of total budget spent on salaries across Europe. Capital expenditures remained at very low levels of 0.7, 0.4, and 2.8 percent of expenditures in 2014, 2015, and 2016 respectively.

**68. Services, including Investigation-related costs, accounted for 76 percent of current expenditures, which excluded salaries.** The remaining 24 percent was spent on material costs, current maintenance, travel maintenance, and other costs.

*Figure 2 - Structure of Current Expenditures, Overall, 2014-2016*



*Source: WB calculation*

<sup>47</sup> This comparison excludes PPOs that were large beneficiaries of capex distribution in 2016 (i.e. Basic PPOs with costs per case of more than RSD 10,000 – Vrsac, Sombor, Zrenjanin, Paracin and Kragujevac, and the Higher PPO in Sombor).

**69. Serbia ranked among the top spenders on prosecutorial systems among the sample of European countries<sup>48</sup> in CEPEJ<sup>49</sup> reports on efficiency and the quality of justice.<sup>50</sup>** In 2014, Serbia's reported expenditures represented 0.11 percent of GDP, with only Poland and Hungary spending slightly more than Serbia. When comparing gross expenditure per capita, the only two countries spending less than Serbia were Malta (EUR 4 per capita) and Norway (EUR 5 per capita). In 2014, Serbia's gross expenditure per capita was EUR 5 per capita.

**70. The amount of arrears grew from 2014-2016.** The primary reasons for arrears accumulation were due to a combination of flaws related to budgeting, and the process of assuming financial commitments (i.e. accumulation of commitment in excess of yearly appropriations).

**71. The prosecutorial system of Serbia seems underfunded when expenditure is put in the context of affordability (i.e., GDP per capita).** When compared to the EU sample, Serbia's prosecutorial expenditure could almost double before it reached the average. To align with the rest of European countries, Serbia would have to increase its expenditure by about 50 percent.

## Recommendations

### Recommendation 1

**Integrate the administration of all budgetary matters of the prosecutorial system at the SPC.** Integration of the budget management responsibilities at the SPC not only would add clarity and consistency to prosecution financing, but more importantly would represent another step toward strengthening the principle of independence of the prosecutorial system. Achievement of this integration would be in line with the provisions of paragraph 16 of the Opinion No. 7<sup>51</sup> of the Council of Europe's Consultative Council of European Prosecutors (CCEP), which states that "the management of budgetary resources should be conducted by the

48 Data was for the fiscal year of 2014, from the CEPEJ report on efficiency and quality of justice published in 2016.

49 "European Judicial Systems – Efficiency and Quality of Justice" available at

[https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/REV1/2016\\_1%20-%20CEPEJ%20Study%2023%20-%20General%20report%20-%20EN.pdf](https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/publication/REV1/2016_1%20-%20CEPEJ%20Study%2023%20-%20General%20report%20-%20EN.pdf).

50 These observations should be interpreted with caution given certain methodological inconsistencies regarding the scope of expenditure captured in the CEPEJ report (e.g., reported Figures for some countries may exclude investigation-related expenditure).

51 Available at <https://rm.coe.int/16807475b5>.

prosecution service itself.” Specific actions include:

- **Transferring the administration of civil servant (i.e., staff) salaries and capital expenditures from the MoJ to the SPC.** This would have to be accompanied by the transition of staff from the MoJ to the SPC, since the latter currently is not properly staffed to take on these additional responsibilities. **(SPC, MoJ, short term)**
- **Amending the Law on Court Fees i) to make the distribution of court fees completely transparent, and ii) to assign the responsibility to manage the court fees to the SPC.** **(SPC, MoJ, National Assembly, short term)**

### ***Recommendation 2***

---

- **Introduce a separate budgetary functional code for prosecutorial activities.** Introduction of such a code, along with grouping PPO-related expenditures under one existing budget chapter, would add to the transparency of financial management and facilitate assessment of budgetary performance data for the prosecutorial system. **(MoF, SPC, short term)**

### ***Recommendation 3***

---

**Improve budgeting practice and align budgeting with selected performance criteria related to efficiency and quality of service.** Specific actions include:

- **Introducing a budget preparation management Information system (BPMIS).** The BPMIS would eliminate the operating risks associated with the high volume of exchanges taking place between offices and the SPC. It also would enable more efficient budget preparation and monitoring the current budget performance of PPOs during the budget year. **(SPC, medium term)**
- **Introducing performance-based budgeting based on the estimated number and complexity of cases.** This should be piloted in a select number of PPOs and rolled out through the entire system over three to five years. This would conform to the prescription of the paragraph 15 of the CCEP Opinion No. 7. **(SPC, medium term)**
- **Integrating the BPMIS with the SAPO case management system currently used in 15 PPOs.**

This would allow the analysis of on case-specific data entered and stored within SAPO.<sup>52</sup> **(SPC and MoJ, medium term)**

#### ***Recommendation 4***

**Increase budget allocations for investigation services.** The transfer of responsibilities for conducting criminal investigations was not followed by a corresponding increase in the prosecutorial system budget. Apart from the lack of a standardized financial commitments procedure, lack of financing is the primary reason for the growing issue of arrears. Specific actions include:

- **Perform a detailed assessment of the financing needs of the prosecutorial system based on case-related criteria. (SPC, short term)**
- **Gradually increase the investigation services budget.** The amounts traditionally used to settle

52 See the ICT Management Function Section below for a description of SAPO.



arrears by a one-time increase in the budget at the end of the year should be made available at the beginning of the year, to avoid unnecessary fees and penalties paid by PPOs in the process of enforced collection. **(SPC and MoF, medium term)**

#### ***Recommendation 5***

---

**Split investigation costs consistently between PPOs and courts in criminal cases.** This would eliminate high variations of cost per case among PPOs and, again, reduce the costs associated with enforced collection of arrears. Specific actions include:

- **Modify Article 261 of the CPC to clarify the division of costs between courts and POs in criminal cases. (SPC, HCC and MoJ, short term)**
- **Draft and adopt relevant rules or instructions and run trainings of financial staff to ensure implementation of the CPC. (SPC, medium term)**







8

---

HUMAN RESOURCE  
MANAGEMENT



## 8 FINANCIAL RESOURCE MANAGEMENT

### Main Findings

**72. With an average of 9.2 prosecutors per 100,000 inhabitants and 1.8 staff for each prosecutor in 2016, Serbia compared well with European benchmarks.** Among the EU member countries, these ratios range from 1.9 to 24.6 and from 0.4 to 4.7, respectively.

**73. However, the Functional Review team could not locate evidence of a strategic approach to human resource management in the Serbian prosecution system.** Following the implementation of the new CPC in 2013, the SPC attempted to analyze the cost implications and staffing needs of criminal investigation functions, but the implementation plans were not based on comprehensive and comparative examinations of staffing numbers and competencies, caseload, organizational and procedural changes, etc.

*Legislation stipulates that the MoJ decides the number of trainees in each PPO and prescribes the selection procedure, while the Judicial Academy conducts the selection process.*

**74. The staffing levels for prosecutors and staff appeared to be set in an ad hoc manner.** Serbia still lacks a methodology for determining the number of prosecutors needed in a particular PPO or overall, and from 2014-2016, the total number of 780 prosecutor positions remained unchanged despite the increase in incoming cases.

**75. The system relied on large numbers of contracted staff and volunteers as part of a 'shadow workforce'.** In 2016 contractors represented 18 percent of all staff working in prosecutors' offices. Moreover, performance of contractors went largely unmonitored. In addition to 1,117 permanent staff, there were 234 long-term and nine short-term contractors in 2016, an increase from a total of 194

contractors in 2013. Overall, the vast majority of long-term contracts issued in 2016 were for case-related functions, although there were large variations among the percentage of long-term contractors among PPOs.

**76. PPOs with the most efficient and effective handling of cases were not necessarily the PPOs with the highest percentage of case-related staff or prosecutor assistants.** Available data also did not indicate how the use of contracted staff impacted prosecutorial quality or efficiency.

**77. There was progress in processes for the recruitment and selection of prosecutors, but their career management requires more attention.** This included the evaluation, promotion, disciplinary liability, and training of prosecutors. There were two SPC selection criteria for Public Prosecutors used from 2014 to 2016 – professional knowledge and competence, and managerial capacity. The use of written applications, tests, and interviews as tools to assess applicants for Public Prosecutor and Deputy Public Prosecutor positions strengthened the merit-based selection process.

**78. Results of the 2018 selection process for Deputy Public Prosecutors showed high interest in those positions.** For 38 vacant position applied 172 candidates coming from various background. On average 4.5. candidates applied for one position, while in Belgrade this ratio was 12 candidates per position. The SPC proposed only candidates who achieved the highest mark, except for one position outside of Belgrade, where candidates with highest mark have not applied.

*Table 13 - Statistics on 2018 recruitment for deputy public prosecutors*

Category	Percentage of total number of candidates	Mark 5	Mark 4	Mark 3	Mark 2
Prosecutorial assistants	61.6%	74.5%	25.4%	/	/
Judicial Academy graduates	19.8%	100%	/	/	/
Judicial	12.7%	45.4%	50%	3.4%	/
Assistants Others	6.3%	45.4%	27.2%	18.18%	9%

**79. The rules and underlying statutory provisions on the Serbian disciplinary system were not always precise, and raised concerns about their inconsistent or selective interpretation.**<sup>53</sup> There were 665 disciplinary complaints filed for 2014-2016. The majority of applications were submitted by citizens, and three to four percent were submitted anonymously. In 2016 a majority of complaints filled by citizens related to dissatisfaction with a prosecutor's decision or his/her work. The Disciplinary Prosecutor started investigations in more than 70 percent of cases: approximately one half of these were dismissed as ungrounded.

**80. There were few management-related courses offered by the JA at all in 2014-2016<sup>54</sup> and there were no management trainings specifically for Public Prosecutors, although the Academy provides a specific management training program for court presidents.**

**81. Gender equity for those employed in the Serbian prosecutorial system compared well with European benchmarks.** However, the percentage of women progressively decreased at higher levels of the prosecutorial system, since only 39 percent of Public Prosecutors were female in 2017.<sup>55</sup> Women were the Public Prosecutors in 18 Basic, eight Higher, and one of the Appellate PPOs.

## **Recommendations**

**The following recommendations already made also apply to this chapter:**

**From Governance and Management, above:**

Develop recommended staffing ratios and staffing plans for PPOs of different sizes, jurisdiction and workloads.

**The recommendation from Quality, above:**

Prepare annual profiles of each PPO using the efficiency, quality, human resource, financial and ICT indicators examined in this FR.

---

53 *Legislation and practice in determining disciplinary liability of prosecutors in Serbia, OSCE, 2017.*

54 *Such as general management, financial management, human resources, communication, cooperation with other authorities, improving quality of the judicial system, freedom of information, personal data protection, leak information, etc.*

55 *There was no similar gender-related data available for 2014-2016.*

### *Additional recommendations*

#### **Recommendation 1**

**Consolidate HR policy development in the SPC and create a career track for professional management of staff in PPOs.** This would entail legislative and regulatory changes to:

- **Develop standards and procedures for plans and criteria to determine the numbers for trainee positions throughout the system, to ensure that these do not inhibit longer-term efficiency. (MoJ and SPC – short term)**
- **Amend applicable laws and Rules to give the SPC responsibility for drafting staffing level methodologies and approval of systematizations of PPOs. (MoJ and SPC – short-term)**
- **Amend applicable laws and Rules to give the SPC responsibility for preparing annual staff salary budgets, drafting plans for recruitment of trainees in PPOs, approving new staff employments, and engagement of contractors in PPOs. (SPC and MoJ, National Assembly -short term)**
- **Design unified job descriptions for all staff positions in PPOs. (SPC – medium term)**
- **Create central policies and procedures for all HR functions (planning, recruitment and selection, performance evaluation, training needs assessment, carrier development, etc.) considering specific staff positions (SPC and MoJ – medium term)**

#### **Recommendation 2**

**Create formulas for determining the number of prosecutors and staff.** Deviations from the staffing level standards should be specified in the methodology, and the formulas should consider findings of the analysis and experience of comparator EU Member States.

- **Based on the findings of Functional Review, develop criteria for determining the number of prosecutors and staff in PPOs of different sizes and jurisdictional levels. (SPC, MOJ – short term)**
- **Determine if mid-level advisory positions could be funded by the elimination of other positions some positions (e.g., increased use of technology should decrease the need for as many**

typists). (SPC – medium term)

- Define and apply criteria to determine which Public Prosecutors should and should not be responsible for handling cases in addition to performing their management duties, and to what extent. (SPC – short term)
- Standardize reporting on the numbers, roles, position descriptions and costs of the “shadow” workforce, and undertake periodic cost-benefit analysis of the shadow workforce. (SPC, MoJ, MoF – short-term)

### **Recommendation 3**

Ensure that prosecutors are receiving the training they need to improve their individual performances and the performance of the prosecutorial system as a whole.

- Draft and adopt Rules that make assigned HR or personnel specialists at a designated level



(SPC or PPO) responsible for ensuring that data collected on the performance of individual prosecutors is correlated with information about the continuing training they have received, and the training they think they need. (SPC – short term)

- **Include requests for additional training in the self-assessments done as part of performance evaluations, as discussed in Recommendation 4 below. (SPC – short term)**
- **Include the dismissal, conviction, plea bargaining and alternative sentencing rates for each prosecutor’s performance data.** The data for individual prosecutors should be in a form allowing comparisons of the individual’s performance against those performing a similar range of tasks within the same PPO, and against their peers in other PPOs at the same jurisdictional levels. (SPC – short term)
- **Develop and apply a tool for the detailed assessment of the adversarial skills of all case-handling Public Prosecutors and Deputy Public Prosecutors, and include the results in the performance assessment of each individual.** The tool should be applied to all the prosecutors handling any cases, no matter how few, during the assessment period. (SPC – medium term)

#### ***Recommendation 4***

**Strengthen existing systems for selection, evaluation, and promotion of prosecutors to increase quality, efficiency, and public trust in the prosecution system.**

- **Clarify selection procedures, including the criteria for evaluation and how to award points both for professional knowledge and competence, and soft skills. (SPC – short term)**
- **Develop criteria and methodology for evaluation of “soft skills”.** This is necessary since the Constitutional Court ruled that interview results cannot be included in (SPC – short term)
- **Establish and apply mandatory criteria and rules for temporary transfers of prosecutors, audit compliance with the criteria and rules, and publish the results. (SPC – short, medium and long term)**
- **Establish and apply mandatory deadlines for the SPC and Government to propose candidates to the National Assembly for the election of Public Prosecutors, audit compliance with the deadlines and publish the results. (MOJ, SPC – short, medium and long term)**

- **Establish and apply mandatory rules for the appointment of Acting Public Prosecutors (including published explanations at required intervals for the lack of a permanent Public Prosecution in a PPO) audit compliance with the rules, and publish the results. (RPPO, SPC – short, medium and long term)**
- **Enhance the performance assessment system by:**
  - **Designing a PPO performance monitoring framework based on qualitative and quantitative data, and audit all performance evaluations at regular intervals, to ensure the framework was correctly applied.** These measures should include determining how the SPC can meet its statutory requirements to interview candidates and comply with the July 2017 Constitutional Court decision abrogating the past SPC Rulebook that covered the assessment of prosecutorial candidates,<sup>56</sup> a decision that meant interviews could not be scored as part of the selection process. **(SPC – short term)**
  - **Requiring performance assessment panels to identify measures for improving individual performance for each prosecutor (e.g., identification of mandatory re-training, mentoring by more experienced prosecutors or staff, etc.). (SPC and Public Prosecutors - medium term)**
  - **Introducing self-evaluations by prosecutors and staff as part of the assessment process, and requiring supervisors to consider and respond to the self-evaluations during performance evaluations. (SPC and MOJ – medium term)**
  - **Linking performance results to promotion (e.g., giving preference to those who have served in multiple courts/PPOs or voluntarily worked on special projects, such as backlog reduction or the design of forms and templates). (SPC – medium term)**
  - **Training members of performance assessment committees at regular intervals on the performance evaluation goals, process and criteria.** All participants on assessment committees should receive the training, including Public Prosecutors, Deputy Public Prosecutors and staff. **(SPC and JA – short term and ongoing)**

### **Recommendation 5**

Conduct a large-scale capacity building initiative for prosecutors, prosecutor assistants, and other staff, by:

- Performing a comprehensive training needs assessment for existing prosecutors, prosecutor assistants, and staff. (SPC and JA -- short term)
- Designing and delivering periodic training to fill the gaps identified in the assessment. This would be skills-based training program for PPO staff to enhance performance in their current roles. (JA and SPC – short term)

### **Recommendation 6**

Improve the quality and consistency of HR operations within the SPC and individual PPOs by:

- Developing a rotating schedule for performance audits of HR functions, to be conducted by the SPC and individual PPOs. (SPC, RPPO - short term and ongoing)
- Determining the categories and qualifications of those persons who will perform the audits. (SPC – short term)
- Developing the training needed for the auditors (SPC, RPPO and any relevant consultants – short term and ongoing)
- Conducting the audits and documenting their results as scheduled. (SPC, RPPO and any relevant consultants and/or temporarily reassigned prosecutors or staff – short term and ongoing)
- Reviewing the audit results, publishing them on the SPC website, and determining what corrective steps should be taken based on the audit results. (SPC and any relevant consultants – short term and ongoing)

### ***Recommendation 7***

---

Promote ethics and professional conduct in the prosecution system, by:

- **Strengthening capacities of the Committee for Code of Ethics on promotion of ethics and professional conduct based on the best European practices. (SPC – short term and ongoing)**
- **Publishing specific and detailed examples of permissible/impermissible conduct for prosecutors and staff.** These should be reviewed, expanded and if necessary revised on a scheduled basis of at least every six months. **(SPC – short term and ongoing)**
- **Publishing online FAQs about ethics.** There should be one set of FAQs written for the public, and more specialized sets for prosecutors and different staff. **(SPC with the advice of the Commissioner for Autonomy and the Committee for the Code of Ethics – short term and ongoing)**
- **Introducing and enforcing penalties for infringement of ethical principles in addition to those for serious violations of the Code of Ethics. (SPC - short term)**





---

**9** ICT MANAGEMENT  
**FUNCTION**



# 9 ICT MANAGEMENT FUNCTION

**82. Proper ICT<sup>57</sup> infrastructure arrangements are critical in any modern prosecutorial system.** This chapter provides an overview of ICT in the prosecutorial system, rather than a detailed analysis of information management and ICT infrastructure. The overview includes the governance, equipment, and software of the system, as well as estimated necessary future investments in the ICT infrastructure. The chapter includes findings from interviews held with key system stakeholders.

## **Main Findings**

**83. Serbia's overall judicial ICT development is low compared to other European countries.** The CEPEJ thematic report on the Use of Information Technology in European Courts<sup>58</sup> (including prosecutorial systems) includes a review of the three key aspects in this regard – ICT governance, equipment, and the legal framework surrounding ICT development. On a scale of three to nine, Serbia earned an overall score of four. Its ICT governance arrangements earned a score of two out of a possible three. This puts Serbia's judicial ICT well below the European average, while within the region only Albania has a lower overall development level (i.e., a score of three).

**84. Serbia's strategic documents acknowledge ICT as one of the key areas of development.** Key documents include the National Judicial Reform Strategy for 2013-2018 and the Action Plan for Chapter 23

<sup>57</sup> The World Bank defines ICT as “the hardware, software, networks and media for the collection, storage, processing, transmission and presentation of information (voice, data, text and images), as well as related services.” ICT comprises ICI (Information and Communication Infrastructure) and IT (Information Technology).

<sup>58</sup> Available at CEPEJ website: <https://www.coe.int/T/dgh/cooperation/cepej/evaluation/2016/publication/CEPEJ%20Study%2024%20-%20IT%20report%20EN%20web.pdf>.

within the EU Negotiation process. The importance of ICT is recognized in the discussions of impartiality, accountability, competence, and efficiency.

**85. Implementation of key ICT infrastructure development is still on hold.** A comprehensive ICT infrastructure assessment was carried out in the last quarter of 2017. The assessment contains a detailed map of future investment actions required to complete the development of the proposed ICT agenda, split into phases along with corresponding cost estimates.

**86. There are insufficient human resources to complete the reform agenda (i.e., the MoJ's E-justice Department) and to maintain the future system (i.e., the ICT staff at the PPOs, RPPO and SPC).** The E-justice department employs one staff member for each key aspect of judicial ICT and one project manager, ICT support coverage also is unsatisfactory, as only 38 (44 percent) of PPOs across the system employ an ICT staff. Other PPOs receive remote assistance from the closest office with a qualified person.

**87. The current level of ICT equipment serves only the basic needs of the prosecutorial system.** The use of computers is very widespread, but there are reported issues of insufficiently up-to-date working stations and low number of printers, scanners, and equipment meant to facilitate hearings and other investigation activities.

**88. In total, there are six applications running across the prosecutorial system.** Of those, four serve financial management functions (i.e., budget execution, accounting, financial planning, and salaries administration) while the other two are CMSs (AVP and SAPO). With the exception of an option to transfer payment orders through an exchange of .xml files between the ZUP accounting system and FMIS/ISIB, there is no interoperability between the existing applications.

**89. Case management systems (AVP and SAPO) are still in their pilot phase, while only 22 percent (19 out of 87) of PPOs have a CMS.** SAPO is installed in 15 PPOs. AVP was adopted from the courts system in 2011 and is used only by four pilot offices. The fact that AVP's coverage is so weak has made it impossible to fulfill one of its most important functions, which is to provide full analytical insight into the performance of the system.

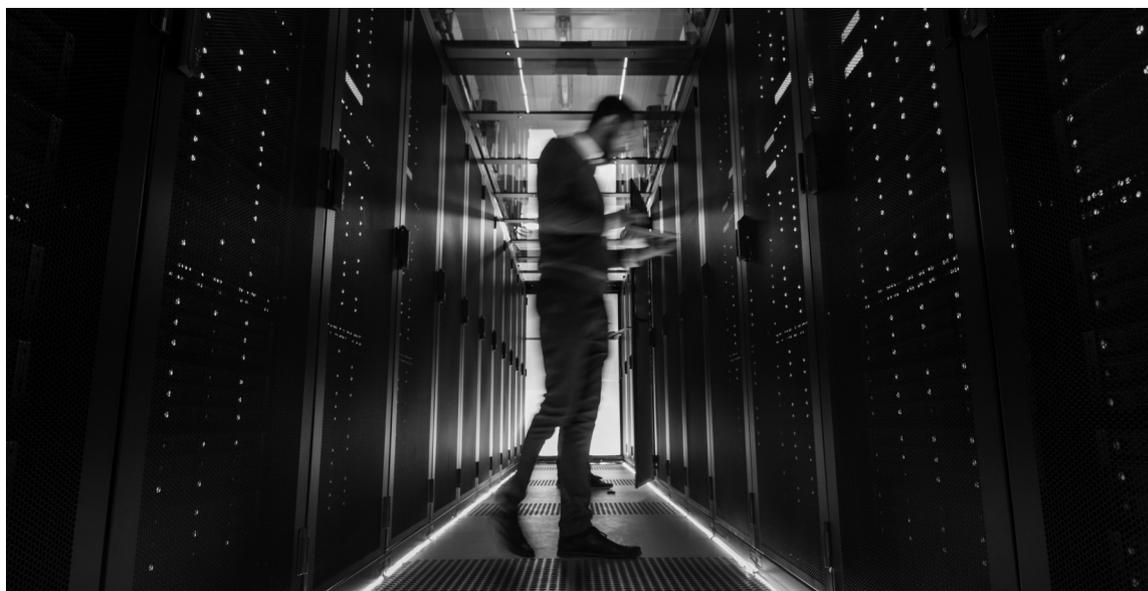
**90. The estimated cost for needed investment in further development of the CMS is EUR 1.2 million.** This estimate includes the cost of software development and deployment, purchase of required hardware, and training. In addition, it is estimated that future maintenance costs would go up considerably – from approximately EUR 100,000 to EUR 574,000.

91. A preliminary assessment showed that the total estimated investment for judicial ICT infrastructure stands at EUR 21.04 million, of which EUR 8.7 million is envisaged for the prosecutorial system. Out of this figure, 61 percent (i.e., EUR 5.2 million) would be invested in Basic PPO infrastructure, while Higher PPOs would benefit from EUR 2.6 million. The budget for Appellate PPO ICT infrastructure development is estimated at EUR 692,214. However, the estimate does not include a comprehensive review of the prosecutorial CMSs.

## **Recommendations**

### **Recommendation 1**

**Continue with implementation of the steps in the Action Plan for Chapter 23 and consider updating the plan to reflect future ICT development.** While most of the actions listed in the Action Plan are completed or progressing well, it is suggested that all the following be done:



- **Adoption of the Judicial Infrastructure Report<sup>59</sup> by the ICT Sector Council if it has not been adopted to date.** This document is the only source of practical information for future guidance in judicial ICT development. It contains technical details on the future actions required to complete the ICT development agenda. If it has not been adopted by the ICT Sector Council, comments and/or suggestions should be communicated to the authors of the Report, and a revised version should be adopted by the Council. **(ICT Sector Council – short term)**

- **The Action Plan for Chapter 23 should be updated to reflect the needs listed in the Judicial Infrastructure Report.** The assessment, performed in the last quarter of 2017, estimated that ICT infrastructure needs include large scale investments in both hardware and software. The assessment's implementation plan lists activities phased out over the coming years; these activities should become a part of the Action Plan for Chapter 23 – either as separate actions or as a set of related ones under

<sup>59</sup> The “Overall Analysis of the ICT Infrastructure Assessment for Basic and Higher Courts and Prosecutor’s Offices of the Republic of Serbia” produced under the EU financed project titled “Judicial Infrastructure Assessment.”



“implementation of actions related to upgrade of judicial ICT infrastructure.” (MoJ - short term)

- **Strengthen HR capacities and enhance HR structure to accelerate ICT development implementation, by hiring additional qualified staff with ICT and project management expertise in all relevant agencies and institutions. (MOJ, SPC, RPPO – medium term)**
- **Reorganize the ICT support functions to sustain future PPO ICT developments.** The relatively few ICT support staff members in PPOs perform a wide range of duties and lack in-depth knowledge on specific ICT fields (e.g., hardware, software, and network maintenance). One option could be establishing centers dedicated to a particular line of support with adequate staffing. Pilots could include buildings shared by Basic, Higher, and Appellate PPOs. (MOJ, SPC, RPPO - medium term)

### ***Recommendation 2***

**Roll out the CMS to include the entire prosecutorial network by taking the following actions:**

- **Adoption of the SAPO assessment report by the ICT Sector Council. (ICT Sector Council - short term)**
- **Develop detailed technical and functional specifications for further development and rollout of SAPO.** To launch selection of the vendor, more detailed specifications need to be developed. This process must be led by the PPOs as the end-users of the CMS and coordinated by the SPC. (ICT Council - short term)
- **Launch the tender procedure for further development and rollout of SAPO. (MoJ and SPC – short term)**
- **Perform trainings of SAPO end-users to follow the gradual implementation schedule of SAPO rollout.** The schedule and trainings should include at least two modules: one for the administrative workflow and another for enabling a better grasp of the analytical tools of the CMS. (SPC – medium term)
- **Establish a permanent monitoring structure of SAPO performance within the SPC.** Implementation of the SAPO rollout should be closely monitored by the ICT Sector Council. However, it is important to maintain a monitoring structure which will gather and resolve issues in the post-implementation phase. As an intermediate solution, it could be a part of the E-Justice department of

the MoJ. (SPC and MoJ – short term)

### **Recommendation 3**

**Upgrade and secure the existing WAN judicial network to support CMS operations and other cloud services, e-mail transport services, online backup services, VOIP telephony, and video conferencing. (MoJ - short term)**

### **Recommendation 4**

**Provide stable and sufficient financing for ICT, by:**

- **Expanding the ICT Sector Council to include representatives of the budget department of the MoF.** This would allow the arguments for increased financing needs to be better communicated and understood. Also, this also would enable the exchange of information on alternative sources of financing for this purpose. **(MoJ - short term)**
- **Establishing a more efficient donor coordination mechanism to support these projects.** Numerous projects have provided advisory services to all judicial institutions, including the SPC, as part of the process of judicial reforms undertaken in the past decade. With the ICT development ranking high on the priority list and the strategic framework and ICT Sector Council in place, Serbia has a mechanism to stream a portion of available donor support to the ICT development. **(Ministry for European Integration – short term)**
- **Ensuring the purchase of ICT equipment is aligned with strategic documents.** The Judicial Infrastructure Report, as adopted in its final version by the ICT Sector Council, should serve an inventory of needs for the whole system and should guide future investment activities of the MoJ. **(MoJ – short term)**





10

---

INFRASTRUCTURE  
MANAGEMENT





---

# INFRASTRUCTURE MANAGEMENT

## *Main Findings*

**92. Geographic barriers to judicial services were not a significant concern in Serbia from 2014 to 2016.** The restructured network almost doubled the number of locations of Basic Courts and Basic PPOs, thus reducing the average distance to a courthouse. According to the 2014 World Bank MDTF-JSS Access to Justice Survey, around 73 percent of citizens and 85 percent of business representatives did not consider distance to the courthouse to be a problem. The same conclusions should apply for access to PPOs, since the locations of PPOs are closely aligned with the locations of courts.

**93. PPOs lacked appropriate office space and the buildings in which they were located were in poor condition.** Capital investment projects were not sufficient to meet the need for more appropriate space. As part of the EU Accession process, significant investment in judicial infrastructure will be needed to support the improvement of justice system performance.

## *Recommendations*

**The following recommendations already made also apply to this chapter.** As these recommendations are implemented, they will drive the provision of office space to allow the PPOs, the prosecutors and other staff to achieve more efficient results.

**From Governance and Management, above:**

Develop recommended staffing ratios and staffing plans for PPOs of different sizes, jurisdictions and workloads.

**From Quality, above:**

Prepare annual profiles of each PPO using the efficiency, quality, human resource, financial and ICT indicators examined in this FR.

**Additional recommendations:**

***Recommendation 1***

---

**Determine how PPOs and their staffs might increase their efficiency by following EuropeAid's 2016 recommendations for changing the use of some office as interview rooms and vice versa.** To achieve this, Serbia should:

- **Appoint and provide funding for the expenses of two relatively short-term working groups, consisting of prosecutors and PPO staff from offices of various sizes, to consider the most efficient use of available office space.** One group should consist of persons from Basic PPOs, and the second would consist of persons from Higher PPOs. (MoJ, SPC, RPPO – short term)
- **After reviewing the EuropeAid report, the groups should inspect the space allocations for the highest-performing very small, small, medium, and large PPOs for their respective jurisdiction levels, to see if and how the use of space contribute to their top performance.** The groups also should interview those working in the PPOs to see how they think the re-allocation of their space might help or impede further performance improvements. The query should focus on the practical, day-to-day work of the PPOs reviewed. (MoJ, SPC, RPPO – short term)
- **The groups should compare notes on their conclusions and prepare a joint report for consideration by the SPC, the RPPO and the MoJ.** (MoJ, SPC, RPPO – medium term)

***Recommendation 2***

---

**Develop recommended work-space standards for PPOs of different sizes, jurisdictions and workloads to ensure all PPOs have adequate space to perform efficiently.** While development of these standards could and should be done primarily if not exclusively by prosecutors, their implementation would have to be done in conjunction with the courts, since most PPOs are housed in the same facilities as their corresponding courts. Development of the standards should include:

- **Having dedicated interview rooms in all PPOs.** Prosecutors and/or other staff should not be

expected to vacate their office space so interviews required by investigations can be conducted, since that undercuts the efficiency of the system. The standards should provide the minimum number of dedicated interview rooms for each PPO, based on relevant criteria. **(MoJ, SPC, RPPO – medium term)**

- **Providing adequate work-space for all non-prosecutorial PPO staff (case and non-case-related), based on their job duties and workloads. (MoJ, SPC, RPPO – long term)**
- **Providing adequate and appropriate space for private witness and other meetings. (MoJ, SPC, RPPO – long term)**
- **Planning for adequate and appropriate space for PPO ICT and other equipment needs. (MoJ, SPC, RPPO – medium term)**
- **Rewarding PPOs for cooperating with courts on a fair distribution of space in shared buildings.** In at least some buildings, it may be possible for space to be designated and scheduled



for both court and prosecutorial functions. Rewarding PPOs for cooperation might include additional funds for equipment, public recognition through ceremonies and publicity, and/or credit in performance assessments Public Prosecutors and Deputy Public Prosecutors who made the cooperation successful. (MoJ, SPC, RPPO – short term)

- Incorporating the standards in the appropriate rules and updating them at pre-set intervals included in the rules. (MoJ, SPC, RPPO – short term and ongoing)

### ***Recommendation 3***

---

Based on recommended staffing ratios and work-space standards, prioritize and implement needed changes by:

- Conducting an infrastructure assessment of judicial buildings that were not encompassed by the EuropeAid project. The assessment should be updated regularly. (MoJ, SPC, RPPO – short



term)

- **Preparing a work-space profile of each PPO that includes the numbers and types of prosecutors and other staff, workloads per prosecutor and staff, accessibility, existing ICT and other equipment, projected ICT and other equipment needs, and current number of size of rooms.** For PPOs in the same buildings as courts, ideally these profiles would be joint projects the PPOs and courts. (MoJ, SPC, RPPO – medium term)
- **The profile should be accompanied by a scaled sketch of the PPO space, in a format approved by SPC.**
- **The profile and sketch should indicate space used jointly by courts and PPOs.**
- **Establishing an electronic inventory of all buildings.** The inventory should be updated annually and include the information included in the work-space profile for each PPO, as well as the entity responsible for providing and financing of improvements, maintenance and upkeep for each facility. (MoJ, SPC, RPPO – medium term)
- **Developing minimum rules for the future design of facilities used by courts and PPOs.** For example, design standards should address the number, size, and configuration of courtrooms, space needed for interviews and other investigation activities, offices and ICT needs. (MoJ, SPC, RPPO – short term)
- **Developing a prioritized, long-term plan for the necessary improvements of existing PPO facilities, including realistic estimates of the costs and a long-term financing strategy.** All aspects of the plan should be reviewed and updated annually. For some PPOs, implementation of the plan may require more than one year. (MoJ, SPC, RPPO – short term)
- **Strengthening capacities of the MoJ Investment Department and provide adequate trainings for Investment Department staff in planning, public procurement and implementation of investment projects** (MoJ, SPC, RPPO – medium term)
- **Securing state and international funding support and closely monitoring the implementation of the plan to ensure priorities are followed and budgets executed.** (MoJ, SPC – medium term and ongoing)

#### ***Recommendation 4***

---

**Improve public access and the public perception of the prosecutorial system by publishing information about PPO access and amenities on each PPO's website.** Compliance with this recommendation and Recommendation 4 should be part of the regular audits of PPO activities. The information should be in the same format for all PPOs and include:

- **Directions for reaching the PPO by private vehicle and public transport. (SPC, PPOs – short term)**
- **A map showing the PPO within the community. (SPC, PPOs – short term)**
- **A diagram of the portions of the PPO available to the public. The key for the diagram should make it clear how to reach the PPO within the building. (SPC, PPOs – short term)**
- **Information about accommodations for and restrictions on accessibility, including ramps, elevators and restrooms. (SPC, PPOs – short term)**
- **Phone and email contact information if more information about the facilities is needed. (SPC, PPOs – short term)**

#### ***Recommendation 5***

---

**Improve public access, navigation through PPOs buildings and the public perception of the prosecutorial system by:**

- **Posting a directory at each PPO entrance of PPO personnel.** The directory should be updated as needed at least four times a year. **(PPOs – short term)**
- **Hanging easy-to-read maps on each floor of a PPO of the publicly available space on that floor. (PPOs – short term)**

10

