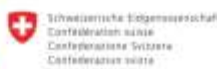




FUNCTIONAL REVIEW OF THE PROSECUTION SYSTEM IN SERBIA

January 15, 2019



WORLD BANK GROUP

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

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

TNA	Training Needs Assessment
ZUP	An accounting software
WB	World Bank
WEF	World Economic Forum
WJP	World Justice Project

Table of Contents

Acknowledgements.....	2
Acronyms and Abbreviations	3
Table of Contents.....	5
1. Objective, Scope & Structure.....	1
2. Overall Conclusions and Priorities	3
3. Overview of the Prosecution System in Serbia.....	8
4. Governance and Management	12
4.1. Main Findings	12
4.2. Division and Coordination of Functions Among the Responsible Authorities	12
4.3. Composition and structure of the SPC	15
4.4. Powers of the SPC.....	17
4.5. Managerial Capacities of the SPC.....	19
4.6. Internal Organization and Managerial Capacity of the PPOs	21
4.7. Integrity in justice service delivery	23
4.7.1. Independence of prosecutors	24
4.7.2. Relevance of organizational systems for integrity in decision-making.....	26
4.7.3. Transparency of Prosecutors' Work.....	27
4.8. Recommendations.....	28
5. Quality.....	33
5.1 Main Findings	33
5.2 Preliminary notes.....	33
5.3 Quality in Case Processing.....	34
5.3.1 Conviction rates	34
5.3.2 Coordination in Case Processing	36
5.3.3 Use of Templates and Standardized Forms.....	36
5.3.4 Use of Specialized Case Processing for Particular Case Types	37
5.4 Quality in Decision-Making.....	37
5.4.1 Control Mechanisms	37
5.4.2 Dismissals	38
5.4.3 Deferred Prosecution	40
5.4.4 Plea Bargaining.....	42
5.5 Effectiveness of Appeals in Ensuring Quality	43
5.6 Quality of Work in Selected Criminal Offenses	44
5.7 Recommendations.....	45
6. Efficiency, Timeliness and Productivity of Prosecutors' Offices	50
6.1 Main Findings	50
6.2 Caseloads and Workloads.....	50
6.2.1 Overall Demand for Prosecutors' Services.....	50
6.2.2 Caseloads of PPOs	51
6.2.3 Prosecutors' Services by Case Type	57
6.2.4 Workloads of PPOs.....	58
6.3 Efficacy and Efficiency	60

6.2.5	Case Dispositions.....	60
6.2.6	Clearance Rates.....	61
6.4	Timeliness in Case Processing	64
6.4.1	Quantity of Carried-Over Cases.....	65
6.4.2	Congestion Ratios.....	67
6.4.3	Time to Disposition	70
6.4.4	Efficiency per Prosecutor	72
6.5	Recommendations.....	80
7.	Financial Resource Management.....	83
7.1	Main Findings	83
7.2	Budgetary Framework of the Prosecutorial System.....	83
7.3	Expenditure overview.....	88
7.4	Budget formulation and management.....	92
7.5	Budget structure.....	94
7.6	Effectiveness in budget execution.....	97
7.6.1	Analysis of costs per case	97
7.6.2	Arrears Management	101
7.7	Recommendations.....	104
8.	Human Resources Management.....	106
8.1	Main Findings	106
8.2	Staff positions and human resource methodology	106
8.2.1.	Numbers of Public Prosecutors and Deputy Public Prosecutors	108
8.2.2.	Numbers of Prosecutorial Staff.....	109
8.2.3.	Staffing Ratios	119
8.2.4.	Impact of vacant positions	125
8.2.5.	Recruitment, Evaluation, and Promotions of Prosecutors.....	126
8.2.6.	Recruitment and selection	126
8.2.7.	Evaluation and Promotion	129
8.3	Disciplinary Procedure.....	131
8.4	Training.....	133
8.5	Gender Equity.....	134
8.6	Salary of Prosecutors and Administrative Staff.....	135
8.7	Recommendations.....	138
9.	ICT Management Function.....	142
9.1	Main Findings	142
9.2	Benchmarking analysis	143
9.3	Governance of ICT Planning	144
9.4	Status of ICT Equipment	147
9.5	Applications and Network	149
9.5.1	Applications and Software	149
9.5.2	Communication Network.....	151
9.6	Estimate of Future Investments in ICT	152
9.7	Recommendations.....	153
10	Infrastructure Management	155
10.1.	Main Findings	155

10.2.	Existing Infrastructure Stock.....	155
10.3.	Physical Condition of Judicial Facilities.....	156
10.4.	Management of Judicial Infrastructure	158
10.5.	Recommendations.....	162

List of Figures

Figure 1 - Public Prosecutor's System in the Republic of Serbia.....	10
Figure 2 – Competences of the SPC vis-a vis PPOs	18
Figure 3 – Competences of the MOJ vis-a vis PPOs	18
Figure 4 – Organization of the SPC Administrative Office	20
Figure 5 - WJP Rule of Law Index 2017 – 2018, Absence of Corruption in EU Member States and Serbia	24
Figure 6 - WEF Global Competitiveness Report 2017-2018, Judicial Independence in	24
Figure 7 - Convictions for Selected Basic PPO in 2015 and 2016.....	35
Figure 8 - Convictions per Higher PPO in 2015 and 2016	36
Figure 9- Dismissals in Basic PPOs by Type in 2016	38
Figure 10 - Percentage of Dismissed Cases in Basic and Higher PPOs from 2014 to 2016.....	39
Figure 11 - Dismissals in Higher PPOs by Type in 2016.....	40
Figure 12 - Ratio of Submitted Appeals and Successful Appeals in Selected Basic PPOs in 2016	43
Figure 13 - Number of Cases Received by the Public Prosecutor per 100 Inhabitants according to CEPEJ in 2014	51
Figure 14 - Demand for Prosecution Services per 100 Inhabitants in Basic PPOs in 2016	52
Figure 15 - Received Cases in Basic, Higher and Appellate PPOs in 2016	52
Figure 16 - Received Cases in Basic, Higher and Appellate PPOs from 2014 to 2016	53
Figure 17 - Received Cases by PPO Type in 2016 – Total and KTR.....	54
Figure 18 - Received Cases in Basic PPOs by Case Type in 2016.....	54
Figure 19 - Received Cases in Selected Basic PPOs from 2014 to 2016.....	55
Figure 20 - Received Cases in Higher PPOs from 2014 to 2016.....	56
Figure 21 - Received Cases in Appellate PPOs from 2014 to 2016	57
Figure 22 - Received Cases in Higher PPOs by Case Type from 2014 to 2016.....	57
Figure 23 - Received Cases in Basic PPOs by Case Type in 2016.....	58
Figure 24 - Basic, Higher and Appellate PPOs Workload from 2014 to 2016	59
Figure 25 - Basic PPOs Workload from 2014 to 2016Source: <i>RPPO Annual Reports 2014 – 2016</i>	59
Figure 26 - Higher PPOs Workload from 2014 to 2016.....	60
Figure 27 - Disposed Cases in Basic, Higher and Appellate PPOs from 2014 to 2016Source: <i>RPPO Annual Reports 2014 – 2016 and Appellate PPOs Data</i>	61
Figure 28 - Clearance Rates by PPO Type from 2014 to 2016	62
Figure 29 - Clearance Rates of Basic PPOs from 2014 to 2016.....	63
Figure 30 - Clearance Rates of Selected Basic PPOs from 2014 to 2016	63
Figure 31 - Clearance Rates of Higher PPOs from 2014 to 2016 per Higher PPO.....	64
Figure 32 - Carried-Over Cases in PPOs from 2014 to 2016	65
Figure 33 - Carried-Over Cases in Basic PPOs from 2014 to 2016	66
Figure 34 - Carried-Over Cases in Higher PPOs from 2014 to 2016.....	66
Figure 35 - Overall Congestion Ratios of Basic, Higher and Appellate PPOs from 2014 to 2016	67
Figure 36 - Congestion Ratios per PPO Type from 2014 to 2016	68
Figure 37 - Congestion Ratios of Selected Basic PPOs in 2016	69
Figure 38 - Congestion Ratios of Higher PPOs from 2014 to 2016	69
Figure 39 - Disposition Times of Selected Basic PPOs from 2014 to 2016	70

Figure 40 - Disposition Times of Higher PPOs from 2014 to 2016.....	71
Figure 41 - Disposition Times from 2014 to 2016 per Higher PPO	71
Figure 42 - Number of Public Prosecutors per 100,000 Inhabitants – CEPEJ 2016 ReportSource: <i>CEPEJ Report 2016 (2014 data)</i>	73
Figure 43 -Number of Public Prosecutors per 100,000 Inhabitants – Serbia and Regional Peers.....	73
Figure 44 - Caseload per Prosecutor in Basic, Higher and Appellate PPOs from 2014 to 2016Source: <i>WB Calculations</i>	74
Figure 45 - Dispositions per Prosecutor in Basic, Higher and Appellate PPOs from 2014 to 2016	77
Figure 46 - Relationships between Caseloads and Dispositions per Prosecutor in Basic, Higher and Appellate PPOs from 2014 to 2016.....	79
Figure 47 - Financing Structure of Prosecutorial Budget for 2016, by Source.....	85
Figure 48 - Budgetary framework of Serbian Prosecutorial System.....	86
Figure 49 - Share of the Total PPOs Budget Managed by Different Institutions	87
Figure 50 - Total RSD Expenditure of the Prosecutorial System (2014-2016)	88
Figure 51 - Prosecutorial System Expenditure Scaled with GDP, Serbia and EU, 2014	89
Figure 52 - Prosecutorial System Expenditure per capita, Serbia and EU, 2014	89
Figure 53 - Prosecutorial system expenditure scaled with GDP, Serbia and Regional Peers, 2014	90
Figure 54 - Total Expenditure of the Prosecutorial System by PPO Category (2014-2016).....	90
Figure 55 - Prosecution Budget per Capita against GDP per Capita, Serbia and EU, 2014.....	91
Figure 56 - Prosecution Budget per Capita Against GDP per Capita, Serbia and Regional Peers, 2014	92
Figure 57 - Basic PPOs, Share of Wages in Total Expenditure, 2016	94
Figure 58 - Higher PPOs, Share of Wages in Total Expenditure, 2016.....	95
Figure 59 - Structure of Current Expenditures, Overall, 2014-2016.....	95
Figure 60 - Structure of Current Expenditures, Basic PPOs, 2014-2016	96
Figure 61 - Structure of Current Expenditures, Higher PPOs, 2014-2016	96
Figure 62 - Structure of Capital Expenditures, Aggregate, 2016	97
Figure 63 - Five Largest and Smallest Spenders per Case Among Basic PPOs, 2016	
Figure 64 - Total Costs per Case per Size Category of Basic PPOs, 2016	99
Figure 65 - Service Cost per Case per Size Category of Basic PPOs, 2014-2016	100
Figure 66 - Service Cost per Case per Size Category of Higher PPOs, 2014-2016.....	100
Figure 67 - Age of Arrears, December 2016	101
Figure 68 - Arrears per Case in Basic PPOs, End of 2016	102
Figure 69 - Commitment Assumption Process – Investigation Costs Paid by PPOs.....	103
Figure 70 - Commitment Assumption Process – Investigation Cost Transfer to Courts.....	103
Figure 71 - Staff Positions Planned by the MOJ 2014-2016.....	110
Figure 72 - Trends in the Number of Planned Prosecutors and Staff	111
Figure 73 - Filled Non-Prosecutor Staff Positions by PPO type.....	112
Figure 74 - Staffing patterns	113
Figure 75 - Contractor Workforce, Composition and as Compared to Total Workforce, 2016.....	114
Figure 76 - Contractors, Absentee Rates and Caseloads in 2016	116
Figure 77 - Proportion of Case-related and Other Staff.....	117
Figure 78 - Proportion of Basic PPO Budgeted Case-related and Other Staff in 2016	117
Figure 79 - Proportion of Higher PPO Budgeted Case-related and Other Staff in 2016.....	118
Figure 80 - Basic PPOs' Disposition Rates Compared to Staffing Patterns, 2016	119

Figure 81 - Higher PPOs' Disposition Rates Compared to Staffing Patterns, 2016.....	119
Figure 82 - Number of prosecutors per 100,000 inhabitants, Serbia, EU Member States, Western Balkan countries (CEPEJ data for 2014)	120
Figure 83 - Budgeted Basic PPOs Staff per Prosecutor by Category of Staff, 2016	121
Figure 84 - Budgeted Higher PPOs Staff per Prosecutor by Category of Staff, 2016.....	121
Figure 85 - Ratio of non-prosecutor staff to prosecutor, Serbia, EU Member States, and Western Balkan countries (CEPEJ data for 2014 with Serbia data for 2015 and 2016 added)	122
Figure 87 - Vacant Prosecutors' Positions, 2014-2016	125
Figure 88 - Number of Trainees by Area of Training and Category of Staff.....	134
Figure 89 - Average Gross Salaries of Prosecutor in Relation to the National Average Gross Salaries in 2014, the EU Member States and the Western Balkan Countries.....	136
Figure 90 - Judicial ICT Development Indices, Regional Peers.....	144
Figure 91 - Chronological Appearance of PPO Websites (2007-2016)	148
Figure 92 - Age of Judicial Facilities	156
Figure 93 - Age of Judicial Facilities Reconstruction Projects	159

List of Tables

Table 1 - Deferred Prosecution per PPO Type from 2014 to 2016	41
Table 2 - Percentage of Deputy Prosecutors Assigned to Other Duties per PPO Type from 2014 to 2016	74
Table 3 - Caseload and Prosecutors in Basic and Higher PPOs from 2014 to 2016	75
Table 4 - Average Caseloads per Prosecutor in Basic PPOs in 2016	75
Table 5 - Average Dispositions per Prosecutor in Basic PPOs in 2016.....	77
Table 6 - Approved Versus Requested Budget of Higher PPOs in 2016	93
Table 7 - Approved Versus Requested Budget of Basic PPOs in 2016.....	93
Table 8 - Staffing Norms Within PPOs effective as of 2009	108
Table 9 - Number of Prosecutors' Positions from 2014 to 2017	108
Table 10 - Number of Public Prosecutors from 2014 to 2017	109
Table 11 - Contractor Workforce in PPOs.....	114
Table 12 - PPOs Disposition Rates Compared to Staff-to-Prosecutor Ratio, 2016	124
Table 13 - Statistics on 2018 recruitment for deputy public prosecutors	128
Table 14 - Disciplinary Proceedings, 2014-2016	133
Table 15 - Percentage of Women in Leadership Positions, Serbia (2017 data) and EU28 (2014 data)	135
Table 16 - Salary Coefficients in the Prosecution System	137
Table 17 - Average Annual Gross Salaries and Non-Salary Compensation for Non-Prosecutor Staff in 2016 (in EUR)	137
Table 18 - Prosecutors' Average Gross Salaries and Non-Salary Compensations in 2016, in Absolute Values (in EUR) and by PPO Type.....	138
Table 19 - Share of PPOs with ICT Staff Members	146
Table 20 - Age structure of PCs Across the Prosecutorial System	147
Table 21 - Applications Running in the Prosecutorial System	149
Table 22 - Required ICT Infrastructure Investment Breakdown, (in EUR)	152
Table 23 - Estimated Investments in IT Infrastructure, per PPO Category (in EUR)	152
Table 24 - Number of Inhabitants in PPOs' Territory, Compared by Prosecution Type and Size	155
Table 25 - PPOs Facilities (Available Data Only), 2016.....	157
Table 26. - Interview Rooms and Separate Prosecutors' Offices by PPO type	158
Table 27 - Infrastructure Expenditures of the MoJ and the SPC, 2016.....	160
Table 28 - Recurrent Maintenance Expenditures in PPOs, 2016	160
Table 29 - EuropeAid Project Assessment of Repairs to Judicial Facilities, 2016	161
Table 30 - EuropeAid project Estimation of Judicial Infrastructure Capital Expenditures.....	162

1. Objective, Scope & 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 Acquis Communautaire. One of the principal goals of The Review is to present an objective baseline of current sector performance and assess the progress made towards the prosecutorial goals of Serbia’s 2016 Action Plan for the implementation of the National Judicial Reform Strategy 2013-2018 (NJRS) for Chapter 23¹, which centered on the transfer of competences for the prosecutorial system from the Ministry of Justice (MoJ)² 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 the inner workings of the system, and how financial and human resources, 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 aspects of the system’s operations.

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, to help Serbia continue its progress towards aligning the performance of its judicial system with that of EU 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, and for assessing the performance of the prosecutorial system from 2014 to 2016.

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 ‘main’ recommendation for each chapter is accompanied by a series

¹ 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-sprovodjenje-strategije.php>

² 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.

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), medium term (2-3 years) and long term (5 years), commencing from 2019, the anticipated date for the launch of the Action Plan for Serbia's National Judicial Reform Strategy 2019-2024.

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 organization, position, and competence of Serbian prosecutors. Despite these changes the performance of Serbia’s prosecutors match those of their EU counterparts in many respects³ but 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 (SPC), have adequate manual or electronic systems that 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 replicate successful practices throughout the system. The lack of data and visible improvements contributes to cynicism among those both inside and outside the system, which may not be deserved, and the 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 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.⁴ The Commissioner reports to the public on claims of undue

³ 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.³ 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.

⁴ 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.

influence on prosecutors, a development which has drawn praise from EU experts.⁵ It also has generated significant favourable 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 some sense that justice is being done.

10. Serbia also has continued to establish appropriate prosecutorial offices to deal with cases of corruption and 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 Organized Crime, Terrorism, and Corruption.⁶ These departments are planned 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 the Special Prosecutor's Office for Organized Crime, which were established in line with Council of Europe recommendations for the prosecution of particular offenses.

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.

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, or 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. It will also 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 Serbia's Criminal Procedure Code (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 because police are part of the Ministry of Interior, which 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 for all types of cases, and especially those in which political interests might be involved.

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, effectiveness, and its ability to fight corruption.

12. The fractured nature of institutional responsibility for prosecutorial operations between the Ministry of Justice (MoJ), Republic Public Prosecutors Office (RRPO) and State Prosecutorial Council (SPC) also undercuts the performance possibilities of Serbia's

⁵ 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."

⁶ Official Gazette, No. 94/2016.

prosecutors. The Consultative Council of European Prosecutors (CCEP)⁷ 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.⁸ 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 administered by the SPC and negotiating all aspects of the prosecutorial system budget with the Ministry of Finance. The 2013 National Judicial Reform Strategy (NJRS)⁹ and Action Plan for Chapter 23¹⁰ called for the transfer of many of these responsibilities to the SPC by the first quarter of 2017: there had been 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 CEPEJ¹¹ reports on efficiency and the quality of justice¹² and its Serbia's reported expenditures represented 0.11 percent of GDP. The sample median value that year was 0.5 percent. However, Serbia's system is underfunded if expenditure is 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 and infrastructure, and staffing adjustments needed to improve prosecutorial operations may incur additional costs. 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 while there is software that supports some different business processes. 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 and there are significantly more computers older than seven years than 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 on local hard drives, which carries significant operating and security risks.

15. The system needs to hire staff with specialized management and analytical skills at 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

⁷ The Consultative Council of European Prosecutors (CCEP), 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.

⁸ CCEP, Opinion No. 9 (2014) on European norms and principles concerning prosecutors.

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.

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).

sustained management training for members of the SPC and its staff, prosecutors and senior PPO staff at all levels also 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 Quality chapter 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's 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. 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 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 made by political leaders and planted in certain media. It also is generally accepted that information used in those attacks came from people working within the Ministry of Interior. This Review contains recommendations that, if implemented, will 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, making the reform process transparent, and ensuring that the necessary steps are taken to make the new processes work. Croatia adopted a protocol on cooperation in 2011¹³ that might serve as an example for Serbia, but no model will work if there is not sufficient will of public leaders or pressure from civil society to enforce it. 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. (See Recommendation 1, Quality section, below.)

c. Design and implement a unified case management system in all PPOs, and provide the necessary staff and ICT for the prosecutorial system to work. The need for a

¹³ See <https://www.mup.hr/UserDocImages/topvijesti/Protokol.pdf>.

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 the efficient, effective and professional operation of the system. Even if Serbia obtains funding for prosecutors' CMS and ICT need from EU-based or other international sources, it has to commit its own resources to fund continuing personnel and maintenance costs. More and better data about system operations could be collected without a CMS, but not without the addition of more and more qualified staff and consultants. 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, for instance, there has been no documentation of which of their policies or other tools might produce similar results in other PPOs. Analyses of the top-performing PPOs would contribute to the development of the permanent performance audits. (See Recommendations 2, 3, 6, Governance and Management section, below.)

e. **Determine the best methods for providing the 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 continuing training. The need for training extends to 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 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), official experts or vendors who have furnished similar training elsewhere could also 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

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 a case in criminal court.

19. Prosecutors are central actors in implementing the rule of law and serve as the link between police investigations and court adjudications.¹⁴ 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, how to seek conviction, 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 European Union (EU) requirements for an efficient, quality, and independent judicial system. The 2016 Action Plan for Chapter 23¹⁵ 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 (SPC) 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: "The Councils should bear the responsibility for taking decisions on promotion, demotion or dismissal"¹⁶ and "Sufficient administrative capacities and financial authority over their own budget needs 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."¹⁷ Some of the 2016 EU requirements called for amending Serbia's Constitution to ensure judicial independence and remove any possibility of political influence in the judicial system.¹⁸

21. The 2006 Constitution guarantees the autonomy and the unitary nature of Serbia's prosecution system.¹⁹ 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.²⁰

22. Prosecution services are not formally part of the judicial or executive branch, instead occupying a *sui generis* position. According to the Law on Public Prosecution,²¹ the chief principles

¹⁴ 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.

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

¹⁶ 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 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.

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.²²

23. The 2006 Constitution led to changes in the organizational structure of the prosecutorial system, which includes public prosecutor offices (PPOs) of both general and specialized jurisdiction. General jurisdiction offices include the Republic Public Prosecutor's Office (RPPO), 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.²³

24. The four Appellate PPOs have jurisdiction in appellate procedures reviewing 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.

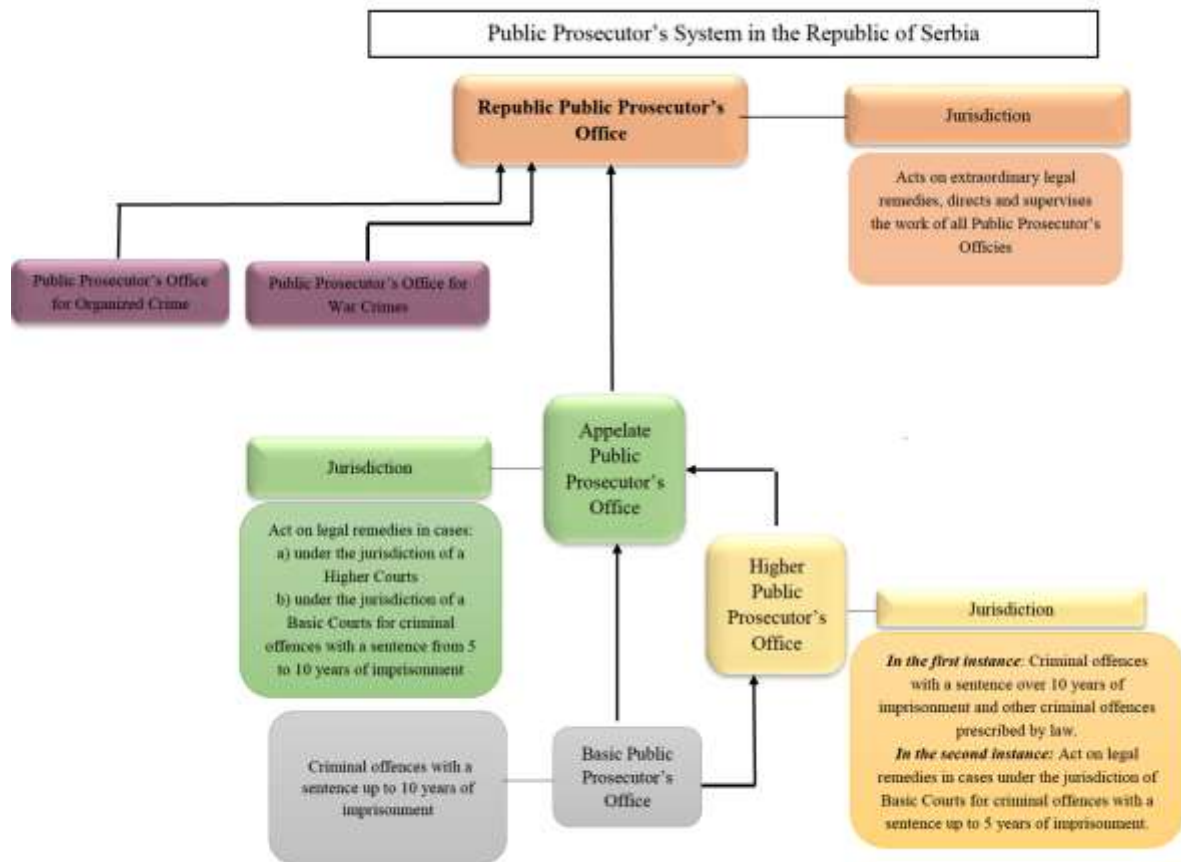
25. The 25 Higher PPOs have both first- and second-instance responsibilities. In the first instance, they address cases with a minimum penalty of 10 years of imprisonment and cases involving hate crimes, juvenile justice, money laundering, and disclosures of state secrets. In the second instance, they 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.

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.

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**²⁴ and the **Special Prosecutor's Office for War Crimes**.²⁵ 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 Prosecution²⁶ 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.

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

²⁵ 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.

²⁶ Article 16, Law on Public Prosecution.

- 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.²⁷ 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, 25 higher PPOs, four Appellate PPOs, and the RPPO.²⁸
- 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 times²⁹ 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 Constitutionally protected position of a prosecutor to act independently and resist undue influences, by initiating and pursuing proceedings when politicians or other powerful people are involved in a case.

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

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

²⁹ 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

4.1. Main Findings

35. 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 Europe³⁰ and they raise concerns for the independence of prosecution in Serbia.³¹

36. 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.

37. 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.

38. 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.

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.

39. 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.

40. 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.

4.2. Division and Coordination of Functions Among the Responsible Authorities

41. 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.

³⁰ Justice Scoreboard 2017, see https://ec.europa.eu/info/sites/info/files/justice_scoreboard_2017_en.pdf.

³¹ 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. 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."

42. The MoJ, SPC and National Assembly all are involved in the appointment of key prosecutorial personnel. The Republic Public Prosecutor is nominated by the Government and appointed by the National Assembly.³² The Republic Public Prosecutor has a six-year term and may be reappointed. Public Prosecutors head each PPO and also are elected for six-year terms that may be renewed. They are elected by the National Assembly from a list of one or more candidates proposed by the SPC.³³ For first-time Deputy Prosecutors, the SPC submits one candidate per position to the National Assembly, which decides whether or not to elect the candidate. The term of a first-time Deputy is three years. After the initial election, the SPC has sole responsibility for determining whether a Deputy Public Prosecutor receives permanent tenure, as well as their promotions to higher-instance PPOs.³⁴

43. 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.

44. The division of roles of the SPC and the RPPO in the career development of prosecutors is not always clear. While the SPC manages human resources (HR) and decides on recruitment of prosecutors, the RPPO is authorized to transfer prosecutors without consulting the SPC. These decisions can be used as unofficial promotions of prosecutors and/or as an instrument of the RPPO's influence on the system. The number of transferred prosecutors was almost 10 percentage of 604.³⁵

45. As the highest prosecution office in the country the RPPO shares responsibility for the efficiency and quality of the prosecution system, which it presents annually in the RPPO report. The Republic Public Prosecutor is authorized to issue general instructions to those within the system as a tool for harmonization of PPO practices. However, this tool should have been used more often than it was from 2014-2016, given the many legislative changes that occurred during the period. In addition, the RPPO is effective for workload management in this system, but did not initiate or propose any backlog reduction plans despite the growing numbers of carried-over and aging cases in many PPOs.

46. 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. 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.

³² Article 74 of the Constitution of the Republic of Serbia, Official Gazette, No. 98/2006.

³³ Article 74 of the Constitution of the Republic of Serbia, Official Gazette, No. 98/2006.

³⁴ Article 75 of the Law on Public Prosecution, Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 - Constitutional Court decision, 117/2014, 106/2015 and 63/2016 - Constitutional Court decision.

³⁵ In 2015 57 deputies were transferred to other PPOs, other bodies or as a head of other PPOs, while in 2016 this number decreased to 32. However, it is expected that this number significantly increased in 2018 due to the establishment of specialized departments for corruption cases in four Higher PPOs.

47. Management of budgeting and financial resources also is split between the MoJ and the SPC. The Consultative Council of European Prosecutors (CCEP)³⁶ norms and principals provide that prosecutorial systems, even when they lack full management autonomy, should be authorized to estimate their needs, negotiate their budgets, and decide in a transparent manner how to use the allocated funds to achieve the objectives of efficient and quality justice.³⁷ However, in Serbia, the executive agencies of the MOJ and the Ministry of Finance (MoF) still have important roles in the approval of funds for the prosecutorial system. The MoF is responsible for negotiating the prosecutorial budget (as part of the central Government budget) together with the SPC, and for monitoring its execution. The SPC is in a relatively weak negotiating position about funding decisions, especially *vis-à-vis* the MoF, as the SPC is not part of the Government. The MoJ's continuing role in developing and approving the budget for the prosecutorial system also is at odds with the CCJE's position on these issues.³⁸ This division is discussed in more detail in the Financial Resource Management chapter, below.

48. The divided management of capital and current expenditures has hampered progress on capital projects. 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. See Table 26. Infrastructure Expenditures of the MoJ and the SPC, 2016) below.

49. Overlapping responsibilities for the management of civil servants also hinders prosecutorial effectiveness. The MoJ sets the number of civil servants in PPOs and is responsible for their salaries, but these employees report to prosecutors.

50. The Judicial Academy (JA), also affects the performance of the prosecutorial system. The JA is an autonomous organization that in addition to its work with the judiciary, is responsible for organizing and conducting initial training for future prosecutors and continuous training for prosecutors and prosecutorial staff.

51. The 2013 National Judicial Reform Strategy (NJRS)³⁹ and Action Plan for Chapter 23⁴⁰ called for the SPC to assume others responsibilities for the prosecutorial system, but not all of these transfers have occurred. The functions which have not been assumed by the SPC include some remaining budget responsibilities and competencies for all infrastructure responsibilities. The revised NJRS Action Plan set the transfers as “mid-term” activities without specific completion date. The Action Plan for Chapter 23 called for the changes to occur by the first quarter of 2017. Both plans anticipate the MoJ would remain responsible for capital ICT investments, while the SPC would handle ICT operations and maintenance.

³⁶ The Consultative Council of European Prosecutors (CCEP), 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.

³⁷ CCEP, Opinion No. 9 (2014) on European norms and principles concerning prosecutors.

³⁸ Opinion No.10 (2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of society. This Opinion has been adopted by the CCJE, Strasbourg, 23 November 2007, para. 75, p. 8.

³⁹ National Judicial Reform Strategy, activities 1.2.3.1 transfer of budget competences and 1.2.3.2 transfer of infrastructure competences.

⁴⁰ Action Plan for Chapter 23, activity 1.1.4.7. transfer of budget competences.

4.3. Composition and structure of the SPC

52. The State Prosecutorial Council has a President and ten other members. The Law on State Prosecutorial Council adopted in 2008 designates the Republic Public Prosecutor as the President of the Council. While the Law also designates six of the other 10 members as Public Prosecutors or Deputy Public Prosecutors selected by their peers, those members cannot serve until they have been elected by the National Assembly. The other SPC members are the Minister of Justice, the President of the National Assembly Committee for the Judiciary, a representative of the Bar Association of Serbia and a representative of Serbia's law faculties. The faculty representative is chosen by a joint session of the deans of the country's law faculties, but both that representative and the representative of the Bar Association also must be elected by the Assembly.

53. Having a majority of the SPC members proposed by their peers (i.e., the six prosecutors, the faculty representative and the Bar representative) complies with European best practices.⁴¹ However the Venice Commission has pointed out that the President of the SPC should be elected by its members instead of being designated by legislation to avoid giving the Republic Prosecutor, who is accountable to the National Assembly for the work of the public prosecution, undue influence over the SPC.⁴² The GRECO IV Evaluation Round also recommended the Minister of Justice and the President of the National Assembly Committee for the Judiciary not be included as SPC members.⁴³ The GRECO 2018 Evaluation Report for Serbia found no progress in implementing an anti-corruption recommendation to change the composition of the SPC so the prosecutorial and non-prosecutor lawyers on the SPC would not be elected or confirmed by the National Assembly.⁴⁴

54. The Ministry of Justice has initiated Constitutional amendments to align the composition of the SPC and the selection of its members with European standards expressed by the EU Screening report for Chapter 23 and the GRECO IV Evaluation Round. The proposed amendments would reduce the number of prosecutors to less than half of the SPC member (from six to four) to ensure the prosecutorial members of the SPC cannot dominate all of the SPC decisions on their own, 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. Under the amendments, except for the Republic Public Prosecutor all of the prosecutorial members would be Deputy Public Prosecutors rather than Public Prosecutors and the National Assembly no longer would elect the prosecutorial members. The Republic Public Prosecutor would remain as an SPC member, but the SPC members would elect the SPC President. The proposed amendments also would eliminate as members the representatives of the Bar Association and law faculties and the President of the National Assembly Committee for the Judiciary. Instead of the Bar and law faculty members, the SPC would include four "distinguished lawyers"⁴⁵ selected by the National Assembly.⁴⁶ The Minister of Justice would remain as an SPC member.

⁴¹ Opinion of the CCPE Bureau following a request by Prosecutors Association of Serbia to assess the comparability with European standards of the proposed amendments to the Constitution of Serbia which will affect the composition of Prosecutorial Council and the functioning of prosecutors, CCPE-BU(2018)3; point 48 of the Opinion.

⁴² See Venice Commission's Opinion on the draft law on the Public Prosecutors' service of Moldova, CDL-AD(2008)019, para 62.

⁴³ GRECO in its Fourth Round Evaluation Report recommended changing the composition of the SPC by excluding the National Assembly from the election of SPC members, requiring that a substantial proportion of its members be prosecutors elected by their peers, and by abolishing the ex officio membership of representatives of the executive and legislative branches.

⁴⁴ Recommendation vii from GRECO's IV Round Evaluation Report.

⁴⁵ Lawyers with more than 10 years of relevant experience, who demonstrated professional work and enjoy good personal reputations.

55. The proposed amendments also would allow the National Assembly to elect SPC members based on a qualified majority of two-thirds of Assembly members. This provision was proposed at the suggestion of the Venice Commission. In case of a deadlock with the qualified majority rule, SPC members could be selected by a commission including the President of the Constitutional Court, the President of the Supreme Court, the Republic Prosecutor, the Protector of Citizens (Ombudsman) and the President of the National Assembly. However, several NGOs have criticized the deadlock mechanism proposal since all members of the Commission, except the President of the Supreme Court, would have been appointed by a simple majority of the Assembly.

56. The proposed amendment would not eliminate the opportunity for a Republic Public Prosecutor to combine the position's other powers with his or membership on the SPC to lobby for particular SPC policies or programs. To date, the SPC has been viewed by some as an extension of the RPPO because so much authority for managing the prosecutorial system and its prosecutors rests with the Republic Public Prosecutor, who could be under pressure from political forces to limit the SPC's exercise of its authority, or to limit the grant of any additional authority to the SPC. Even if any Republic Public Prosecutor is not the President of the SPC after the adoption of the amendments, that change alone would not eliminate the opportunity for Republic Public Prosecutor to exercise disproportionate influence over the other prosecutor members of the SPC.

Experience shows that Serbian media can be a source of pressure on prosecutors as well as a possible tool for resisting undue pressure from other sources.

57. Even without the proposed Constitutional amendments, Serbia has strengthened the independence of the SPC. To overcome challenges of external and internal pressure on prosecutors, the SPC established its Commissioner for Autonomy in 2017.⁴⁷ The Commissioner reports to the public on claims of undue influence on prosecutors, a development which has drawn praise from EU experts.⁴⁸

58. Since the introduction of the office in April 2017, the Commissioner has received and examined more than a dozen complaints by individual Public Prosecutors and Deputy Prosecutors alleging undue interference with their work, and the Commissioner found some instances of official interference. The Commissioner's findings, recommendations and statements, posted at the SPC's website and often proactively communicated to the media, generally received positive media coverage and follow-up by the media. The Commissioner's rulings also raised the public profile and credibility of the prosecution service as well as much-needed public awareness of the importance of preserving prosecutors' ability to act independently and based only on law. Most notably, the

⁴⁶ Including distinguished lawyers as members of a Council has been done in the neighboring countries of Montenegro and Macedonia. However, civil society groups in Montenegro are concerned this could introduce more political influence in Council activities, the distinguished lawyers still would be allowed to engage in politics while they were members of the Council.

⁴⁷ 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.

⁴⁸ 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."

Commissioner's findings, especially when made public, reportedly ended the interference that had triggered the complaints.⁴⁹

59. There were earlier changes designed to reduce opportunities for undue influence on the SPC. In 2015, the SPC Electoral Commission⁵⁰ determined there would be at least 20 prosecutors assigned to vote at each polling station to choose the prosecutor members of the SPC. Before that, each PPO had a separate election to choose the prosecutor members of the SPC, so there was little or no anonymity of the election results in smaller PPOs. Elections for prosecutor members are now held in a total of 10 locations.⁵¹

4.4. Powers of the SPC

60. One of the primary reasons for the establishment of the SPC was to guarantee the autonomy of prosecutors,⁵² but the SPC's limited financial authority and lack of budget expertise and management skills could jeopardize its independence. The SPC is authorized to plan and propose budget funds not only for its work but also for the work of PPOs.⁵³ From 2014-2016, the SPC usually gathered and totalled the financial proposals of the various PPOs without setting budget ceilings for the PPOs or re-setting the PPOs' financial priorities.⁵⁴ The budget process is discussed in more details in the Financial Resource Management chapter, below.

⁴⁹ Council of Europe, Policy Brief on Judicial Independence in Serbia - Preventing pressures on the prosecution service, State Prosecutorial Council and the Commissioner for Autonomy of the Public Prosecution, *October 2018*

⁵⁰ The Law on the State Prosecutorial Council regulates the organization of elections and how their results are determined. The Electoral Commission, made up of Public Prosecutors and Deputies who are not members of the SPC, sets the date and time of the election and notifies all public prosecutors seven days before the election. According to the Article 31 of the Law the Electoral Commission also designates the number and place of polling stations.

⁵¹ Serbia 2016 EU Report SWD(2016) 361 final: "The election of new members to the HJC and SPC has created a new opportunity to improve their legitimacy and reputation".

⁵² Article 2 of the Law on the State Prosecutorial Council.

⁵³ Article 13 of the Law on the State Prosecutorial Council.

⁵⁴ In 2017 and 2018, the SPC increased and improved its analysis of PPO budget proposals and presented consolidated budget proposals to the MoF.

Figure 2 – Competences of the SPC vis-a vis PPOs

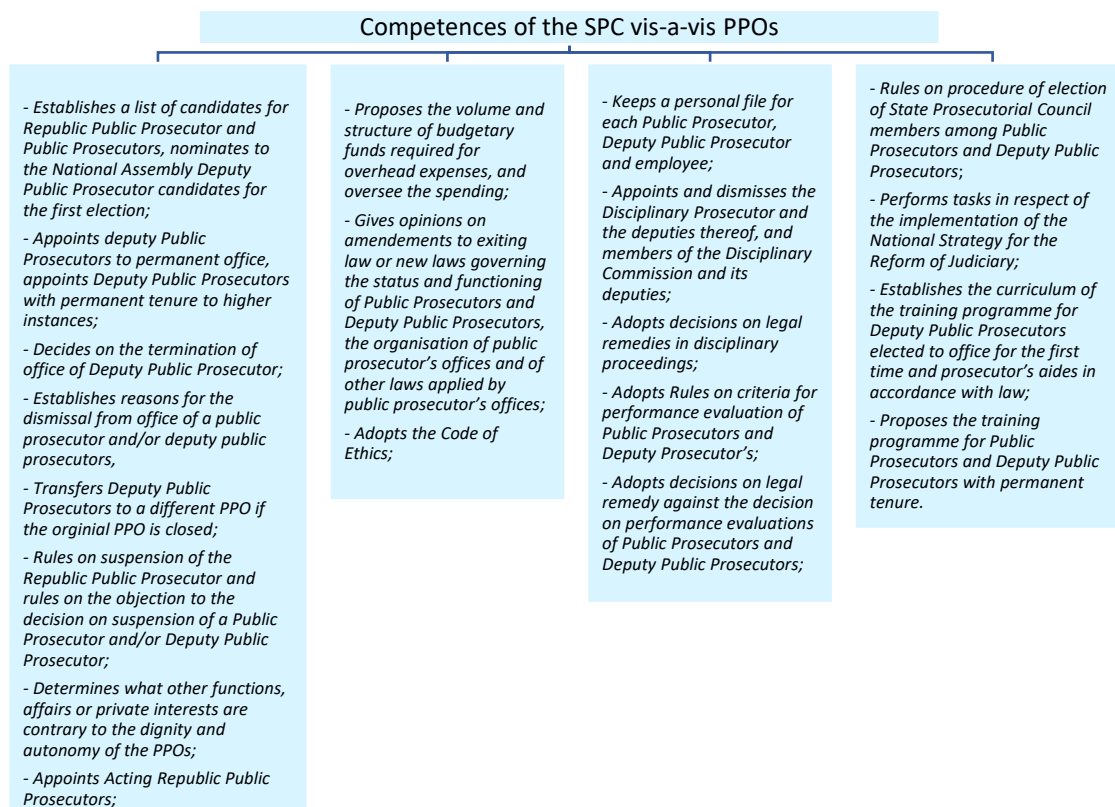
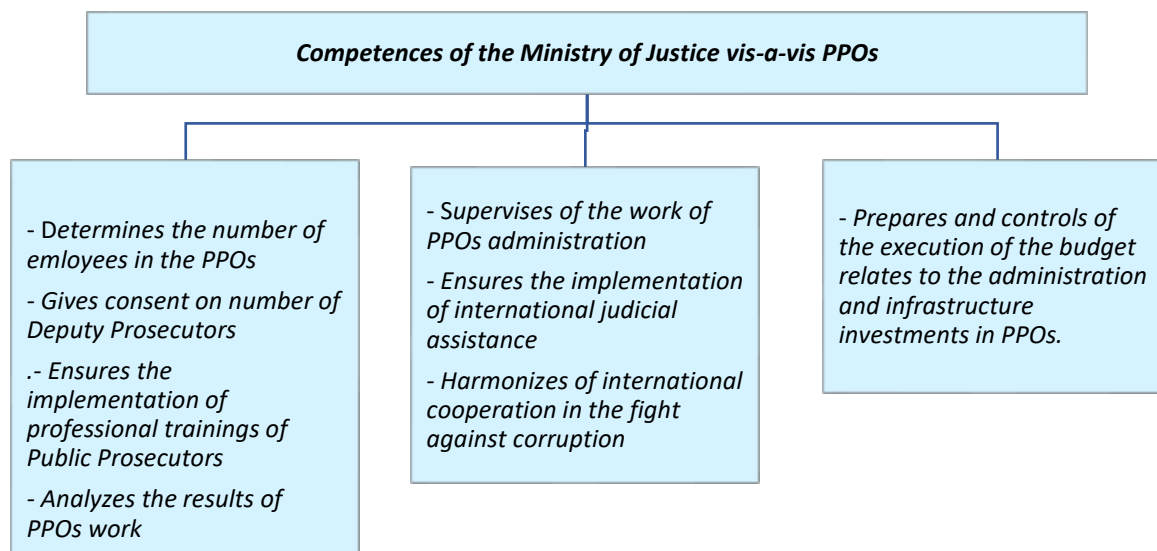


Figure 3 – Competences of the MOJ vis-a vis PPOs



61. As envisioned by the Law on the State Prosecutorial Council,⁵⁵ the SPC has working bodies that address particular subjects. Some of these bodies are temporary and some are permanent. The permanent working bodies are the Electoral Commission and the Disciplinary Commission. The

⁵⁵ Articles 15 and 16 of the Law on the State Prosecutorial Council.

temporary working bodies⁵⁶ include the Ethics Committee,⁵⁷ the Working Group for Monitoring of Implementation of Judicial Legislation⁵⁸ and the Working Group for Training Curricula.⁵⁹ The effectiveness of work of the Council's temporary working bodies, however, is yet to be seen.

62. The transparency of SPC operations still is somewhat limited. Measures to increase transparency were introduced in 2015 to comply with the Action Plan for Implementation of the National Judicial Reform Strategy and the Action Plan for Chapter 23. The SPC prepared a new website that is regularly updated to improve the transparency of the SPC's work. The conclusions and decisions made during the SPC sessions are available on the website, including the ranked lists of prosecutorial candidates proposed to the National Assembly and SPC appointments of deputies to permanent positions. The website also includes annual report on the SPC's performance, vacancy announcements and press releases. However, it does not feature the advance agendas for SPC sessions, minutes from its meetings or decisions on disciplinary proceedings.⁶⁰

4.5. Managerial Capacities of the SPC

63. CCEP standards provide that management of resources by prosecution services should be done with the utmost rigor and in a transparent manner.⁶¹ To achieve this standard, prosecutors should receive adequate training and be supported by qualified specialists. In Serbia, the need for training and support applies to members of the SPC as well as to Public Prosecutors and the staff of the SPC Administrative Office, given their roles in the day-to-day management of the prosecutorial system.

64. The President of the SPC is responsible for many tasks aimed at ensuring the effectiveness of the Council's work. In addition to convening and chairing the SPC sessions, the President is responsible for the overall performance of the Council and its Administrative Office. The President manages the work of the Council, signs all the Council's documents and authorizes all the payments for the Council and Administrative Office (AO). These administrative functions can, however, be delegated to the Secretary General of the Council. At the end of the year, the AO prepares an annual report on the work of the Council for approval by the SPC. The President of the Council has the important role of representing the Council before domestic and international institutions.

65. 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. SPC members would benefit from training on basic methods of statistical research and analysis.

66. The SPC established the AO organized its units based on the Act on Systematization. The CCJE and other EU and Council of Europe bodies have emphasized the need for judicial councils, including prosecutorial councils, to have

The lack of staggered terms for elected member of the SPC leaves the institution exposed to a significant loss of institutional memory every five years, when the next members are chosen.

⁵⁶ Temporary working bodies are regulated in the SPC Rules of Procedure, A No. 340/17, article 18. A temporary working body is composed of at least three members of the SPC, but also external experts could be appointed as members.

⁵⁷ Article 19 of the SPC Rules of Procedure.

⁵⁸ Article 20 of the SPC Rules of Procedure.

⁵⁹ Article 21 of the SPC Rules of Procedure.

⁶⁰ All portions of the website must comply with rules governing the protection of personal data. data protection rules.

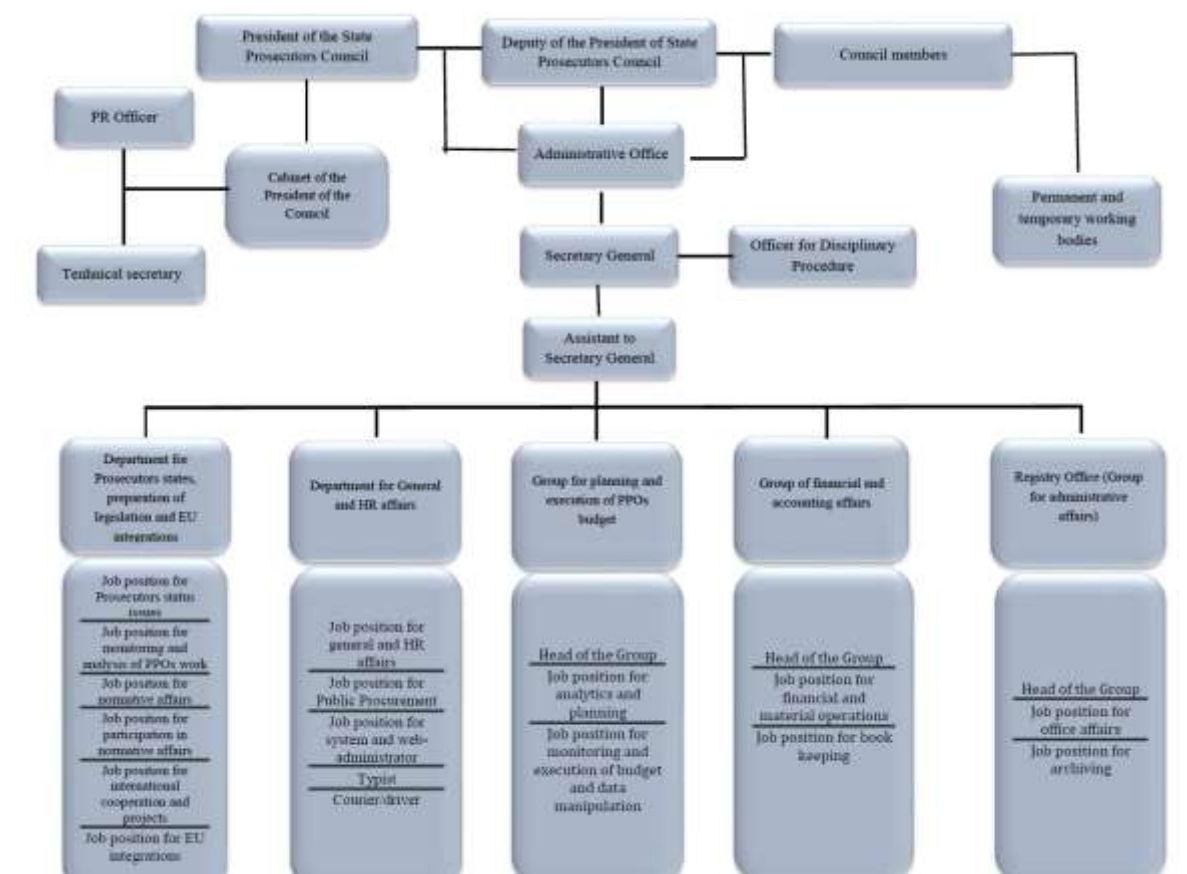
⁶¹ CCPE, Opinion No. 9 (2014) on European norms and principles concerning prosecutors.

administrative staff equipped to enable successful fulfilment of their administration and management related tasks. However, not all of the SPC posts are staffed, and there has been no formal assessment of the needs or structure of the Administrative Office.⁶² At the end of 2018, the following positions still were not filled: the Assistant Secretary General; the associate for public procurement, the staff member for IT and technical support, the Head of the Group for Planning and Execution of the PPOs' Budget, the associate for financial-accounting tasks and the public relations position. See Figure 4, the organizational chart of the Administrative Offices of the SPC.

67. Interviews and a 2016 Training Needs Analysis⁶³ revealed that many SPC staff see their roles in narrow and confined. This view is reflected in SPC AO's systematization, where does not include any AO approved positions⁶⁴ defined in terms of required skills and abilities in strategic planning, budgetary, legislative or policy analysis, organizational assessment, or management advisory services to Public Prosecutors' Offices (PPOs). Each of these skills is central to the SPC AO playing its intended role.

68. To date, little continuing education has been offered to SPC AO staff. The JA does not offer ongoing training for justice sector staff and no executive agency provides training to the justice sector in recognition of the judiciary's status as a separate branch of government.

Figure 4 – Organization of the SPC Administrative Office



⁶² Rules on internal organization and systematization of working positions in the SPC Administrative Office, A. No. 968/14.

⁶³ MDTF-JSS, Training Plan – Serbian State Prosecutorial Council Administrative Office, May 2016, available at: http://www.mdtfjss.org.rs/archive//file/SPC_TNA_2016-06-17.pdf

⁶⁴ The SPC AO currently employs 23 staff of the approved complement of xx full-time staff positions.

69. The Administrative Office is run by the Secretary General who has varied and critical duties as assigned by law. The description of this position should be expanded so future Secretary Generals would be required to have more qualifications for advising the SPC on organizational and managerial matters. Currently, prior management experience is not a requirement for the Secretary General or heads of the groups.

70. Even if the SPC had effective case management systems in every PPO, the 23 employees of the SPC's AO would not be enough to complete all of the tasks the SPC needs to accomplish. The employees work in two departments (the Department for Prosecutors' Status, Preparation of Legislation and EU Integration and the Department for General and Human Resource Affairs) and three groups (one for planning and execution of PPO budgets, one for financial and accounting affairs, and one for administrative affairs), but there are no separate heads of the departments.

71. The SPC also has no specialized staff for roles such as analysis and planning, except in the budget planning department, and it has no staff trained or specializing in performance audits. There are no plans to recruit for those positions, and staff does not have the skills to instigate more sophisticated management, planning or performance audits. The AO does not have enough positions even for financial planning and monitoring the amounts spent within the PPO system.

72. The responsibilities of the Administrative Office include maintaining registers with personal files about prosecutors and providing administrative support to the work of the Council and its groups and commissions. However, the AO has only one staff member to deal with human resource planning and implementation issues for all PPOs. There also is no staff assigned to the professional development of prosecutors.

4.6. Internal Organization and Managerial Capacity of the PPOs

73. The organization of the PPO network has been relatively stable since 2014. Serbia has shifted the distribution of prosecutor positions among PPOs to benefit offices with higher numbers of cases but without increasing the total number of prosecutors in the system. These adjustments were made after the SPC conducted a 2016 workload analysis to assess the effect on the prosecutorial system of the new Criminal Procedure Code that took effect in October 2013, the resulting transfer of 40,000 investigative cases from the courts to PPOs, and the changes to the prosecutorial network that took effect on January 1, 2014.⁶⁵

74. The major change to the network in 2014 was the addition of more Basic PPOs.⁶⁶ Since then, Serbia's network has included the RPPO, 58 general jurisdiction Basic PPOs, 25 Higher PPOs which have some general and some secondary jurisdiction, four Appellate PPOs, the Specialized Prosecutor's Office for War Crime and the Specialized Prosecutor's Office for Organized Crime, as shown by Figure 1. Since the two specialized PPOs have very specific remits, their operations have not been included in this FR.

75. The Law on Public Prosecution designates Public Prosecutors as the manager of each PPO, and makes the Public Prosecutor accountable for proper and timely performance of the office.⁶⁷ Public Prosecutors also oversee the PPOs below them in the system's hierarchy. PPO functions for

⁶⁵ The 2013 Law on Seats and Territory of Courts and PPOs established the current organization of PPOs. Official Gazette, No. 101/2013.

⁶⁶ In January 2010 Serbia modified the network by changing from 138 Municipal PPOs to 34 Basic PPOs, and from 30 District PPOs to 25 Higher PPOs.

⁶⁷ Law on Public Prosecution, Article 34. See also the PPO Administration Book of Rules, Article 2.

which Public Prosecutors are responsible include organizing internal operations; reviewing complaints and petitions; keeping statistics; drafting reports, and managing the cases, finances and material of the PPO. The specific duties of Public Prosecutors include but are not limited to managing the administration and operations of the PPO; handling any labor issues of prosecutorial staff; ordering the removal of irregularities; preventing procrastination in the PPO's work, and safeguarding the autonomy of prosecutors. The broad discretionary powers of Public Prosecutors over the work of their Deputy Public Prosecutors create internal pressures that could have negative impacts on the deputies' independence.

76. Public Prosecutors in some offices also spend a portion of his/her time actively prosecuting cases. There are no clear criteria to determine when Public Prosecutors should give up all case-handling and restrict their work to management and administration. In addition, Public Prosecutors must deal with complaints from parties to the proceedings and requests from parties for expediting work in particular cases. Public Prosecutors also are responsible for certain human resource and financial management matters (e.g. requests for annual leave of employees, issuing payment orders etc.). Addressing these duties does not leave Public Prosecutors, especially those in larger PPOs, with time to consider broader questions about improving management processes.

77. Given the wide responsibilities of each Public Prosecutor for the operation of the PPO, the acting status of more than one-third of the prosecutors heading PPOs was detrimental to the functioning of the system as a whole, as well as to the individual offices.⁶⁸ The number of appointed Public Prosecutors in place rose to from 48 in 2014 to 53 in 2015 and 56 in 2016, but that left 31 of 87 PPOs with Acting Public Prosecutors in 2016.

78. From 2014-2016, the Secretaries in most PPOs were prosecutorial assistants with few management skills and little management training, if any, and there were no templates for staffing profiles for PPOs. Secretaries assist the Public Prosecutor with administrative and technical

tasks. Secretaries generally were prosecutorial assistants who still preferred to become Deputy Public Prosecutors.

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.

79. As was true for members of the SPC, neither Public Prosecutors nor their Secretaries were required to have managerial experience to qualify for their jobs from 2014-2016. The lack of formal management trainings for heads of judicial institutions was identified as a challenge in the 2014 Judicial Reform Strategy.⁶⁹ However, the JA did not hold any management trainings from 2014 through 2016.

80. Major systemic changes, such as the introduction of prosecution-led investigations, forced PPOs to increase the number and

⁶⁸ GRECO in IV Evaluation round (paragraph 173) has recommended reforming procedures for the recruitment and promotion of Public Prosecutors and Deputy Public Prosecutors, by excluding the National Assembly from the process, limiting the discretion of the government, ensuring that decisions [what decisions and made by whom?] are made on the basis of clear and objective criteria and in a transparent manner, and that Acting Public Prosecutors retain their acting status only for limited periods of time.

⁶⁹ 2014 Judicial Functional Review, Governance and Management section.

capacities of their staff. Changes in the staffing levels of PPOs are discussed in more detail in the Human Resources Management chapter, below. The 2018 establishment of specialized departments for cases involving corruption in the Higher PPOs in Belgrade, Novi Sad, Kraljevo and Nis also will have system-wide effects, to be examined in the future. Up to 90 Deputy Public Prosecutors were due to be transferred to the specialized departments.

81. 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.

82. There was tension between the need for specialization of some prosecutors and the goal of random case assignment. Many PPOs have prosecutors who specialize in certain types of cases (e.g., family violence, business crime, or tax crimes). As a practical matter, however, this means a limited number of prosecutors are available to handle these specialized cases, and the principle of random assignment of cases cannot be achieved. Balancing the need for specialization with random case assignment is especially challenging in smaller PPOs which have only two or three prosecutors, such as Kursumlija, Lazarevac, Trstenik, Aleksinac, Brus, and Lebane.

83. There is an insufficient attention to organizational innovations which could assist the efficiency in the PPOs operation. One examples of organizational innovations, starting in 2014, was the introduction of investigation department in First Belgrade Basic Prosecutor Office, which accelerated investigations within the PPO, and the institution of departments to handle cases of domestic violence and commercial offenses. Departments for commercial offences are established in all PPOs where are the seats of commercial courts. Domestic violence cases exist in three Belgrade Basic Prosecutor Offices, as well as in many offices through Serbia.

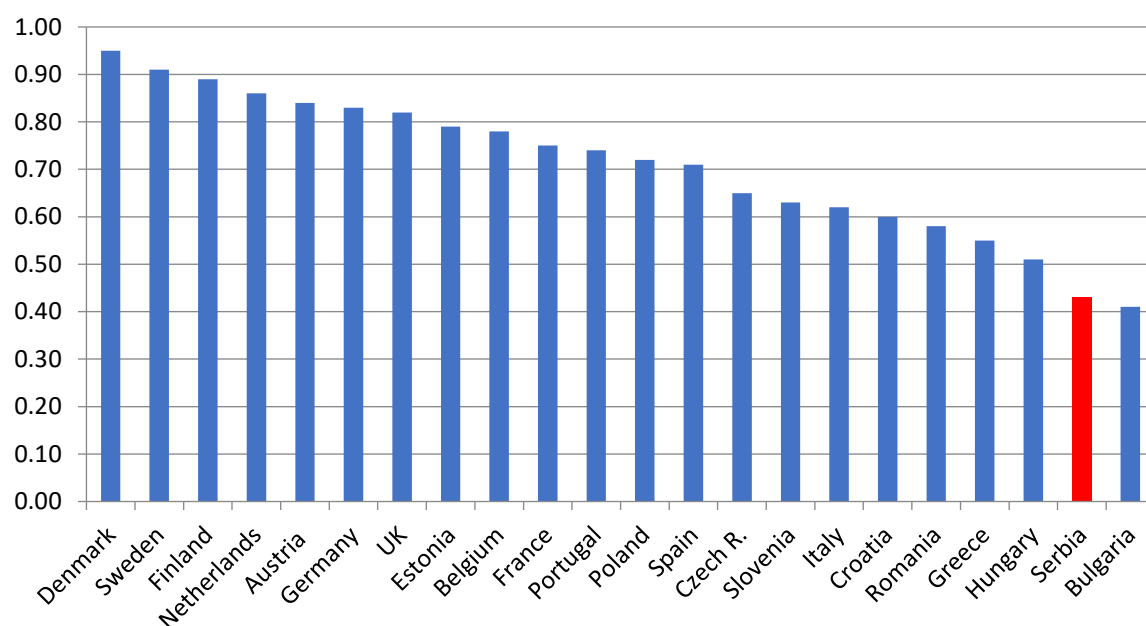
4.7. Integrity in justice service delivery

84. Integrity of the prosecution system, as well as the perception of integrity, directly influences the quality of justice service delivery. Many prosecutors reported to the FR team that the prosecution system lacks integrity. To assess the integrity of the system, this chapter analyzes the independence of prosecutors, organizational systems for integrity in decision-making and the transparency of prosecutors' work.

85. 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 States⁷⁰ 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 was the lowest-ranking institution, at only 0.26.

⁷⁰ 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.)

Figure 5 - WJP Rule of Law Index 2017 – 2018, Absence of Corruption in EU Member States and Serbia



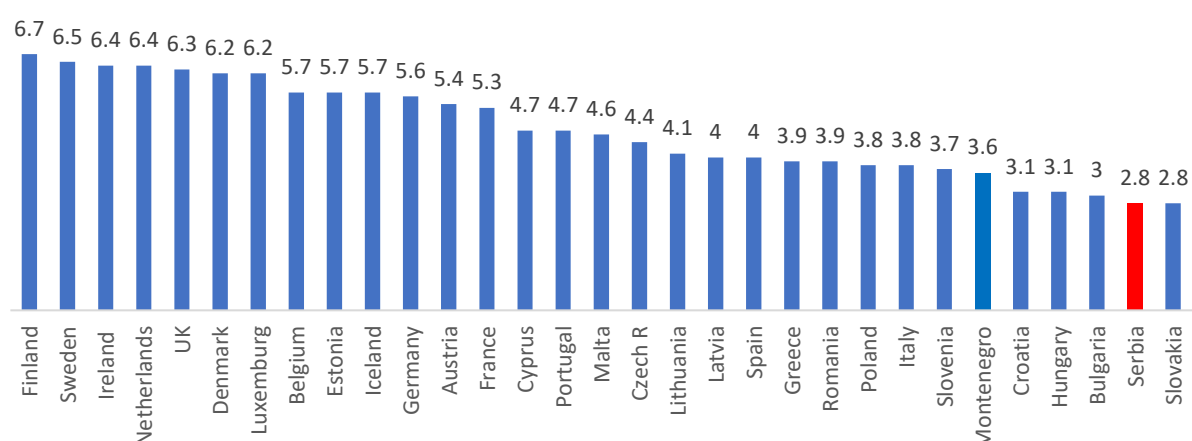
Source: WJP Rule of Law Index 2017 – 2018

4.7.1. Independence of prosecutors

86. The 2018 World Economic Forum's (WEF) Global Competitiveness Report⁷¹ ranked Serbia's judiciary 118th out of 138 countries for judicial independence. With the exception of the Slovak Republic, Serbia was behind all EU Member States and non-EU neighboring countries in the region.

Figure 6 - WEF Global Competitiveness Report 2017-2018, Judicial Independence in

European countries and Serbia, 2016-2017



Source: WEF Global Competitiveness Report 2017-2018

⁷¹ The Global Competitiveness Report assesses the competitiveness landscape of 148 economies via Executive Opinion surveys with 15,000 business executives. Its definition of independence includes influences on judicial decision-making from members of governments and firms. See: <http://www3.weforum.org/docs/GCR20172018/05FullReport/TheGlobalCompetitivenessReport2017-2018.pdf>.

87. Although European countries do not have uniform rules governing the relationship between the public prosecution and other government branches,⁷² European standards encourage provisions that enhance the independence and autonomy of prosecution services.⁷³ Independence depends on a plurality of factors such as the regulation of prosecutorial removals, dismissals, and appointments, as well as control over the budget and the effective use of mechanisms of instruction by higher-instance prosecution offices.⁷⁴

88. A range of legal safeguards exists to protect the autonomy of prosecutors and prosecution services in Serbia. The Constitution defines the Republic Public Prosecutor's Office as an autonomous state body.⁷⁵ It also defines the SPC as guaranteeing the autonomy of Public and Deputy Public Prosecutors⁷⁶ and responsible for the appointment, promotion, and dismissal of Deputy Public Prosecutors. However, as the FR discusses above, the Government and National Assembly are directly involved in the appointment of Public Prosecutors and the initial appointments of Deputy Prosecutors.⁷⁷

89. The prohibition of any instructions from the executive although specifically mentioned in the Law on Public Prosecution⁷⁸ may not be sufficient to guarantee prosecutorial independence.⁷⁹ In addition, the broad discretionary powers of Public Prosecutors over the work of their deputies create internal pressures which can have a negative impact on the deputies' independence.⁸⁰ To address these problems, the SPC introduced the Commissioner for Autonomy, whose activities are described above and which have been welcomed by the European Commission.⁸¹

90. Prosecutors cannot be members of political parties or participate in political activities, exercise any other public function, or engage in other professional employment except for lectures of scientific work. In addition, functional (substantive) immunity is granted to prosecutors except for criminal offenses in which approval of the competent National Assembly committee is needed for imprisonment of prosecutors.⁸²

⁷² 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), 16th meeting, 2009.

⁷³ CCPE Opinion 9 of 2014 "on European norms and principles concerning prosecutors."

⁷⁴ In these judgments: *Moulin v. France* (Application no. 37104/06), Judgment, 23 November 2010; *Medvedyev and others v. France* (Application no. 3394/03), Judgment, 29 March 2010; *Kolevi v. Bulgaria* (Application no. 1108/02), Judgment, 5 November 2009, the European Court of Human Rights enumerated the following characteristics of independence: appointment and guarantees against undue pressures, the appearance of independence, the impact of the executive on appointment and career development, and instructions by the MoJ.

⁷⁵ Article 156 of the Constitution.

⁷⁶ Article 164 of the Constitution.

⁷⁷ Article 159 of the Constitution.

⁷⁸ Article 5 of the Law.

⁷⁹ For example, in Slovenia, the public prosecution service is an independent and autonomous body. No one, neither the members of the legislative or the executive power and not even their own hierarchical superiors, is allowed to give prosecutors any instructions on the handling of an individual case. The executive power, however, retains some competences about the organisation, supervision, and general management of human resources and at some point, the competent authority was not the MoJ but the ministry of interior. That was criticized by GRECO and later remedied through Constitutional amendment which restored the competence of the MoJ over such matters.

⁸⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, SWD(2018) 152 final, p. 14.

⁸¹ Serbia 2018 Report, Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, SWD(2018) 152 final, available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf>; MEDEL Declaration of principles concerning the Public Prosecutor, available at: <http://medelnet.eu/images/stories/docs/naples%20eng%20rev%20.pdf>; Consultative Council of European Prosecutors (CCEP) Opinion No. 9 from 2014 on judiciary in the service of society.

⁸² Article 162 of the Constitution.

91. In principle, a prosecutor serving within a given PPO cannot be assigned to another PPO without his/her free consent. An exception to this rule applies if the SPC decides on the permanent transfer of prosecutors from a PPO which has been closed due to a reorganization of the prosecution system. The Republic Public Prosecutor also can transfer prosecutors without their consent on a temporary basis to assist under-resourced PPOs. With their written consent, prosecutors may be transferred for up to three years to the SPC, MoJ, Judicial Academy, or relevant international organizations.

92. Further reforms are planned to remove vestiges of dependence, including the removal of the National Assembly approval of appointments. The Venice Commission Opinion on the Constitution of Serbia⁸³ and the Action Plan for Chapter 23 call for Constitutional amendments to strengthen the independence of the judiciary and remove possibilities for political influence, including removal of the Assembly procedure from the appointment process. Although the Action Plan for Chapter 23 envisaged that Constitutional amendments would be adopted by end of 2017, that has not occurred, as discussed in the Governance and Management chapter above.

93. The composition of the SPC does not fully align with European standards.⁸⁴ The SPC is composed of 11 members who have simultaneous five-year mandates. Members include the Republic Public Prosecutor, the six prosecutors proposed by the SPC and elected by the National Assembly, one respectable lawyer proposed by the Bar Association, and one law professor proposed by the General Session of Deans of Law Faculties, as discussed above.

4.7.2. Relevance of organizational systems for integrity in decision-making

94. Available data did not indicate how often or why the Republic Public Prosecutor issued mandatory general instructions.⁸⁵ Prosecutors interviewed for this report explained that general instructions were not issued frequently, and they usually related to harmonization of practice and changes of laws. They were delivered to prosecutors in writing through internal communication channels and were not published on the RPPO website.

95. Prosecutors also reported individual instructions from Public Prosecutors sometimes were issued orally and without written confirmation. This process violated several formal procedures and posed a serious risk for the imposition of undue influence.⁸⁶ Each Public Prosecutor is authorized to issue a mandatory instruction to one of his/her deputies concerning an individual case. When these instructions are issued orally, the law requires they be confirmed in a writing within three days. The Deputy Public Prosecutor is allowed to object the instruction if s/he finds it illegal and/or considers it to be unfounded. In that case, the Public Prosecutor can withdraw the instruction or forward it to the higher-instance Public Prosecutor for consideration.

⁸³ CDL-AD(2007)004, Opinion No. 405/2006, adopted by the Commission at its 70th plenary session (Venice, 17-18 March 2007).

⁸⁴ Consultative Council of European Judges (CCJE) Opinion No.10 (2007) recommends the creation of a Judicial Council to protect institutional and individual independence.

⁸⁵ GRECO, in its IV Evaluation Round, expressed a strong negative view of individual instruction, since they often have been used in politically sensitive cases to exert influence on the proceedings. Countries such as France have, as a result, recently prohibited individual instructions.

⁸⁶ In accordance to point 46. and 47. of the Opinion No. 9 (2014) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe on European norms and principles concerning prosecutors, all instructions of a general nature must be in writing, and where is possible must be published or otherwise transparent. Where legislation still allows all instructions by superior level of the hierarchy concerning specific cases, should be made in writing, limited and regulated by law. According to point 49. of the mentioned Opinion, prosecutors enjoy the right to request that instructions addressed to him/her be put in writing. The same right has been provided by point 10. of the Recommendation Rec (2000) 19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System.

96. In practice, there was little random allocation of cases in Serbian PPOs. Although Article 42 of the PPO Administration Book of Rules⁸⁷ foresees alphabetical allocation of cases as a form of random assignment, this rule can be bypassed for several different reasons. Additionally, Public Prosecutors are allowed to reassign a case anytime s/he finds it necessary. The exceptions to alphabetical allocation and the provisions for reallocation of cases offer possibilities for creating the perception of undue influence, and even the imposition of undue influence in fact.

4.7.3. Transparency of Prosecutors' Work

97. The transparency of the work of the public prosecution is important to achieve public confidence and create a climate for open discussion. For this review, transparency was examined based on the following indicators: existence of a website; the publication and updating of rulings and regulations; the publication of statistics on cases filed, resolved, and pending; the publication of PPO programs, budgets, and salaries; publication of the assets and income, and disciplinary matters about relevant officials, publication of bidding and procurement information for contracts and access to information rules.⁸⁸

98. PPOs are permitted to inform the public on the state of criminality, their work, and individual cases, as long as they protect the privacy of participants in proceedings.⁸⁹ This is in line with international standards, which provide that prosecution services must be able to satisfy the public's right to know about aspects of a criminal proceeding.⁹⁰

99. Transparency was high on the PPOs' agenda during the period under review but implementation was still a challenge.⁹¹ The RPPO and the SPC adopted a Communication Strategy for 2015-2020 to promote transparency and access to information on the work of PPOs, increase citizens' trust, protect parties in the criminal procedure and to protect the presumption of innocence, data validity, and timeliness of data. However, even in 2018 there was considerable room for improvement in making information accessible and improve the transparency of the work of PPOs, the RPPO, and the prosecutorial system as a whole. This was particularly true for making information available online: only 20 percent of PPOs had their own website as of 2018, while others did not have a web presence at all. The RPPO website also needs improvement to meet the goals of the Communication Strategy: generally it featured information about some of the activities of the Republic Public Prosecutor, but it did not include data or other information about the work of the prosecutorial system, details of cases of public interest, etc. PPOs also did not regularly hold press conferences, so most information about prosecutions came from statements or press releases issued by the Ministry of Interior and/or the police.

100. In some circumstances, parties and the public are allowed to access case information, prosecutors' decisions and status of appeals. The details of access are regulated by the CPC and the Law on Free Access to Information of Public Importance.⁹² In general, parties are allowed on-demand access all information about cases in which they are involved, while the public can access

⁸⁷ Official Gazette, No. 110/2009, 87/2010, 5/2012.

⁸⁸ Index of Web-based Access to Judicial Information, Centro de Estudios de Justicia de las Américas (CEJA), The World Bank, Access to Information and Transparency in the Judiciary, 2010.

⁸⁹ Article 10, Law on Public Prosecution.

⁹⁰ See article 14, paragraph 1, of the International Covenant on Civil and Political Rights.

⁹¹ 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.

⁹² Official Gazette, No. 120/2004, 54/2007, 104/2009, 36/2010.

only limited information. For example, the public does not have access to personally identifiable information (e.g., names and addresses) about participants in cases. Information which could jeopardize, disrupt or impede criminal proceedings also is not open to the public. If the access to information is denied the PPO must explain the decision in writing, and the denial may be appealed to the Commissioner for Information of Public Importance and Personal Data Protection.

101. Prosecutors and other attorneys reported that PPO compliance with the rules governing access to case information was not consistent throughout the system. For instance, some PPOs reportedly disclosed only that a complaint had been dismissed without delivering the decision to the person who lodged the complaint. Without a written decision, complainants cannot not exercise their right to appeal. However, stakeholders also reported that written decisions were provided in most instances.

4.8. Recommendations

Recommendation 1:

Align 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.

- ✓ **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 RPPO 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 the details 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 used 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 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 detail 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 with 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.

- ✓ **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 the Public Prosecutor's signature on a checksheet 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 section, Recommendation No. 1, below. **(RPPO, SPC – medium term)**

Recommendation 7:

Confirm the proper use of instructions from the Republic Prosecutor, Public Prosecutors and 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 deputy's PPO and (3) instructions from the higher-instance Public Prosecutor for the deputy's PPO.** For each of the three categories, the surveys should ask about instructions issued during prior years as well as the current one. The surveys should be conducted by teams of prosecutors and representatives of NGOs, to ensure the accuracy of the results. **(SPC – starting in the medium term)**
- ✓ **The surveys also should ask the deputies how often they received oral instructions from their PPO, and how often the oral instructions were not confirmed by the PPO in writing (SPC – starting in the medium term)**
- ✓ **The results are tabulated and published 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, and, to the extent permitted by law, decisions on disciplinary proceedings, key contact information for public inquiries and the members of all Groups, working groups and committees on which any SPC members are involved. **(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 contents 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 activities 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 activities 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

5.1 Main Findings

102. 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 within different categories of PPOs.

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

104. A significant number of prosecutors have not met to the demands placed on them by the adversarial aspects of the CPC. This may give the defense an undue advantage in the cases handled by these prosecutors. This situation also probably affects the performance ratings for the individual prosecutors, so it is to their advantage as well as the system's for their adversarial skills to improve.

105. The relative lack of information about the reasons for dismissals limits the usefulness of the available data for assessing the quality of prosecutorial operations.

106. The number of cases concluded by plea bargaining constantly 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.

107. The low appellate success rate for some PPOs indicates prosecutors often pursue appeals which were not justified. The lack of any written guidelines governing the selection of cases to appeal contributes to the extremely high number of unsuccessful prosecutorial appeals.

108. 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.

5.2 Preliminary notes

109. For this study, PPOs are categorized by size according to their number of approved Deputy Public Prosecutor positions. Basic PPOs are categorized as extra-small (up to five deputies), small (six to eight), medium (nine to 16), large (17 to 31), and extra-large (more than 31). Higher PPOs are categorized as small (up to eight deputies), medium (nine to 20), and large (more than 20). Appellate PPOs are categorized as small (up to 16) and medium (more than 16).

110. The data from RPPO Annual Reports was not always consistent and could not always be reconciled. Initial data in this study came from statistics maintained by the RPPO, but other data are derived from interviews and published international reports such as the one produced by CEPEJ.

111. The available data is far more limited concerning prosecutorial services in Serbia than it is for courts. There is no unified electronic case management system for the prosecutorial system, but there are several local ones running as pilots. The annual RPPO reports are published in the format of an image⁹³ unfit for computer processing, which hinders effective analysis. Preparation of the reports depends highly on manual data collection and individual interpretation, making them prone to inconsistencies and inaccuracies.

5.3 Quality in Case Processing

112. 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 2018.⁹⁴

113. There was no data collected in 2014-2016 that indicated what role the lack of technique may have played in the dismissal, indictment, conviction, plea bargain or alternative sentencing rates. There also was no data available to indicate whether there was a correlation between the types of cases dismissed or successfully prosecuted and an individual prosecutor's adversarial skills. However, as Serbia refines the information it collects about the quality of case processing, data should be designed to assess which prosecutors would benefit from additional training on adversarial techniques, what the training should include, and what training on these techniques should be offered in law faculties and for trainees at the Judicial Academy.

5.3.1 Conviction rates

114. While the quality of prosecution may be judged by other factors discussed below, most of the public assesses the "success" of prosecutors by their conviction rates. The available figures for conviction rates in Serbia pertain to cases in which a court reaches a decision of guilty or innocent. In Serbia, the data for cases concluded by plea bargains are included in conviction rates since they include a formal court decision as to the defendant's guilt. However, cases resulting in deferred prosecutions are not included in conviction rates.

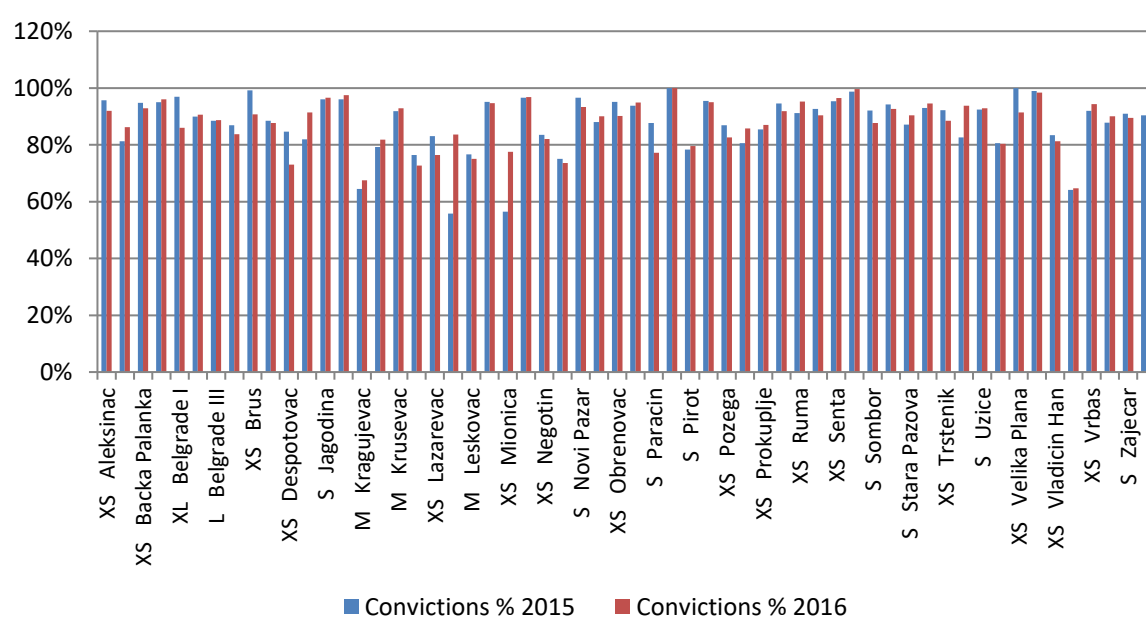
115. Without detailed data about the numbers and types of cases which are dismissed before trial and the reasons for their dismissal, conviction rates may not provide a reliable indicator of quality. Standing alone, high conviction rates may indicate prosecutors are trying only cases in which success is assured instead of letting the court, as the representative of society, make its decision. In contrast, low rates may indicate prosecutors are not making realistic appraisals of whether deferred prosecution or dismissal is an appropriate disposition for a given case.

⁹³ Example of the RPPO's report; <http://www.rjt.gov.rs/docs/RADJAVNIHTUZILASTAVA-3.pdf>.

⁹⁴ 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.

116. The conviction rates of Higher and Basic PPOs essentially were the same for 2015 and 2016,⁹⁵ reaching averages of 88 percent in Basic PPOs and 81 percent in Higher PPOs. For individual PPOs, the results varied widely even among PPOs of the same size and jurisdictional levels as shown in Figure 7 and 8 below. For instance, the Basic PPO in Petrovac na Mlavi, an extra-small PPO with a relatively low number of about 150 judgements per year, had a 100 percent conviction rate in both 2015 and 2016, while the extra-small Basic PPOs in Lebane and Mionica reported a rise in convictions over the two years of 28 percent (from 56 to 84) and 21 percent (from 57 to 78), respectively. The Basic PPOs in Belgrade had rates of roughly the same as the national average at 90 percent for both years, while both medium Basic PPOs in Vranje and Kragujevac had low conviction rates of 64 percent in 2015. In 2016, Vranje had a 65 percent conviction rate, and Kragujevac had a 68 percent conviction rate.

Figure 7 - Convictions for Selected⁹⁶ Basic PPO in 2015 and 2016



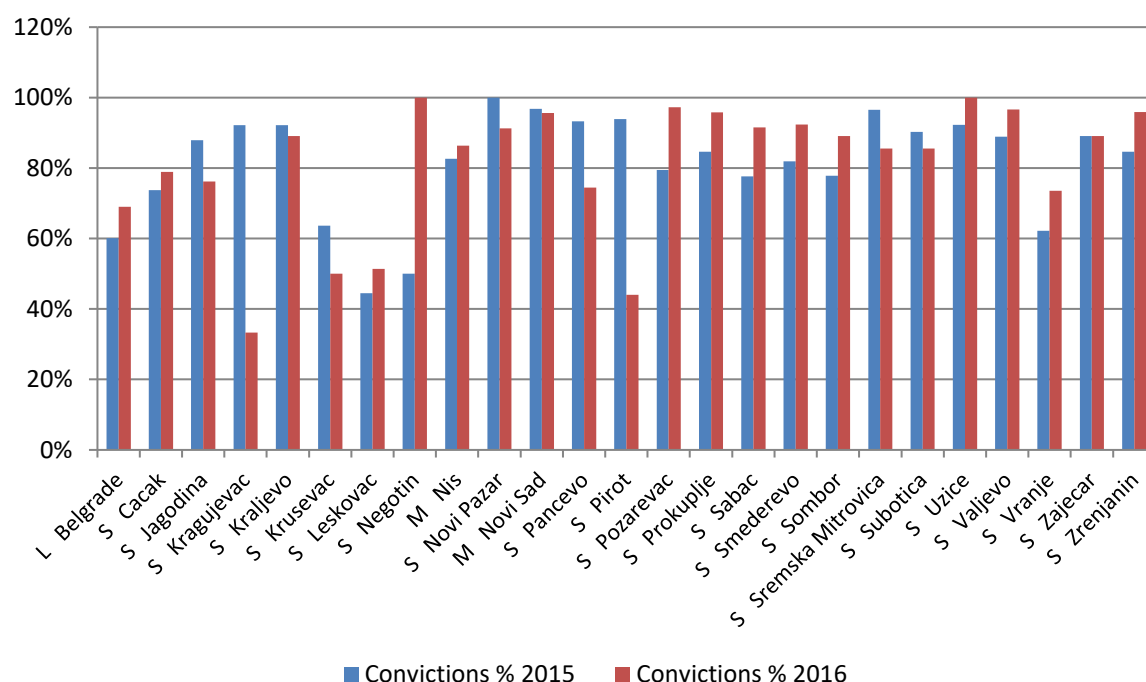
Source: RPPO Annual Reports 2015-2016

117. The conviction rates of Higher PPOs also had significant variations. For instance, the conviction rate for the small Higher PPO in Pirot dropped from 94 percent in 2015 to 44 percent in 2016, and the rate for the medium Higher PPO in Kragujevac fell from 92 percent in 2015 to 33 percent in 2016. The rate for the Higher PPO in Belgrade increased by nine percent in 2016, but still reached only 69 percent. The four Higher PPOs with the lowest rates in 2016, all of which are small PPOs, were Kragujevac (33 percent), Pirot (44 percent), Krusevac (50 percent) and Leskovac (51 percent). The reported results placed Belgrade at the bottom of the scale, as seen in Figure 8. In contrast, the rate for the small Higher PPO in Negotin rose from 50 to 100 percent from 2015 to 2016.

⁹⁵ There was no available data for convictions in 2014.

⁹⁶ Basic PPOs were selected randomly for inclusion in Figure 7 to display examples of extra-small, small, medium, large and extra-large PPOs.

Figure 8 - Convictions per Higher PPO in 2015 and 2016



Source: RPPO Annual Reports 2015-2016

5.3.2 Coordination in Case Processing

118. The failure of police to follow prosecutors' directions for investigation of cases posed a serious challenge to the quality of case processing, as well as Serbia's reputation for corruption. Police are part of the Ministry of Interior and their evaluations and promotions do not depend on their interaction with prosecutors. From 2014 through 2016 (and 2018) there were no official guidelines that regulated the cooperation between the police and prosecutors, and prosecutors interviewed for the FR reported it was common for police to ignore or to vary from prosecutorial instructions about steps to be taken during investigations of crimes. There were no practical means prosecutors could use to force police to follow their instructions, especially in cases that might have political implications because of the persons or issues involved.

119. Overlapping criminal and misdemeanor charges still caused problems for defendants and could have led to violations of the European Convention on Human Rights (ECHR).⁹⁷ 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. Although prosecutors report that some of these inconsistencies have been eliminated and that progress can be seen, the problem probably will persist to some extent unless and until all of the bodies responsible for drafting laws are better coordinated.

5.3.3 Use of Templates and Standardized Forms

120. Use of templates and standardized forms facilitates a consistent approach to routine prosecutorial tasks. Forms and templates harmonize prosecutors' practices in case processing,

⁹⁷ This issue arose before the European Court of Human Rights (ECtHR) in the case *Maresti v. Croatia*.

reduce the number of unintentional mistakes, and fast-track regular daily actions. The RPPO provided standardized forms and templates in electronic format aligned with the new CPC in October 2013, but they would benefit from a system-wide update now after five years of application. Prosecutors have altered some of the RPPO templates themselves already.

5.3.4 Use of Specialized Case Processing for Particular Case Types

121. There are two specialized PPOs in Serbia, the Special Prosecutor's Office for War Crimes and the Special Prosecutor's Office for Organized Crime. They both were established in 2003. The Special Prosecutor's Office for War Crimes prosecutes perpetrators of criminal offenses committed in the former Socialist Federal Republic of Yugoslavia (SFRY) territory, regardless of the perpetrators' or victims' ethnic backgrounds. Its competence under Act on the Organization and Competence of State Authorities in War Crimes Proceedings⁹⁸ includes first-instance proceedings, as well as those conducted upon submission of legal remedies. The Special Prosecutor's Office for Organized Crime has jurisdiction over organized crime, individual corruption offenses and other particularly serious criminal offenses throughout the country. Both special PPOs were established in line with Council of Europe recommendations that specialization of prosecutors must be a priority especially when it comes to developed forms of crime and organized crime.⁹⁹

122. On March 1, 2018, the Law on Organization and Jurisdiction of State Bodies in Combating Organized Crime, Terrorism, and Corruption¹⁰⁰ introduced four Higher PPO specialized departments to combat corruption. The respective departments operate in four large Higher PPOs (Belgrade, Novi Sad, Kragujevac, and Nis) and are staffed by financial forensic experts as well as prosecutors.

123. In addition to the two specialized PPOs and four specialized departments there are other specialized departments in some Belgrade PPOs. These consist of departments for commercial offenses and domestic violence in the First Basic PPO, and the department for combating high tech crime in the Higher PPO. Prosecutors reported to the FR team these departments have allowed them to develop special competencies and thus resolve cases with greater success.

5.4 Quality in Decision-Making

5.4.1 Control Mechanisms

124. Serbia's public prosecution is an independent authority with a strong hierarchical organization. Higher-instance prosecutors have the right to control the work of lower-instance ones and issue mandatory instructions. Higher-instance prosecutors also are authorized to assume and perform each of the individual powers in the hierarchy of lower-instance prosecutors. They also may opt to work on particular lower-instance cases.

125. To ensure better quality and control of prosecutors' work, the new CPC allows filing of complaints about the dismissal, suspension or abolition of a criminal complaint.¹⁰¹ An alleged

⁹⁸ Official Gazette, No. 67/2003, 135/2004, 61/2005, 101/2007, 2014/2009, 101/2011, 6/2015.

⁹⁹ Council of Europe, "The Role of Public Prosecution in the Criminal Justice System-Recommendation Rec(2000)19", para. 8, <https://rm.coe.int/16804be55a>.

¹⁰⁰ Official Gazette, No. 94/2016.

¹⁰¹ Article 51 of the CPC.

victim or the person who submitted a criminal complaint may request that a higher-instance PPO reconsider a dismissal. The request must be filed within eight days of notification of the dismissal. The higher-instance PPO must respond within 15 days. The alleged victim or person who submitted the complaint also can complain to the higher-instance PPO if a prosecutor ends a prosecution or withdraws from pursuing a case. Data on the disposition of these complaints are not systematically collected so it was not possible to assess effectiveness of this mechanism.

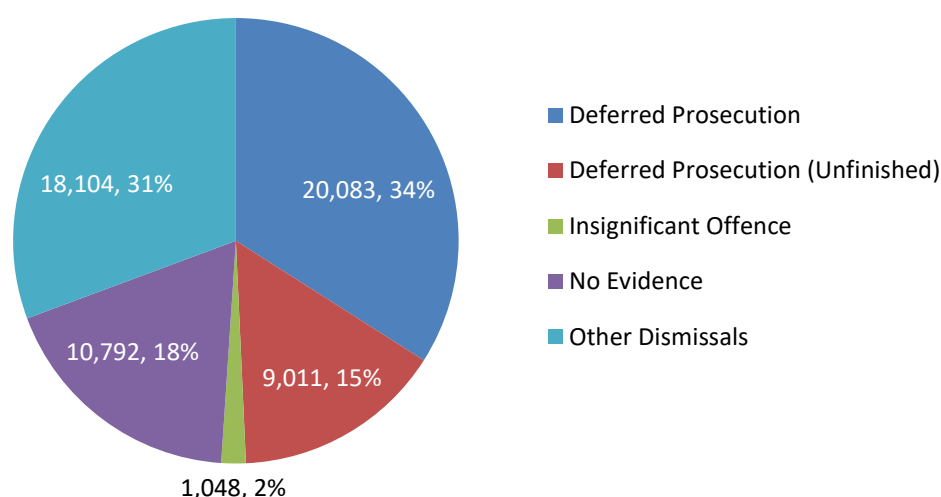
126. Previous CPC ensured to victim right to become subsidiary prosecutor in cases when public prosecutor dismiss criminal complaint or suspend the procedure. This solution enabled higher standards of victim protection rights and court control of prosecutors decision.

127. Data available from 1959 until 2017 indicates Serbia violated the ECHR in terms of effective investigation eight times. Serbia reported fewer violations than Croatia (21) and about the same number as significantly smaller Slovenia (9). However, these numbers still were higher than those for most European jurisdictions.

5.4.2 Dismissals

128. The RPPO's Annual Report breaks dismissals down into only three categories, namely "insignificant offenses",¹⁰² cases dismissed for lack of evidence, and deferred prosecutions. There is no data for dismissals based on other criteria, such as expiration of the statute of limitations, which limits the usefulness of the information collected about the reasons for dismissal. In total, Basic PPOs dismissed 59,038 cases in 2016, but about 31 percent of these dismissals were attributed to reasons not specified in the RPPO report. See Figure 9. The disposition of cases by deferred prosecution is discussed in more detail below.

Figure 9- Dismissals in Basic PPOs by Type in 2016¹⁰³



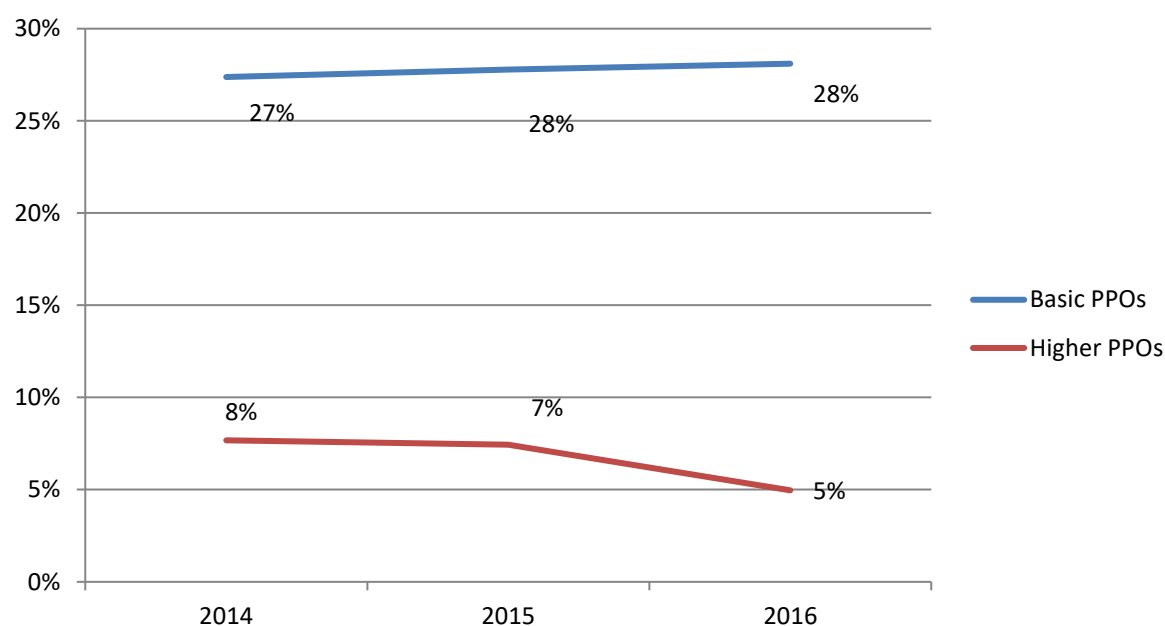
Source: RPPO Annual Reports 2014-2016

¹⁰² Article 18 paragraph 1 of the Serbian Criminal Code prescribes that a certain act or a behavior is not to be considered as a criminal offense if it is "insignificant" for the society. One example would be the theft of something of very low value like a package of chewing gum.

¹⁰³ So called "unfinished" deferred prosecutions can still be revoked if the defendant does not fulfill the requirements s/he agreed to. Prosecutors interviewed by the FR team estimated that the percentage of these "failed" differed prosecutions was just under 10 percent.

129. 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.¹⁰⁴ Dismissals in Basic PPOs remained stable while dismissals in Higher PPOs decreased slightly in the given period, as shown in Figure 10 below. Basic PPOs dismissed considerably more cases than Higher PPOs, due to the number of cases for which there was insufficient evidence, and cases filed directly by citizens, and for which there was not sufficient information for further processing. 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), EU11¹⁰⁵ (1.06) and Western Balkans¹⁰⁶ (0.86).

Figure 10 - Percentage of Dismissed Cases in Basic and Higher PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014-2016

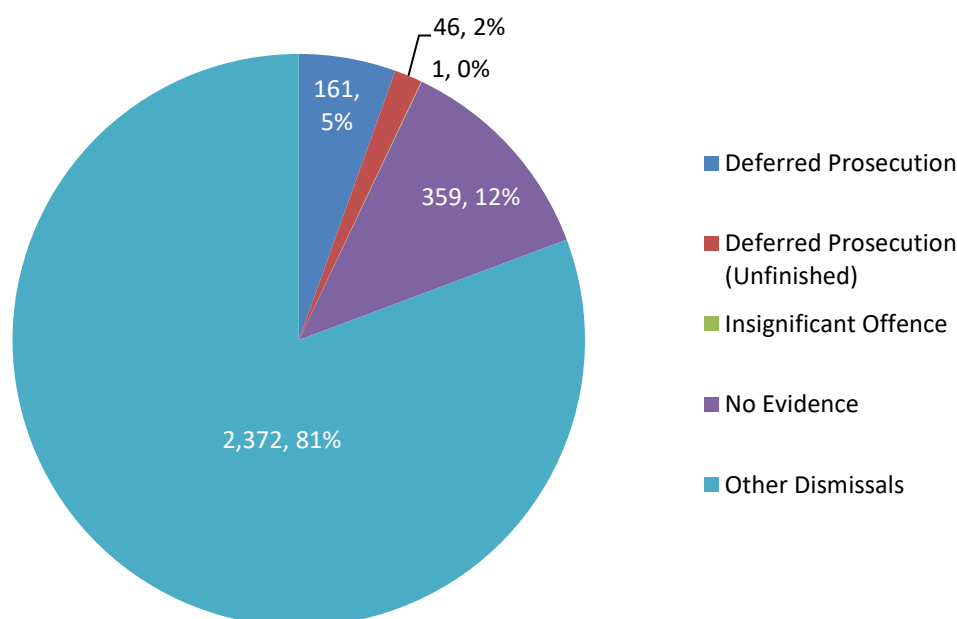
130. In 2016, 81 percent of cases dismissed in Higher PPOs fell into the “other dismissal” category, and only 19 percent fell into more specific categories. See Figure 11. Dismissals for lack of evidence stood at 12 percent, similar to the results for Basic PPOs.

¹⁰⁴ The FR team could not obtain any dismissal data for Appellate PPOs from 2014-2016.

¹⁰⁵ EU11 countries are: Bulgaria, Croatia, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia, and the Slovak Republic.

¹⁰⁶ Western Balkan states are: Albania, Bosnia and Herzegovina, Montenegro, Republic North Macedonia, Kosovo and Serbia.

Figure 11 - Dismissals in Higher PPOs by Type in 2016



Source: RPPO Annual Reports 2014-2016

5.4.3 Deferred Prosecution

131. The 2011 CPC introduced an amended concept of ‘deferred prosecution’. The primary purpose of deferred prosecution is to simplify and rationalize criminal proceedings by reducing the number of cases handled by the courts. For criminal offenses punishable by fines or imprisonment of fewer than five years, prosecutors may elect to postpone prosecution if there is a reason not to proceed immediately. Factors influencing the prosecutor's decision to opt for deferred prosecution include the nature of the offense and the circumstances under which it was committed, the defendant's past and his/her personal characteristics. To receive deferred prosecution, the defendant must accept one or more obligations (e.g. payment of a certain amount of money to a humanitarian organization, fund or public institution, performing socially beneficial or humanitarian work, or receiving different kinds of treatments). If the defendant fulfills these conditions, s/he will not have a criminal record and the charges are dismissed.

132. Of the 45 countries covered by the 2016 CEPEJ report, only six¹⁰⁷ 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 rate.

133. Prosecutors interviewed for this Functional Review estimated the percentage of “failed” deferred prosecutions, in which the defendant did not comply with the terms of the agreement,

¹⁰⁷ 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.

was just under 10 percent. These estimates are supported by a 2017 study conducted by the Prosecutors Association of Serbia (PAS).¹⁰⁸ Table 1 shows the number of cases in Basic and Higher PPOs in which deferred prosecution was applied but which were classified as “unfinished” since they could be revoked if the defendant did not meet his or her obligations.

Table 1 - Deferred Prosecution per PPO Type from 2014 to 2016

		2014	2015	2016
Basic PPOs	Deferred Prosecution	17,447	21,074	20,083
	Deferred Prosecution (Unfinished)	15,706	14,216	9,011
Higher PPOs	Deferred Prosecution	132	159	161
	Deferred Prosecution (Unfinished)	48	173	46
	TOTAL	33,333	35,622	29,301

Source: RPPO Annual Reports 2014 – 2016

134. Prosecutors in Serbia agree to deferred prosecution most often in cases involving charges such as non-payment of alimony, traffic offenses, and property crimes (e.g., burglary, arson, theft). Up to 10 percent of deferred prosecution defendants had previous convictions, although there were regional variations in these percentages.¹⁰⁹ For instance, for the region under the Novi Sad Appellate PPO, all deferred prosecution were completed while for the Beograd and Kragujevac appellate regions, defendants did not fulfill their obligations in 10 percent of the deferred prosecutions.¹¹⁰ Data also indicate prosecutors generally are not willing to offer deferred prosecution more than once to most defendants: only two to three per cent of cases in three of the appellate regions involved deferred prosecution for defendants who had been offered it before. There were no cases of repeated offers in the Novi Sad region.

135. The most common sanction imposed on deferred prosecution defendants was a cash donation to humanitarian causes, payments which carry few administrative requirements. Prosecutors interviewed for this Review agreed other types of sanctions, such as rehabilitation programs or community service, might be more beneficial to society at large, but the legislative or regulatory measures needed to implement those types of programs were not in place. As a result of the relatively widespread use of cash donations, the general public may have the impression that defendants in deferred prosecution are buying their way out the criminal justice system.

136. Although broadly used in Serbian PPOs and contributing to greater efficiency of PPOs, deferred prosecution is not without its critics. The complaints about its use include concerns that the implementing legislation is incomplete and imprecise; lack of uniformity in prosecutors’ decisions; lack of clear guidelines or criteria for its use; inconsistent case law, and the lack of consideration for the interests of the victims of the crimes involved.

¹⁰⁸ See the “Application of the Deferred Prosecution” published by the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia (PAS), at <http://www.uts.org.rs/>.

¹⁰⁹ Data taken from the PAS study of “Application of the Deferred Prosecution, which provides more information on the use of this principle from 2014-2016.

¹¹⁰ The PAS study aggregated data by appellate regions.

5.4.4 Plea Bargaining

The use of plea bargaining agreements needs to be carefully balanced against the public expectation that corruption-related crimes will be duly punished in accordance with the penalties laid down in law, particularly if they concern politically exposed persons.

Source: EU 2018 Report

137. The number of cases concluded by plea bargaining constantly increased from 2014 to 2016, except for PPOs within the region headed by the Appellate PPO in Novi Sad. Plea bargains were introduced in Serbia in 2013: they are agreements in which the defendant admits his or her guilt regarding the criminal offense charged, and the prosecution and defense agree on a sentence or other sanction. The agreement, which usually includes a sanction less than the maximum the defendant might incur, is presented to the court for approval.

138. Available data indicate there was a 140 percent increase in the number of plea bargains throughout Serbia in 2016 compared to 2014. Of the 4,934¹¹¹ plea bargains in 2016, 83 percent or 4,089 were accepted by the court. The 83 percent was a five percent increase compared to 2015. Of the other 845 plea bargains, the RPPO reported more than 100 were not accepted by the court, while the courts did not reach a decision about the others. Data also indicated the defendants initiated more than half of the agreements, or 2,825 of the 4,934.

139. Not surprisingly, the highest combined number of plea bargains for Basic and Higher PPOs in 2016 occurred in the jurisdiction of the Appellate PPO in Belgrade, with a total of 2,244. This was 174 percent more than the 820 plea bargains in 2014, and 13 percent more than the 1,979 plea bargains in 2015. In general, Basic PPOs in the Belgrade region increased the number of plea bargains by 18 percent from 2015 to 2016. For individual PPOs, the Higher PPO in Belgrade and First Basic PPO in Belgrade were in the lead with 323 and 656 plea bargains respectively. PPOs from the territorial jurisdiction of the Appellate PPO in Novi Sad were the only PPOs which decreased their numbers of plea bargains, by four percent from 2015 to 2016. PPOs from the Nis region increased their plea bargains by an extraordinary 59 percent (from 423 to 673), and Kragujevac by 21 percent.

140. The most common types of plea bargain in 2016 were suspended sentences (53 percent) and imprisonment (37 percent). The remaining 10 percent included fines, precautions (e.g., restraining orders and home detentions) and community service. The RPPO Annual Report for 2016 indicated the sanctions totaled 2,784 years and 14 days of imprisonment and the assessment of almost RSD 40 million in fines.

141. The 2017 PAS report indicated 96 percent of prosecutors consider plea bargaining to be a practical and effective for shortening the duration of criminal proceedings. However, one-third of prosecutors reported that the courts accepted proposed plea bargain agreements without attempting to modify them. It was unclear why the courts accepted most of the agreements so readily.

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.

¹¹¹ This includes plea bargains concluded by the specialized PPOs for organized crime (88) and war crimes (1).

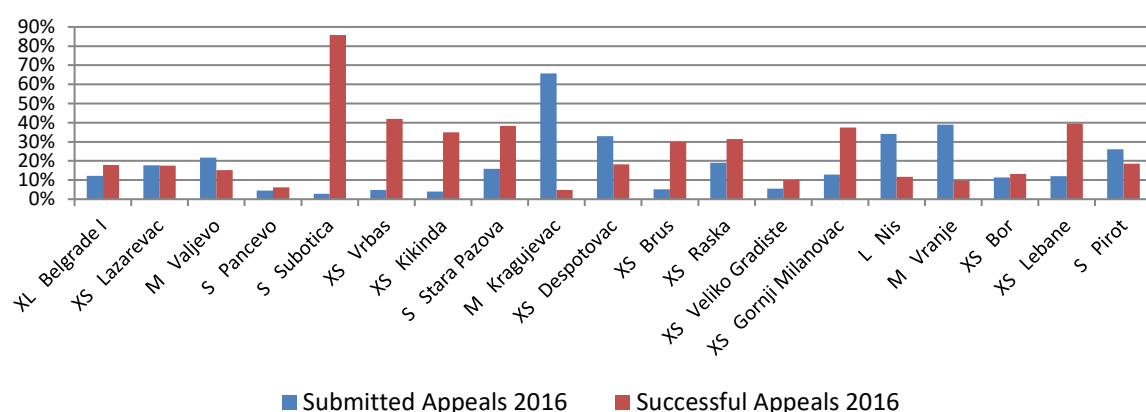
5.5 Effectiveness of Appeals in Ensuring Quality

142. The decision to appeal for every case lies with the PPO handling a case and the higher-instance PPO for the prosecuting office. Prosecutors may appeal when the court has acquitted the defendant or when the or prosecutor is not satisfied with the defendant's sentence.

143. On average, Serbian Basic PPOs appealed in 16 percent of cases in 2016, and were successful in only three percent of their appeals. Since the resolution of an appeal often occurs one or more years after the appeal is filed, the success rates reported here generally cover appeals filed at least a year earlier.

144. The three percent success rate indicates many of the appeals probably should not have been filed. Basic PPO appeal rates for 2016 varied widely, from zero percent in for the extra-small PPO in Velika Plana and small PPO in Smederevo to 66 percent for the medium PPO in Kragujevac, as displayed in Figure 12 below.

Figure 12 - Ratio of Submitted Appeals and Successful Appeals in Selected¹¹² Basic PPOs in 2016



Source: RPPO Annual Reports 2016

145. There was no clear correlation between the Basic PPO appeal and success rates in both 2015 and 2016. For example, in 2016 the Basic PPO in Kragujevac reported an appeal rate of 66 percent but only five percent of successful appeals. A similar example was found in the Second Basic PPO in Belgrade, where the appeal rate for 2016 was 59 percent and only three percent of appeals were successful.

146. Over time, the appeal rates for most Basic PPOs were stable, even for offices with low success rates. For instance, the extra-small Basic PPO in Mionica had an appeal rate of 39 percent in 2015 and 33 percent in 2016, but its success rates were eight and 16 percent respectively. The same pattern could be found in the Basic PPOs of Kragujevac, Kraljevo, and Kursumlija. Basic PPOs kept their appeal rates lower but had similarly low success rates.

147. Compared to Basic PPOs, Higher PPOs filed appeals more frequently and succeeded in more cases. The average appeal rate of Higher PPOs was 61 percent in 2015 and 62 percent in 2016, while the success rates were 30 and 27 percent respectively. Beyond those numbers, there were no

¹¹² The Basic PPOs in Table 12 were selected at random to display examples of extra-small, small, medium, large and extra-large PPOs.

patterns shown in the Higher PPO data. Very few Higher PPOs had consistent success results from 2015 to 2016. One of the few was the Higher PPO which was the Higher PPO in Zrenjanin, where the prosecution's appeal rate was 68 percent in both years, while the success rate grew from four to nine percent.

5.6 Quality of Work in Selected Criminal Offenses

148. The World Bank team collected specific information from PPOs about the handling of particular criminal offenses – homicide, robbery and larceny by coercion, rape, domestic violence, money laundering, and misuse of the position of a responsible person – to gain greater insight into the quality of prosecution. These categories were chosen because of the impact of these crimes on society is substantial, they attract substantial attention from the public, and they often demand more prosecutorial attention than other crimes.

Defendants facing the most serious charges are more apt to hire defense attorneys experienced in adversarial trial techniques, and prosecutors should be equally comfortable in using those techniques.

149. For cases involving homicide and rape, conviction rates were noticeably higher than the Higher PPO average of 81 percent for all types of cases in 2015 and 2016. The same is applied for larceny by coercion and robbery. This conclusion is based on numbers extracted from the relevant annual RPPO reports, which did not provide detailed information about the number of cases in various categories.

150. Higher PPO disposition times for the relatively less serious offences of larceny by coercion and robbery were significantly higher than the average Higher PPO case. The average disposition times for Higher PPO cases as calculated by CEPEJ in 2016 was 56 days for all case types, while for these cases it was 218 days. Oppositely, disposition times for homicide and rape were lower or in line with Higher PPOs' averages.

According to 2017 RPPO Annual report, all PPOs in Serbia issue 273 orders for financial investigations against 435 persons and issue 46 orders for freezing of assets. In regard to temporary seizure of assets, the PPOs requested it against 44 persons and court adopted it against 12, rejected against 12 and partially adopted against 3. PPOs submitted 10 requests for permanent seizure of assets against 34 person. Courts adopted it against five persons, partially adopted against 3 and rejected against five persons.

151. National efforts to raise awareness about domestic violence probably contributed to the increasing numbers of criminal complaints on this topic every year from 2014 to 2016.¹¹³ These efforts were conducted by prosecutors, police, civil society and others, and included the establishment of a separate specialized department for domestic violence in Belgrade's First Basic PPO. Deferred prosecution was applied in 12 percent of all domestic violence cases nationally in 2014 but this number dropped to three percent in 2016. Information available to the FR team indicates the reduction probably was triggered by increased efforts to prevent domestic violence, and for them to be processed appropriately. Deferred prosecution, although efficient and effective in many cases, may be counterproductive in this very specific type of case.

¹¹³ In 2014 the 6,436 complaints represented an increase of 12 percent from 2013. The numbers increased by 32 percent to 8,473 complaints in 2015, and increased by 21 per cent to 10,245 in 2016.

152. In Serbia, only 36 criminal complaints for money laundering were received in 2014, and that number dropped to 27 in 2016. The complete money laundering workload of prosecutors consisted of 56 cases in 2014, and 30 in 2016. However, these number do not reveal the full burden of money laundering cases on the prosecutorial system: there were 181 money laundering investigations carried over from previous years before prosecutors initiated 15 new investigations in 2016.¹¹⁴

153. For charges of the misuse of the position of a responsible person, conviction rates were considerably lower – by approximately 15 to 25 percent – than the average of Higher PPOs cases in 2015 and 2016. Defendants were sentenced to prison in more than half of the convictions and they received suspended sentences¹¹⁵ in around 40 percent. Other penalties included bans on conducting certain duties, publication of the conviction decisions in the media, and/or confiscation of gained property.

154. These results indicate Serbia still needs to build its capacity to investigate and prosecute economic crimes. The lack of capacity to handle these cases effectively impacts the system's productivity and the lack of results contributes to cynicism about the ability of Serbia's criminal justice system to protect the public.

5.7 Recommendations

Recommendation 1:

Eliminate impediments to cooperation between the prosecution and police.

- ✓ **Establish a standing working group that includes prosecutors, police, attorneys, civil society, to identify the specific impediments and recommend solutions, and provide funding for their operations. (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 2011¹¹⁶ 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 be posted on RPPO website, to encourage their adoption. Standing working group, short term**

¹¹⁴ The European Sourcebook for 2007 to 2011 reported that Serbia increased the number of money-laundering criminal cases from 0.5 to 2.5 per 100,000 inhabitants, but this was still far below the European mean of 7.5.

¹¹⁵ For a suspended sentence the punishment imposed upon the perpetrator shall not be executed if, during the period of probation, the perpetrator commits no new criminal offence and fulfils the obligations imposed upon him or her.

¹¹⁶ See <https://www.mup.hr/UserDocsImages/topvijesti/Protokol.pdf>.

- ✓ 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 the results. (SPC, short term and continuing)

Recommendation 2:

Reconcile the case numbers of the courts and the corresponding PPOs. The 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 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)
- ✓ The 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 dismissal forms to the RPPO, so the reasonable 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 practice of informing victim on dismissal, including issuing of RPP General Instruction to all PPOs (RPP, short term)**

Recommendation 5:

Regularly update the training needed 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 using 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 experienced prosecutors on what training is needed on adversarial techniques. The expert 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 incorporating 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 reviewed 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 monitor 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 an 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. 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 collected 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 of 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)**

6. Efficiency, Timeliness and Productivity of Prosecutors' Offices

6.1 Main Findings

155. 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.

156. Generally, Appellate PPOS were the only level of PPOS to resolve as many cases as they received.

157. 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.

158. The variation in performance applied to both incoming and carried-over cases. While many in the system assume the answer to any problems 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.

159. 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 means 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.

160. 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.

6.2 Caseloads and Workloads

6.2.1 Overall Demand for Prosecutors' Services

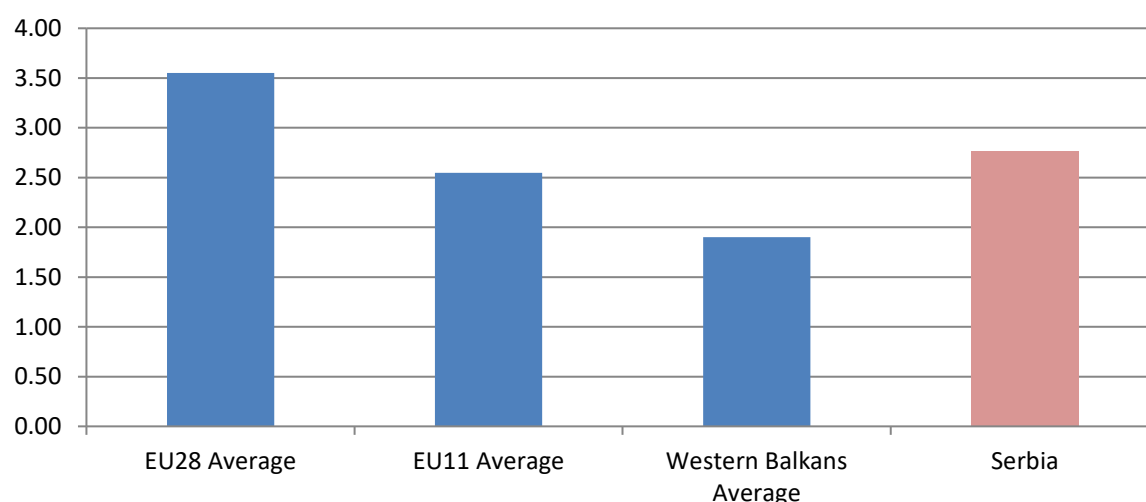
161. The overall demand for prosecutorial services is assessed through caseloads and workloads. 'Caseload' is the number of incoming cases for a given year, while 'workload' is the sum of the number of incoming and pending cases for a given year.

162. According to the CEPEJ 2016 report, based on 2014 data,¹¹⁷ the demand for prosecutor services in Serbia was lower than in EU Member States, and decreased from 2012 to 2014. As

¹¹⁷ 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>.

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.¹¹⁸ 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. See Figure 13.

Figure 13 - Number of Cases Received by the Public Prosecutor per 100 Inhabitants according to CEPEJ in 2014



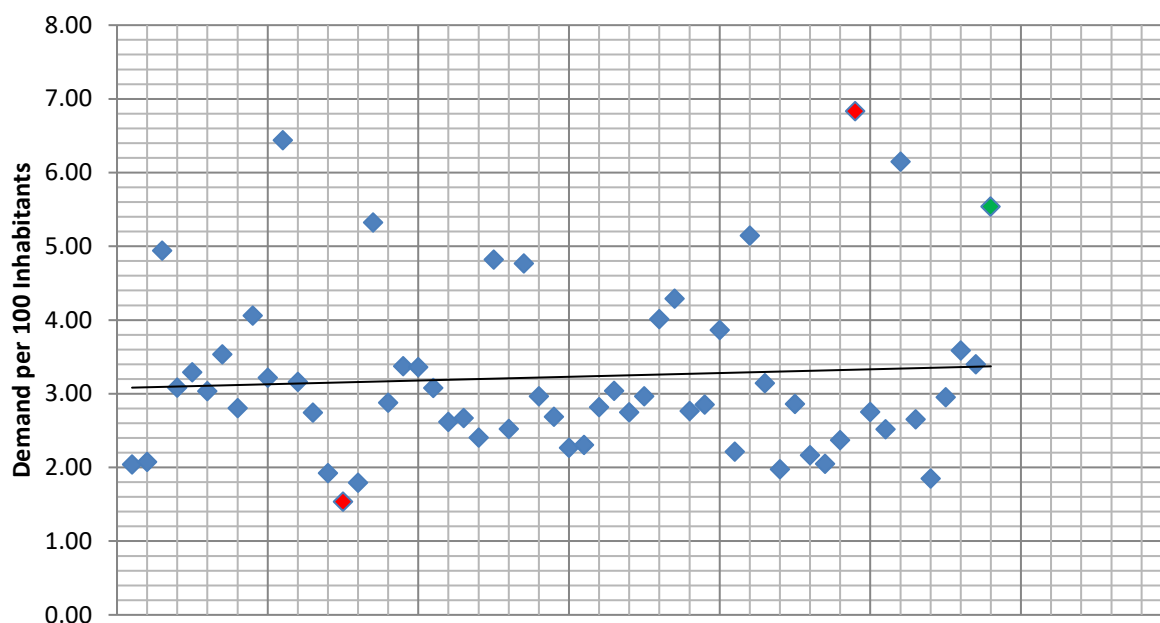
Source: CEPEJ 2016 report (2014 data)

6.2.2 Caseloads of PPOs

163. Many aspects of prosecutorial performance are not readily categorized in Serbia. For instance, 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. These conclusions are shown in Figure 14, below. The extra-small Basic PPO in Ub had the highest demand in 2016, with 6.83 incoming cases per 100 inhabitants. The medium Basic PPO in Valjevo had the second highest demand, with 6.44 incoming cases per 100 inhabitants. The largest Basic PPO in Serbia, the First Basic PPO in Belgrade, came only fourth with 5.54 incoming cases per 100 inhabitants. Conversely, the Second and Third Basic PPOs in Belgrade, each with around 500,000 inhabitants, recorded only 2.04 and 2.07 incoming cases per 100 inhabitants, respectively.

¹¹⁸ 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.

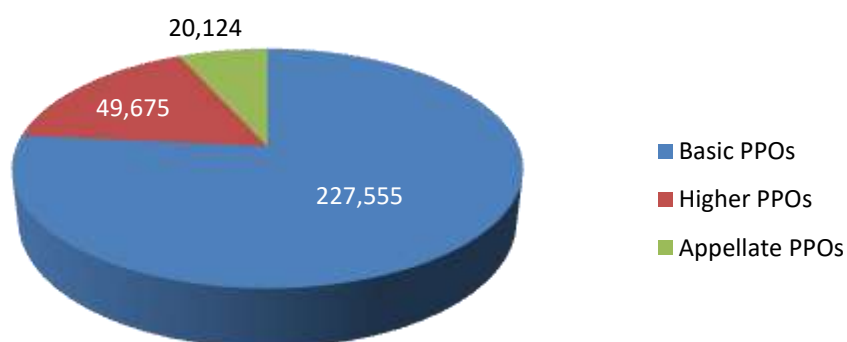
Figure 14 - Demand for Prosecution Services per 100 Inhabitants in Basic PPOs in 2016¹¹⁹



Source: RPPO Annual Reports 2014 – 2016 and Population Census 2011

164. 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. See Figures 15 and 16.

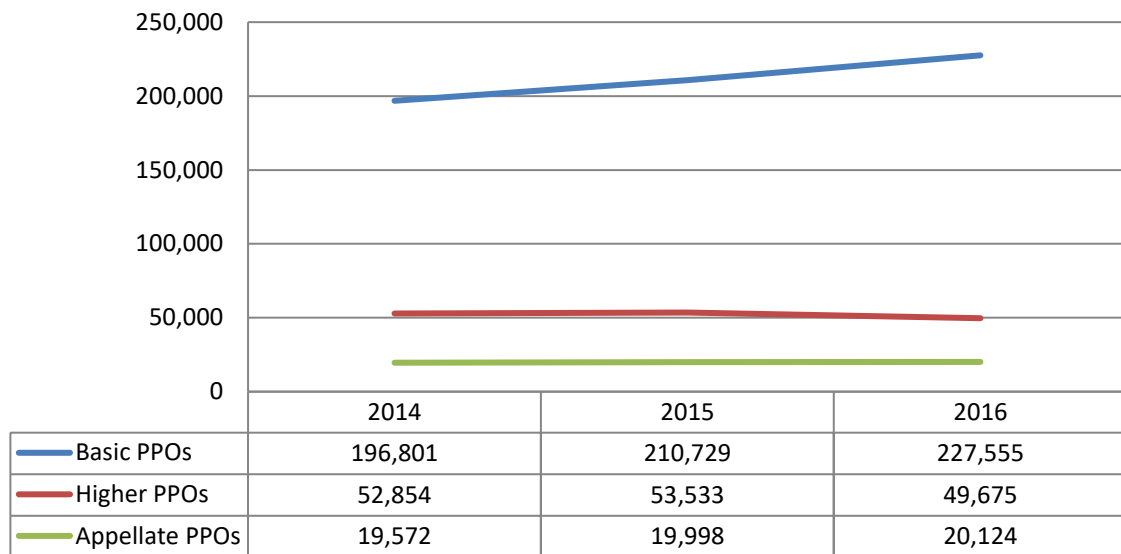
Figure 15 - Received Cases in Basic, Higher and Appellate PPOs in 2016



Source: RPPO Annual Reports 2014 – 2016 and Appellate PPOs data

¹¹⁹ Red indicates Basic PPOs with highest and lowest demand, and green the First Basic PPO in Belgrade, which had the largest number of prosecutors.

Figure 16 - Received Cases in Basic, Higher and Appellate PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016 and Appellate PPOs Data

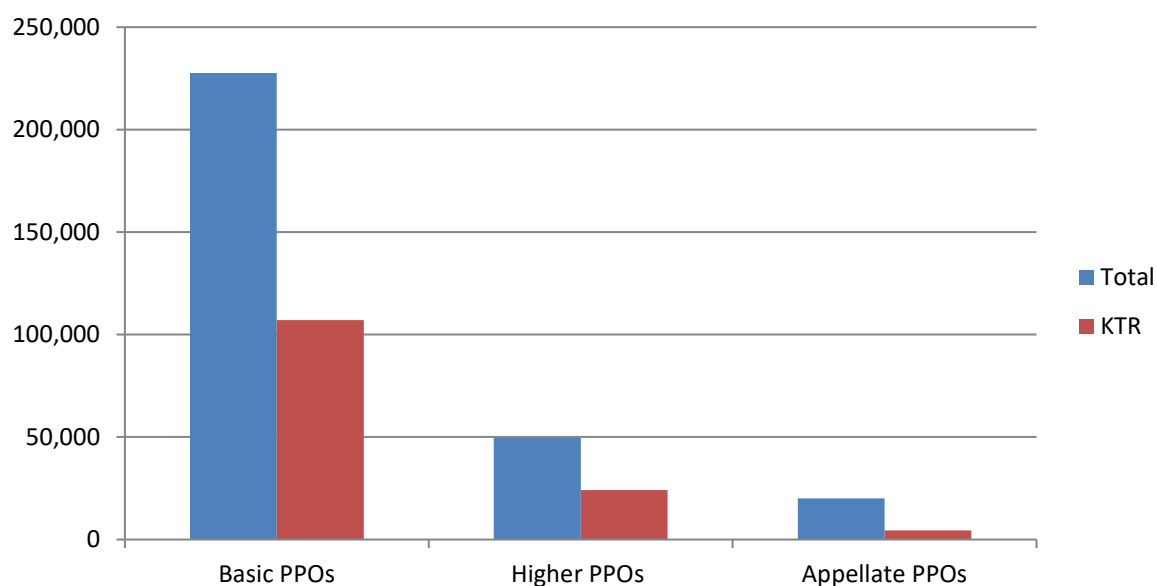
165. The 10 percent increase for all PPOs from 2014 to 2016 was due primarily to increases in the number of cases received by Basic PPOs, which grew by 16 per cent or 30,754 cases. The largest share of these cases were those involving adult and juvenile criminal cases (44 percent of the 227,555 cases), followed by various criminal “KTR” cases¹²⁰ (47 percent) commercial offenses (nine percent) and 0.0008 percent involving legal persons cases)¹²¹.

166. Although “KTR” cases made up a significant part of PPO received cases, the lack of differentiation about the charges involved and data about their handling made it impossible for the FR team to make a detailed assessment of their impact on prosecutorial performance. To date there is no system in place to track the progress of different types of KTR cases. KTR cases comprised approximately 50 percent of all received cases in Basic and Higher PPOs and 20 percent in Appellate PPOs from 2014 to 2016. Figures 17 and 18 below show the breakdown of received cases in Basic PPOs in 2016 and the high percentage of KTR cases handled by PPOs. Prosecutors reported that KTR cases, while frequently simple, occupied a significant amount of their time due to their numbers.

¹²⁰ Most KTR cases are those based on requests, complaints, proposals, reports and other acts of state bodies, legal entities and/or citizens, but for all of these the formal investigation of the case by a prosecutor has not begun. See the chart of the prosecutorial process at ___ for more details about steps in the investigative process.

¹²¹ Legal person cases are those involving legal entities such as corporations. They are tracked separately from the commercial offense cases which are brought against legal entities and/or natural persons for specific violations of regulations on economic or financial affairs.

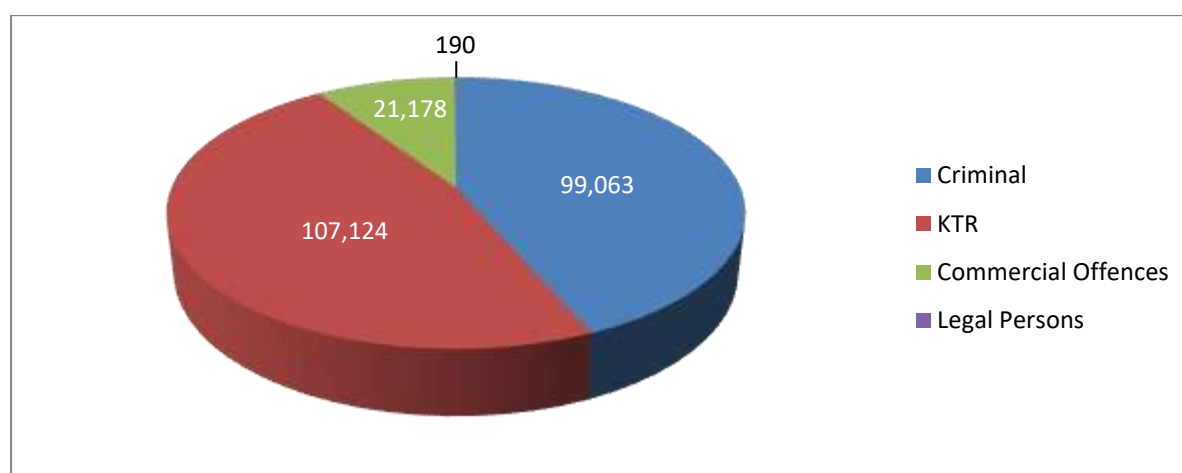
Figure 17 - Received Cases by PPO Type in 2016 – Total and KTR



Source: RPPO Annual Reports 2014 – 2016 and Appellate PPOs data

167. There was a 10-fold increase in the number of received commercial offense cases from 2015 to 2016, triggered by the implementation of a new Accounting Act¹²². The number of received cases increased from 1,732 in 2015 to 21,178 in 2016. The new Act requires the Business Register Agency to submit complaints for commercial offenses against all legal entities that do not submit annual financial statements or statements of inactivity. These cases are heard only in Serbia's 17 Commercial Courts and prosecuted by the corresponding PPOs.

Figure 18 - Received Cases in Basic PPOs by Case Type in 2016



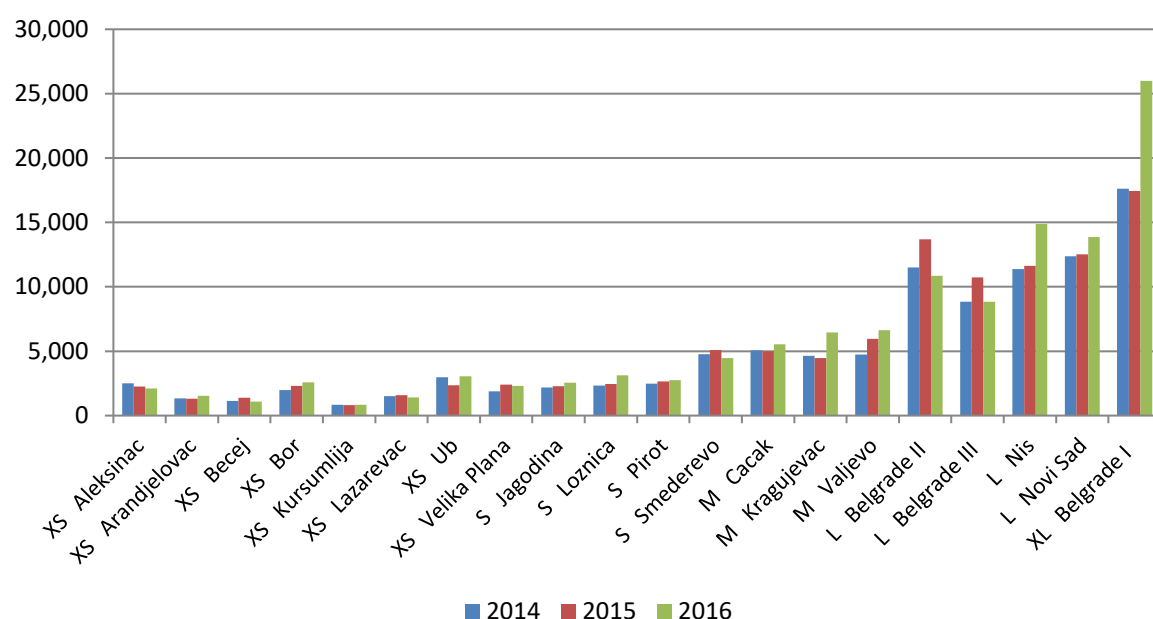
Source: RPPO Annual Reports 2014 – 2016

168. While the number of received cases increased each year for Basic PPOs overall not every Basic PPO saw an increase: the numbers even decreased for some offices, and there was no correlation between the size of PPOs and variations in their volume of received cases. This is

¹²² Official Gazette, No. 62/2013.

illustrated in Figure 19 below. The greatest increase occurred from 2015 to 2016 in the First Basic PPO in Belgrade, which had an increase of 49 percent, followed by the medium PPO in Kragujevac (45 percent), the large PPO in Nis (28 percent), and the large PPO in Novi Sad (11 percent). The sharpest declines occurred in the Second and Third Basic PPOs in Belgrade where the reductions were 21 and 18 percent respectively. The data and anecdotal information available to the FR team did not explain the reasons for the declines.

Figure 19 - Received Cases in Selected¹²³ Basic PPOs from 2014 to 2016

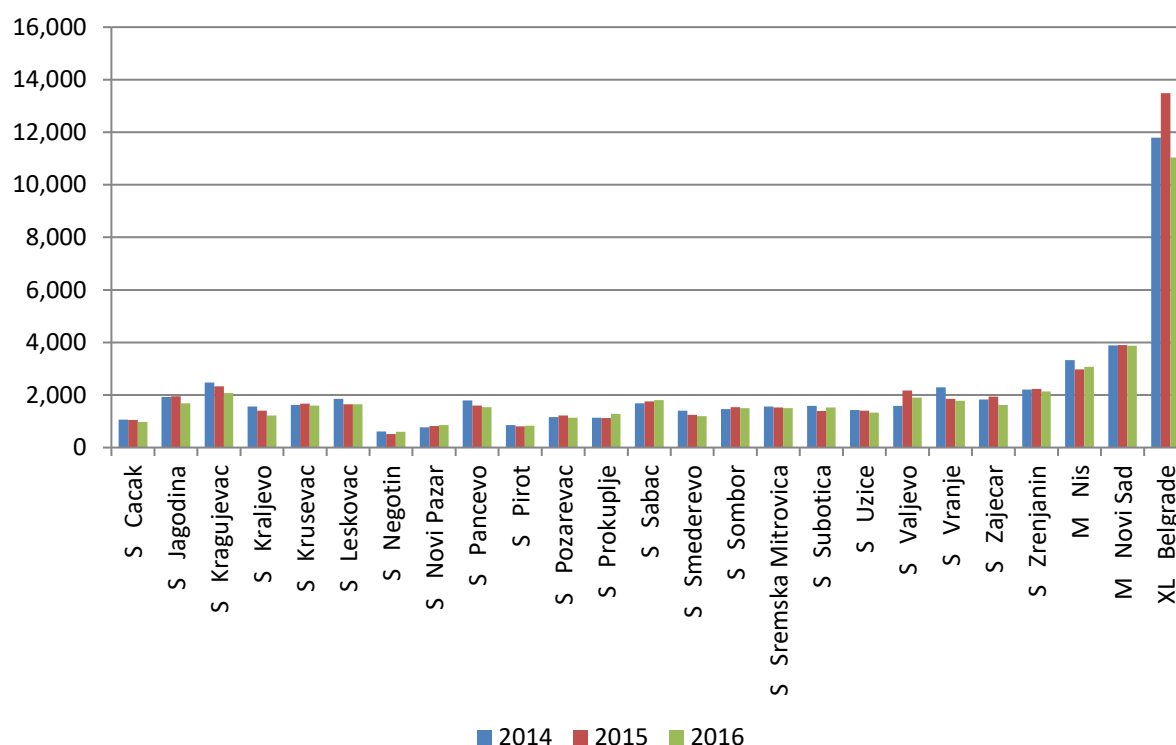


Source: RPPO Annual Reports 2014 – 2016

169. The total number of received cases in Higher PPOs increased by one percent in 2015, and decreased by seven percent in 2016, for an overall decline of six percent from 2014 to 2016. As shown in Figure 20 below, only seven of 25 Higher PPOs received more cases in 2016 than in 2015; these increases ranged from three percent in Sabac to 15 percent in Negotin.

¹²³ Basic PPOs shown in Figure 19 were selected randomly to display extra-small, small, medium, large and extra-large PPOs.

Figure 20 - Received Cases in Higher PPOs from 2014 to 2016

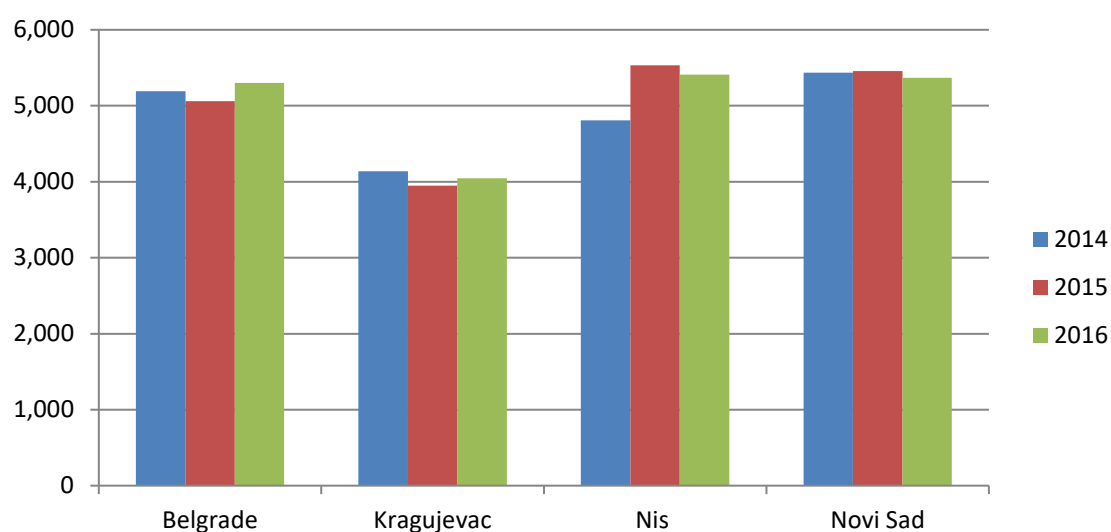


Source: RPPO Annual Reports 2014 – 2016

170. Appellate PPOs received more cases overall each year from 2014-2016. The only significant change occurred from 2014 to 2015 in the small Appellate PPO in Nis, where the number of received cases grew by 15 percent, based exclusively on an increase in anticorruption cases and cases registered as “other.”¹²⁴ See Figure 21 below. However, given the increase in the number of cases received in Basic PPOs, the Appellate PPOs eventually may see a corresponding increase in the number of appeals.

¹²⁴ Among ‘other’ cases the appellate PPOs reported all the work that is done in the PPO and not related directly on prosecution, i.e. A register – administrative acts, Pi registry – requests to access to information.

Figure 21 - Received Cases in Appellate PPOs from 2014 to 2016

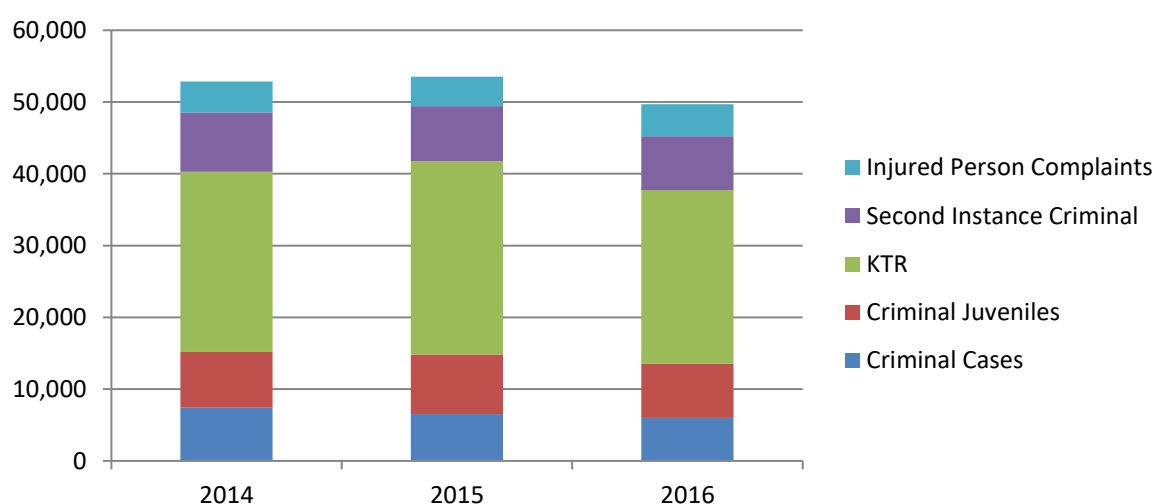


Source: Appellate PPOs Data

6.2.3 Prosecutors' Services by Case Type

171. The only category of received cases to increase in Higher PPOs from 2014 to 2016 involved injured persons¹²⁵, and the number of those cases increased only slightly. There also were only minor variations in the percentage of KTR cases received in Higher PPOs: they ranged from 47 percent in 2014 to 50 percent in 2015 and 49 percent in 2016. While the number of received KTR criminal cases decreased for Higher PPOs in 2016, they still made up the largest share of the total. See Figure 22 below.

Figure 22 - Received Cases in Higher PPOs by Case Type from 2014 to 2016

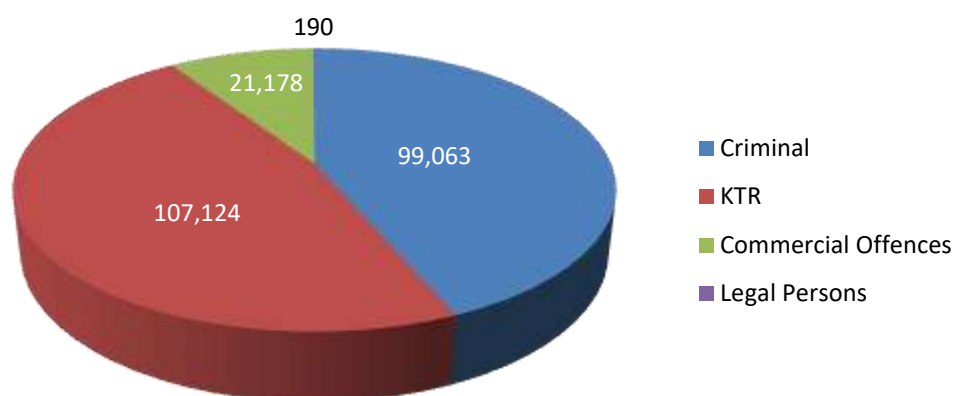


Source: RPPO Annual Reports 2014 – 2016

¹²⁵ Injured persons or parties are persons whose personal or property rights have been violated or endangered by criminal offenses. If a public prosecutor rejects a criminal complaint, suspends an investigation or withdraws from prosecution until the confirmation of the indictment, s/he shall inform the injured person within eight days and inform him/her that s/he can submit a complaint to a higher instance PPO.

172. There was a tenfold increase in the number of commercial cases handled by Basic PPOs. The increase was caused by legislative changes and the introduction of new obligations for both businesses and the Business Register Agency. With the entry into force of the new Accounting Act¹²⁶ in 2014, the Business Register Agency had a duty to submit complaints against all legal entities that did not submit annual financial statements or statements of inactivity. The impact of this new obligation has fallen only on the Basic PPOs appearing in the 17 Commercial Courts, which are located mostly in larger communities.

Figure 23 - Received Cases in Basic PPOs by Case Type in 2016



Source: RPPO Annual Reports 2014 – 2016

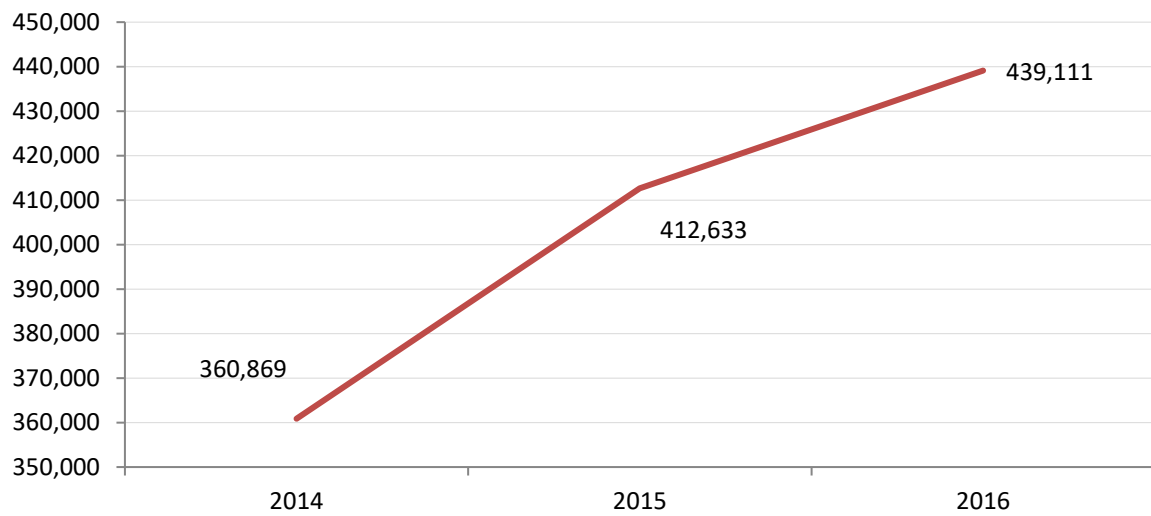
173. The Accounting Act illustrates how legislative changes in Serbia often are introduced without an appropriate impact assessment and without ensuring proper preparation. Impact analyses should be conducted before any law or amendment is introduced to assess whether the measure will achieve the desired objectives, and what implementation problems the measure may trigger. The Accounting Act caused a bottleneck in PPOs for which they had not prepared appropriate handling procedures or resources.

6.2.4 Workloads of PPOs

174. The workloads of PPOs, defined as the sum of received and carried-over cases from previous years in Basic, Higher, and Appellate PPOs in Serbia, also increased each year from 2014-2016, reaching 439,111 in 2016. From 2014 to 2016, PPO workload grew by a total of 22 percent. See Figure 24.

¹²⁶ Official Gazette, No. 62/2013.

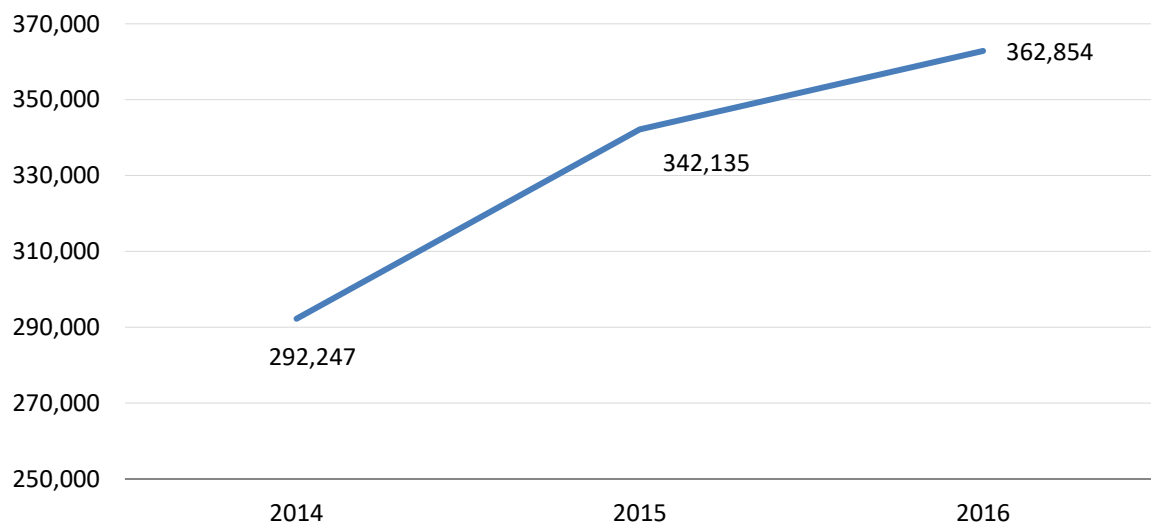
Figure 24 - Basic, Higher and Appellate PPOs Workload from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016 and Appellate PPOs data

175. The greatest workload increase occurred in Basic PPOs, in which the 24 percent increase over three years left those offices with approximately 70,000 more cases in 2016 than they had in 2014.

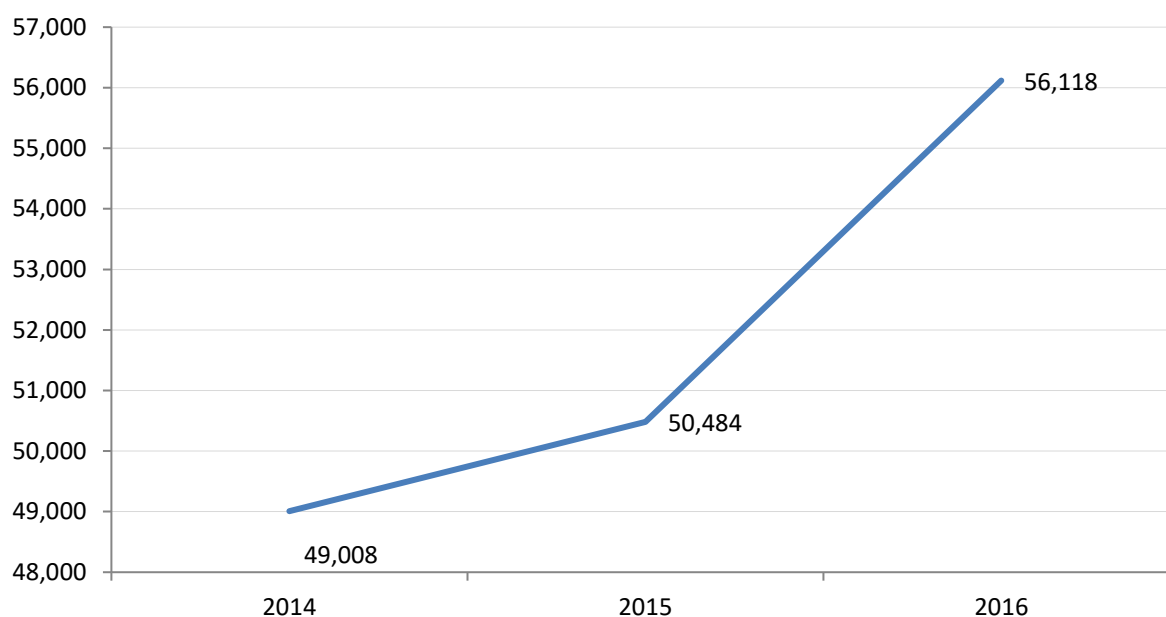
Figure 25 - Basic PPOs Workload from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016

176. Despite drops in the numbers of received cases, the workloads of Higher PPOs also grew consistently from 2014-2016, for an overall increase of 15 percent or 7,000 cases. Higher PPOs managed to keep their clearance rate around 82 to 85 percent on average, meaning they resolved far less than they received. This, in turn, caused the workload increase illustrated in Figure 26 below.

Figure 26 - Higher PPOs Workload from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016

177. The workload of Appellate PPOs was almost unchanged during the three years, growing only by three percent from 2014 to 2016.

Serbia has been strongly encouraged by the EU to continue discussions on establishing a case-weighting system that ensures a balanced workload among prosecutors based on objective and transparent case-allocation criteria. The first draft of the by-law on case-weighting prepared by the SPC was a good first step, but further efforts are needed to improve the document in light of the EC comments provided in 2015.

6.3 Efficacy and Efficiency

6.2.5 Case Dispositions

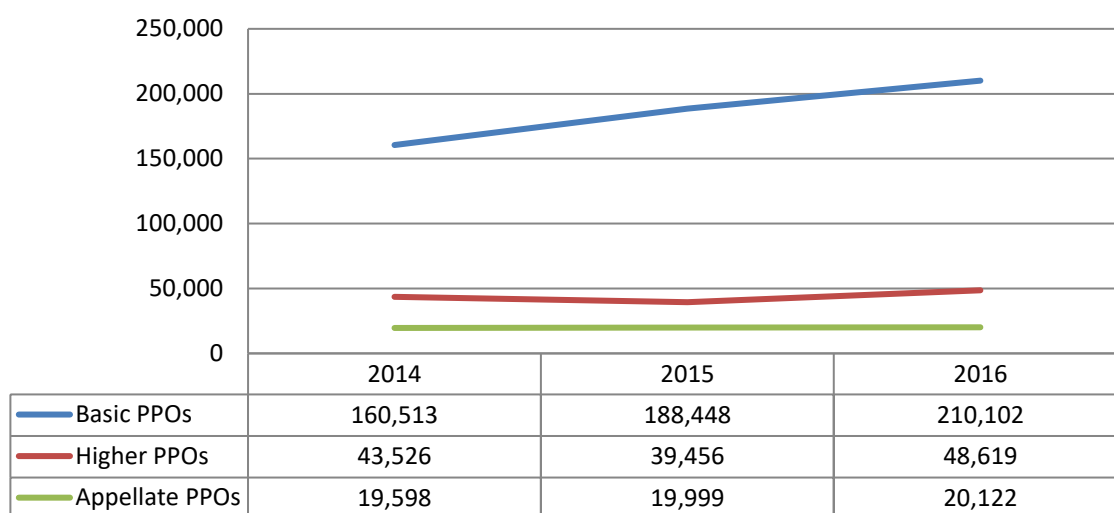
178. Cases are disposed of by dismissal, use of alternative resolution mechanisms, or indictment and trial.¹²⁷ The absolute number of dispositions in a year is a measure of system productivity. Comparison of increasing and decreasing dispositions overall, by PPO, or PPO type, can contribute to decisions about the distribution of resources, the assessment of the impact of reforms, and help identify problems or bottlenecks within the system.

179. As the number of received cases and workloads of PPOs grew, so did their numbers of disposed cases. From 2014 to 2016, the number of cases disposed of by all PPOs increased by 25 percent, including 31 percent in Basic PPOs, 12 percent in Higher PPOs, and three percent in

¹²⁷ The RPPO's statistical system from 2014-2016 (and to 2018) combined indictments and trials in a single category of dispositions.

Appellate PPOs. See Figure 27. Only 11¹²⁸ of the 58 Basic PPOs resolved fewer cases in 2016 than in 2014, and these 11 were all of extra-small size.

Figure 27 - Disposed Cases in Basic, Higher and Appellate PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016 and Appellate PPOs Data

180. Improved disposition rates from 2014 to 2016 demonstrated increased prosecutorial productivity overall, since there were few changes in the number of operatively active¹²⁹ prosecutors and the number of incoming cases per PPO type either grew or remained stable. Even the Appellate PPOs, which experienced a 22 percent drop in their total number of prosecutors from 2015 to 2016, did not show a corresponding decrease in dispositions.¹³⁰

6.2.6 Clearance Rates

181. Clearance rates are obtained by dividing the number of resolved cases with the number of incoming cases, expressed as a percentage. A clearance rate of more than 100 percent demonstrates that the PPO resolved more cases than it received. If the clearance rate was lower than 100 percent, the PPO disposed of fewer cases than it received, causing the total number of cases to increase.

182. 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,¹³¹ 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.

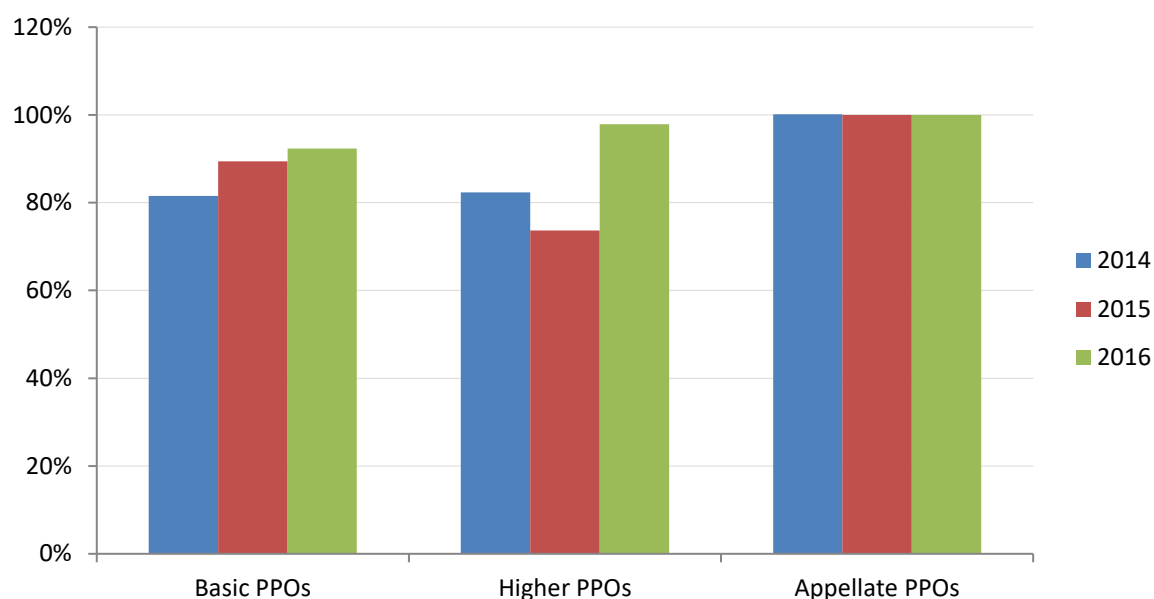
¹²⁸ The extra-small Basic PPOs in Becej, Brus, Despotovac, Gornji Milanovac, Kursumlija, Lazarevac, Mionica, Raska, Ruma, Senta, Vladicin Han.

¹²⁹ The number of incoming cases per prosecutor and dispositions per prosecutor indicators were calculated using numbers of operatively active prosecutors (i.e. prosecutors that actually worked on cases).

¹³⁰ Nine prosecutors were temporarily reassigned from the Appellate PPO in Belgrade, one from the Appellate PPO in Novi Sad, and one from Nis. Kragujevac gained one prosecutor.

¹³¹ See CEPEJ 2016 report (2014 data), p. 224, <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680789851>.

Figure 28 - Clearance Rates by PPO Type from 2014 to 2016

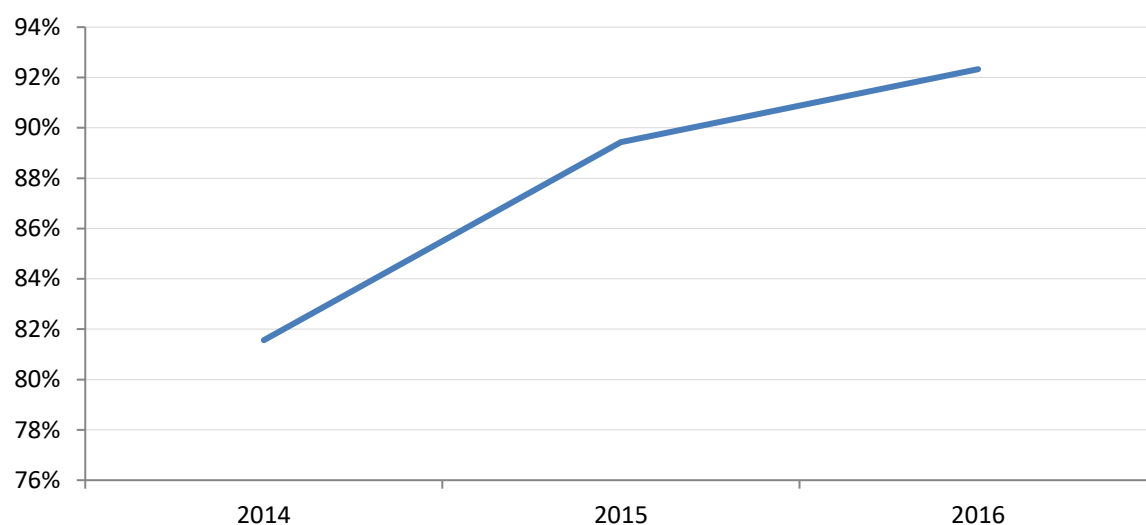


Source: WB Calculations

183. Generally, Basic PPOs improved their average clearance rates by 10 percent, from 82 percent in 2014 to 92 percent in 2016. Thirty-four percent of the 58 Basic PPOs achieved 100 percent or higher clearance rates in 2016. See Figures 29 and 30, below. The 20 Basic PPOs making up the 34 percent mostly were small Basic PPOs with lower total caseloads, such as the Basic PPOs in (Vrbas, Becej, Mladenovac, Jagodina, and Obrenovac). However, there were three medium PPOs among these PPOs – Kragujevac, Vranje and Krusevac. PPO size was no guarantee of successful or consistent clearance rates, however. The clearance rates of the small PPOs in Ruma and Velika Plana barely exceeded 50 percent in 2016, and while Mionica had a 226 percent clearance rate in 2014, that fell to 89 percent in 2015 before it increased to 94 percent in 2016. The cause of the deviations in Mionica could not be gleaned from available data.

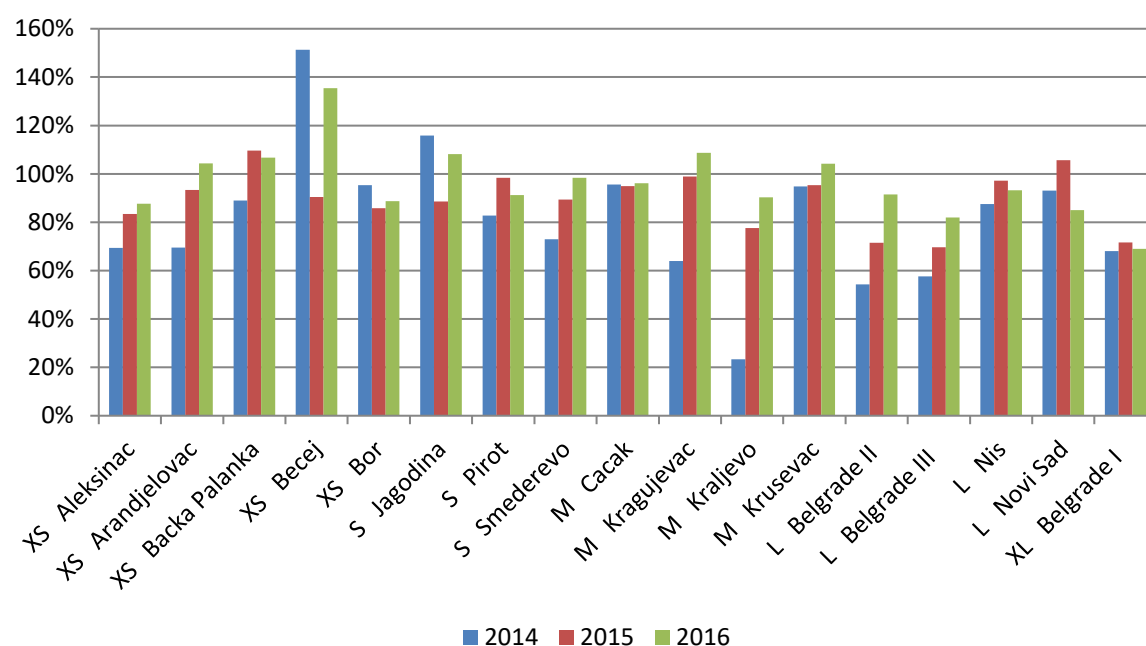
184. The largest Basic PPO, the First Basic PPO in Belgrade, achieved a clearance rate of only 69 percent. This was approximately the same clearance rate as that PPO had in 2014, and three points lower than its clearance rate for 2015.

Figure 29 - Clearance Rates of Basic PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016

Figure 30 - Clearance Rates of Selected¹³² Basic PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016 and WB Calculations

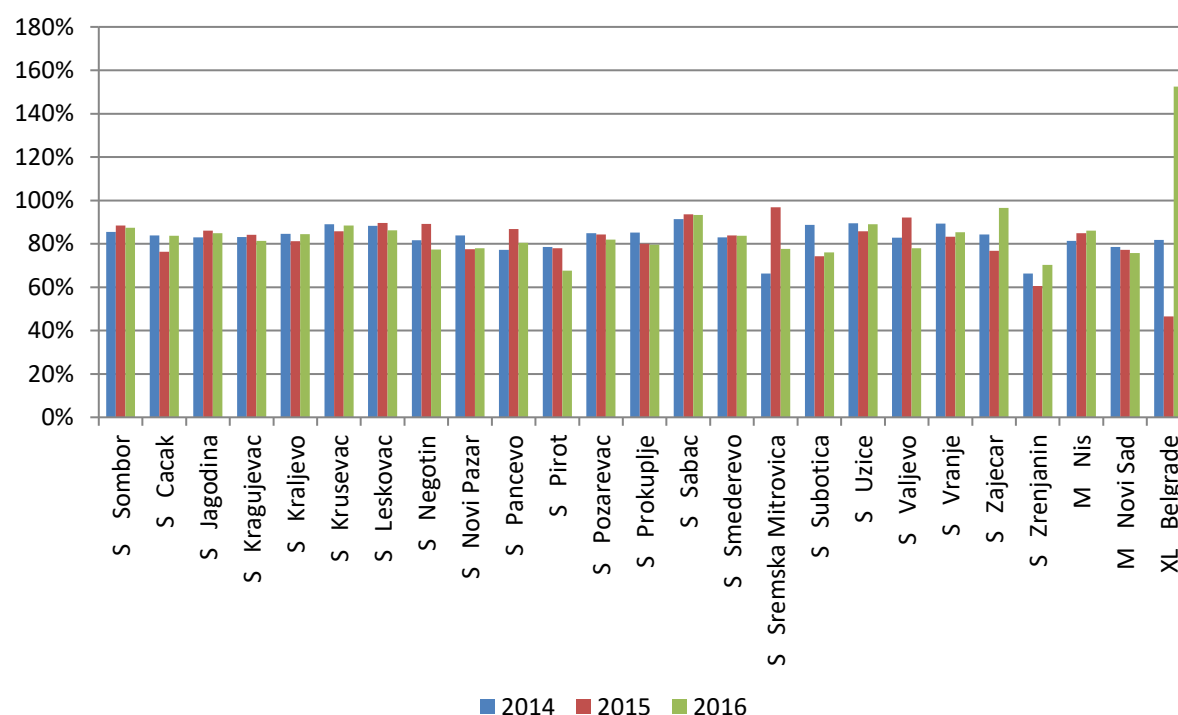
185. The average clearance rates for Higher PPOs rose to 98 percent in 2016 from 82 in 2014. See Figure 31 below. This was due primarily to the performance of the Higher PPO in Belgrade, which is the largest Higher PPO in Serbia. Clearance rates for Serbian Higher PPOs roughly matched the recent European trends reported by the CEPEJ.¹³³ The 98 percent improvement for Higher PPOs

¹³² Basic PPOs from Figure 30 were selected randomly to display typical extra-small, small, medium, large and extra-large PPOs.

¹³³ The CEPEJ 2016 report (p. 224) warned that prosecutors around Europe reported low clearance rates, even among some EU 11 Member States. For instance, in 2014 Slovakia reported an overall rate of just over 40 percent, and Slovenia reported an overall rate of just under 40 percent.

in 2016 followed a 82 percent increase in 2014, and a decline of 74 percent in 2015. The Higher PPO in Belgrade achieved a 2016 clearance rate of 153 percent (compared to its 2015 rate of 47 percent), based on the disposition of their KTR and second-instance criminal cases.¹³⁴ Only two other Higher PPOs had 2016 clearance rates that exceeded 90 percent, and they were both small offices: the Zajecar Higher PPO had a clearance rate of 97 percent, and the clearance rate for Sabac was 93 percent. The Higher PPO in Zrenjanin was the only Higher PPO with a clearance rate that never exceeded 70 percent over the three-year period.

Figure 31 - Clearance Rates of Higher PPOs from 2014 to 2016 per Higher PPO



Source: RPPO Annual Reports 2014 – 2016

186. The four Appellate PPOs each had clearance rates of 100 percent over the three-year period. As the other data reported in this FR shows, this was consistent with Appellate PPOs' ability to perform well with their current levels of funding and personnel.

6.4 Timeliness in Case Processing

187. Even clearance rates of more than 100% did not guarantee the oldest and/or most complicated cases were concluded within reasonable timeframes. Witness testimony and other evidence generally is fresher and more accessible for newer and simpler cases, and turnovers of judges, prosecutors and staff can make complicated cases particularly hard to resolve. The pressure to resolve more cases as quickly as possible often means older and more difficult cases continue to age, in many if not all judicial systems, a result that undercuts public confidence in prosecutors and

¹³⁴ The Higher PPO in Belgrade may have disposed of large numbers of less complicated and/or inactive cases.

the courts. Therefore, it is no surprise that timeliness is also one of key concerns in the EU accession process.

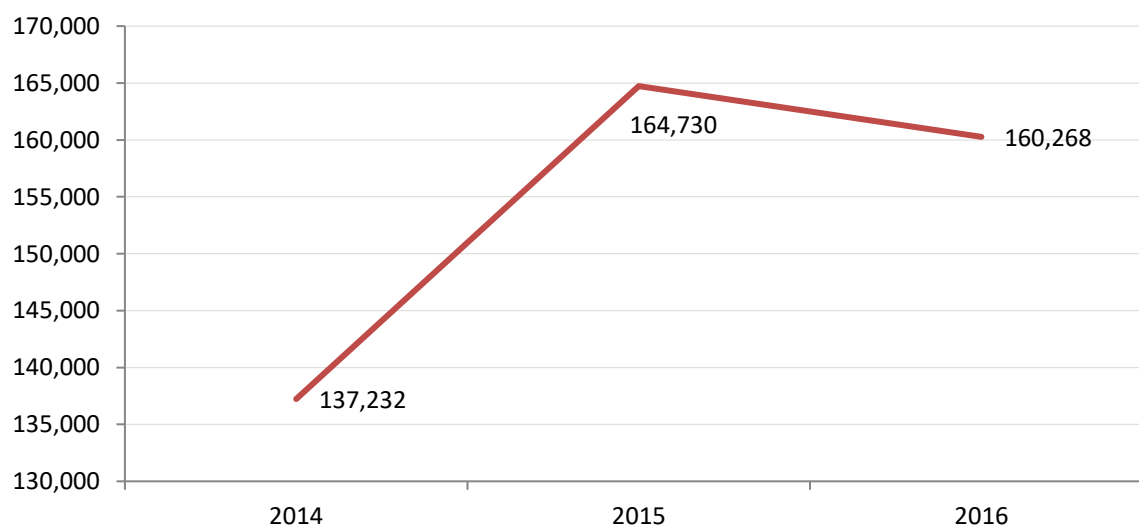
188. The average times to disposition for Serbian PPOs could not be extracted from available sources, not even for PPOs which were using case management systems. As a result, timeliness is analyzed in this sub-chapter with three sets of indicators: the quantities of carried-over cases, congestion ratios and disposition times as defined by the CEPEJ.

189. It also was not possible to determine how the continuing tendency of some trial and appellate judges to direct the evidence to be offered and the witnesses to be called affected the average time to disposition of cases in the system. Before the new CPC abolished the inquisitorial system in lieu of the adversarial model, Serbian judges sought for the material truth by determining what evidence should be offered, which witnesses should be called and doing most of the questioning at trial. Some observers interviewed for this Review reported some judges still inject themselves into determining case strategy rather than leaving it to prosecutors and the defense, which prolonged the duration of trials in those cases. This effect was aggravated when appellate decisions issued detailed order to trial courts about the questions to be asked and evidence to be received during re-trials.

6.4.1 Quantity of Carried-Over Cases

190. The total number of PPO cases carried forward from one year to the next consistently increased during the three-year period, raising concerns both among the public and professionals about the efficiency of prosecutorial services in Serbia. The increase over three years was 17 percent or more than 23,000 cases, as shown by Figure 32.

Figure 32 - Carried-Over Cases in PPOs from 2014 to 2016

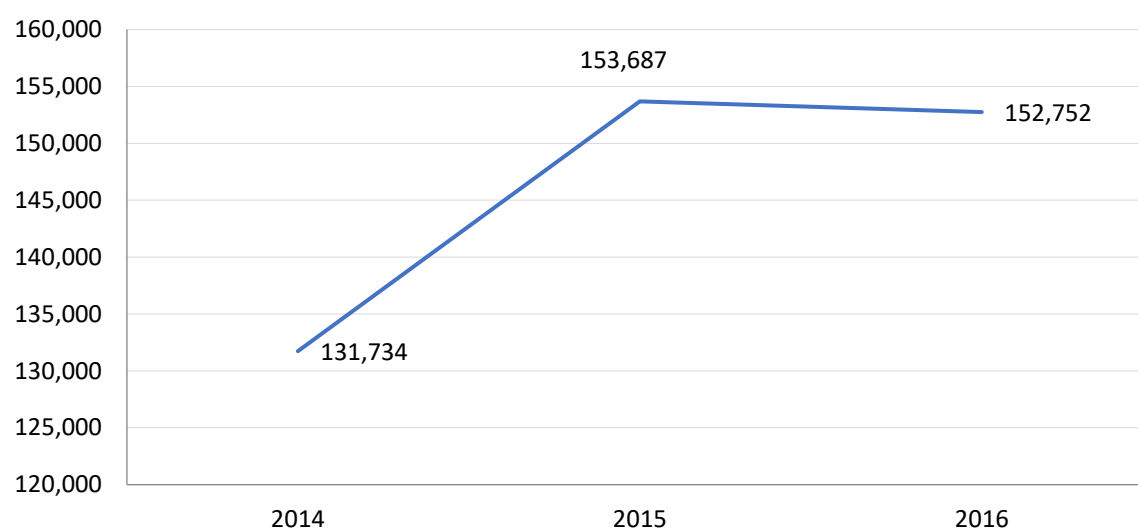


Source: RPPO Annual Reports 2014 – 2016

191. The number of carried-over cases grew in Basic PPOs, but the numbers for Higher PPOs decreased by almost 32 percent from 2015 to 2016 after doubling from 2014 to 2015. The contrast between Basic and Higher PPOs is shown by Figures 33 and 34. From 2014 to 2016, the cases carried

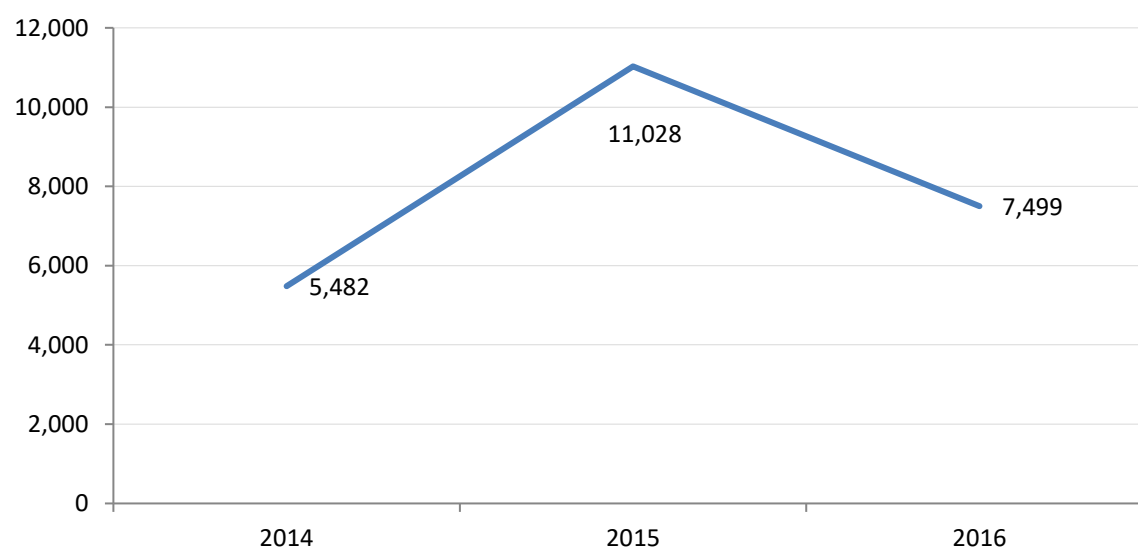
forward in Basic PPOs increased by 16 percent, even as Basic PPOs improved their average clearance rates from 82 percent in 2014 to 92 percent in 2016, as discussed above.

Figure 33 - Carried-Over Cases in Basic PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016

Figure 34 - Carried-Over Cases in Higher PPOs from 2014 to 2016



Source: RPPO Annual Reports 2014 – 2016

192. These numbers would be very different if KTN cases were included.¹³⁵ The effect that KTN cases would have on the calculations in this study is illustrated by the data for carried-over cases from 2014 to 2016. At the beginning of 2016, there were 453,889 KTN cases pending in Serbian

¹³⁵ KTN cases are those in which no perpetrator has been identified. If the perpetrator is identified, the case is marked as resolved on the KTN registry, and the case is assigned a new case number in another registry. If the perpetrator is not identified, the case remains open until the statute of limitations expires.

PPOs, of which 96 percent were in Basic PPOs. In Basic PPOs, the clearance rate for KTN cases was 64 percent in 2014, 48 percent in 2015 and 79 percent in 2016. Higher PPOs achieved a clearance rate of 32 percent for KTN cases in 2014, 119 percent in 2015, and 159 percent in 2016.

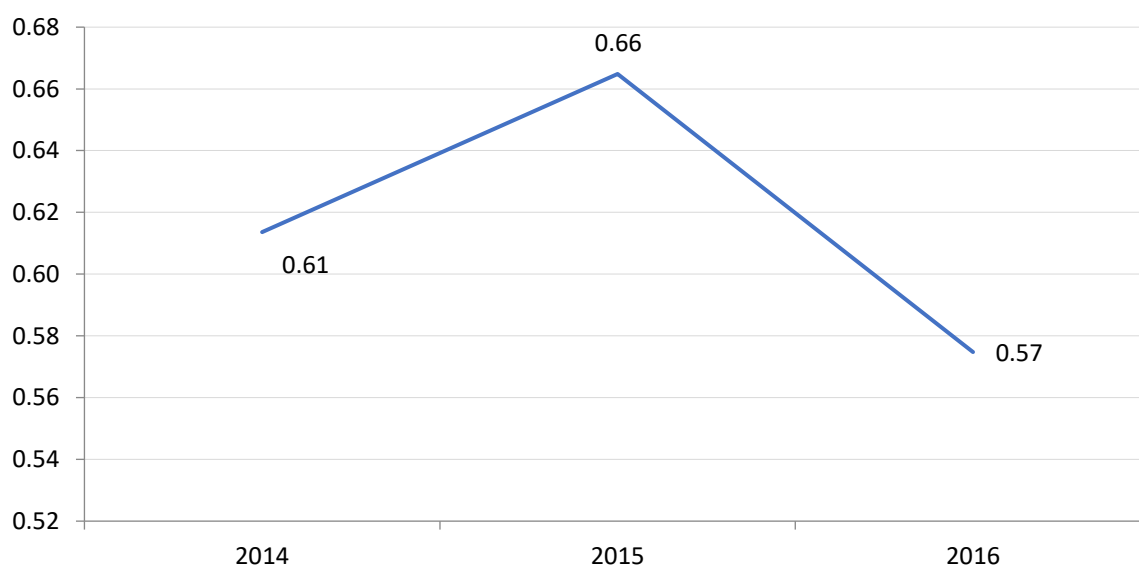
193. From 2014 through 2016, Appellate PPOs essentially had no carried-over cases. The Appellate PPOs in Belgrade, Kragujevac, and Novi Sad reported that they resolved all of their cases in 2014, 2015 and 2016. Only the PPO for the Appellate Court in Nis carried over 15 to 17 cases each year, which represented less than one percent of that PPO's total workload.

6.4.2 Congestion Ratios

194. Congestion ratios are calculated by dividing the total number of unresolved cases at the end of one year by the number of resolved cases during that same year. This ratio should indicate what effect the numbers of carried-over cases have on PPO performance. There is no standard goal set for prosecutorial congestion ratios generally, but larger numbers indicate higher congestion levels and probable delays. Ideally, a congestion ratio should be well under 1.00 and preferably under 0.50, to ensure there are far fewer unresolved cases at the end of the year than the number of cases resolved during the year.

195. For each year from 2014 to 2016, Serbia's combined congestion ratio for Basic, Higher, and Appellate PPOs was around 0.60, indicating gaps in the timely resolution of cases. The 137,232 unresolved and 223,637 resolved cases at the end of 2014 produced a congestion ratio of 0.61. Those numbers increased to 164,730 unresolved cases, 247,778 resolved cases and a congestion ratio of 0.66 at the end of 2015, largely due to a nine percent decline in the number of disposed cases in Higher PPOs. The congestion ratio improved to 0.57 in 2016, with 160,268 unresolved cases and 278,843 resolved cases at the end of that year. See Figure 35 below.

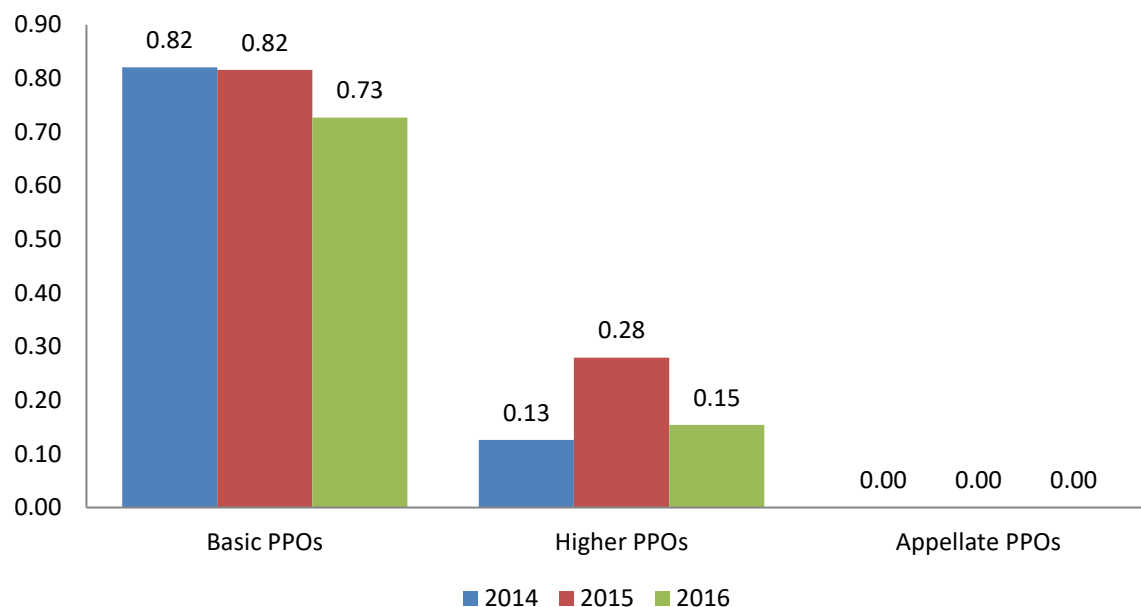
Figure 35 - Overall Congestion Ratios of Basic, Higher and Appellate PPOs from 2014 to 2016



Source: WB Calculations

196. While the rates by PPO category were less than 1.00 for all three years, congestion ratios of Basic PPOs were three to six times that of Higher PPOs. There was no congestion in Appellate PPOs, as shown by Figure 36.

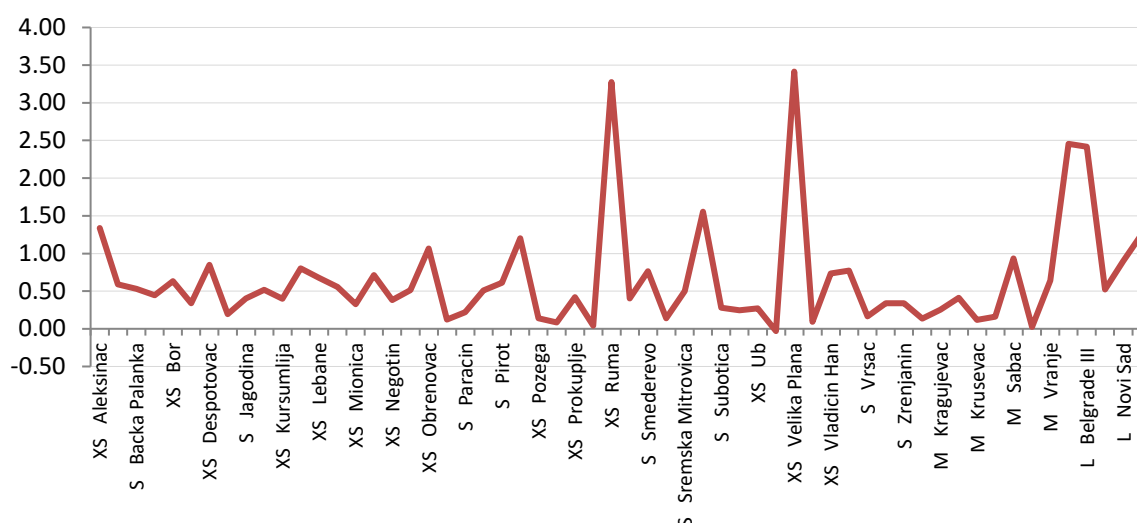
Figure 36 - Congestion Ratios per PPO Type from 2014 to 2016



Source: WB Calculations

197. The congestion ratios of Basic PPOs remained well above the goal of 0.50. The highest congestion ratio was recorded in the two small offices which also had the lowest clearance rates in 2016: the PPO of Velika Plana with a congestion ratio of 3.41, followed by the PPO of Ruma with a ratio of 3.28. The three Basic PPOs in Belgrade all reached congestion ratios that exceeded 1.00 in 2016: the Second Basic PPO in Belgrade reached 2.45, the Third Basic PPO in Belgrade reached 2.42 and the First Basic PPO in Belgrade reached 1.25. However, 29 of the 58 Basic PPOs reported ratios lower than 0.50 in 2016, showing that more efficient performance is possible in small, medium and large PPOs. For example, the medium PPO in Kragujevac had a congestion ratio of 0.25, the ratio for the medium PPO in Valjevo was 0.02, and the ratio for the extra small PPO in Raska was 0.04. Figure 37 below demonstrates variations in congestion ratios among Basic PPOs.

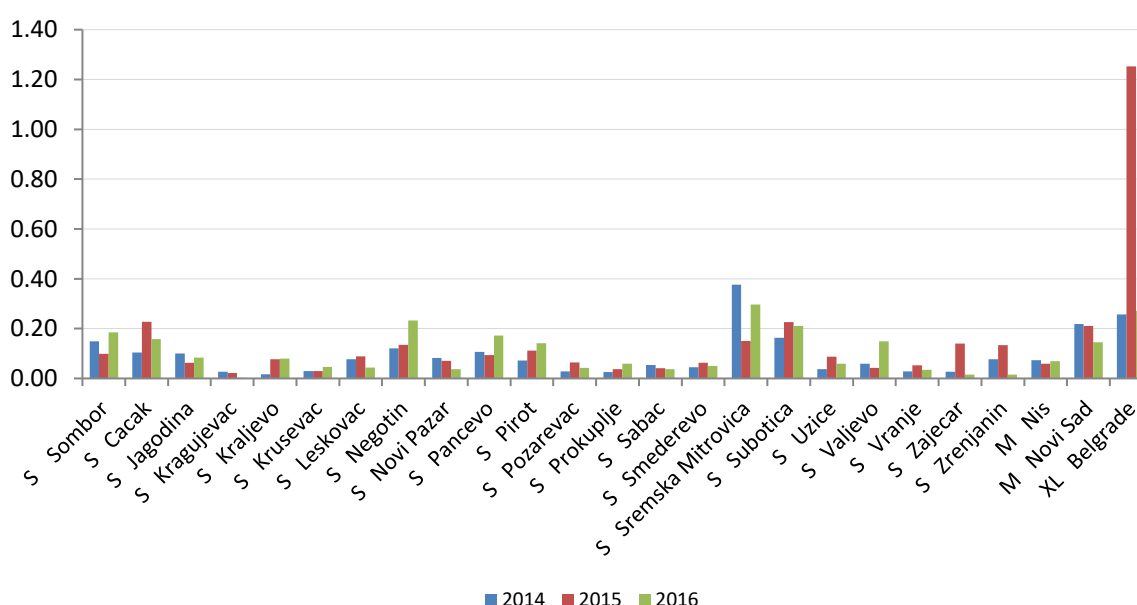
Figure 37 - Congestion Ratios of Selected¹³⁶ Basic PPOs in 2016



Source: WB Calculations

198. Congestion in Higher PPOs remained well under 0.50 for all three years, as shown by Figure 38 below. The congestion ratio for Higher PPOs stayed within the desired range even though it more than doubled in 2015, from 0.13 in 2014 to 0.28, due to extraordinarily high congestion in the Belgrade PPO. The congestion ratio for that Higher PPO was 0.26 in 2014, 1.25 in 2015, and 0.27 in 2016. The cause for the deviation in 2015 was the 35 percent drop in the number of dispositions in 2015. In the following year, the Belgrade Higher PPO improved its results significantly by more than doubling its dispositions, from 6,277 in 2015 to 16,827 in 2016. This was done primarily by clearing many KTR and second-instance cases.

Figure 38 - Congestion Ratios of Higher PPOs from 2014 to 2016



Source: WB Calculations

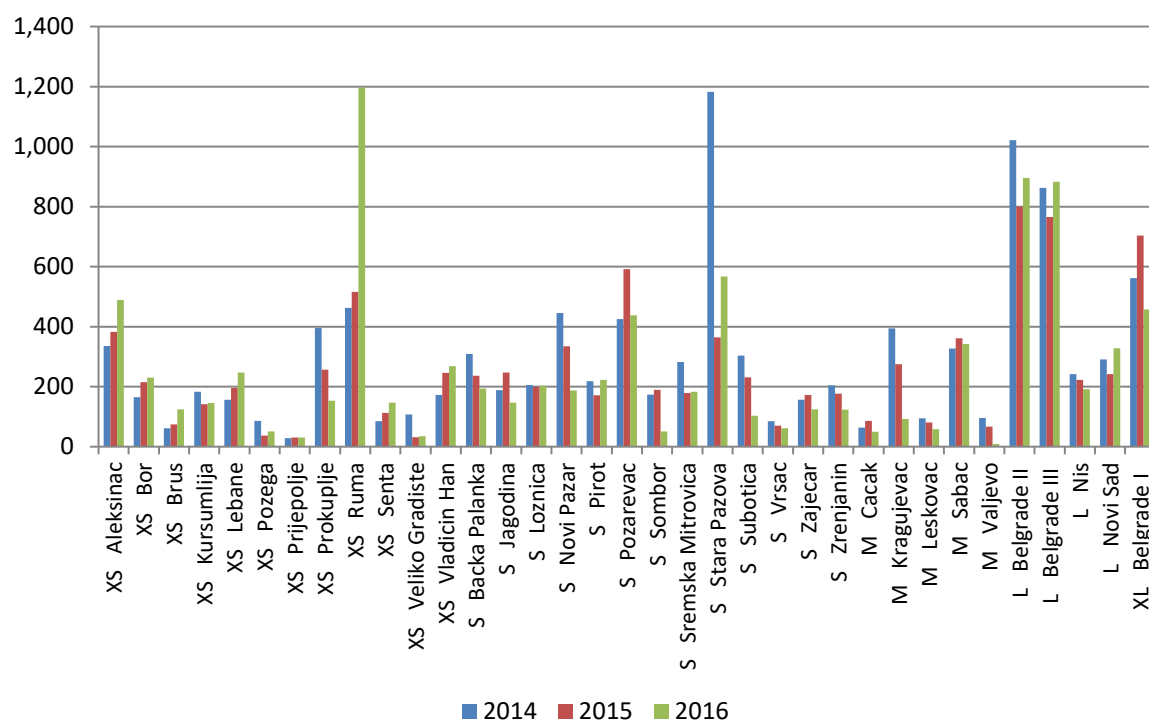
¹³⁶ Basic PPOs from Figure 38 were selected randomly to display typical extra-small, small, medium, large and extra-large PPOs.

6.4.3 Time to Disposition

199. Since Serbian PPOs did not track the duration of individual cases, this review uses a CEPEJ methodology to determine disposition times. The CEPEJ method measures the theoretical time necessary for a pending case to be disposed of, taking into consideration the current pace of work of PPOs. The resulting indicator is not an estimate of the average time needed to process a case, but a theoretical average of the duration of a case within a specific system (e.g. by individual PPO, types of PPOs, PPOs by region, or PPOs by country). The indicator is reached by dividing the number of pending cases at the end of a particular period by the number of resolved cases within that period, multiplied by 365 days.¹³⁷

200. Disposition times of Serbian prosecutors are three to six time higher in Basic than in Higher PPOs, although the average disposition times of Basic PPOs decreased gradually from 2014 to 2016. The decrease was from 300 to 265 days. Several basic PPOs exceeded the average by more than a factor of three and reported average disposition times of more than 1,000 days. In 2014, these included the small Basic PPO in Stara Pazova and the large Second Basic PPO in Belgrade. In 2016, these included the extra-small PPOs in Ruma and Velika Plana. Conversely, other extra-small and small Basic PPOs displayed the best disposition times, such as those in Prijepolje (30 days) and Veliko Gradiste (34 days). See Figure 39.

Figure 39 - Disposition Times of Selected Basic PPOs from 2014 to 2016

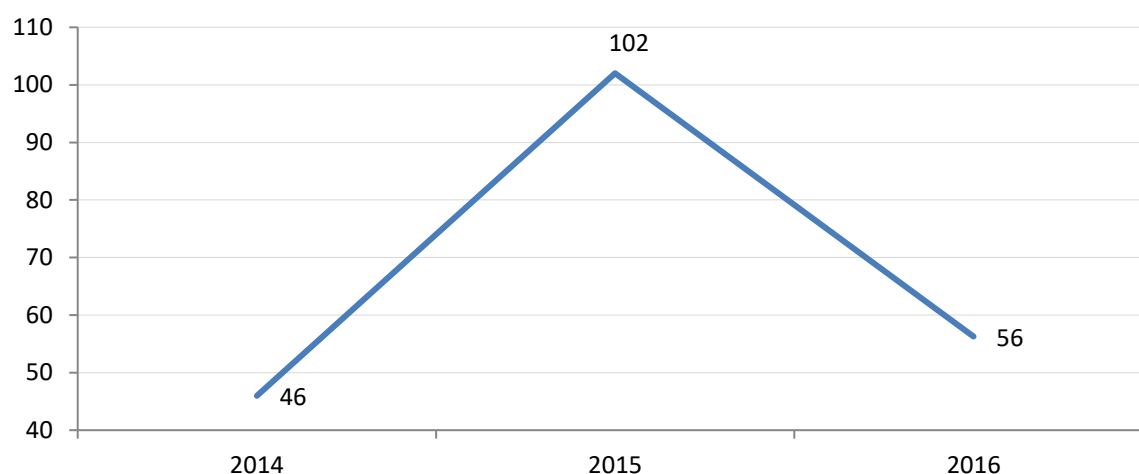


Source: WB Calculation

¹³⁷ This indicator, together with others such as clearance rates and case turnover ratios, comprise the SATURN Methodology. SATURN stands for Study and Analysis of Judicial Time Use Research Network, see https://www.coe.int/t/dghl/cooperation/cepej/Delais/default_en.asp. The main difficulty of this methodology is the assumption that judges and prosecutors resolve their oldest cases first. This is not necessarily accurate, since judges and prosecutors may find it easier and faster to resolve newer cases rather than older ones.

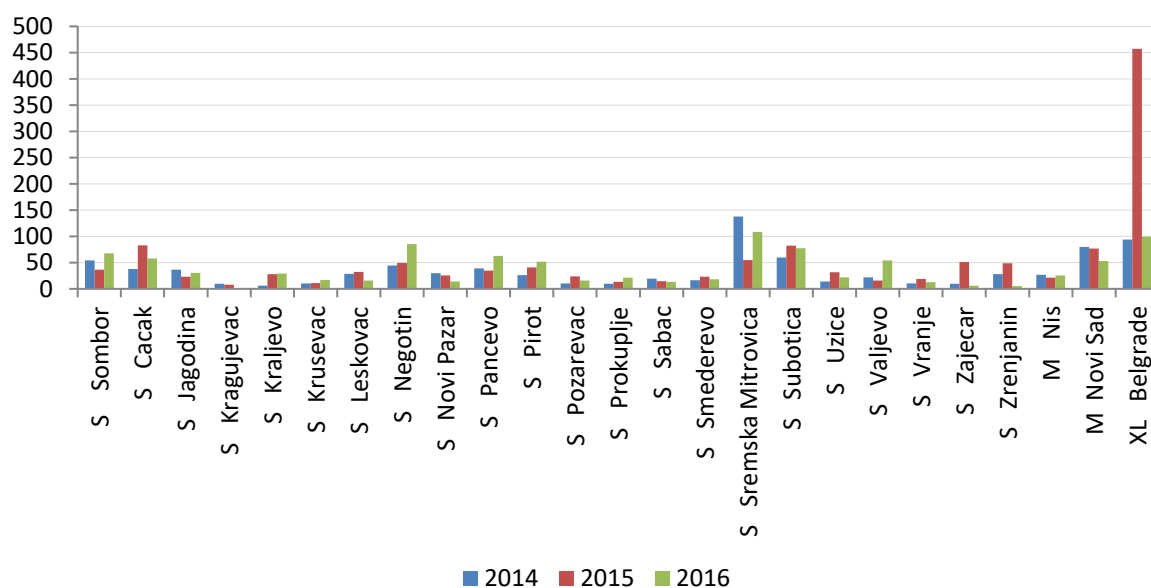
201. Higher PPOs rarely report disposition times that exceed 100 days, although the average for these PPOs jumped in 2015 and then dropped. This jump was caused by an increase in the disposition times for the Higher PPO in Belgrade. While that PPO managed to keep its disposition time under 100 days in 2014 and 2016, the disposition time increased to 457 days in 2015. As noted above, the Higher PPO in Belgrade had a significant drop in the number of resolved cases in 2015. The only other Higher PPO that exceeded 100 days from 2014 to 2016 was the small Higher PPO in Sremska Mitrovica. The lowest disposition times reported in 2016 were in the small Higher PPOs Kragujevac with one day and in Zajecar and Zrenjanin, with average disposition times of six days each. See Figures 40 and 41.

Figure 40 - Disposition Times of Higher PPOs from 2014 to 2016



Source: WB Calculation

Figure 41 - Disposition Times from 2014 to 2016 per Higher PPO



Source: WB Calculation

202. As with other efficiency indicators, disposition times of Appellate PPOs were very good from 2014 to 2016, since these PPOs essentially resolved all of their incoming cases each year.

203. Available data could not explain whether the extreme variations in disposition times were due to uneven distributions of resources, management initiatives in particular PPOs, or other factors. Data also were not detailed enough to determine whether particular types of bottlenecks cause delays, either system-wide or for particular types of cases. Bottlenecks can be triggered by legislative or regulatory provisions, or by standard practices of the police, prosecutors or courts. CEPEJ concludes in its “Time management of justice systems: Northern Europe study”¹³⁸ that so-called standstill times – the periods between prosecutorial actions in a given case – are particularly worrisome, since they may be caused by one or more types of bottleneck that affect many cases of the same type. Identifying the existence and causes of bottlenecks would require in-depth analyses of data taken from a representative specimen of cases from manually assembled and/or CMS information.

204. In general, the CPC's requirements for prosecutors to take formal witness statements during the investigation phase of a case increased the time to disposition of many cases. With the system-wide implementation of the CPC in 2013, prosecutors rather than investigative judges assumed the duty of investigating cases. However, prosecutors still had to take statements from witnesses that were transcribed by typists, and victims and defendants and/or their attorneys had the right to be present at and participate in the taking of the statements. Coordination of dates when all the participants could be present for the statements reportedly added to the time to disposition of many cases, although there was no data about the length of the reported delays. The completion of investigations also was affected by the availability of typists, since typists have to transcribe witness interviews as the interviews were conducted.

205. It is up to judges in individual cases rather than prosecutors to determine how investigative statements could be used to shorten trials. Drafters of the CPC expected these procedures would allow the investigation statements to be used in lieu of the live testimony from at least some witnesses at trial. but there was no data suggesting this occurred to any measurable extent from 2014 through 2016. On the contrary, those interviewed for this Review reported these investigative requirements usually resulted in a duplication of effort and lengthened the time to disposition, since witnesses who provided statements during investigations also had to appear to testify at trial. The investigative statements could still be used to shorten many trials if judges use pre-trial conferences to obtain stipulations from the parties about what evidence and which issues are in dispute and which are not, and which investigative statements can substitute for live testimony at trial.

6.4.4 Efficiency per Prosecutor¹³⁹

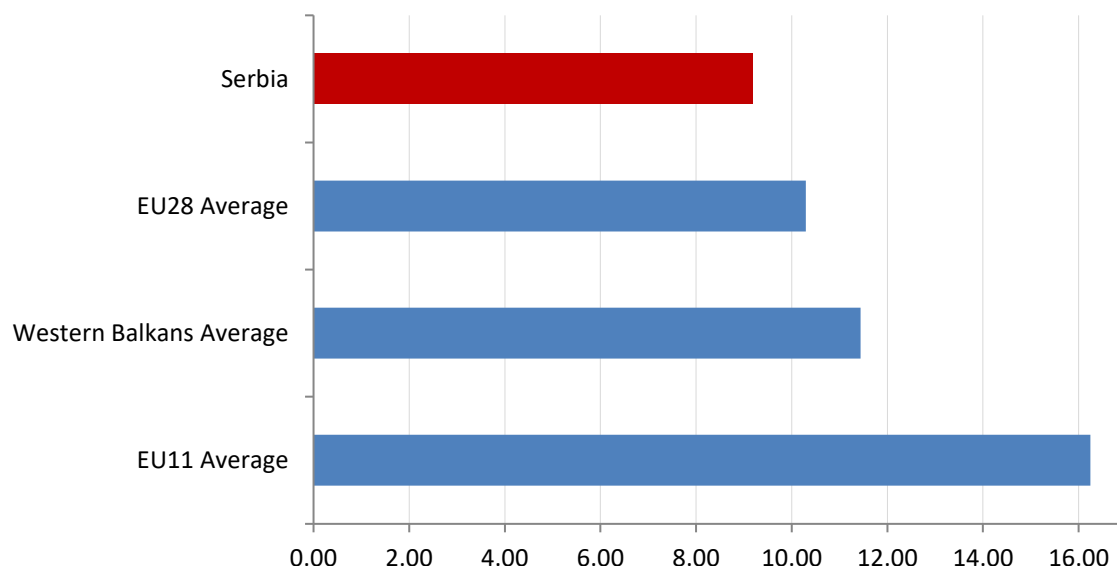
206. Serbia reported the lowest number of Public Prosecutors per 100,000 inhabitants in 2014, when compared to European averages and regional peers. According to the CEPEJ 2016 report the number of Public Prosecutors per 100,000 inhabitants in Serbia was 9.20. Concurrently, the EU28

¹³⁸ See <https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-time-managemen/16807882bb>.

¹³⁹ Calculations regarding the number of prosecutors in this portion of the FR, if not stated otherwise, were done by using actual numbers of operatively active Public Prosecutors and Deputy Public Prosecutors. This means that prosecutors who were not actively working on cases (e.g. Public Prosecutors in larger PPOs, first deputies, etc.) were not considered as operatively active since they did not contribute directly to productivity results. This topic is explored in more detail in the Human Resource chapter, below.

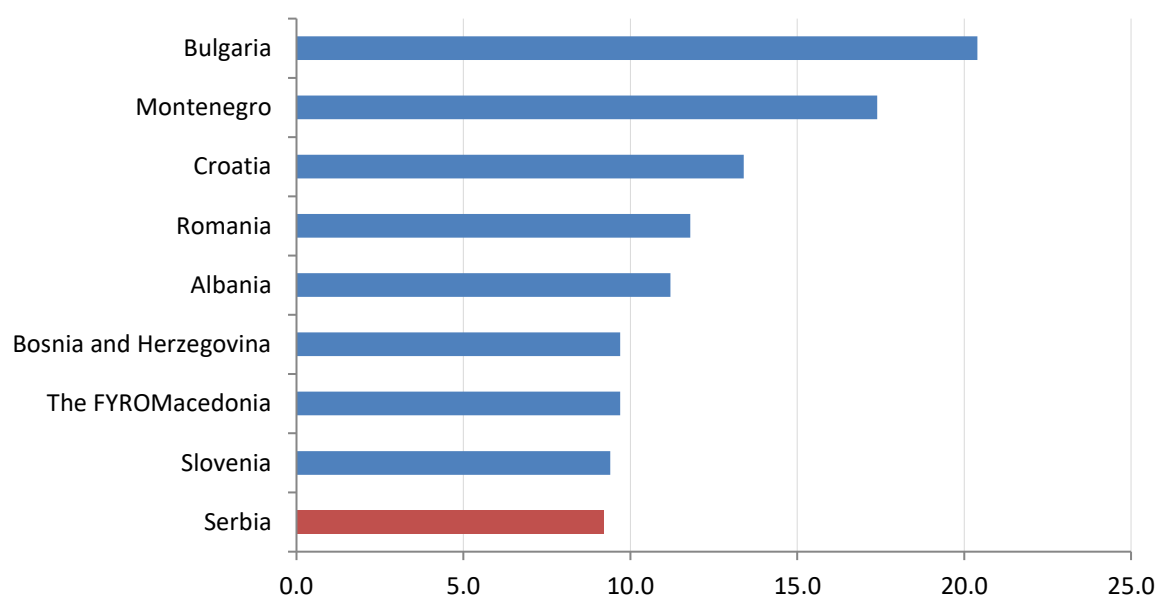
average was 10.29, the EU11 average was 16.25 and the Western Balkans average was 11.44. When compared to individual regional peers from the EU11 and Western Balkans, only Slovenia, the Former Yugoslav Republic of Macedonia and Bosnia and Herzegovina had similar ratios. Bulgaria and Montenegro reported ratios which were double those for Serbia, and these countries did not perform markedly better than Serbia in terms of clearance rates. See Figures 42 and 43 below.

Figure 42 - Number of Public Prosecutors per 100,000 Inhabitants – CEPEJ 2016 Report



Source: CEPEJ Report 2016 (2014 data)

Figure 43 - Number of Public Prosecutors per 100,000 Inhabitants – Serbia and Regional Peers



Source: CEPEJ Report 2016 (2014 data)

207. Eight to 10 percent of appointed Deputy Prosecutors in PPOs overall were not actively assigned to work on cases in 2014-2016. Instead, they were temporarily assigned to other duties, as

shown in Table 2 below. These reassignments were made in PPOs both with relatively higher and lower numbers of incoming cases.

Table 2 - Percentage of Deputy Prosecutors Assigned to Other Duties per PPO Type from 2014 to 2016

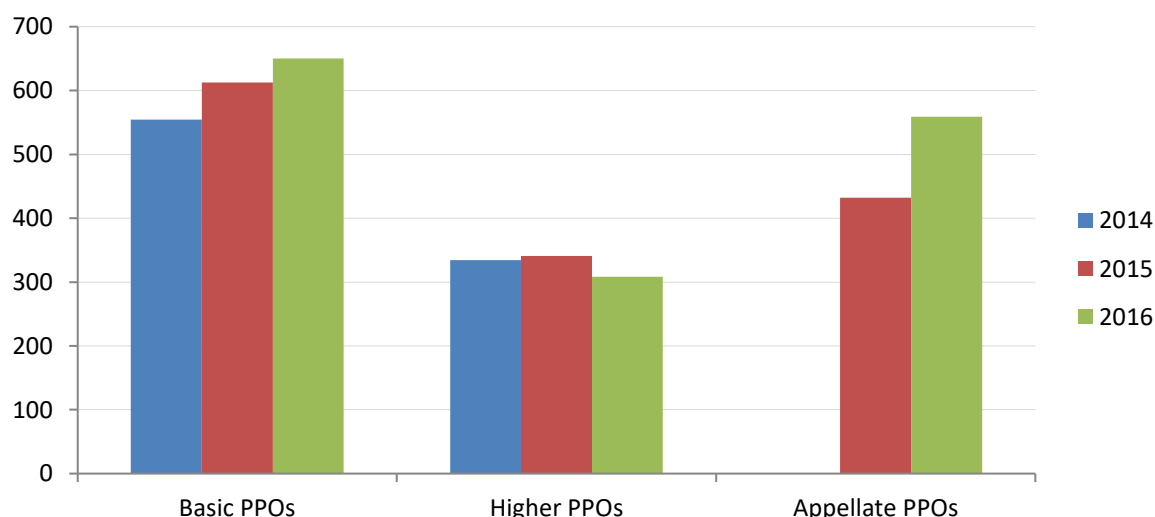
	2014	2015	2016
Basic PPOs	10%	10%	10%
Higher PPOs	4%	6%	7%
Appellate PPOs	n/a	18%	22%

Source: SPC Data and WB Calculations

6.4.4.1 Incoming Caseloads per Prosecutor

208. 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. Figure 44 below displays average incoming caseloads per prosecutor by PPO type from 2014 to 2016. Prosecutors in Basic PPOs received 17 percent more cases on average in 2016 than in 2014. The received cases of prosecutors in Higher PPOs grew slightly in 2015, but then fell again by nine percent in 2016. The highest increase was recorded for Appellate PPOs, with a 29 percent rise from 2015 to 2016.

Figure 44 - Caseload per Prosecutor in Basic, Higher and Appellate¹⁴⁰ PPOs from 2014 to 2016



Source: WB Calculations

209. Although the number of incoming cases in Basic PPOs grew substantially each year, the number of prosecutors working on cases fell by 11 in 2015 and then rose by 6 in 2016. In Higher

¹⁴⁰ Data on the number of prosecutors in Appellate PPOs in 2014 was unavailable.

PPOs, the number of incoming cases fell from 2014 to 2016, yet the number of prosecutors grew by three, causing the caseload per prosecutor to drop. See Table 3.

Table 3 - Caseload and Prosecutors in Basic and Higher PPOs from 2014 to 2016

		2014	2015	2016
Basic PPOs	Caseload	196,801	210,729	227,555
	Prosecutors	355	344	350
Higher PPOs	Caseload	52,854	53,533	49,675
	Prosecutors	158	157	161

Source: RPPO Annual Reports 2014 – 2016 and SPC Data

210. By 2016, each prosecutor in Basic PPOs had an average of 650 incoming cases, but there were substantial differences among Basic PPOs. The number of incoming cases ranged from 358 per prosecutor in Sombor to Velika Plana, where the Basic PPO had only one prosecutor and a caseload of 2,294 incoming cases – 3.5 times the average. As Table 4 demonstrates, the number of incoming cases per prosecutor did not depend on the size of the PPO. Even in Belgrade, only its First Basic PPO reported an above-average number of incoming cases with 702, while both the Second and Third Basic PPOs were below average with 517 and 589 cases, respectively. Table 4 presents the relevant numbers for all Basic PPOs.

Table 4 - Average Caseloads per Prosecutor in Basic PPOs in 2016¹⁴¹

Basic PPO (size)	Incoming Cases	No. of Prosecutors	Caseload per Prosecutor	Basic PPO	Incoming Cases	No. of Active Prosecutors	Caseload per Prosecutor
Sombor (S)	2,865	8	358	Kraljevo (M)	5,404	8	676
Vranje (M)	3,468	9	385	Pirot (S)	2,741	4	685
Vrsac (S)	2,383	6	397	Cacak (M)	5,535	8	692
Kursumlija (XS)	827	2	414	Belgrade I (XL)	25,990	37	702
Obrenovac (XS)	1,670	4	418	Prokuplje (XS)	2,131	3	710
Jagodina (S)	2,553	6	426	Krusevac (M)	4,381	6	730
Kragujevac (M)	6,467	15	431	Valjevo (M)	6,622	9	736
Vrbas (XS)	1,878	4	470	Despotovac (XS)	1,577	2	789
Lazarevac (XS)	1,409	3	470	Veliko Gradiste (XS)	1,595	2	798
Novi Sad (L)	13,858	28	495	Sabac (M)	5,637	7	805
Trstenik (XS)	1,018	2	509	Kikinda (XS)	2,418	3	806
Novi Pazar (S)	3,580	7	511	Nis (L)	14,889	18	827
Negotin (XS)	2,051	4	513	Bor (XS)	2,587	3	862
Arandjelovac	1,540	3	513	Pozega (XS)	2,595	3	865

¹⁴¹ PPOs with above-average caseloads per prosecutor are marked in red, under-average are marked in green, and PPOs with approximately average caseload per prosecutor are marked in blue.

(XS)							
Paracin (S)	2,581	5	516	Leskovac (M)	7,134	8	892
Belgrade II (L)	10,851	21	517	Smederevo (S)	4,461	5	892
Loznica (S)	3,114	6	519	Pozarevac (S)	4,561	5	912
Zajecar (S)	3,726	7	532	Ruma (XS)	1,880	2	940
Backa Palanka (XS)	1,073	2	537	Raska (XS)	953	1	953
Subotica (S)	3,827	7	547	Lebane (XS)	1,954	2	977
Prijepolje (XS)	2,235	4	559	Aleksinac (XS)	2,114	2	1,057
Belgrade III (L)	8,841	15	589	Becej (XS)	1,099	1	1,099
Mladenovac (S)	2,983	5	597	Petrovac na Mlavi (XS)	1,209	1	1,209
Stara Pazova (S)	2,450	4	613	Brus (XS)	1,233	1	1,233
Pancevo (S)	5,047	8	631	Zrenjanin (S)	5,218	4	1,305
Mionica (XS)	1,291	2	646	Gornji Milanovac (XS)	1,492	1	1,492
Sremska Mitrovica (S)	3,266	5	653	Ub (XS)	3,045	2	1,523
Vladicin Han (XS)	1,307	2	654	Senta (XS)	3,377	2	1,689
Uzice (S)	3,270	5	654	Velika Plana (XS)	2,294	1	2,294

Source: RPPO Annual Reports 2014 – 2016, SPC Data and WB Calculations

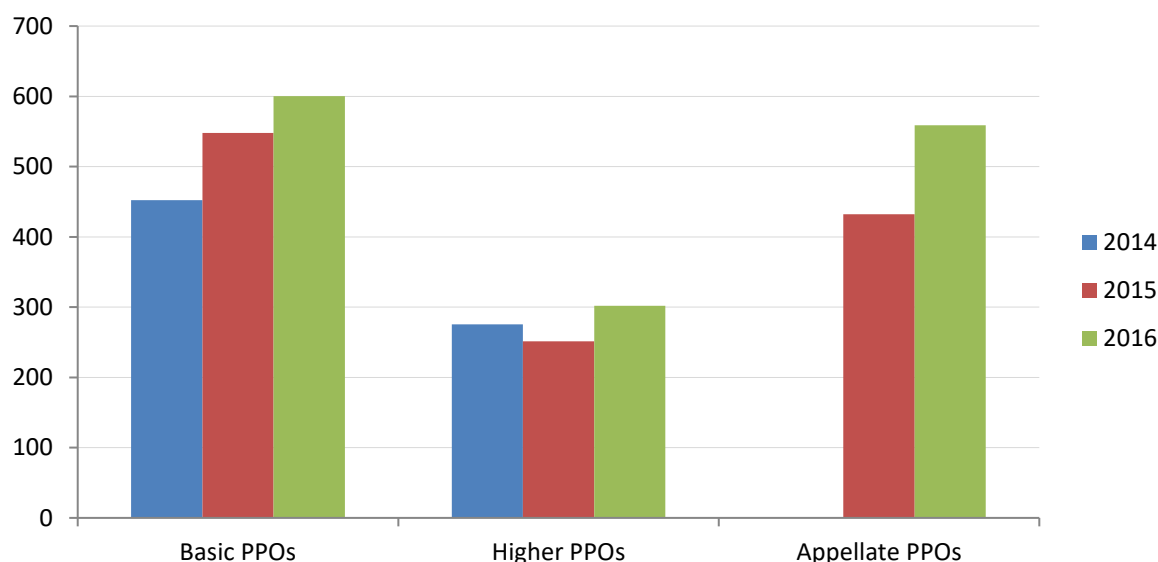
211. Prosecutors in Higher PPOs generally had lower numbers of incoming cases in 2016, ranging from a low of 171 cases in Novi Pazar to a high of 748 cases in Sombor. Of the 25 Higher PPOs, prosecutors in 14 received numbers of incoming cases below the national average, while the rest were above the national average. The Higher PPOs with above-average numbers per prosecutor were small Higher PPOs, while the largest Higher PPO, in Belgrade, was well below average at 276 cases.

212. Caseload per prosecutor also grew in Appellate PPOs. This was particularly true for the Belgrade Appellate PPO, where it doubled from 2015 to 2016. Although all Appellate PPOs with the exception of Kragujevac faced rising caseloads per prosecutor, Belgrade stood out. It had nine prosecutors reassigned to positions in which they were not handling cases or to other PPOs, and the number of incoming cases per prosecutor grew from 266 to 530 although the number of incoming cases remained stable. Similarly, the Appellate PPOs in Nis and Novi Sad each lost one prosecutor. Only the Appellate PPO in Kragujevac increased its number of prosecutors by one, causing the caseload per prosecutor to drop slightly.

6.4.4.2 Dispositions per Prosecutor

213. Average dispositions per prosecutor across PPO types demonstrated significant variations over time with decreases of nine percent, such as in Higher PPOs in 2015, and increases of 29 percent, as in Appellate PPOs in 2016. See Figure 45 below.

Figure 45 - Dispositions per Prosecutor in Basic, Higher and Appellate¹⁴² PPOs from 2014 to 2016



Source: WB Calculations

214. Dispositions per prosecutor in Basic PPOs grew each year from 2014 to 2016. There were stable or increasing dispositions per prosecutor for most, but certainly not all, Basic PPOs from 2014 to 2016. Some PPOs, like the First Basic PPO in Belgrade, achieved this by increasing the number of prosecutors while others lost prosecutors (e.g., the Basic PPOs in Aleksinac and Subotica). On the other hand, the Basic PPO in Novi Sad added six prosecutors in 2016 and its number of incoming cases decreased by 11 percent, while the number of disposed cases per prosecutor fell by 30 percent.¹⁴³

Table 5 - Average Dispositions per Prosecutor in Basic PPOs in 2016

Basic PPO (size)	Disposed Cases	No. of Prosecutors	Dispositions per Prosecutor	Basic PPO	Disposed Cases	No. of Prosecutors	Dispositions per Prosecutor
Senta (XS)	3,010	2	1,505	Kraljevo (M)	4,880	8	610
Becej (XS)	1,488	1	1,488	Vrbas (XS)	2,435	4	609
Ub (XS)	2,928	2	1,464	Mionica (XS)	1,211	2	606
Gornji Milanovac (XS)	1,417	1	1,417	Backa Palanka (XS)	1,145	2	573

¹⁴² Data on the number of prosecutors in Appellate PPOs in 2014 was not available.

¹⁴³ The Basic PPO in Novi Sad disposed of more cases in 2015 (per prosecutor and in total) when it had five fewer prosecutors than it had in 2014. However, the 2015 increase was solely caused by the disposition of KTR cases, while dispositions of other more work-intensive case types remained stable or even declined slightly.

Zrenjanin (S)	4,954	4	1,239	Subotica (S)	3,982	7	569
Velika Plana (XS)	1,185	1	1,185	Sremska Mitrovica (S)	2,833	5	567
Petrovac na Mlavi (XS)	1,144	1	1,144	Vladicin Han (XS)	1,098	2	549
Brus (XS)	1,084	1	1,084	Prijepolje (XS)	2,181	4	545
Prokuplje (XS)	2,895	3	965	Arandjelovac (XS)	1,607	3	536
Raska (XS)	938	1	938	Novi Pazar (S)	3,704	7	529
Aleksinac (XS)	1,853	2	927	Ruma (XS)	1,023	2	512
Smederevo (S)	4,386	5	877	Trstenik (XS)	1,021	2	511
Leskovac (M)	6,854	8	857	Zajecar (S)	3,538	7	505
Pozega (XS)	2,509	3	836	Negotin (XS)	2,007	4	502
Kikinda (XS)	2,453	3	818	Paracin (S)	2,469	5	494
Lebane (XS)	1,625	2	813	Vranje (M)	4,436	9	493
Pozarevac (S)	3,953	5	791	Belgrade I (XL)	17,929	37	485
Veliko Gradiste (XS)	1,576	2	788	Belgrade III (L)	7,243	15	483
Nis (L)	13,887	18	772	Lazarevac (XS)	1,442	3	481
Bor (XS)	2,295	3	765	Stara Pazova (S)	1,908	4	477
Krusevac (M)	4,562	6	760	Belgrade II (L)	9,928	21	473
Valjevo (M)	6,517	9	724	Kragujevac (M)	7,033	15	469
Sabac (M)	5,034	7	719	Obrenovac	1,844	4	461
Mladenovac (S)	3,418	5	684	Jagodina (S)	2,760	6	460
Despotovac (XS)	1,346	2	673	Loznica (S)	2,714	6	452
Cacak (M)	5,317	8	665	Novi Sad (L)	11,781	28	421
Uzice (S)	3,307	5	661	Kursumlija	819	2	410
Pancevo (S)	5,077	8	635	Vrsac (S)	2,410	6	402
Pirot (S)	2,500	4	625	Sombor (S)	3,209	8	401

Source: RPPO Annual Reports 2014 – 2016, SPC Data and WB Calculations

215. There were Basic PPOs that consistently kept their dispositions per prosecutor very high through the observed period. These were all extra-small and small Basic PPOs and for which dispositions per prosecutors measured in the thousands (i.e. the Basic PPOs in Gornji Milanovac, Senta, and Ub).

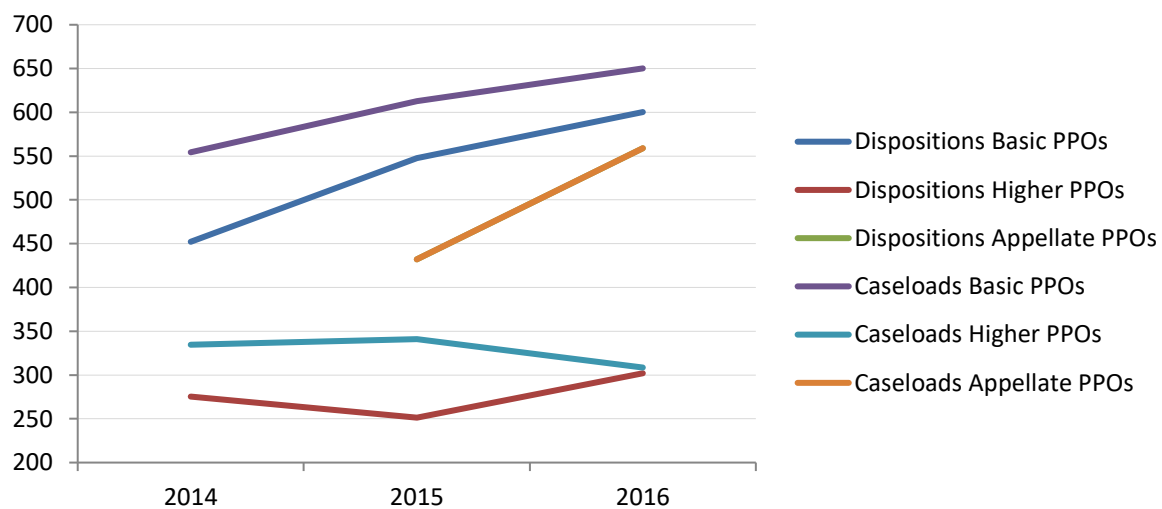
216. However, as was true for caseloads, disposition numbers per prosecutor in Basic PPOs did not correlate with PPO size. Small PPOs reached some of the highest disposition rates per prosecutor; almost all PPOs with disposition rates of over 1,000 cases per prosecutor were PPOs with one or two prosecutors. Conversely, large and medium size Basic PPOs such as all three in Belgrade and the Basic PPOs in Kragujevac and Novi Sad, all achieved below-average results. The Basic PPO in Nis was the only Basic PPO with more than 10 prosecutors (18) with an above-average disposition rate, with 772 cases per prosecutor. While these results suggest that small Basic PPOs

tended to be more (or even highly) productive in comparison to medium and large ones, more detailed study is required to explain these results (e.g., if these smaller PPOs were using different management practices than their larger counterparts, if it was easier for prosecutors, court and police in smaller offices to work cooperatively, or if cases received by small Basic PPOs tend to be less complex).

217. Disposition rates per prosecutor in Higher PPOs were only half those of Basic PPOs and Appellate PPOs. When asked, Higher PPO prosecutors suggested this might be due to the more serious crimes and complex cases handled by Higher PPOs. They also suggested that cases in Appellate PPOs have simpler procedures than those in Basic PPOs and Higher PPOs. While the caseloads of Higher PPOs grew slightly in 2015 and then fell again in 2016, their dispositions fell in 2015 and grew again in 2016. Nevertheless, Higher PPO prosecutors managed to dispose of almost as many cases as they received in 2016; they received 309 cases per prosecutor and disposed of 302. If that trend continued beyond 2016, it would produce a reduction in the numbers of Higher PPO carried-over cases.

218. Dispositions per prosecutor tended to follow the patterns of caseload per prosecutor from 2014 to 2016 in Basic and Appellate PPOs. As Figure 46 demonstrates, prosecutors in Basic PPOs were not able to dispose of all their incoming cases but, as the number of incoming cases rose, so did the number of dispositions. Some prosecutors suggested this could be due to the “cherry picking” of easier cases, but this should be verified by an examination of actual case files, at least on a random basis.

Figure 46 - Relationships between Caseloads and Dispositions per Prosecutor in Basic, Higher and Appellate¹⁴⁴ PPOs from 2014 to 2016



Source: WB Calculations

219. Appellate PPO prosecutors managed to dispose of the same number of cases they received, even though the number of prosecutors decreased by 10 in 2016 due to reassignments. As a result, the lines in Figure 47 above overlap because the numbers of caseloads and dispositions were identical. The lines also show Appellate PPOs disposed of all their cases from 2014-2016.

¹⁴⁴ Data on the number of prosecutors in appellate PPOs in 2014 was unavailable.

These PPOs also increased their dispositions per prosecutor by 29 percent even though the number of prosecutors was reduced by one fifth.

6.5 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.

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.
4. Regularly update the training needed to increase prosecutors' knowledge of the implications of the CPC and sharpen their skills as advocates.
5. Regularly update the training needed for prosecutors to keep abreast of developments in forensic subjects.
6. Eliminate overlapping charges between misdemeanors and criminal cases.
7. Develop a set of criteria that all prosecutors should follow in determining whether or not to pursue any appeal
8. 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.
9. Update the forms and templates to be used by prosecutors for various charges and at various states of criminal proceedings
10. 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 analysis 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 CMS, 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 system. 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 addresses prosecutors' concerns that their work on cases that significantly increase their workload is not adequately taken into account during the distribution of cases and their performance assessments.

- ✓ **Identify these cases and analyze their impact on the performance of PPOs. (SPC, RPPO – short term)**
- ✓ **Consider using CMS for classification of KTR cases, according to which their impact on the performance is evaluated. (RPPO, SPC – medium term)**
- ✓ **Unify data entrance 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 limitation 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 as needed, but there also may policies or programs activities that prosecutors can pursue internally to monitor timeliness and 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 a method 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 , a backlog reduction plans for the PPOs. The lists should be updated at least every six month, 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

7.1 Main Findings

220. The overlapping authority and responsibility of 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.

221. 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 system. 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.

222. 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, caused by the transfer of responsibility between courts and PPOs with regard to investigation of criminal acts. These expenses were insufficiently budgeted.

223. 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 complexity of cases handled by Higher PPOs.

224. Wages 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.

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

7.2 Budgetary Framework of the Prosecutorial System

226. Financial management is an important function of any judicial system as it underlies performance of all other activities and has a significant impact on both efficiency and quality of service. To assess financial resource management in the prosecution system in Serbia, this Review examined institutional and technical financial arrangements, budget levels and sources of financing. It also examined budget structure, formulation, execution and accounting and the effectiveness of per-case expenditure and arrears management.

227. The key piece of legislation governing the budget of the prosecutorial system is the Budget System Law (BSL)¹⁴⁵, which defines the responsibilities for budget preparation and execution and the accounting and reporting framework. The budget for prosecutorial operations is included in the Law, which has to be adopted by the National Assembly for it to take effect. The Law System Law

¹⁴⁵ Official Gazette, No. 54/2009 – amended subsequently.

also differentiates between direct and indirect budget beneficiaries. Direct budget beneficiaries (DBBs) are defined as “the institutions and organizations established by the state” of which most beneficiaries are ministries. Most of the indirect budget beneficiaries (IBBs) are judicial and educational institutions.

228. Budgets of PPOs as IBBs are administered by the SPC and MoJ, as the PPOs’ superior DBBs. The combined duties of the SPC and MoJ over the budgets of PPOs include coordination of budget formulation, administration and monitoring of budget execution, and the collection and aggregation of annual financial statements of PPOs. The mix of authorities and the lack of comprehensiveness and clarity in budget assessment create confusion and additional workloads for financial staff in PPOs.

229. The type of expenditure dictates whether a particular portion of the PPOs budget is managed by the SPC or the MoJ.¹⁴⁶ The SPC manages PPOs budgets for: i) wages and wage-related expenses of prosecutors;¹⁴⁷ ii) material costs (e.g. rent, utilities, gas, office material, postal services); iii) travel expenses; iv) contract services (e.g. mandatory representation and expert witness services, as well as other investigation-related expenses); v) current maintenance (e.g. painting and decoration, plumber services, repair of vehicles, computer equipment, furniture, etc.), and vi) fines and penalties.¹⁴⁸ The MoJ manages the budget for wages and wage-related expenses of non-prosecutorial staff, and the capital expenditure (capex) of PPOs. The MoJ also manages a small share of material costs and current maintenance.

230. Different parts of PPO budgets are drawn from different institutions. For instance, the budget for Basic PPOs is shown under the budget chapter called “Prosecution offices”, section “Basic PPOs.” This section contains two projects: implementation of prosecutorial activities (managed by the SPC) and support to the work of Basic PPOs (managed by the MoJ). Appropriations listed under the project managed by the SPC are comprehensive (i.e. all the budget items managed by the SPC). On the other hand, some of the capital expenditure projects related to PPOs are shown explicitly in the MoJ budget, while the appropriations for capex for PPOs are part of a general appropriation for capital expenditure under the MoJ’s budget, and are not earmarked for PPOs. The same is true for budgeting of personal expenditures/wages for the non-prosecutorial staff working in PPOs and other expenses financed by the MoJ.

231. Budgets managed by different institutions were financed from different sources. The SPC-managed budget was financed entirely from general budget revenue (source 01), while the budget administered by the MoJ was financed from a mix of sources including general budget revenue for a small part of the capital expenses and the net wages and social contributions of non-prosecutorial staff, to sources 04 and 13 (this current year and immediately preceding year’s “own-source revenues”) for the remaining part of capex and other personnel expenses.

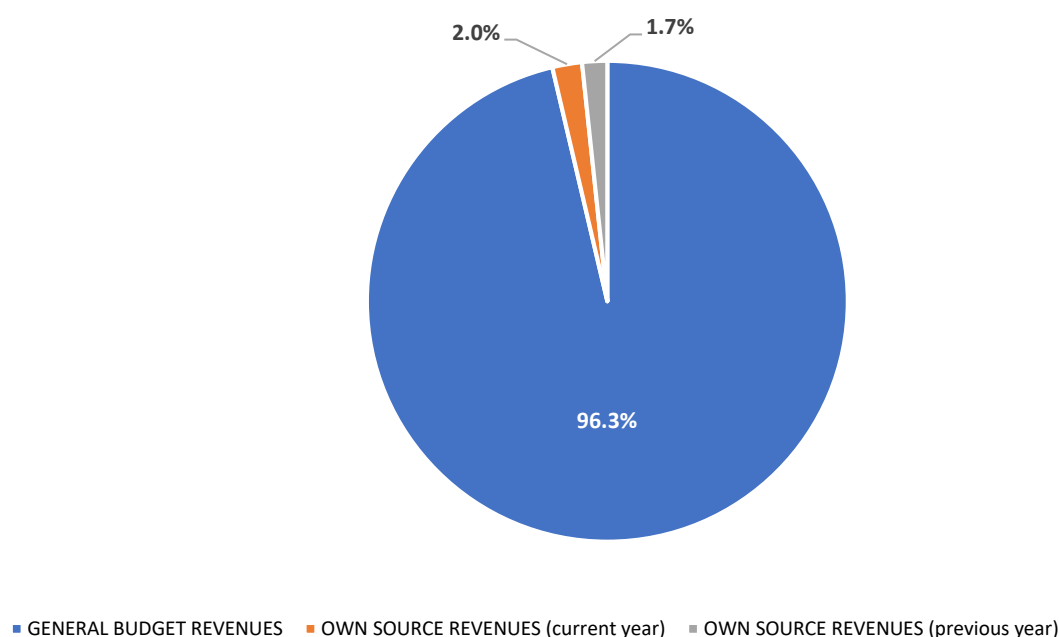
232. General budget revenues constitute more than 96 percent of the PPO financing sources. Own-source revenues made up 3.7 percent. Figure 47 below shows the financing structure of the POs budget in 2016 by source.

¹⁴⁶ See the article 127 of the Law on Public Prosecution Offices –Official Gazette, No. 116/2008 – amended subsequently.

¹⁴⁷ This category includes: salaries and allowances for employees, social contributions, in kind compensations, employee social benefits, awards, bonuses and other special payments.

¹⁴⁸ This category mainly includes the enforced collection bills coming from lawyers and expert witnesses for services rendered in the investigation process.

Figure 47 - Financing Structure of Prosecutorial Budget for 2016, by Source



Source: WB calculation

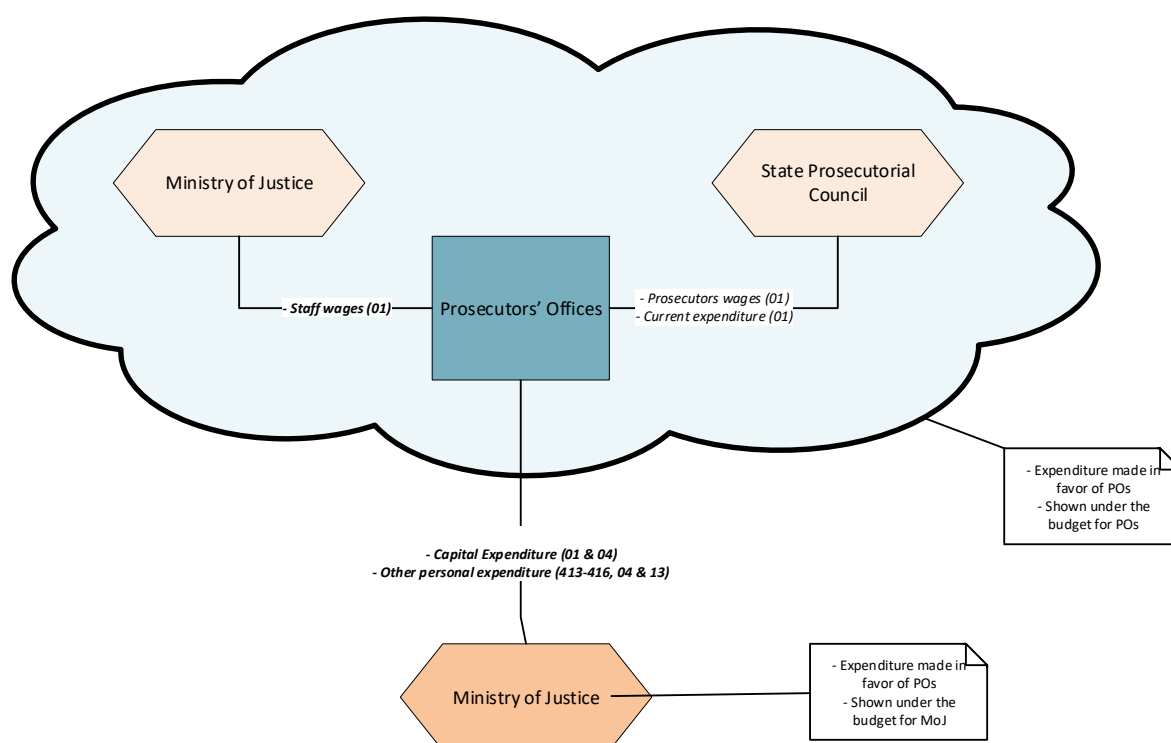
233. Own-source revenues were drawn from court fees managed exclusively by the MoJ. According to the Law on Court Fees (LCF),¹⁴⁹ 40 percent of the fees should be used for current expenditure of courts, while 20 percent should be distributed for non-wage related expenses of public servants from courts and PPOs and for capital expenditures. The LCF does not specify a purpose for the use of the remaining 40 percent of the fees.

234. From 2014-2016, the MoJ did not distribute own-source revenues to PPO budget sections. Instead, the funds were part of the MoJ budget for courts. PPO appropriations financed from court fees included capex; personal expenditure other than wages and social contributions of non-prosecutorial staff; material cost; maintenance, and services. From the RSD 153.5 million spent in total in 2016, more than 95 percent was paid for the “other personal expenses” category, while the share of all remaining categories was just short of percent. Capex, which was RSD 5.3 million in 2014 and RSD 0.55 million in 2015, was not financed from own-source revenues in 2016.

235. The complicated nature of the PPO budgetary framework reduced the transparency of the prosecutorial system budget and created difficulties within the budget execution process. The arrangement is discussed in more detail at Figure 48 below. Figure 48 depicts the structure of the system and the types and sources of expenditure managed by the SPC and MoJ.

¹⁴⁹ Official Gazette, No. 28/94 – subsequently amended.

Figure 48 - Budgetary framework of Serbian Prosecutorial System



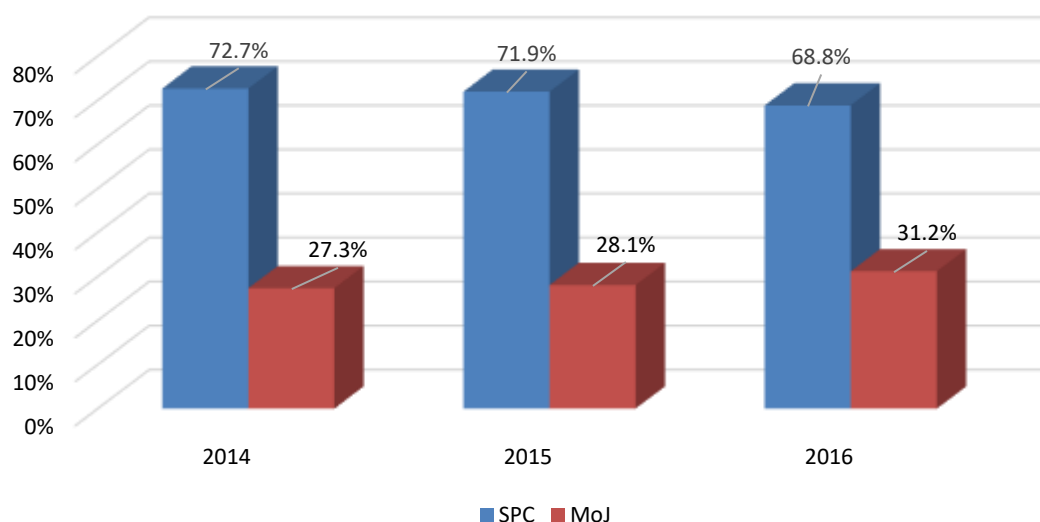
Source: WB

236. Budget coordination by the SPC and MoJ depends on the type of expenditure involved.

The BSL requires DBBs to collecting and aggregating the individual financial plans of IBBs (in this case PPOs) and submit a draft budget on their behalf. For example, the SPC/MoJ would prepare a draft budget for the whole network of Basic PPOs by aggregating individual PPO budget requests, and checking the requests against the overall limits contained in the budget instructions from the Ministry of Finance (MoF). The MoF instructions include ceilings for various types of expenditures. The DBB then negotiates with the MoF to arrive at an acceptable overall expenditure, and finally submits the draft budget to the Ministry of Finance.

237. On average, around 70 percent of the prosecutorial system budget is managed by the SPC, while the remaining 30 percent is managed by the MoJ. Although these figures vary slightly from year to year (see Figure 49 below), they were relatively constant over the observed period.

Figure 49 - Share of the Total PPOs Budget Managed by Different Institutions



Source: WB calculation

238. Starting in 2016, PPOs began executing their budgets through the budget execution system (BEX) administered by the Treasury Administration.¹⁵⁰ Before that occurred, it was not possible to reconcile the requests versus execution until the end of the year when financial statements were received. With BEX, each PPO has its own appropriations against which its payments are credited, although these appropriations are determined and modified relatively flexibly by the relevant DBB: the only limitation is that the sum of appropriations of all PPOs of the same level cannot exceed the amount shown in the BSL. The initial distribution and in-year virement of appropriations is managed by the SPC and MoJ for their respective parts of PPOs' budgets.

239. PPO accounting from 2014-2016 involved a combination of electronic and manual transactions. Each PPO prepared its own financial statements based on its own records, and shared the statements with the SPC and MoJ according to the calendar prescribed by the BSL. The SPC and MoJ then performed controls and aggregation of the individual statements, grouped them according to budget sections, and formulated one joint financial statement for the section. At the level of individual PPOs, this process was done with the ZUP accounting system built and maintained by a local company. Aggregation of the financial statements at the SPC and MoJ were performed by manually collecting and adding up all figures from prescribed Microsoft Excel forms into one aggregated financial statement.

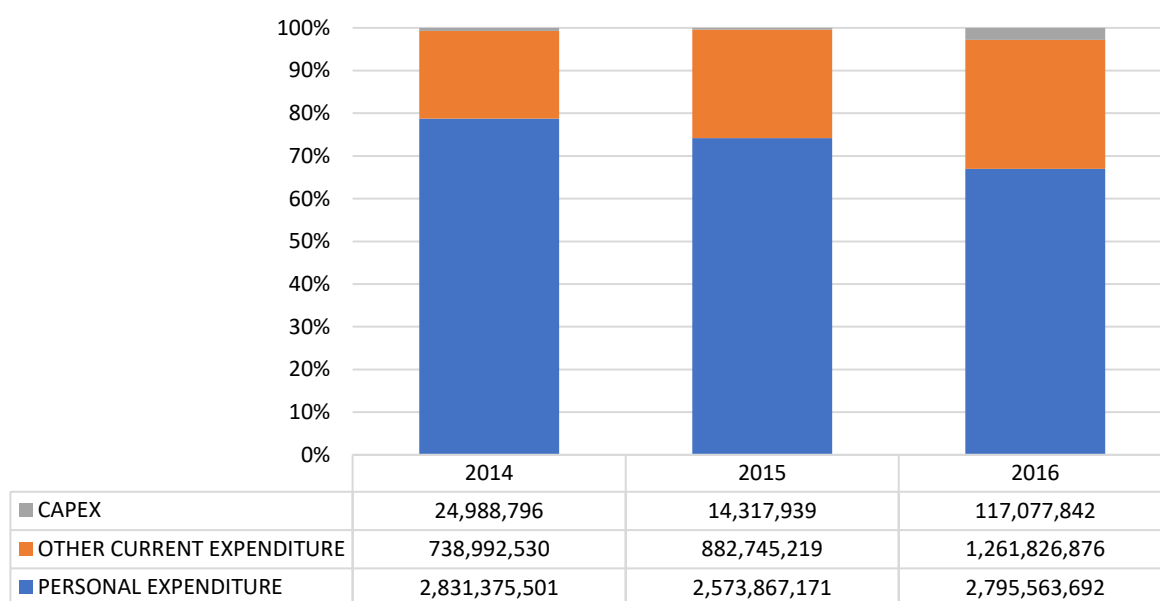
¹⁵⁰ All data for 2014 and 2015 data broken down by PPO was not available.

7.3 Expenditure overview

240. The aggregate increase in total expenditures of the prosecutorial system was 16 percent from 2014 to 2016.¹⁵¹ Total expenditures of the system were RSD 3.6 billion in 2014, 3.47 billion in 2015, and 4.17 billion in 2016.¹⁵² Figure 50 below shows the breakdown of the total expenditure in the three main expenses categories, while - reveals the levels of total expenditure by PPO category. The increase in total expenditures was driven mainly by the “other current expenditure” category, which consisted primarily of the “services” sub-category. This included investigation-related expenses, mostly mandatory defense and expert witness services, which almost doubled in 2016 when compared to 2014, from RSD 534 million to RSD 1.03 billion. The increase in these expenses for PPOs was a consequence of the transfer of responsibility from the courts to PPOs for investigation of criminal acts.

241. Wages and wage-related expenses accounted for an average of 71 percent of the whole prosecutorial budget, although that share dropped due to the increase in overall expenditures.¹⁵³ Capital expenditures remained at very low levels of 0.7, 0.4, and 2.8 percent of expenditures in 2014, 2015, and 2016 respectively. The larger capex recorded in 2016 was due to the RSD 88 million purchase of a building for the Higher PPO in Sombor.

Figure 50 - Total RSD Expenditure of the Prosecutorial System (2014-2016)



Source: WB calculation

242. Serbia ranked among the top spenders on prosecutorial systems among the sample of European countries¹⁵⁴ in CEPEJ¹⁵⁵ reports on efficiency and the quality of justice.¹⁵⁶ In 2014,

¹⁵¹ If not otherwise specified, all data used in this chapter were obtained from the SPC, MoJ, and from individual PPOs. As does the rest of the FR, the analysis refers to the period from 2014 until 2016.

¹⁵² Data excluded 'other personal expenditure' items from the budget managed by the MoJ for 2014 and 2015. These expenditures were financed from own-source revenues (i.e. sources 04 and 13): accounting records for 2014 and 2015 were not consolidated by the MoJ and were thus not provided to the FR team. The expenditure for these items in 2016 alone was RSD 146 million.

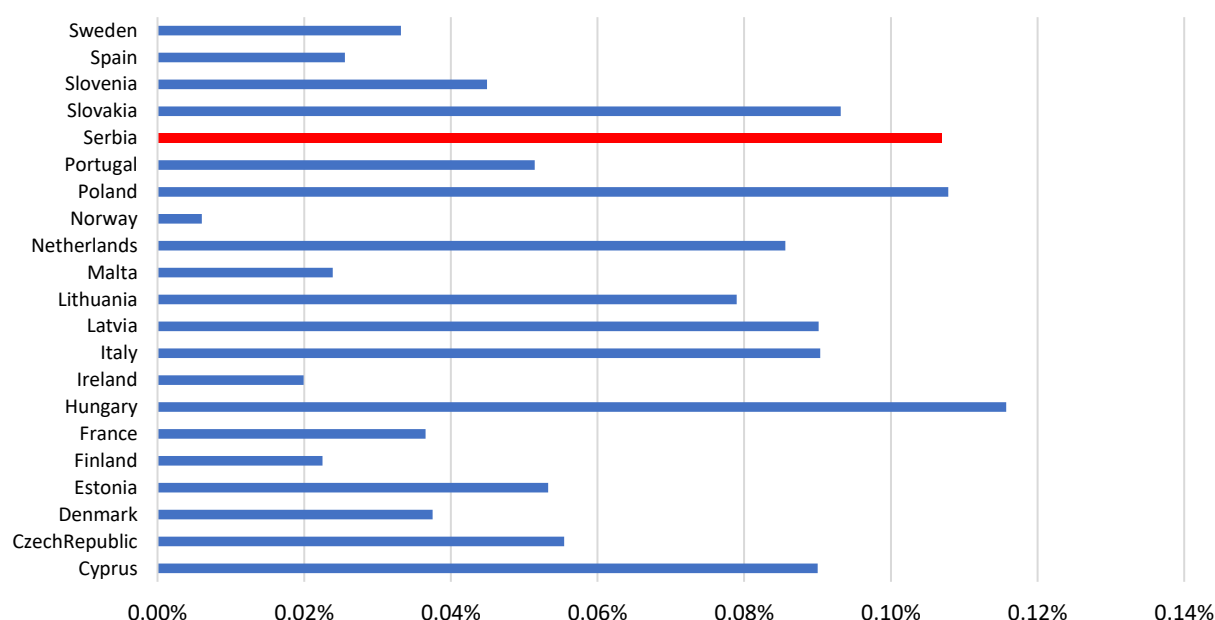
¹⁵³ Named "personal expenditure" in Figure 50. This category includes net wages, social contributions and other personal expenditure (social benefits, awards, bonuses, etc.).

¹⁵⁴ Data was for the fiscal year of 2014, from the CEPEJ report on efficiency and quality of justice published in 2016.

¹⁵⁵ "European Judicial Systems – Efficiency and Quality of Justice" available at

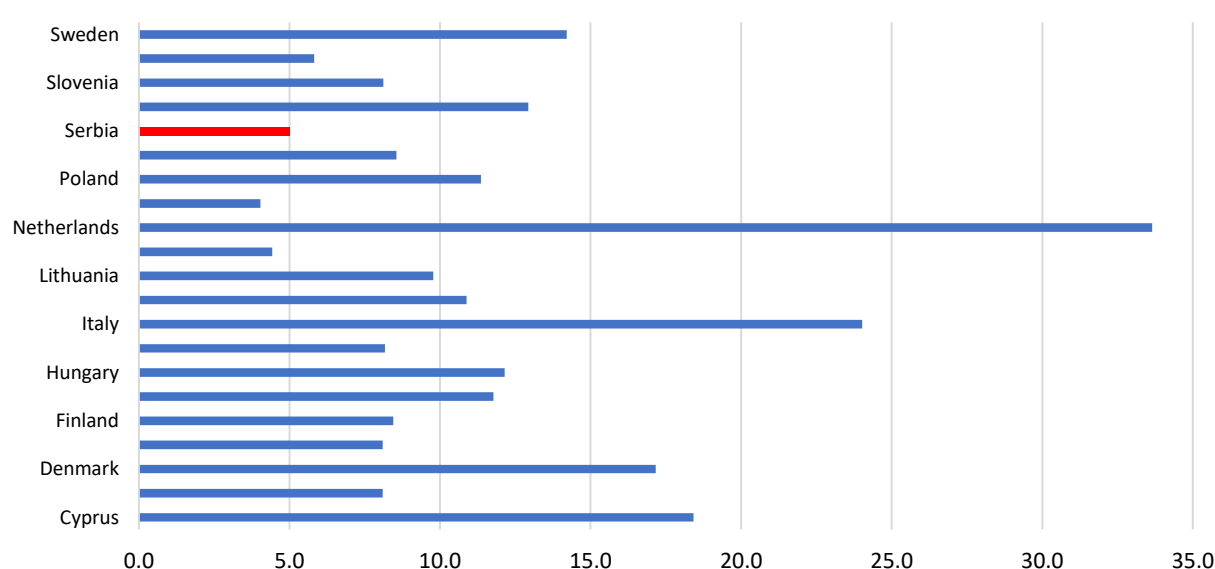
Serbia's reported expenditures represented 0.11 percent of GDP, with only Poland and Hungary spending slightly more than Serbia, as shown by Figure 51 below. The sample median value that year was 0.5 percent (see Figure 52 below). When comparing gross expenditure per capita, the only two countries spending 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.

Figure 51 - Prosecutorial System Expenditure Scaled with GDP, Serbia and EU, 2014



Source: "European Judicial Systems – Efficiency and Quality of Justice", CEPEJ (2016)

Figure 52 - Prosecutorial System Expenditure per capita, Serbia and EU, 2014



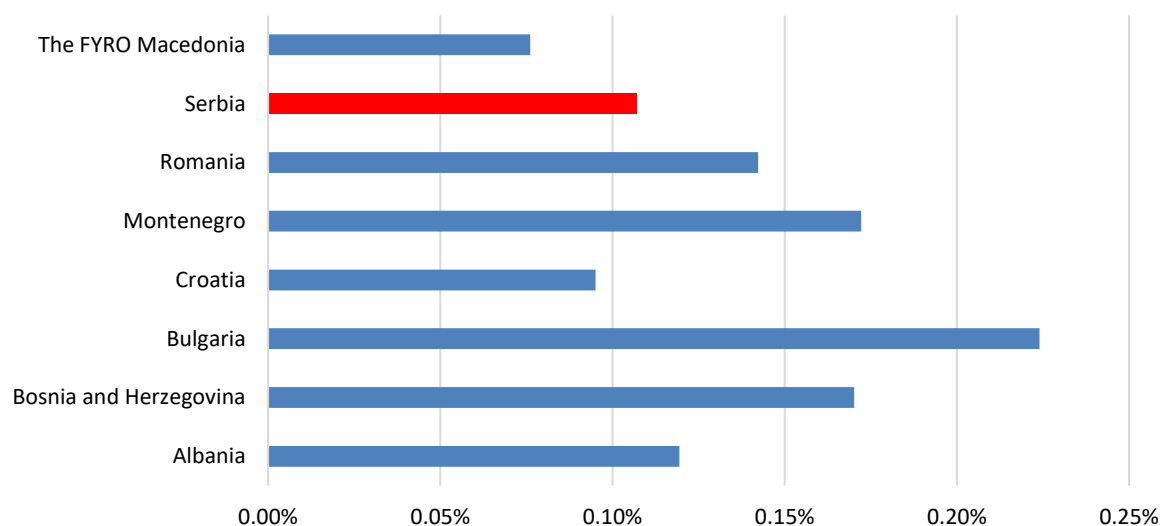
Source: "European Judicial Systems – Efficiency and Quality of Justice", CEPEJ (2016)

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

¹⁵⁶ 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).

243. Among regional peers, Serbia's prosecutorial system spending was well below the median level.¹⁵⁷ See - Figure 53.

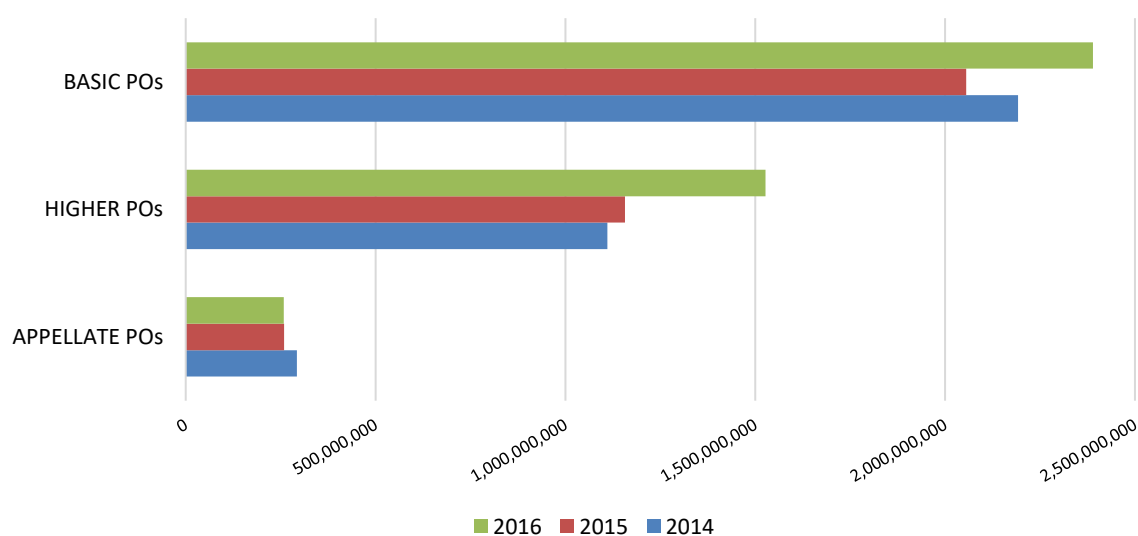
Figure 53 - Prosecutorial system expenditure scaled with GDP, Serbia and Regional Peers, 2014



Source: WB calculation

244. Basic PPOs spent 57.2 percent of the prosecutorial system budget, while Higher PPOs spent 36.6 percent and Appellate PPOs spent 6.2 percent. The only set of offices to show any decline in their expenditures during the observed period were the Appellate PPOs, which recorded slight decreases in total expenditures every year.

Figure 54 - Total Expenditure of the Prosecutorial System by PPO Category (2014-2016)



Source: WB calculation

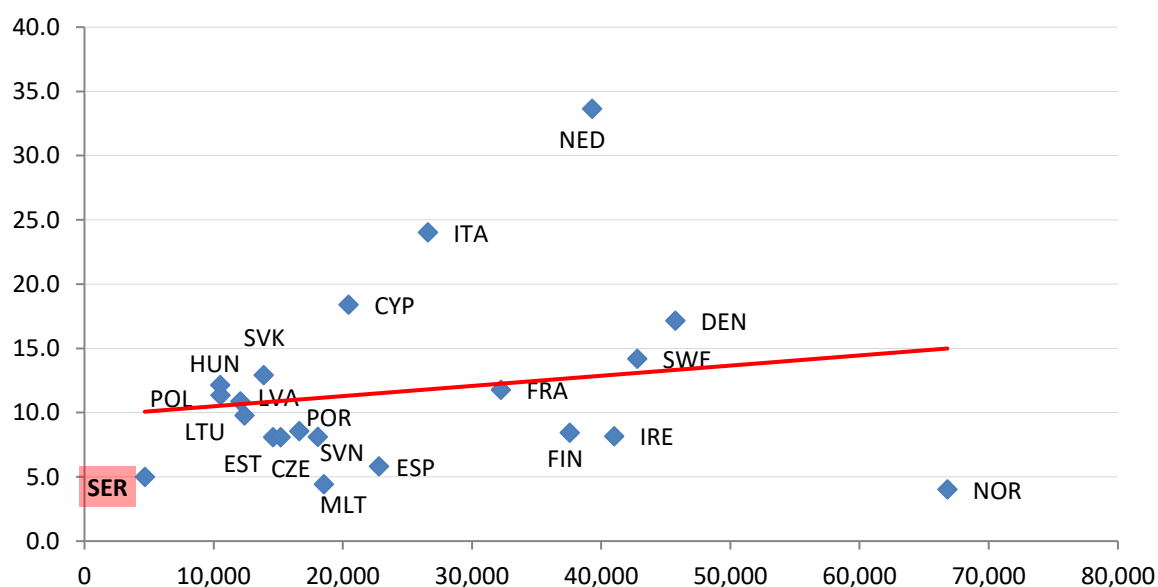
¹⁵⁷ The group of regional countries included: Albania, Bosnia & Herzegovina, Bulgaria, Croatia, Montenegro, Romania, Serbia, and Macedonia.

245. From a total of RSD 2.08 billion estimated to be received from own-source revenues in 2016, only RSD 153.3 million or 7.3 percent was spent in favor of PPOs. It was unclear how the MoJ performed the split of own-source revenues between courts and PPOs or among PPOs. The distribution among PPOs apparently was based on their staffing levels.¹⁵⁸

246. The share of enforced collection expenses also doubled from 2014 to 2016. The enforced collection expenses were based on unpaid bills of the PPO, and in addition to the original amounts owed, the collection expenses included collection agent fees, lawyer fees, interest, and fees paid to the National Bank of Serbia, which administers the collection transactions. These expenditures represented an unnecessary financial burden to PPOs. Based on the FR's team experience and a small sample of invoices, the share of these collection expenditures was estimated to be in the 20 to 30 percent range of the total amount of invoices settled through enforced collection. This issue is closely related to efficiency in budget formulation and execution, and the consequent accumulation of arrears – all of which are analyzed in a separate section below.

247. The prosecutorial system of Serbia seems underfunded when expenditure is put in the context of affordability (i.e., GDP per capita). The red trend line on Figure 56 shows the average relationship between spending and wealth. When compared to the EU sample (Figure 55), Serbia's prosecutorial expenditure could almost double before it reached the average. To align with the rest of European countries (see Figure 55), Serbia would have to increase its expenditure by about 50 percent, as shown by Figure 55.

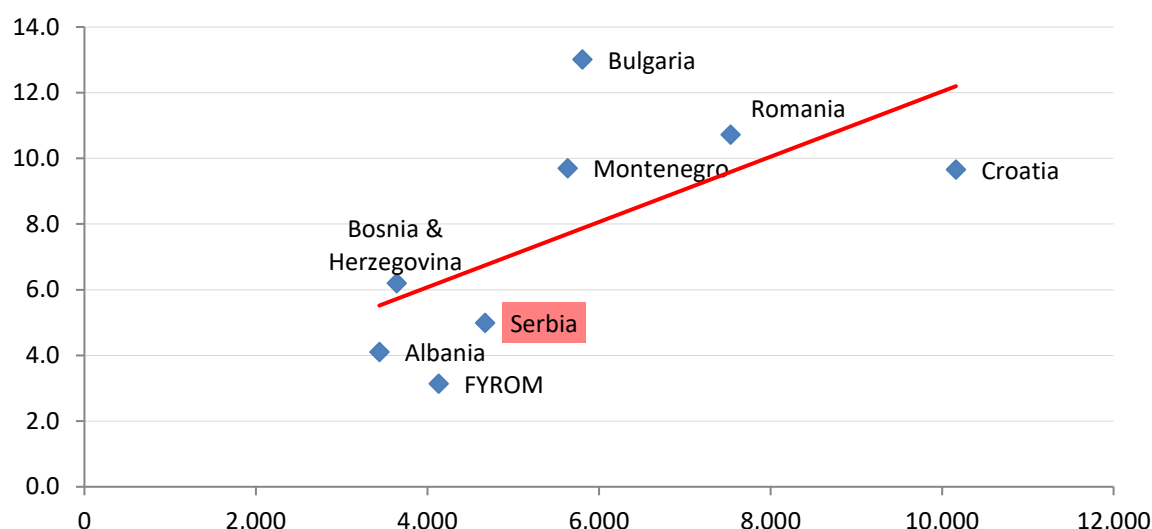
Figure 55 - Prosecution Budget per Capita against GDP per Capita, Serbia and EU, 2014



Source: WB calculation

¹⁵⁸ For instance, in 2016, the largest beneficiaries of these funds were the PPOs in Belgrade – both in the category of Basic and Higher PPOs.

Figure 56 - Prosecution Budget per Capita Against GDP per Capita, Serbia and Regional Peers, 2014



Source: WB calculation

7.4 Budget formulation and management

248. Annual budget laws did not include appropriations for individual PPOs, as noted above. For some expenditures, the appropriation was created only prior to the payment. In particular, this occurred for “other current expenditures” financed from own-source revenues.

249. The budget preparation processes for PPOs have not entailed any budget performance assessments. On paper, the MoJ and the SPC have been implementing a budgeting program since the BSL requires DBBs to perform periodic budget performance assessments as part of the regular budget procedure. In practice this has not been done, due predominantly to the lack of staff with requisite skills. During the observed period, 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.

250. Budgets were prepared on an annual rolling basis with strong reliance on previous years’ budget execution. Previous years’ budgets were routinely increased by a few percentage points and submitted by each PPO to the SPC or MoJ, depending on the pertinent appropriation/budget section. Some specific appropriations were reduced by aligning the draft budgets with the MoF limits.

251. The process of budget preparation entailed serious risks to the security and integrity of data, since budget preparation was done manually based on the exchange of Microsoft Excel files by email. Introduction of a budget preparation management information system (BPMIS) not only could solve these and other operating shortcomings, but also improve overall analytical focus. It also could free time for building staff skills for more effective budget performance assessments.

252. Aggregate budgetary requests from PPOs were several times higher than the approved budgets. Tables 6 and 7 below show the approved and requested budget needs from Higher PPOs and Basic PPOs for 2016 by budget line. Data excluded salaries, since budget requests regarding

salaries were sent directly to the MoF. The aggregate difference for both Basic and Higher PPOs was approximately 150 percent, which meant that required budgets were 2.5 times higher than the approved amounts.

253. In absolute terms the highest difference between budget requests and approved amounts was for ‘services’, the appropriation from which investigation-related expenses were paid. In percentage terms, the largest discrepancy was for ‘material costs’ used for office running purpose (rent, utilities, gas, office material, postal services, etc.).

Table 6 - Approved Versus Requested Budget of Higher PPOs in 2016

Higher POs	APPROVED	REQUESTED	difference
OTHER PERSONAL EXPENSES*	21,802,000	47,569,316	118.2%
MATERIAL COSTS	42,568,000	151,236,575	255.3%
TRAVEL EXPENSES	3,198,000	5,343,560	67.1%
SERVICES	215,276,000	484,113,700	124.9%
REPAIR AND MAINTENANCE	6,285,000	15,380,060	144.7%
TAXES AND INTEREST	500,000	8,859,492	1671.9%
FINES AND PENALTIES	0	21,360,000	n/a
TOTAL	289,629,000	733,862,703	153.4%

Source: WB calculation

Table 7 - Approved Versus Requested Budget of Basic PPOs in 2016

Basic POs	APPROVED	REQUESTED	difference
OTHER PERSONAL EXPENSES*	34,400,000	21,072,103	-38.7%
MATERIAL COSTS	86,230,000	82,287,610	-4.6%
TRAVEL EXPENSES	3,135,000	6,397,308	104.1%
SERVICES	261,363,000	815,809,176	212.1%
REPAIR AND MAINTENANCE	9,660,000	12,541,774	29.8%
TAXES AND INTEREST	1,144,000	723,900	-36.7%
FINES AND PENALTIES	0	12,250,000	n/a
TOTAL	395,932,000	951,081,871	140.2%

Source: WB calculation

254. Procurement of large capital investment projects which are complex to process or require multi-year financial commitments were centralized at the MoJ. Smaller-scale projects were procured by PPOs.

255. Capital budgeting was performed as part of the same procedure as all other expenditure items. However, individual appropriations were set differently. Based on the limits from the MoF and the aggregate needs for capex, the MoJ set the overall volume of funds earmarked for this purpose. Based on this aggregate level of funds, the PPOs prepared their procurement plans, which were sent to the MoJ for approval. These funds were not located in a separate appropriation for

PPOs, but were part of the overall capex appropriation under the MoJ's budget section. PPOs were then required to file a request to the MoJ for initiating the procurement procedure. After official approval was obtained, the procurement started and the MoJ checked the documentation package against the requirements of the Procurement Law.¹⁵⁹

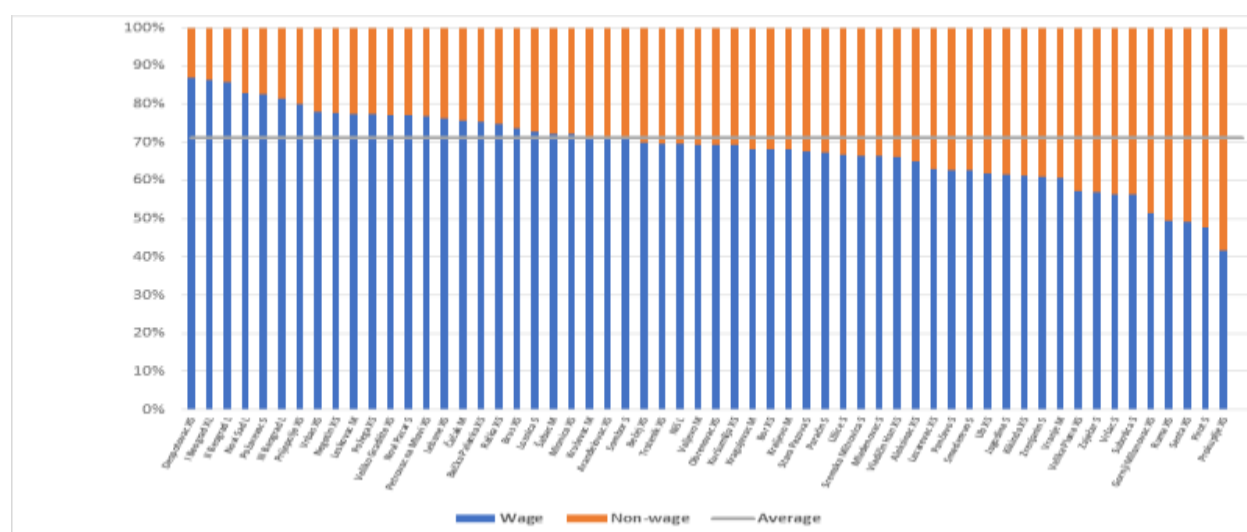
256. On occasion the MoJ used own-source revenue to pay for these costs. Generally, the MoJ financed capital maintenance with funds that were part of the capex budget, while the SPC financed current maintenance. However, there was no official definition of what constituted one or the other. In the future, plans call for the lack of clarity to be resolved either by a MoF instruction on what constitutes capital or current maintenance, or consolidating both expenditures within either the SPC or MoJ.

7.5 Budget structure

257. The 70 percent average of PPO budgets spent on salaries from 2014 to 2016 matched the 69 percent average share of salaries in the judicial systems of EU shown in the 2016 CEPEJ report, based on 2014 data. In 2015, this share was 73 percent. It dropped to 67 percent for Serbian PPOs in 2016, due to increased expenses for services of lawyers and expert witnesses and the large outlay for purchase of a building in Sombor.

258. There were large variations in the share that salaries played in PPO budgets. Among Basic PPOs, the average share was 71 percent, ranging from 87 percent in Despotovac and Belgrade to as little as 41 percent in Prokuplje and 48 percent in Pirot (-). Due to the complexity of cases handled and the corresponding costs for investigations, the average share for Higher PPOs' salaries was lower, at 56 percent. However, as shown by Figure 57, there were large variations for salary shares in Higher PPOs as well as Basic PPOs. For instance, the minimum seen in 2016 was in the Higher PPO in Zrenjanin¹⁶⁰ at 41.6 percent, while the Higher PPO in Negotin had the highest share of salaries at 86 percent.

Figure 57 - Basic PPOs, Share of Wages in Total Expenditure, 2016

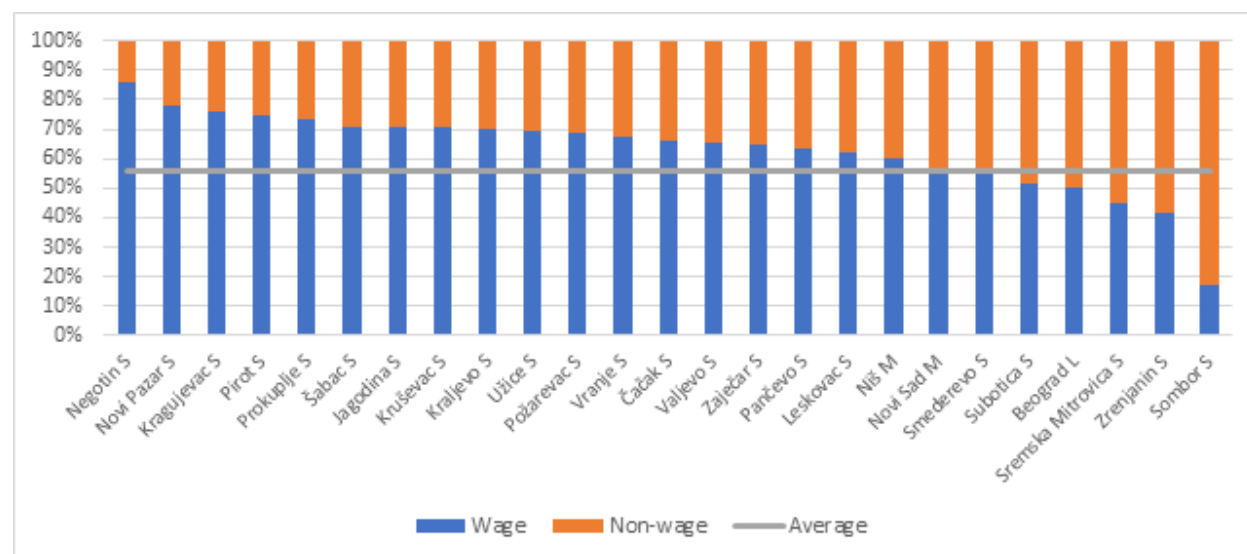


¹⁵⁹ Official Gazette, No. 124/2012, 14/2015, 68/2015.

¹⁶⁰ The Higher PPO in Sombor was not included in this comparison because of its high capex in 2016, due to the purchase of the new building. The salary portion of its total budget for 2016 was only 17 percent.

Source: WB calculation

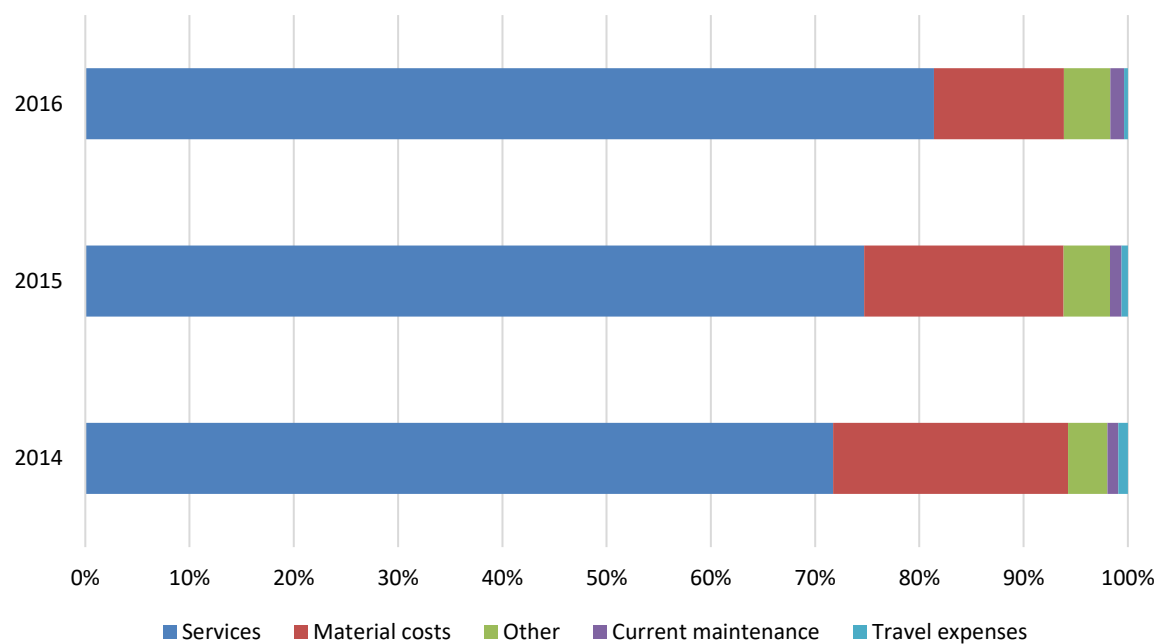
Figure 58 - Higher PPOs, Share of Wages in Total Expenditure, 2016



Source: WB calculation

259. 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 59 - Structure of Current Expenditures, Overall, 2014-2016

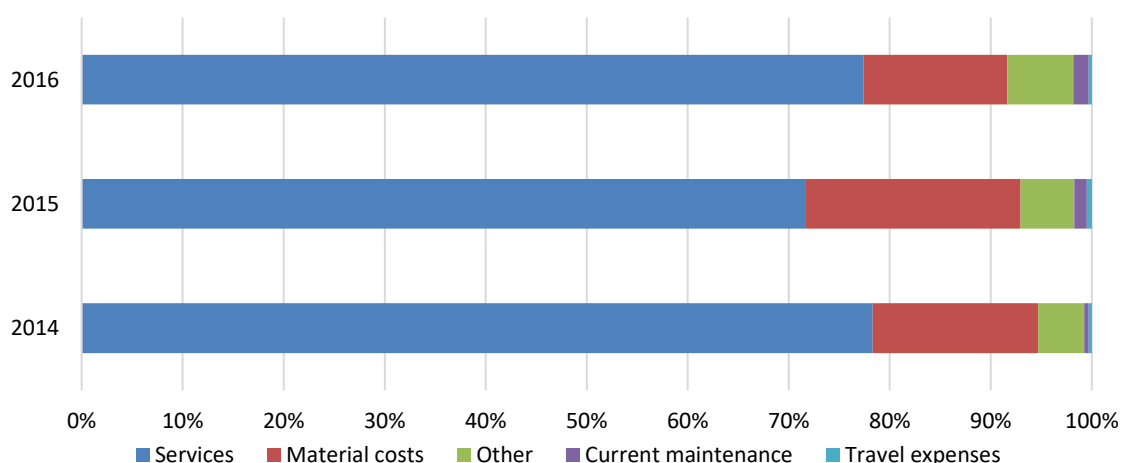


Source: WB calculation

260. The amounts spent by Higher PPOs essentially tripled during the period covered by this Functional review from RSD 169 million in 2014 to more than RSD 500 million in 2016. Higher PPOs also spent more on services on average than Basic PPOs, which may be due to the greater complexity of cases handled by Higher PPOs (although such a correlation was not verified by the FR team). Per-case expenditures are discussed in more detail in the Budget Effectiveness subchapter below.

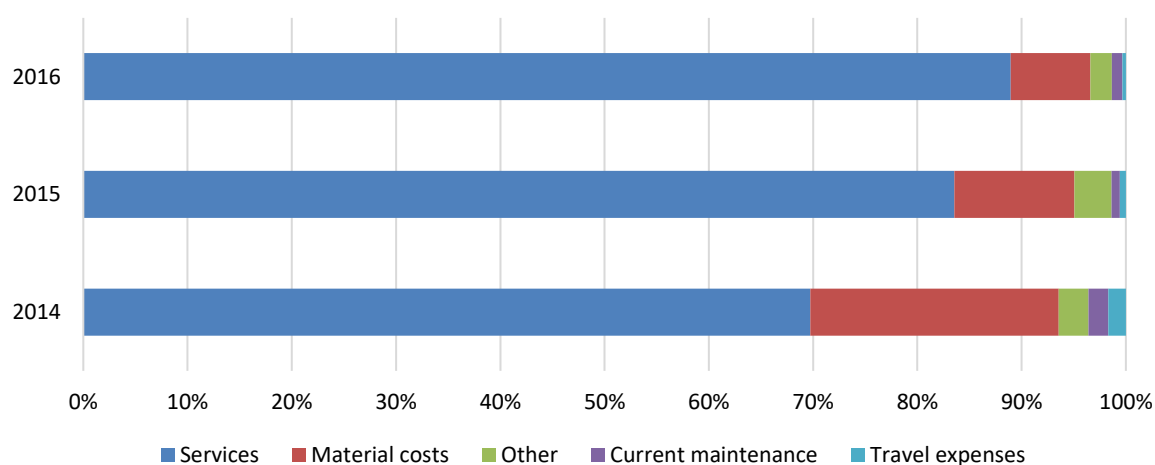
261. The ratios of services to total expenditure and services-to-wages corresponded to the size of Basic PPOs. In 2016, Basic PPOs falling in the extra-large category spent only 9.5 percent of their total budget on services compared to 15.1 percent for those in the large category, 23.5 percent for medium PPOs, 26.6 percent for small PPOs, and 25.7 percent for extra-small PPOs. The services-to-wages ratio was 28.4 percent for PPOs in the categories extra-large, large and medium, and 52 percent for small and extra-small. Similar to Basic PPOs, the share of services in total expenditure increased with the size of Higher PPOs.

Figure 60 - Structure of Current Expenditures, Basic PPOs, 2014-2016



Source: WB calculation

Figure 61 - Structure of Current Expenditures, Higher PPOs, 2014-2016

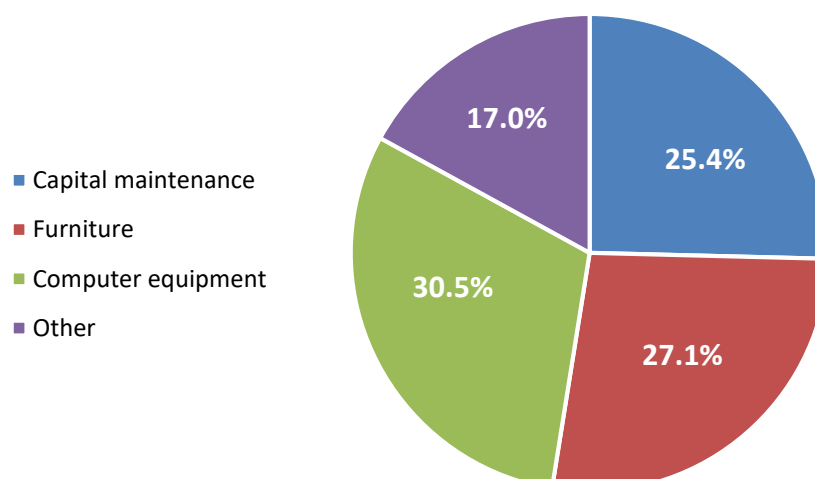


Source: WB calculation

262. As noted above, capital expenditures were almost negligible. Capex stood at 0.7, 0.4, and 2.8 percent of the prosecutorial system expenditure in 2014, 2015, and 2016 (when the building was purchased in Sombor) respectively. The average capex per Basic PPO ranged from RSD 100,000 to RSD 300,000 in 2016. The average outlay for Higher PPOs in the same year was approximately RSD 200,000.

263. Except for the purchase of the building in Sombor, purchase of computer equipment was the largest item on the list of capital expenditures. Figure 62 below shows the structure of capex in 2016, excluding the building purchase. Approximately one quarter of total capex was reserved each for capital maintenance and purchase of furniture. The category ‘other’ constituted 17 percent of total capex and included the purchase of various other electronic equipment, phones, preparation of project documentation, etc.

Figure 62 - Structure of Capital Expenditures, Aggregate, 2016



Source: WB calculation

7.6 Effectiveness in budget execution

7.6.1 Analysis of costs per case

264. On average, total cost per active case¹⁶¹ decreased by 11 percent in 2016 compared to 2014¹⁶². Total costs during the period increased by 16 percent, but there also was an increase of more than 30 percent in the number of active cases, which went from 356,166 in 2014 to 469,176 in

¹⁶¹ For the purpose of this analysis, we define ‘active case number’ as the sum of unresolved cases at the beginning of the year and cases incoming in the current year.

¹⁶² Detailed per-case costs were not available for any of the three years.

2016. Average total cost per active case was RSD 9,271 in 2014, RSD 7,858 in 2015, and RSD 8,347 in 2016.¹⁶³

265. Per-case expenditure was almost three times higher in Higher PPOs compared to Basic PPOs. The three-year average cost per Basic PPO case was RSD 6,498 versus RSD 18,756 for Higher PPOs. The total costs per case for Higher PPOs also increased by more than 20 per cent from RSD 17,587 in 2014 to RSD 21,138 in 2016. Compared to 2014, Basic PPOs reduced their total cost per case by almost 25 per cent, from RSD 7,479 in 2014 to RSD 6,019 in 2016.

266. The Higher PPOs' costs per case were due largely to a 300 percent increase in spending for investigation-related services from 2014 to 2016. For Basic PPOs, the three-year average investigation expenditure was approximately RSD 1,200 per case, while the Higher PPOs spent just under RSD 5,000. The Higher PPO with the top total for investigation services was the Higher PPO in Belgrade, which handled around 20,000 cases per year. That number represented about 27 percent of the total cases of Higher PPOs. Its expenditure for investigation services went from RSD 46 million in 2014 to more than RSD 200 million in 2016, an increase of more than 450 percent.¹⁶⁴ These uneven expenditure levels, reflected in the outstanding increase of investigation-related expenses also reflect arrears incurred in one year but settled in the next fiscal year.

267. In 2016, there were large variations in the total costs per active cases even among PPOs in the same category.¹⁶⁵ 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 Prokuplje¹⁶⁶. - below shows total cost per case for the five largest and smallest spenders per case among Serbian Basic PPOs, excluding Nis and Prokuplje. Figure 63 shows per-case expenditure generally decreased with size within the group of Basic PPOs. There were large variations for Higher PPOs as well, ranging from the Higher PPO in Novi Pazar with an average cost per active case in 2016 of RSD 31,846, to the Higher PPO in Uzice, which spent only RSD 11,332 per case in the same year.

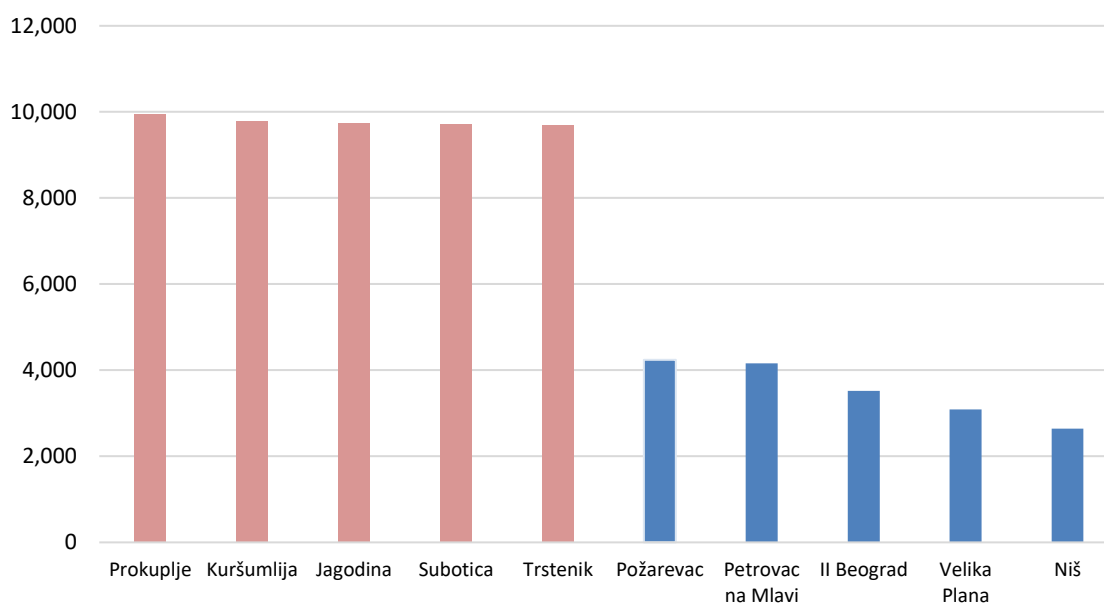
¹⁶³ For the year-end settlement of arrears in 2015 and 2016, some expenses were not paid in the year in which they accrued. This was particularly true for liabilities for case costs incurred in 2014.

¹⁶⁴ This PPO's cost per case in 2014 was RSD 3,321 and increased to RSD 10,554 in 2016.

¹⁶⁵ 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.

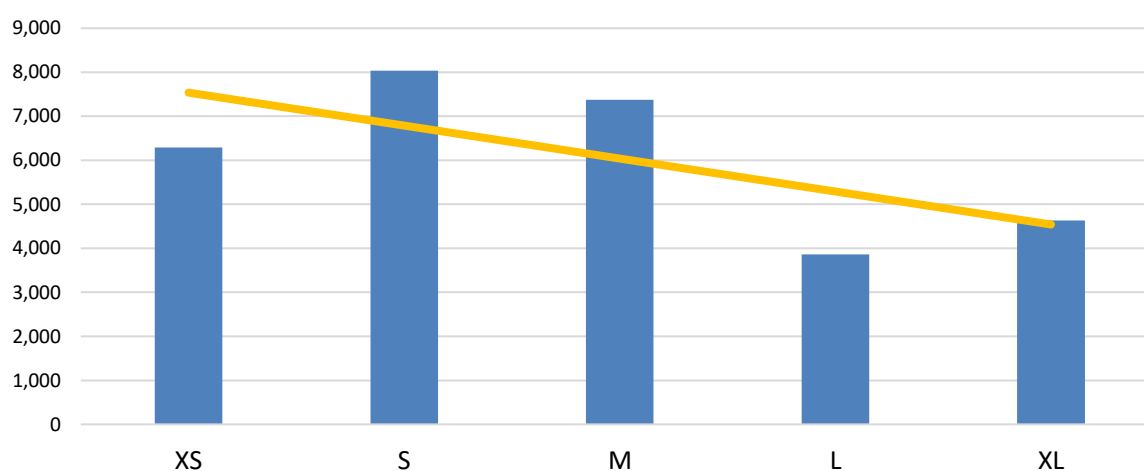
¹⁶⁶ This comparison excludes PPOs that were large beneficiaries of capex distribution in 2016 (i.e. Basic PPOs with costs per case of more than RSD 10,000 – Vrsac, Sombor, Zrenjanin, Paracin and Kragujevac, and the Higher PPO in Sombor).

Figure 63 - Five Largest and Smallest Spenders per Case Among Basic PPOs, 2016



Source: WB calculation

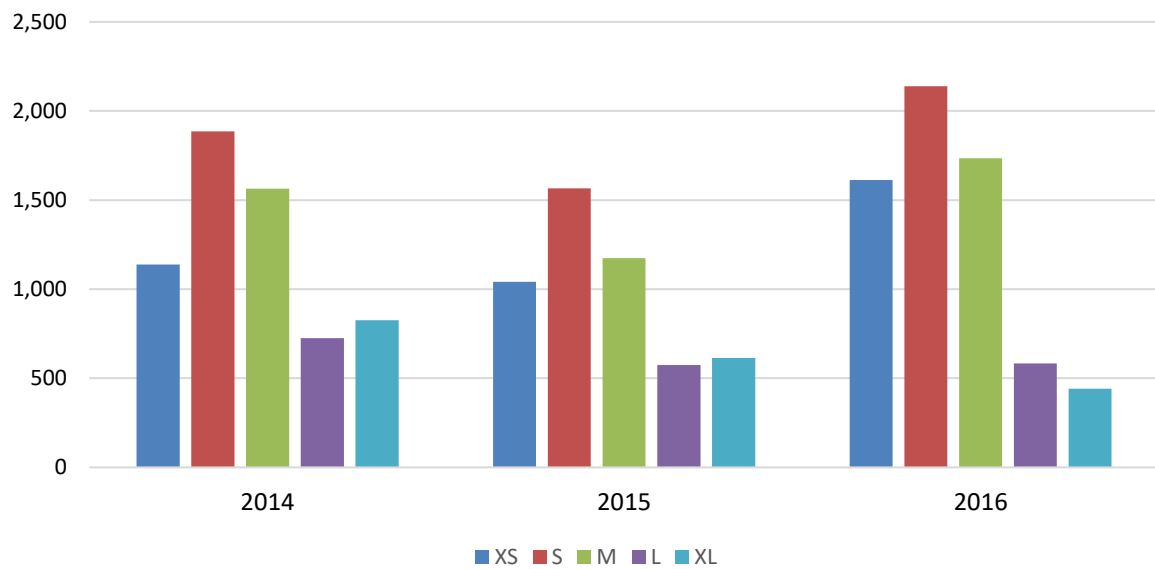
Figure 64 - Total Costs per Case per Size Category of Basic PPOs, 2016



Source: WB calculation

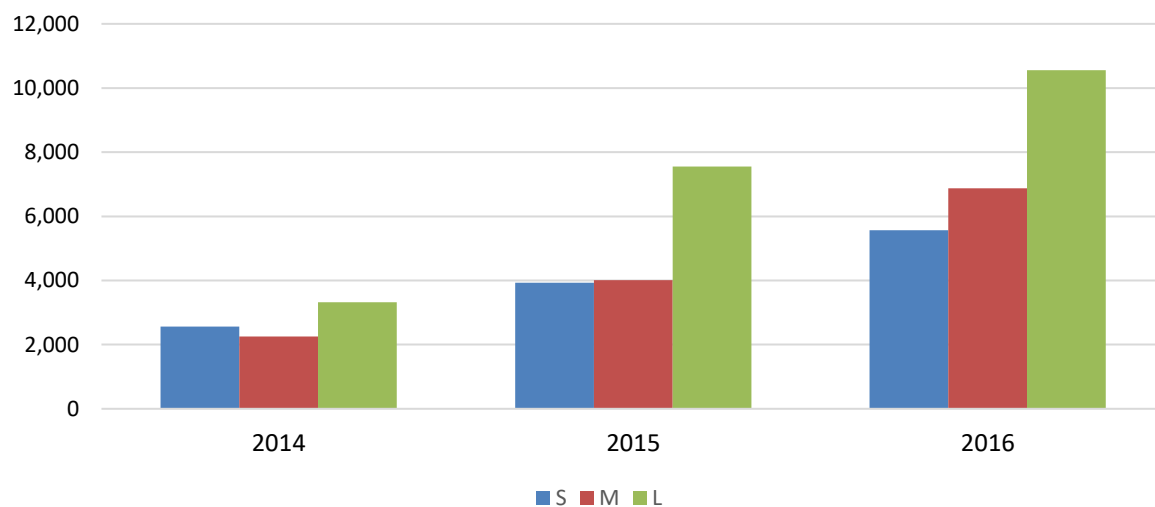
268. The service expenses for smaller Basic PPOs trended upwards, while service expenses for larger Basic PPOs decreased as shown by Figure 65. Small and medium-sized offices paid a three-year average of RSD 1,677 per case for investigation-related services, while large and extra-large offices paid an average of RSD 627. The 28 extra-small offices with fewer than five prosecutors paid RSD 1,264 per case. Cost per case of Higher PPOs of all sizes increased linearly during the observed period.

Figure 65 - Service Cost per Case per Size Category of Basic PPOs, 2014-2016



Source: WB calculation

Figure 66 - Service Cost per Case per Size Category of Higher PPOs, 2014-2016



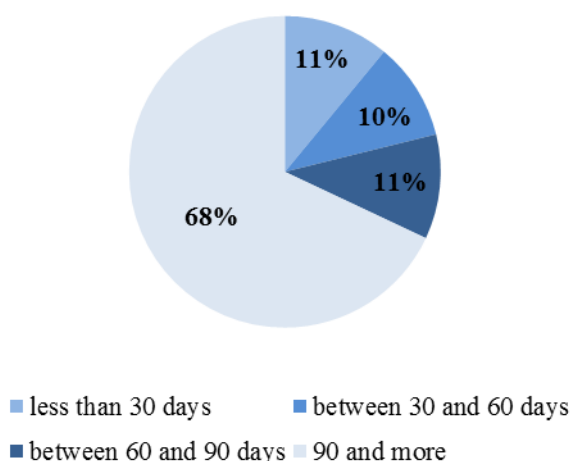
Source: WB calculation

269. Standardizing costs per case would involve several steps. These include enhancing the budget formulation process so the financing for each PPO would be based on its current and expected workloads; standardizing the timing of payment of handling of investigation expenses between the courts and PPOs (i.e., some PPOs transferred investigation expenses to the court when an indictment was issued while others did not), and the use of case management systems which track expenses by case types and allow more accurate cost estimates to be developed.

7.6.2 Arrears Management

270. Sixty-eight percent of the 2016 arrears were older than 90 days. The rest were split equally between bills overdue for less than 30 days, those between 30 and 60 days, and those between 60 and 90 days as shown by Figure 67. Arrears data were collected on a quarterly basis by the SPC but the query on which data were collected was structured to capture only the overall figures and the age of the arrears. As a result, it was not possible to determine the type of expenditures creating the arrears of PPOs. At the end of 2016, the total of accumulated arrears for all PPOs was RSD 149 million, including RSD 122.9 million for Basic PPOs, RSD 26.4 million for Higher PPOs, and zero for Appellate PPOs.

Figure 67 - Age of Arrears, December 2016



Source: WB calculation

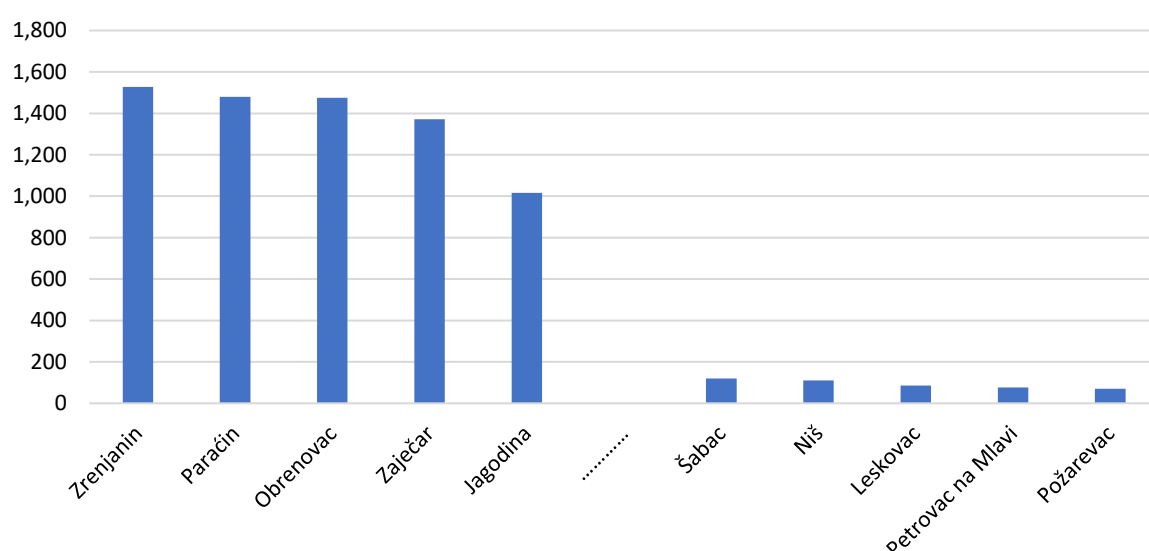
271. Arrears were resolved at the end of each year by a MoF transfer from the budgetary reserve for the particular budget sections (i.e., Basic, Higher, and Appellate PPOs). The SPC then distributed these appropriations to each individual PPO according to their arrears levels. The FR team could not determine why the funds paid at the end of the year for settling arrears were not available to the PPOs earlier in the year.

272. There were differences in commitment-assumption practice among PPOs, which caused large variation in arrears among PPOs of the same jurisdictional level.¹⁶⁷ Arrears typically are a consequence of inefficiencies in any of the four expenditure stages – budget formulation, expenditure commitment, expenditure verification, and/or payment processing. Most countries impose automatic controls (“commitment controls”) over the assumption of commitments that exceed the financial limits set by the budget. This is done by either imposing a requirement of performing an encumbrance (i.e. appropriation reserve) prior to assuming the commitment or, at least, at the very moment of assuming the commitment.

¹⁶⁷ For a detailed assessment of the commitment assumption procedure among Serbian PPOs and its consequences on arrears accumulation, please refer to “Analysis of Arrears of Public Prosecutors Offices in Serbia” available at <http://documents.worldbank.org/curated/en/793961508178431209/Analysis-of-arrears-of-public-prosecutors-offices-in-Serbia>.

273. Differences in interpretation of Article 261 of the CPC caused large variation in commitment control and arrears among PPOs, even PPOs of the same level. Article 261 governs the process of assuming commitments. Article 261 includes regulation of expenses incurred in the investigation and trial process. It lists all possible types of expenditure, including the “awards” prescribed for expert witnesses and lawyers.¹⁶⁸ The article also specifies that other costs are paid in advance (i.e., before the end of the process) by the “institution managing the process”. However, Article 261 does not state whether or not awards should be paid in advance, and the Article does not make it clear whether the PPO or the court is the managing institution for cases in which an indictment has been issued. The Article also does not state whether advance payments should be made before the end of the investigation or the end of the case Figure 68 below shows the Basic PPOs with the highest and lowest arrears per case at the end of 2016.

Figure 68 - Arrears per Case in Basic PPOs, End of 2016

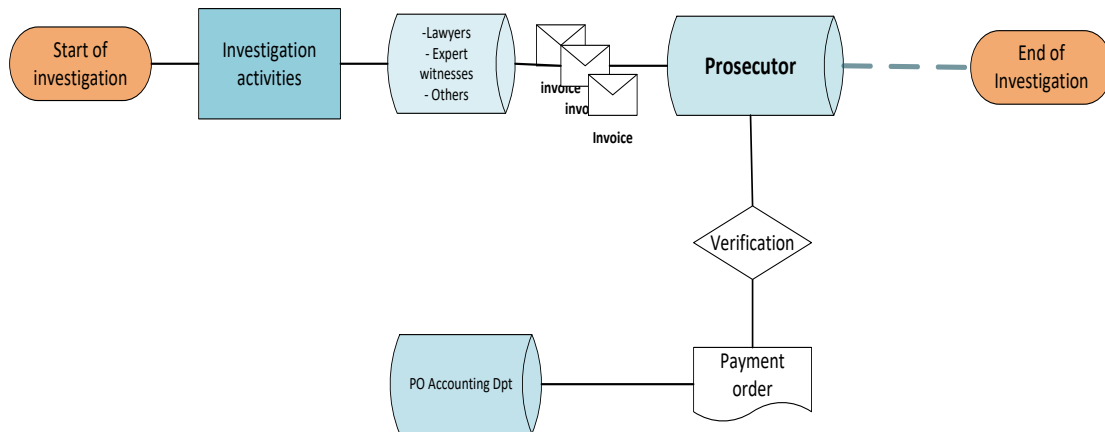


Source: WB calculation

274. The ambiguity of Article 261 allowed some PPOs to transfer large portions of their investigation expenses to the courts. PPOs taking this approach did not make payment of awards to expert witnesses and lawyers by the time an indictment had been issued. Once there was an indictment, these PPOs took the position the court then became the managing institution for the awards and responsible for their payment. Other Basic PPOs assumed commitments based on invoices as the invoices were received, regardless of whether an indictment had been issued or not. For those PPOs, if some of the investigation-related expenses had not been paid before an indictment reached the court, the courts ruled that those should be paid by the PPO. Detailed commitment assumption process flowcharts for both interpretations are provided in Figures 69 and 70 below.

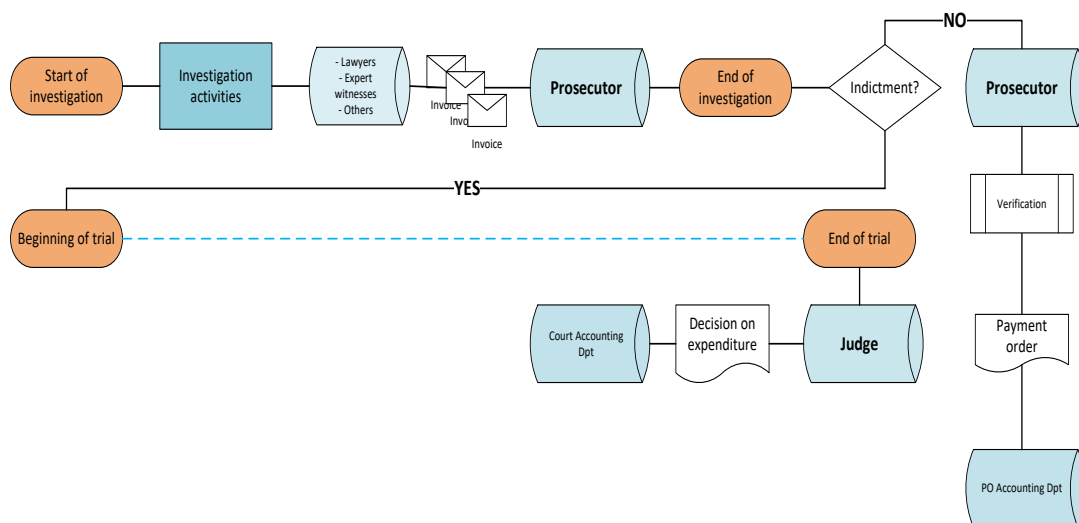
¹⁶⁸ These awards were the main source of expenditure in the investigation process and constituted 90 to 100 percent of total expenditures.

Figure 69 - Commitment Assumption Process – Investigation Costs Paid by PPOs



Source: WB calculation

Figure 70 - Commitment Assumption Process – Investigation Cost Transfer to Courts



Source: WB calculation

7.7 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. 7¹⁶⁹ 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 prosecution service itself." Specific actions include:

- ✓ **Transferring the administration of civil servant (i.e., staff) salaries and capital expenditures from the MoJ to SPC.** This would have to be accompanied by the transition of staff from the MoJ to the SPC, since the latter is currently 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 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. 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)**

¹⁶⁹ Available at <https://rm.coe.int/16807475b5>.

- ✓ 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.¹⁷⁰
(SPC and MoJ, medium term)

Recommendation 4:

Increase budget allocations for investigation services. The transfer of responsibilities over 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 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)**

¹⁷⁰ See the ICT Management Function Section below for a description of SAPO.

8. Human Resources Management

8.1 Main Findings

275. 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.

276. However, the Functional Review team could not locate evidence of a strategic approach to HR 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.

277. 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.

278. 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.

279. 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.

280. 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.

8.2 Staff positions and human resource methodology

281. Under the Law on Public Prosecution, the SPC sets the number of prosecutors within each PPO, after receiving approval from the MoJ. The same law requires the SPC to make periodic decisions on the number of prosecutors, while the head of every PPO determines the number of staff needed in his/her office.¹⁷¹

282. It is not clear how the SPC decides on the number of prosecutors in each PPO, since it has not published any methodology for making those decisions. Between 2014 and 2016, the overall number of prosecutors remained unchanged, although three sets of SPC decisions reduced number of prosecutor positions at the appellate level and increased the number of Basic and Higher deputy prosecutors. A 2016 study by five members of the SPC found an urgent need to fill all vacant prosecutor positions and to increase the number of prosecutor positions by 77 for Basic PPOs and 17

¹⁷¹ Article 75 and 117 Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 – Constitutional Court decision, 117/2014, 106/2015 i 63/2016 – Constitutional Court decision.

for Higher PPOs, due to the introduction of prosecution-led investigations and transfer of more than 38,000 investigation cases from Basic Courts to PPOs in late 2013.

283. The Law on Public Prosecution defines the staff of PPOs as including prosecutorial assistants, prosecutorial interns, public servants, and employees employed on administrative, technical, accounting, ICT “and other supporting tasks that are of relevance to the public prosecution.”¹⁷² The other supporting tasks, to date, have included proof-reading, public relations, library management, or international cooperation. Prosecutorial assistants had different levels of experience and included law faculty graduates who had and who had not passed the bar exam. The MoJ Rulebook¹⁷³ that determines the number of PPO staff was adopted in 2009, and probably needs to be revised in light of the assumption of investigation duties by prosecutors.

284. PPO also include trainees participating in the program of the Judicial Academy. The selection of trainees and the JA curriculum is discussed at 8.5. Training chapter, below.

285. There also were substantial numbers of non-employee prosecutorial staff with long and short-term contracts, who create a ‘shadow workforce’. In addition to 1,117 permanent staff, there

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.

were 234 long-term and nine short-term contractors in 2016, an increase from a total of 194 contractors in 2013.

286. In practice, trainees and volunteers perform the same tasks as prosecutorial assistants. The Law on Public Prosecution specifies that prosecutor assistants assist the Public Prosecutors and Deputy Public Prosecutors in drafting acts, recording complaints and submissions, taking statements of citizens, etc. The level of assistants’ autonomy in performing these duties is decided by their

immediate supervisors.

287. Many trainees and volunteers work in PPOs as part of their preparation for the bar exam. Most volunteers are law faculty graduates completing their two-year *stage* period before they take the bar exam. However, volunteers are not entitled to financial compensation, while trainees receive 80% of the basic salary of a prosecutor assistant and enjoy all labor rights as permanent staff¹⁷⁴.

Some interviewees indicated that a significant number of volunteers were working in prosecution offices. However, data about their numbers were not available in the course of this analysis.

¹⁷²Article 117, Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 - Constitutional Court decision, 117/2014, 106/2015 i 63/2016 - Constitutional Court decision.

¹⁷³ Rulebook on Criteria for Determining the Number of Staff in Public Prosecution, Official Gazette, No. 79/2009.

¹⁷⁴ Articles 119 to 124 of the Law on Public Prosecution (Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 - Constitutional Court decision, 117/2014, 106/2015 i 63/2016 - Constitutional Court decision); Article 47 and 109 of the Labour Law (Official Gazette, No. 24/2005 as amended 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - Constitutional Court decision and 113/2017); Article 2 and 10 of the Volunteering Law (Official Gazette, No. 36/2010)

Table 8 - Staffing Norms Within PPOs effective as of 2009

	Number of Prosecutor Assistants per	Number of Typists per Prosecutor	Number of Administrative Staff per Prosecutor	Number of Technical Support Staff per Prosecutor	Number of ICT staff per PPO	Number of Staff for Specific Tasks* per PPO	Number of Typists in a PPO Administration	#Number of Total Staff per Prosecutor	Number of Additional Staff in a PPO	Number of Cleaning Staff/400m2
Basic PPOs	0.5	0.33	0.4	0.2	2	1		1.43	3	1
Higher PPOs	0.5	0.33	0.4	0.2	2	1		1.43	3	1
Appellate PPOs	0.3 3	0.33	0.4	0.2	2	1	1	1.27	4	1

Source: Rulebook on criteria for determining the number of staff in PPOs¹⁷⁵

8.2.1. Numbers of Public Prosecutors and Deputy Public Prosecutors

288. The total number of approved prosecutor positions in Basic, Higher, and Appellate PPOs did not change between 2014 and 2017. See Table 9 below. The distribution of positions did change: the number of positions increased in Basic and Higher PPOs by two percent and three percent respectively and decreased by 22 percent in Appellate PPOs. There also were adjustments among Basic PPOs, so the number of deputies increased in some office and decreased in others.

Table 9 - Number of Prosecutors' Positions from 2014 to 2017

Prosecution Type	Planned	Appointed	Actually Working	Planned	Appointed	Actually Working	Planned	Appointed	Actually Working	Planned	Appointed	Actually Working
Basic	442	394	355	442	381	343	452	389	340	452	380	358
Higher	179	165	157	179	167	157	185	174	161	185	170	166
Appellate	72	NA	NA	72	56	46	56	46	36	56	48	41
Total	693	559	512	693	604	546	693	609	537	693	598	565

Note: Basic and Higher Prosecution in Kosovska Mitrovica not included

Source: Decisions on the Number of DPP Positions¹⁷⁶, SPC data and WB Calculations

289. A significant number of elected Pubic Prosecutors and Deputy Public Prosecutors have not been performing core prosecutorial duties. In 2016, there were 609 Deputy Public Prosecutors in Basic, Higher, and Appellate PPOs, compared to 625 at the end of 2013. However, the number of those handling cases in their home PPOs in 2016 was only 537. The others were on leaves of absence, on temporary transfers for special prosecutions, assigned to the SPC or MoJ, or were Acting Public Prosecutors with only managerial duties. In addition, two "first deputies" from the Belgrade Third Basic PPO were working as deputy managers of the office.

¹⁷⁵ Official Gazette, No. 72/2009 as amended 79/2009

¹⁷⁶ Official Gazette, No. 106/2013 as amended 94/2015, 114/2015 and 80/2016.

290. Although more Public Prosecutors were elected during each year of the observed period, 31 of 87 PPOs still had no elected permanent Public Prosecutors heading their offices in 2016, as shown by Table 10.

In some PPOs, the delay in the appointment resulted in having Acting Public Prosecutors in place for much longer than the one year permitted by Article 36 of the Law on Public Prosecution. The impact of these delays is discussed in the Governance and Management chapter, above.

Table 10 - Number of Public Prosecutors from 2014 to 2017

Prosecution Type	2014			2015			2016			2017		
	Planned	Appointed	Actually Working	Planned	Appointed	Actually Working	Planned	Appointed	Actually Working	Planned	Appointed	Actually Working
Basic	58	12	11	58	14	11	58	33	33	58	46	46
Higher	25	18	16	25	18	16	25	19	19	25	21	21
Appellate	4	4	1	4	4	4	4	4	4	4	3	3
Total	87	34	28	87	36	31	87	56	56	87	70	70

Note: Basic and Higher Prosecution in Kosovska Mitrovica not included

Source: SPC data and WB Calculations

291. In principle, a prosecutor from the same or another PPO is appointed as an “acting” Public Prosecutor until the vacancy is filled. However, from 2014-2016 to 2016 fewer than half of Acting Public Prosecutors were from offices of the same or higher level: the numbers ranged from 33 percent in 2014 to 42 percent in 2016. Some of these Acting Public Prosecutors later were elected as Public Prosecutors.¹⁷⁷

8.2.2. Numbers of Prosecutorial Staff

292. The overall number of staff positions was reduced by nine percent, even though the total number of prosecutor positions did not change in the period between 2014 and 2016. The reductions occurred as part of the implementation of the Public Administration Reform Strategy and the 2015 Law on Maximum Number of Employees in Public Sector¹⁷⁸ which called for an annual reduction of number of employees in the period 2016-2018. Under the Law, the Government was to define the number maximum of permanent staff for each public institution each year.¹⁷⁹

293. In Basic PPOs, reductions in staff positions occurred at all PPO levels and for both case-processing and non-case-processing positions. There was a 10 percent reduction in the total number of Basic PPO staff positions as the number of prosecutor positions increased by two percent. The staff cuts included a 21 percent reduction in the number of non-case processing positions. For

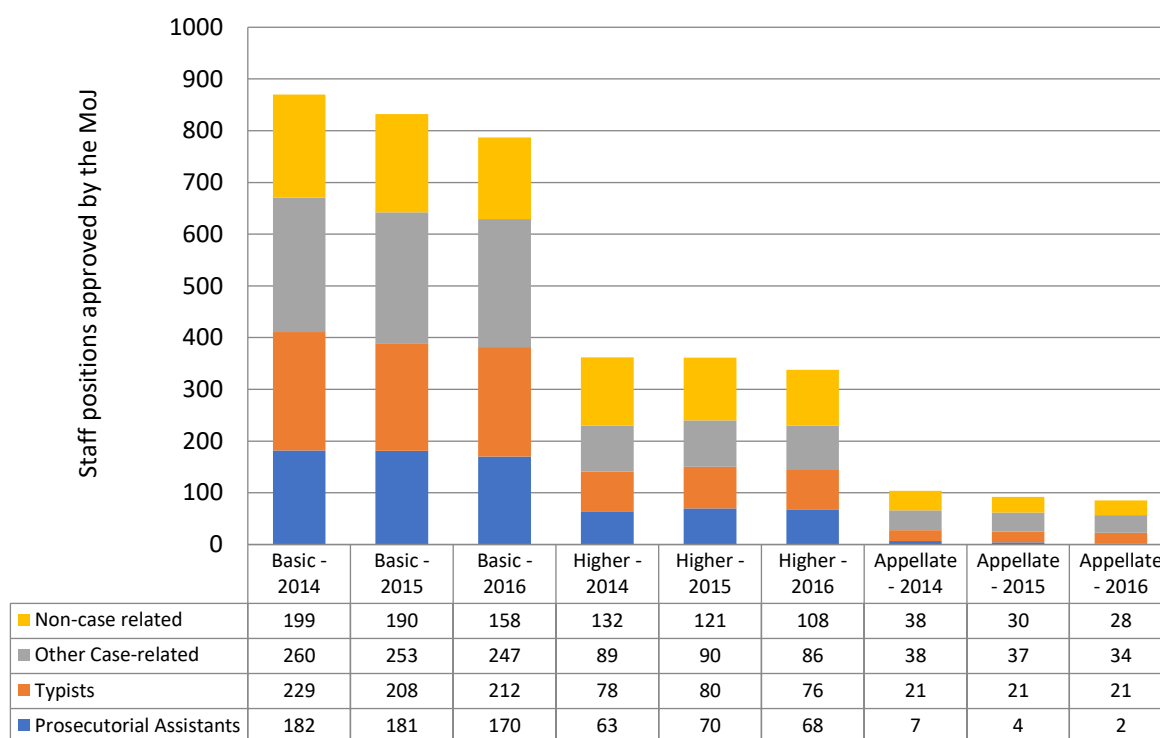
¹⁷⁷ For example, Acting Public Prosecutors of three basic PPOs in Belgrade were later elected as the Public Prosecutor for these offices.

¹⁷⁸ Official Gazette 68/2015 as amended 81/2016 - Constitutional Court Decision.

¹⁷⁹ The Law allows institutions to employ an additional 10% of staff on long-term contracts of up to one year. It also allows up to 10 long-term contractors to be employed in institutions that have fewer than 100 permanent staff members, a provision that applies to all PPOs.

Higher PPOs, the overall reduction was seven percent and the number of non-case-related positions was reduced by 18 percent, although the number of prosecutor assistants increased by eight percent. While the number of prosecutor positions decreased in Appellate PPOs overall between 2014 and 2016, the staffing plan for Nis did not change. The highest reduction for Appellate PPOs involved prosecutor assistants, with only two positions retained in the 2016 staffing plan. See Figures 71 and 72, below.

Figure 71 - Staff Positions Planned by the MOJ 2014-2016



Source: SPC data and WB Calculations

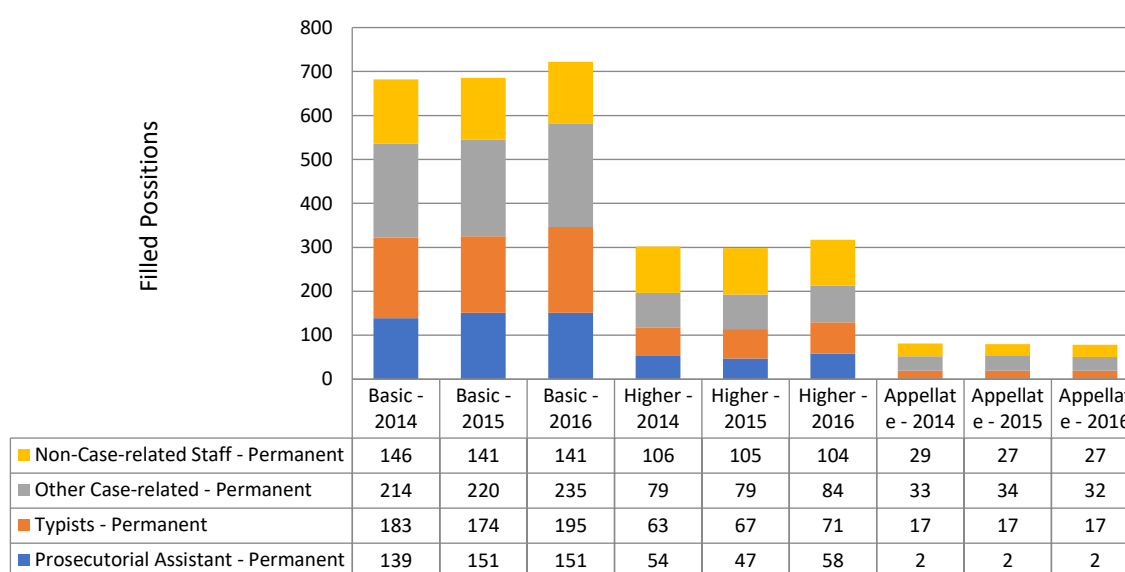
Figure 72 - Trends in the Number of Planned Prosecutors and Staff

Prosecution Size	Prosecutions	Planned DPPs 2016/2014 (%)	Planned Total Staff 2016/2014 (%)	Planned Prosecutorial Advisors 2016/2014 (%)	Planned Typists 2016/2014 (%)	Planned Other Case-related 2016/2014 (%)	Planned Non-Case related Staff 2016/2014 (%)
	Basic PPOs	2%	-10%	-7%	-7%	-5%	-21%
S	Stara Pazova	-14%	-8%	0%	-50%	33%	0%
M	Leskovac	-10%	-25%	-50%	-20%	-20%	0%
M	Kruševac	-10%	-21%	0%	-20%	-17%	-50%
M	Vranje	-8%	-14%	0%	-14%	0%	-40%
M	Šabac	-8%	-14%	-20%	0%	-17%	-20%
L	Niš	0%	-41%	-57%	-30%	-44%	-25%
XS	Negotin	0%	-27%	-50%	50%	0%	-60%
XS	Aleksinac	0%	-25%	-50%	0%	0%	-33%
S	Pirot	0%	-22%	0%	0%	0%	-100%
S	Požarevac	0%	-22%	0%	-20%	-50%	0%
S	Smederevo	0%	-18%	-33%	0%	-14%	-25%
XS	Brus	0%	-17%	0%	0%	0%	-50%
XS	Lebane	0%	-17%	0%	0%	-33%	0%
XS	Požega	0%	-17%	0%	-33%	0%	-25%
XS	Raška	0%	-17%	0%	0%	-33%	0%
XS	Trstenik	0%	-17%	0%	0%	-33%	0%
XS	Ub	0%	-17%	0%	0%	0%	-50%
XS	Vladičin Han	0%	-17%	0%	0%	0%	-33%
S	Subotica	0%	-16%	0%	0%	0%	-60%
XS	Despotovac	0%	-14%	0%	0%	0%	-50%
S	Jagodina	0%	-13%	-33%	0%	20%	-50%
S	Sremska Mitrovica	0%	-13%	0%	-50%	0%	0%
S	Mladenovac	0%	-11%	0%	-33%	0%	0%
S	Pančevo	0%	-11%	0%	0%	0%	-40%
XS	Bor	0%	-10%	0%	0%	50%	-40%
XS	Obrenovac	0%	-9%	0%	0%	-33%	0%
XS	Prokuplje	0%	-8%	0%	0%	0%	-25%
M	Kragujevac	0%	-7%	-17%	-13%	0%	0%
S	Zrenjanin	0%	-7%	0%	25%	33%	-60%
XL	Beograd I	0%	-3%	4%	-12%	-3%	0%
XS	Arandelovac	0%	0%	0%	0%	-50%	50%
XS	Bačka Palanka	0%	0%	0%	0%	0%	0%
XS	Bečej	0%	0%	0%	0%	0%	0%
XS	Gornji Milanovac	0%	0%	0%	0%	0%	0%
XS	Kikinda	0%	0%	0%	0%	0%	0%
XS	Kuršumlija	0%	0%	0%	100%	0%	-100%
XS	Lazarevac	0%	0%	100%	0%	0%	-100%
XS	Mionica	0%	0%	0%	0%	0%	0%
XS	Petrovac na Mlavi	0%	0%	0%	0%	0%	0%
XS	Prijepolje	0%	0%	0%	0%	0%	0%
XS	Ruma	0%	0%	0%	0%	0%	0%
XS	Veliko Gradište	0%	0%	0%	0%	0%	0%
XS	Vrbas	0%	0%	0%	0%	0%	0%
S	Loznica	0%	0%	0%	0%	50%	-20%
S	Sombor	0%	0%	0%	0%	0%	0%
S	Vršac	0%	0%	0%	0%	0%	0%
S	Zaječar	0%	0%	0%	0%	0%	0%
M	Kraljevo	0%	6%	0%	0%	20%	0%
S	Paraćin	0%	9%	0%	0%	0%	25%
S	Užice	0%	63%	50%	100%	200%	0%
L	Novi Sad	7%	-6%	0%	0%	0%	-33%
M	Čačak	10%	-24%	-25%	0%	-25%	-50%
M	Valjevo	10%	6%	33%	0%	0%	0%
L	Beograd II	11%	-14%	-7%	-21%	-7%	-29%
L	Beograd III	13%	-9%	9%	-8%	-14%	-29%
S	Novi Pazar	33%	15%	-50%	0%	100%	0%
XS	Senta	50%	0%	0%	0%	0%	0%
XS	Velika Plana	67%	-25%	-50%	-50%	0%	0%
	Higher PPOs	3%	-7%	8%	-3%	-3%	-18%
S	Negotin	-25%	-20%	0%	0%	0%	-40%
S	Prokuplje	-20%	-30%	-100%	50%	0%	-60%
S	Sremska Mitrovica	-17%	0%	0%	0%	0%	0%
S	Vranje	-14%	-17%	0%	-50%	-33%	0%
S	Jagodina	0%	-23%	0%	-33%	-33%	-20%
S	Pirot	0%	-20%	0%	0%	-50%	-20%
S	Čačak	0%	-18%	0%	-33%	50%	-40%
S	Šabac	0%	-14%	0%	-25%	0%	-20%
S	Leskovac	0%	-11%	0%	0%	0%	-33%
M	Niš	0%	-11%	0%	0%	0%	-33%
S	Novi Pazar	0%	-9%	0%	0%	-25%	0%
S	Subotica	0%	-9%	0%	-33%	0%	0%
S	Kraljevo	0%	0%	0%	100%	0%	-40%
S	Požarevac	0%	0%	100%	50%	-50%	-17%
S	Sombor	0%	0%	0%	0%	0%	0%
S	Užice	0%	0%	-50%	0%	100%	0%
S	Zaječar	0%	0%	0%	0%	0%	0%
L	Beograd	2%	14%	53%	13%	5%	-14%
S	Kragujevac	14%	-14%	0%	0%	25%	-60%
S	Pančevo	20%	0%	0%	0%	0%	0%
M	Novi Sad	23%	-13%	0%	-33%	-17%	0%
S	Smederevo	25%	-33%	-50%	0%	-33%	-40%
S	Kruševac	25%	0%	0%	0%	0%	0%
S	Valjevo	33%	-12%	0%	0%	0%	-20%
S	Zrenjanin	33%	-10%	-50%	-33%	0%	33%

Source: SPC data and WB Calculations

294. Despite the elimination of many staff positions the overall numbers of staff employed continued to increase. This was true particularly for case-related positions. As shown by Figure 73 , there was a six percent increase of filled staff positions for Basic and Higher PPOs, from 1,065 in 2014 to 1,117 in 2016, while Appellate PPOs did not fill vacant positions. The increases included an increase in prosecutor assistants from 195 in 2014 to 211 in 2016: Basic PPOs had 151 prosecutor assistants in 2016, while Higher PPOs had 58 and Appellate PPOs had two. Forty-five staff members were added for other case-related functions (e.g. 20 typists, 18 registry staff, and eight for the delivery of summons). In contrast, the number of non-case-related working staff decreased slightly at all levels.

Figure 73 - Filled Non-Prosecutor Staff Positions by PPO type



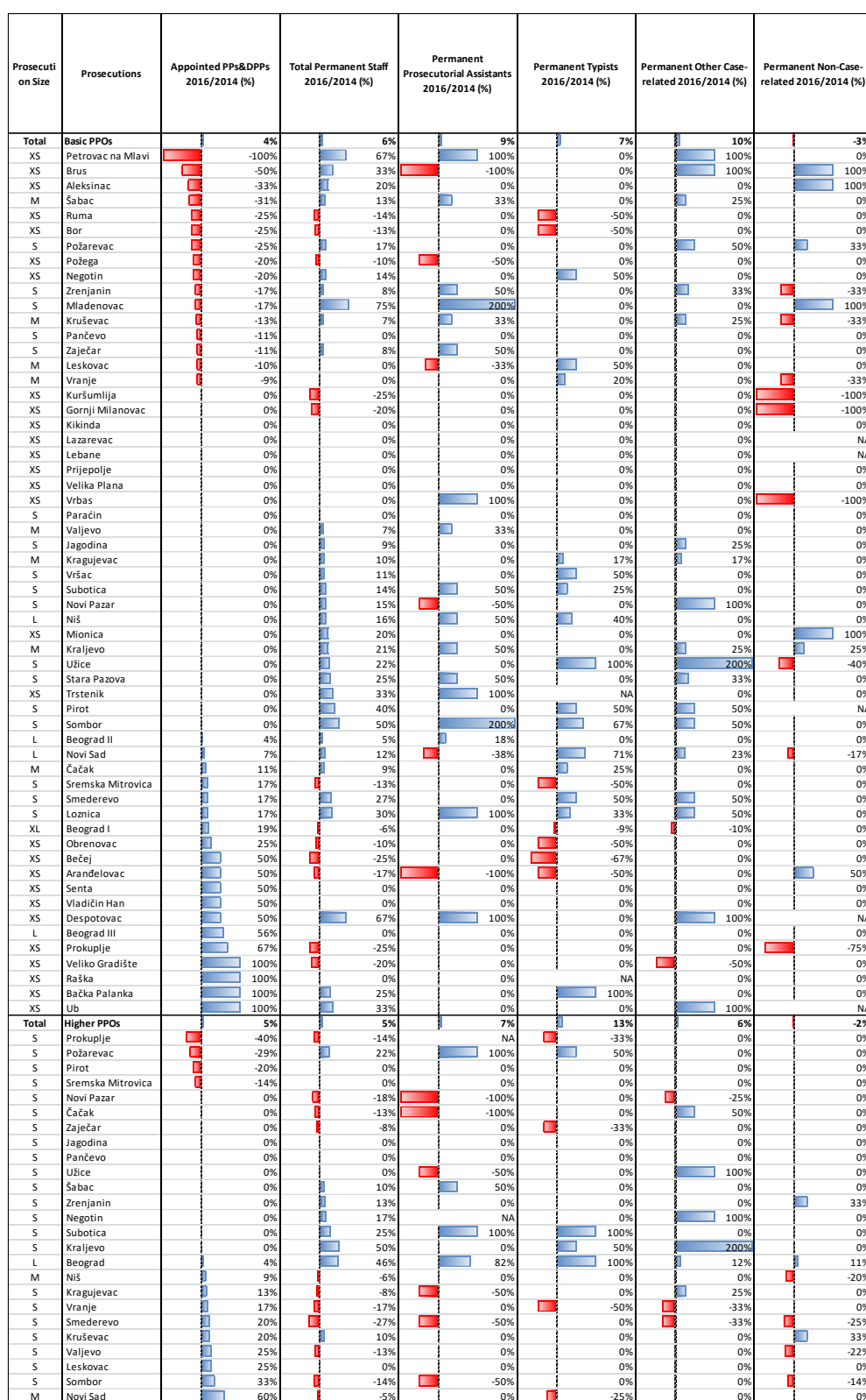
Source: SPC data and WB Calculations

295. The distribution of newly hired employees was not uniform, indicating a fair degree of autonomy for individual PPOs. Between 2014 and 2016, the number of filled positions changed in 44 of the 58 Basic PPOs, ranging from five new staff in the small Sombor office, to a cut of five filled positions in the extra-large Belgrade First Basic PPO. In contrast, the Higher PPO in Belgrade filled 21 positions, seven smaller offices added a few more staff, and 11 Higher PPOs reduced their staffing levels by one to three persons. For Appellate PPOs, Belgrade reduced the number of filled staff positions by one, and Novi Sad reduced its numbers by two.

296. There was no direct correlation between the number of prosecutors in an office and whether staff positions were filled. This is shown in Figure 74 , below. For Basic PPOs with cuts in the number of prosecutors, there were reductions in the numbers of typists or prosecutor assistants in the three extra-small offices of Ruma, Bor and Pozega, while 10 offices filled additional positions, and the number of staff employed remained unchanged in three others. For Basic PPOs with stable numbers of prosecutors, only two reduced their numbers of non-case-related staff; five kept the same numbers and staff structure; one replaced non-case-related staff members by prosecutor assistants, and 14 others increased the number of staff, primarily with more prosecutor assistants and/or typists. For Basic PPOs in which prosecutors were added, eight filled more staff positions,

seven reduced the number of staff, and there was a staff freeze in three. There was similar diversity among Higher PPOs.¹⁸⁰

Figure 74 - Staffing patterns



Source: SPC data and WB calculations

¹⁸⁰ Data on the number of Appellate prosecutors were not available for 2014.

8.2.2.1 Contractor Staffing

297. The increase in the number of filled of permanent staff positions was accompanied by an increase in the “shadow workforce” of contractors. In addition to 1,117 permanent staff, there were 234 long-term and nine short-term contractors in 2016, compared to 194 in 2013. Over the three-year period, contractors represented approximately 20 percent of PPOs’ staff, as shown by Table 11.

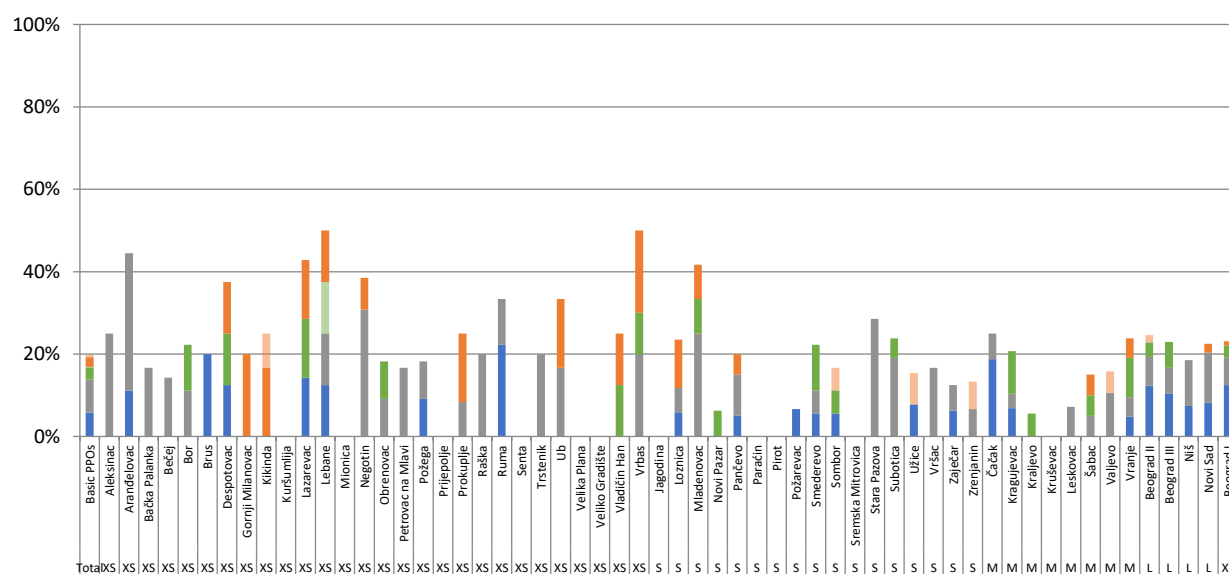
Table 11 - Contractor Workforce in PPOs

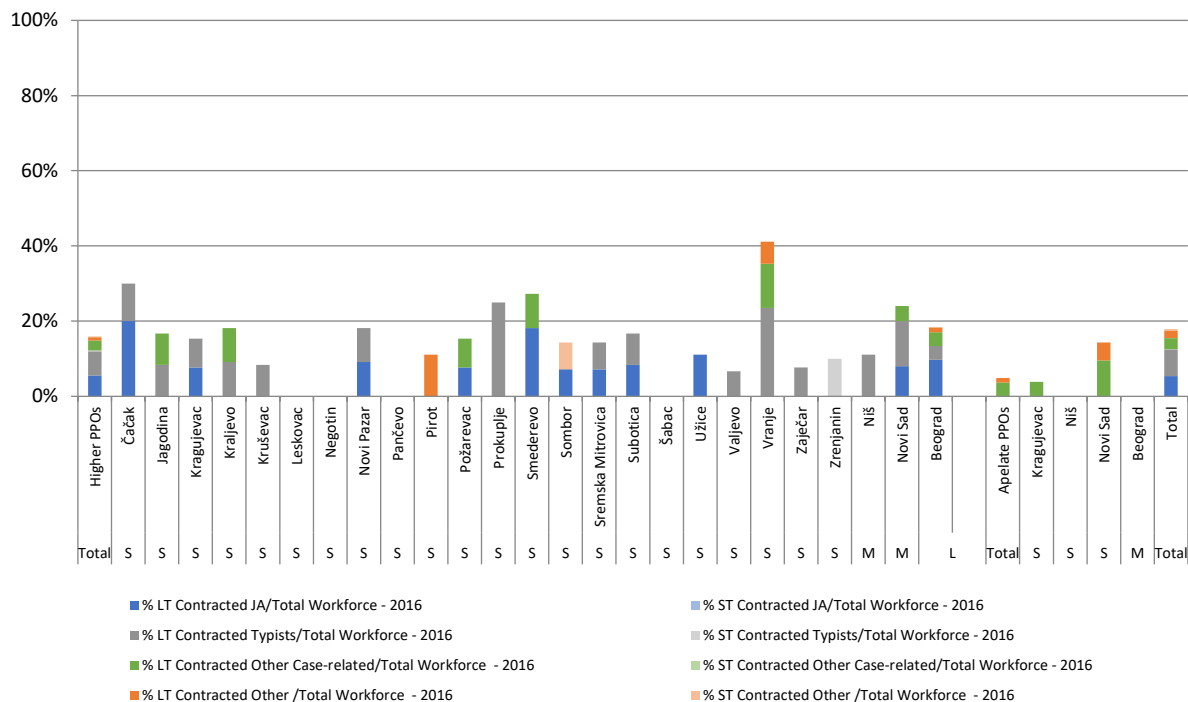
Year	Number of Permanent Employees	Number of Long-term Contracts	Number of Short-term Contracts	Number of Employees on Long-term Absence	Total Contractor Workforce	% Contractor Workforce/ Permanent Employees	% Contractor/ Total Workforce
2014	1065	184	10	38	194	18%	15%
2015	1064	212	7	34	219	21%	17%
2016	1117	234	9	45	243	22%	18%

Source: SPC data and WB Calculations

298. 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. These variations are shown in Figure 75. In Basic PPOs, this raised the contractor share relative to total workforce from 17 to 20 percent. In Higher PPOs, the percentage changed from 14 to 16 percent.

Figure 75 - Contractor Workforce, Composition and as Compared to Total Workforce, 2016



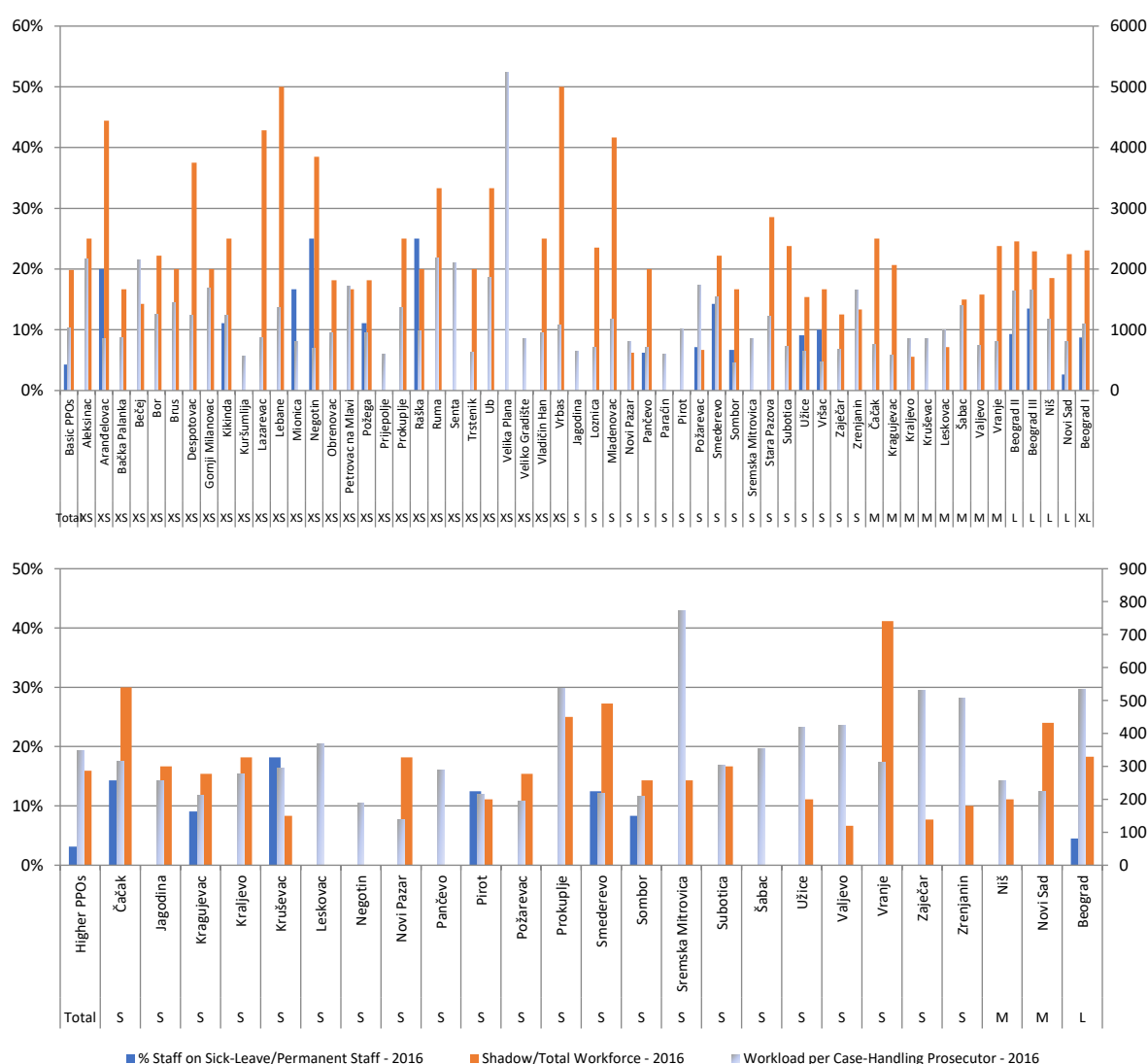


Source: SPC Data and WB Calculations

299. Absentee rates for permanent staff did not explain the use of contractors in all PPOs, and existing data provides no objective explanation for the different rates of contractors. For example, in 2016 the Basic PPOs in Raska and Požarevac and Higher PPOs in Kruševac and Pirot addressed their relatively high absentee rates (25 percent, seven percent, 18 percent and 13 percent respectively) by using contractors, while the Basic PPO in Mionica managed its operations without contractors, despite an absentee staff rate of 17 percent. Similarly, for 32 Basic and 14 Higher PPOs and the Appellate PPO in Kragujevac, all with zero absentee rates, contractors constituted four to 50 percent of their workforce. See Figure 76, below. Data indicated decisions to engage temporary staff also were not always driven by higher workload (e.g. the Basic PPO in Velika Plana had over 5,000 cases per prosecutor in 2016 and performed with its permanent staff only, while contractors constituted 21 percent¹⁸¹ of the employees in the Basic PPO in Kragujevac despite having a lighter workload of about 600 cases per prosecutor).

¹⁸¹ All of the contractors were engaged for case-related functions: two prosecutor assistants, one typist, and three others.

Figure 76 - Contractors, Absentee Rates and Caseloads in 2016



Source: SPC data and WB calculations

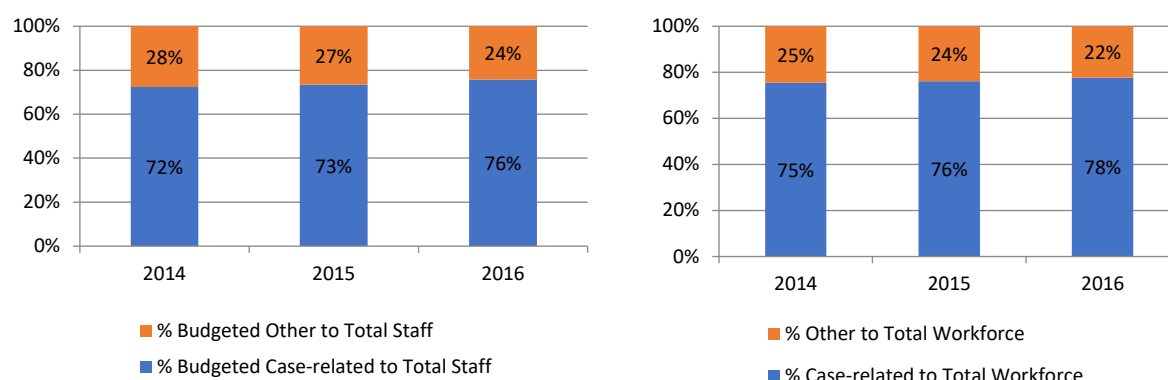
300. Available data also does not indicate how the use of contracted staff impacted prosecutorial quality or efficiency. The Functional Review team found no clear justification for engagement of contractors in some PPOs based on their absentee rate and/or workload. For instance, it was not clear why the MoJ approved the engagement of six additional long-term contractors in the Kragujevac Basic PPO, which had only 600 cases/prosecutor, but not in the Basic PPO of Velika Plana which had more than 5,000 cases/prosecutor. Both offices had zero absentee rates.

8.2.2.2 Distribution of Staff Among the Subcategories

301. Between 2014 and 2016, Serbia slightly reduced its average ratio of non-case-related staff to total staff, both for approved and filled positions. The number of non-case-related positions compared to total case-related positions dropped by four percent, the number of non-case-related positions compared to all employees dropped by three percent. This is shown in Figure 77 below, in which “other” is used for non-case-related staff. In 2016, 11 percent of total staff was engaged in

finance, analytics, ICT, and human resource jobs, and another 11 percent filled other general administrative functions, including cleaning, facilities maintenance, and other technical support.

Figure 77 - Proportion of Case-related and Other Staff

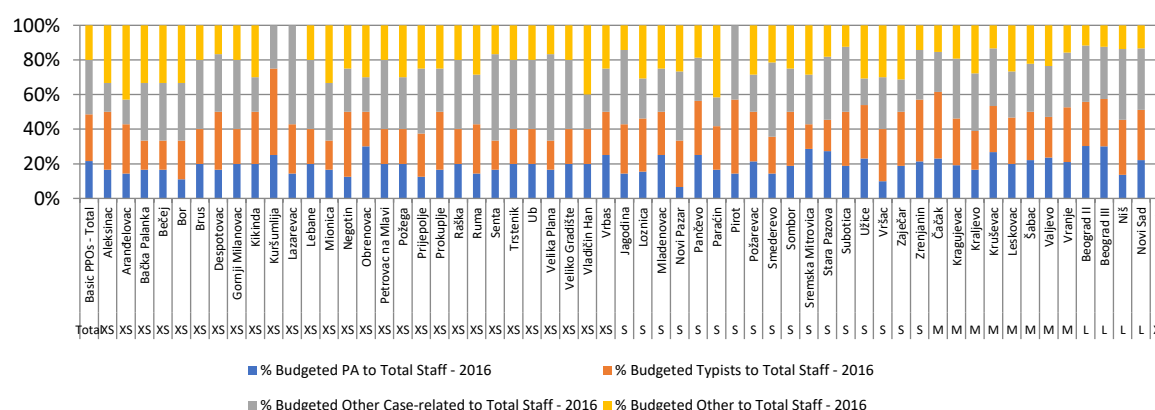


Source: WB calculation

302. From 2014-2016, the proportion of non-case-related to total staff, both budgeted and appointed, declined at all jurisdiction levels. In contrast, the percentage of non-case-related staff increased with jurisdiction levels. In 2016, non-case-related staff constituted 20 percent of budgeted positions at Basic PPOs, 32 percent at Higher PPOs, and 33 percent at Appellate PPOs. The same pattern applied to employed staff: non-case-related staffed made up 19 percent of the staff for Basic PPOs, 29 percent for Higher PPOs, and 34 percent for Appellate PPOs.

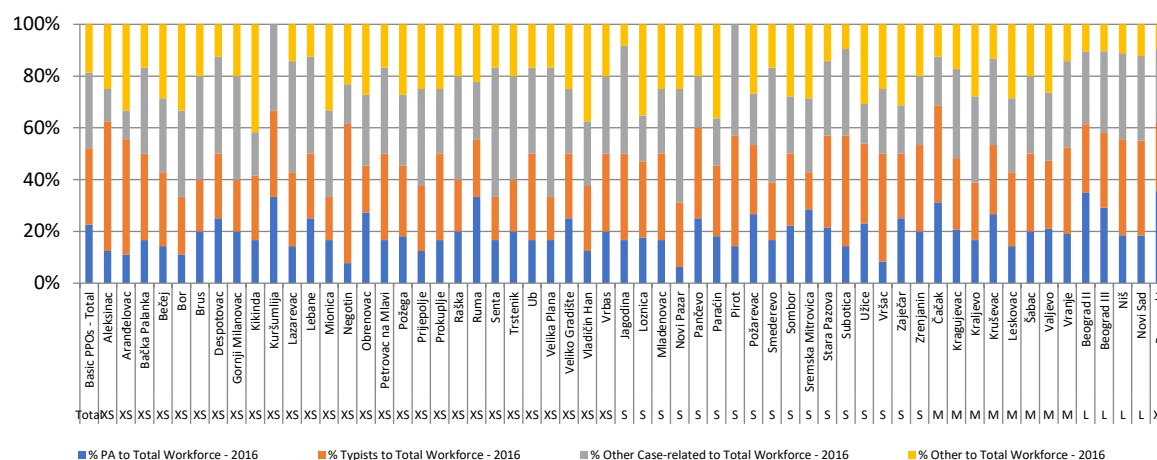
303. However, there was no data to explain the variations among PPOs for the ratios of budgeted case-related and non-case-related staff to budgeted total staff. This is shown by Figure 78, below. Over the years, the ratio of budgeted case-related to total staff significantly differed among all PPOs, but also among PPOs of the same type or size. For Basic PPOs, the 2016 ratio ranged from 57 percent of budgeted positions for case-related staff in Arandjelovac to 100 percent in Kursumlija, Lazarevac, and Pirot, although all were relatively small offices. In the same year, the Higher PPO in Kragujevac budgeted for 83 percent case-related staff, compared to 47 percent for Valjevo. Among Appellate PPOs, the 2016 proportion ranged from 91 percent in Belgrade as the largest appellate office to 46 percent in the small office in Kragujevac.

Figure 78 - Proportion of Basic PPO Budgeted Case-related and Other Staff in 2016



Source: SPC Data and WB Calculations

Figure 79 - Proportion of Higher PPO Budgeted Case-related and Other Staff in 2016



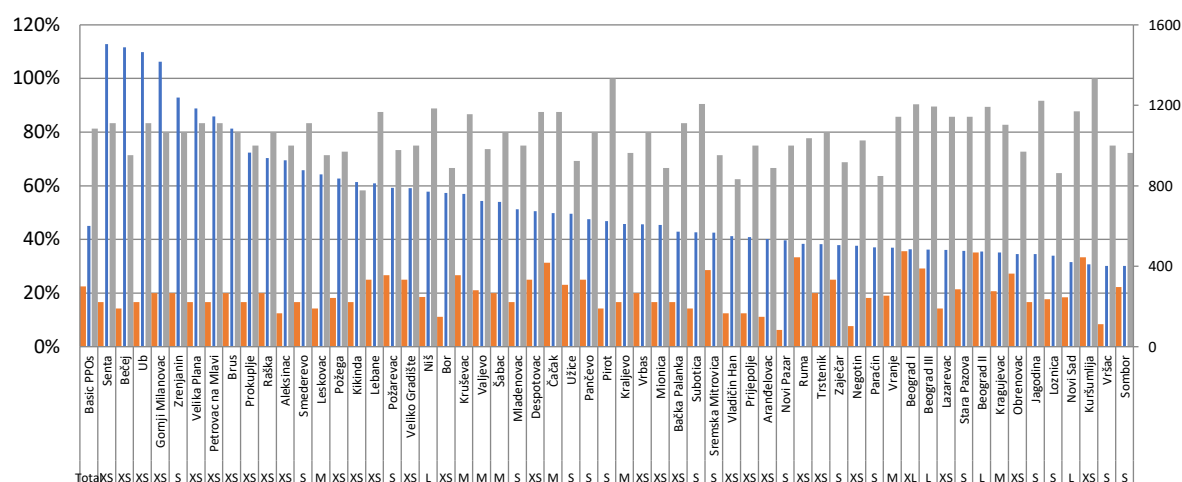
Source: SPC Data and WB Calculations

304. There also was no data to explain variations among PPOs for the ratios of filled case-related and non-case-related positions to filled staff positions. For example, in 2016 the range throughout the prosecutorial system ran from the Higher PPO in Pirot, where case-related employees made up 44 percent of the total staff, to the Basic PPOs in Kursumlija and Pirot, where all employees were reported as filling case-related positions. This shows that in at least some offices, staff and even prosecutors must be handling both case-related and non-case-related tasks. In Basic PPOs of the same size, case-related staff represented 58 percent to 100 percent of employees in extra-small offices and 64 percent to 100% in small PPOs. The difference in the proportion of case-related staff to other staff among relatively small Higher and the Appellate PPOs also was considerable, running from 44 to 85 percent and from 46 to 71 percent, respectively. The percentage of case-related to total employees in medium and large PPOs ranged from 71 percent to 90 percent.

305. The most productive PPOs were not necessarily those with the highest share of case-related staff. Among the five most productive Basic PPOs¹⁸² in 2016, case-related staff represented 71 to 83 percent of all employees, with prosecutor assistants occupying 14 to 20 percent of their total staff. On the other hand, the Basic PPO in Kursumlija, with its entire staff reportedly engaged in case-related functions and more than 30 percent of its employees working as prosecutor assistants, had 3.7 times fewer disposed cases than the most productive Basic PPO of Senta. For Higher PPOs, Sombor was the most productive in 2016 and had an equal share of case-related and other staff, and prosecutor assistants represented 14 percent of total staff.

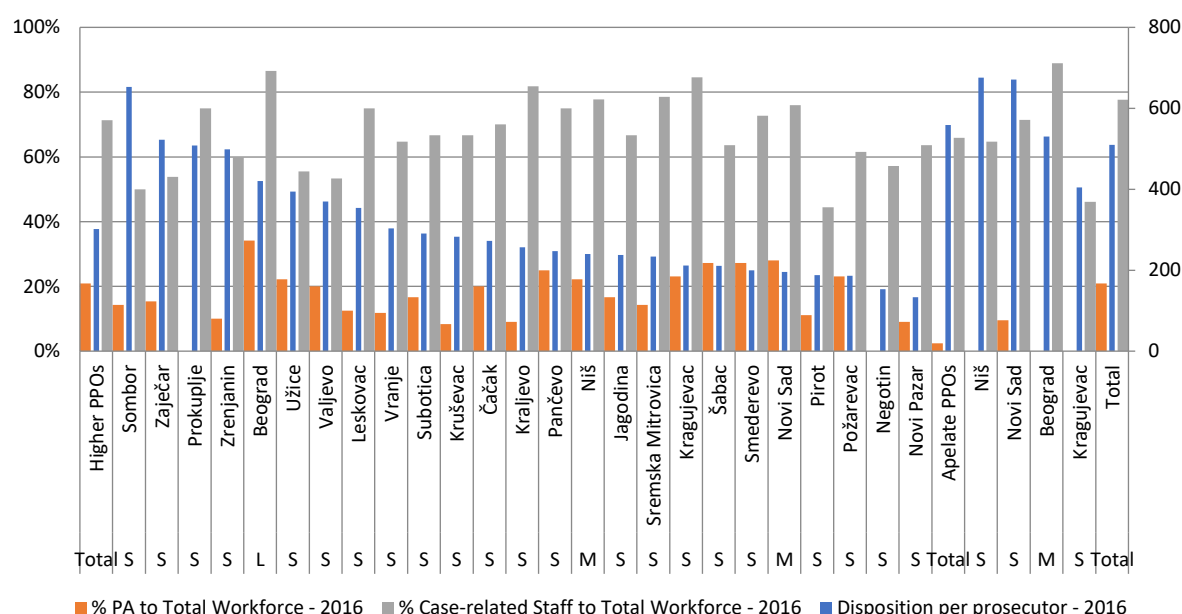
¹⁸² Senta, Becej, Ub, Gornji Milanovac and Zrenjanin.

Figure 80 - Basic PPOs' Disposition Rates Compared to Staffing Patterns, 2016



Source: SPC Data and WB Calculations

Figure 81 - Higher PPOs' Disposition Rates Compared to Staffing Patterns, 2016



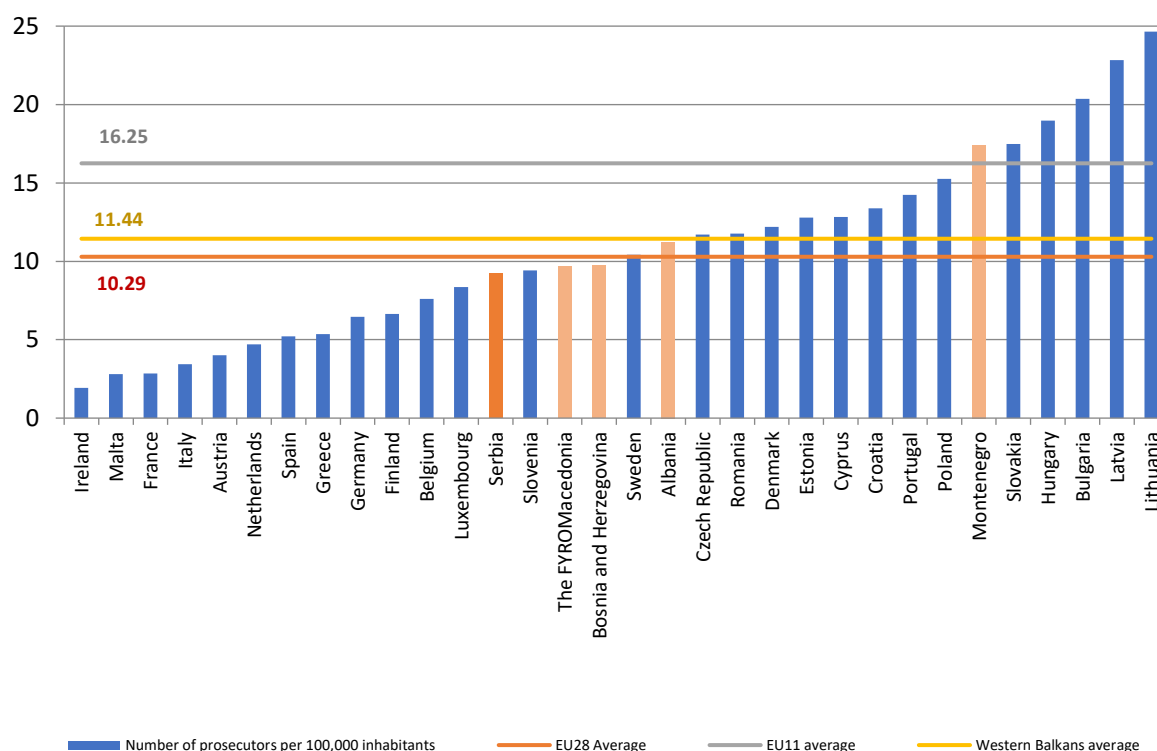
Source: SPC Data and WB Calculations

8.2.3. Staffing Ratios

306. Serbia reported a lower number of Public Prosecutors per 100,000 inhabitants in 2014 than European averages and regional peers.¹⁸³ This is shown by Figure 82, below. According to the CEPEJ 2016 Annual Report, the number of Public Prosecutors per 100,000 inhabitants was 9.20 in Serbia. The EU28 average was 10.29, the EU11 average was 16.25, and Western Balkans average 11.44.

¹⁸³ The CEPEJ 2016 Report considered 2014 data

Figure 82 - Number of prosecutors per 100,000 inhabitants, Serbia, EU Member States, Western Balkan countries (CEPEJ data for 2014)



Source: CEPEJ data

307. However, by 2016, Serbia had dropped to 8.6 prosecutors¹⁸⁴ per 100,000 inhabitants, compared to the EU average of 10.3. Serbia's figure of 8.6 was low for the Central and Eastern Europe region, where the ratio ranged from 9.4 in Slovenia to 24.6 in Lithuania.

308. In 2016, Serbia also had an average of 1.6 budgeted non-prosecutor employees per prosecutor. The budgeted staff-to-prosecutor ratio was 1.7 in 2014 and above 1.6 in 2015. This number was divided between 1.2 case-related and 0.4 other employees per prosecutor, as shown by xxx . Staffing compositions ranged from 0.9¹⁸⁵ to 3.3¹⁸⁶ staff positions per prosecutor, 0.7 to 2.0¹⁸⁷ case-related, and 0 to 1.6¹⁸⁸ non-case-related. The ratio of case-related staff to prosecutor was higher than that for other staff except in the Higher PPO in Valjevo and the Appellate PPO in Kragujevac. The proportion of high number of case-related staff to low number of non-case-related staff is in line with modern trends in judiciary, where non-case related services are outsourced or merged to decrease burden for budget.

¹⁸⁴ 392 at first instance, 218 at second instance, and 12 at the Supreme Court level.

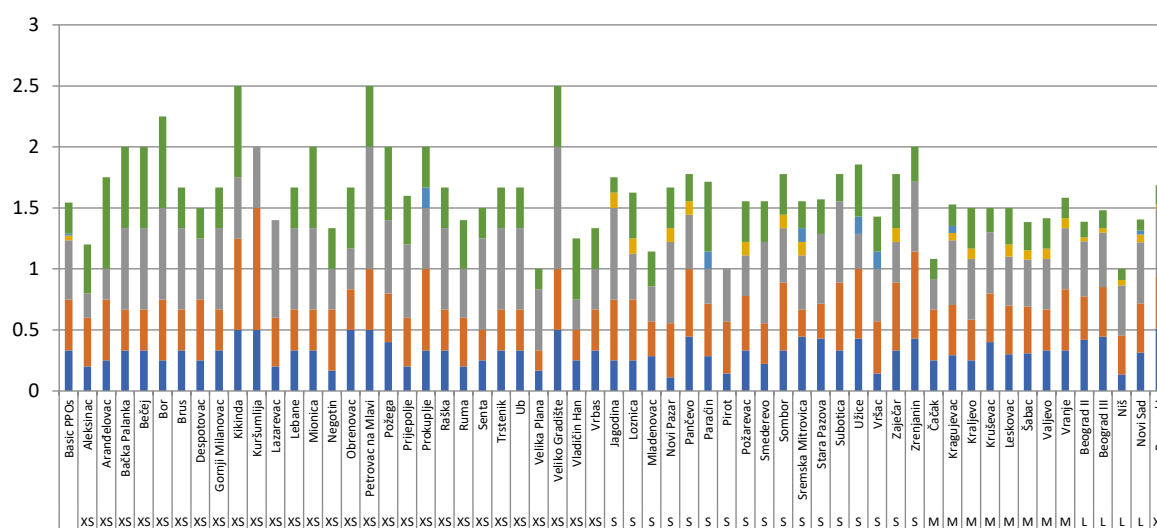
¹⁸⁵ Appellate PPO in Belgrade.

¹⁸⁶ Higher PPO in Sombor.

¹⁸⁷ Higher PPO in Vranje – Basic PPOs in Veliko Gradiste, Petrovac na Mlavi, and Kursumlija.

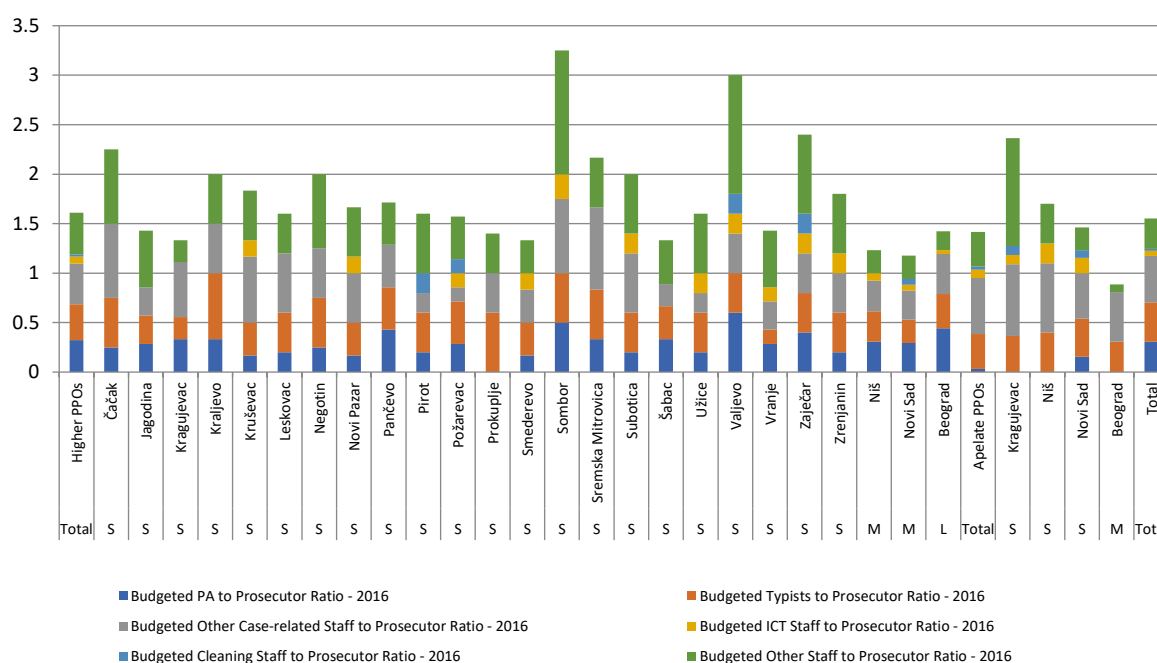
¹⁸⁸ Basic PPOs in Lazarevac, Kursumlija, and Pirot – Higher PPO in Valjevo.

Figure 83 - Budgeted Basic PPOs Staff per Prosecutor by Category of Staff, 2016



Source: SPC Data and WB Calculations

Figure 84 - Budgeted Higher PPOs Staff per Prosecutor by Category of Staff, 2016



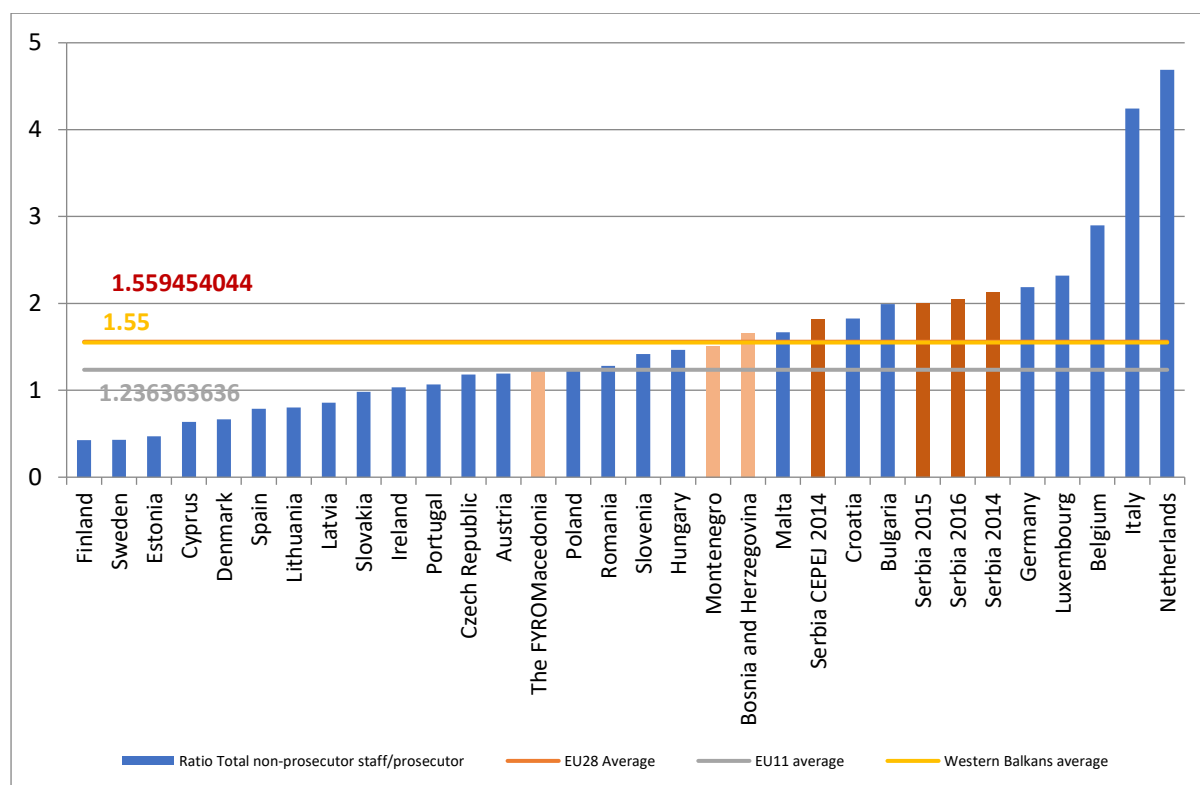
Source: SPC Data and WB Calculations

309. With an average of two staff members¹⁸⁹ per prosecutor in both 2015 and 2016¹⁹⁰, Serbia was above the EU average for 2014. This is shown in Figure 85 , below. Serbia was at the upper end of staff-to-prosecutor ratios for the EU as a whole, and was higher than 20 of the 25 EU Member States and all Western Balkan countries that submitted data on this issue to the CEPEJ for 2014.

¹⁸⁹ This includes both permanent staff and contractors.

¹⁹⁰ To enable more accurate comparison of staffing among Serbia PPOs, the Serbian metrics methodology is applied in this study. For determining the number of staffing per prosecutor, Serbian methodology includes Public Prosecutors and Deputy Public Prosecutors, while the CEPEJ bases its calculations only on the number of prosecutors. If CEPEJ methodology were applied, Serbia's staff to prosecutor ratio would be even higher, i.e. 2.2 staff per prosecutor.

Figure 85 - Ratio of non-prosecutor staff to prosecutor, Serbia, EU Member States, and Western Balkan countries (CEPEJ data for 2014 with Serbia data for 2015 and 2016 added)



Source: CEPEJ data and WB Calculations

310. There was no system-wider recommended or mandatory staffing ratio related to caseloads, workloads, disposition rates or the complexity of cases. As a result, the SPC and PPOs had few objective bases to determine whether all vacancies should be filled, funds should be reallocated to particular positions, or whether funds should be invested in capacity building of the existing staff, ICT development or infrastructure projects.

311. The number of budgeted positions for many staff positions exceeded the staffing norms set by the MoJ. In the 2014-2016 period, the ratio of prosecutor assistants to prosecutor was within the limits set by regulations¹⁹¹ except in the Higher PPO in Valjevo. On the other hand, more than half of PPOs exceeded staffing norms set for typists (0.3 per prosecutor), other case-related (0.4 per prosecutor), and non-case-related staff (approximately 0.2 per prosecutor). The average ratio of typists per prosecutor was 0.4, ranging from 0.1 in the Higher PPO in Vranje to 1.0 in the Basic PPO in Kursumlija: as discussed in the Efficiency, Timeliness and Productivity Chapter above, in general the number of available typists affects efficiency and productivity, since typists are required for all formal statements. Although this is currently formal requirement there is need to reconsider this legislative requirement and business process in PPOs. The ratio for other case-related staff was 0.5, ranging from 0.1 in the Higher PPO in Pozarevac to 1.0 per prosecutor in the Basic PPOs in Veliko

Even though the offices already exceeded staffing norms, the MoJ granted approvals in 2016 for budgeting new case-related positions in six Basic and two Higher PPOs and, for additional positions in the category of non-case-related, other staff, to two Basic and one Higher PPOs.

¹⁹¹ 0.5 for Basic and Higher PPOs and 0.3 for Appellate PPOs.

Gradiste and Petrovac na Mlavi. The ratio for non-case-related staff ranged from zero in three basic PPOs to 1.3 in the Higher PPO in Sombor.

312. The use of contracted employees exacerbated the variations in staffing ratios¹⁹². With the addition of contract employees, in 2016 each case-handling prosecutor was supported by 1.4 to 7 employees. At the same time, the ratio of case-related employees to prosecutor ranged from 0.5 to 4, with prosecutor assistants ranging from 0.1 to 1.5.¹⁹³ The ratio variations were even more dramatic in 2015 when the number of staff per prosecutor ranged from 1 to 13: case-related employees ranged from 0.9 to 9 and prosecutor assistants ranged from 0.1 to 2.¹⁹⁴

313. High case-related staff-to-prosecutor ratios did not guarantee high productivity in the three-year period. A comparison of the two most productive Serbian Basic PPOs in 2016 (Senta and Becej) showed the less efficient (Becej) had twice as many case-related employees per prosecutor, as well as higher staff-to-prosecutor ratios for all sub-categories of staff. In Higher PPOs, the most productive PPO (Sombor) had one of the highest proportions of case-related staff per prosecutor. However, the Prokuplje office with the same ratio had 22 percent fewer disposed cases. For Appellate PPOs, the most and least productive offices (Belgrade and Nis) had the same ratio of case-related staff to prosecutor. See Table 12 below.

¹⁹² Staff Figures are defined as permanent and temporary employees, reduced by the number of staff on long-term sick leave. The number of prosecutors include only prosecutors that were handling cases.

¹⁹³ Higher PPOs in Krusevac, Negotin and Prokuplje and Appellate PPOs in Belgrade, Kragujevac and Nis functioned without prosecutor assistants.

¹⁹⁴ Six Basic PPOs in Lazarevac, Mladenovac, Trstenik, Prijepolje, Negotin and Prokuplje and three Appellate PPOs in Belgrade, Kragujevac and Nis functioned without prosecutor assistants.

Table 12 - PPOs Disposition Rates Compared to Staff-to-Prosecutor Ratio, 2016

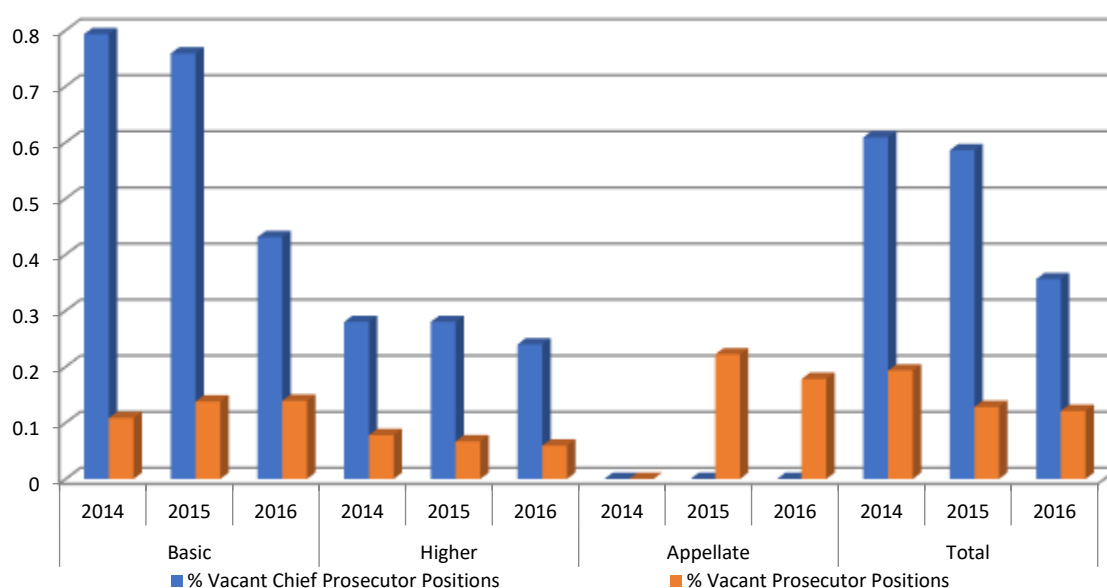
PPO Size		Disposition per prosecutor - 2016	Staff per Appointed Prosecutor - 2016	Staff per Actually Working Prosecutor - 2016	PA per Actually Working Prosecutor - 2016	Typists per Actually Working Prosecutor - 2016	Other Case-related Staff per Actually Working Prosecutor - 2016	Other Staff per Actually Working Prosecutor - 2016
Basic PPOs								
XS	Senta	600	2,1	2,5	0,5	0,7	0,7	0,5
XS	Bečej	1505	2,0	3,0	0,5	0,5	1,5	0,5
XS	Ub	1488	2,3	7,0	1,0	2,0	2,0	2,0
XS	Gornji Milanovac	1464	3,0	3,0	0,5	1,0	1,0	0,5
S	Zrenjanin	1417	5,0	5,0	1,0	1,0	2,0	1,0
S	Velika Plana	1239	3,0	3,8	0,8	1,3	1,0	0,8
XS	Petrovac na Mlavi	1185	2,0	6,0	1,0	1,0	3,0	1,0
XS	Brus	1144	#DIV/0!	6,0	1,0	2,0	2,0	1,0
XS	Prokuplje	1084	5,0	5,0	1,0	1,0	2,0	1,0
XS	Raška	965	2,4	4,0	0,7	1,3	1,0	1,0
XS	Aleksinac	938	2,0	4,0	1,0	1,0	1,0	1,0
S	Smederevo	927	4,0	4,0	0,5	2,0	0,5	1,0
M	Leskovac	877	2,3	3,2	0,6	0,6	1,4	0,6
XS	Požega	857	1,6	1,8	0,3	0,5	0,5	0,5
XS	Kikinda	836	2,5	3,3	0,7	0,7	1,0	1,0
XS	Lebane	818	2,8	3,7	0,7	1,0	0,7	1,3
S	Požarevac	813	4,0	4,0	1,0	1,0	1,5	0,5
XS	Veliko Gradište	791	2,3	2,8	0,6	0,8	0,6	0,8
L	Niš	788	2,0	2,0	0,5	0,5	0,5	0,5
XS	Bor	772	1,4	1,5	0,3	0,6	0,5	0,2
M	Kruševac	765	3,0	3,0	0,3	0,7	1,0	1,0
M	Valjevo	760	2,1	2,5	0,7	0,7	0,8	0,3
M	Šabac	724	1,9	2,1	0,4	0,6	0,6	0,6
S	Mladenovac	719	2,2	2,9	0,6	0,9	0,9	0,6
XS	Despotovac	684	2,4	2,4	0,4	0,8	0,6	0,6
M	Čačak	673	2,7	4,0	1,0	1,0	1,5	0,5
S	Užice	665	1,6	2,0	0,6	0,8	0,4	0,3
S	Pančevo	661	2,0	2,4	0,6	0,8	0,2	0,8
S	Pirot	635	2,4	2,4	0,6	0,9	0,5	0,4
M	Kraljevo	625	1,8	1,8	0,3	0,8	0,8	0,0
XS	Vrbas	610	1,8	2,3	0,4	0,5	0,8	0,6
XS	Mionica	609	2,0	2,5	0,5	0,8	0,8	0,5
XS	Bačka Palanka	606	2,5	2,5	0,5	0,5	1,0	0,5
S	Subotica	573	3,0	3,0	0,5	1,0	1,0	0,5
S	Sremska Mitrovica	569	2,6	3,0	0,4	1,3	1,0	0,3
XS	Vladičin Han	567	2,0	2,8	0,8	0,4	0,8	0,8
XS	Prijepolje	549	2,7	4,0	0,5	1,0	1,0	1,5
XS	Arandelovac	545	2,0	2,0	0,3	0,5	0,8	0,5
S	Novi Pazar	536	2,7	2,7	0,3	1,0	0,3	1,0
XS	Ruma	529	2,3	2,3	0,1	0,6	1,0	0,6
XS	Trstenik	512	3,0	4,5	1,5	1,0	1,0	1,0
S	Zaječar	511	2,5	2,5	0,5	0,5	1,0	0,5
XS	Negotin	505	2,0	2,3	0,6	0,6	0,4	0,7
S	Paraćin	502	2,8	2,8	0,3	1,3	0,5	0,8
M	Vranje	494	1,8	2,2	0,4	0,6	0,4	0,8
XL	Beograd I	493	2,1	2,3	0,4	0,8	0,8	0,3
L	Beograd III	485	1,9	2,6	0,9	0,8	0,8	0,2
XS	Lazarevac	483	1,7	2,9	0,8	0,9	0,9	0,3
S	Stara Pazova	481	1,8	2,3	0,3	0,7	1,0	0,3
L	Beograd II	477	2,8	3,5	0,8	1,3	1,0	0,5
M	Kragujevac	473	1,9	2,5	0,9	0,7	0,7	0,3
XS	Obrenovac	469	1,8	1,9	0,4	0,5	0,7	0,3
S	Jagodina	461	2,2	2,8	0,8	0,5	0,8	0,8
S	Loznica	460	1,7	2,0	0,3	0,7	0,8	0,2
L	Novi Sad	452	2,4	2,8	0,5	0,8	0,5	1,0
XS	Kuršumlija	421	1,6	1,7	0,3	0,6	0,6	0,2
S	Vršac	410	3,0	1,5	0,5	0,5	0,5	0,0
S	Sombor	402	1,6	1,8	0,2	0,8	0,5	0,3
S		401	2,1	2,1	0,4	0,6	0,5	0,6
Higher PPOs								
S	Sombor	302	1,9	2,3	0,5	0,6	0,6	0,7
S	Zaječar	653	3,3	6,5	0,5	1,0	1,5	3,5
S	Prokuplje	522	4,3	4,3	0,7	1,0	0,7	2,0
S	Zrenjanin	508	2,7	4,0	0,0	2,0	1,0	1,0
L	Beograd	499	2,5	3,3	0,3	0,7	1,0	1,3
S	Užice	421	1,6	2,0	0,7	0,5	0,6	0,3
S	Valjevo	394	3,0	3,0	0,7	0,7	0,3	1,3
S	Leskovac	370	2,3	3,8	0,8	0,8	0,5	1,8
S	Vranje	354	1,6	2,0	0,3	0,5	0,8	0,5
S	Subotica	303	2,4	3,4	0,4	1,0	0,8	1,2
S	Kruševac	291	2,4	3,0	0,5	0,8	0,8	1,0
S	Čačak	282	1,7	2,0	0,0	0,6	0,8	0,6
S	Kraljevo	272	2,3	3,0	0,3	0,7	1,0	1,0
S	Pančevo	257	2,2	2,8	0,3	1,0	1,0	0,5
M	Niš	247	2,0	2,4	0,6	0,6	0,6	0,6
S	Jagodina	240	1,5	1,6	0,4	0,5	0,4	0,4
S	Sremska Mitrovica	238	1,7	2,0	0,3	0,5	0,5	0,7
S	Kragujevac	234	2,3	2,8	0,4	0,8	1,0	0,6
S	Šabac	211	1,3	1,5	0,4	0,4	0,5	0,3
S	Smederevo	211	1,2	1,4	0,4	0,3	0,3	0,5
M	Novi Sad	200	1,7	2,0	0,4	0,4	0,6	0,6
S	Pirot	196	1,6	1,7	0,5	0,4	0,4	0,4
S	Požarevac	188	2,0	2,7	0,3	0,7	0,3	1,3
S	Negotin	186	2,6	2,6	0,6	0,6	0,4	1,0
S	Novi Pazar	153	1,8	2,3	0,0	0,7	0,7	1,0
S		133	1,8	2,2	0,2	0,6	0,6	0,8
Apelate PPOs								
M	Beograd	559	1,6	2,3	0,1	0,4	1,0	0,8
S	Novi Sad	676	1,7	2,1	0,0	0,4	0,9	0,8
S	Kragujevac	671	1,8	2,5	0,3	0,5	1,0	0,8
S	Niš	530	1,0	1,8	0,0	0,4	1,2	0,2
S		405	2,4	2,6	0,0	0,5	0,8	1,4
Total		510	2,0	2,4	0,5	0,7	0,7	0,5

Source: SPC Data and WB Calculations

8.2.4. Impact of vacant positions

314. More than one-third of PPOs functioned without an appointed Public Prosecutor in 2016, compared to 61% in 2014 and 59% in 2015, as shown by Figure 87. At the same time, vacancy rates for Deputy Prosecutors ranged from 0 to 100 percent. For instance, the Basic PPO in Petrovac na Mlavi functioned without an appointed Public Prosecutor throughout 2016, and the Public Prosecutor was the only prosecutor in the Gornji Milanovac Basic PPO. Extra-small Basic PPOs had the highest combined vacancy rates, of more than 45 percent in 2016 and more than 85 percent in the previous years.

Figure 86 - Vacant Prosecutors' Positions, 2014-2016



Source: SPC data and WB calculations

315. Delays in the appointment process for Deputy Public Prosecutors reduced the efficiency of criminal prosecution, although the data did not indicate the extent of the reduction. At least part of the reduced efficiency probably also was due to increased responsibilities of the prosecution for investigations of cases, and the need for prosecutors to adjust to the use of more adversarial techniques, as discussed above. Issues related to the introduction of adversarial techniques were specifically noted by the European Commission in its 2018 Progress Report for Serbia.¹⁹⁵

316. There was no obvious correlation between staff vacancy rates and productivity of PPOs. For example, in Basic PPOs, 2016 disposition rates ranged from 402 to 1,050 in offices having all staff positions filled, and from 410 to 1,464 disposed cases per prosecutor in PPOs with over 20 percent staff positions vacant. In all, eight percent of PPO staff positions were vacant in 2016. All staff positions were filled in 19 Basic, 13 Higher, and one Appellate PPOs, while the Basic PPO in Vladicin

¹⁹⁵ 2018 EU Progress report: "Delays in the appointment process for deputy prosecutors have reduced efficiency of the criminal prosecution, in particular since the adversarial model was introduced into the criminal procedure in 2013, increasing the responsibilities of the prosecution without being accompanied by the necessary staff increase." p. 15.

Han reported having one more permanent staff member than it was authorized to have.¹⁹⁶ Vacancy rates ranged from six percent to 43 percent in Basic PPOs, five percent to 25 percent in Higher PPOs, and four percent to 22 percent in Appellate PPOs.

8.2.5. Recruitment, Evaluation, and Promotions of Prosecutors

8.2.6. Recruitment and selection

317. The structure of Serbia's prosecutorial system creates opportunities for political influence on the selection and retention of prosecutors.¹⁹⁷ The SPC, the Government and the National Assembly all have roles to play in the selection process, as described in the Governance and Management chapter above. Members of the SPC include the Minister of Justice and the chair of the Judiciary, State and Local Administration Committee of the National Assembly, while the eight other SPC members all are appointed by the National Assembly.¹⁹⁸ Given this combination of participants, the opportunities for political influence are extensive, especially since the Assembly can refuse to elect proposed prosecutors and thereby trigger a new selection process, even after the SPC has nominated a candidate who has been confirmed by the Government.¹⁹⁹

During the 2018 selection process, the National Assembly did not elect two of the Deputy Public Prosecutor candidates of the 38 proposed by the SPC. The Assembly did not provide any explanation was provided for the rejections.

318. The SPC and the National Assembly decide on the first election of Deputy Public Prosecutors.²⁰⁰ After the initial election, the SPC has sole responsibility for determining whether a Deputy Public Prosecutor receives permanent tenure, as well as their promotions to higher-instance PPOs.²⁰¹ To comply with a 2013 Constitutional Court decision²⁰² and CoE principles²⁰³, the SPC had to select Deputy Prosecutors from both those who have attended the Judicial Academy and those who have not. However, the Law on Judicial Academy stipulates that prosecutors elected for the first time and who have not attended the initial Judicial Academy training must undergo a special training program.

319. General and specific requirements for the appointment of Republic Prosecutor and Public Prosecutors and the initial appointment of Deputy Public Prosecutors are stipulated by the Law on Public Prosecution.²⁰⁴ Recruitment and selection procedures require public competition for all

¹⁹⁶ The PPO had one budgeted typist position, but two were employed.

¹⁹⁷ As noted in the Governance and Management chapter, the National Assembly elects the Republic Public Prosecutor, Public Prosecutors and Deputy Public Prosecutors for their initial appointment. The Republic Public Prosecutor and Public Prosecutors are elected for a period of six years and may be re-elected. For the Republic Prosecutor and Public Prosecutors, the SPC proposes a list of candidates which is reviewed by the Government, which then proposes one or more candidates from the list to the Assembly. The Assembly may return the list of candidates to the SPC if only one candidate has been proposed.

¹⁹⁸ Article 5 of the Law on State Prosecution Council, Official Gazette No.166/2018 as amended 101/2010, 88/2011 and 106/2015

¹⁹⁹ Article 74 and 75 of the Law on Public Prosecution, Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 - Constitutional Court decision, 117/2014, 106/2015 i 63/2016 - Constitutional Court decision.

²⁰⁰ For first-time Deputy Prosecutors, the SPC submits one candidate per position to Parliament, which decides whether or not to elect the candidate. The term of a first-time Deputy is three years.

²⁰¹ Article 75 of the Law on Public Prosecution, Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 - Constitutional Court decision, 117/2014, 106/2015 and 63/2016 - Constitutional Court decision.

²⁰² Constitutional Court Decision IUz-497/2011 Official Gazette No. 32/2014.

²⁰³ Opinion No. 9 (2014) of the Consultative Council of European Prosecutors (CCPE) on European norms and principles concerning prosecutors, adopted 17 December 2014. Point 52.

²⁰⁴ Requirements for these positions include law degrees and passage of the bar exam. There also are different years of service and professional experience required for different types of positions. The professional experience required ranges from three years for Basic

positions. The SPC's Selection Panel publishes an invitation to apply and selects candidates following procedures specified by the Rulebook on Criteria for Assessment of Qualifications, Competencies, and Ethics of Candidates.²⁰⁵

320. There were two SPC selection criteria for Public Prosecutors used from 2014 to 2016 – professional knowledge and competence, and managerial capacity. Evaluation of professional knowledge and competence was based on performance evaluations of existing prosecutors and on written tests for other candidates. The SPC evaluated organizational skills, understanding of the role of prosecutorial administration, initiatives for promoting reputation, and other ideas of relevance for the office based on presentations of candidates' programs of organization and improvement of work of prosecutors' offices.

321. 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. From 2014-2016, the SPC selected candidates and issued a ranked list based on a two-step process included written test and interview results. The scoring scheme of a maximum of 50 points for the written test and 20 for the interview shows the SPC intended to reduce the possibility for scoring manipulation by giving a substantial preference to the evidence-based portion of the examination over the oral part which could be affected by subjectivity.

322. The written tests were designed to assess competence for applying knowledge and skills, while "soft skills" were evaluated by interview. Communication, ability to perform prosecutorial duties, and integrity are skills evaluated during recruitment interviews. The SPC developed structured interview templates to ensure they were done in a uniform manner. However, a decision of the Constitutional court from July 2017 abrogated the SPC Rulebook on Criteria for Assessment of Qualifications, Competencies, and Ethics of Candidates²⁰⁶ so interviews could not be scored as part of the selection process. Since interviews are obligatory part of the selection process²⁰⁷ the SPC had to keep it in the new Rulebook but without scoring, which prevent the SPC to assess soft skills of candidates.

323. Candidates for the first election on deputy prosecutors positions who had completed their initial training at the Judicial Academy were not obliged to undergo written testing if they agreed their final exam results be considered in lieu of a test score. The SPC uses the final exam results to assess the JA candidates.

324. The SPC creates a list of candidates for public prosecutors based on the scored results and proposes the highest-scoring candidates to the Government. There is no time limit for the Government to assess the proposed candidates and send the list of candidates it has approved to the National Assembly for the last stage of the election process. This gap caused significant delays in the selection of prosecutors from 2014 to 2016, when the Government took more than a year to decide on some of the candidates proposed by the SPC. This resulted in frivolous situation that Government proposed candidates two years after the SPC submitted its proposal.

PPOs to 11 years for prosecutors in the RPPO. To become a Public Prosecutor, candidates must have an additional year/s of professional experience.

²⁰⁵ Official Gazette No. 116/08 as amended 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – Decision of the Constitutional Court, 121/12, 101/13, 111/14 – Decision of the Constitutional Court and 117/14)

²⁰⁶ Constitutional Court Decision, No. IUo-254/2016 from 20.07.2017.

²⁰⁷ Article 81 Law on Public Prosecution, Official Gazette No. 116/2008, 104/2009, 101/2010, 78/2011, 101/2011, 38/2012, 121/2012, 101/2013, 111/2014, 106/2015, 63/2015, 63/2016.

325. The SPC's decisions about the number of Deputy Public Prosecutors²⁰⁸ and the budget determines the number of Deputy Public Prosecutor positions. The SPC has updated its decisions about prosecutorial positions periodically, but none of its decisions has contained criteria for determining the number. Moreover, the SPC does not determine whether vacant positions should be filled, and its decisions about the number of prosecutors provided no guidance on whether vacancies could or should be filled by consensual transfer, promotion, or initial appointment.

326. 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	19.18%	100%	/	/	/
Judicial assistants	12.7%	45.4%	50%	3.4%	/
Others	6.3%	45.4%	27.2%	18.18%	9%

327. Regulations specifying the criteria and procedure for selecting candidates for prosecution office positions needed to be refined.²⁰⁹ Procedures used from 2014 to 2016 were not clear about the criteria used for evaluation and the award of points both for professional knowledge and competence and soft skills, triggering criticisms both by both local stakeholders and international partners.

328. To overcome challenges in the appointment of judicial office holders, the Judicial Academy was established in 2010, graduation from which was made a mandatory precondition for initial selection to a Basic PPO. In 2013, however, that requirement was overturned by the Constitutional Court.²¹⁰ For the initial selection process to conform with the Constitutional Court decision and CoE principles,²¹¹ the SPC had to select Deputy Prosecutors from both those who attended the Academy and those who did not. However, the Law on Judicial Academy stipulates that prosecutors elected

²⁰⁸ Official Gazette No. 106/13 as amended 94/15, 114/15 and 80/2016

²⁰⁹ See, for example, Opinion No. 11 (2016) of the Consultative Council of European Prosecutors (CCPE) on the quality and efficiency of the work of prosecutors, including when fighting terrorism and serious and organized crime, adopted 18 November 2016. Point 24.

²¹⁰ Constitutional Court Decision IUz-497/2011 (Official Gazette No. 32/2014)

²¹¹ Opinion No. 9(2014) of the CCPE on European norms and principles concerning prosecutors, Explanatory Note, para 51a "the recruitment, the promotion and the transfer of prosecutors are carried out according to fair and impartial procedures and excluding discrimination on any ground such as gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status"

for the first time to these positions and who have not attended the initial training must undergo a special training program.

329. Each year, the Academy's Programming Council determines the number of initial training beneficiaries²¹² and the Academy organizes entrance examination. The SPC decides on the number of trainees based on the number of prosecutorial vacancies in Basic PPOs.²¹³

330. The final examination which follows the initial training focuses on handling civil and criminal cases as a judge and prosecutor at the first instance level. Candidates who complete the initial training must apply to prosecutor positions in Basic PPOs. For those not selected for a position, the SPC may approve a temporary employment in a court or a prosecution office for a period of up to three years.

8.2.7. Evaluation and Promotion

331. The SPC's performance assessment system for Public Prosecutors and Deputy Public Prosecutors aims to boost organizational and individual advancement, in line with EC norms.²¹⁴

The SPC's draft procedure was piloted in 18 PPOs in 2014, and the Rulebook on Performance Assessment²¹⁵ was first implemented in 2015. The performance results used through 2016 were considered when deciding on the election of candidates to permanent tenure, higher-instance positions, or temporary transfers or assignment of specific tasks, initiating dismissal procedures and obligatory trainings. Evaluations are done by a prosecutor's immediate supervisor – Public Prosecutors are evaluated by the Public Prosecutor of their higher-instance PPOs, and Deputy Public Prosecutors by the Public Prosecutors of their office. The opinion of Prosecutors' Collegiums²¹⁶ is required in both cases. Annual evaluations are required for newly appointed Deputy Public Prosecutors, although immediate supervisors are required to continually monitor their performance and record results every four months.

332. The criteria contained both qualitative and quantitative elements, in line with CCPE recommendations.²¹⁷ The criteria for Deputy Public Prosecutors included (1) timeliness, (2) competence and results, and (3) dedication and cooperation. All three criteria must be evaluated as excellent or satisfactory for a satisfactory overall performance. For Deputy Public Prosecutors In Basic and Higher PPOs, performance evaluations were conducted by comparing the number of received cases and the number of cases in which a prosecution act²¹⁸ was issued (timeliness), but also by considering the share of final convictions and acquittals (competence and results). To receive a positive evaluation for the first two criteria, a Deputy Public Prosecutor should have processed more than 60 percent of his or her assigned cases. For Appellate PPOs, Deputy Public Prosecutors had to

²¹² The Law on Judicial Academy (Official Gazette No. 104/2009 as amended 32/2014, Constitutional Court Decision and 106/2015) and the Rulebook on the Entrance Exam for the Initial Training (adopted by the JA Management Board in August 2010)

²¹³ Following SPC decisions, eight trainees were enrolled to the initial training program in 2014, 12 in 2015, and seven in 2016.

²¹⁴ See, for instance, Opinion No. 11 (2016) CCPE – “the CCPE recommends that the evaluation of prosecutors' work be transparent and foreseeable, having been based on clear and previously published criteria, both as regards substantive and procedural rules” so prosecutors can discuss the results of the evaluation, or compare the results to their self-evaluation with the evaluation conducted by their superior.

²¹⁵ Adopted by the SPC in May 2014

²¹⁶ Composed of the Public Prosecutor and all Deputy Public Prosecutors in a PPO.

²¹⁷ Opinion No. 11 (2016) CCPE: “the CCPE considers that defining quality of prosecutors' work should contain both quantitative and qualitative elements, such as the number of opened and closed prosecution cases, types of decisions and results, duration of prosecutorial proceedings, case management skills, ability to argue clearly orally and in writing, openness to modern technologies, knowledge of different languages, organizational skills, ability to cooperate with other persons within and outside the prosecutor's office.”

²¹⁸ A prosecution act may be a decision, request, order, proposal, agreement, indictment, initiative, opinion, appeal, etc.

have processed at least 70 percent of received cases for a satisfactory timeliness rating. For the quality criteria of competence and results, immediate supervisors of Appellate Deputy Public Prosecutor were to consider their supervision reports and decisions about the proceedings of lower-instance offices, quality of prosecutorial acts, knowledge levels, legal analyses conducted, and harmonization of judicial practices. The criterion of dedication and cooperation examined written and oral communications, the quality of justifications presented, accountability, cooperation with colleagues and other authorities, professional development, use of ICT, etc. These criteria were used in all jurisdictions: the evaluation scale contained only descriptive explanations. There were no criterion included to assess a Deputy Public Prosecutor's expertise in adversarial procedures.

333. Public Prosecutors also were assessed for their managerial competence based on three criteria – leadership, supervision, and office results. Numeric values were used for office results: for a satisfactory rating of the PPO office results, at least 70 percent of cases should have been processed for Basic and Higher PPOs, and a minimum of 40 percent by Appellate PPOs. More general descriptors were used for evaluating leadership and supervisory competences.

334. Overall, rating procedures suffered from excessive rigidity and lacked other elements of an effective performance appraisal system. The missing elements included specific quantity standards and targets; self-evaluations; performance feedback, and guidelines on how less-than-optimal performance should be addressed. Thus, instead of having evaluations based on quantitative criteria that applied to all PPOs at the same level, the quantity of work was scored based on the number of cases allocated to and resolved by a prosecutor, without taking into account caseloads of other prosecutors in the PPO or the jurisdictional average. The rules also were not clear about how evaluation ratings could be used to make decisions about probation, promotion, and discipline, and did not include criteria that create incentives to improve performance.

335. The performance rating system based on the number of cases of cases allocated to and resolved by a prosecutor introduced considerable subjectivity in and the possible manipulation of the evaluation process. This was particularly true since there was (and is) no automated system for the distribution of cases.

336. Contrary to the position of the Consultative Council of European Prosecutors,²¹⁹ the system did not include any performance-related discussion. The only official feedback Deputy Public Prosecutors received was in the final evaluation decision. Serbian prosecutors could appeal the evaluation to the SPC, which could revise the evaluation decision.

337. Evaluations of prosecutors temporarily transferred or assigned to other tasks reflected their performance of tasks related to prosecutorial administration and case-processing results. The evaluations of temporarily transferred prosecutors considered the length of their transfer and the results they achieved in their home and transfer offices.

²¹⁹ Opinion No. 11 (2016) of the Consultative Council of European Prosecutors on the quality and efficiency of the work of prosecutors, including when fighting terrorism and serious and organized crime adopted by the CCPE at its 11th plenary meeting (Strasbourg, 17-18 November 2016).

8.3 Disciplinary Procedure

338. A proper system of disciplinary liability for prosecutors is necessary to protect their independence from arbitrary or politically motivated dismissals.²²⁰ To comply with this principle, there are three measures regulating the discipline of prosecutors in Serbia, namely the Law on Public Prosecution,²²¹ the Law on the Supreme Prosecutorial Council,²²² and the Rulebook on the Disciplinary Proceedings and Disciplinary Accountability of Deputy Prosecutors and Public Prosecutors.²²³ The Law on Public Prosecution lists 14 cases of breach of discipline in the exercise of prosecutorial duties, including infringement of the Code of Ethics.

339. The Disciplinary Committee of the SPC can impose public reprimand as a first-time sanction (other sanctions would have to be imposed for subsequent offenses); financial sanctions (a maximum reduction in pay of up to 50 percent for a maximum of one year), or three years of

The Law on Public Prosecution specifies that only significant violations of the Code of Ethics may constitute a disciplinary offense, although the Code of Ethics does not envisage measures for infringement of ethical principles. This creates an ambiguity, because there can be no enforcement of ethical breaches since there are no penalties in the Code.

ineligibility for promotion. The SPC selects a Disciplinary Prosecutor and the three-member Disciplinary Committee, all of whom must be prosecutors with more than eight years of experience.

340. The Code of Ethics for Prosecutors adopted by the SPC in 2013²²⁴ is based on six principles to promote ethical behavior – independence, impartiality, rule of law, responsibility, professionalism, and dignity. The SPC's Committee for the Code of Ethics has five members appointed for three years – one of the prosecutorial members of the SPC, three non-SPC prosecutors, and a person well-known for protecting ethical values. Their responsibilities include

developing and promoting standards, highlighting procedures that undermine these standards, proposing preventive actions, and providing clarifications and opinions on infringement of the Code.

341. Serious disciplinary offenses can lead to dismissal from prosecutorial positions. A severe offense is one that resulted in serious disorder in the performance of prosecutorial duties or other tasks in the office, serious damage to the reputation of the prosecution office, or serious violation of public confidence (particularly for violations of the statute of limitations for charging criminal offenses). Three findings of disciplinary responsibility for the same offense also constitute a severe offense. Based on the final decision, the Disciplinary Committee recommends whether dismissal is warranted.

342. The Republic Public Prosecutor and Public Prosecutors may be removed from office only by the National Assembly, while the SPC makes the final decision on the dismissal of Deputy Public

²²⁰ See Opinion No. 9 (2014) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe on European norms and principles concerning prosecutors, point 72&73. Venice Commission, *Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service*, CDL-AD(2010)040, 3 January 2011, § 40.

²²¹ Official Gazette, No. 116/08 as amended 104/2009, 101/2010, 78/2011 – other law, 01/2011, 38/2012 – Constitutional Court decision, 121/2012, 101/2013, 111/2014 – Constitutional Court decision, 117/2014, 106/2015 i 63/2016 – Constitutional Court decision

²²² Official Gazette, No. 116/2008 as amended 101/2010, 88/2011 and 106/2015

²²³ Official Gazette, No. 64/2012, 109/2013 and 58/2014, respectively.

²²⁴ Opinion No. 11 (2016) CCPE, point 35: "If prosecution services are to adopt codes of ethics, these should, as mentioned above, be in line with adopted common international standards such as laid down in Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system (hereafter Rec(2000)19)[9], the European Guidelines on ethics and conduct for Public Prosecutors of the CPGE, 31 May 2005 (Budapest Guidelines), CCPE Opinion No. 9(2014) on European norms and principles concerning prosecutors (Rome Charter) quoted above, and other relevant international instruments."

Prosecutors. The SPC establishes the facts upon which the dismissal of a Public Prosecutor would be based. For the Republic Public Prosecutor and Public Prosecutors, the Government submits dismissal proposals to the Assembly based on the findings of the SPC.

343. Anyone can file a disciplinary complaint. The Disciplinary Prosecutor investigates the complaint and decides whether to file a disciplinary motion with the Disciplinary Committee.

344. The disciplinary system guarantees the respect of rights of the defense. A prosecutor has the right to be notified promptly when the Disciplinary Prosecutor has filed a motion to examine the case file and the supporting documentation, and to present explanations and evidence for his/her statements, in person or through a representative. The accused and the Disciplinary Prosecutor each can appeal a decision of the Disciplinary Committee to the SPC, which has the final authority on disciplinary matters. Decisions of the second instance body can be the subject of an administrative matter heard by the Administrative Court.

345. A 2017 OSCE study on the Serbian disciplinary system for prosecutors²²⁵ found the rules and underlying statutory provisions were not always precise, and raised concerns about their inconsistent or selective interpretation. The ambiguities related to the distinction between minor and severe violations of the Code of Ethics, the requirement that prosecutors consciously (i.e., deliberately) violate ethical principles, and the definitions of “a serious disorder in the performance of prosecutorial duties or other tasks in the office” or “a serious violation of the reputation.” The OSCE also found other terms used to describe other Ethical Code standards were not sufficiently clear, such as “often” and “frequent” incompatible behavior or “obvious” violations.

There was no unified methodology for reporting on disciplinary procedure, and the SPC annual reports for 2014-2015 provided such different levels of detail it is not possible to compare many aspects of the disciplinary process through the three-year period.

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.

346. 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. The outcome of disciplinary complaints from 2014 to 2016 is shown in Table 14 . In 2015, there were seven cases in which sanctions were applied. Financial sanctions were applied in four of the seven and moral sanctions were applied in two. For the one case involving a serious violation of the Code of Ethics, there was a three-year suspension of promotion rather than dismissal.

²²⁵ Legislation and practice in determining disciplinary liability of prosecutors in Serbia, OSCE, 2017.

Table 14 - Disciplinary Proceedings, 2014-2016

	# Disciplinary Complaints			# Disciplinary Cases							# Disciplinary Motions		# Imposed Disciplinary Sanctions		
	Total	Against PPs	Against DPPs	Total	Filed by citizens	Filed by Prosecutors	Filed Anonymously	Rejected as unfounded	Resolved by merging related into one case, transfer to relevant authority, official note, etc.	Active cases	Proposed to the Disciplinary Committee	Passed at the Disciplinary Committee	Public Reprimands	Reduction of remuneration	Temporary Suspended Promotion
2014	139	37	102	127	101	21	5	64	NA	34	5	5	1	NA	NA
2015	313	105	208	262	247	7	8	167	NA	33	8	7	2	4	1
2016	213	49	164	197	NA	5	NA	111	53	30	4	3	NA	NA	NA

	# Motions Passed at the Disciplinary Committee	Type of Breaches in Discipline					# Imposed Disciplinary Sanctions		
		Violation of the Principle of Impartiality and Public Confidence	Breaking deadlines for drafting prosecutorial acts or filing request for regular or extraordinary legal remedy	Severe Violation of the Code of Ethics	Serious offences		Public Reprimand	Reduction of remuneration	Temporary Suspended Promotion
2014	5	NA	NA	NA	NA		1	NA	NA
2015	7	2	3	1	1		2	4	1
2016	3	NA	NA	NA	NA		NA	NA	NA

Source: State Prosecutorial Council

8.4 Training

347. The Judicial Academy is responsible for the delivery of initial and continuing training for prosecutors, and for in-service training of prosecutor assistants, trainees and other PPO staff. - below shows the number of trainees from 2014-2016 and the type of training they received. Trainings for newly elected prosecutors should be based on the two-year Initial Training Programme of the Judicial Academy based on previous consent of the SPC.²²⁶

348. The Judicial Academy did not adopt an Initial Training Programme for new prosecutors nor organize specialized program for newly appointed Deputy Public Prosecutors. The Initial Training Programme Program for initial training of prosecutorial candidates is supposed to include the application of substantive and procedural laws, judicial and prosecutorial practice, ethical standards, international legal standards, organization of judicial authorities, and skills required for the performance of prosecutorial duties. The practicum portion of the training is supposed to be supervised by mentors who have completed a JA train-the-trainer program.

349. Annual programs of continuing training are adopted by the JA's Management Board upon approval of both the SPC and the High Court Council. Mandatory trainings for judges and

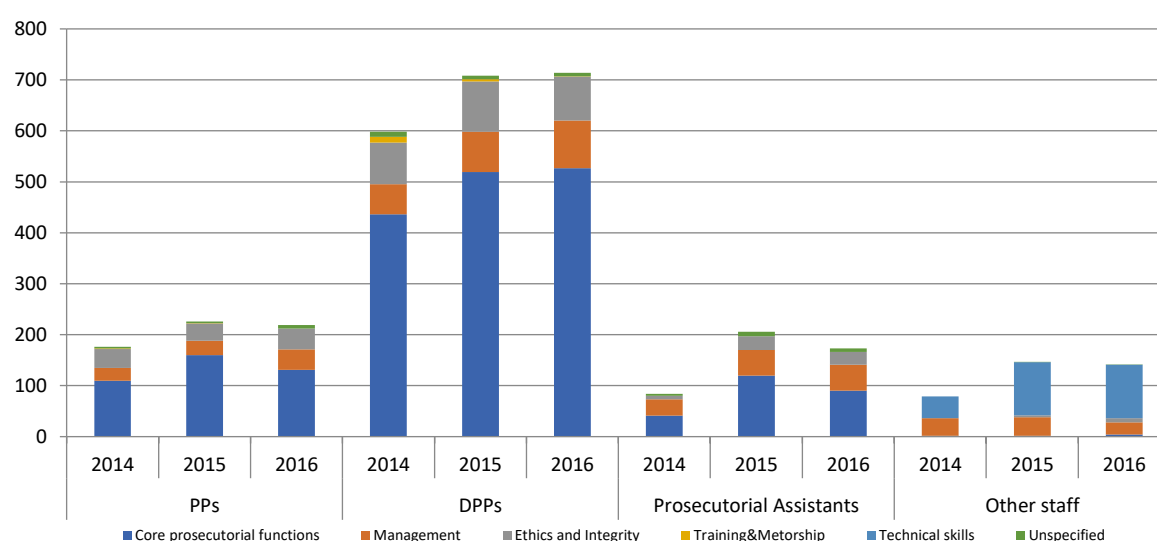
²²⁶ Article 9 Law on Judicial Academy, Official Gazette 104/2009, 32/2014-odluke US i 106/2015.

prosecutors cover jurisdictional changes, significant legal changes, introduction of new work methods and/or improving performance shortcomings. There may be separate mandatory training programs for prosecutors elected for the first time who had not completed the Academy's initial training, prosecutors elected to higher instances or who changed their legal fields, poor performers, etc., but none of these were held from 2014-2016. Prosecutors also may participate in trainings organized by other institutions, such as the MoJ, police, or international partners.

350. The Academy delivers special mandatory in-service training for prosecutor assistants and trainees. There are also voluntary training programs organized by experience levels and staff categories, some of which are done for administrative staff.²²⁷

351. There were few management-related courses offered by the JA at all in 2014-2016²²⁸ and there were no management trainings specifically for Public Prosecutors, although the Academy provides a specific management training program for court presidents. Prosecutor assistants primarily took courses relating to core prosecutorial functions, but they also participated in management trainings. Management training for other staff usually focused on technical skills and financial issues. In 2016, a total of 40 Public Prosecutors and Deputy Public Prosecutors participated in some form of management training.

Figure 87 - Number of Trainees by Area of Training and Category of Staff



Source: Judicial Academy data and WB calculation

8.5 Gender Equity

352. 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 2017.²²⁹ Women were the Public Prosecutors in 18 Basic, eight Higher, and one of the Appellate PPOs.

²²⁷ For instance, in 2016, a separate training program was organized for public relations officers in prosecution offices.

²²⁸ 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.

²²⁹ There was no similar gender-related data available for 2014-2016.

353. In 2017, Serbia had more female than male prosecutors (56 to 44 percent),²³⁰ but significant variations occurred among prosecution offices. There were more female Deputy Public Prosecutors in Basic and Higher PPOs, and women represented a minority in 18 Basic and 12 Higher PPOs. (There were only male prosecutors in three Basic and two Higher PPOs.) Approximately 40 percent of those working at the appellate level were women, and only the office in Novi Sad had an equal number of female and male prosecutors. In five Basic PPOs there were male Public Prosecutors but all the Deputy Public Prosecutors were women.

Table 15 - Percentage of Women in Leadership Positions, Serbia (2017 data) and EU28 (2014 data)

Serbia	Public Prosecutors	39%	40%	Chief Prosecutors	EU28
	1st Instance	40%	39%	1st Instance	
	Basic	39%			
	Organised Crime	0%			
	War Crimes	100%			
	2nd Instance	38%	34%	2nd Instance	
	Higher	38%			
	Appellate	33%			
	Highest Instance/Republic Prosecutor	100%	25%	Highest Instance	
	Deputy Public Prosecutors	58%	58%	Prosecutors	
	1st Instance	61%	59%	1st Instance	
	Basic	63%			
	Organised Crime	25%			
	War Crimes	0%			
	2nd Instance	50%	46%	2nd Instance	
	Higher	53%			
	Appellate	40%			
	Highest Instance/Republic Prosecutor	42%	39%	Highest Instance	

Source: SPC Data and WB Calculation

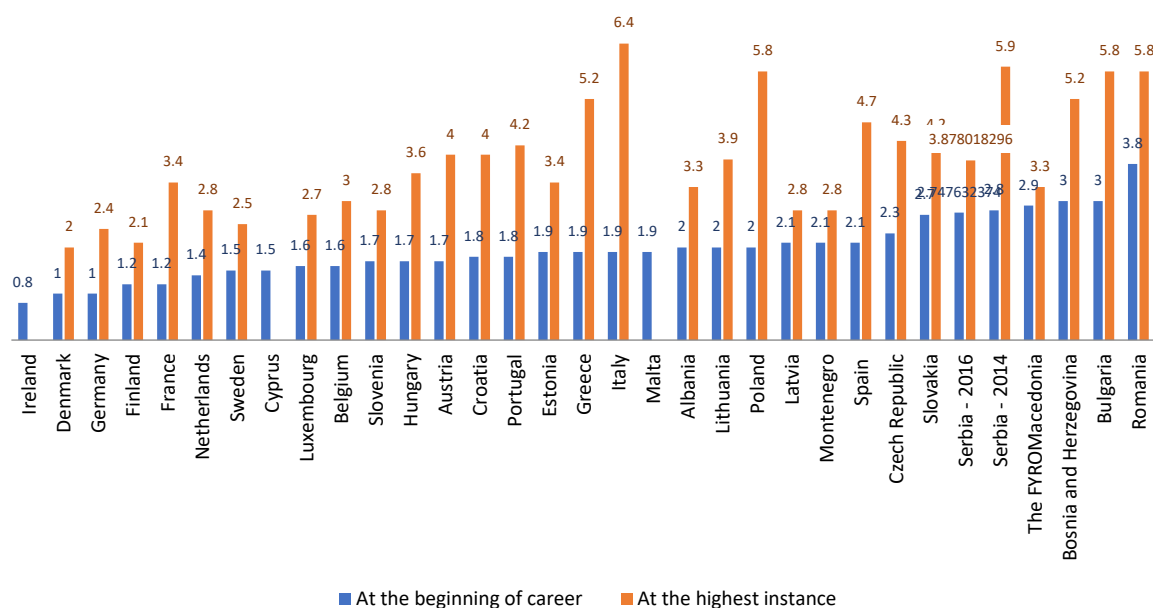
8.6 Salary of Prosecutors and Administrative Staff

354. Based on Serbia's national average salary, prosecutors in Serbia were paid on a par with their EU counterparts. In 2016, prosecutors overall earned three times more than the national average salary in Serbia (2.7 times the national average in Basic to 3.9 times in Appellate PPOs).²³¹ This was within the range of EU Member States monitored by the CEPEJ. Among EU member countries, prosecutors earned from 0.8 to 3.8 of the national average gross salaries in their early career stages and from 2.0 to 6.4 at the highest instance, as shown by Figure 89 below. Only in Bulgaria, Romania, and Slovakia did prosecutors earn more at the beginning of their career in relation to national average salaries than prosecutors in Serbia.

²³⁰ There was no similar data available for 2014-2016.

²³¹ Data were not available for the RPPO.

Figure 88 - Average Gross Salaries of Prosecutor in Relation to the National Average Gross Salaries in 2014, the EU Member States and the Western Balkan Countries.



Source: CEPEJ 2016 Report (2014 data), SPC Data and WB Calculations

355. Salaries of prosecutors correspond to the salaries of judges, as shown by Table 16 below.

A prosecutor's salary is composed of a basic salary (fixed compensation for regular work calculated by multiplying the coefficient foreseen for specific categories of job with its value set by the Budget Law on an annual basis²³²) and supplements for meals and refreshments and for years of service.²³³ The salary coefficient for Public Prosecutors is 10-20 percent higher than for Deputy Prosecutor at the same instance, depending on the total number of prosecutors in the office.²³⁴ In addition, prosecutors' salary coefficient values are significantly higher than that of other public sector employees. The SPC can increase the basic salary of a temporarily transferred prosecutor by 50 percent, and to double the salary of a prosecutor performing special duties.²³⁵ Additional payments can be made for overtime work, on-call duty, and work on public holidays. Moreover, members of the Judicial Academy's Management Board and mentors are entitled to additional remuneration for these roles – 30 percent of the basic salary of a Basic Court judge for the Board membership, and 10 percent of the basic salary for mentorship work.

²³² The coefficient net value in 2016 was approximately EUR 242.

²³³ There is a 0.4% basic salary increase for each year of service in the public sector.

²³⁴ The coefficient increases by 10 percent for managing an office with up to 20 prosecutors, 15 percent for 21-40 prosecutors, and by 20 percent for 41-60 prosecutors.

²³⁵ For processing cases with elements of organized or war crimes.

Table 16 - Salary Coefficients in the Prosecution System

Position in the Court System	Position in the Prosecution System	Salary Coefficient
President of the Supreme Court of Cassation	Republic Public Prosecutor/Prosecutor General	6.0
Judge of the Supreme Court of Cassation	Deputy Public Prosecutor/Prosecutor of the RPPO	5.0
President of the Appellate Commercial, the Appellate Court and the Administrative Court	Public Prosecutor/Public of the Appellate PPO	4.4-4.6
Judge of the Appellate Commercial, the Appellate Court and the Administrative Court	Deputy Public Prosecutor/Prosecutor of the Appellate PPO	4.0
President of the Commercial, the Higher Court and the Appellate Misdemeanor Court	Public Prosecutor/Public of the Higher PPO	3.85-4.20
Judge of the Commercial, the Higher and the Appellate Commercial Court	Deputy Public Prosecutor/Prosecutor of the Higher and Special Prosecution PPOs	3.5
President of the Basic Court	Public Prosecutor/Public of the Basic PPO	3.3 -3.6 ²³⁶
Judge of the Basic Court	Deputy Public Prosecutor/Prosecutor of the Basic PPO	3.0

Source: Law on Salaries of Civil Servants and State Employees²³⁷

356. Prosecutors working in higher-instance PPOs have a higher salary than those in lower-instance offices. The salaries of prosecutorial (and judicial) candidates enrolled at the Judicial Academy are 70 percent of the basic salary of a Basic Court judge.

357. In 2016, the average salary of staff in PPOs was slightly below the national average.²³⁸ However, non-salary compensation ranged from 11 percent to 23 percent of the average staff salary in 2016, as shown by Table 17 below. The FR team found no evidence that allocations of these funds to individual staff members was monitored to prevent favoritism or overpayments.

Table 17 - Average Annual Gross Salaries and Non-Salary Compensation for Non-Prosecutor Staff in 2016 (in EUR)

Prosecution Type	Salary of an employee	Other Compensations per employee	Other Compensation as share of salary	Range of Other Compensation
Basic	5937	958	16%	12-23%
Higher	6145	945	15%	11-21%
Appellate	6119	987	16%	13-18%
Total	6006	956	16%	11-23%

Source: SPC Data and WB Calculations

358. The salary of administrative staff is not linked to the prosecutorial level of their offices.²³⁹ Salary coefficients are organized by rank and range from 1.4 for junior clerks to 5.57 for senior prosecutor advisor positions. Salary coefficients for prosecutor assistants range from 1.9 for prosecutorial associates to 5.57 for senior prosecutorial advisor positions. Trainees, as a separate staff category, are entitled to 80 percent of the lowest basic salary for a prosecutor assistant position.²⁴⁰ On the other hand, volunteers who perform the same duties as judicial trainees are entitled to pension and disability insurance costs only.

²³⁶ 3.3 for the office with up to 20 prosecutors, 3.45 for the office with 21 to 40 prosecutors and 3.6 for the office employing from 41 to 60 prosecutors.

²³⁷ Official Gazette No. 62/2006 as amended 63/2006, 115/2006, 101/2007, 99/2010108/2013 and 99/2014

²³⁸ Discrepancies in data meant there was no usable data for 2014 and 2015

²³⁹ Law on Salaries of Civil Servants and State Employees, Official Gazette no. 99/2014.

²⁴⁰ Law on Labour Relations in the State Bodies, Official Gazette no. 39/2002.

359. Available data did not explain the wide variations in non-salary compensation among different offices in 2016.²⁴¹ On average, other compensation equaled only three percent of prosecutors' salary. However, in a few Basic and Higher PPOs, compensation equaled between six and 10 percent of salaries throughout the observed period.²⁴² Moreover, the share of other compensation to salary generally was higher at Appellate PPOs, and at the Appellate PPO in Novi Sad, it equaled 23 percent in 2015. These disparities are shown in Table 18, below.

Table 18 - Prosecutors' Average Gross Salaries and Non-Salary Compensations in 2016, in Absolute Values (in EUR) and by PPO Type

Prosecution Type	Salary of a Prosecutor	Other Compensations per prosecutor	Other Compensation as share of salary	Range of Other Compensation
Basic	16999	421	2%	0-10%
Higher	20974	469	2%	0-9%
Appellate	23992	2633	11%	6-19%
Total	18678	601	3%	0-19%

Source: SPC Data and WB Calculations

360. For more information on the wage budget and expenditures for salaries and other compensation, please see the Financial Resource Management Chapter, above.

8.7 Recommendations

The following recommendations already made also apply to this chapter:

From Governance and Management, above:

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

The recommendation from Quality, above:

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

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 designing plans and criteria for the numbers for trainee positions across 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 methodology and approving systematizations of PPOs. (MoJ and SPC – short-term)**

²⁴¹ The FT team found no Figures on non-salary compensation expenditures in 2014 and 2015.

²⁴² Basic prosecutions in Paracin and Vrbas, and Higher Prosecutions in Prokuplje and Sombor.

- ✓ 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, career development, etc.) considering specific staff positions (SPC and MoJ, med 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)
- ✓ Assess if some positions should be removed from modern prosecution system and be replaced with mid-level advisory position (i.e. development of technology will decrease need for typist) – (SPC – medium term)
- ✓ Define and apply criteria to determine which Public Prosecutors should and should not be responsible for handling cases, 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 the 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)
- ✓ Requests for additional training should be included in the self-assessments done as part of performance evaluations, as discussed in Recommendation 4 below. (SPC – short term)
- ✓ The performance data for each prosecutor should include their dismissal, conviction, plea bargaining and alternative sentencing rates. The data for individual prosecutors should in a form usable to compare 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 case-handling Deputy Public Prosecutors, and include the results in the performance assessment of each individual. The tool should be applied to any

prosecutorial handling any cases during the assessment periods, no matter how few. (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,²⁴³ a decision that meant interviews could not be scored as part of the selection process. (SPC, term?)**
 - **Requiring performance assessment panels to identify measures for improving individual performance (e.g., identification of mandatory re-training, mentoring by more experienced prosecutors or staff, etc.). (SPC and Public Prosecutors, 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, 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, term?.)**
 - **Training members of performance assessment committees at required 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.)**

²⁴³ Constitutional Court Decision, No, IUo-254/2016 from 20.07.2017.

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, a 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, rotating schedule for performance audits of HR functions 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, as needed)**
- ✓ **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 practice. (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

361. Proper ICT²⁴⁴ infrastructure arrangements are instrumental 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.

9.1 Main Findings

362. 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 Courts²⁴⁵ (including prosecutorial systems) includes a review of the three key aspects in this regard – ICT governance, equipment, and legal framework surrounding ICT development. On a scale of three to nine, Serbia earned an overall score of four. Only 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 development level (i.e., a score of three).

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

364. 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.

365. 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 only one staff member for each key aspect of judicial ICT and only one project manager, although ICT is a crucial part of any E-justice system. 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.

366. 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.

367. In total, there are six applications running across the prosecutorial system. Of those, four serve financial management function (i.e., budget execution, accounting, financial planning, and salaries administration) while the other two are CMSs (AVP and SAPO). With the exception of an

²⁴⁴ 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).

²⁴⁵ Available at CEPEJ website: <https://www.coe.int/T/dghl/cooperation/cepej/evaluation/2016/publication/CEPEJ%20Study%2024%20-%20IT%20report%20EN%20web.pdf>.

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.

368. Case management systems (AVP and SAPO) are still in their pilot phase, while only 22 percent (19 out of 87) PPOs have a CMS. SAPO is installed in 15 POs, whereas 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.

369. 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.

370. 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.

9.2 Benchmarking analysis

371. A significant number of Council of Europe member states have followed the Council's guidance²⁴⁶ and developed information technology for prosecution services to improve efficiency of their systems. Their use of information technologies has ranged from the use of IT equipment in daily work of prosecutors to introduction of E-justice tools, electronic case management, and systems to the exchange data between prosecutors and other bodies.

372. On a scale of 3 to 9, Serbia earned a score of 4 on the overall ICT development index elaborated in the newest CEPEJ thematic report on the Use of Information Technology in European Courts.²⁴⁷ This value refers to the ICT development of the entire justice system from 2014 to 2016, including both courts and PPOs, and was obtained by combining the development levels for ICT governance, legal framework, and equipment.

373. Compared to other, mostly EU, sample countries, Serbia lies below the average ICT development level. The average ICT development level carried a score of between six and seven. Only three countries – the Czech Republic, Austria, and Germany – earned the maximum score. Most other countries had scores between five and eight. Countries with a level of ICT development equal to Serbia were Belgium, Bulgaria, and Armenia; while only Albania, Cyprus, and Iceland were below Serbia's level with the minimum score of three.

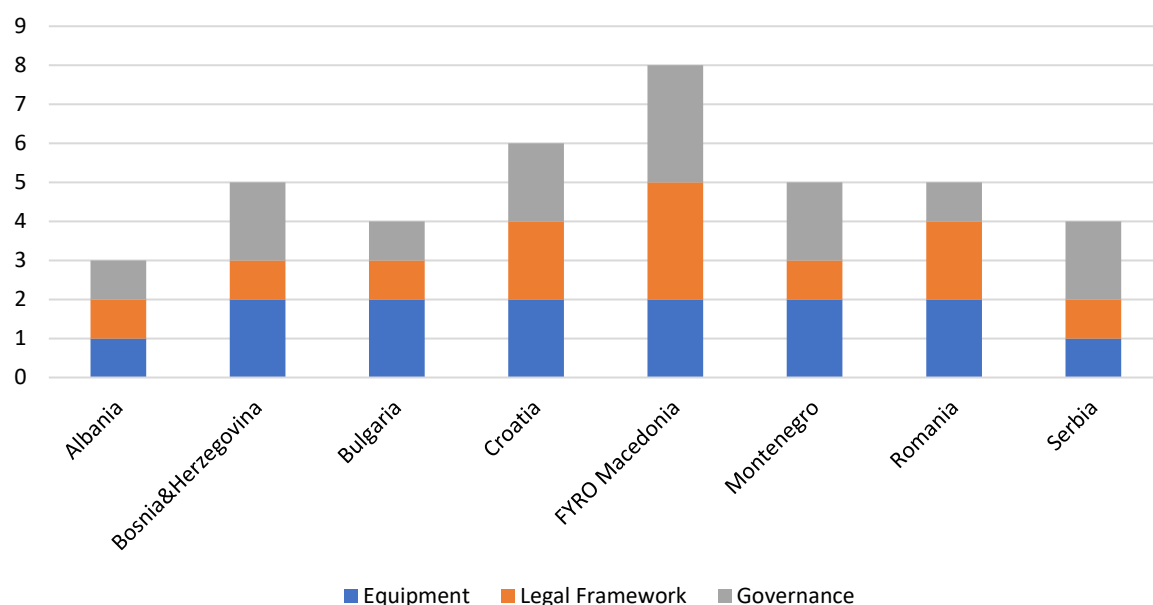
374. Within the region, Serbia lagged behind most of its peers, as shown in Figure 90, below. Except for Albania with a score of three and Bulgaria with a score of four, CEPEJ found all of the regional countries had more developed justice ICT systems than Serbia. Macedonia led with a score

²⁴⁶ Opinion No. 7 (2012) Consultative Council of European Prosecutors on the Management of the Means of Prosecution Services, point 42-43.

²⁴⁷ The use of the information technologies in European courts - CEPEJ Studies No. 24, available at <https://www.coe.int/T/dghl/cooperation/cepej/evaluation/2016/publication/CEPEJ%20Study%2024%20-%20IT%20report%20EN%20web.pdf>.

of eight, followed by Croatia with a score of six. Bosnia & Herzegovina, Montenegro, and Romania each had scores of five.

Figure 89 - Judicial ICT Development Indices, Regional Peers



Source: WB calculation

375. Serbia earned the lowest score of one for ICT legal framework and IT equipment, and had an average score of two for ICT governance. A score of one indicates a dimension in the early development phase, while a score of two indicates ongoing development. Finally, the highest score of three indicates development within the category is “almost or fully completed.” The ICT equipment category measured the level and use of ICT equipment for i) direct assistance to judges, prosecutors, and court staff in terms of material and intellectual assistance; ii) administration of the courts and case management; and iii) communication between courts, professionals, and court users. The governance dimension examined project management and strategic governance in ICT, while the legislative framework score indicated how well the legislative framework supported electronic communication between courts, professionals, and court users.

9.3 Governance of ICT Planning

376. Despite the relative lack of ICT use by Serbian prosecutors from 2014-106, the need for and progress towards Judicial ICT development are analyzed in relevant judicial strategic documents. These documents are the National Judicial Reform Strategy for 2013-2018 and the Action Plan for Chapter 23²⁴⁸ within the EU Accession process. Both documents contain broad development prescriptions and specific actions to achieve their objectives.

377. The Action Plan for Chapter 23 treats ICT as a cross-cutting requirement for increased impartiality and accountability.²⁴⁹ It is also discussed in the section on professionalism,

²⁴⁸ The Strategy is available at: <https://www.mpravde.gov.rs/tekst/2959/nacionalna-strategija-reforme-pravosudja.php>, Action plan is available at: <https://www.mpravde.gov.rs/tekst/2963/akcioni-plan-za-sprovođenje-strategije.php>

²⁴⁹ i.e. section 1.2. of the AP for Chapter 23.

competence, and efficiency.²⁵⁰ The activities listed under these sections represent an extensive official checklist of required tasks for ICT development in the judicial system. Some of those actions include: i) conducting analyses of current ICT systems in terms of hardware, software, and quality of data and human resources; ii) drawing up guidelines for future ICT system development, including estimates of financial and human resources for implementation; iii) maximization of the use of case management systems; iv) further improvement of ICT systems through investments in infrastructure and software, and improvement of human resources.

378. Many of the activities formulated within these strategic documents have been carried out successfully, but key ICT infrastructure development is still on hold. The January 2018 report on the Action Plan for Chapter 23 ²⁵¹concluded that a majority of key activities relating to ICT development have been accomplished. These included the assessment of existing ICT infrastructure, development of guidelines for future development, coordination of development activities, “clean-up” of the existing databases, and development of protocols for data exchange between the current systems.²⁵² Other activities, such as enabling electronic scheduling and strengthening ICT HR capacities, were marked as “under implementation.”

379. The ICT Sector Council was established during the first half of 2016 to coordinate the ICT reform process. The Council has the mandate to develop and monitor implementation of the entire justice sector ICT reform agenda. The mandate of the Council is closely linked with the agenda set forth by the Action plan for Chapter 23. All the key judicial system institutions – including the MoJ-, HJC- and SPC–appointed representatives to the Council. The Council meets quarterly, discusses strategic topics, and adopts relevant acts and documents (e.g. guidelines and decisions relating to the strategic development and implementation of CMS across the system).

380. ICT Development Guidelines in the Justice Sector were adopted at the first session of the ICT Sector Council. The Guidelines were based on findings from the 2014 Judicial Functional Review.²⁵³ They briefly analyzed the status of the judicial sector ICT system as of the first quarter of 2016, and provided a general reform agenda structured to include aspects of sustainability, security, impact assessment, reliability, availability, accessibility, as well as HR and financial aspects. The guidelines proposed the Microsoft Enterprise Service Bus (ESB) as a way to overcome difficulties in data exchange between different systems.

381. While the Council is responsible for strategic coordination of ICT development, the implementation of the agenda lies with the MoJ’s E-Justice Department, which currently lacks the capacity to complete it. The Department includes only six employees, including its head. One of the six positions is designated for ICT project management and one for ICT systems development, while three other positions are designated for various support tasks.

382. The SPC also has inadequate specialized staff for the SPC to coordinate ICT activities across the system. The SPC should be a hub for PPO queries to the MoJ about ICT infrastructure (including capital budget formulation). However, in 2018 the SPC still employs only one staff member dedicated to ICT.

²⁵⁰ i.e. section 1.3. of the AP for Chapter 23.

²⁵¹ Report 1/2018 on Implementation of the Action plan for Chapter 23, available at:

<https://www.mpravde.gov.rs/files/Report%20no.%201-2018%20on%20implementation%20of%20%20%20Action%20plan%20for%20Chapter%2023.pdf>

²⁵² “Judicial Interoperability Roadmap” done under the Judicial Efficiency Project financed by the EU.

²⁵³ As per activity 1.2.1.2. of the AP for Chapter 23.

383. One of the most important activities related to the analysis of the current ICT infrastructure and the mapping of future investment activities was performed during the last quarter of 2017. An EU-financed project titled “Judicial Infrastructure Assessment” produced a comprehensive document “Overall Analysis of the ICT Infrastructure Assessment for Basic and Higher Courts and Prosecutor’s Offices of the Republic of Serbia.”²⁵⁴ The document contains a very detailed assessment of all key technical areas along with a granular inventory of assets in the possession of courts and PPOs. It lists all future development steps and is accompanied by a phased-out implementation plan with relevant financial/budgetary estimates. The document considers the physical infrastructure of the ICT system as well as office equipment needs. It refers to the issues of software as well financial and HR aspects of the future interventions. Finally, it provides estimates of the required financial intervention (i.e. investment) in the field of judicial ICT infrastructure, scoped with an eye to alternatives vis-à-vis design of the future CMS solution.

384. Most PPOs are staffed either with only one ICT generalist who performs all ICT-related tasks or they do not have any in-house ICT support. The distribution of ICT personnel is summarized in Table 19, below. ICT support to the PPOs that do not have an ICT position is provided by the nearest PPO employing an ICT person. ICT staff deal with virtually all tasks, from basic Microsoft Word/Excel jobs to fixing printers or intervening in network issues. Serbia’s Judicial Reform strategy for 2013-2018 highlighted the issue of lack of proper HR arrangements and called for urgent capacity-building actions.

Table 19 - Share of PPOs with ICT Staff Members

	Total number of IT staff	percent of total with IT staff
Basic PPOs (58)	19	33%
Higher PPOs (25)	14	56%
Appellate PPOs (4)²⁵⁵	5	75%
Total	38	44%

Source: WB calculation

385. Financing of the prosecutorial ICT budget is not coordinated with the ICT development agenda. Each PPO communicates its ICT and other capital budgeting needs to the MoJ every year, but the FR team could not be determined that this process includes a formal consultation round with the bodies in charge of judicial ICT development – above all, the Judicial ICT Council and the MoJ E-justice Department.

386. Although ICT is not a separate item in the capital budget, there were sporadic purchases of working stations and printers for individual PPOs during the period being reviewed. In 2015, there were many individual purchases of ICT equipment across the system – for instance, RSD 905,000 for the Appellate PPO in Nis, RSD 585,000 for the Higher PPO in Novi Sad, and around RSD 3 million for the purchase of different equipment for the three Basic PPOs in Belgrade. Consideration of future

²⁵⁴ This was an unpublished report made available to the MTDF-JSS team.

²⁵⁵ The Belgrade Appellate PPO has none, Novi Sad and Nis each have two, and Kragujevac has one.

purchases should consider the findings of the 2017 “Overall Analysis of the ICT Infrastructure Assessment for Basic and Higher Courts and Prosecutor’s Offices of the Republic of Serbia” analysis discussed above. Linking the development of the prosecutorial ICT system to the judiciary’s, which is somewhat better condition, would be a reasonable approach to jump-starting ICT in PPOs.

9.4 Status of ICT Equipment

387. The current level of ICT equipment serves only the basic needs of the prosecutorial system. The use of computers is widespread, as all prosecutors and support staff have access to personal computers. The ICT infrastructure in the prosecutorial system is supposed to provide support in the following three aspects: i) direct assistance to prosecutors; ii) assistance to administration and management; and iii) enabling. While there is software that supports some different business processes, the primary use of working stations remains word processing and e-mail communication. communication between prosecutor’s offices.

388. Most working stations in the system are between three and five years old. Table 20 below shows the age structure of the computers used by prosecutors and staff members across the system. It classifies the age of computers in the below categories, and while most are in the ‘3 to 5 years’ category (770), there are significantly more computers older than seven years (525) than relatively new ones (371).

Table 20 - Age structure of PCs Across the Prosecutorial System

	Older than 7 years	Between 3 and 5 years	Less than 3 years
Appellate PPOs (1,316*)	28	51	19
Higher PPOs (570*)	150	215	115
Basic PPOs (132*)	347	504	237

Source: Analysis of Judicial ICT Infrastructure

*Total number of prosecutors and staff

389. There is an insufficient number of printers and scanners across the system. The 2017 EU project report indicated there were 527 printers in the 58 Basic PPOs, although they required twice as many (1,080). There were 246 printers in the 25 Higher PPOs, while the required number was 531.²⁵⁶ The estimated total number of additional printers needed would be around 840. Most PPOs did not have a scanner. The survey performed by the EUD ICT Assessment found only 25 scanners in total, excluding the RPPO. The Assessment calculated the required equipment as 47 A3 scanners, 91 A4 scanners, and 75 bar code scanners.

390. There are similar gaps in equipment need to facilitate investigations and hearings. The EU report deemed the number of dictaphones as insufficient, while no Basic, Higher or Appellate PPO had video-conference equipment or a projector. Although case-related statistics show many Serbian

²⁵⁶ These Figures exclude Basic and Higher PPOs in Belgrade, since their data was not included in the database made available to the MDTF-JSS Team.

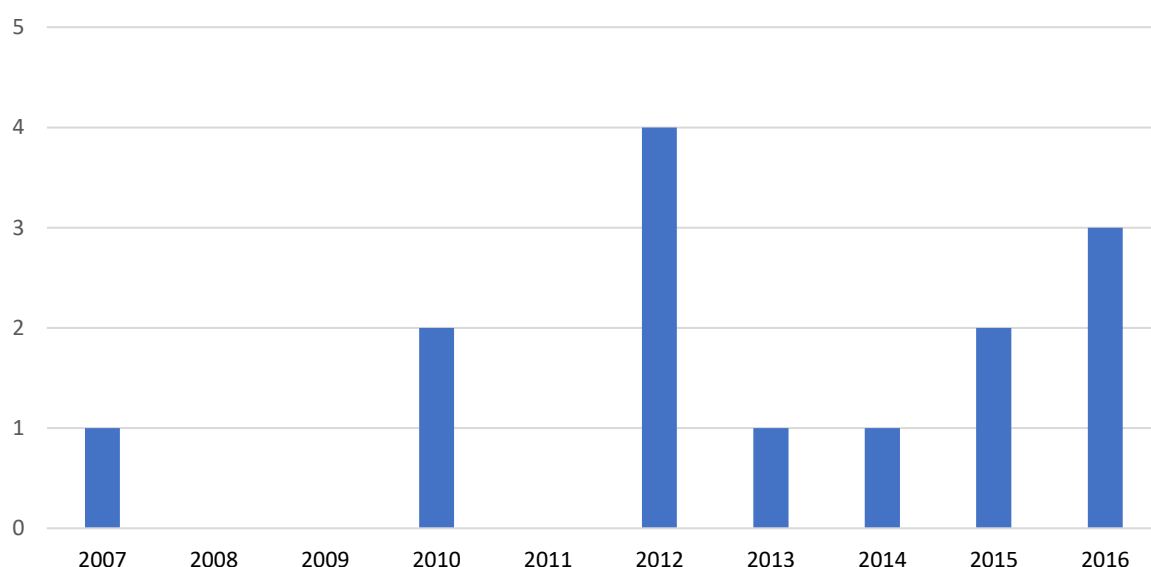
PPOs have been processing their increasing numbers of incoming cases and gradually reducing their backlog, the other equipment is needed to further boost PPO performance and reduce the many risks associated with manual entry of data.

391. The lack of formal data storage poses a significant security risk. With the exception of a few offices that have their own servers, data is stored mostly on local hard drives, which carries tremendous operating and security risks. In-office file transfers are performed over the LAN network, but there also are significant security risks through the e-mail exchange of data. There is no dedicated e-mail server for all PPOs with the official *@jt.rs domain, and individual PPOs are using free e-mail services like Gmail, Yahoo and Hotmail, so transport of information between PPOs goes through an internet connection. With a dedicated e-mail server, all e-mail transport between PPOs would be transferred within a more secure WAN judicial network.

392. Internet hosting is decentralized and a large majority of PPOs do not have their own website. However, European standards requires that prosecution services maintain their own website to maintain sufficient levels of transparency and public awareness.²⁵⁷

393. PPOs in Serbia have been present on the internet since 2007, but only 16 percent of them have their own web sites. A detailed report produced by the Multi-Donor Trust Fund for Justice Sector Support in Serbia (MDTF-JSS) shows that only 14 offices of the 87 Basic, Higher and Appellate PPOs have a web presence.²⁵⁸ Figure 91 below shows the chronological appearance of PPO websites over the past 10 years. Each PPO has individual contracts with their web site hosts, which are small local companies, and the web sites are not coordinated or supported by the SPC. Moreover, not all websites are registered under the official domain for PPOs, which is the “jt.rs” domain. Finally, the structure and content of the existing websites are very diverse and a majority do not have a mobile version, which reduces their accessibility.

Figure 90 - Chronological Appearance of PPO Websites (2007-2016)



Source: WB calculation

²⁵⁷ Opinion No. 7 (2012) Consultative Council of European Prosecutors on the Management of the Means of Prosecution Services, point 44.

²⁵⁸ Analysis of Prosecutor's Office Web Sites in the Republic of Serbia, MDTF-JSS, February 2017, available at <http://www.mdtfjss.org.rs/archive//file/Analysis%20of%20Prosecutor's%20Office%20Web%20Sites%20in%20the%20Republic%20of%20Serbia%20-%20EN.pdf>.

394. Overall, the level of ICT equipment is so low that one can hardly speak about a ‘prosecutorial ICT system’. There is virtually no coordination or support from the SPC even though future development will require central design, management, and development.

9.5 Applications and Network

395. Software applications are at the heart of any modern prosecutorial ICT system. Their purpose is to provide material and intellectual assistance to prosecutors and staff in performing judicial and administrative responsibilities.

9.5.1 Applications and Software

396. There are six different applications running in the prosecutorial system, in addition to legislative and regulatory tracking software. Four of the six serve financial management functions: i) ZUP – the accounting software; ii) ISIB – the payment-processing and budget-management software; iii) FINPLAN – the financial-planning software used to communicate monthly budget execution plans; and iv) employee salary management software used to process salaries. Finally, there are two different case management systems – AVP and SAPO – running across a limited number of PPOs, as shown in Table 21 below.

Table 21 - Applications Running in the Prosecutorial System

Application	PPOs using the application
AVP - Case management system	Higher PPO in Zrenjanin Basic PPO in Zrenjanin Basic PPO in Kikinda Basic PPO in Bačka Palanka
SAPO - Case management system	RPPO 3 Appellate PPOs 4 Higher PPOs 7 Basic PPOs
ZUP - accounting software	All PPOs
FMIS/ISIB - budget execution software	All PPOs
FINPLAN – financial planning software	All PPOs
Payroll software	All PPOs
Legislative and regulatory tracking software	All PPOs

397. There is virtually no interoperability between most of the existing software systems. There is communication between ZUP and FMIS/ISIB through .xml files generated in ZUP and uploaded manually to FMIS/ISIB. Although there are better ways for two systems to communicate – especially transactional systems – this arrangement greatly reduces the time demands on PPO accounting staff, who otherwise would have to enter each payment request manually in FMIS/ISIB.

398. The Case management systems AVP and SAPO are still in their pilot phases, with only 22 percent of the 87 PPOs having a CMS²⁵⁹, even though a sound and reliable CMS is critical for a prosecutorial system. SAPO is installed in 15 PPOs of different levels as part of the EU initiative made possible through IPA 2008, while AVP – which was adopted by the court system in 2011 – is used only by four pilot offices. Since the usage of CMS is limited to only 19 PPOs, its usefulness for analyzing case-related data and overall efficiency is very limited.

399. Virtually all systemic reports, both on regular and ad hoc bases, are produced by manual compilation and aggregation of data from the PPO network. While user experience with both CMSs is somewhat mixed, at least the Basic PPO in Novi Said has almost completely abandoned manual case records in favor of SAPO. This ensures accuracy and consistency of data, which promotes better performance by these offices.

400. The 2017 EU-project assessment of SAPO included a list of particular functionalities the system has to provide to fulfill its main purpose. The implementation of both AVO and SAPO was coordinated primarily by the vendors, and the extent to which actual users (i.e., prosecutors and clerks) were involved in system modifications is not known. SAPO is currently based on the Microsoft SQL server using EMC Documentum plus xCP for data entry and EMC Captive for scanning. Although this configuration seems stable, the recent assessment of SAPO suggested the existing middleware be upgraded and the reliance on xCP extension be reduced to save on maintenance costs. The listed functionalities (although not detailed enough to enable actual development of the application), include workflow management; analytical reporting, and statistical reporting. The system also needs to provide response time of less than 5 seconds; the capacity to handle at least 50,000 cases per year with 2,100 users; support use of different browsers; provide history management and searching capabilities; provide data security according to ISO 27001:2005 standard, and to provide for interoperability with the systems running in police and courts. During further development of the CMS, detailed specifications of the functionalities should be drafted by the end-user PPOs to ensure sustainability and effectiveness.

401. The current estimate of the cost to complete the upgrade of SAPO is around EUR 1.2 million. This estimate includes only the capital expenditures associated with software development and deployment, purchase of required hardware, and training. Estimates were provided by running a survey among local vendors and obtaining licensing prices and daily costs for specialized programming consults. The estimate for annual maintenance costs for the upgraded SAPO is EUR 574,400, which is a considerable increase from the current budget for this purpose, of around EUR 100,000.

²⁵⁹ This is based on the report “Overall Sustainability of the Current SAPO and SAPA Systems” produced under the EU financed project Technical Assistance to the Justice Sector.

9.5.2 Communication Network

402. CMS cannot operate without a functional communication network and other cloud services, e-mail transport services and online backup services. While the existing LAN/WAN infrastructure serves the current needs of the prosecutorial system,²⁶⁰ it needs to be upgraded.

The existing WAN was established in 2010 and is based mostly on wireless access, which requires rental of VPN resources from a local provider. The entire judicial system network, including the prosecutorial system, consists of 234 nodes – a combination of one for each building and one node shared by two or more buildings. An encrypted connection to the software communication server is enabled through one router at each node. The principal contractor for the WAN services is the MoJ, which pays the annual WAN service cost of approximately EUR 200,000.

403. Currently, WAN capacity is below judicial network needs and requires improvement. Most of the 234 nodes have insufficient connection speed. The WAN judicial network management is outsourced to the VPN provider, which facilitates connectivity at the IP level. PPOs are responsible only for their local area networks. This VPN arrangement implies that the user (in this case, PPOs) controls and maintains local network safety for the provider's network equipment. Between the L3VPN connection device and local network, the PPO/user should have a firewall – which currently does not exist. The firewall allows the user to define network priorities, rights, and firmly secure the local area network. Since PPOs do not have their own WAN/VPN network, most of them are using their building's common WAN/VPN network. On the LAN level, the prosecutors' network is separated through virtual local area networks.

404. The main variable defining different options for the future development of the WAN network is the scanning capability of the CMS. The required bandwidth/link speed is the only feature affecting the cost of service.²⁶¹ Calculations justifying the recommended link speeds and a survey of market prices from local providers yield a total cost for future WAN monthly expenses in the range from EUR 96,000 to EUR 210,000 for lower speed solutions, and a slightly higher price of EUR 98,000 to EUR 220,000 for the higher speed solution. The current WAN service bill is EUR 200,000 annually.

405. The total estimated investment in LAN infrastructure for the entire judicial system would be EUR 1,687,995 for both courts and PPOs. If PPOs carry the same share of expenses of approximately 40 percent as for the remaining ICT equipment listed above, the total investment needed would be EUR 681,223. For the most part, the existing LAN consists of Category 5/5E UTP cables that are outdated. The network also suffers from insufficient numbers of RJ-45 jacks, which hinders network performance. In total, there are 13,546 RJ-45 jacks of which 1,954 are in buildings where PPOs are hosts. Most of these jacks were installed before 2010. The 2017 judicial ICT infrastructure Assessment recommended the addition and replacement of the RJ-45 jacks, replacement of outdated routers and switches, and addition of more up-to-date equipment such as core router or firewalls to add to data security and integrity.

²⁶⁰ The network infrastructure for most PPOs has been developed and maintained by courts, since the courts are usually the formal hosts in buildings where both court and PPOs are located.

²⁶¹ This was also taken from the 2017 Judicial ICT Network Requirements Report prepared by the EU-financed project titled "Judicial Infrastructure Assessment."

9.6 Estimate of Future Investments in ICT

406. The total estimated investment for judicial IT infrastructure stands at EUR 21.04 million, which includes the LAN and WAN costs discussed above. This amount was adopted from the 2017 EUD Assessment of ICT infrastructure in the judiciary. This would cover the entire judicial system with gross investment Figures by buildings, since they are usually shared between courts and PPOs. Table 22 below shows the detailed structure of preliminary investment costs for the entire system for the option recommended by the 2017 Assessment, which includes scanning capabilities of the future CMS solution.

Table 22 - Required ICT Infrastructure Investment Breakdown, (in EUR)

Investment item	Amount	Implementation Phase
IT equipment	7,373,385	I
LAN network development	1,687,995	II
Server rooms	4,421,250	III-a
Office equipment support	2,183,535	III-b
Innovation infrastructure	5,378,041	III-b
TOTAL COST	21,044,206	

Source: adopted from Analysis of Judicial ICT Infrastructure

407. The expected investment of the prosecutorial system for ICT infrastructure is EUR 8.5 million. This is based on the assumption that PPOs would bear a proportional share of the total judicial IT infrastructure. For example, if there is a Basic Court and Basic PPO in one building, the PPO would finance 50 percent of the total required investment figure. The estimates in Table 23 below are broken down by PPO category.

Table 23 - Estimated Investments in IT Infrastructure, per PPO Category (in EUR)

	Amount (EUR)	Share of total
Appellate PPOs (4)	692,214	8.1%
Higher PPOs (25)	2,636,536	31.0%
Basic PPOs (58)	5,178,039	60.9%
Total	8,506,789	100.0%

Source: Adopted from Analysis of Judicial ICT Infrastructure

408. The EUD ICT Assessment suggests that future investments should be phased to achieve optimal results. The project implementation would be split into three phases. Phase I, expected to last one year, would include purchase and installation of the necessary IT equipment. Phase II would be implemented along with Phase I and includes the development of the LAN infrastructure. The remaining phases (i.e. Phase III-a and III-b) would last five years and include installation of server

rooms, followed by purchase of support equipment (e.g. photocopiers, projectors, document cameras, dictaphones) and, finally, investments in innovation infrastructure (e.g. video conference, VOIP, and telephony systems). The funds required for project implementation would be sizable given the judiciary and prosecutorial budgets. Coordination and monitoring of the improvements also would require more specialized personnel than either the courts or the prosecutorial system currently employs.

409. These estimates would have to be re-assessed as part of any final selections of systemic future ICT development. The estimates are based on assumptions about the features of future CMS development. Decisions, rather than assumptions, should be based on detailed technical and functional specifications drafted with the involvement of end-users in the PPOs.

9.7 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 in the short-run:

- ✓ **Adoption of the Judicial Infrastructure Report²⁶² 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 “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)**

²⁶² 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.”

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. **(MEI – 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

10.1. Main Findings

410. 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.

411. PPOs lacked appropriate office space and the buildings in which they were located were in poor condition. Capital investment projects had not been 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.

10.2. Existing Infrastructure Stock

412. The 87 Basic, Higher, and Appellate PPOs are in 56 cities and municipalities, and in 66 physical locations. The number of inhabitants in territories served by Basic PPOs ranged from slightly over 24,500 to nearly 532,000. For Higher PPOs the number ranged from 76,500 to 1,660,000. The Appellate PPOs covered territories inhabited by 1.2 to 2.3 million people. However, Basic and Higher PPOs of the same size served very different numbers of inhabitants, as shown by Table 24 below.

Table 24 - Number of Inhabitants in PPOs' Territory, Compared by Prosecution Type and Size

Prosecution Type	PPOs by size (number of prosecutors)	Number of PPOs	Inhabitants in PPO territory
Basic	XS (up to 5)	28	24,678-101,510
	S (6-8)	17	80,729-186,906
	M (9-16)	8	102,848-213,251
	L (17 - 31)	4	301,338-531,932
	XL (over 31)	1	469,234
	Total	58	24,678-531,932
Higher	S (up to 8)	22	76,377-312,278
	M (9-20)	2	378,372-519,611
	L (over 20)	1	1,659,220
	Total	25	76,377-1,659,440
Appellate	S (up to 16)	3	1,180,896-1,937,010
	M (over 16)	1	2,327,078
	Total	4	1,180,896-2,327,078

Source: *The Decisions on the Number of Deputy Prosecutors, database of the Statistical Office of the Republic of Serbia (2011 data on population numbers) and WB Calculations*

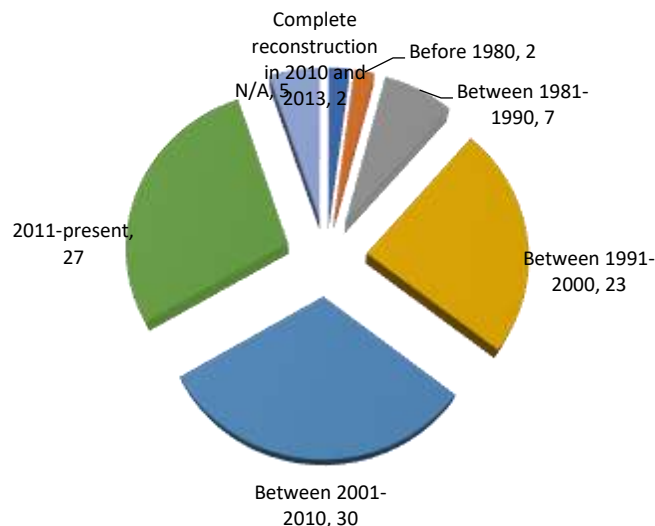
413. The 2014 network changes put Serbia well above the EU28 average for the number of court and PPO locations per 100,000 inhabitants. For 2014, CEPEJ reported that Serbia had 2.2 first instance courts and 2.3 court locations per 100,000 inhabitants, while the overall averages were 2.0 and 1.8, respectively.²⁶³ EU28 averages²⁶⁴ were 1.6 first instance courts (ranging from 0.1 in Ireland and the Netherlands to 5.0 in Portugal) and 1.7 court locations per 100,000 inhabitants (ranging from 0.2 in the Netherlands to 4.8 in Croatia). Among the Western Balkans, only Montenegro had both ratios higher than Serbia.

10.3. Physical Condition of Judicial Facilities

414. In 2016, a comprehensive assessment determined the overall conditions of buildings used by judicial institutions was very poor. EuropeAid assisted Serbia in collecting the infrastructure data and assessing physical conditions of facilities used by courts and PPOs as well as ICT infrastructure. The project successfully assessed the majority of facilities housed by judicial institutions; however, data were not available for 13²⁶⁵ of 58 Basic, two²⁶⁶ of 25 Higher, and one²⁶⁷ of four Appellate PPOs. In addition, partial data were provided for 24²⁶⁸ of the PPOs encompassed by this study.

415. Most facilities were between 30 to 70 years old, but 12 buildings dated back to the late 19th and early 20th centuries, as shown by Figure 92 below.

Figure 91 - Age of Judicial Facilities



Source: Europe Aid Judicial Infrastructure Assessment Reports and WB Calculations

²⁶³ European Judicial Systems, Efficiency and Quality of Justice, CEPEJ Studies No.23 (<https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680788228>)

²⁶⁴ Spain is not included due to its specific methodology for counting the number of courts (each judge being considered as a court).

²⁶⁵ Trstenik, Veliko Gradiste, and Vrsac.

²⁶⁶ Belgrade and Negotin.

²⁶⁷ Belgrade.

²⁶⁸ 11 Basic, 11 Higher, and two Appellate PPOs.

416. There were significant variations in the space allocated to PPOs. Three Basic PPOs²⁶⁹ with more than one office per person meant those PPOs may have had more space than they needed, while PPOs in Novi Pazar and Zajecar had on average three persons per office. These included eight offices shared by eight prosecutors and 16 staff members in PPO Zajecar, and nine offices shared by seven prosecutors and 16 staff members in PPO Novi Pazar. Overall, the 2016 assessment concluded the average number of offices and square footage per person was appropriate. See Table 25, below.

Table 25 - PPOs Facilities (Available Data Only), 2016

	# PPOs for which the data were available	# Appointed Prosecutors	# Staff	# Offices	Office space in m ²	# Offices/ person *	Range	m ² /person *	Range
Basic PPOs	45	269	571	472	8743	0.6	0.2-1.6	10	3.5-29.0
Higher	23	141	288	280	5407	0.7	0.1-1.0	13	0.7-25.9
Appellate	3	32	64	53	957	0.6	0.5-0.6	10	8.2-11.8
Total	71	442	923	805	15107	0.6	0.1-1.6	11	0.7-29.0

* Prosecutors and Staff

	# PPOs for which the disaggregated office data were available	# Appointed Prosecutors	# PPOs with Interview Rooms	# Interview rooms	Range	# PPOs with Separate Prosecutors' Offices	# Separate Prosecutors' Offices	Range	# Prosecutors' Offices & Interview Rooms	# Interview Rooms/Prosecutor	# Separate Prosecutors' Offices/Prosecutor	# All Offices used by prosecutors/ prosecutor	Range
Basic PPOs	33	196	10	16	1-3	27	149	1-5	165	0.1	0.8	0.8	0.1-3.0
Higher	14	89	5	6	1-2	10	72	1-2	78	0.1	0.8	0.9	0.1-1.6
Appellate	2	22	0	0	NA	2	19	7-12	19	0.0	0.9	0.9	0.6-1.1
Total	49	307	15	22	1-3	39	240	1-12	262	0.1	0.8	0.9	0.1-3.0

Source: Judicial Infrastructure Assessment Republic of Serbia, EuropeAid Ref.136913/DH/SER/RS

417. Prosecutors interviewed for the FR reported the relatively small number of separate interview rooms of 0.1 per prosecutor and the significant number of instances where more than two prosecutors share an office impede efficiency. The offices used by more than two prosecutors generally also have to be used to conduct interviews for investigations. Only 10 Basic PPOs have one or more designated interview rooms. Eight of those 10 PPOs also have separate offices for prosecutors. Scheduling interviews is also a particular challenge in the nine Basic PPOs which have two to 10 prosecutors and only one designated office or interview room).

²⁶⁹ Basic PPOs in Trstenik and Gornji Milanovac.

418. PPO space often does not correspond to the PPO's staffing and other needs, and the dearth of appropriate interview rooms in PPOs, which extended the time required to complete investigations in many cases, as discussed in the Efficiency, Timeliness and Productivity chapter, above. Only 10 Basic PPOs have one or more designated interview rooms. Eight of those 10 PPOs also have separate offices for prosecutors. Scheduling interviews is also a particular challenge in the nine Basic PPOs which have two to 10 prosecutors and only one designated office or interview room).

419. Some Basic PPOs with poor infrastructure conditions had higher numbers of resolved cases per prosecutors than many other offices, while the lowest disposition rate per prosecutor among Higher PPOs belongs to Kargujevac, which had six prosecutors sharing five office. Variations among Higher PPOs range from one interview room used by seven prosecutors in Jagodina to 18 separate offices for 16 prosecutors working in Novi Sad. At the same time, there is one staff member per office in Jagodina while 25 staff share two offices in Novi Sad.

Table 26. - Interview Rooms and Separate Prosecutors' Offices by PPO type

	# PPOs for which disaggregated office data were available	# PPOs with Interview Rooms	# Interview rooms	Range	# PPOs with Separate Prosecutors' Offices	# Separate Prosecutors' Offices	Range	# Prosecutors' Offices & Interview Rooms
Basic PPOs	33	10	16	1-3	27	149	1-5	165
Higher	14	5	6	1-2	10	72	1-2	78
Appellate	2	0	0	NA	2	19	7-12	19
Total	49	15	22	1-3	39	240	1-12	262

10.4. Management of Judicial Infrastructure

420. There is no centralized database that shows the ownership, square footage, number of offices, interview and court rooms, security equipment, etc., for facilities used by courts and/or PPOs. The Republic Property Directorate initiated the creation of a single electronic state property registry some years ago. However, a performance audit carried out in 2015 by the State Audit Institution found that un-aligned regulations and inconsistent data entry did not provide for the effective management of state-owned property. There also is no mid-term investment plan based on estimated reconstruction needs or costs.

421. The absence of any design standards or facility maintenance protocols creates a wide range of issues, such as the housing of courts and PPOs in unsuitable space. This situation also leaves some courts and PPOs with inadequate numbers, sizes, and types of offices, and limited access for the disabled.

422. The MoJ plans and contracts for capital and investment maintenance. Payment for maintenance and remodeling costs for facilities used by PPOs may be covered by the MoJ, the HJC and SPC, individual courts or PPOs. Other state authorities or local governments owning or sharing buildings used by courts and PPOs may also share in maintenance and remodeling costs.

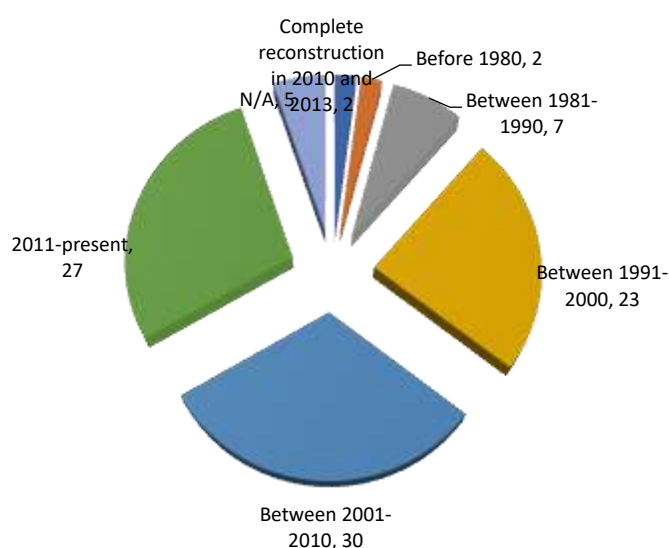
423. Most PPOs are located in buildings owned by central and local governments, while a few PPOs have offices rented in privately-owned buildings. Arrangements for paying rent, heating, electricity, phone bills, and other recurring expenses are specified in the leases between building owners and the occupying institutions. In some cases, the building owner covers all costs.

424. Staffing norms do not correlate the number of guards or building maintenance with the number of judges or prosecutors, or the square footage of an office. The norms do contain a specific ratio for the number of cleaning staff related to office size, but it is unclear why some PPOs employ cleaning and building maintenance staff and judicial guards, while most offices do not include cleaning staff on their payrolls.

425. Since 2000, investments have been made for the partial renovation of 30 judicial facilities, and two buildings in Nis and Novi Sad have been completely redone. This is reflected in Figure 93, below. However, there is no long-term investment strategy for renovation or plan for maintenance and reconstruction of judicial facilities.

426. While the EuropeAid Assessment reported on the repairs needed for most judicial facilities, data on the cost of renovations to judicial facilities since 2000 and the source of financing were not available to the FR team. However, it is clear that significant investments are needed to improve overall poor judicial infrastructure, even if property owners are paying for the upgrade to many buildings in which courts or PPOs are located.

Figure 92 - Age of Judicial Facilities Reconstruction Projects



Source: Europe Aid Judicial Infrastructure Assessment Reports and WB Calculations

427. In 2016, both the MoJ and the SPC financed PPO infrastructure projects and office renovations. Details are found in Table 27, below. More than 80 percent of the MoJ's capital budget for PPOs was used to purchase a building for the Higher PPO in Sombor, and the remaining EUR 176,000 was disbursed for 80 small-scale projects. An additional EUR 135,000 was disbursed by the MoJ and the SPC to 89 PPOs for recurring maintenance costs. The total value of building maintenance expenditures could not be determined by the FR team, however, since the applicable budget line also included funds spent for office furniture, IT equipment, and vehicles.

Table 27 - Infrastructure Expenditures of the MoJ and the SPC, 2016

	CAPEX		Current Maintenance Expenditures			
	MoJ	Range	MoJ	SPC	Total	Range
Basic PPOs	135,294	352-50,330	17,842	64,494	82,335	29-12,190
Higher PPOs	813,622	773-774,450	3,249	42,843	46,091	6-9,029
Appellate PPOs	2,025	264-958	0	6,538	6,538	73-2,583
Total	950,941	264-774,450	21,091	113,875	134,965	6-12,190

Source: SPC and MoJ Data and WB Calculations

428. Annual disbursement rates for recurring maintenance are relatively low and rarely exceed EUR 5,000 per PPO, as shown in Table 28. Half of all maintenance disbursements in 2016 were less than EUR 1,000, and only four²⁷⁰ exceeded EUR 5,000. Such a low annual maintenance budget for judicial facilities can address only urgent needs for small scale repairs.

Table 28 - Recurrent Maintenance Expenditures in PPOs, 2016

	# Transfers	# Transfers bellow 1,000 Euro	# Transfers between Euro 1,000-5,000	# Transfers over 5,000 Euro
Basic PPOs	59	33	23	3
Higher PPOs	26	10	15	1
Appellate PPOs	4	1	3	0
Total	89	44	41	4

Source: SPC Data and WB Calculations

429. Overall, judicial infrastructure is in poor condition and significant investments are needed for many locations. The EuropeAid Assessment concluded, seven buildings co-housing courts and PPOs were not suitable for judicial institutions, and all 57 facilities needed some reconstruction. The most common needs related to fire prevention and systems for heating, ventilation, and air-conditioning, as well as renovation of fundamental elements such as roofs, façade, external joinery, etc. The Assessment found replacement or total reconstruction was required for some of the elements, and additional space was needed at seven locations. The Assessment list in Table 29 below may not reflect all required renovations or repair, since it does not include all PPO locations.²⁷¹

²⁷⁰ Basic PPOs of Belgrade First, Belgrade Third, and Zajecar, and the Higher PPO in Belgrade.

²⁷¹ Basic PPOs Belgrade First, Belgrade Second, Belgrade Third, Lazarevac, Ub, Smederevo, Stara Pazova, Šabac, Despotovac, Kraljevo, Vladičin Han, Bor, Negotin, Higher PPOs in Belgrade and Negotin and Appellate PPO Belgrade.

Table 29 - EuropeAid Project Assessment of Repairs to Judicial Facilities, 2016

	# Facilities	
	In-need of complete renovation	In need of partial renovation
Total number of facilities	54	
Facilities with inadequate workspace for judicial authorities	7	
In need for additional space	7	
Improvement of work setting distribution across a building	4	
Adjustments to needs of persons with physical disabilities (external and internal)		32
Controlled access for detainees and prisoners		3
Security equipment (metal detectors, video surveillance, CO and CO2 detectors, etc.)		16
Fire-protection systems		29
Elevators		25
Archives		5
Roof (and gutters)		9
Facade		16
Thermal Insulation		17
Exterior Joinery (doors and windows)		24
Hydro Insulation		3
Electrical installation		8
Heating, ventilation and air-conditioning		4
Water supply and sewage system (including toilets reconstructions)		18
Reconstruction of interior walls and ceilings (including sound insulation)		0
Interior Joinery		13
Flooring		8
Furniture		10
Parking lot and/garage, access road, etc.		7

Source: Europe Aid Judicial Infrastructure Assessment Reports and WB Calculations

430. The estimated value for reconstruction of 54 judicial facilities exceeds EUR 35 million. The EuropeAid Judicial Infrastructure Assessment identified major investments were needed for architectural/structural works such as dismantling, joinery, tiling, flooring, roof, furniture, etc. Additional investments would be required to fix issues related to installations, including electrical, heating/ventilation/air-conditioning, and water supply and sewage works. These estimates are shown in Table 30, below.

Table 30 - EuropeAid project Estimation of Judicial Infrastructure Capital Expenditures

Number of judicial facilities	Architectural Works	Installations - Mechanical, Electrical and Plumbing Works	Outdoor Works	Total Capital Expenditure
54	22,846,084	11,930,874	891,268	35,668,226

Source: WB calculation

10.5. 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:

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

From Quality, above:

3. 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.
- ✓ **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 their uses of space contribute to their 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.
- ✓ **The groups should compare notes on their conclusions and prepare a joint report for consideration by the SPC, the RPPO and the MoJ.**

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,

implementation of them would have to be done in conjunction with the courts in most instances 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.
- ✓ **Providing adequate work space for all non-prosecutorial PPO staff (case and non-case-related), based on their job duties and workloads.**
- ✓ **Providing adequate and appropriate space for private witness and other meetings.**
- ✓ **Planning for adequate and appropriate space for PPO ICT and other equipment needs.**
- ✓ **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.
- ✓ **Incorporating the standards in the appropriate Rules, and updating them at pre-sent intervals included in the Rules.**

Recommendation 3:

Based on the 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 no later than December 2019.** The assessment should be updated regularly.
- ✓ **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.
 - **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.
- ✓ **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.

- ✓ **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.
- ✓ **Strengthening capacities of the MoJ Investment Department and provide adequate trainings for planning, public procurement and implementation of investment projects**
- ✓ **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)**