

## **Conclusions of the Regional Conference of Prosecutors on Cooperation and Prosecution of War Crimes**

**18-19 September 2023**

On 18-19 September 2023, the Prosecutor's Office of Bosnia and Herzegovina hosted a meeting of prosecutors from the countries of the region on cooperation in prosecution of war crimes. Representatives of the State Attorney's Office of the Republic of Croatia<sup>1</sup>, the Public Prosecutor's Office for War Crimes of the Republic of Serbia, the Special Prosecutor's Office of Montenegro, the prosecutor's offices of the Federation of BiH, Republika Srpska and Brčko District of BiH, as well as the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals (IRMCT). The meeting has been convened and organized in cooperation with United Nations Development Programme (UNDP) and with support of the European Union.

The participants agreed on the following recommendations and conclusions:

1. To endeavor to conclude agreements on cooperation regarding witness support between the prosecutor's offices of the countries of the region, among which this type of agreement has not been concluded.
2. To establish contact persons in all prosecutor's offices in the region with the Office of the Prosecutor of the IRMCT who would communicate directly.
3. To exchange data between the prosecutor's offices of the region regarding pending requests for mutual legal assistance that have been sent to the competent authorities of the countries of the region, which have not been responded to and which relate primarily to the questioning of suspects and the transfer of criminal prosecution to other countries. To make the data in question available to the Office of the Prosecutor of the IRMCT.
4. To continue the support of the Office of the Prosecutor of the IRMCT to all offices in the region. The support would be reflected in mediation in solving issues concerning cases with procedural impediments (inaccessible persons) and the most complex cases, as well as support to each office in the region in terms of delivery of necessary documentation and other types of assistance, all for the purpose of most efficient handling of war crimes cases in the prosecutor's offices of countries in the region.
5. The prosecutor's offices in the region should identify the areas in which the direct assistance of the Office of the Prosecutor of the IRMCT is needed, and should inform all the prosecutors of the prosecutor's offices in the region who work on war crimes cases that, if they want to collect certain information about witnesses with protective measures granted by the ICTY, they should first consult with the Office of the Prosecutor of the IRMCT in order to focus their joint effort on obtaining more detailed information and initiating appropriate proceedings before the IRMCT Trial Panels for the variation of protective measures.

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<sup>1</sup> The participants of the State Attorney's Office of the Republic of Croatia attended the regional conference as observers, and did not participate in the adoption of the conclusions of the conference.

6. To continue the work on and intensify the exchange of data regarding missing persons between the prosecutor's offices of the countries of the region.

7. In cases where there is a delay in proceedings, the prosecutor's offices, in accordance with their jurisdiction and the powers provided for in the laws on mutual legal assistance in criminal matters, will ask other competent authorities, who, in addition to the prosecution, participate in the process of acting on mutual legal assistance requests to act more promptly.

8. To consider the possibility of transferring the cases - criminal prosecution to the countries of the region, in the investigation phase i.e. in the earliest possible phase of the proceedings. The delegations agreed to develop concrete plans for the transfer of those cases. The representatives of the prosecutor's offices once again expressed their willingness to work together to find solutions for all remaining obstacles and challenges in the prosecutions of transferred cases.

9. Trials in absentia, in countries where it is legally allowed only in cases where there are particularly justified reasons to try defendants even though they are absent, is in accordance with the standards of the European Court of Human Rights. When it is assessed that other objectively established reasons, such as that the justice be served for the victims, the passage of time, the possibility of claiming a property claim from the defendant's property outweigh the procedural need for the presence of the defendant in the criminal proceedings, a trial in absentia will be proposed. Transferring evidence or criminal prosecution to the prosecutor's office of the country where the defendant resides still exists as a real and used possibility, and an alternative to trials in absentia.

10. Significant progress in the transparency of prosecutor's offices in the region regarding war crimes prosecution was noted through making available redacted decisions made by prosecutor's offices. Some prosecutor's offices achieve transparency by publishing press releases with certain information about the handling of war crimes cases, which significantly contributes to informing the public. The view of the conference participants is that a proactive approach in informing the public contributes significantly to the public's trust in the work of the judiciary, and they supported all UNDP proposals regarding the need for additional training on transparency in the judiciary.

11. To continue regional cooperation in the prosecution of war crimes and to improve it through the support of the Office of the Prosecutor of the IRMCT, UNDP with the support of the EU, and other international organizations. To intensify regional meetings of prosecutors handling cases in order to improve cooperation and mutual support of the prosecutor's offices of the region.