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Special Prosecution Office of the Republic of Kosovo



REORGANIZATION OF THE SPECIAL PROSECUTOR'S OFFICE OF THE REPUBLIC OF KOSOVO



Prishtinë, February 2020

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Entry word of Chief prosecutor

Honored,

I am pleased to present here before you the strategy on reorganization of the SPRK, management policies at SPRK and the document which outlines the duties and responsibilities of those responsible for this departments within the SPRK, which constitute the key guidance documents for managing the work processes in the prosecution.

Kosovo's prosecutorial system has built the necessary infrastructure for professional and efficient work in all its aspects, aiming to increase the quality of work for the prosecution and investigation of criminal offenses and perpetrators. The Special Prosecution Office of the Republic of Kosovo (SPRK), as one of the most specific prosecutors, has taken concrete steps to implement common goals for better justice and higher standards of the rule of law.

Upon having taken over the responsibility for the management of the SPRK, as I have presented in my project and asking the trust of the Kosovo Prosecutorial Council, to direct this prosecution, I have adopted these important documents in view of the structural reorganization of the prosecution and human resources, which I will present this publication.

These documents present the vision and objectives of the SPRK for a specific period of time on building internal capacity and, as such, are part of this publication not only to demonstrate my commitment to creating a new, proactive approach, cooperative and in the function of increasing accountability and accountability, but also for the transparent management of the prosecution. This new approach aims to strengthen the values of the prosecution and prosecutorial system and increase

public confidence in the work of the prosecution.

The drafting of these documents preceded discussions with representatives of the prosecutorial system and reflected the suggestions, recommendations and perspectives of friends and colleagues of the prosecution, which they shared with me since I accepted the assignment and, above all, they were based on analysis of needs for changing and reorganizing current resources.

I expect all of us, the SPRK prosecutors, the professional and administrative staff of the prosecution, as well as the bearers of the functions of the prosecutorial system, to engage in the implementation of these priorities, which I am convinced will take them to another level the degree of efficiency of the prosecution.

In the end, I would like to thank all those who supported this vision and contributed in every way, by joining this process and enabling it to develop professionally and be implemented within a short period of time.

Thank you!

Blerim Isufaj

Chief Prosecutor of the Special Prosecution Office of the Republic of Kosovo

**STRATEGY ON
REORGANIZATION
OF THE SPRK**

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I. Entry

The Chief Prosecutor of the SPRK in consultation with the governing bodies of the prosecutorial system and international partners has determined the strategic actions of the Special Prosecution Office of the Republic of Kosovo (hereinafter: SPRK), in order to fulfill the legal mandate effectively and efficiently, and to increasing public confidence in SPRK.

In order to increase the effectiveness of the prosecution and investigation of criminal offenses within the competence of the SPRK and to build the capacity of this prosecution for independent, impartial and effective work, this strategy sets out the measures and actions that need to be taken.

According to this strategy, it is considered necessary: its structuring, increasing the number of prosecutors and their profiling, appropriation of administrative staff appropriately, effectiveness and quality in investigation and prosecution, increased accountability, teamwork, cooperation with rule institutions law and communication with the public and the media.

Taking these measures through clearly defined and timely actions will affect the performance of the SPRK and is expected to guarantee positive results as set out in the prosecutorial system strategy.

II. Principles of strategy

The measures and actions to be taken are set out in the eight objectives of this strategy, which are intended to be achieved through concrete, detailed and measurable actions.

The principles underlying this strategy are:

- Proactive role in investigations;
- Accountability, control and permanent supervision of the work of prosecutors;
- Results orientation;
- Promote the work of prosecutors' teams in serious cases;

- Increasing professionalism and profiling of prosecutors;
- Cooperation;
- Communication with the public;
- Creating adequate working conditions.

In order to implement the aforementioned principles, the SPRK will operate with a different organizational structure from the current one, work on the basis of achievable strategic objectives set forth, and have a reorganization of human resources in support of the implementation of its own mandate.

III. Strategy Objectives

The work of the SPRK will be based on concrete strategic objectives that are expected to be achieved through specific activities, decision making and actions by the responsible authorities.

The objectives of the SPRK are set out below:

1. Improving the organizational structure of the SPRK;
2. Increasing efficiency and effectiveness in handling cases;
3. Professional development in the form of profiling and specialization;
4. Increase internal and external cooperation and communication;
5. Reorganization of administrative staff and
6. Improving working conditions.

1. Improving the organizational structure of SPRK

The Law on SPRK sets out the scope of this prosecution and the specific powers to handle cases. This law also provides for additional powers that specify the criteria, the fulfillment of which may designate the SPRK responsible for dealing with cases or offenses set forth in the law.

The SPRK aims at profiling prosecutors through division into departments in order to increase efficiency in fulfilling the legal mandate. This profiling also has a direct impact on enhancing the professionalism of prosecutors and strengthening their accountability. Profiling and division into departments has also been recommended by international experts, who have monitored the work of prosecutors in specific cases.

To this end, the division into departments serves the SPRK to facilitate the management of this prosecution and to increase efficiency and effectiveness at work. In addition, the new SPRK organizational structure facilitates the identification of needs for additional prosecutors and needs assessment for their training enables the equitable distribution of administrative staff and strengthens cooperation with the Police and other law enforcement institutions.

The above measures and actions will enable the SPRK to be more efficient and effective in combating organized crime, corruption (especially high profile ones), financial crimes, terrorism and war crimes.

Based on the number of cases this prosecution and the legal mandate, the division into departments will be as follows:

1. Department of Organized Crime and other crimes within the competence of the SPRK;
2. Department of Terrorism;
3. Department of Corruption and Financial Crime as well
4. Department of War Crimes.

The number of prosecutors for each department is determined by the Chief SPRK Prosecutor based on the work dynamics and number of cases for each department. In coordination with the Chief SPRK Prosecutor, the SPRK Administrator assigns the necessary administrative staff for each department within the current structure of this prosecution.

The Chief Prosecutor of the SPRK may designate the responsible prosecutor for each department for the purpose of better functioning, assisting him in matters of management and administration of the department.

In case of uncertainty as to which department should handle a case, after analyzing the case by the Head of the SPRK with the responsible prosecutors of the respective departments, the decision is made by the Head of the SPRK, which

determines which department should handle the cases received in SPRK.

1.1 . Department competences

The competences of the departments will be determined by the Chief Prosecutor of the SPRK Prosecutor, based on the special and additional powers set out in the Law on the Special Prosecution of the Republic of Kosovo, the applicable criminal legislation and the instructions of the Office of the Chief State Prosecutor.

The assignment of the cases to departments takes into account the specific elements of the offense, which require expertise and specialization, in accordance with the specifics of a department, although they may meet the elements of organized crime.

Changes in the criminal legislation regarding the determination of criminal offenses, which are not contained in the Law on Special Prosecution of the Republic of Kosovo, are determined in accordance with the criteria set out in the supplementary competence of the SPRK.

i. Department of Organized Crime and other crimes within the competence of the SPRK

Referring to the Law on Special Prosecution of the Republic of Kosovo, this department shall have the power to investigate and prosecute crimes, both in the form of attempt and various forms of cooperation in crime, as follows:

Special competence:

- Organized Crime ;
- Threatening during the criminal proceedings for organized crime;
- Endangering persons under international protection;
- Illegal acquisition, use, transfer and disposal of nuclear materials;
- Threat to use or to commit theft or robbery of nuclear material.

Complementary competence:

- Attacking the legal order of Kosovo;
- Promoting national, racial, religious or ethnic hatred, disunity or intolerance;
- Flight abduction;

- Endangering the safety of civil aviation,
- Endangering the safety of maritime navigation,
- Endangering the safety of fixed platforms located on the continental threshold;
- Piracy;
- Smuggling with emigrants;
- Trafficking in human beings;
- Endangering United Nations and related personnel;
- Taking hostages;
- Killing;
- Serious murder;
- Violation of equal status of Kosovo residents;
- Abduction of a person;
- tightening;
- Torture;
- Unauthorized purchase, possession, distribution and sale of dangerous narcotics and psychotropic substances;
- Unauthorized production and processing of dangerous narcotics and psychotropic substances;
- Serious cases of predatory theft or robbery;
- Fraud;
- Unauthorized supply, transportation, production or sale of weapons and
- Participation in the group that commits a criminal offense.

ii. Department of Terrorism

Referring to the Law on Special Prosecution of the Republic of Kosovo, this department shall have the power to investigate and prosecute crimes, both in the form of attempt and various forms of cooperation in crime, as follows:

Special Competence:

- Committing acts of terrorism;

- Failure to report the preparation of criminal offenses, non-reporting of criminal offenses or failure to report its perpetrator and assistance to perpetrators when these offenses are committed in connection with terrorism, and
- Facilitating the commission of terrorism, organizing, supporting and participating in terrorist groups.

iii. Department of corruption and financial crimes

Referring to the Law on Special Prosecution of the Republic of Kosovo, this department shall have the power to investigate and prosecute crimes, both in the form of attempt and various forms of cooperation in crime, as follows:

Special Competence:

- Money Laundering.

Complementary competences:

- Unreasonable acceptance of gifts;
- Unjustified giving of gifts;
- Abuse of official position or authority;
- Accepting bribes;
- Bribery;
- Acquisition in the exercise of duty;
- Fraud in office;
- Causing bankruptcy;
- Damage to creditors;
- Abuse of authorizations in the economy;
- Entering into harmful contracts;
- Money counterfeiting;
- Organizing pyramid schemes and illegal gambling and

- Tax avoidance.

iv. Department of War Crimes

Referring to the Law on Special Prosecution of the Republic of Kosovo, this department shall have the power to investigate and prosecute crimes, both in the form of attempt and various forms of cooperation in crime, as follows:

Special Competence:

- Genocide;
- Crimes against humanity;
- War crimes in serious contravention of the Geneva Conventions;
- War crimes as a serious violation of the laws and customs applicable to the international armed conflict;
- War crimes for serious violations of article 3 in common with the Geneva Conventions;
- War crimes, which represent serious violations of laws and customs applicable to armed conflicts that are not of an international character;
- Attacks on armed conflicts of a non-international character against installations containing dangerous forces;
- Recruitment and registration of persons between the ages of fifteen and eighteen in the armed conflict;
- Use of prohibited means or methods of combat and
- Organizing groups for committing genocide, crimes against humanity and war crimes.

2. Increasing efficiency and effectiveness in dealing with cases

The SPRK, to increase efficiency and effectiveness in handling cases, will work to successfully investigate, prosecute, and present the cases in court.

In view of this the following steps will be taken:

i. Cooperation with law enforcement agencies to enhance the quality of criminal reports and effective investigations

In view of this following actions will be taken:

- Instruction how to succeed on concrete cases,
- Provide and administer the evidences under direct supervision of the prosecutors,
- Establishing joint teams for dealing with complex and sensitive cases

ii. Provide substantive and timely expertise

To provide the expertise, actions will be taken:

- strengthening human capacities for the evaluation of expertise and their role in the successful processing of cases,
- engaging SPRK permanent experts in specific areas (money laundering, public procurement, cybercrime, abuse of office, war crimes, etc.),
- cooperation with institutions that provide expertise.

iii. Unification of working practices

In order to achieve these practices, the SPRK will:

- Give instructions, advice and recommendations to special prosecutors,
- Standards will be set for case management,
- Mechanisms for monitoring the work of prosecutors will be set,
- Advice and training on law enforcement.

iv. Effective implementation of freezing, sequestration and confiscation of assets

To reach that level of implementation, the SPRK will:

- strengthen the existing human resources and mechanisms for the implementation of the field legislation,
- intensify the activities of international legal cooperation,
- develop standard operating procedures,
- develop guidelines and policies for the implementation of legislation,
- strengthen monitoring and reporting mechanisms.

3. Professional development in the form of profiling and specialization

In achieving profiling and specialization, the SPRK will place importance on vocational development in:

The content of training for SPRK prosecutors and administrative staff should reflect in particular the real needs for trainings arising from the assessment process. It should also reflect the profile of each prosecutor, their expertise and experience.

The trainings should focus on substantive and procedural legislation, including international legislation, especially applicable in Kosovo, with priority areas dealing with the challenges of country in the integration and human rights process. In particular, the training program should focus on legislative changes

The training program will be based on the development of professional, personal and interdisciplinary competencies of SPRK prosecutors and administrative staff.

The training methodology will be directed to practical training for specialization and support of prosecutors' profiles and competencies according to their needs. An integral part of professional development activities will be mentoring and exchange programs where external expertise will be expressed.

SPRK will continuously make proposals for updating training programs.

Prosecutors' participation in the training will be coordinated with the Council, the Chief State Prosecutor and the SPRK Chief Prosecutor.

Depending on the performance shown by prosecutors and administrative staff, the SPRK will recommend specific trainings to increase their effectiveness.

4. Increase cooperation and communication in and out

In achieving effective cooperation and communication the SPRK will focus on the respective normative acts of the Prosecutorial Council and the Chief State Prosecutor.

Further, it will commit to coordinate and establish standards in publishing the work of the Special Prosecutors and the SPRK. In particular, it will work in internal coordination with the OCHSP to inform the public about complex cases and very serious crimes. Also, the SPRK will proactively engage in informing the public about the activities of the SPRK in order to improve the image and positive perception in the prosecutorial system.

In achieving this objective, the SPRK will have

- Meeting with citizens and media – developing a meeting plan,
- Publication of statistics,
- Standardization and unification of internal and external information.

5. Improving working conditions (infrastructure and equipment)

Adequate environment and work conditions are of a vital role in productivity, so SPRK urgently needs to create adequate and appropriate work conditions for its staff. Equally important is the provision of modern information technology, which directly supports the quality, efficiency and transparency of the institution.

In improving the physical infrastructure and information technology the SPRK will:

- Engages and supports linking of new databases and upgrading of current SPRK databases to those of police, courts and institutions on exchange of information ,
- Increase the use of the electronic case management system according to a dynamic plan prepared,
- Train the staff for effective implementation of SMIL, and
- Invest in information technology and the provision of work equipment through SMIL for all staff.

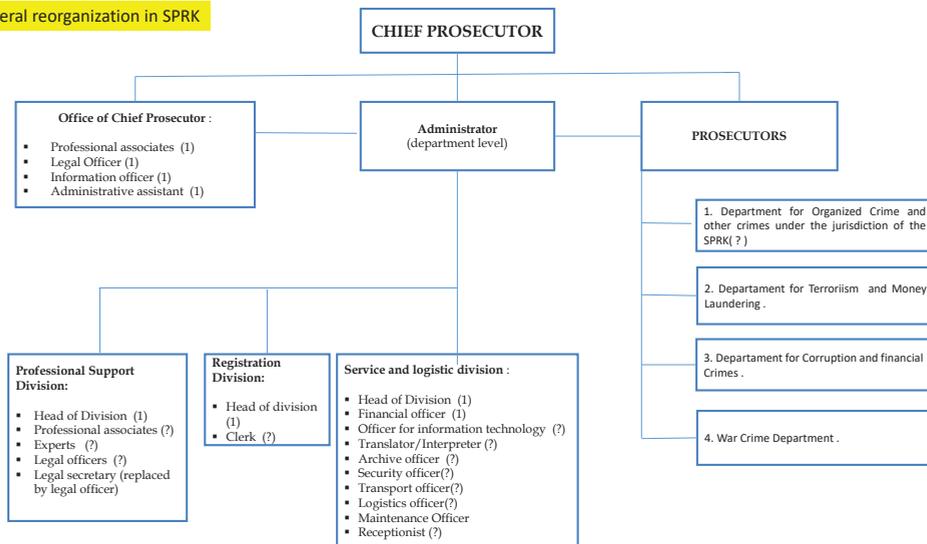
6. Reorganization of administrative staff

In support of the structure of the SPRK, the administrative staff of this prosecution will be adequately organized.

The administrator, at the request of the Chief Prosecutor of the SPRK, based on the dynamics of each department's work, will establish the number of professional associates, legal officers, experts and other administrative officers for each department.

To provide the required services, the SPRK administration will be organized as follows:

General reorganization in SPRK



IV. Closure

To implement this strategy, the Chief Prosecutor of the SPRK proposes to the Kosovo Prosecutorial Council the approval of the relevant acts.

There will also be ongoing analysis and in line with developments, either in legislation or at the level of the OSSP and Council policies, the respective changes will be made.

Management policies at SPRK

Management policies at SPRK

As prosecutors, we each have a responsibility to provide the public with security and fair distribution of justice. We must bear in mind that cases belong to the prosecution institution and not to individual prosecutors. We should strive to use our limited resources wisely and focus on cases with strong evidence and that will have the impact on public safety and the rule of law. To do this, the Head of the SPRK estimates that we must work as a team to ensure that:

- (1) the cases admitted to the prosecution are timely investigated, indictments are dropped or the investigations dismissed;
- (2) to file the indictments only when there is adequate evidence to support the allegations;
- (3) to prepare the judicial documents that are legally sound and will have sustainability in court.

Each of us must commit to improving our work in these areas. In an effort to improve our specialized efficiency and expertise, the Kosovo Prosecutorial Council has established specialized departments that will each be supervised by a Head of Department. The head of departments will be responsible for helping us improve our work in these areas. Based on this reorganization I am adopting policies aimed at improving our work and efficiency in these areas.

Case Management Policy - Submission of Summary Case Report

While each prosecutor is responsible for managing their cases, the Chief Prosecutor and the head of departments are responsible for ensuring that cases with priority are receiving appropriate attention and cases with sufficient evidence are filed in a timely manner. It is essential that the Chief Prosecutor and the head of departments be aware of obstacles or problems with external agencies so that they can assist prosecutors in resolving these problems before the case stagnates.

In addition, each prosecutor is responsible for preparing and maintaining a summary case report, which will be submitted to the head of the department and the chief prosecutor every three months. The Summary Case Report (2-3 pages) should contain the following information:

- (1) The names and file numbers of their top 2-3 cases, a brief overview of the case, the progress made since the last quarterly review of cases, the targets for the next three months, and the obstacles they have

encountered which they need the help of the Chief Prosecutor;

- (2) The names and file numbers of any case where the ruling for the initiation of the investigation has been pending for 18 months or more, the date the prosecutor foresees that the indictment will be filed or cases that may be dismissed, the investigations and obstacles that are causing delays;
- (3) Date of the statutory limitation period for each case that the prosecutor has at hand.

Each Prosecutor shall submit to the Head of Department and Chief Prosecutor an updated summary of cases one week prior to their quarterly review of cases. The report will assist the prosecutor, the head of department, and chief prosecutor in preparing the quarterly case review meeting. The reports will also assist the Chief Prosecutor in evaluating the performance and efficiency of each prosecutor as part of their annual performance evaluations. Prosecution of cases should take precedence over all other side activities, including training. Attendance by prosecutors should be approved by the Chief Prosecutor. In deciding whether to approve participation, the Chief Prosecutor will review the summary report of the prosecutor and his workload.

Based on case summary reports, the head of department should identify priority cases where the best treatment is provided by a team of two prosecutors.

Review of indictments

Every document submitted reflects the professionalism of the prosecution. Each prosecutor, no matter how experienced, can learn from the experiences of their esteemed colleagues and department heads.

Further, the following policies apply to any indictment:

- 1) The form of the indictment should be unique, clear and use the language contained in the Criminal Code and the Criminal Procedure Code;
- 2) The indictment must clearly contain a summary of the evidence on the basis of which the act was prepared, that is, how strong is the evidence, what is the acquittal and exculpatory evidence, which evidence is excluded from the case because it has not been possible to establish or are inadmissible, what evidence could not be obtained etc;
- 3) Each prosecutor shall, before filing indictments with the court, first submit

them to the head of his department for professional consultation. The head of the department and the prosecutor work together to ensure that there is adequate evidence to support the allegations in the indictment and the form of the indictment is in the legal spirit. After consulting the prosecutor with the head of the department, the Chief Prosecutor must be informed of the contents of the same before and after the indictment is filed.

- 4) If there are dissenting opinions as to whether the indictment is sufficient or complete, then the head of the department and the prosecutor shall discuss the matter with the Chief Prosecutor, who shall give the final professional opinion.

The heads of departments will keep copies of the indictments approved and make them available so that prosecutors can use them as examples / templates when submitting similar cases.

Complaints, termination of investigations and dismissal of cases

We have limited resources and must use our resources to have the greatest impact on public safety and the rule of law. For this reason, we should only use our resources to file a complaint when there are specific legal grounds demonstrating a court violation and there is a real likelihood that the complaint will be successful.

Further, the following policies will apply to each complaint:

- (1) Each prosecutor reviews each adverse decision and identifies the concrete legal basis for where the court erred and whether the complaint is a good use of resources and is likely to be successful;
- (2) If the prosecutor believes that there is a basis for a complaint and that this implies a deliberate use of the resources for the complaint, the prosecutor shall submit the complaint to the head for consultation and explains in writing the legal basis for the complaint, the specific reasons why the court's ruling is wrong and why they believe the appeal will be successful. After consulting the prosecutor with the head of the department, prior to the filing of the complaint, the Chief Prosecutor must be informed of the contents of the same and
- (3) If there are dissenting opinions as to whether an appeal should be filed, then the head of department and the prosecutor shall discuss the matter with the Chief Prosecutor, who shall give the final professional opinion.

Further, the following policies will apply to any dismissal or termination of investigation: Më tutje, për çdo hedhje të rastit apo pushim të hetimeve do të zbatohen politikat si në vijim:

- (1) Before dismissing a case or terminating an investigation, the prosecutor must disclose the concrete legal basis on which supports dismissing the case or terminating the investigation;
- (2) Before dismissing the case or terminating the investigation, the prosecutor shall obtain the professional opinion of the head of department;
- (3) If there are dissenting opinions as to whether a case should be dismissed or investigations terminated, the head of department and the prosecutor shall discuss the matter with the Chief Prosecutor, who shall give the final professional opinion.

Conclusion

This policy document does not address all the issues of the SPRK work, but focuses on only three of the top priorities that were considered most relevant for this period, and therefore should not be seen as a comprehensive document.

Implementation of these policies will require the engagement of all employees in the SPRK, with the main role being played by the SPRK Chief Prosecutor, who may require the drafting of action plans, may form working groups, organize workshops and meetings with internal and external actors, make decisions and other actions within its mandate, with the aim of enhancing the performance and efficiency of the prosecution.

Duties and responsibilities of the head of departments at SPRK

Duties and responsibilities of the head of at the SPRK

The heads of departments are an important for management team and are responsible for assisting the Chief Prosecutor in managing the activities and personnel of the SPRK, as well as supervising the work in handling and managing cases. The head of department help the Chief Prosecutor to ensure that:

- (1) Cases received by the prosecution are investigated, indictments filed, investigations terminated, closed or dismissed on time;
- (2) Indictments shall be filed only when there is adequate evidence to support the indictments and
- (3) Judicial acts filed by prosecutors are in accordance with the legal spirit and will find support in court.

Further, the duties and responsibilities of the head of department include, but are not limited to, the following:

Direct supervision of case management by the prosecutors

- (1) Ensure that the prosecutors assigned to their department follow the policies and guidelines issued by the Chief Prosecutor;
- (2) Discuss with the prosecutors the quarterly summary reports of cases provided by each prosecutor in their department, before being sent to the Chief Prosecutor, in order to: (a) Provide information on progress in priority cases; (b) identify cases that require additional attention and resource allocation; (c) ensure that there is immediate attention to the resolution of cases where the ruling to initiate the investigation was issued 18 months earlier, but the indictment was not filed or any decision dismissed or the investigation terminated; (d)) ensure that prosecutors manage the case to resolve it before it expires;
- (3) Support the Chief Prosecutor in holding quarterly meetings to: (a) ensure that there is progress in priority cases; (b) identify cases that require additional attention and resource allocation; (c) ensure that there is immediate attention to the resolution of cases where the ruling commencing the investigation was issued 18 months earlier, but no indictment has been frozen, no decision dismissed or the investigation terminated; (d) ensure that prosecutors manage the case to resolve it before it expires;

- (4) Identify those cases where a team of two prosecutors should be assigned as the case requires additional resources;
- (5) Ensure that all requests or inquiries from the media regarding cases in their department are referred through the Chief Prosecutor and communication with the public is made in accordance with the relevant regulation on public service communication in the prosecutorial system;
- (6) Assist the Chief Prosecutor in preparing the annual evaluations of each prosecutor in their department;
- (7) Notify the Chief Prosecutor of any problems with administrative personnel and
- (8) Address all prosecutors' requests for improvement of working conditions, which it deems necessary, for adequate resolution.

Review and approval of indictments, appeals, termination of investigations and dismissals

- (1) Consult with prosecutors on indictments before they are brought to court to ensure that there is sufficient and admissible evidence to file an indictment;
- (2) Consult with prosecutors on indictments before they are brought to court to ensure that their form complies with the legal language and is in accordance with the law;
- (3) Consult with prosecutors on the exercise of appeals to ensure that there is a concrete legal basis for the appeal and that the appeal is likely to be successful;
- (4) Consult with prosecutors on dismissal of acts or termination of investigation and
- (5) Any dispute regarding the abovementioned documents shall be referred to the Chief Prosecutor. In all high-profile cases, the head of department and the prosecutor should also consult with the Chief Prosecutor before filing an indictment or complaint.

Improved training and specialization of prosecutors

- (1) Hold regular meetings to discuss best practices and obstacles encountered in cases;
- (2) Collect and disseminate the best examples of approved qualifying indictments and other court submissions so that prosecutors can use these documents as a model for preparing indictments and other court documents;
- (3) Assist prosecutors in their department in resolving professional cases with claimants - criminal cases and other law enforcement agencies.
- (4) Commit themselves to the creation of adequate opportunities for participation in various forms of professional development as set forth in the relevant Regulations.



