



MONTENEGRO
SUPREME STATE PROSECUTOR'S OFFICE
Tu no. 214/25
Podgorica, May 9, 2025

**INSTRUCTION FOR PROCEEDING OF STATE PROSECUTOR'S OFFICES IN
CASES FORMED WITH CRIMINAL OFFENSES COMMITTED OUT OF HATRED
(HATE CRIME), AS WELL AS IN CASES OF HATE SPEECH**

TO ALL STATE PROSECUTOR'S OFFICES

The Law on the State Prosecutor's Office stipulates that the Supreme State Prosecutor is responsible for performing the tasks of the State Prosecutor's Office and taking measures and actions for the effective and lawful operation of the State Prosecutor's Office.

To achieve legality, effectiveness, and uniformity in the proceeding of state prosecutor's offices, applying international standards/recommendations (the Rabat Plan of Action, criteria of ECRI, and bias indicators) for equal treatment of all persons and the fight against racism, xenophobia, anti-Semitism, and intolerance, I shall issue the Instruction for proceeding of state prosecutor's offices in cases with criminal offences committed out of hatred, as well as in cases of hate speech.

According to the powers prescribed by Article 131 of the Law on the State Prosecutor's Office, heads of state prosecutor's offices and state prosecutors undertake to act in accordance with this Instruction in cases opened for criminal offences committed out of hatred (hate crime), as well as in cases of hate speech.

The Supreme State Prosecutor shall designate a coordinator to monitor the implementation of the Instruction, whose duty is to coordinate, monitor the implementation of the Instruction, and cooperate with relevant institutions, international organizations, non-governmental organizations, and projects in this area, on which he directly reports and answers to the Supreme State Prosecutor.

Instruction for heads of state prosecutor's offices

Data on cases formed with criminal offences committed out of hatred (hate crime), as well as in cases of hate speech, are statistically presented through a unique form. The form should contain the reference number of the case, information about the injured party, criminal offence and the circumstances from Article 42a of the Criminal Code of Montenegro, due to which the criminal act was committed, the time and place of the criminal offence, undertaken actions, and prosecutorial and judicial decisions, including the decisions of the misdemeanor court. The head of the state prosecutor's office is responsible for the accuracy of the data contained in the form.

Heads shall deliver the Supreme State Prosecutor's Office quarterly reports with updated data, ending on the 15th day of the last month of the quarter, for which the report is submitted.

Heads shall designate a contact person in the prosecutor's office who will be in charge of collecting data, monitoring the case progress, and promptly informing the head responsible for the accuracy of submitted data. The contact person will also be responsible for collaborating with the coordinator appointed by the Supreme State Prosecutor and preparing reports. Contact persons and coordinators are responsible for communication and cooperation with organizations that assist victims.

The head shall provide conditions for ongoing education of contact persons on topics related to standards for handling cases with criminal offences committed out of hatred, as well as cases of hate speech. Contact persons are required to attend at least one training session in this area, and they may suggest topics for training themselves.

Heads shall issue mandatory instructions in writing and undertake other actions in accordance with the law in cases where preliminary investigations/investigations take an unreasonably long time, i.e., in cases where state prosecutors do not take the necessary actions to decide within the deadlines provided by the law.

Heads shall request a detailed statement from state prosecutors regarding cases where the statute of limitations has occurred and inform the Supreme State Prosecutor thereof.

Instruction for state prosecutors

State prosecutors are obliged to:

- in reported cases with elements of hatred, take all reasonable steps to uncover any motive/circumstance from/out of hatred, which may have played a role in the event, and to especially perceive any public expression or cause of hatred towards a particular group or individual due to one of its designations to create intolerance, discord, discrimination and violence and/or incite already existing hatred, taking into account whether hatred develops, strengthens and deepens that way, namely:

- when they become aware of a suspicion that the act was committed with hate motives, pay particular attention to the existence of distinct circumstances referred to in Article 42a of the Criminal Code of Montenegro and, without delay, take all measures and actions in accordance with the law to collect evidence and establish all the facts relevant to the proceedings(motives for the commission of the crime), which include summoning the injured party/victim to the prosecutor's office to provide additional information about the incident in question, and especially to respond to the bias indicators (which are an integral part of this Instruction) as to whether he/she considers the incident to be motivated by prejudice;

- in incidents involving hate speech, in particular, without delay, take all measures and actions in accordance with the law to collect evidence and establish all the facts relevant to the proceedings, and especially that when assessing whether it is hate speech, they must apply international standards/recommendations (the Rabat Plan of Action and ECRI criteria);

- in cases involving hate speech, assess in particular any public expression or incitement of hatred towards a particular group or individual due to one of its designations to create intolerance, discord, discrimination and violence and/or inciting already existing hatred, taking into account whether hatred develops, strengthens and deepens through public speech, namely:

- to form a case about all incidents and criminal complaints while on duty, and in case of a decision to reject a criminal complaint, submit a request for initiation of misdemeanor proceedings, if the actions of the reported person show the characteristics of a misdemeanor, taking into account the limitation periods;

- during the duration of the procedure, actively cooperate with the injured parties/victims and at the same time inform them about all actions taken;

- when the criminal offense was committed out of hatred or it is about hate speech, and the same was committed via the Internet, request, as soon as possible and where necessary, to obtain the data necessary for conducting of criminal proceedings through international legal assistance in criminal matters, while in urgent cases, if there is reciprocity, the letters rogatory will be submitted through INTERPOL National Central Bureau;

- issue orders to authorized police officers to take specific measures and actions in cases opened against unknown perpetrators (KTN), in such a way to ensure the active participation of state prosecutors in preliminary investigations/investigations, and request from the police detailed and precise answers about what measures and actions were taken and what evidence was collected under the given orders;

- present, in the case of accusations in the description of the offence from which the legal characteristics of the offence arise, in the case of offences committed out of hatred, the circumstances referred to in Article 42a of the Criminal Code of Montenegro;

- in case of doubt, in a specific case, consult with the head, i.e., with the coordinator for this area.

This Instruction applies from the date of adoption.

SUPREME STATE PROSECUTOR
Milorad Marković
(signed)