

Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II “Dashboard Western Balkans II”

Prosecution case-flow data

Overview of Prosecutorial Systems and Case-Flow Data Collection in the Western Balkans

EXPERT REPORT

Executive summary

In February 2025, the European Commission for the Efficiency of Justice (CEPEJ) organized a targeted workshop to address the challenges faced by Western Balkans (WB) countries in collecting and managing prosecutorial case flow data reported to CEPEJ. The workshop focused on both discussing these challenges and finding potential solutions. A back-to-back workshop was also held for Eastern Partnership (EaP) countries focusing on the same topics.

The CEPEJ Secretariat provided an overview of the challenges related to data collection and data quality in prosecution case flow data within the Dashboard Western Balkans (DWB). Findings and best practices identified across Council of Europe (CoE) member states, based on the 2024 CEPEJ Evaluation Cycle were also shared. Representatives from WB countries presented their prosecutorial systems and the specific issues they face in managing prosecutorial case flow data.

Key challenge identified during the workshops was horizontal data inconsistency, a result from a combination of factors, including national legal systems, case management practices, and specific procedural frameworks. Other identified key challenges are variations in case registration methodologies in terms of what is counted as a case and is the same case unit used consistently for reporting, gaps in cases that were brought to courts by prosecutors and criminal cases received in the courts, the registration and counting of unknown offenders' cases, and treatment of suspended cases.

The workshop resulted in seven specific recommendations which could be summarised as:

1. Ensuring horizontal and vertical consistency
2. Eliminating double counting, mixing methodologies, and data black holes
3. Reporting by case file as the measure of unit

4. Reporting on unknown offenders cases separately or alternatively omitting those cases from the reporting to CEPEJ
5. Distinguishing between cases represented by public prosecutors and those brought by other entities
6. Elaborating system specifics in the general comments
7. Following discrepancies in comparison to previous years/cycles

Finally, the report also includes universal recommendations that can be applied not only to the DWB prosecutorial case flow data collection but to other domains as well. It is recommended to discuss all issues related to the collection process during annual meetings between beneficiary correspondents and the CEPEJ Secretariat. Analysing past reports allows for self-assessment and growth, while leveraging information and communication technologies (ICT) possibilities can enhance the process. Additionally, continuous capacity building is found to be essential to ensure ongoing improvement.

Introduction

The "Dashboard Western Balkans II" implemented within the framework of the Horizontal Facility III (2023–2026), is a joint initiative of the European Union (EU) and the CoE supporting reform efforts in the WB and Türkiye. The Horizontal Facility III assists beneficiaries in advancing their reform agendas in the areas of human rights, the rule of law, and democracy, ensuring compliance with European standards.

The principal objective of the DWB is to enhance the measurement of judicial reform outcomes in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, and Kosovo¹. This enables these jurisdictions to base their policy decisions and budget allocations on the findings of the CEPEJ, identifying outstanding reform measures necessary to improve the quality, efficiency, and accountability of their justice systems in line with European standards.

The DWB entails the annual collection and analysis of data on the functioning of judicial systems across the region. Additionally, it provides and implements tailored technical expertise and capacity-building initiatives, designed in response to the findings of this data collection.

¹ This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Workshop on prosecution case-flow data (February 2025)

On 26 February 2025, CEPEJ convened a workshop at the European Youth Centre in Budapest, offering a platform for in-depth discussions on the challenges WB countries face in collecting and managing prosecutorial case flow data. The workshop was co-organized by the CEPEJ Secretariat DWB and Dashboard Eastern Partnership (DEaP) teams and conducted on consecutive days, following the same structure but adapted to regional specificities. The co-organization allowed CEPEJ to pool expertise and share resources and knowledge across both regions. The workshop focused on data collection methodologies and statistical reporting, facilitating exchanges on best practices, common challenges, and potential solutions to improve the accuracy, consistency, and comparability of prosecutorial data.

In preparation for the workshop, participants - beneficiary correspondents and representatives of public prosecution services - were invited to research and during the workshop present background information on the following topics: the role of prosecutors in criminal cases, case recording and management, sources of data provided under Q 041-3² of the DWB, and the basis for reported statistics.

Furthermore, the CEPEJ Secretariat, together with CEPEJ experts Ms Ana Krnic Kulusic and Mr Georg Stawa, presented an overview of the challenges and findings related to quality control in prosecution case-flow data within the DWB. They also highlighted findings and best practices identified across CoE member states, based on the 2024 CEPEJ Evaluation Cycle.

The workshop featured two interactive sessions facilitated by Mr Georg Stawa and Ms Ana Krnic Kulusic. The first session, “Identifying Common Challenges and Good Practices in the WB Region Regarding Prosecution Case-Flow Data” focused on analysing recurring difficulties in data collection, inconsistencies in statistical reporting, and variations in prosecutorial case management across the region. Participants exchanged insights on effective methodologies and shared examples of best practices from their respective jurisdictions. The second session, “Discussion and Initial Recommendations for Improvement of the Collection Process” built upon these findings, fostering a collaborative dialogue on practical steps to enhance the accuracy, reliability, and comparability of prosecution case-flow data. Experts and beneficiary correspondents explored potential solutions, including standardising data collection procedures, and strengthening quality control mechanisms to promote greater sustainability and ownership within the prosecutorial data collection process.

² For more on the DWB questionnaire see <https://www.coe.int/en/web/cepej/towards-a-better-evaluation-of-the-results-of-judicial-reforms-in-the-western-balkans-dashboard-western-balkans>. The same question is also comprised within the CEPEJ biannual Evaluation report questionnaire as Q107, it relates to prosecutorial case-flow data.

Structure of the prosecutorial system in the Western Balkans- challenges, good practices and approaches in prosecution case-flow data collection

The shared historical heritage of WB countries has resulted in similar distributions of power within public prosecution services, as well as comparable procedural rules and practices. However, over time, various reforms in these countries have introduced significant differences in their legal frameworks and prosecutorial systems. These changes, in some cases, make it more difficult to find a common denominator when it comes to prosecutorial case flow.

The following section provides an overview of the legislation and organizational structure of the prosecutorial system in the WB countries. It provides a summary of key aspects, containing legal frameworks, institutional organization, case management procedures, and statistical reporting. Additionally, it highlights challenges and best practices in data collection relevant to CEPEJ's ongoing evaluation efforts in these jurisdictions, as presented by beneficiary correspondents. The information presented has been compiled and conveyed by beneficiary correspondents during the workshop and representatives of public prosecution services.

Albania

The Albanian prosecutorial system operates independently within the judiciary, with the General Prosecutor's Office as the highest authority. The General Prosecutor's Office is the highest authority for the prosecution offices of general jurisdiction, whereas the specialized prosecution office operates independently from the prosecution offices of general jurisdiction. Prosecution offices at courts of appeal and first-instance courts align with Albania's judicial districts. With the new judicial map there is only one court of appeal and only one prosecution of appeal of general jurisdiction, situated in the capital of Albania, Tirana. Also there is one Special Court of Appeal for Corruption and Organised Crime.

Public prosecutors investigate and prosecute crimes, oversee pre-trial investigations, and represent the state in court. They supervise Judicial Police, execute criminal decisions, and may dismiss cases if legal grounds are lacking, they decide whether to proceed with the prosecution, request arrest warrants, present evidence, and apply alternative measures, including plea bargaining, subject to court approval.

Case registration and management in Albania do not currently rely on an automated case management system (CMS), instead registers are maintained in paper and spreadsheets. Cases and indicators are recorded based on the criminal offences listed in the Criminal Code, categorized by articles and paragraphs. If a case involves multiple offences, it is recorded under the most serious charge. When multiple defendants face different charges within the same case, the case is recorded under the most serious offence, including the number of

defendants and arrests for that charge. Other defendants are recorded under their respective offences, but not as separate cases.

In Albania, the category of suspended cases is defined in Article 326 of the Criminal Procedure Code. These cases arise when the defendant is unknown or when the defendant is suffering from a serious illness that hinders further investigation. In such circumstances, the prosecutor may decide to suspend the investigation. Suspended cases are categorized as "Discontinued by the public prosecutor because the offender could not be identified." If a suspended case is later reopened due to the identification of the offender, it remains under the same case number and is not treated as a new case. Prosecution offices maintain a single register for all cases, whether the perpetrator is known or unknown. However, cases involving unknown perpetrators can be distinguished within the available data.

Bosnia and Herzegovina

The prosecution system in Bosnia and Herzegovina (BiH) operates independently at four levels: state, entity, Brcko District, and cantonal/district levels. At the state level, the Prosecutor's Office of BiH handles serious crimes such as organized crime, corruption, terrorism, and war crimes. At the entity level, both the Federation of BiH and Republika Srpska have their own prosecution offices, responsible for cases within their respective jurisdictions. The Brcko District has an independent Prosecutor's Office managing local cases. Additionally, the Federation of BiH has 10 Cantonal Prosecutor's Offices, while Republika Srpska has 5 District Prosecutor's Offices under the Republic Public Prosecutor's Office.

Under Bosnia and Herzegovina's criminal procedure legislation, prosecutors are responsible for detecting and prosecuting criminal offences. Their key competences include initiating and overseeing investigations, identifying suspects, directing law enforcement, granting immunity, requesting information, issuing and proposing summonses and orders, enforcing court decisions, proposing sentences, issuing indictments, and filing legal remedies, along with other duties prescribed by law.

The prosecutorial CMS was fully implemented across all courts and prosecutors' offices by 2011. It is used nationwide by all staff and harmonized at the national level, despite variations in laws across different administrative levels (state, entities, cantons, districts). A centralized business intelligence (BI) solution was implemented in 2016 alongside different dashboards for courts and prosecutor's offices. Cases are counted by case file unit and per perpetrator, including those against known and unknown offenders. All prosecutors' office cases are registered in the system.

Around 88% of pending cases on 31 December 2024 were cases involving criminal acts in which their perpetrators could not be identified by police when the case was filed, cases in which a prosecutor needs to preliminarily establish if an illegal behaviour constitutes a

criminal act. Additionally, around 12% of pending cases were cases against known minor and adult perpetrators. Both groups of cases are included in the statistics reported to DWB for Q041-3. Traffic offense cases are not included in the statistics for Q041-3, as they are handled by the courts under the legislation governing misdemeanour proceedings. Misdemeanour offenses are defined by law and other regulations as violations of public order, typically punishable by fines. In these cases, it is the police, not the prosecution, who initiate and present traffic offense cases in court. Statistics on court cases resolved by suspended sentence are not included in statistics for Q041-3 while data on guilty plea agreements is reported.

Kosovo

Kosovo's prosecution system includes the Chief State Prosecutor's Office, one Appellate Prosecutor's Office, and seven first-instance Prosecutor's Offices, along with a Special Prosecution Office. The system operates independently while investigations are led by prosecutors, who also have the authority to discontinue prosecutions.

The state prosecutor may initiate an investigation based on a police report or other sources if there is reasonable suspicion that a criminal offense has been committed, is being committed, or is likely to be committed. This applies to offenses prosecuted ex officio or upon submission of a motion for prosecution by an injured party. A case is discontinued if there is no reasonable suspicion the reported act is not a criminal offense, if the statutory limitation for prosecution has expired, or if the offense is covered by amnesty, pardon, or has already been finally adjudicated. Additionally, prosecution is precluded if the suspect is protected by immunity, or if other circumstances exclude criminal liability.

Cases may also be concluded through penalties or measures negotiated or imposed by prosecutors, including plea agreements, restorative justice (mediation), conditional dismissal of criminal charges (diversion measures), requests for punitive orders, and conditions where prosecution is not obligatory.

Cases are registered in physical and electronic registries at each prosecution office with physical ones still being the official data source. These offices submit reports to the statistics office within the Kosovo Prosecutorial Council, where data is processed and harmonized before drafting statistical reports. Cases are counted using the physical registry, and all prosecution offices submit monthly and periodic statistical reports in MS Excel. These reports categorize data by type of crime, prosecution office, department, prosecutor, and registry. Cases involving known offenders, unknown offenders, juveniles, and other categories are recorded in separate registries.

Kosovo identified four main challenges when it comes to prosecutorial case flow data collection: the ongoing digitalization process, reporting case-based figures, language barriers and unfamiliarity with CEPEJ concepts within the prosecution service, and data submission

deadlines. At the same time, two best practices were highlighted: maintaining consistent contact points and consulting previous year's data to ensure consistency. To improve the process, suggestions included providing training, offering technical support, implementing automatic generation of questions based on the law, and developing a more inclusive questionnaire.

North Macedonia

The Public Prosecutor's Office system in the Republic of North Macedonia consists of The Public Prosecutor's Office of the Republic of North Macedonia four Higher Public Prosecutor's Offices and 22 Basic Public Prosecutor's Office. There is also a Basic Public Prosecutor's Office dedicated to prosecuting organized crime and corruption. Prosecutors are authorized to manage the pre-investigation procedure, issue orders and conduct an investigative procedure, file and represent indictments before the courts. Additionally, the prosecutor is authorized to negotiate and settle with the offender about the criminal sanction (sentence bargaining). Prosecutors' work is facilitated by the so-called judicial police who work by order of the public prosecutors.

Case registers are maintained in both paper and electronic formats, with the CMS system introduced in 2010 and operational since 2013, though currently outdated and undergoing changes. The CMS records criminal cases from initial registration to final resolution, including all related documents, but it lacks interoperability with courts. Cases are counted statistically by the perpetrator, with separate registers for unknown perpetrators that merge once the perpetrator is identified. The prosecution compiles statistical data through an Annual Work Report, mandated by law, detailing all registered criminal cases and actions taken, as well as ad hoc reports for specific needs.

The collection of data for the CEPEJ faces several challenges as reported by North Macedonia. One major issue is the manual collection and processing of data by the public prosecutor's office, which is time-consuming and susceptible to errors. North Macedonia also faces issues with collecting data on pending court cases older than 2 years and those pending for more than 3 years across all instances. Maintaining a track record of cases as they progress through the first, second, and third instances adds another layer of complexity, as well as tracking cases that are discontinued by the public prosecutor due to the unknown offender (as noted in Q41-3, 3.1.1). Conversely, data is given for guilty plea agreements and cases discontinued for reasons of opportunity.

A good practice for data collection recognised by North Macedonia is the use of an automated CMS which streamlines data processing, reduces human error, and enhances efficiency by automating the collection and management of case data.

Montenegro

Montenegro's prosecution system consists of four types of offices. The Supreme State Prosecution Office is the highest authority, overseeing the entire territory. The Special State Prosecution Office handles specialized cases such as organized crime and corruption. There are two Higher State Prosecution Offices, and 13 Basic State Prosecution Offices which operate within the jurisdictions of two high courts and 15 basic courts. There is one Appellate Court and Supreme Court as the highest court in the state..

Prosecutors are authorised to conduct or supervise investigations and, request investigative measures from a judge. Prosecutors are responsible for bringing charges, presenting cases in court, and proposing appropriate sentences. They also have the right to appeal decisions. In certain cases, prosecutors can discontinue proceedings with or without requiring a judge's decision or conclude cases by delaying criminal prosecution and imposing certain obligations to the accused or negotiating plea bargains.

In 2024, the Prosecutor's Council decided to establish a CMS within the State Prosecutor's Office and formed a Commission to oversee its development and implementation. The project is expected to be completed within 15 months. Additionally, the Secretariat of the Prosecutorial Council has created a centralized electronic database of state prosecutors, containing comprehensive information on their employment status, complaints against their work, violations of the Code of Ethics, salary additions, evaluations, and other relevant data.

The primary challenge currently facing Montenegro is the absence of a fully functional CMS for State Prosecutor Offices, which results in a reliance on manual data collection and processing. Additionally, starting next year, Montenegro plans to improve collection of statistical data on a per-case basis, rather than by offender.

Serbia

The public prosecution service in Serbia is independent and consists of the Supreme Public Prosecution, appellate, higher, basic, and special jurisdiction prosecutions (for organized crime and war crimes). Basic public prosecution offices operate within the jurisdiction of basic courts, with some (overseeing) covering multiple courts. Similarly, higher and appellate public prosecution offices correspond to the jurisdiction of higher/appellate courts.

In Serbia, prosecution is prosecutor-led with prosecutors' main rights and duties to prosecute perpetrators of criminal offenses. Prosecutors decide when to discontinue the prosecution in line with the legislation. They are also authorized to conclude a plea agreement with the (courts' approval) courts issuing adjudication on confirmation of plea agreement and to decide independently on deferred prosecution.

CMS is used by 15 out of 90 public prosecution offices. A project to develop and implement the CMS across all PPOs is in its final stage, with ongoing staff training. Full implementation is expected by the end of 2025. However, the prosecution's CMS is not yet interconnected with the systems of the courts and the police.

Cases are recorded and reported based on the offender and the main crime they are charged with. When a suspect is charged with multiple offenses, procedural actions are documented only for the offense carrying the most severe penalty. Separate records are maintained for known adult offenders, known juvenile offenders, and unknown offenders, with statistical reports reflecting only the most severe offense.

The data submitted to CEPEJ is derived from the annual report of the Supreme Public Prosecution Office. For incoming cases, the data refer to the number of known adult offenders against whom criminal complaints were filed based on reasonable suspicion of committing a reported or other criminal offense. For resolved or processed cases, the provided data encompass various modalities for case resolution (dismissal, plea bargaining, indictments).

The Serbian prosecution service does not currently provide data on cases involving unknown perpetrators for the CEPEJ report. Under Serbian legislation, the failure to identify the perpetrator is not considered grounds for discontinuing criminal proceedings. Cases Discontinued for Other Reasons includes data on the number of individuals whose criminal complaints have been dismissed under Article 284, paragraph 3 of the Criminal Procedure Code^[1] or for offenses deemed to be of "minor significance."

Suspended cases are recorded in statistical reports as a form of investigation finalization but are not reported to CEPEJ, as they are not considered resolved. When the obstacles that led to the suspension are removed, the public prosecutor resumes the investigation within the same case file and under the same case number.

One of the major challenges in collecting data for the CEPEJ report is the difference in methodologies for recording and statistical reporting i.e. public prosecution offices in Serbia record and report cases by offender. Another challenge arises from the different interpretations of the notion of "severe offenses." Namely, the definition from the EN does not fully apply in Serbia, where prison sentences are prescribed for all criminal offenses under the Criminal Code, and conditions for ordering detention apply to every criminal offense.

Additionally, the requirement to report cases discontinued by the public prosecutor due to the inability to identify the offender presents a further challenge. Serbian prosecution offices record offenses committed by unknown offenders by case, rather than by offender, since it is not always clear whether the offense was committed by one or several offenders. If reporting requirements for pending and incoming cases include those committed by unknown

^[1] In case of criminal offences punishable by a term of imprisonment of up to three years, the public prosecutor may dismiss a criminal complaint if the suspect, as a result of genuine remorse, has prevented the occurrence of damage or has already indemnified the damage in full, and in view of the circumstances of the case the public prosecutor finds that pronouncing a criminal sanction would not be fair.

offenders, it would result in inconsistent data, as cases against known offenders are reported by offender, while cases against unknown offenders are reported by case. Also, including unknown offender data would distort the numbers significantly as there are many of these cases pending and waiting for the offender to be identified or the statute of limitations to expire.

Another challenge involves the dismissal of criminal complaints against unknown offenders after the statute of limitations has expired. There is uncertainty regarding whether this data should be included in the report under cases discontinued due to the inability to identify the offender or under cases discontinued for other reasons.