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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

SERBIA

FOLLOW-UP OPINION

**TO THE URGENT OPINION ON THE 28 JANUARY 2026
AMENDMENTS
TO LAWS GOVERNING THE JUDICIARY AND THE PROSECUTION**

**Adopted by the Venice Commission
at its 147th Plenary Session
(Venice, 12-13 June 2026)**

On the basis of comments by

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I. Introduction

1. On 24 April 2026, at the request of Ms Ana Brnabić, President of the National Assembly of the Republic of Serbia, the Venice Commission issued an Urgent Opinion on the 28 January 2026 Amendments to Laws governing the Judiciary and the Prosecution (hereinafter, “the Urgent Opinion”) ([CDL-PI\(2026\)007](#)).

2. By letter of 8 May 2026, Ms Brnabić, submitted a request for a Follow-up Opinion to the Urgent Opinion, based on a set of draft amendments to the five laws which had been modified by the January amendments, i.e., the Law on the Public Prosecutor’s Office, the Law on the High Prosecutorial Council, the Law on the Organisation and Jurisdiction of State Authorities in the Fight against Cybercrime, the Law on Judges and the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor’s Offices.

3. On 15 May 2026, the rapporteurs held an online working meeting with Ms Brnabić and Mr Nenad Vujić, Minister of Justice of the Republic of Serbia, to clarify certain aspects of the draft amendments submitted on 8 May 2026.

4. On 18 May 2026, Ms Brnabić, presented a set of revised draft amendments (hereinafter, “the draft amendments”) ([CDL-REF\(2026\)019](#)), with a renewed request for a Follow-up Opinion to the Urgent Opinion. The present Follow-up Opinion examines this most recent set of revised draft amendments.

5. Mr António Silva Henriques Gaspar, Mr Tuomas Ojanen, Mr Cesare Pinelli, and Mr Manuel Monteagudo Valdez, acted as rapporteurs for this Follow-up Opinion.

6. This Follow-up Opinion was prepared in reliance on the English translation of the draft amendments. The translation may not accurately reflect the original version in all respects.

7. This Follow-up Opinion was drafted on the basis of comments by the rapporteurs. The Follow-up Opinion was examined at the joint meeting of the Sub-Commissions on the Judiciary, on the Rule of Law, and on Democratic Institutions, on 11 June 2026. Following an exchange of views with Ms Brnabić and Mr Vujić, the Follow-up Opinion was adopted by the Venice Commission at its 147th Plenary Session (Venice, 12-13 June 2026).

II. Background and content of the Draft Amendments

A. Preliminary Remarks

8. In the Urgent Opinion, the Venice Commission observed that the changes brought about by the January amendments had affected the allocation of competences and the scope of hierarchical control within the public prosecution service, broadened the circumstances in which provisional appointments and reappointments could be used in both the judiciary and the prosecution service, altered the regime on the temporary assignment of public prosecutors, and introduced a remapping of certain basic courts and prosecution offices in Belgrade.

9. While acknowledging the importance of the objectives pursued by the Serbian authorities – namely enhancing the efficiency of both the judiciary and the public prosecution service, as well as improving the clarity and overall coherence of the relevant legal frameworks – the Venice Commission considered that the January amendments, viewed both individually and cumulatively, had removed previously existing safeguards designed to protect prosecutorial autonomy and accordingly recommended that certain shortcomings be addressed.

10. The Venice Commission further considered that changes in two areas of major importance for society – namely the judiciary and the public prosecution system - necessitated a meaningful public debate with a pluralistic participation, consultation with national stakeholders, and a thorough impact assessment and recommended that the principles of transparency, inclusiveness, and democratic debate be applied consistently and rigorously in future legislative processes.

B. Overview of the Draft Amendments

11. In brief, the draft amendments propose the following legislative changes:

a) Law on the Public Prosecutor's Office

- i. The competence to decide on objections to hierarchical decisions has been reallocated to a Commission of the High Prosecutorial Council (hereinafter, "the HPC") (draft Article 22(1)).
- ii. The Commission of the HPC is to be composed of two members and deputy members from the rank of public prosecutors of the Higher Public Prosecutor's Office, two members and deputy members from the rank of public prosecutors of the Appellate Public Prosecutor's Office, and one member and a deputy member from the rank of public prosecutors of the Supreme Public Prosecutor's Office (draft Article 22(1)).
- iii. Eligible Commission members must have at least six years of experience in performing prosecutorial functions, must not have been subject to a final disciplinary sanction within the preceding five years, and must not be subject to ongoing disciplinary proceedings (draft Article 22(4)).
- iv. The competence to decide on objections to the annual work programme of a public prosecutor's office has been reallocated to the HPC (draft Article 39(3)). Should the HPC fail to decide within 30 days, the objection is deemed accepted (Article 39(7)).
- v. The Supreme Public Prosecutor's Office is required to notify the Ministry of Justice before concluding cooperation protocols with prosecution offices of other States and international judicial organisations, in the context of ratified international treaties (draft Article 31(4a)).
- vi. Should position of Chief Public Prosecutor in a given public prosecutor's office become vacant, the HPC may appoint an acting Chief Public Prosecutor for a period of one year, without the possibility of reappointment (draft Article 41(1)). Should the HPC fail to adopt a decision within 30 days, the voting threshold is lowered from an eight-member majority to a six-member majority, requiring the affirmative vote of at least three public prosecutors and three lay members, while excluding *ex officio* members (draft Article 41(2)).
- vii. Chief Public Prosecutors whose six-year term of office has expired may not be re-elected to the same position within the same public prosecutor's office (draft Article 62(1)).
- viii. Regarding temporary assignments:
 - (1) Public prosecutors temporarily assigned to a public prosecutor's office may not be reassigned to the same office once the maximum three-year period expires (draft Article 69(1)). This also applies to public prosecutor's offices of special jurisdiction (draft Article 69(2)).
 - (2) Temporary assignments may no longer be made to a higher-level office; such assignments may only be made to an office of the same or lower level (draft Article 69(1)).
 - (3) The HPC is empowered to review, on an annual basis, whether the reasons justifying an ongoing temporary assignment continue to exist, and shall adopt a reasoned decision on whether the assignment should be continued or terminated. (draft Article 69(1)).

- (4) The exceptional character of this regime is enshrined into law (draft Article 69(3)).
- (5) When the need for temporary assignment arises, the HPC - acting on a reasoned proposal from the Chief Prosecutor of the relevant office - issues a public call for applications (draft Article 69(4)).
- (6) In addition to receiving a prior opinion from the Chief Public Prosecutor of the office requesting the temporary assignment, the HPC must now also obtain the prior opinion of the Chief Public Prosecutor of the office from which the seconded prosecutor is departing (draft Article 69(5)).
- (7) Should the HPC be unable to reach a decision on temporary assignments, the voting threshold is lowered to a majority of six members, requiring the affirmative vote of at least three public prosecutors and three lay members, while excluding *ex officio* members (draft Article 69(7)).

b) Law on the High Prosecutorial Council

- i. The HPC Commission for deciding on objections to hierarchical decisions is reinstated (draft Articles 17(7) and 19(1)).

c) Law on Organisation and Jurisdiction of Government Authorities for Suppression of Cybercrime

- i. The Head of the Special Department for Cybercrime Head is appointed by the HPC following a public call (draft Articles 5(2) and 5(3)).

d) Law on Judges

- i. A court president elected for a five-year term may not be reappointed after the expiry of the term (draft Article 77(1)).

e) Law on Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices.

- i. The amending law providing for the reorganisation of the Belgrade judicial and prosecutorial maps is to enter into force on 1 March 2027, rather than the currently prescribed date of 1 July 2026 (draft Article 8(1) of the final provisions of the amending law).

III. Scope of the Opinion

12. The present Follow-up Opinion will examine the extent to which the Serbian authorities have followed the recommendations set out in the Urgent Opinion.

IV. Analysis

A. The procedure for revising the January Amendments

13. On 28 April 2026, the Minister of Justice established a Working Group to initiate the process of aligning the Serbian legislative framework with the recommendations contained in the Urgent Opinion.¹ This Working Group was composed of representatives of the High Judicial Council (hereinafter, "the HJC"), the HPC, the Supreme Court, the Supreme Public Prosecutor's Office, the Higher Public Prosecutor's Office in Belgrade, professional associations of judges and public prosecutors, the Forum of Lawyers of Serbia,

¹ Government of Serbia website: [Working Group for preparing amendments to judiciary laws holds meeting](#), 29 April 2026.

representatives of the National Assembly Committee on the Judiciary, State Administration and Local Self-Government, and representatives of the Ministry of Justice. In total, four meetings of the Working Group were held.²

14. On 6 and 7 May 2026, two public hearings organised by the Ministry of Justice were held at the National Assembly to facilitate discussion on possible legislative amendments in line with the recommendations of the Venice Commission. The hearings were attended by the President of the National Assembly, the Chairman of the Committee on the Judiciary, Public Administration and Local Self-Government, the Minister of Justice, representatives of the Working Group, judges and public prosecutors, representatives of professional associations, the legal profession, as well as other interested members of the public.³

15. On 15 May 2026, the rapporteurs held an online working meeting with the President of the National Assembly and the Minister of Justice to clarify certain aspects of the draft amendments which had been submitted on 8 May 2026. On 18 May 2026, the latest version of the draft amendments was sent to the Venice Commission.⁴

16. The Venice Commission welcomes the cooperative approach and the swift efforts undertaken by the Serbian authorities to prepare the draft amendments in implementation of the recommendations contained in the Urgent Opinion. It further notes that the Working Group established by the Minister of Justice included a range of relevant stakeholders and convened on four occasions. It also takes due note of the two days of public hearings held at the National Assembly, which brought together relevant stakeholders and provided an opportunity for public discussion of possible amendments to the relevant laws.

17. The Venice Commission received submissions from several stakeholders suggesting that the consultative process was affected by certain shortcomings: the compressed timeframe of the overall process, the short notice for public hearings, the absence of a finalised draft prior to those hearings, the apparent lack of input from opposition parties, and the limited participation of civil society. In this context, the Commission reiterates its general recommendation that the principles of transparency, inclusiveness, and meaningful democratic debate be applied consistently and rigorously at every stage of the legislative process.

18. Notwithstanding the above, the Venice Commission acknowledges the significant efforts made by the Serbian authorities to engage in a consultative process and to swiftly implement the recommendations contained in the Urgent Opinion.

B. Key recommendations

1. Key recommendation 1: To revert to a non-hierarchical system for decisions on objections to mandatory instructions and to devolution and substitution decisions.

19. Under the January amendments, the competence to decide on objections against mandatory instructions and decisions on devolution and substitution was attributed to the Chief Public Prosecutor of the immediately higher-ranking Public Prosecutor's Office.⁵ In the Urgent Opinion, the Venice Commission noted that the review of instructions should be entrusted to

² Ministry of Justice website: [1st Working Group Meeting News Item](#); [2nd Working Group Meeting News Item](#); [3rd Working Group Meeting News Item](#); [4th Working Group Meeting News Item](#).

³ [National Assembly Speaker Takes Part in Public Hearing Organised by Ministry of Justice, 7 May 2026, National Assembly Activities](#); [Ministry of Justice website: Fourth meeting of the Working Group held, second public hearing on solutions for judicial laws tomorrow](#).

⁴ Serbian Government's website: [Improved texts of set of judicial laws sent to Venice Commission](#).

⁵ Articles 18 and 22 of the [Law on the Public Prosecutor's Office](#).

an independent collegial body outside the strict prosecutorial chain of command and accordingly recommended that this competence be reallocated to a specialised commission of the HPC. The Venice Commission further highlighted that: (i) such a body should be provided with sufficient resources to ensure the efficiency of its decision-making, (ii) its members should be selected through an open and transparent procedure based on objective criteria, (iii) the legislative framework should clearly define the eligibility and rank of its members, and (iv) the applicable scope of review should be specified in order to safeguard the operational discretion of hierarchically superior prosecutors.⁶

20. Under the draft amendments, the Serbian authorities propose to reintroduce the Commission of the HPC, which is to be composed of five members and deputy members elected from among public prosecutors for a five-year term, without the possibility of reappointment. These five members are to be elected by the HPC on the basis of a public call, with pre-established and publicly announced criteria relating to professional competence, experience and professional integrity.⁷ Notably, any member or deputy member of the Commission who is in a direct hierarchical relationship with the issuer of the challenged decision is precluded from participating in the decision-making process.⁸ Furthermore, when deciding on an objection, the Commission shall examine whether the challenged decision is “well-founded and adopted in accordance with the law”.⁹

21. It is welcome that the draft amendments reinstate the Commission of the HPC and introduce an open and transparent procedure for the selection of its members, as well as a clearly defined scope of review, in line with the recommendations of the Venice Commission. The proposed system effectively diminishes the risk of undue direct hierarchical influence over prosecutors filing objections.

22. In the Urgent Opinion, the Venice Commission had also recommended that the legislative framework should define the eligibility and rank of members of the Commission.¹⁰ In this regard, it is noted that the proposed amendments to Articles 22(1) and 22(4) of the Law on the Public Prosecutor’s Office fully address this concern.¹¹ The amendments proposed by the Serbian authorities are therefore in line with key recommendation 1.

2. Key recommendation 2: The competence to decide on objections to the annual work programme of a Public Prosecutor’s Office should remain with the High Prosecutorial Council.

23. Under the January amendments, the competence to decide on objections to the annual work programme had been transferred from the HPC to the Chief Public Prosecutor of the immediately higher-ranking office. If the latter failed to take a decision within 30 days, the objection would be deemed to have been rejected.¹² In its Urgent Opinion, the Venice Commission recommended reallocating this competence to the HPC and observed that it

⁶ Venice Commission, [CDL-PI\(2026\)007](#), Serbia - Urgent Opinion on the 28 January 2026 Amendments to Laws Governing the Judiciary and the Prosecution, §§ 38-40.

⁷ Draft Articles 22(1), 22(2) and 22(3) of the Law on the Public Prosecutor’s Office, [CDL-REF\(2026\)019](#).

⁸ Draft Article 22(4) of the Law on the Public Prosecutor’s Office, [CDL-REF\(2026\)019](#).

⁹ Draft Article 22(5) of the Law on the Public Prosecutor’s Office, [CDL-REF\(2026\)019](#).

¹⁰ Urgent Opinion (n 6), § 39.

¹¹ Concerning the rank of Commission members, Draft Article 22(1) of the Law on the Public Prosecutor’s Office establishes that the Commission of the HPC is to be composed of two members and deputy members from the rank of public prosecutors of the Higher Public Prosecutor’s Office, two members and deputy members from the rank of public prosecutors of the Appellate Public Prosecutor’s Office, and one member and a deputy member from the rank of public prosecutors of the Supreme Public Prosecutor’s Office. Furthermore, concerning the eligibility of Commission members, Draft Article 22(4) determines that eligible public prosecutors must have at least six years of experience in performing prosecutorial functions, must not have been subject to a final disciplinary sanction within the preceding five years, and must not be subject to ongoing disciplinary proceedings.

¹² Articles 39(3) and 39(7) of the [Law on the Public Prosecutor’s Office](#).

would be important to specify that a failure to decide on an objection results in its tacit acceptance rather than in its tacit rejection.¹³

24. Under the draft amendments, the competence to decide on objections against decisions on the annual work schedule of a Public Prosecutor's Office is returned to the HPC. Furthermore, if objections are not decided upon within 30 days, they are deemed tacitly accepted.¹⁴ These changes are fully in line with the key recommendation 2.

3. Key recommendation 3: Rather than requiring prior consent, the law should specify the conditions under which the Supreme Public Prosecutor's Office has a duty to notify the Ministry of Justice of cooperation agreements it plans to enter into with international counterparts within the framework of existing treaties on mutual legal assistance.

25. In the Urgent Opinion, the Venice Commission recommended that the prior consent mechanism be replaced by a simple prior notification duty in respect of the conclusion of cooperation agreements between the Supreme Public Prosecutor's Office and its counterparts in the various countries.¹⁵

26. Under the draft amendments, the Serbian authorities propose to add two new items to Article 31 which would distinguish between two forms of international cooperation involving the Supreme Public Prosecutor's Office:

"4) [the Supreme Public Prosecutor's Office] establishes contacts and exchanges information and documents with prosecution offices of other States, international judicial organisations and other competent international bodies, and engages in direct cooperation with the competent authorities of other states, in accordance with the law and ratified international treaties;"

"4a) [the Supreme Public Prosecutor's Office] concludes cooperation protocols with prosecution offices of other States and international judicial organisations, in accordance with ratified international treaties and shall, prior thereto, notify the ministry competent for judiciary;"

27. The proposed amendment clarifies the circumstances under which the Ministry of Justice may be involved in matters of international cooperation and replaces the prior consent requirement with a simple prior notification duty concerning the conclusion of cooperation protocols. At the same time, the Supreme Public Prosecutor's Office retains full autonomy to establish contacts, exchange information, and cooperate directly with its international counterparts. The proposed amendment therefore strengthens the operational autonomy and efficiency of the public prosecution service in the field of international cooperation. The draft amendments are fully consistent with key recommendation 3.

4. Key recommendation 4: The provisional appointments of Chief Public Prosecutors should be limited to one year, without the possibility of reappointment.

28. In the Urgent Opinion, the Venice Commission recommended limiting the provisional appointments of Chief Public Prosecutors to one year and excluding the possibility of reappointment to the same office.¹⁶ The draft amendments restore the one-year limit and

¹³ Urgent Opinion (n 6), § 43.

¹⁴ Draft Article 39(7) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

¹⁵ Urgent Opinion (n 6), §§ 48-50.

¹⁶ Urgent Opinion (n 6), § 56.

remove the possibility of reappointment of Acting Chief Public Prosecutors, thereby returning the law to its previous form prior to the January amendments.¹⁷ Decisions on provisional appointments are also kept within the remit of the HPC, which is to decide according to an eight-member majority. This is a positive change, which fully addresses key recommendation 4.

29. It is further noted that a new anti-deadlock mechanism has been introduced under Article 41(2): if the HPC fails to reach a decision within 30 days, the voting threshold is lowered from an eight-member majority to a six-member majority, requiring the affirmative vote of at least three prosecutor members and three lay members, while excluding *ex officio* members (i.e., the Minister of Justice and the Supreme Public Prosecutor). Although the Venice Commission did not specifically recommend such a mechanism in its Urgent Opinion, the proposed solution appears reasonable for resolving deadlocks. The requirement for participation from both prosecutor members and lay members, as well as the exclusion of *ex officio* members, serves to ensure broader consensus, despite the reduction of the voting majority.

5. Key recommendation 5: The possibility of reappointing Chief Public Prosecutors to the same office after the expiry of the initial term of office should be excluded.

30. In the Urgent Opinion, the Venice Commission recommended excluding the possibility of reappointing Chief Public Prosecutors to the same public prosecutor's office after the expiry of the six-year term of office.¹⁸ Under the draft amendments, a Chief Public Prosecutor may no longer be re-elected to the same office after the expiry of the mentioned term.¹⁹ This change fully complies with key recommendation 5.

6. Key recommendation 6: The possibility of renewing temporary assignments should be removed, and such assignments should be limited to prosecutorial positions of the same level. Temporary assignments should remain exceptional.

31. In the Urgent Opinion, the Venice Commission recommended removing the possibility of renewing temporary assignments after the initial three-year period and limiting such assignments to prosecutorial positions of the same level. The Commission further underlined that recourse to temporary assignments should remain strictly exceptional and not be used as a routine management tool to circumvent regular appointment procedures.²⁰

32. Under the draft amendments, the possibility to renew temporary assignments is removed, and such assignments are made by the HPC following a public call for vacancies, based on a reasoned proposal from the Chief Public Prosecutor of the office in need of supplemental staff.²¹ Additionally, the draft amendments exclude temporary assignments to higher-level positions, while preserving the possibility of assignments to positions of the same level and introducing the possibility of assignments to lower-level positions.²² It is noted that the exclusion of higher-level assignments constitutes a welcome safeguard, as it prevents the creation of a parallel system of promotion, which circumvents the regular procedure.

33. While the maximum duration of three years has been maintained, an annual review mechanism has been introduced requiring the HPC to verify whether the reasons justifying ongoing temporary assignments continue to exist.²³ In practice, this mechanism may prove important in safeguarding the exceptional nature of temporary assignments. Furthermore, it is

¹⁷ Draft Article 41(1) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

¹⁸ Urgent Opinion (n 6), § 56.

¹⁹ Draft Article 62(1) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

²⁰ Urgent Opinion (n 6), § 63.

²¹ Draft Articles 69(1) and 69(4) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

²² Draft Article 69(1) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

²³ Draft Article 69(1) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

also welcome that the exceptional and subsidiary nature of temporary assignments would be formally enshrined in this legal regime.²⁴

34. Against this background, the Venice Commission considers that these amendments fully implement key recommendation 6.

35. Furthermore, it is noted that a new anti-deadlock mechanism is proposed for decisions on temporary assignments: if the HPC fails to adopt a decision with the required eight-person majority,²⁵ a repeat vote must take place in which the voting threshold is lowered to a six-person majority, requiring the affirmative vote of at least three prosecutor members and three lay members, while excluding *ex officio* members.²⁶ Although the Venice Commission did not specifically recommend such a mechanism, the proposed solution appears reasonable for resolving deadlocks. The requirement for participation from both prosecutor members and lay members, as well as the exclusion of *ex officio* members, serves to ensure broader consensus, despite the reduction of the voting majority.

7. Key recommendation 7: The public prosecutors whose temporary assignments were prematurely terminated should be reinstated and a mechanism should be introduced to ensure that the positions occupied by temporarily assigned prosecutors in the TOK can be gradually filled by means of regular appointments.

(i) As to the reinstatement of prosecutors

36. In the Urgent Opinion, the Venice Commission observed that, of the eleven prosecutors whose assignments were due to be prematurely terminated by operation of law, seven were re-assigned following the HPC decision of 6 March 2026, while only four ended up having their temporary assignments prematurely terminated.²⁷ In this context, the Commission recommended that public prosecutors whose temporary assignments had been prematurely terminated under the January amendments should be reinstated until they could be replaced by regularly appointed prosecutors.²⁸

37. On 4 May 2026, the HPC temporarily assigned five public prosecutors to the Public Prosecutor's Office for Organised Crime (hereinafter, "the TOK"), including two of the prosecutors whose prior temporary assignments had been prematurely terminated.²⁹ As a result, two of the four prosecutors who had not yet been reinstated were returned to the TOK. This constitutes a positive development. Nevertheless, there are two prosecutors who have not yet been reinstated to the TOK. It appears from the submissions of the Serbian authorities that the HPC assessed several candidates for temporary assignment at the TOK, including the two prosecutors who have not been reinstated, and exercised its discretion in appointing the candidates considered more suitable. The Venice Commission disposes of no information to suggest that this discretionary decision-making power was exercised in an arbitrary manner.

38. However, as highlighted in the Urgent Opinion, the prosecutors who were prematurely removed benefited from security of tenure for the duration of their temporary assignments.³⁰ There is no material to suggest that their early removal was linked to any shortcoming on their

²⁴ Draft Article 69(3) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

²⁵ As per Draft Article 69(6) of the Law on the Public Prosecutor's Office. According to Article 20(1) of the [Law on the High Prosecutorial Council](#), a qualified majority of 8 out of 11 votes is required for the adoption of decisions.

²⁶ Draft Article 69(7) of the Law on the Public Prosecutor's Office, [CDL-REF\(2026\)019](#).

²⁷ Urgent Opinion (n 6), § 69.

²⁸ Urgent Opinion (n 6), § 72.

²⁹ See [Public Notice of the Meeting of the HPC of 4 May 2026](#); See also: [The High Prosecutorial Council returned two of four prosecutors to TOK, appointed three new ones - Savremena politika, 04/05/2026](#).

³⁰ Urgent Opinion (n 6), § 71.

part, including the commission of a disciplinary offence. Their premature removal therefore raises questions as to the compliance with the principles of legal certainty, security of tenure and prosecutorial autonomy. It remains unclear whether the HPC examined their cases in light of these principles.

39. The Venice Commission recommends that these issues be addressed through domestic legal means, with due regard for the above-mentioned principles, especially in view of the fact that there still remain vacant posts in the TOK.

40. The Venice Commission's principal concerns related to the adverse consequences arising from the premature termination of temporary assignments within the TOK, namely, the risk of jeopardising criminal proceedings, as well as broader efficiency concerns³¹, which now appear to have been substantially mitigated. The Venice Commission nevertheless considers, given the uncertainty regarding the degree of compliance with the above stated principles of legal certainty, security of tenure and prosecutorial autonomy, that this element of key recommendation 7 is only partly implemented.

(ii) As to the mechanism of gradual replacement of temporary assignments with permanent appointments

41. In the Urgent Opinion, the Venice Commission recommended that a mechanism be established to ensure that the positions occupied by temporarily assigned prosecutors in the TOK are filled through regular appointments. The Commission also urged the Serbian authorities to take all necessary steps to ensure that the current temporary assignments be gradually replaced with regular appointments.³²

42. According to a Note submitted to the Venice Commission by the Serbian authorities on 18 May 2026, out of the 25 legal positions in the TOK, 22 are currently filled. The publicly available Public Notice of the HPC Meeting of 4 May 2026, indicates that the five prosecutors assigned that day to the TOK were temporarily, rather than regularly, appointed.³³ As established in paragraph 38 above, a total of twelve prosecutors are currently temporarily assigned to the TOK.³⁴ In this respect, it is welcome that the authorities are taking measures to strengthen the capacity of the TOK by assigning additional prosecutorial staff to this institution.

43. According to the Note submitted by the Serbian authorities on 4 June 2026, a public competition for the regular appointment of nine prosecutors is nearing completion. In addition, the Venice Commission was informed that, on 25 May 2026, the HPC decided to launch a further public competition for the regular appointment of an additional seven prosecutors to the TOK. Taken together, these developments indicate that, in the short to medium term, sixteen additional regular prosecutorial positions are expected to be permanently filled within the TOK. The Venice Commission considers that these measures form part of a broader and more structural approach to addressing the institutional capacity concerns identified in its Urgent Opinion and demonstrate concrete efforts towards implementing its recommendation. Accordingly, the Commission considers that this element of key recommendation 7 is being properly implemented at this stage.

³¹ Urgent Opinion (n 6), §§ 69-70.

³² Urgent Opinion (n 6), § 73.

³³ See [Public Notice of the Meeting of the HPC of 4 May 2026](#).

³⁴ Urgent Opinion (n 6), § 69.

8. Key recommendation 8: Greater structural and operational autonomy should be granted to the Special Department for Cybercrime, in line with the technical complexity of its mandate and the national character of its jurisdiction.

44. In the Urgent Opinion, the Venice Commission found that the direct management of, and hierarchical subordination to, the Higher Public Prosecutor's Office in Belgrade did not appear to ensure the degree of structural and operational autonomy required by the Special Department for Cybercrime, given the technical and specialised complexity of its work and the nationwide character of its jurisdiction. Accordingly, the Commission recommended that greater structural and operational autonomy be granted to the Special Department.³⁵ This could be achieved, for instance, by integrating the Special Department into the Supreme Public Prosecutor's Office, a structure with nationwide jurisdiction,³⁶ or by granting it the status of a public prosecutor's office of special jurisdiction.³⁷

45. Under the draft amendments, the Head of the Special Department is appointed by the HPC and no longer by the Chief Public Prosecutor of the Higher Public Prosecutor's Office in Belgrade.³⁸ Furthermore, the HPC would also be required to publish a public call for candidates.³⁹ Lastly, whereas previously specialised knowledge in the field of information technologies constituted a preferential criterion, such knowledge would now become a mandatory requirement for all candidates.⁴⁰

46. The Venice Commission finds that the proposed revision, which introduces a public call for candidates and an objective selection criterium, ensures a greater level of transparency in the selection process for the Head of the Special Department. It is also a positive development that the Chief Public Prosecutor of the Higher Public Prosecutor's Office in Belgrade no longer influences this selection.

47. Nonetheless, it is important to note that, under the draft amendments, Article 6(1) of the Law on the Organisation and Jurisdiction of Government Authorities for Suppression of Cybercrime remains unchanged. Consequently, this legal regime continues to place the Head of the Special Department directly under the authority of the Chief Public Prosecutor of the Higher Public Prosecutor's Office in Belgrade. In addition, no other structural reforms have been introduced. Therefore, it must be concluded that the Special Department remains, in practice, an integral part of the Higher Public Prosecutor's Office in Belgrade.

48. According to an explanatory note appended to the draft amendments, a comprehensive reform of the Law on the Organisation and Jurisdiction of Government Authorities for Suppression of Cybercrime first requires a thorough analysis of the existing situation and needs. The Venice Commission was informed that, to this end, on 2 June 2026, the Ministry of Justice established a dedicated Working Group to carry out the requisite analysis and, on that basis, proceed with a larger reform of the law in question. In this context, the Working Group will consider all available options with a view to identifying the most appropriate solution regarding the institutional design for the Special Department, including the options set out in

³⁵ Urgent Opinion (n 6), §§ 78-79.

³⁶ According to Articles 3 and 13(3) of the [Law on the Public Prosecutor's Office](#), the Supreme Public Prosecutor's Office is established for the territory of the Republic of Serbia, as the highest public prosecution authority in the country.

³⁷ According to Article 13(2) of the [Law on the Public Prosecutor's Office](#), additional public prosecutor's office of special jurisdiction – besides the TOK and the Public Prosecutor's Office for War Crimes – may be established by law.

³⁸ Draft Article 5(2) of the Law on Organisation and Jurisdiction of Government Authorities for Suppression of Cybercrime, [CDL-REF\(2026\)019](#).

³⁹ Draft Article 5(3) of the Law on Organisation and Jurisdiction of Government Authorities for Suppression of Cybercrime, [CDL-REF\(2026\)019](#).

⁴⁰ Draft Articles 5(5) and 5(6) of the Law on Organisation and Jurisdiction of Government Authorities for Suppression of Cybercrime, [CDL-REF\(2026\)019](#).

the Urgent Opinion. Moreover, once the Working Group has completed its work, the Serbian authorities have indicated their intention to seek an opinion from the Venice Commission on the proposed legislative solution. The Venice Commission recognises that the proper implementation of this recommendation will take time and commends the authorities for their commitment to addressing it in a comprehensive manner.

49. The Venice Commission acknowledges that the authorities have taken efforts to implement this recommendation at this moment in time. Against this background, the Venice Commission will consider this key recommendation to be fully implemented only if the Working Group finalises its work within a reasonable timeframe and in an inclusive manner, and that this is followed by the relevant legislative amendment or reform providing for a greater structural and operational autonomy to the Special Department.

9. Key recommendation 9: The fixed terms of office of court presidents should be non-renewable as a rule, with the possibility of a renewable term in limited and exceptional circumstances.

50. In the Urgent Opinion, the Venice Commission recommended that, as a rule, the five-year term of office for court presidents should be non-renewable, in order to prevent an undue concentration of power in the same individuals for an extended period of time.⁴¹ Under the draft amendments, court presidents may no longer be re-appointed as presidents to the same court once their term of office expires.⁴² Therefore, the proposed change fully implements key recommendation 9.

C. General recommendation regarding judicial and prosecution maps

51. Under the January amendments to the Law on the Seats and Jurisdictions of Courts and Public Prosecutor's Offices, the Third Basic Court and the Third Basic Public Prosecutor's Office in Belgrade are to be replaced by two new basic courts and two new basic prosecutor's offices as of 1 July 2026, the specified date of entry into force of the amending law.⁴³

52. In the Urgent Opinion, the Venice Commission recommended that additional studies and impact assessments on the reorganisation of the judicial and prosecution maps be conducted, based on a comprehensive prior analysis of the key factors, including an examination of the root causes of existing challenges and a careful evaluation of potential alternative measures to address them.⁴⁴

53. According to the draft amendments, the Serbian authorities propose to delay the entry into force of the envisaged reorganisation of the Belgrade judicial and prosecutorial maps to 1 March 2027. The Venice Commission was further informed that, on 2 June 2026, the Ministry of Justice established a dedicated Working Group mandated to prepare a comprehensive analysis of the effects of the proposed reorganisation. This analysis will cover, *inter alia*, the existing workload of courts and public prosecutors' offices, the territorial distribution of cases, staffing and infrastructure capacities, as well as alternative measures to address the identified issues. The Serbian authorities further indicated that the Working Group is expected to present

⁴¹ Urgent Opinion (n 6), § 82.

⁴² Draft Article 77(1) of the Law on Judges, [CDL-REF\(2026\)019](#).

⁴³ Articles 3(6), 3(6a), 9(6) and 9(6a) of the [Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices](#) and Articles 8 of the amending law, available at [CDL-REF\(2026\)007](#). It is also noted that according to Articles 5, 6 and 8 of the amending law, by 1 July 2026, the HJC shall effect the permanent transfer of judges and lay judges to the new courts, and appoint acting presidents thereto, and likewise, the HPC shall adopt a decision regarding the continuation of the Chief Public Prosecutor and the public prosecutors in the two new Public Prosecutor's Offices which will have assumed the jurisdiction of the abolished Third Basic Public Prosecutor's Office in Belgrade and appoint acting Chief Public Prosecutors thereto

⁴⁴ Urgent Opinion (n 6), § 99.

a report containing its final recommendations by 1 October 2026. In this context, the Serbian authorities argue that postponing the entry into force of the judicial and prosecution reorganisation will provide sufficient time for the Working Group to complete its analysis and for due consideration to be given to its findings.

54. While the commitment to establish a working group to conduct further studies is to be welcomed, the Venice Commission stresses that, from a methodological standpoint, in-depth studies and impact assessments should ordinarily be conducted before a definitive legislative solution is adopted, particularly when such a solution includes a fixed implementation date.⁴⁵

55. Notwithstanding the above, the Venice Commission notes that the authorities have undertaken to carry out the necessary in-depth studies and impact assessments by 1 October 2026 and considers that this timeframe will allow sufficient time for any necessary legislative amendments to be adopted before 1 March 2027. The proposed way forward appears to constitute a reasonable methodological approach, the implementation of which may require time. The Venice Commission acknowledges that the authorities have taken efforts to implement this recommendation at this moment in time. Nevertheless, for this recommendation to be considered fully implemented, it is necessary that the Working Group deliver its analysis in a comprehensive and inclusive manner, by the announced deadline, and that this process results in the adoption of legislative amendments (if appropriate).

V. Conclusion

56. At the request of Ms Ana Brnabić, President of the National Assembly of the Republic of Serbia, the Venice Commission prepared a Follow-up Opinion to the Urgent Opinion on the 28 January 2026 Amendments to Laws Governing the Judiciary and the Prosecution.

57. This Follow-up Opinion examines a set of draft amendments to the five laws which had been modified by the January amendments. It is noted that, following the publication of the Urgent Opinion, the Serbian authorities have moved swiftly to bring the relevant legislative framework into line with its recommendations, demonstrating a substantively cooperative approach and a genuine willingness to engage with the Venice Commission. Notably, the Serbian authorities have submitted the draft amendments to the Commission for review prior to proceeding with their adoption. The Venice Commission welcomes and appreciates this constructive cooperation.

58. On 28 April 2026, the Minister of Justice established a Working Group – which included representatives from key judicial and prosecutorial bodies and professional associations - to align Serbia's legislative framework with the recommendations set out in the Urgent Opinion. Subsequently, on 6 and 7 May 2026, two public hearings were held at the National Assembly to discuss possible legislative amendments. The Venice Commission welcomes the Serbian authorities' cooperative and prompt efforts in implementing its recommendations.

59. The Venice Commission welcomes the fact that a considerable part (seven out of nine) of the key recommendations contained in the Urgent Opinion has been presently fully implemented in the draft amendments, namely **key recommendations 1, 2, 3, 4, 5, 6 and 9**.

60. As regards the remaining recommendations, the Venice Commission acknowledges that the Serbian authorities have taken measurable steps to align the applicable legislative framework with the Urgent Opinion, but certain aspects are still outstanding:

⁴⁵ Venice Commission, [CDL-AD\(2025\)002](#), the Updated Rule of Law Checklist, Benchmark II.A.6 on "Law-making procedures", § 34.

- a) **Key recommendation 7:** the Venice Commission notes that the institutional capacity of the TOK has been significantly reinforced and that a mechanism has been put in place to replace temporary appointments with regular appointments in the near to the medium term. Accordingly, this aspect of key recommendation 7 is fully implemented. Regarding the reinstatement of prosecutors, it is observed that 2 of the 11 public prosecutors whose temporary assignments to the TOK were prematurely terminated have not been reinstated. This aspect of key recommendation 7 has therefore not been fully implemented.
- b) **Key recommendation 8:** the amendment concerning the selection process for the Head of the Special Department constitutes a positive step. Moreover, the establishment of a Working Group to further examine how to enhance the operational autonomy of the Special Department for Cybercrime is commendable. The Commission acknowledges that the authorities have taken efforts to implement this recommendation at this moment in time. However, this recommendation will be considered fully implemented only if the Working Group analysis is completed in an inclusive way, within a reasonable timeframe, and followed by a legislative amendment or reform providing for a greater structural and operational autonomy to the Special Department.
- c) With respect to judicial and prosecution remapping (the general recommendation contained in para. 99 of the Urgent Opinion), the Commission finds that the establishment of a Working Group to undertake further studies is a welcome step towards the implementation of this recommendation. The Commission further acknowledges that the authorities have taken efforts to implement this recommendation at this moment in time. Nevertheless, for this recommendation to be considered fully implemented, it is necessary that these studies are conducted in a comprehensive and inclusive manner, completed within the announced deadline, and lead to the relevant legislative amendments (if appropriate).

61. The Commission welcomes the commitment expressed by the Serbian authorities to swiftly implement its recommendations and stands ready to provide further assistance in this matter.