MANUAL FOR
PROSECUTION OFFICES
OF
THE REPUBLIC OF KOSOVO

ADMINISTRATIVE PROCEDURES

May 2010

This manual was produced with the assistance of the U.S. Agency for International Development (USAID) Kosovo Justice Support Program, implemented under contract by the National Center for State Courts.
DISCLAIMER

This manual provides general guidelines, describes applicable policies, and answers the more common questions of prosecution office management and operating procedures. This manual is a reference and does not substitute itself to any Republic of Kosovo law, regulation or other secondary legislation regulating the issues discussed herein.
The Office of the State Prosecutor of the Republic of Kosovo has entered an era of reform aimed at improving prosecutorial services and the administration of justice. The Prosecutor’s Office Administrative Manual unifying best practices in manual case-flow and computerized case management procedures, is an important step in this process. The Manual was developed to standardized operating procedures in the work of the prosecution offices - while promoting transparency, efficiency and accountability in each office. This Manual is to be immediately implemented in all prosecution offices and must be utilized by all employees including prosecutors, professional associates and administrative staff.

A key component to the reform of prosecutorial services is the decorum of the staff. The Code of Conduct for Staff of the Prosecutor’s Office of the Republic of Kosovo provides explicit guidelines for the internal and external conduct of the staff. The Code of Conduct, among other things, ensures that professional services are rendered to the citizens of Kosovo at all times, promoting public confidence in the integrity and effectiveness of the prosecutor’s office and the criminal justice system. In addition, all prosecutors must continue to comply with the existing Code of Ethics for Prosecutors.

The Chief Prosecutor, of the respective prosecution office, is responsible for the full implementation of the Prosecutor’s Office Administrative Manual and the strictest adherence by the staff to the Code of Conduct for the Staff of the Prosecutor’s Office.

In conclusion, the Office of the State Prosecutor of the Republic of Kosovo will continue to strive for excellent in its work, maintaining the highest degree of professionalism, competence and efficiency in administering justice in the Republic of Kosovo.

Ismet Kabashi
Chief State Prosecutor
The Republic of Kosovo
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Executive Summary

The Republic of Kosovo Public Prosecutor’s Office stands in the forefront of the battle against crime; ensuring justice is delivered on behalf of all Kosovo citizens in accordance with its mandate. Every successful prosecutorial system seeks to ensure (1) the highest level of professionalism in its ranks; (2) that victims have access to justice and that the accused are treated fairly; (3) that investigations are timely; and (4) that case processing delays are avoided. Comprehensive and unified case management practices are needed to achieve efficient prosecutorial services, which in turn facilitates access to justice and builds greater public confidence in the justice system. Standardization of rules governing workflow procedures is paramount to the effectiveness of prosecutorial services and the effective operating of a prosecutorial office.

The following Manual for Prosecution Offices (“The Manual”) is an administrative guide to unify, for the first time, manual and electronic case management procedures in prosecution offices throughout Kosovo. It is not intended to have the force of law nor does it replace policies delineated in law(s) or Administrative Directive(s). This manual does not create any substantive or procedural rights that are enforceable by law. It should be utilized in conjunction with relevant legal instruments and other manuals directing the work of the Kosovo State Prosecutor’s Office. The Manual should be used as the determinative reference for best practices in manual and electronic case flow management, which also integrates the Case Management Information System (CMIS).

This manual, together with other materials, will provide prosecutors and prosecution staff with important information regarding administrative operating procedures. The Manual includes forms and other guidelines which seek to unify procedures critical to the every day work of prosecution offices. In particular, the Manual provides staff of the Prosecution Office:

- Guidelines concerning workflow and administrative practices.
- Practical caseflow management procedures which integrate manual and electronic case management information systems.

This Manual is meant to be a “living document” keeping pace with new and improved policies and procedures developed over time. All staff of prosecution offices should bring material errors, omissions, changes, or developments (statutory or otherwise) to the attention of their Office Administrator or Chief Prosecutor, who will present proposed amendments or updates to the Manual to the Chief State Prosecutor, Kosovo Judicial Council or the Prosecutorial Council, once established.

Background

The creation of the Manual was initiated by the Prosecution Case Management Information (CMIS) Working Group. The introduction of computerized case management system is a first step in modernizing the day-to-day work of Kosovo prosecutors. The CMIS Working Group was established to assist the implementation
of the prosecution offices’ electronic case management system. The working group concluded that in addition to the introduction of the automated system, it was necessary to have in place a guide which would integrate manual and computerized workflow practices. Supported by the USAID Kosovo Justice Support Program (KJSP), the working group was comprised of the prosecutors; administrators; KJC representatives; MOJ representatives; and KJSP staff.

In order to develop written guidelines, the Working Group embarked on a lengthy and thorough assessment of the administrative and workflow practices in prosecution offices Kosovo-wide. Of the 14 prosecution offices assessed, no standardized rules of procedures existed to govern the administrative or case management workflow practices. Each prosecution office operated independently without a memorialized guide or reference for new staff, which relied primarily on oral instructions from superiors. It was determined that while offices followed the criminal procedure code, administration area was ad hoc, creating inefficiencies and lacking mechanisms to ensure accountability.

Methodology

On the theory that common practice does not necessarily produce best practices, the Working Group formed sub-working groups and embarked upon a detailed assessment of the administrative and manual workflow processes in all prosecution offices. Interviews were conducted with staff of prosecutions offices including prosecutors, administrators, professional associates, clerks and secretaries. A sub-working group was established to review conflicting practices and provide legal analysis, taking into consideration practical applications, policy issues and potential areas for improved efficiency. In addition, prosecution manuals from regional countries were reviewed to identify best practices that could be tailored to the Kosovo Prosecution Offices. Finally, the draft Manual was vetted to CMIS Working Group, Chief Prosecutors, Administrators and international organizations for additional review and commentary.

Overview of Manual

An administrative manual setting out unified case management practices exists in every modern prosecutorial office. These procedural guidelines are germane to the uniform applications of office workflow practices. The goals of the Manual are to:

- Create guidelines based on documented best administrative and workflow practices.
- Unify procedures.
- Integrate CMIS and manual workflow.
- Improve efficiency in the work of the Kosovo prosecution offices.

In brief, the Prosecution Administrative Manual sets out the manual workflow and CMIS procedures of the State, District, Municipal and Special Prosecution Offices. It also provides a general description of the internal structure of the offices and the duties and responsibilities of the staff.
The Manual provides a comprehensive summary of the application of CMIS and, at each stage of the manual workflow, addresses the integration of CMIS. Following a review of registries classified generally by categories of adult, juvenile or unknown offenders, evidence and miscellaneous cases, the Manual traces the path of adult and juvenile cases from receipt of the criminal report to the final judgment and appeal procedures. Case resolution procedures, including plea negotiation and mediation, are outlined with sample forms provided to aid and assist the implementation of these new procedures. As the collection of evidence and subsequent seizure of assets are of critical importance to the work of the prosecution, guidelines are presented to ensure full compliance with the law. In addition, charts and other demonstrative aids are provided throughout the manual. Finally, the Manual concludes by referencing the relevant codes of ethics and conduct for prosecutors and prosecution staff.

Acknowledgement

The creation of a Prosecution Administrative Manual is a milestone achievement toward improving prosecutorial services throughout Kosovo. We thank the Chief State Prosecutor, Ismet Kabashi, and former Chief State Prosecutor, Hilmi Zhitija, for their support and participation in the development of the Manual. The Manual was drafted by the USAID Kosovo Justice Support Program Senior Legal Advisor, Drita Hajdari, and Senior Information Technology Advisor, Arben Lila, and JoAnne Richardson, Deputy Chief of Party.

This Manual would not have been possible without the work of the CMIS Working Group: Chairman, Kosovo Prosecutor, Ismet Kabashi; Prosecutors, Besim Kelmendi, Shyqyri Shala, Shaban Spahiu, Reshat Millaku and Rexhep Rexhepaj; Administrator, Tefik Dushica; and Head of Statistics of the Ministry of Justice, Sahit Shala.

Appreciation is extended to the members of the sub-working groups, Chief Prosecutors, Flamur Kelmendi and Ismet Ukshini. Special thanks and acknowledgements are also extended to our international partners USDOJ/OPDAT, Kimberly Moore, Resident Legal Advisor and EULEX-Gjilan, Reeva Bell, for their assistance and contribution to the Manual, producing a uniformed operational guide to Prosecution Offices throughout the Republic of Kosovo. Annexes B, C & D were designed by EULEX-Gjilan. Annex E was designed by USDOJ/OPDAT.

List of additional contributors to the Manual - Annex F
Chapter I – Offices of the Public Prosecutor of the
Republic of Kosovo

Article 1  Overview of the Office of the Public Prosecutor

“The Office of Public Prosecutor (State Prosecutor\(^1\)) is an independent body, responsible for investigating criminal offences, prosecuting persons charged with committing criminal offences which are prosecuted \textit{ex officio} or on the motion of an injured party.”\(^3\)

This Manual determines the administrative rules and procedures governing the work of the prosecution offices of the Republic of Kosovo.

The administrative tasks and duties of prosecution offices are performed in accordance with the work plan of the respective office, for each calendar year.

The proposal for the work plan is determined by the Chief Prosecutor after collecting the opinions of the prosecutors, in the respective prosecution office, and the administrator.

The work plan determines, in detail, the volume, manner and timeline for completing particular tasks and duties, as well as, the individuals responsible for their execution.

The annual work plan is amended throughout the year, as needed, to include new tasks and duties which directly impact the work of the respective prosecution office.

\(^1\) Although the Constitution refers to the “State Prosecutor” this Manual has kept the name “Public Prosecutor” in accordance with the law, based on Article 145(2), of the Constitution of the Republic of Kosovo. This Article determines that - “Legislation applicable on the date of the entry into force of this Constitution shall continue to apply to the extent it is conformity with this Constitution until repealed, superseded or amended in accordance with this Constitution.”

\(^2\) In accordance with the Constitution, “The State Prosecutor is an independent institution with authority and responsibility for the prosecution of persons charged with committing criminal offenses and other acts specified by law.” Constitution, Art. 109 (1).

\(^3\) For additional references to the duties of Public Prosecutor, see Kosovo Provisional Code of Criminal Procedure, Chapter IV, Art. 46-68, UNMIK/REG/2003/26, as amended, Kosovo Code of Criminal Procedure by Law No. 03/L-003, dated 6 November 2008 (Code of Criminal Procedure of Kosovo).
Organizational Chart and Competencies of Prosecution Offices

- Public Prosecutor Office of Kosovo
- Special Prosecution Office of the Republic of Kosovo

District Public Prosecution Offices:
- Pristina
- Prizren
- Peja
- Mitrovica
- Gjilan

Municipal Public Prosecution Offices:
- Pristina
- Prizren
- Peja
- Mitrovica
- Gjilan
- Ferizaj
- Gjakova
Article 2    Public Prosecutor’s Function

The functions of the Public Prosecutor Offices are performed by the Municipal Public Prosecutor Offices; District Public Prosecutor Offices; Special Prosecutor Office; and the Public Prosecutor of the Republic of Kosovo.

A. Municipal Public Prosecutor Offices

1. Municipal Public Prosecutor Office – Gjilan;
2. Municipal Public Prosecutor Office – Gjakova;
3. Municipal Public Prosecutor Office – Peja;
4. Municipal Public Prosecutor Office – Mitrovica;
5. Municipal Public Prosecutor Office – Prizren;
6. Municipal Public Prosecutor Office – Pristina;

B. District Public Prosecutor Offices

1. District Public Prosecutor Office – Gjilan;
2. District Public Prosecutor Office – Peja;
3. District Public Prosecutor Office – Mitrovica;
4. District Public Prosecutor Office – Prizren;
5. District Public Prosecutor Office – Pristina.

C. Special Prosecution Office of the Republic of Kosovo

Special Prosecutors have the authority and responsibility to perform the functions of their office, including the authority and responsibility to conduct criminal investigations and prosecute crimes, falling under the exclusive and subsidiary competence of the SPRK, throughout all the offices of the prosecutors and throughout all courts operating in the Republic of Kosovo.4

D. Public Prosecutor of Kosovo

The Public Prosecutor has territorial jurisdiction in Kosovo, with its residence located in Pristina.

4 Law on the Special Prosecution Office of the Republic of Kosovo, Article 3 (3.5), Law No. 03/L-052, 13 March 2008.
Article 3  Internal organization

Generally, each public prosecution office is comprised of a Chief Prosecutor, Prosecutors (deputies), Administrator’s Office and the Registration Office.

Chief Prosecutor

The Chief Prosecutor is in charge of the public prosecution office overseeing the day-to-day work and activities of the office. In carrying out the duties and responsibilities of the office as mandated by law, he or she is responsible for the office’s overall operation. The work of the office is directed to ensure efficiency and the highest standards of competency and professionalism among the staff. In his or her absence, the Chief Prosecutor appoints a Deputy Prosecutor to replace him. The Deputy Prosecutor performs all duties entrusted to him/her by the Chief Prosecutor.

The Chief Prosecutor may issue decisions, directions and instructions within the framework of his or her authority as provided by law.

Regular joint internal professional meetings are conducted by the Chief Prosecutor with the Prosecutors, of the respective office, to discuss important matters related to the work of the office.\(^5\)

Prosecutor

The Prosecutor exercises his or her functions based on the law and duties entrusted by the Chief Prosecutor.

Professional Associate

The Professional Associate assists the Chief Prosecutor and Prosecutors with various legal tasks. The Professional Associate may accompany and assist the Prosecutor at trials and hearings and participate in the internal professional meetings. Assessment of the work of the Professional Associates are conducted by the Chief Prosecutor or Prosecutor designated by the Chief Prosecutor.

Intern

The Intern assists the Chief Prosecutor and the Prosecutors with a variety of legal tasks, and performs other administrative duties assigned by the Administrator.

Administrator

The Administrator is responsible for planning, implementing and managing all the prosecution offices administrative functions. H/She oversees the work of the

\(^5\) It is recommended that these meetings take place on a weekly basis, as best practice demonstrates frequent internal communication is critical to the work of the prosecution office.
administrative staff and ensures that all administrative duties are performed in an efficient and competent manner.

The Administrator oversees the maintenance of registration and auxiliary books; plays a lead role in CMIS workflow; and performs tasks related to the prosecution office financial matters.

**Legal Secretary**

The Legal Secretary prints decisions, prepares and organizes hearing minutes; compiles summons for witnesses and parties; sorts and inserts documents into case files; collaborates with the registration office concerning cases received; and signs minutes in accordance with the law.

**Registration Officer**

The Registration Officer maintains electronic and written (manual) registration books in connection with the work of the prosecution office; manages the prosecutor’s case assignment system; drafts periodical reports on the work of the prosecution office; and keeps the data related to the workflow in the prosecution office.

**Archivist**

The Archivist organizes and maintains the prosecution office’s archived cases and secures evidence for respective archived cases according to category and year.

**The Messenger**

The Messenger ensures delivery of mail and various documents to and from the prosecution office to other institutions; delivers summons, decisions, invitations to parties and witnesses; and keeps records of acknowledgement of receipts in connection with deliveries.

**The Driver**

The Driver provides transportation for prosecution staff and maintains prosecution office vehicles.

**Head of Registration Office**

The Head of the Registration Office is selected from among the registration clerks. He or she receives and registers all documents presented to the prosecution office; maintains and updates the prosecution registers; prepares and maintains pending and archived case files; and coordinates the work of registration clerks.
The Interpreter, if necessary, provides simultaneous and consecutive interpretation at hearing sessions during criminal investigations. He or she translates prosecutor drafted materials, writs, cases and individual files in the prosecution office.\(^6\)

The Legal Advisor is a distinguished expert in criminal, civil and administrative areas of law. Based on legal research he or she provides advice to the Prosecutor’s Office on various matters involving theory and legal practice related to the work of the Prosecution Office.\(^7\)

**Article 4  Duty Prosecutor**

Every prosecution office has an assigned Duty Prosecutor, available 24 hours a day, to visit crime scenes following receipt of information from the police department. The duty schedule is created by the Chief Prosecutor at the beginning of each month. The Duty Prosecutor is required to be on duty for a period of a week, including weekends and holidays.

The court and the police station are notified of the name and contact information of the Duty Prosecutor where he or she can be contacted 24 hours a day.

The Duty Prosecutor drafts official minutes for all crime scene visits.

The official minutes are registered in the Registration Office in the “PPN” register and are attached to the respective case.

**Article 5  Official languages**

The languages and scripts which may be used in criminal proceedings shall be Albanian, Serbian and English. Another language or script may also be used if it is prescribed by law for use within the individual territorial jurisdiction of a court. Persons participating in the criminal proceedings, who do not speak the language that the proceedings are being conducted in, shall have the right to speak his or her own language, and is entitled to free interpretation by an independent interpreter\(^8\).

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\(^6\) All job descriptions for administrative staff are based on Routing Slip/Human Resources Ministry of Justice/Reference- DAQ/DBNJ -2/2007 Date 22 May 2007.

\(^7\) This job description has been drafted by the CMIS Working Group.

\(^8\) Code of Criminal Procedure, Chapter I, Article 15 (1) & (2), UNMIK/REG/2003/26.
Chapter II – Case Management Information System

Article 6  Main components of the Case Management Information System

1. Case management module: desktop database application;
2. WEB interface for registration and propagation of central nomenclatures (names and constants);
3. Reporting system and data warehouse for statistics used to collect and prepare advanced reports – WEB interface; and

Article 7  Processes in case management

1. Case filing;
2. Registration of case related documentation;
3. Case movement (horizontal and vertical);
4. Registration of appeals;
5. Extraordinary legal remedies;
6. Internal documents;
7. Case processing;
8. Calendar and scheduling of cases;
9. Standardization of repetitive events and processes by utilizing respective word processing templates (minimizing typing);
10. Minutes from sessions;
11. Creation of paper judgments;
12. Tracking of execution of judgments; and

Article 8  System Organization/Structure

1. Regional sites contain one server with two different databases for each judicial institution (court and prosecution office) from that region;
2. End users should have the application client installed on their workstations;
3. End users should be connected to the relational database management system (RDBMS) server through a wide-area network (WAN) or a local area network (LAN) to their respective database; and
4. Selective data fields should replicate to a central server for statistics and reporting purposes.

Examples of CMIS application - Annex “A”
Chapter III – Registration Books

Article 9   Types of Registration books

Prosecution offices maintain registration books for the official recording of criminal cases. The offices also maintain unofficial registration books (internal registry) which records acknowledgements of receipts, movement of the case and related activities in connection with the case within the prosecution office, courts and police.9

A. Registration books of Municipal Public Prosecution

1. Register for known adult offenders – “PP”
2. Register for juvenile criminal offenders – “PPM”
3. Register for unknown offenders of criminal acts – “PPP”
4. Register for miscellaneous criminal cases – “PPN”
5. Register for evidence seized in criminal cases – “SM”
6. Register for administrative and minor offence cases – “PA”
7. Administrative Register – “A”
8. Register for confidential documents – “SEK”
9. Register for civil contested and non-contested cases – “PC”

B. Registration books of District Public Prosecution

1. Register for known adult offenders – “PP”
2. Register for juvenile criminal offenders – “PPM”
3. Register for unknown offenders of criminal acts – “PPP”
4. Register for miscellaneous criminal cases – “PPN”
5. Register for evidence seized in criminal cases – “SM”
6. Register for criminal cases in the second instance procedure – “PPA”
7. Register for commercial offense offender – “PPD”
8. Administrative Register – “A”
9. Register for confidential documents – “SEK”

C. Registration books of Special Prosecution of Republic of Kosovo

1. Register for known adult offenders – “PP”
2. Register for juvenile criminal offenders – “PPM”
3. Register for unknown criminal offenders – “PPP”
4. Register for miscellaneous criminal cases – “PPN”
5. Register for evidence seized in criminal cases – “SM”
6. Administrative register – “A”
7. Register for confidential documents – “SEK”

9 Registration books were developed by the Ministry of Justice to unify registration of cases in prosecution offices throughout Kosovo.
D. Registration books of the Public Prosecutor of Kosovo

1. Register for appeals against first instance decision – “PPA”
2. Register for appeals against second instance decisions – “PPA-I”
3. Register for appeals in decisions against juveniles – “PPM”
4. Register for detentions – “PAR”
5. Register for miscellaneous criminal cases – “PPN”
6. Register for civil cases according to the revision – “KMLR”
7. Register for the protection of legality in civil cases – “KMLC”
8. Register for the protection of legality in administrative cases – “KMLA”
9. Register for the protection of legality in criminal cases – “KMLP - II”
10. Register for the prosecutors request KML criminal – “KMPL - I”
11. Register for the protection of legality in minor offences cases – “KMLK”
12. Register for mitigation – “KZJD”

Article 10 Registration of General Documents

All documents for the Prosecution Office are received by the Registration Office.

All documents received by mail are registered in the Registration Office and distributed to the appropriate staff member. In the event that the envelope from the postal service is damaged upon receipt, the postal officer is asked to verify the state and content of the envelope (record is kept).

Receipt of documents from the courts or other institutions are stamped, indicating the date of receipt in an internal log. The person receiving the document signs and dates the log, using a clear and legible signature. The individual delivering the document to the office is given an acknowledgement receipt verifying delivery of the document.

Documents addressed to specific individuals are not opened in the Registration Office, but are recorded in an internal registry book and delivered to the addressee without delay. All other documents addressed generally to the prosecution office are opened and registered in the intern registry. These documents are then forwarded to the Chief Prosecutor for review and distribution to the appropriate Prosecutor or staff member.

Delivery of summons and other prosecution documents are performed through the Registration Office.

This procedure is noted in corresponding registry books and in CMIS where appropriate.
Article 11 Registration of Confidential Documents

Documents submitted in sealed envelopes marked “confidential” are opened by the Chief Prosecutor or person designated by the Chief Prosecutor with this responsibility.

Article 12 Case Registration and Assignment

The Registration Office registers and assigns a number to a case upon receipt, from the Chief Prosecutor, in the respective registry book.

If multiple persons are charged with the same criminal offense, the criminal report is registered under one number.

If one individual is accused of committing a criminal offense against multiple persons, the criminal report is registered under one number.

All accused and victims names are listed in the registry book, except in cases where the information must be kept confidential.

Following the registration process, the Registration Office distributes the case to the assigned Prosecutor, based on the office’s case assignment roster procedure. The case is distributed on the same day it is received by the Registration Office.

Article 13 Case File

A case file is comprised of documents registered in the respective registration books by the Registration Office, in connection with the case.

The registration officer notes the case number, based on the prosecution offices case numbering system, and makes a list of the initial documents received on the inside cover of the case file.

Article 14 CMIS Registration

Cases registered according to manual procedures are also registered in CMIS and immediately forwarded to the Chief Prosecutor for review. Following the review, the case is forwarded to the assigned Prosecutor without delay.

Article 15 Urgent Cases

All cases of an urgent nature, including detention cases, are required to be registered by the Registration Office and are immediately forwarded for further processing.

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10 Processing of confidential documents is discussed in further detail in Chapter XIV.
11 Cases are registered in respective registry books based on the type or category of case.
12 While cases are assigned on a rotational basis, the Chief Prosecutor retains the authority to assign a case to a prosecutor outside the normal rotation roster system.
13 File Preparation is discussed in further detail in Chapter XV.
14 Additional information on the registration process is provided in Chapter VI.
These cases must be marked “URGENT.” If they contain a deadline, it should be noted both on the cover page of the case file and in CMIS.

Article 16  Legal Documents
Legal documents submitted by the prosecution office to the court, other institutions or natural persons should indicate the date, title and signature of the person delivering the document.15

All delivered documents are recorded in an internal book for document deliveries.

Article 17  Security of Case Files

Case files, prosecution stamps, and other various documents and materials should not be left alone without appropriate supervision during working hours.

After working hours, these items should be locked in work desks or other areas designated for their security and storage.

Article 18  Closure of Registers

Registration books are closed at the end of the calendar year.

Criminal cases which are pending at the end of the calendar year are carried into the following calendar year together with the original number assigned by the registry.

The closing of the registration book is performed in such a manner that at the end of the calendar year, a note is made following the last registered case number which contains: the date; month; year of registry closing; serial number of the last case registered for the year; and the number of pending cases at the end of the year.

The note is signed by the officer who manages the register and by the Chief Prosecutor or person authorized by the Chief Prosecutor.

Following the entry of the last registered case from the prior calendar year, the registration of new criminal cases for the current calendar year begins with registration number “1.”

Article 19  Correction of Registration Errors

Errors in registration books are corrected by drawing a straight line with a plain pencil over the text registered in error, ensuring that the text remains legible. The correct information is then noted in same area without covering/blocking the error text.

The information is also appropriately corrected in CMIS.

15 While each prosecution office is currently using its own forms, there should be a unification of these important legal documents in all prosecution offices.
Chapter IV – Statistic

Article 20  Statistical Reports

Prosecution offices maintain, regulate and submit statistical data for their work based on guidelines foreseen by the Public Prosecutor of Kosovo.

Statistical reports are compiled by filling in special templates based on data from the respective registers.

Assembling of data and submission of regular reports to the competent institutions is performed within the deadlines determined by the Public Prosecutor of Kosovo.

Article 21  Working Reports

All Prosecution offices reports to the Public Prosecutor of Kosovo on a monthly and quarterly basis regarding: incoming cases; pending cases; cases resolved during the reporting period; and unresolved cases for the reporting period.

The annual report contains the following:

- data on cases received;
- resolved and unresolved cases;
- data concerning the manner in which the case was resolved;
- data on indictments; and
- data on filing regular and extraordinary legal remedies.

The Public Prosecutor of Kosovo may require, from the prosecution offices, reports regarding specific cases or reports on various issues, together with relevant statistical data.

Article 22  Personnel Reports

Each Prosecutor’s Office maintains monthly data on the work of all prosecutors and professional associates, in connection with the number of cases assigned; the number of resolved and unresolved cases; the manner in which the cases were resolved; confirmations of indictments; and the number of legal remedies filed against court decisions.

Performance evaluations are performed at the end of the calendar year for each Prosecutor, Professional Associate and Administrative staff member.

Article 23  Responsibility for Statistical Reports

The Prosecutor’s Office Administrator is responsible for the collection of the statistical data for the entire office. Individual registration officers are responsible for the data in their respective registers. The Chief Prosecutor is responsible for the accuracy of the data provided by his office.
Chapter V – Communication

Article 24  Criminal Offenses Reported by Citizens

The public prosecutions offices are organized in a manner that permits all citizens to exercise their rights and interests, protected by law, and guaranteed through the competence of its offices.

To fulfill this important obligation, the public prosecution offices are required to receive complaints alleging criminal offenses from citizens.

An official note is made in cases where statements received from members of the public, verbally or via telephone, have resulted in the filing of criminal charges.

Article 25  Communication with Public or Media

Information regarding the work of Prosecutor’s Office, or a particular case, is provided to members of the public or media by the Chief Prosecutor or spokesperson which h/she designates for this purpose. The manner of communication will be determined by the Chief Prosecutor or spokesperson.

Caution should be exercised when providing information to citizens, or media, to ensure that confidential information is not disclosed, other than the normal procedural action taken in the case.

Unauthorized staff members are not permitted to speak with the public, or media, about the work of the prosecutor’s office or particular cases.

Article 26  Communication with Parties

Communication with parties (including victims, witnesses or defense counsels) regarding a particular case, is conducted by the Chief Prosecutor, deputy designated or case prosecutor.

Unauthorized staff members are not allowed to provide an assessment of a case, comment on the case, or on any decision taken by the Prosecutor’s Office or Court.

Employees in the Registration Office may only provide parties with information authorized by the Chief Prosecutor, Deputy designated or Case Prosecutor.

Information provided by the Registration Office is limited to what is relevant in connection with the procedural stage of the case, e.g. the scheduled date and time of hearing or trial.

16 Confidential Information varies from case to case and includes information which would impact an ongoing criminal procedure.
Under no circumstance is the Registration Office permitted to reveal substantive information to any party regarding a particular case or work of the Prosecutor’s Office.

**Article 27 Viewing or Photocopying Case File Documents**

Only authorized persons are permitted to view and/or photocopy documents of a particular case.

Permission for either viewing or photocopying documents of a case is given by the Chief Prosecutor, Deputy designated or Case Prosecutor.

Prior to the viewing or photocopying, necessary measures are to be taken to ensure that documents of a confidential nature, which should not be disclosed, are set apart from other documents in the case file.

The determination of documents to be made available for viewing or photocopying, should be made by the Chief Prosecutor or Case Prosecutor.

The viewing or photocopying of the documents is performed under the supervision of the Registration Office, during a time period that is convenience for the efficient operation of the office.

As prescribed by law, fees may be requested from the party requesting photocopies of case file documents.
Chapter VI – Criminal Cases Against Known Offenders - Adults

Article 28 CaseFlow – Receipt of Criminal Report

The criminal report is received by the Registration Office\textsuperscript{17} which stamps acknowledgement and date of receipt of the document\textsuperscript{18}.

The Registration Office then forwards the criminal report to the Chief Prosecutor for review and assessment.

Article 29 Jurisdiction Review

The Chief Prosecutor reviews the subject-matter and territorial jurisdiction of the alleged criminal offense as prescribed by law.

If h/she determines that the alleged criminal offense is within the jurisdiction of another prosecution office, the case is referred to the competent prosecution office.

The Chief Prosecutor delivers the decision on jurisdiction to the Registration Office both in hard copy and electronically through CMIS.

Article 30 Review of Criminal Report

The Chief Prosecutor shall, within the limits of his/her subject matter and territorial jurisdiction, consider all alleged criminal offences, unless otherwise provided by law.

The Chief Prosecutor reviews the criminal report and notes the criminal charges on the standard form for review.

The Chief Prosecutor, following the review, sends the criminal report back to the Registration Office for registration and assignment to a Prosecutor.

The criminal report is also processed through CMIS.

Standard review form completed by Chief Prosecutors – Annex “B”

Article 31 Registration of Criminal Report

A recording clerk enters the criminal report in the registry “PP” and in CMIS according to the chronological order, by including the following information:

\textsuperscript{17} This procedure is applicable only to the Municipal and District Prosecution Offices. Administrative caseflow for State Prosecutor Office is described in Chapter IX.

\textsuperscript{18} A criminal report details an alleged criminal offense and which may be submitted by the police, citizen or institution.
Assigned prosecutor;
Place and date of commission of criminal offence;
Number of criminal report;
Date of criminal report;
Date of submission to prosecutor’s office
Date of receipt by prosecutor’s office;
Appendices of criminal report;
Regular procedure (without detention);
Urgent procedure (with detention);
Criminal charge in connection with the criminal offence;
Submitter: legal/natural;
Suspect’s details;
Injured party’s details;
Other persons (witnesses, etc); and

Article 32 Submission of Case to Assigned Prosecutor

Following the initial registration, the recording clerk enters the criminal report and its appendices in a standard case folder.

This folder notes: the case number, name of suspect(s) and the criminal offence (article).

The recording clerk serves the case file to the Assigned Prosecutor through the register for internal service. The Assigned Prosecutor is also served electronically through CMIS.

The Chief Prosecutor also has electronic access to the case through CMIS.

Article 33 Receipt of Case by Assigned Prosecutor (Case Prosecutor)

The Assigned Prosecutor receives the case through the internal register on which he/she acknowledges receipt by writing the case number, date of receipt and signature.

The Assigned Prosecutor and the Legal secretary also receives the case through CMIS.

The Assigned Prosecutor reviews the case and completes a standard review form.

Standard form completed by Assigned Prosecutor - Annex “C”

Article 34 Prosecutor’s actions

Dismissal of criminal report;
Request for necessary information;
Opening of investigation;
Request for ordering detention;  
Suspension of investigation;  
Termination of investigation;  
Direct filing of indictment;  
Summary indictment;  
Filing of indictment after completion of investigation;  
Trial/Appeal refraining; and  
Other actions

All of the above actions taken by the prosecutor are noted in CMIS.

**Article 35  Service of Case Filings in Prosecutor’s Registration Office**

Documents generated by the Prosecutor which require service or distribution to parties, police, courts or other institutions are provided to the Registration Office for delivery.

**Article 36  Service of Decisions to Court - Initiation of Investigation**

The Prosecutor serves one copy of the decision on the initiation of investigation to the pre-trial judge through the Prosecutor’s Registration Office as prescribed by law.

The Prosecutor serves the same decision to the recording clerk through CMIS.

Copies of all documents are made by the Legal Secretary.

**Article 37  Service of Case Files to the Court After Filing of the Indictment/Summary Indictment**

Following the filing of the indictment/ summary indictment, the court’s decision on confirmation of indictment is delivered to the Registration Office, and is recorded in the relevant registration book and in CMIS.

The court’s decision is forwarded to the Case Prosecutor and recorded in the relevant internal registry and CMIS.

Copies of the indictment are made for the accused and his/her defense counsel. One additional copy is made for the court by the Legal Secretary and returned to the Registration Office for delivery.

The Registration Office serves the indictment together with the case file on the court, and is recorded in the registry book, with an acknowledgment of receipt, by the court.

Service on the court is recorded in CMIS.

A copy of the case file remains with the Registry Office.
Article 38  Procedure for Confirmation of the Indictment

The court “summons” for the indictment confirmation hearing, is delivered to the Registration Office, entered in the internal register and recorded in CMIS.

The recording clerk serves the summons, together with the complete case, to the case Prosecutor.

The Case Prosecutor receives the summons and case file through the internal register and CMIS.

Article 39  Indictment Confirmation Hearing

Following the indictment confirmation hearing, the Case Prosecutor records the results of the hearing in the case file and in CMIS.

The Case Prosecutor then serves the complete case to the Registration Office through the internal register and CMIS.

Article 40  Main Trial

The court delivers the “summons” for the main trial to the Registration Office, which records the information in the internal register and in CMIS.

The recording clerk serves the “summons” together with the case file to the Case Prosecutor.

The Case Prosecutor receives the “summons” and case file through the internal register book and CMIS.

Article 41  Post Trial

Following the main trial, the Case Prosecutor serves the case to the record office through the internal register book and CMIS.

Article 42  Judgment of Court of First Instance

The Court of First Instance serves the Judgment on the Registration Office, which acknowledges receipt.

The receipt of Judgment is entered in the record register “PP” and in CMIS.

The Judgment, together with the case file, is delivered to the Chief Prosecutor by the Registration Office and noted in the internal registry book and CMIS.
Following the Chief Prosecutor’s review of the Judgment, the case and the Judgment is forwarded to the Case Prosecutor with the Chief Prosecutor’s opinion regarding any possible appeal.

In the event the Chief Prosecutor, in consultation with the assigned prosecutor, determines that there are no grounds for an appeal, the case file is served to the Registration Office until further action is required or possible appeal by defendants.

The service of the case file to the Registration Office is recorded in the register book “PP” and in CMIS.

**Standard form completed by Chief Prosecutor for the review of the first instance judgment– Annex “D”**

**Article 43 Appeal**

The Case Prosecutor serves the appeal, together with the case file, to the Registration Office through the internal register and CMIS.

The Registration Office serves a copy of the appeal to the court through internal the registry book and CMIS.

**Article 44 Judgment of the Court of Second Instance**

The Judgment of the Court of Second Instance is received by the Registration Office and is entered in the record register “PP” and in CMIS.

The Judgment, together with the case file, is served to the Chief Prosecutor through the internal register and CMIS.

Following the Chief Prosecutor review of the Judgment, the case file and Judgment is forwarded to the Case Prosecutor with the Chief Prosecutor’s opinion regarding any possible extraordinary legal remedy.

In the event the Chief Prosecutor, in consultation with the Case Prosecutor, determines that there is no ground for an extraordinary legal remedy, the case file is served to the Registration Office.

The service of the case file to the Registration Office is recorded in the record register “PP” and in CMIS.

**Standard form completed by Chief Prosecutor for the review of the second instance judgment– Annex “D”**

**Article 45 Extraordinary Legal Remedy**
In the event the Chief Prosecutor initiates an extraordinary legal remedy against Final Judgment, h/she serves it to the Registration Office, together with the case file, through the internal register and CMIS.

The clerk enters the extraordinary legal remedy in the register “PP”, in CMIS and serves the competent court.

If the extraordinary legal remedy involves Protection of Legality, the Chief Prosecutor notifies the State Prosecution Office through the Registration Office.

The Registration Office serves the State Prosecution Office through the internal register and CMIS.

In the event the Chief Prosecutor determines that there are no grounds for initiating the extraordinary legal remedy, h/she serves the case to the Registration Office for archiving.

The case is archived in the record registry “PP” and in CMIS.

*Standard form for initiation/no initiation of extraordinary legal remedy – Annex “D”*

**Article 46 Archiving**

Following the recording of the case in record registry “PP” and CMIS, the case file is delivered to the designated place for archiving in accordance with the law.

*Standard form for archiving of the case – Annex “D”*
Caseflow of Criminal Cases against Known Offenders - Adults

The Court

- Confirmation procedure of the indictment at first instance court
- Confirmation of indictment
- Dismissal of indictment
- Main trial/ announce Appeal
- First Instance Court
- Second Instance Court

Preliminary procedure

- Filing of the criminal report

Registration Office

- Receipt of the criminal report
- Receipt of judgment of first instance court
- Receipt of judgment of second instance court

Chief Prosecutor

- Review of criminal report
- Review of judgment of the first instance court
- Review of judgment of second instance court

Registration Office

- Submission of case to the first instance court
- Register and submission of judgment to the Case Prosecutor
- Submission of Appeal or Appeal reply to the first instance court
- Register and submission of judgment to the Case Prosecutor
- Archive

Case Prosecutor

- Receipt of the case
- Direct indictment
- Case submission to Registration Office
- Review of judgment
- Submission of the Appeal or Appeal reply to the Registration Office

Review of the case

- Opening of investigation
- Indictment/ Summary indictment
- Suspension of investigation
- Appeal
- No Appeal

- More information
  - Investigation
  - Request for necessary information
  - Dismissal

- No Investigation
  - Dismissal of criminal report
- Extraordinary Legal Remedy

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Chapter VII – Plea Agreement

Article 47  Caseflow of Plea Agreement

The Case Prosecutor, the defendant and the defense lawyer under conditions determined by law, may negotiate a plea agreement at any time before the opening of the main deliberations.19

The defendant’s or defense lawyer’s request for a preliminary meeting for negotiations is filed in the registration office, and is registered in the record register “PP” noting the respective case number. The request is then submitted to the Case Prosecutor.

After accepting the request for a preliminary meeting, the Case Prosecutor shall inform the Chief Prosecutor, who will issue an authorization, in writing, for conducting the meeting to discuss a plea agreement. The Chief Prosecutor shall also issue subsequent written approval of the plea agreement.

Article 48  Written Plea Agreement

The plea agreement shall be in writing and approved by the Chief Prosecutor before being provided to the defendant and his attorney.

The Case Prosecutor shall inform the victim of the negotiated agreement once it has reached its final form. Notification to victim is done in writing through the Registration Office.

The written plea agreement is signed by the Chief Prosecutor, the defense lawyer and the defendant.

Article 49  Submission of Plea Agreement to the Court

The written plea agreement is submitted to the court through the Registration Office.

The written agreement is presented in court, in an open public session, except in cases as specified by law20.

The court sets a deadline for plea negotiations, not longer three months, and may accept or reject the plea agreement for reasons specified by law.

19 Code of Criminal Procedure, Art. 308A.
20 Cases that require confidentiality, e.g., a case involving a cooperating witness in an ongoing investigation.
Article 50   Rejection of Plea Agreement by the Court

If the plea agreement is rejected by the court or rescinded by the defendant or Case Prosecutor, the case shall continue and proceed to trial as foreseen in accordance with the Criminal Procedure Code.

Article 51   Acceptance of Plea Agreement by the Court

If the court approves the plea agreement, it shall set a date when the parties shall make statements in court regarding the penalty, after which, the court shall issue the sentence.

Standard forms for the Plea Agreement – “E”
Plea Agreement Caseflow Procedure

1. Request for a pretrial meeting
   - Defendant/Defense Lawyer

2. Registration Office
   - Registration of request
   - Receipt of request
   - Notify Chief Prosecutor

3. Assigned Prosecutor
   - Plea agreement
   - Submission of the plea agreement to the court

4. Chief Prosecutor
   - Authorization for conducting the meeting
   - Plea agreement approval

5. Court
   - Plea agreement presentation in the session
   - Approval
   - Rejection
   - Sentencing
   - Execution of sentence

6. Regular caseflow procedure as per law
Chapter VIII – Mediation

Article 52  Mediation Caseflow

The Case Prosecutor may refer for mediation, a criminal offense which is punishable with a fine or imprisonment up to three years.21

The mediation is conducted by an independent mediator.

The length of time for reaching an agreement cannot exceed three months.

After receiving notification on the agreement, through the Registration Office, the case prosecutor dismisses criminal charges.

Cases referred to mediation are registered and processed in the same manner described for non-mediation cases.

Article 53  Failure to Reach an Agreement

In the event of a failure to reach an agreement, the mediator notifies the case prosecutor of the reasons for the failure.

If mediation fails, the case will re-enter the regular caseflow processing and the prosecutor will continue with the case according to the code of criminal procedure.

21Code of Criminal Procedure, Art. 228 (1) to (4). In addition, the prosecutor may also suggest to the parties the mediation procedure in each stage of the court proceedings, until the resolution of the case, Law 03/L-057, Law for Mediation, Article 9 (5).
Chapter IX – Extraordinary Legal Remedies – Office of Public Prosecutor of Kosovo

Article 54  Caseflow for Reopening of Criminal Proceeding

Criminal proceedings which are concluded with a final decision or judgment may be reopened with the request of the Prosecutor or other authorized people according to the Criminal Procedure Code.

The request for reopening the criminal procedure is submitted to the first instance court which issued the judgment or decision.

The court issues a decision to dismiss the request based on reasons foreseen in the Criminal Procedure Code.

If the court does not dismiss the request, a copy of the request is submitted to the opposing party which has the right to respond to the request within eight days.

After the court receives a response on the request or when the deadline for submitting an answer has past, the Presiding Judge of the panel orders a factual investigation and a presentation of the evidence, set forth in the request and response.

After the conclusion of the research, the Presiding Judge orders the writs to be submitted to the Case Prosecutor. The Prosecutor, without delay, is required to return the writs along with his opinion.

When the Prosecutor returns the writs, the court may order a supplemental investigation or pursuant to the investigation results, the court either rejects the request or approves the reopening of the criminal procedure.

All documents including requests, decisions and judgments are processed through the Registration Office.

23 Code of Criminal Procedure, Art. 443, authorizes persons to include parties and defence counsel.
Reopening of Criminal Proceedings

1. Request for reopening of Criminal Proceedings
2. Registration and delivery to the first instance court
3. Public Prosecutor Opinion
4. Public Prosecutor for an Opinion
5. Submission and delivery to the Public Prosecutor
6. Registration and delivery to the first instance court
7. Delivery of the case to the Public Prosecutor for an Opinion
8. First instance court decision
9. Approval of the request
10. Rejection of request
11. First instance court procedure
12. Investigation and presenting the evidence
13. Request dismissal
Article 55  Caseflow following the Request for Extraordinary Mitigation of Punishment

An extraordinary mitigation of punishment may be requested by the Prosecutor, if proceedings were initiated at his/her request, or the convicted person and his attorney's request.24

The Kosovo Supreme Court decides on the extraordinary mitigation of punishment.

The request is filed with the court which rendered the first instance judgment.

The Presiding Judge of the panel of the first instance court will dismiss a request to file such a request, if done by an unauthorized person.

The first instance court examines whether there are grounds for an extraordinary mitigation of sentence. After hearing the opinion of Prosecutor, if the procedure was the request of the Prosecutor’s office, the sentenced party or his defense lawyer, it refers the file with its reasoned recommendations to the Supreme Court.

When the criminal offence is prosecuted according to the Prosecutor’s request, prior to rendering the decision on the extraordinary mitigation of punishment, the Supreme Court shall submit the files to the Kosovo Public Prosecutor who may present the Court with a written motion proposal in writing.

The Kosovo Supreme Court rejects the request if it determines that there is no legal basis for the extraordinary mitigation of punishment. If it approves the request, with a decision, the court modifies the final decision pertaining to the sentencing.

All documents including requests, decisions and judgements are processed through the Registration Office.

Caseflow for Extraordinary Mitigation of Punishment

1. Public Prosecutor
   - Request for extraordinary mitigation of punishment
2. Prosecution Registration office
   - Registration and delivery to the first instance court
3. First instance Court
   - First instance court procedure
   - Dismissal of the request
   - Delivery of the case to the Public Prosecutor for an Opinion
4. Kosovo Supreme Court
   - Supreme Court decision
   - Approval of request
   - Rejection of request
5. Public Prosecutor’s Opinion
   - Submission and delivery to the Public Prosecutor
   - Registration and delivery to the first instance court
Article 56  Caseflow following the Request for Protection of Legality

After the conclusion of the final criminal procedure, a request for protection of legality may be presented against a final court decision or against the court procedure which preceded the rendering of such a decision.

The request for protecting legality may be made by the Prosecutor or the defendant and his defense lawyer.

The deadline for presenting the request is three months beginning from the day when the defendant is given the final court decision. If there is no appeal against the decision of the first instance court, the deadline starts from the day when the decision becomes final.

If the European Court for Human Rights verifies that the human rights of the defendant have been violated by the final decision, the deadline for presenting the request for protection of legality begins from the date the decision issued by the European Court for Human Rights is submitted to the defendant.

The request is presented to the court of first instance. The first instance court may dismiss the request for reasons foreseen in the Criminal Procedure Code.

If the first instance court does not dismiss the request, it then submits the case to Kosovo Supreme Court which decides on the request.

If the request is prohibited or was made after the deadline, the Kosovo Supreme Court shall dismiss the application. If the request is accepted, the Kosovo Supreme Court, through a decision, will approve or reject the request for protection of legality.

All documents including requests, decisions and judgements are processed through the Registration Office.

Caseflow of the Protection of Legality Proceedings

1. Request for protection of legality
2. Registration and delivery to the first instance court
3. First instance court procedure
   - Dismissal
   - Delivery of the case to the Kosovo Supreme Court
4. Kosovo Supreme Court
   - Supreme Court decision
     - Approval of request
     - Rejection of request
Chapter X – Juvenile Cases

Article 57  Caseflow for Juvenile Cases

Juvenile\textsuperscript{26} cases are registered in the record register “PPM.” Criminal offenses committed by juveniles are processed in all prosecution offices. The procedures in juveniles cases are implemented in the same manner as those used in the adult cases described in Chapter VI, Articles 28 – 33.

Article 58  Prosecutor’s Actions

- Decision on the application of the preparatory procedure;
- Request for ordering detention;
- Termination of preparatory procedure;
- Notifying the judge for juveniles on the cessation of the preparatory procedure;
- Proposal for issuing correction measure or punishment after the completion of preparatory procedure;
- Diversion measures;
- Trial/Appeal; and
- Other actions

All actions mentioned above are registered in CMIS.

Article 59  Submitting Decisions to the Court

Through the Prosecutor’s Registration Office, the Case Prosecutor submits to the judge of the juvenile court a copy of the decision for implementing the preparatory procedure and a copy of the criminal indictment, together with other additional documents.

After the completion of the preparatory procedure, the Case Prosecutor submits to the juvenile court panel the proposal for issuing the correction measure or punishment.

The decisions are submitted by the prosecutor to the Registration Office for submission to the court and also through CMIS.

The Legal Secretary prepares copies of all documents that are submitted to the court.

Article 60  Administrative Procedure before and after the Main Trial

The criminal procedures described in this manual, in connection with adults, are also implemented in the juvenile cases, with the exception of the confirmation of the indictment\textsuperscript{27}.

\textsuperscript{26} The term juvenile means a person who is between the age of 14 and 18 years, The Juvenile Justice Code of Kosovo, UNMIK 2004/8.

\textsuperscript{27} There is no confirmation of indictment in procedures involving juveniles.
Chapter XI – Cases involving Unknown Offenders

Article 61  Caseflow - Unknown Criminal Offenders

Cases of unknown criminal offenders are registered in the record register “PPP.”

The procedure in cases where the offender is unknown is implemented in the same manner as when the offender has been identified—described in Chapters VI, Sections 28-33.

Following receipt of the criminal report, the Chief Prosecutor or Case Prosecutor reviews the report and may request that the police collect the necessary information.28

The request of the Chief Prosecutor/Case Prosecutor is submitted to the police through the Prosecutor’s Registration Office and is registered in CMIS.

In the event that further investigation by the police results in identifying the criminal offender, the case is transferred from the record register “PPP” to the record register “PP.” This transfer is also registered in CMIS.

28 Code of Criminal Procedure, Art. 209(1) & (2).
Chapter XII – Miscellaneous Cases

Article 62  Registration of Miscellaneous Cases

Miscellaneous cases are registered in the record register “PPN.”

Miscellaneous cases include non-criminal reports generated by police, institutions or citizens. These reports include suicide, natural deaths and permission for marriage of a minor. It also includes other reports such as official notes from crime scenes and requests for various expert examinations.
Chapter XIII – Evidence, Assets and other Seized Items

Article 63  Procedure for Evidence Seized in Criminal Cases (Corpus Delicti)

Generally, whenever possible, documents and other items received by the prosecution office in connection with a case are kept in a case file.

If the case involves large sums of money, the prosecutor will instruct the police to store the money in the bank until a further determination on a course of action can be made. Small amounts of money, as well as other items of minimal value, are immediately submitted to the Prosecutor’s Office Administrator, who promptly compiles a list of the items and executes a note of acknowledgement in connection with the items.

When evidence is kept in the Prosecutor’s Office, the Registration Office records the items in the record register “SM.” If the evidence is kept in another location such as the police station, the Registration Office records the location of the items in the record register “SM.”

Evidence which cannot be kept in the Prosecutor’s Office, such as weapons and explosives, shall be kept in the police station or other appropriately designed place with an appropriate record for the case file.

Evidence which is perishable or destructible is submitted for preservation to the organization or the institution authorized to preserve or manage such items.

The person who receives the evidence is also provided an official note listing the items. H/She then verifies that the list accurately represents the items as described.

Article 64  Transfer of Evidence to Court

Evidence kept in the Prosecutor’s Office shall be submitted to the court along with the indictment or proposed indictment.

The Case Prosecutor prepares an acknowledgment receipt listing the evidence submitted to the court which is signed by the court registration office. The list documenting the evidence and acknowledgement receipt remains with the case file.

If evidence is not kept in the Prosecutor’s Office, the Case Prosecutor prepares a list of the items and notes the location where they can be obtained by the court.

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29 This practice varies from office to office. Money is sometimes kept in the police station and not the bank.
30 The indictment and evidence is delivered by the Prosecution Registration Office.
**Article 65  Evidence in Dismissed Cases**

In the event criminal charges are dismissed or the investigation procedure suspended, the Case Prosecutor shall make a determination on what should be done with the relevant items.

**Article 66  Applicable Law**

The procedure from this Chapter will be regulated by the Law on Management of the Sequestrated or Confiscated Assets, 03/L-141, July 10, 2009.
Chapter XIV – Confidential Documents

Article 67  Receipt of Confidential Documents

Generally, all confidential documents are received by the Registration Office and forwarded unopened to the Chief Prosecutor.

The Chief Prosecutor keeps an internal register \(^{31}\) in which h/she records the confidential documents, and, if necessary, provides the information to the appropriate Case Prosecutor. The information is also noted in CMIS\(^{32}\).

Article 68  Delivery of Confidential Documents

Confidential documents addressed to the police, are sealed in an envelope and marked “Confidential” by the Chief Prosecutor and personally submitted to the police officer initiating the request.

Confidential documents, addressed to the pre-trial judge or court, are sealed in an envelope by the Chief Prosecutor and marked “Confidential.”

The sealed envelope is given to the police officer for delivery and submission to the pre-trial judge or court, which signs an acknowledgement of receipt.

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\(^{31}\) This internal register is kept solely by the Chief Prosecutor, in a secured place, not accessible by other staff.

\(^{32}\) Confidential documents in CMIS are protected by limited secured access.
Chapter XV – File Organization

Article 69  Order of Documents

A file index is created in each case, listing the documents in the case file. It is recommended that dividers are used to separate sections of the documents.

Case documents are to be organized chronologically, according to sections and page numbers.

- Police reports
- Police orders/inquiries
- Prosecution orders/decisions
- Court orders/decisions
- Witness’ testimonies/statements
- Reports/material evidence

Documents, throughout the entire case file, should contain numeration indicating how many pages are contained in each specific document.
Chapter XVI – Ethics

Article 70   Code of Ethics - Prosecutors

All prosecutors are required to respect and adhere to the Code of Ethics and Professional Conduct for Prosecutors.\(^{33}\)

Breach of the Code in prosecutorial and non-prosecutorial activities constitutes grounds for sanctions against a Prosecutor found to have violated defined standards of ethics and professional conduct.

Article 71   Code of Conduct - Prosecution Staff

All employees of the office of the public prosecutor (non-prosecutors) are required to respect and adhere to the Civil Servant Code of Conduct.\(^{34}\)

Disciplinary measures can be taken against an employee for engaging in unethical behavior, or in conduct that violates the Code.

Article 72   Prosecution Office Dress Code

All prosecution staff is required to abide by the dress code in accordance with the Administrative Instruction\(^{35}\).

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\(^{34}\) Civil Service Code of Conduct No. 01/2006.

\(^{35}\) Administrative Instruction No. 04/2008, Ministry of Public Service.
Chapter XVII – Working Hours and Annual Leave

Article 73   Working Hours

The working hours in the Prosecutor’s Office are determined by the Chief Prosecutor in compliance with the law.

Urgent duties; ongoing trials; hearing parties; and viewing of crime scenes shall be concluded, regardless of the working hours, if their postponement may cause financial expenses or delays in the case.

Article 74   Annual Leave

The annual leave plan is drafted by the Chief Prosecutor based on the employees’ request.

The annual leave plan shall take into consideration the need to have a sufficient number of employees to resolve cases of an urgent nature.

The Chief Prosecutor issues a written decision pertaining to the annual leave of the employees.

The Chief Prosecutor notifies the higher prosecution office\(^{36}\) and the State Prosecution office of the annual leave plan for the respective office.

---

\(^{36}\) The Municipal Prosecutor’s Office notifies the District Prosecutor’s Office.
Annex A – CMIS examples

### Case Definition
- **Judge:** [Image]
- **Area:** PENALE
- **Date of Registry:** 12/17/2007
- **Jail:** without detention

### Submission Data
- **Presented on:** 12/4/2007
- **Submitting:** 09.12.2007
- **Type of Request:** Akkadual

### Contents
- **Accusation Act**
- **Supplements:** Lists

### Done on
- **Place of Offence:** Ganganica

### Race Submission

### Received by other courts
- **Under Number:** 12/1/2008

---

### Trial Calendar
- **December 2008**
- **Lists**
  - From day: 12/04/2008
  - Till day: 12/21/2008
  - Type of room: Court room
  - Room: [Image]

---
Annex B – Standard form for criminal report I

Standard form for criminal report I
(completed by Chief Prosecutor)

Prosecutor office……………………………………………………………………

<table>
<thead>
<tr>
<th>Date of receipt of the criminal report at the registration office</th>
<th>Data of the submission to the Chief Prosecutor</th>
<th>Date of receipt from the Chief Prosecutor</th>
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</table>

Initial review of criminal report by the Chief Prosecutor

<table>
<thead>
<tr>
<th>1. Qualification of the criminal offence (case to be proceeded)</th>
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<th>2. Request for additional information</th>
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<tr>
<th>3. Dismissal of criminal report</th>
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</table>

Chief Prosecutor ……………………..  Date…………………………………

58
Annex C - Standard form for criminal report II

Case Prosecutor …………………………….

Case details

<table>
<thead>
<tr>
<th>Name of offender/ juvenile</th>
<th>Case No.</th>
<th>Detention/ Other measures</th>
<th>Juvenile in cooperation with the offender adult</th>
<th>Represented by</th>
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<td>D1</td>
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<td>D2</td>
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<td>D3</td>
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<tr>
<td>D4</td>
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Witnesses

Gathered evidence (including statements, medical records, weapons, narcotics, etc.)

<p>| |</p>
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</table>
Initial review

**Evidential test** — Please give a brief summary of case — highlight reasons for the prosecution and the evidence available. Please also list any issues (eg identification) in the case that could undermine the prosecution and the actions taken to resolve those issues. **The reasons for an application for detention or alternative measures should also be included here.**

Case Prosecutor ....................... Date..........................

Final review

**This review is to be done ahead of the confirmation hearing – on completion of the investigation.** Please highlight here why it is believed there is a realistic prospect of conviction — please give particulars of the critical witnesses in the case and how they assist the prosecution case. **Any other applications, measures to be included in this review is application for witness protection or for confiscation if there is a conviction.**

Case Prosecutor ....................... Date..........................
Annex D - Standard form for judgments/archiving

Standard form for review of judgments/first instance and second instance court/extraordinary legal remedy/archiving
(completed by Chief prosecutor)

Prosecutor office………………………………………………………………………

<table>
<thead>
<tr>
<th>Date of receipt of the criminal report at the registration office</th>
<th>Data of the submission to the Chief Prosecutor</th>
<th>Date of receipt from the Chief Prosecutor</th>
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Judgment review

<table>
<thead>
<tr>
<th>1. Appeal/extraordinary legal remedy</th>
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<tbody>
<tr>
<td>2. No appeal/extraordinary legal remedy</td>
<td></td>
</tr>
<tr>
<td>3. Archiving</td>
<td></td>
</tr>
</tbody>
</table>

Chief Prosecutor ..........................  Date.................................
Annex E – Plea Agreement

Authorization to Meet to Negotiate a Plea Agreement

Pursuant to Article 308A, paragraph (3) of the Kosovo Code of Criminal Procedure (KCCP): In case P.P. __________ against defendant _________________, charged with __________________________________________ [include a summary of alleged crimes, with references to the Criminal Code articles], I, ________________, Chief Prosecutor for the Office of Public Prosecutor for the District of ________________, authorize public prosecutor ________________ to have a preliminary meeting for the purpose of commencing negotiations for a potential guilty plea agreement with ________________, an attorney for the defendant, as well as the defendant.

_________________     _____________  
Chief Prosecutor      Date

Approval of Proposed Plea Agreement

I have reviewed the proposed Plea Agreement in case P.P. __________ . I have also reviewed the file and discussed the case to the extent necessary with the assigned public prosecutor, ________________. Based on my review of the documents, facts and circumstances of the case and the applicable law, and in accordance with Article 308A, paragraph (3) of the Kosovo Code of Criminal Procedure, I approve the Plea Agreement and authorize it to be formally offered to the defendant through the defendant’s attorney. If accepted by the defense, I further authorize presentation of the Plea Agreement to the Court.

_________________     _____________  
Chief Prosecutor      Date
[DISTRICT / MUNICIPAL] COURT OF [JURISDICTION]

P.P. No. _____ / _____  [DATE]

Dear Judge ______

On behalf of the [District/Municipal] Public Prosecutor of [Jurisdiction], I am pleased to inform the Court that the prosecution and the defendant in this case, [Name of Defendant], through the defendant’s attorney [Name of defense attorney], have reached a negotiated plea agreement, which we would like to present for this Court’s consideration. The process that led up to this agreement, as well as the terms of the Plea Agreement and related documents, are based on recent amendments to the Code of Criminal Procedure of Kosovo and the Criminal Code of Kosovo in Law No.03/L.-002 and Law No.03/L.-003. Under the Plea Agreement, if accepted by this Court, the defendant would enter a plea of guilty to certain qualifications of an indictment [optional: specify crimes and qualifications to which defendant would plead guilty] and receive certain considerations for reduction of penalties [optional: specify terms of sentencing and related recommendation, e.g., the proposed sentencing range].

We ask the Court to set a hearing at its earliest convenience to consider the Plea Agreement, in which all parties will be present. The attorneys will present the Agreement, and the defendant [and the injured party] will be available for questioning by the Court. At the hearing, we will present the Plea Agreement, statement of the defendant with respect to entry of the guilty plea, [a statement of the injured party,] and a draft Order accepting or rejecting the Agreement [and an order for confiscation of assets]. [As the Agreement involves cooperation by the defendant with the prosecution and police on one or more ongoing or anticipated investigations, we request that the hearing be closed to the public and that this letter, the Plea Agreement, and related documents, once presented, be sealed.]

The parties appreciate your prompt consideration of this matter.

Respectfully submitted,

________________
Public Prosecutor
[District / Municipality] of [Jurisdiction]
Pursuant to Article 308A (8) of the Criminal Procedure Code of Kosovo (CPCK),
The Chief Prosecutor for the District of____, and the defendant enter into the following:

PLEA AGREEMENT

The Defendant agrees to admit the following counts of the indictment:

The Prosecutor agrees to dismiss the following counts in the indictment:

If applicable, The Prosecutor agrees not to indict defendant for additional crimes arising out of acts occurring on:______

If applicable, the defendant agrees to admit to the following offenses arising out of the conduct described in the indictment:

If applicable, the defendant and public prosecutor agree:

a. The defendant will receive the following sentence.
b. The defendant will be sentenced within the following range.
c. The prosecutor will recommend leniency at sentencing.

If applicable, the defendant agrees to provide the following additional cooperation:

The right to reject the negotiation

The defendant and the Public prosecutor understand that if either party fails to perform its obligations under this agreement the other party may reject the negotiation and the case will go to trial as if the negotiation never existed.

The defendant and the Public Prosecutor understand that if the judge will not accept and follow this negotiation either party may reject the negotiation and the case will go to trial as if the negotiation never existed.

The defendant and the Public Prosecutor understand that nothing said during the negotiation process is admissible at trial

The Injured Party (if applicable)
The injured party was informed of the negotiation in this case and agrees/disagrees with the negotiation.

The injured party will/will not pursue a subsidiary or private prosecution of the defendant.

The injured party reached a financial settlement with the defendant, or the defendant agrees to the following settlement:

**Confiscation**

The defendant and the Public Prosecutor agree that the following money or property will be confiscated as a result of this negotiation:

**Defendant to waive rights**

The Defendant and the Public Prosecutor Agree that the defendant will give up the right to a trial and all the rights described in the defendants statement attached to this agreement as well as declare his guilt to the offence described in #1 of this agreement.

**No other Agreements**

The defendant and the Public prosecutor agree that this document is the whole agreement between the parties and that no other promises conditions or terms may be added or deleted.

_________________
Chief Public Prosecutor

_________________
Defense Counsel

_________________
Defendant
District Prosecution Office

Pursuant to Article 308A (2), (3) of the Criminal Procedure Code of Kosovo (CPCK), I ___________, defendant in this case make the following:

STATEMENT

Identifying Information:

(Use defendant id template, name birth mother father etc)

I am able to admit this crime and give up my rights

I can read and write or I cannot read and write but my lawyer has read this document to me
My Educational level is____
I am not ill today
I am not suffering from mental illness
I am not under the influence of drugs or alcohol (including medicine)
I am entering into this agreement voluntarily and no one has made promises to me other than the promises in the plea agreement.
No one has threatened me or a member of my family to force me into a plea negotiation.

My Lawyer has discussed this case with me

We discussed the indictment and other potential indictments related to this case.
We discussed how we would try the case and any appeal.
We discussed this plea agreement and my lawyer has been with me at every step in the negotiation.
We discussed this statement and the attached agreement.
I have had enough time to discuss this case with my lawyer.
I am satisfied with my lawyer’s representation in this case.

I understand the charges against me
I understand the indictment and any other potential charges against me. I understand the evidence the prosecutor, private prosecutor, injured party or subsidiary prosecutor has that supports the indictment or potential indictment. I understand that if I do not enter into a negotiation and go to trial the potential penalty is_______. I understand the potential defenses I could raise to the indictment or to evidence proposed against me.

**The rights I am giving up by entering into this Negotiation**

By entering into this negotiation, I understand I am giving up:
- The right to a trial, including the right to make the prosecutor prove the charges against me.
- The right to call my own witnesses.
- The right to examine witnesses called by the court, prosecutor, private prosecutor or subsidiary prosecutor.
- The right to ask the court to find evidence inadmissible.
- The right to ask the court to dismiss the case.
- The right to remain silent or to testify on my own behalf.
- The right to challenge the weight of evidence admitted at trial.
- The right to ask for a sentence that is different from the one agreed to in this negotiation.
- The right to a confiscation order that is different than the one agreed to in this negotiation.
- The right to ask for a financial settlement that is different than the one agreed to in this negotiation.

**My declaration of guilt**

I declare that I committed the offence described in this negotiation and that I will tell the court the facts that establish that I committed the offense described in the negotiation. (if applicable) I also declare that the court may consider the following list of documents and evidence in establishing my guilt for the offense described in the negotiation:_____

**The consequences of entering into this Negotiation**

I am giving up my rights so that I can enter into the negotiation described in the attached agreement. If the court does not accept and follow this negotiation I reject the negotiation and demand a trial. If the prosecutor does not fulfill its obligations in this negotiation I reject the negotiation and demand a trial. If I fail to fulfill the obligations in these negotiations the prosecutor may reject this negotiation and demand a trial.
If the Court and the Prosecutor follow the negotiation I understand I cannot reject the negotiation and that I will receive the punishment agreed to in the negotiation. I can appeal the verdict and sentence imposed on me but I understand that because of the negotiation the appeal is not likely to be successful.

___________________
Defendant
STATEMENT OF INJURED PARTY CONCERNING DISPOSITION OF CASE THROUGH A NEGOTIATED GUILTY PLEA AGREEMENT

I, [NAME], Injured Party in the above entitled action, respectfully represent and state as follows:

1. My full name is ______________.
   a. My native language is [Albanian / Serbian / other].
   b. My formal education was through [describe highest level of education attained].
      I am currently [unemployed / employed as a {describe occupation}].
   c. I am literate and can read and understand this document. [Alternative: I am not fully literate, but my attorney has read this document to me.]
   d. My father is / was [name]. My mother is / was [name]. I am from the [city/town/village] of ____________.

2. [If applicable] My attorney is named ______________. My attorney and I have discussed this matter and the intention of the Office of the Public Prosecutor and the defendant, through the defendant’s attorney, to enter into a negotiated Plea Agreement. I am satisfied with my attorney and the advice and representation [he/she] has provided to me.

3. I make the following representations to the Court with respect to my interests in this case [use any that are applicable, or modify / adapt]:
   a. I was informed by the public prosecutor that the defendant was seeking a negotiated plea agreement, and I have read and discussed the Plea Agreement with my attorney.
   b. I [agree / do not agree] with the [recommendation as to sentencing / sentencing range / sentence] set forth in the Plea Agreement.
   c. I [waive / do not waive] the right to pursue subsidiary or private prosecution of the defendant.
   d. I agree to accept a payment of _________ euros as settlement of my [filed / potential] property claim as an injured party.
   e. The defendant, through counsel, and I [, through my counsel,] agree that I may pursue whatever property claims I may have through a separate civil case.

4. I reserve the right to withdraw this Statement of Injured Party and to renounce the statements in this document if the Court does not accept the terms and conditions of this Plea Agreement, including [as relevant: the payment of my property claim as stated above / a sentence within the specified range].
Dated this _______ day of _______, 20___

______________________________
INJURED PARTY

Dated this _______ day of _______, 20___

______________________________
ATTORNEY FOR THE INJURED PARTY

P.P. No. ______________

[Court Name] of [Jurisdiction of Court]
Annex F – List of contributors

- Public Prosecutor Office of the Republic of Kosovo
- Special Prosecution Office of the Republic of Kosovo
- District Public Prosecution Office Pristina
- District Public Prosecution Office Prizren
- District Public Prosecution Office Peja
- District Public Prosecution Office Mitrovica
- District Public Prosecution Office Gjilan
- Municipal Public Prosecution Office Pristina
- Municipal Public Prosecution Office Prizren
- Municipal Public Prosecution Office Peja
- Municipal Public Prosecution Office Mitrovica
- Municipal Public Prosecution Office Gjilan
- Municipal Public Prosecution Office Gjakova
- Municipal Public Prosecution Office Ferizaj
Glossary of Terms

Archiving – a process for storing cases (closed or completed) when no further action by the Prosecutor’s Office is required on the case.

Auxiliary and Internal Registries – log books (non-electronic) which records the movement of cases and internal/external documents within the prosecution office.

Caseflow/Workflow – the administrative process of managing cases from the initial stage, i.e., the receipt of a criminal report to the completion of the case.

Case assignment Roster – system used to assign cases to individual prosecutors usually on a rotation basis.

Case Prosecutor/Assigned Prosecutor - an individual prosecutor responsible for the prosecution of the case.

Confidential document – a document that has been classified a secret limits access to the information solely to the Chief Prosecutor or Case Prosecutor. Additionally, in accordance with the law, confidentiality extends to various procedures including investigative measures.

Criminal Report - a document received generally from the police department providing specific information on an alleged criminal offense.

Jurisdiction – refers to the type (category) of criminal offense and the place (territorial) where the alleged crime occurred.

Manual procedure – refers to work performed in a non-electronic manner including handwritten entries in registration books, or the physical movement (internal or external) of case files or documents.

Minutes – creation of a written record of an interview, hearing or trial.

“Urgent” cases – specific case where the Prosecutor’s Office is obligated to act, within a very short period of time, in accordance with the law.

Official Note - record made by a Prosecutor.

Prosecution Stamp – a stamp that bears the emblem of the Prosecutor’s Office.
CMIS Terms

Data Warehouse - A repository of an organization's electronically stored data.

Electronic Archive - A collection of historical records and they contain primary source documents that have accumulated over the course of an individual or organization's lifetime.

LAN - A local area network (LAN) is a computer network covering a small physical area, like a home, office, or small group of buildings, such as a school, or an airport.

RDBMS - A relational database management system (RDBMS) is a database management system (DBMS).

Server - is a computer system that provides essential services across a network, to private users inside an organization or to public users in the internet.

WWW - The World Wide Web, abbreviated as WWW, is a system of interlinked hypertext documents contained on the Internet.

The WEB Interface - The system by which people (users) interact with the WEB.

WAN - A wide area network (WAN) is a computer network that covers a broad area (i.e., any network whose communications links cross metropolitan, regional, or national boundaries.)