ANALYSIS:
ACTIONS OF THE PROSECUTOR'S OFFICE WHEN DECIDING NOT TO INITIATE EX OFFICIO PROSECUTION

INTERNAL NOTE AND DECISION ON DISMISSAL:
A LINE BETWEEN LEGALITY AND MISUSE

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Postupanje tužilaštva kada nema krivičnog dela - službena beleška i rešenje o odbačaju: granica između zakonitosti i zloupotrebe

Publisher:
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Author:
Marija Babić and Rade Đurić

Collaborators:
Ivana Živkov and Kruna Savović

Editor:
Ivana Kragulj

Proofreading:
Nataša Polić

Translation and review:
Zorica Radić and Anica Milenković

Layout:
Vladimir Đuretanović

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About the project

In recent years, journalists in Serbia have been facing increasingly frequent forms of attacks, threats, intimidation and pressure that seriously endanger their safety and work. Although such incidents are on the rise, the rate of prosecution and convictions remains low, but a large number of criminal complaints are dismissed or do not result in the initiation of criminal proceedings. This practice has long-term negative consequences, not only for the journalist's personal safety and media freedom, but also for democratic processes and institutional accountability.

The aim of this analysis is to contribute to a better understanding of the way in which prosecutors' offices act in cases of attacks and threats against journalists, with a special focus on the differences between formal decisions to dismiss criminal complaints and internal notes stating that there are no grounds to initiate criminal proceedings. Although both outcomes are the result of an assessment that there are no legal or factual reasons for further action, their legal nature and consequences are significantly different – formal decisions enable the right to appeal, while internal notes remain beyond the scope of any legal oversight.

For the purposes of this research, decisions and internal notes obtained from prosecutors' offices throughout Serbia for the period from 2022 to 2024 were collected. The number of decisions and prosecutors' offices to which requests for access to information of public importance were sent was determined based on the records of attacks and threats against journalists and media workers, which is maintained by the Supreme Public Prosecutor's Office. These records are based on the Mandatory instructions that were first adopted in 2016 and then updated in 2020, which enabled systematic control and monitoring of attacks on journalists. The data was collected based on the update of records by the prosecutors' offices, which was carried out in April 2025.

The following **data collection methods** will be used within this analysis:

1. **Desk research** - An overview of existing research, reports, publications and analyses relevant to the area of safety of journalists, actions of prosecutors' offices and the legal framework in Serbia and the international context.

2. **Use of publicly available data** - Analysis of databases maintained by journalist associations, civil society organizations, as well as relevant institutions (for example, records of cases of attacks on journalists, statistics, press releases by prosecutors' offices).

3. **Requests for access to information of public importance** - Submitting official requests to public prosecutors' offices across Serbia for access to decisions on the dismissal of criminal complaints and internal notes related to cases of attacks and threats against journalists during the period from '22 to '24.

4. **Analysis of legal documents** - A detailed analysis of domestic laws, by-laws and international standards related to the protection of journalists and the prosecutors' offices' actions in these cases.

5. **Interviews with legal experts** - Interviews conducted with legal experts of various professions who deal with this topic can be useful for this type of analysis.

6. **Using insights and data from the work of standing working groups** - Specifically from the Standing Working Group for the Safety of Journalists, in which IJAS actively participates, including internal reports, comments, and recommendations arising from institutional dialogue.

As part of this analysis, 16 requests for access to information of public importance were submitted, with the aim of collecting a total of 72 decisions and internal notes related to the dismissal of criminal complaints and internal notes that there are no grounds for initiating criminal proceedings in cases of attacks or threats to journalists. Out of that number, 13 requests were sent to basic prosecutors' offices (First, Second and Third Basic Prosecutor's Offices in Belgrade, as well as prosecutors' offices in Leskovac, Smederevo, Vranje, Niš, Zaječar, Kragujevac, Sremska Mitrovica, Stara Pazova and Novi Sad). Also, requests were sent to the High Prosecutor's Office in Belgrade, as well as the Special Prosecutor's Office for Cyber Crime. A total of 13 prosecutor's offices responded to the requests and submitted the requested information, while only one prosecutor's office (Basic Public Prosecutor's Office in Sremska Mitrovica) did not respond to the request within the legal deadline.

Considering the prosecutors' offices response dynamics and the number of submitted responses, a total of 70 decisions and internal notes were analysed in this report. These decisions and notes represent key material for further understanding of how prosecutors' offices deal with cases of attacks and threats against journalists.

The methodology enables a thorough analysis of the prosecutors' offices actions in specific cases, as well as the identification of patterns in their decisions regarding the protection of journalists and media freedom. This analysis represents the foundation for further advocacy work aimed at improving the institutional mechanisms for the protection of journalists. The results of the research will be used to create recommendations for policy changes, training for judicial and security authorities, as well as to inform the general public through a campaign aimed at raising awareness of the importance of the safety of journalists as a key pillar of a free and democratic society.

Introduction/context

Media freedom in Serbia is on the verge of complete collapse, and the dramatic increase in violence against journalists in 2025 is merely the latest indicator of a deep crisis threatening to suppress any attempt of free and objective reporting. Societal developments have a direct impact on the state of media freedom and the position of journalists, with recent events and protests serving to best illustrate this. Journalists' safety has deteriorated significantly in 2025, as protests intensify and street violence escalates. Although competent institutions are expected to ensure the protection of journalists, their response to attacks has been inadequate, which is particularly alarming. In many cases, police failed to intervene when journalists were attacked at protest sites, while later, as protests grew more intense, serious assaults by police officers against journalists were recorded. Between March and mid-October 2025, the Independent Journalists' Association of Serbia (IJAS) documented 50 cases of police violence against journalists, including arbitrary detention and unjustified identity checks, and 16 cases where police failed to respond to attacks. This situation further undermines media freedom and independent reporting, posing a threat to the very foundations of democracy.

The problem of journalists' safety has been recognized for years in the European Commission's Progress Report, placing it among the three main challenges of the freedom of expression in Serbia. According to the latest Report, the urgent need to strengthen the protection and safety of journalists is emphasized, especially through quick response to threats and cases of physical and verbal violence. Also, the importance of public condemnation of those incidents is emphasized, as well as investigations and initiation of criminal proceedings. Also, the report emphasizes the need for high-level officials to refrain from labelling or making verbal attacks on journalists.[1] In recent years, we have witnessed that public officials not only do not condemn attacks and threats against journalists, but do so selectively, often targeting journalists and assigning them labels that make them targets of various groups. This trend further worsens the safety situation of journalists, as it puts them in a position to become the targets of violence and verbal attacks, which threatens their physical safety as well as the freedom of the media.

Moreover, various reports of international organizations indicate a decline in media freedom and emphasize safety as one of the key elements. Reporters Without Borders recorded a slight decline compared to the previous year, placing Serbia 96th in the rankings. The exposure of journalists to political pressure is cited as one of the problems, while attacks committed against them remain unpunished.[2] According to the Freedom House report, Serbia is still in the group of partly free countries, while the part related to freedom of expression is still rated poorly. The Report states that independent investigative media groups have been increasingly subjected to harassment, intimidation and violence by the authorities, tabloid media outlets close to the government and progovernment groups.[3]

The Safejournalists' Network Safety Index also points to a continued decline. In 2024, a drop from 2.83 to 2.70 was recorded. It is particularly worrying that the decline was recorded within all four indicators related to actual safety, due process, due prevention and legal and organizational environment. This index measures the safety of journalists in the Western Balkans, where Serbia is among the worst ranked countries.[4]

1 European Commission, European Commission Progress Report for 2024, October 2024, p. 7.
2 Reporters Without Borders, Report for Serbia, 2025
3 Freedom House, Report for Serbia, 2024, D1.
4 IJAS, Indicators on the Level of Media Freedom and the Journalists Safety Index in 2024, June 2025, p. 66.

The targeting of journalists is becoming a daily occurrence, which is especially dangerous when it comes from state officials. Analyses show that in August state officials targeted journalists 137 times[5] in their public appearances, while in September they did so 141 times.[6]

In January 2017, the Standing Working Group for the Safety of Journalists was established on the basis of the Agreement on cooperation and measures to raise the safety level of journalists signed between journalist and media associations, the Supreme Public Prosecutor's Office and the Ministry of the Interior. Due to the general problem of inadequate response by the competent institutions, impunity, but also the latest events that primarily concern the treatment by the police and the increase in the number of attacks by the police and their failure to respond to attacks on journalists, most journalist and media associations have frozen their status in this working group. According to internal instructions, these institutions have undertaken to act urgently in cases of attacks on persons who perform tasks of public importance in the area of public information.

In its database, the IJAS has been recording a very large number of attacks and pressures on journalists and media workers for years. This number is particularly alarming in 2025, considering the current social climate and the fact that journalists and media workers are being targeted. By mid-October, IJAS recorded 289 cases of attacks and pressures, while in the whole year of 2024, a total of 168 cases were recorded. Ninety attacks on journalists and 6 attacks on the media were recorded, while the database contains 112 threats to journalists and 11 threats to the media.[7]

According to the records kept by the Supreme Prosecutor's Office, a total of 65 cases were recorded in 2024, while 94 cases were recorded by the end of September 2025. Out of 65 cases established in 2024, only one case resulted in a conviction, while in one case the opportunity principle was applied. In 8 cases, a decision was made to dismiss the criminal complaint, while in 11 cases, an internal note was made that there are no grounds to initiate criminal proceedings. Also, in three cases, proceedings are ongoing before the court based on the indictment of the public prosecutor, while in one case the court rejected the proposal to impose a security measure of mandatory psychiatric treatment and terminated the criminal proceedings. In the other 40 cases, the proceedings before the prosecutor's office are ongoing, of which in 13 cases, even after taking measures in the pre-investigation procedure, the potential perpetrator has not been identified.

By the end of September 2025, out of 94 cases established, a conviction was adjudicated in only one case, and in three cases the proceedings before the court are ongoing under the indictment of the public prosecutor. Also, in 9 cases, a decision was made to dismiss the criminal complaint, while in 12 cases, an internal note was made that there are no grounds to initiate criminal proceedings. In the remaining cases (64), the proceedings before the prosecutor's office are ongoing, including 6 cases in the registry of unknown perpetrators.

There are certain discrepancies when it comes to the records of the associations and the prosecutor's office, primarily because the associations monitor the broader picture of threats to media freedom and record various types of pressure in their records. On the other hand, however, there are also differences in the way of recording cases of attacks and threats.

5 Slavko Ćuruvija Foundation, Targeted by Power, Monthly Report: Serbian's Politicians vs. Journalists, August 2025.
6 Slavko Ćuruvija Foundation, Targeted by Power, Monthly Report: Serbian's Politicians vs. Journalists, September 2025
7 IJAS, Database of attacks and pressures on journalists.

In the last few months, assaults on journalists and media workers have become more frequent, while journalists have been exposed to serious threats for years. In addition, the number of cases of surveillance and tailing of journalists is increasing, which further threatens their safety, as well as the safety of their sources. These cases often point to abuse of official powers by competent institutions.

One of the notable cases is the case of Slaviša Milanov from Dimitrovgrad, who was intercepted by the police during an alleged routine traffic check, and after being interrogated and tested for psychoactive substances, his phone was confiscated. According to expert analysis of Amnesty International*, the police unlocked the phone and installed communication surveillance software. The police and Security Information Agency (SIA) deny these allegations, and the case was reported to the prosecutor's office, but so far there has been no progress in the investigation.[8] Ljubomir Stefanović from Belgrade was forcibly taken by the SIA for the information talks, when his phone was confiscated, and there is a suspicion that spyware tools were used. Stefanović filed a criminal complaint against unknown persons for illegal detention and abuse of his phone.[9] Also, two female journalists of the Balkan Investigative Research Network (BIRN) became the target of a failed spyware attempt with the Israeli software Pegasus, which was confirmed by a forensic analysis of Amnesty International. The infected messages were distributed via Viber, with a link directing users to a fake N1 news portal website.[10]

Despite the establishment of the Standing Working Group for the Safety of Journalists, the appointment of contact points within prosecutors' offices and the police, and the issuance of internal instructions, progress in protecting journalists and media workers remains minimal. After social events and protests, the situation returned to square one. The police very often demonstrated a lack of understanding of the journalistic profession and the lack of adequate protection of journalists during reporting, escalating in some cases to serious attacks and threats by the police themselves. Such behaviour of competent institutions, primarily the police, not only deepens the problem of journalists' safety, but also reinforces their distrust in the work of competent institutions.

Although the initial response to complaints by the competent institutions was somewhat satisfactory, the continuation of proceedings remains problematic, with efficiency decreasing as the case progresses. The low number of cases resolved with convictions, along with the absence of punishments for perpetrators, means that journalists and media workers remain unprotected, and prevention of attacks is almost non-existent.

In recent months, there has been particular concern over the treatment of journalists, photographers, and camera operators reporting from the front lines during protests across Serbia. They are particularly exposed to danger, both from ordinary citizens and from the police. Especially vulnerable are young photojournalists and journalists, who often work as freelancers and do not have the protection of a newsroom, and their role in documenting events and reporting on issues of public interest at protests is of crucial importance. On a daily basis, they confront dangers in the field and are exposed to violence, threats, and physical assaults, with attacks by the police being especially concerning as they further compromise their safety.

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8 *Raskrikavanje* [eng. Debunking], State surveillance: Spyware secretly installed on journalist's phone during questioning at police station, Vesna Radojević, 16.12.2024.

9 Danas, The editor of the Slavija info channel, Ljubomir Stefanović, also had spyware installed on his phone, Uglješa Bokić, 18.12.2024.

10 BIRN, Two BIRN female journalists are targets of the Pegasus spyware, Aleksa Tešić, 27.3.2025.

Legislative framework concerning the safety of journalists and media workers

The legislative framework in Serbia in certain segments recognizes the importance of the journalistic profession and the issue of journalists' safety. Although certain aspects still allow room for more detailed and adequate regulation, the current framework should provide journalists and media workers with a certain level of safety. However, the problem is in the application of the law, and above all the interpretation of certain provisions, i.e., the narrow interpretation of certain criminal offences.

The Criminal Code recognized the journalistic profession, i.e., public information of public importance, as an activity that carries an increased risk for the persons who perform it. Also, in certain criminal offences, journalists and media workers, i.e., persons who perform tasks of public importance in the area of public information, enjoy a higher degree of protection compared to ordinary citizens, with stricter penalties prescribed. Such is the situation with the criminal offence of endangering safety, in which journalists and media workers, when performing their work, enjoy the same level of protection as the President of the Republic, MPs, Prime Minister, members of the Government, judges of the Constitutional Court, judges, public prosecutors, lawyers, police officers.

In two more criminal offences, stricter penalties are prescribed when the offences have been committed against persons performing tasks of public importance. Such is the situation with the criminal offence of aggravated murder and serious bodily harm. Bearing in mind the definition of jobs of public importance in the Criminal Code, it could be considered that this provision also applies to journalists and media workers.

Another offence, rarely mentioned both in practice and in the decisions collected for this analysis, but which should be taken under consideration as potentially significant in certain cases of obstruction or prevention of journalists and media workers during reporting, is the offence of prevention of printing and distribution of printed material and broadcasting. The offence stipulates that whoever prevents or hinders with the printing, recording, sale or distribution of books, magazines, newspapers, audio and video cassettes or other similar printed or recorded materials, as well as those who without authorization prevent or hinder with the broadcasting of radio and television programmes, shall be punished. Also, the punishment is more severe when the offence was committed by an official in discharge of duties.[11]

The criminal offence of endangerment of safety is the most common offence directed against journalists and media workers. This criminal offence consists of two key elements, subjective and objective. The subjective element refers to the injured party feeling threatened, as a consequence of the directed threat. The objective element, on the other hand, represents the threat itself, which must be qualified, direct and achievable. If either of these two elements is missing, the criminal offence will not be considered completed, as both elements must be present for the conditions of punishment to be fulfilled.

In practice, the greatest doubts and disagreements arise when interpreting the objective element of this criminal offence, which pertains to the threat itself and the manner in which it was expressed. Namely, prosecutorial and judicial practice indicates that this criminal offence implies a serious, direct and achievable threat, and in practice this generally means a threat that is expressed directly (I will kill you, I will break your legs...), but in cases where it is not expressed in that form, rather in a conditional clause or other form, it is not considered a threat in the sense of this criminal offence.

11 Criminal Code, Article 149

This way of interpreting the threat has been widely criticised, arguing that such a narrow reading is unacceptable and that the threat cannot be reduced to a purely linguistic interpretation. A broader perspective must be considered, taking into account, first and foremost, the source of the threat, the position of power, and the manner in which it was expressed. Some legal experts point out that the threat must be serious, objective, achievable and unconditional. Whether the threat is considered serious depends on a number of circumstances, and most often it is the overall mutual relationship between the defendant and the injured parties. A threat may be delivered in various ways, must be objectively achievable and must not be conditioned by any action of the injured party.[12]

On the other hand, some argue that, even in cases where the threats were not expressed directly, certain statements and comments contain explicitly violent language that connects words to potential attacks and harm, clearly indicating violence and promoting hatred. The fact that they were not expressed in such a way does not exclude the possibility of a direct attack. Therefore, the linguistic form of the message should not be the sole criterion for dismissing the report, as the content clearly indicates a serious threat. Other factors must also be considered when making a decision, including the source of the threat, the context, and the social circumstances in which it was made.

Violent behaviour is another offence that has been notably prevalent in recent times.[13] It also contains two elements. The act of the offence consists in rude insults or maltreatment of another, as well violence directed against another, by instigating a brawl or insolent or ruthless behaviour. While the second element, i.e., the consequence of the act, is a more significant distress of citizens or serious violation of public peace and order. In addition to this part, we also have violent behaviour during sports event or public gathering, which refers, among other things, to assaults with participants in a sports event or public gathering.[14]

In the last few months, the prosecutor's office made decisions in two cases of attacks on journalists, both recorded by cameras, in which physical attacks took place. In both cases, the criminal complaints were dismissed and it was determined that there was no criminal offence of violent behaviour because the prosecutor's office concluded that the assaults did not have a significant impact on public order and peace, i.e., there was no significant distress of citizens. This approach by the prosecutor's office could lead to a concerning practice, in which assaults against journalists, committed while performing their professional duties in the public interest go without appropriate punishment. The interpretation of the element of this criminal offence, according to which the assault does not cause distress of citizens and violation of public order and peace, can have far-reaching consequences for the freedom of the media and the safety of journalists.

12 Open Doors of the Judiciary, Endangering Security - Elements of the Criminal Offense, Aleksandar Trešnjev, 7.6.2023.
13 Criminal Code, Article 344
14 Whoever violently assaults or physically attacks participants of a sports event or a public gathering, performs violence or damages assets of greater value upon arrival or departure from a sports event or a public gathering, brings in a sports facility or casts on the sport ground or among the spectators objects, pyrotechnic means or other explosive, flammable or harmful substances that can cause bodily injury or endanger the health of participants in sports events, damaging the sports facility, its equipment, devices and installations, their behaviour or slogans on sports events causing national, racial and religious hatred, or intolerance based on some discriminatory principle that results in physical violence with participants in sports events, shall be punished by imprisonment from one to five years and fined (Criminal Code, Article 344a)

Prosecutor's response in cases of attacks on journalists

The Supreme Public Prosecutor's Office has been keeping records of attacks on journalists since 2016. According to the data from those records, out of a total of 684[15] cases formed, in 275 (40.20%) cases, a decision was made that there were no elements of a criminal offence for which the prosecution was undertaken ex officio, while in 409 cases (59.80%), there is a reasonable suspicion / probable cause that a criminal offence has been committed to the detriment of the safety of journalists.

Of the 409 cases in which it was determined that there is reasonable suspicion that a criminal offence has been committed, and for which prosecution is undertaken ex officio, in 98 cases (23.96%) some type of criminal sanction was imposed or the prosecution was transferred to a foreign state; in 19 cases (4.65%) the court rejected or dismissed the indictment or acquitted the accused; in 144 cases (35.2%) evidentiary proceedings, an investigation, an international legal assistance procedure, or the main hearing before the competent court are ongoing; and in 148 cases (36.19%) even after pre-investigative actions, the potential perpetrator was not identified.

In addition to the fact that only in 23.96% of the cases some form of criminal sanction was imposed, the fact that in 36.19% of the cases the perpetrator was not identified is worrying. This indicates both a low number of sanctioned cases and a high number of those in which the identity of the perpetrator has not been established, which clearly demonstrates that the number of found and convicted perpetrators is still very small.

In addition, the fact that in 275 cases (40.20% of the total) it was decided that there were no elements of a criminal offence for which prosecution is undertaken ex officio indicates a very low level of punishment for those who commit violence against journalists. This is particularly concerning given that attacks on journalists are increasingly being recorded, while the efficiency of judicial authorities and the number of resolved cases have declined compared to previous years, which is a serious cause for concern.

In situations where the prosecutor's office determines that the elements of a criminal offence prosecutable ex officio have not been met, it can proceed in one of two ways, by issuing decisions on the dismissal of the criminal complaint or an internal note that there are no grounds to initiate criminal proceedings.

15 Data from records maintained by the Supreme Public Prosecutor's Office as of 31 August 2025. You can find statistical data at the following link: http://www.vrhovnojt.gov.rs/sr/bezbednost-novinara

Legal norms and practical application of the provisions related to the decision on dismissal of the criminal complaint and internal notes

The Criminal Procedure Code prescribes clearly defined procedures regarding the dismissal of a criminal complaint by the public prosecutor. The public prosecutor can dismiss the criminal complaint by ruling if it proceeds from the complaint itself that the reported offence is not a criminal offence which he is prosecutable ex officio; that the statute of limitations has expired or the offence is encompassed by amnesty or pardon or there exist other circumstances that permanently exclude prosecution; as well as when there are no grounds for suspicion that a criminal offence has been committed which is prosecutable ex officio.[16]

When the prosecutor issues a ruling dismissing the complaint, the injured party has the right to submit an objection directly to the immediately superior public prosecutor. The objection must be submitted within eight days of receiving the notification, and if the injured party is not informed of the decision, the deadline for objection is extended to three months from the day the prosecutor rejected the complaint. The immediately superior public prosecutor is obliged to decide on the objection within 15 days, and against this ruling no appeal or objection shall be allowed. If higher prosecutor upholds the objection, he or she issues a mandatory instruction to the competent public prosecutor to resume the criminal prosecution, which enables further processing of the case.[17]

On the other hand, the Rulebook on Administration in Public Prosecutors' Offices provides for the possibility for the public prosecutor to draft an internal note in cases recorded in the "KTR" registry (Registry of other Criminal Cases), when assessing that there are no grounds for initiating criminal proceedings pertaining to the described event.[18]

Public prosecutors' offices maintain various registries in accordance with internal regulations, which are used to record complaints and other relevant information. The "KTR"[19] registry contains entries that may be significant for the work of the prosecutor's office but do not constitute standard criminal complaints. These may include reports from state authorities, newspaper articles, and other sources indicating events of potential criminal law relevance. Additionally, this registry is used to record complaints that lack sufficient specific information about the criminal offence or the perpetrator to be included in the main "KT"[20] registry (Registry of Adult Offenders).

The same Rulebook stipulates that internal note must contain a description of the actions taken in the case and the measures undertaken, a concise summary of the established facts presented chronologically, unless there are reasons to present them differently, as well as a legal assessment of the criminal-law event.[21] In cases where such an internal note is drafted, the injured party has no possibility to file an objection or any other legal instruments.

16 Criminal Procedure Code, Article 284
17 *Ibid*. Article 51
18 Rulebook on Administration in Public Prosecutors' Offices, Article 102
19 *Ibid*. Article 179
20 In the "KT" register, data on adults reported by the police or other state authorities, as well as by other persons, is recorded, if the main public prosecutor or a person appointed by him determines that from the content of the criminal complaint and the attached evidence there is a reason to suspect that they have committed criminal offences for which prosecution is undertaken ex officio, as well as data on notifications received, actions taken, decisions of the public prosecutor and acting courts.
21 *Ibid*. Article 102

It should be emphasized that in both cases the prosecutor's office determines that there are no elements of criminal offences that are prosecuted ex officio. However, the legal position of the injured party differs depending on the form in which the decision was made. The main difference is that when a decision is made to dismiss a criminal complaint, the injured party has the right to file an objection, while in the case when only an internal note is made, he or she does not have that right.

Moreover, another important difference between these two methods of the prosecutor's office is that in the case of the decision to dismiss the criminal complaint, in accordance with the law, the injured party is notified of the decision and of their right to object. As for the internal note, however, the prosecutor is under no obligation to inform the injured party of the note itself, nor of the outcome of the proceedings.

The Criminal Procedure Code provided for additional safeguards of protecting the rights of the injured party during the proceedings in the case of a passive attitude of the prosecutor pertaining to a certain case. When the injured party files a criminal complaint, and the public prosecutor does not file an indictment within six months from the date of receipt of the complaint, nor informs the injured party that the complaint was rejected, the injured party has the right to file an objection, according to Article 51 of this Code.[22]

In addition to the clear differences in the rights of the injured party when it comes to these two types of decisions, it should particularly be emphasized that the decision to dismiss the criminal complaint is regulated by law, while the internal note is regulated by the rulebook, which is an administrative document that regulates the organisation of prosecutor's office.

However, in practice it is not sufficiently clear where to draw the line between cases in which a decision to dismiss a criminal complaint should be made and cases in which an official note should be drawn indicating that there are no grounds for initiating criminal proceedings. What is clear, however, is that what is prescribed by law cannot be overridden by a bylaw, nor can it have greater legal force than the law. Likewise, it must not deprive injured parties of the rights to which they are entitled under the law.

The clear intention of introducing this possibility into the Rulebook was to relieve the already significantly burdened public prosecutors, as well as to select events in which it is obvious that there are no elements of a criminal offence that is prosecuted ex officio at the very beginning of the prosecutorial procedure. However, this way of decision-making should be an exception and should not prevail in relation to other ways of finalising the proceedings provided for by law. Especially bearing in mind that by making an internal note, the injured party's right to a legal instrument is denied and thus their rights are narrowed in relation to those prescribed by law. The right, which is prescribed by the Constitution, to equal legal protection and to a legal remedy, i.e., that everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations or lawful interests.[23]

22 Criminal Procedure Code, Article 499 (3)
23 Constitution of the Republic of Serbia, Article 36

At first instance, obvious differences in the hierarchy of legal acts are evident – the analysis of the regulations indicates that the legal reasons for dismissing a criminal complaint are precisely defined, in contrast to the more general regulation of reasons in the bylaw when, in cases recorded in the "KTR" register, the prosecutor decides that there are no grounds to initiate criminal proceedings on the occasion of the described criminal-law event.[24]

The approach taken by the prosecutor's office and the form of decision rendered depend on a case-by-case basis. Legal experts[25] agreed that it is not completely clear and explicitly prescribed when to use the form of a decision or an internal note, leaving room for varying interpretations. In practice, prosecutors' offices have developed internal criteria for applying one form or the other based on their previous handling of cases; however, it seems and this analysis indicates, much still depends on the individual prosecutor.

According to the experts, in the cases with the KT code (Registry of Adult Offenders), the dismissal of the criminal complaint is always made in the form of a decision, while in cases with the KTR code (Registry of other Criminal Cases), the decision not to initiate proceedings is made in the form of an internal note.[26]

The internal note should generally be used exceptionally and should be avoided because it is procedurally less favourable for the injured party. It should be applied only when it is obvious that the reported event does not contain elements of criminal offences that are prosecuted *ex officio*.

When the complaint is submitted to the prosecutor's office, according to the rules, it is entered in the appropriate register. The method of recording depends on the degree of detail in the complaint and the evidence submitted. If the complaint is clear and with sufficient evidence, it will be entered in the main registry for criminal complaints (KT), while less specific cases will be filed in another registry (KTR). However, this does not mean that a report registered in the KTR cannot later be reclassified to the KT if, during the course of evidence gathering, grounds for criminal prosecution are established.

When distinguishing between cases that should remain in the KTR registry and those that should be reclassified into the KT registry, it is generally suggested that this depends on the specific circumstances of each case. In both instances, prosecutors undertake certain actions, and if the event under review carries sufficient evidentiary weight, the case is reclassified as a KT case and further proceedings continue within the framework of a regular criminal complaint.[27]

There are also opinions that, even when a case is registered in the KTR registry, if certain actions and checks are carried out and requests are sent to collect the necessary information, such cases should be reclassified to the KT registry, with a formal decision issued to dismiss the criminal complaint and the injured party duly notified of their rights.[28] Furthermore, the prosecutors' offices must always make a decision in cases where there is a specific injured party, and the Rulebook cannot override the rights of the injured party as prescribed by law.[29]

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24 Four interviews with legal experts were held. Interviews conducted by Marija Babić.
25 *Ibid*.
26 *Ibid*.
27 *Ibid*.
28 *Ibid*.
29 *Ibid*.

The prevailing opinion is that, in practice, in the vast majority of cases where there is an injured party in the criminal law sense, it has become common for the acting prosecutors to initially register the case under KTR records and then reclassify it into KT registers, after which decisions on the dismissal of the complaints are issued, including instructions on legal instruments. Prosecutors most often make decisions in KTR cases concerning incidental life events.[30] On the contrary, in situations where someone's personal or property rights are threatened or violated as a result of a criminal offence, the prosecutor, if there are legal grounds for it, will dismiss the complaint by issuing a formal decision, rather than rendering a decision on not initiating criminal proceeding.[31]

However, in practice, there is a significant number of cases in which prosecutors - despite undertaking a series of actions, often detailed and extensive – ultimately issue an internal note, concluding that there are no elements of a criminal offence subject to prosecution ex officio. This is a more convenient way of resolving the case, as the internal note is not subject to review. Thus, although the initial idea was to reduce the workload of the prosecutor's office, this approach often fails to achieve that goal and results in a different outcome.[32]

While these shortcomings indicate certain problems within the regulations themselves, opinions in the professional community are divided. Some believe that there is no need to amend the existing regulations, but rather that efforts should be directed toward ensuring their consistent application in practice. Others, however, take the view that the regulations should be amended and their implementation more precisely regulated, particularly in the part concerning internal notes.

However, what is clear is that, given the current social circumstances and the previous practice of amending laws, there should be no resort to further legislative changes or attempts at better legal definitions. It is necessary instead to harmonize prosecutorial practice and prevent the potential misuse of the mechanism of concluding proceedings by means of an internal note.[33]

Also, the current regulations provide a sufficient normative framework for their proper application and prevention of possible abuses. Therefore, the most appropriate approach is to standardize the practice, with the active involvement of the highest prosecutor's authorities in that process.

30 For example: a branch falling on someone's car or a person slipping on ice resulting in a fall and injury, as well as other similar events.
31 Four interviews with legal experts were held. Interviews conducted by Marija Babić.
32 *Ibid*.
33 *Ibid.*

Analysis of decisions of public prosecutors' offices

Although the internal note stating that there are no grounds for initiating criminal proceedings should be an exception and used only when there is absolutely no basis for further action, its application has become worryingly frequent. This is evident from the analysis itself, which covers decisions and internal notes issued over a three-year period – a total of 70 decisions, of which 42 were internal notes and 28 were formal decisions

General conclusion of the analysed decisions

By analysing the decisions, a general conclusion was reached that **it is not possible to determine clear criteria** or reasons guiding public prosecutors' offices when deciding whether to issue a decision on the dismissal of a criminal complaint or an internal note stating that there are no grounds to initiate criminal proceedings. Even within the same prosecutor's office, the criteria used cannot be clearly identified. Such practice can lead to unequal treatment of injured parties, who, in similar circumstances, may face different types of decisions.

Different reasoning of decisions

Significant differences have been observed in the **reasoning of decision**s, particularly in the case of internal notes. Some prosecutors' offices provide considerably more detailed reasoning in both types of decisions, while others offer only brief explanations. The greater discrepancy is evident in the reasoning of internal notes. Namely, whereas some prosecutors' offices provide a detailed account of the actions taken and the reasons for their decisions, others offer rather terse reasoning, without specifying the actions undertaken, the evaluation of evidence, or the reasons for not initiating criminal proceedings.

In this regard, in certain cases the **content of internal notes does not comply with the Rulebook**, particularly in the section that prescribes the mandatory elements that a note must contain. According to the Rulebook, an internal note must include a concise account of the proceedings and actions taken, a description of the established factual situation, and a legal assessment of the criminal-law event. The analysis revealed that in a certain number of internal notes these elements were not provided, and in some cases, it was not even possible to determine the minimum information that an internal note is required to contain.

Undertaking extensive evidentiary actions

From certain internal notes, it can be observed that the **prosecutor's office conducted a large number of evidentiary actions** in order to examine the circumstances of the case, which indicates that the prosecutor's office had reason to investigate the reported event more thoroughly and determine whether it contained elements of a criminal offence that is being prosecuted ex officio. In view of the above – primarily the fact that an internal note should represent an exception and be applied only when it is clear from the complaint itself that there are no elements of a criminal offence that is being prosecuted ex officio – it remains unclear why prosecutors in such cases choose to draft an internal note rather than issue a decision to dismiss the criminal complaint. This is particularly relevant given that there is no obligation to notify the injured party when an internal note is prepared, so in cases where the parties have felt threatened, in a large number of instances they do not receive any notification regarding the outcome of the proceedings.

Detailed consideration of only certain criminal offences that is being prosecuted ex officio

Cases have been observed in which an internal note was issued, and from the reasoning it is clear that certain criminal offences that is being prosecuted ex officio were thoroughly examined, **with detailed explanations provided as to why the prosecutor considers that the suspect's behaviour does not does not constitute specific criminal offence that is being prosecuted ex officio. However, other offences are neither mentioned nor addresses,** even though the beginning of the internal note states that there are no elements of a criminal offence subject to prosecution ex officio. Particular attention should be given to situations in which some internal notes clearly establish that there was physical contact between the injured party and the suspect, including pushing, yet it is not evident from the note that the criminal offence of violent behaviour was considered at all. In cases where a decision to dismiss the complaint is issued, the injured party or their legal representative may point out such omissions through an objection. However, it is worrying that in some cases internal notes are issued, where no legal instruments is available, and the injured party had no opportunity to file an objection or exercise their rights

Cases where there is a certain level of suspicion that an offence that is being prosecuted ex officio has been committed

There have also been cases in which it is stated that there is **a certain level of suspicion that something occurred**, and it is established that there was a certain contact, in some cases physical and in some cases verbal, **but due to other circumstances, due to the lack of certain evidence**, the prosecutors' offices make an internal note that there are no grounds to initiate proceedings.

Such an approach additionally questions the justification of using this type of decision in situations where there is a certain level of suspicion, i.e., when it is not completely clear from the criminal complaint itself that there are no elements of the criminal offence that is being prosecuted *ex officio*. This directly contradicts the very purpose behind the introduction of the internal note and the regulations governing it.

Lack of certain elements of a criminal offence that is being prosecuted ex officio

Differences have been observed in the actions of public prosecutors' offices in similar cases, where, despite the reasoning stating that **certain elements of a criminal offence that is being prosecuted ex officio exist, or there is a certain degree of suspicion that an event indeed occurred, other elements of the offence are missing**. Thus, prosecutors in some cases issue a decision to dismiss the criminal complaint, while in others they issue an internal note. This indicates inconsistent practice and also highlights the potential denial of the injured parties' right to access legal instruments.

Prosecutor's office actions in cases of criminal offences of endangering safety

The greatest differences in prosecutorial practice appear in cases where the **subjective element of the criminal offence of endangering safety is absent**, i.e., the feeling of being endangered due to certain threats, or in situations where the injured party initially reports the case because they felt endangered, but later, for certain reason, during the proceedings, states that they no longer feel threatened and does not wish to pursue with criminal prosecution against the perpetrator. In some cases, prosecutors issued formal decisions, while in others internal notes. However, in both instances, the reasoning behind the decision relied heavily on the statements of the injured parties, who emphasized that they no longer felt endangered, had accepted an apology, or, for other reasons, did not wish to pursue with criminal prosecution.

Consequently, even in such cases, no clear criteria can be established for determining in which form the prosecutor will conclude the proceedings.

In one of the cases, where the injured party filed a criminal complaint due to threats because he felt endangered, and despite the prosecutor establishing that the accused did indeed send threatening messages - as the accused himself admitted this in his statement, the prosecutor still issued an internal note stating that there were no grounds for initiating criminal proceedings, because the accused apologized and the injured party accepted the apology, and no longer felt endangered. Although the injured party stated that he no longer felt endangered, certain elements of a specific criminal offence that is being prosecuted ex officio were nonetheless present in this case. Therefore, the case should have, at some point, been reclassified to KT case and concluded with a formal decision to dismiss the criminal complaint, ensuring that the injured party would be properly informed of the final outcome of the proceedings.

On the other hand, we point to another specific example that highlights inconsistencies in the actions of prosecutors when deciding which of these two types of decisions to issue, in which the prosecutor issued a decision to dismiss the criminal complaint. From the reasoning, it is evident that the police, at the time of the incident, contacted the on-duty prosecutor who stated that the reported actions did not contain elements of a criminal offence that is being prosecuted ex officio and that the event should simply be recorded. It is also noted that a misdemeanour judge was contacted, who determined that there were elements of a misdemeanour and that a misdemeanour complaint had been filed. Furthermore, the reasoning shows that the injured party stated they did not wish to initiate any proceedings against the individual, and that they had not sustained visible bodily injuries, nor had their safety been endangered. Nevertheless, in this case, the prosecutor's office rendered a decision to dismiss the criminal complaint.

These two examples clearly illustrate differences in the actions of public prosecutors, with such discrepancies occurring even within the same prosecutor's office. This points to inconsistent prosecutorial practices and the potential denial of the rights of injured parties, regardless of the fact that, in some cases, they stated that they no longer felt endangered.

Prosecutors' offices are obliged to act appropriately, respecting all procedural rights, in order to avoid such discrepancies. Strict compliance to the law is essential, including the fact that an internal note may be issued only when it is evident that no elements of a criminal offence that is being prosecuted ex officio exist. In some of these cases, however, this was not clear, and the cases should have been reclassified in the KT registry.

Furthermore, regarding the criminal offence of endangering safety, even when starting from the assumption that public prosecutors' offices interpret threats narrowly, i.e., that a threat is considered only if it is directly expressed, serious, and realistic enough to endanger someone's life or bodily integrity, it remains unclear as to when prosecutors decide to issue a decision to dismiss the complaint and when they opt to draft an internal note instead. This also points to another potential instance of inconsistent treatment and the denial of rights to certain injured parties.

Prosecutorial action in cases of violent behaviour

The actions of the prosecutor's office that may be detrimental to the injured party, particularly in cases involving the **criminal offence of violent behaviour** have been observed. This is indicated by concrete examples, where in two cases the prosecutor's office made decisions to dismiss the criminal complaint because the consequences of the offence did not materialise, i.e., there was no significant distress of the citizen, nor was there a serious violation of public order and peace. However, in the third case, which is based on similar circumstances, but is not identical to the previous two, an internal note was issued in which, inter alia, the criminal offence of violent behaviour was elaborated.

In this particular case, the prosecutor's office determined that there was indisputable physical contact between the injured party and the perpetrator. However, in the section addressing this criminal offence, the same reasoning is provided, namely that the essential elements of this offence are missing, in terms of the consequences that are reflected in a more severe violation of public order and peace or a significant distress of the citizens. Given that there is a specific injured party and an event involving clearly established physical contact, and considering that it was not evident from the criminal complaint that there were no elements of a criminal offence that is being prosecuted ex officio, there was undoubtedly a basis for issuing a decision to dismiss the criminal complaint in this case. Issuing an internal note instead raises serious concerns that the injured party's right to file an objection may have been compromised.

Actions taken by non-competent public prosecutors' offices

Another concerning practice was identified during the analysis of decisions. The analysis showed that certain public prosecutors' offices acted in cases and issued internal notes and decisions to dismiss criminal complaints, despite not having jurisdiction over these cases. This primarily refers to situations where the offence was committed via the internet, which falls under the jurisdiction of the Special Prosecutor's Office for Cybercrime. Nevertheless, in these instances, decisions were made by prosecutors of general jurisdiction. This constitutes a serious violation of the law and procedural rules, and such practices may lead to abuse of authority and erroneous decisions, potentially affecting the fairness and legality of the proceedings.

Identified deficiencies / omissions / ambiguities

Analysing the collected material, omissions were observed that could jeopardize the legality and efficiency of the procedure. This primarily concerns the rights of the injured party during criminal proceedings.

The injured party's right to object is prescribed by the Criminal Procedure Code in cases where the prosecutor's office issues a decision to dismiss the criminal complaint. There are no doubts in this regard. The Rulebook on Administration in Public Prosecutor's Offices grants prosecutors the possibility, in certain cases, to issue an internal note; however, this raises issues regarding how this measure is used, as it may deny certain rights of the injured party. This Rulebook primarily serves for the administrative organisation of public prosecutor's office and cannot absolutely take precedence in the actions of prosecutors in specific cases, nor may subordinate legal acts diminish the rights guaranteed to the parties in the proceedings by law.

The analysis showed that the provisions of the Rulebook on Administration in Public Prosecutors' Offices and/or their application in practice can have a detrimental effect on the rights of the injured party in criminal proceedings.

Although it is difficult to strictly determine when the prosecutors' offices should adopt a decision on dismissal and when they should prepare internal notes, the prevailing opinion among legal experts is that decision on the dismissal of a criminal complaint should be issued whenever there is a specific injured party involved. However, the analysis of the collected decisions showed that this is not the practice, that the prosecutors' offices issue internal notes even when a specific injured party is present, including in cases where numerous actions have been undertaken to collect evidence.

The analysis of decisions revealed deficiencies reflected in the completely inconsistent practices of the prosecutors' offices regarding these decisions, as well as the criteria they follow when deciding whether to issue a dismissal decision or to prepare an internal note stating that there are no grounds to initiate criminal proceedings. This inconsistent practice results in the denial of certain procedural rights to the party involved, namely the injured party.

The first issue, as previously mentioned, is the denial of the right to submit an objection, which is prescribed by Article 51 of the CPC, because in cases where the procedure ends with an internal note, the injured party does not have the opportunity to submit an objection or any legal instruments. An objection is the only legal recourse available to the injured party in this part of the proceedings, which is why issuance of internal notes can pose a serious problem. This practice requires careful consideration, as it may lead to the diminishment of the rights of the injured party that are guaranteed by law.

The next issue that arises is failure to notify the injured party of the outcome of the proceedings when the prosecutor concludes the case with an internal note, because in accordance with the Rulebook, they are not obligated to notify the injured party when an internal note is issued.

Inconsistent practices within the legal system create legal uncertainty, because unequal treatment of injured parties creates insecurity among citizens. This leads to insecurity among citizens, in this specific instance journalists, regarding whether the prosecutor's office will protect their fundamental rights. All this undermines trust in justice and fairness. Different interpretations and applications of the same legal provisions result in unjust decisions and uneven realisation of rights, thereby undermining the fundamental principles of equality and fairness before the law.

Impact on journalists and their rights

The safety of journalists and media workers is of paramount importance, primarily to protect their physical integrity. However, the specific nature of the journalistic profession means that ensuring their safety is also essential for them to carry out their work without hindrance, i.e., to investigate and report to the public without fear of intimidation, threats, or violence.

If journalists and media workers do not feel safe, if their safety is compromised, or if they are not provided with the basic conditions necessary to perform their work unhindered, they will be unable to carry out their duties properly and report to the public objectively, promptly, and impartially. Without such reporting, citizens will be deprived of accurate information, which in turn undermines critical thinking and the exchange of diverse viewpoints. Free media and journalists enable citizens to form critical opinions and make informed decisions. When journalists are not safe and cannot perform their work adequately, it jeopardizes media freedom and freedom of expression – fundamental pillars of a democratic society.

In addition to the already identified issues including multitude of attacks and threats against journalists, prolonged proceedings, and impunity, the problem of denying certain rights to journalists as injured parties would further place them at a disadvantage in exercising their basic rights and protecting their safety.

The mere fact that perpetrators of attacks and threats against journalists and media workers are insufficiently punished sends a negative message and fails to have a preventive effect on potential future offenders. On the contrary, it may lead to an increase in violence as well as a growing distrust in institutions.

For journalists, who already feel unsafe and lack trust in institutions, such inadequate and inconsistent actions by the prosecutors' offices further undermine their trust, i.e. deepen their mistrust, not only in the competent authorities, but in the justice system as a whole – a system that should be protecting their rights.

Unusual examples in practice

Recently, certain cases have been recorded that deviate from the usual practice followed when prosecutors' offices decide not to initiate criminal proceedings. Namely, the Basic Public Prosecutor's Office in Bečej, more than eight months after the offence was reported, informed the injured party that, in accordance with the Rulebook, it had decided there were no grounds to initiate criminal proceedings. However, it also stated that if the injured party disagrees with the prosecutor's position, she is authorized to come to the premises of the public prosecutor's office and, within eight days of receiving the notification, review the case files and, if she believed there were grounds, file a criminal complaint against a specific person for a criminal offence prosecuted ex officio.

This type of conduct in the proceedings is unusual and lacks legal basis. Typically, the public prosecutor communicates with the injured party through a written notice stating that there are no grounds to initiate criminal proceedings, with a note that if, after reviewing the case files, the injured party believes there are grounds, she may file the complaint themselves.

Another example of unusual prosecutorial conduct occurred at the Basic Public Prosecutor's Office in Dimitrovgrad, where a journalist filed a criminal complaint alleging document forgery. The prosecutor's office informed the complainant by notice that there were no grounds to initiate criminal proceedings, citing the absence of evidence establishing a reasonable suspicion that a criminal offence prosecutable ex officio had been committed. The notice did not reference the Rulebook nor indicate that it was an internal note, yet the prosecutor still informed the complainant.

Such practice is problematic because it primarily calls into question the principle of protecting injured parties and shifts responsibility from institutions to individuals, further undermining trust in the functioning of judicial authorities.

Conclusions

A large number of cases in which prosecutors concluded that the elements of a criminal offence prosecutable ex officio had not been fulfilled and ended the proceedings by issuing an internal note stating that there were no grounds to initiate criminal proceedings, formed the core basis for this analysis. The fact that internal notes are regulated by the Rulebook rather than by law, and that their use diminishes the rights of the injured party by not providing the possibility of a legal instruments, combined with the absence of any obligation for the prosecutor to notify the injured party about the issuance of such notes, has contributed to increased concern, as this procedural option is used very frequently.

The analysis covered decisions on the dismissal of criminal complaints and internal notes stating that there were no grounds to initiate criminal proceedings issued in 2022, 2023, and 2024, up to April 2025. A total of 70 decisions were analysed, including 42 internal notes and 28 dismissal rulings.

An internal note stating that there are no grounds to initiate criminal proceedings should be the exception and should be used exclusively when there is no basis for action whatsoever, nor any reasonable suspicion that an ex officio criminal offence has been committed. Prosecutors should always opt for issuing a dismissal decision when there is a specific injured party, particularly if certain procedural actions have already been undertaken. However, the frequent use of such notes, coupled with the evident inconsistency in practice, is highly concerning and highlights the need for this issue to be carefully examined.

Main conclusions:

- The analysis of all the aforementioned decisions leads to the main conclusion that it is not possible to establish clear criteria or reasons that prosecutors follow when issuing a decision to dismiss a criminal complaint or drafting an internal note stating that there are no grounds to initiate criminal proceedings. In other words, it is impossible to determine in which cases one type of decision is made versus the other, even within the same prosecutor's office.

- Significant differences in reasoning have also been observed, especially when it comes to internal notes. While some prosecutors' offices provide detailed descriptions of the actions taken and the reasons why they believe there are no grounds to initiate proceedings, others offer extremely brief explanations without specifying the steps taken or reasoning.

- In some cases, the content of internal notes does not comply with the Rulebook, particularly with regard to the mandatory elements that such notes must contain. As a result, certain notes do not provide even a minimum description of actions taken, factual circumstances, or the legal assessment of the criminal-law event.

- It has been observed that in certain internal notes, prosecutors carry out numerous evidentiary actions to examine the circumstances of the case, which indicates that the prosecutor's office had reason to investigate the event more thoroughly and determine whether the elements of a criminal offence that is being prosecuted *ex officio* were present or not. Considering the original purpose of introducing the internal note, it remains unclear why prosecutors in such cases choose to draft an internal note instead of issuing a formal decision to dismiss the criminal complaint.

- Differences have been observed in the way prosecutors' offices handle similar cases, where some decisions indicate that certain elements of a criminal offence that is being prosecuted ex officio exist or that there is a certain degree of suspicion that an event occurred, while other elements are missing. In some cases prosecutors issue decisions to dismiss the complaint, while in others they draw up internal notes. This points to inconsistent practice and also potentially deprives victims of the right to seek legal instruments.

- There are cases where it was established that some form of contact, physical or verbal, occurred, but due to other circumstances and a lack of certain evidence, prosecutors issue an official note stating that there is no basis for initiating proceedings. This approach further complicates the justification for using this type of decision in situations where there is a certain level of suspicion.

- In certain reasoning statements, it can be observed that some criminal offences are examined in detail, while others are not mentioned at all, despite the conclusion that there are no elements of a criminal offence prosecutable *ex officio*. In cases where a decision to dismiss the complaint is issued, the injured party or their legal representative may point out these shortcomings through an objection. However, it is particularly concerning when such practice is applied to official notes, where no legal instrument is available.

- Differences have also been observed in cases where the subjective element of the criminal offence of endangering safety is missing – namely, the feeling of being threatened, or when the injured party reports the case because they felt threatened, but for some reason later during the proceedings states that they no longer feel threatened and does not wish to pursue criminal prosecution. In such cases, some prosecutors issue dismissal decisions, while others draft internal notes.

- Certain differences have also been noted in the prosecutors' decisions in cases involving the criminal offence of violent behaviour. In similar, but not identical situations, some cases result in a decision to dismiss the complaint, while in others an internal note is issued due to the absence of certain elements of the offence or consequences that involve more serious violation of public order or a significant distress of the citizens.

- There have also been instances where decisions were made by non-competent prosecutors' offices, which constitutes a serious violation of the law and procedural rules.

Recommendations

Given the current socio-political context, there is no need to amend the regulations, especially considering that the existing legal framework provides a sufficient normative basis for the proper application of provisions related to these two types of decisions.

Prosecutors' offices should work toward their harmonizing decision-making, with the active involvement of the highest prosecutorial authorities in that process.

It should be considered for the highest prosecutorial authorities in the country – the Supreme Public Prosecutor's Office as well as the Appellate Public Prosecutors' Offices – to issue guidance regarding the application of internal notes, in order to reduce inconsistent practices and safeguard the rights of injured parties in proceedings.

Potential amendments to the Rulebook on Administration in Public Prosecutors' Offices should be considered, specifically linking Article 102 of the Rulebook with Article 51 of the Criminal Procedure Code, so as to avoid the denial of rights guaranteed by law.

When acting in individual cases, prosecutors must keep in mind the purpose behind the introduction of this provision in the Rulebook, applying it exceptionally and only when it is clear from the complaint that no elements of criminal offences prosecuted ex officio are present.

Prosecutors, when acting in individual cases, must take into account the procedural status and rights of the injured party as prescribed by the Criminal Procedure Code, and ensure that the application of Rulebook provisions does not diminish the rights guaranteed by law.

The Supreme Public Prosecutor's Office should consider issuing a special instruction or amending the existing one concerning journalists and individuals performing duties of public importance in the area of public information, in order to address this matter in greater detail and prevent the denial of rights to the journalists as injured parties and potential abuses, given the significance of this profession.

Consultations with prosecutors should be conducted regarding the application of these provisions, particularly in cases where journalists are injured parties, taking into account the importance of the profession, presenting the results of this research, and exchanging views with other legal professionals and experts.

Training sessions should be organised in cooperation with public prosecutors' offices and the Supreme Public Prosecutor's Office on this issue, focusing on the rights of injured parties and proper handling of complaints, with the goal of standardising practice.

It is necessary to improve and safeguard the position of the injured party in criminal proceedings, to provide full protection of their legally guaranteed rights and ensure equal legal protection.