



General Assembly

Distr.: General
6 September 2023

English only

Human Rights Council

Fifty-fourth session

11 September–6 October 2023

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, on his visit to Serbia

Comments by the State*

* The present document is being issued without formal editing.



Comments by the Republic of Serbia to the Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli on his visit to the Republic of Serbia from 22 November to 2 December 2023 (A/HRC/54/24/Add.2 of 10 July 2023)

1. The Government of the Republic of Serbia would like to thank to Special Rapporteur Mr Fabián Salvioli for his visit to Serbia, which took place from 22 November to 2 December 2022.

After having reviewed the Report, issued under number A/HRC/54/24/Add.2 on 10 July 2023, we would like to make the following comments and observations in relation to the paragraphs mentioned below.

I. Summary

Comments by the Ministry of Justice

2. We welcome the stance of the United Nations Special Rapporteur on the Promotion of Truth, Justice, Reparations, and Guarantee of Non-Recurrence, who emphasized that the **concept of Kosovo* should be understood in full compliance with United Nations Security Council Resolution 1244 (1999).**

3. **However, the impression is gained that the comparative analysis of the explicitly listed topics treated in parallel in Mr. Salvioli's report relates to two states.**

4. We emphasize that Kosovo and Metohija are an **integral part of the Republic of Serbia**. According to the Constitution of the Republic of Serbia ("Official Gazette," no. 98/2006 and 115/2021), Article 8, Territory and Borders - "The territory of the Republic of Serbia is indivisible and inviolable. The border of the Republic of Serbia is inviolable and can only be changed through the procedure provided for changing the Constitution".

5. Kosovo and Metohija are under the protectorate of the United Nations. By adopting **Resolution 1244** on its 4011th meeting held on June 10, 1999, the Security Council confirmed its commitment to the territorial integrity of the FRY and established a temporary administration, under which the people of Kosovo enjoy substantial autonomy within the framework of the **Federal Republic of Yugoslavia**. For the Republic of Serbia, central Serbia, consisting of two provinces, Vojvodina and Kosovo and Metohija, constitutes a **single territory**.

6. There is no place for impunity for crimes in the Republic of Serbia. **A distinction has never been made between the nationalities** of those who committed crimes and those who were victims of these crimes. This is in contradiction to the Constitution of the Republic of Serbia.

7. Therefore, **it is impossible to "express concern about the lack of cooperation between authorities in Belgrade and Pristina"** regarding the transitional justice process.

II. Paragraph 10

8. **In this paragraph the Report *inter alia* states: "In 2006 ICMP handed over to the Serbian authorities DNA laboratory."**

Comments by the Commission on Missing Persons

9. In 2006 ICMP handed over to the laboratory of the Institute for Forensics of the Faculty of Medicine in Belgrade incomplete equipment for identifying missing persons. For that reason, that equipment has never been used. The identification of missing persons for the needs of Serbia, which includes determining the

identity with DNA analysis method, is carried out by the ICMP based on a cooperation agreements¹ with ICMP. The DNA laboratory of ICMP is located in Hague, Netherlands since 2018.

10. Based on the signed agreements on cooperation in identification through DNA analysis with all domestic institutions competent for searching for missing persons (Serbia, Bosnia and Herzegovina, Montenegro and the so-called Kosovo*), ICMP performs identification of victims, while Croatia has its own DNA laboratory and is not fully integrated into this project. Considering that, identification of victims from armed conflicts in Croatia is very slow and non-transparent. Croatia justifies this situation with an insufficient number of DNA samples from relatives of victims, with Croatian model of searching for missing persons and developed capacities for independent identification of victims. On several occasions, ICMP offered Croatia help in identifying the remains of unidentified persons for whom they failed to isolate a DNA profile, but Croatia did not accept that help.

11. Solving the issue of missing persons depends on cooperation with other participants in this process, domestic institutions in Croatia, Bosnia and Herzegovina, Montenegro and the territory of the Autonomous Province of Kosovo and Metohija, competent for solving the issue of missing persons. Cooperation with these bodies is very important for this issue, considering that persons who are on the searching list of the Republic of Serbia are missing, buried and their unidentified remains are in morgues on the territories of other states (formed after disintegration of the former SFRY) and on the territory of the Autonomous Province of Kosovo and Metohija.

12. The issue of unidentified remains in morgues is widespread at the regional level. In the morgue in Zagreb there are approximately 900 unidentified remains in the morgue in Zagreb. In the morgue in Priština, there are approximately 300 unidentified remains. In morgues in Tuzla, Sarajevo and Banja Luka, there are approximately 1650 remains. A total number of unidentified remains is approximately 2,400. Solving issue of missing persons is done at the regional level through the work of Operational Group to Resolve NN or Unidentified Cases (NNOG). NNOG was formed by the Group for Missing Persons as a body for the implementation of the Framework Plan to Address the Issue of Persons Missing from Conflicts in the territory of the Former Yugoslavia through the forensic process, collecting information, analysis of available relevant documents and additional collection of blood samples from relatives.

13. Also, this issue is dealt with at the level of cooperation between Belgrade and Priština through the mechanism of the Working Subgroup on Forensic Issues formed within the Working Group for Persons Unaccounted for in Connection with Events in the Autonomous Province of Kosovo and Metohija (hereinafter Working Group).

14. During the meetings there were obstructions from Zagreb and Priština in solving issue of missing persons, because they want to solve it independently with no respect for legitimate interest of other participants in this process, although this issue, clearly, can be resolved only if all interested parties are involved in the process, including ICMP.

15. Based on the conclusions from the session of the Missing Persons Group (hereinafter MPG) held on December 2021 in Sarajevo, MPG established a new model of involving families of missing persons in the form of the annual MPG Forum for Families.

16. The first meeting of the MPG Forum for Families held on September 12th, 2022 in Podgorica. The Forum for Families offered a useful platform for the exchange opinions between associations of families from Bosnia and Herzegovina, Croatia, Montenegro, the so-called Kosovo and Serbia gathered in the Regional Coordination Network and domestic institutions, members of the MPG. Another important turning point was reached a day after

¹ Agreement between the Commission on Missing Persons and ICMP regarding the fate of persons missing in armed conflicts in the territory of the former SFRY between 1991 and 1995 (signed in Belgrade in 2002) and Agreement between the Commission on Missing Persons and ICMP on continued cooperation in the process of exhumation and identification of persons missing as a result of the conflict in the Autonomous Province of Kosovo and Metohija (2014).

* All references to the so called Kosovo shall be understood to be in the context of Security Council Resolution 1244 (1999).

the Forum for Families, on September 13th, 2022 when representatives of family associations and members of MPG held a joint commemoration for the civilian victims of the conflict in the territory of the former Yugoslavia at the memorial in Park Pobrežje in Podgorica. For the first time members of family associations from all over the former Yugoslavia and prominent representatives of domestic institutions competent for the issue of missing persons, (with the exception of the representatives of Croatia) jointly paid respect to the victims of the conflict in the former Yugoslavia.

III. Paragraph 14

17. **In this paragraph the Report *inter alia* states:** *“In July 2019 BiH, Croatia and Serbia signed cooperation agreements for the exchange of information and documents on missing persons.”*

Comments by the Commission on Missing Persons

18. It is not clearly defined what exactly is meant, because such an agreement between these three countries has never been signed. In July 2019, in Poznań, Poland, on the sidelines of the Berlin Process Summit, a session of the MPG was held, where domestic institutions presented the first Report on the implemented activities in line with provisions of the Framework Plan and progress in the process of searching for missing persons.

19. **Legal framework for cooperation with Republic of Croatia** - The Federal Republic of Yugoslavia and the Republic of Croatia signed a bilateral agreement on cooperation in the search for missing persons on November 17th, 1995 in Dayton. Protocol on cooperation between commissions on missing people was signed on April 17th in Zagreb.

20. **Cooperation with Bosnia and Herzegovina** is regulated by the Protocol on cooperation in searching for missing persons between the Government of the Republic of Serbia and the Council of Ministers of BiH, which was signed on November 5th 2015 in Sarajevo. Although the Protocol was signed in 2015, there was continuous cooperation between the competent bodies for searching for missing persons of the these two countries, based on the conclusions of the meeting held on August 22nd 2002 in Belgrade and the conclusions of the regional meeting of competent government bodies for searches of missing persons, which held in Neum, BiH in 2004.²

21. As part of activities to improve bilateral cooperation, the Commission on Missing Persons of the Government of the Republic of Serbia drafted the text of the Working Rules and Procedures for the Implementation of the Protocol on Cooperation in Searching for Missing Persons between the Government of the Republic of Serbia and the Council of Ministers of BiH, which, after harmonization, was signed on July 30th 2019 in Sarajevo.

IV. Paragraph 18

22. **In this paragraph the Report *inter alia* states:** *„ The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (The International Tribunal for the Former Yugoslavia) has convicted 12 Serbian officials and two former Kosovo Liberation Army members. It transferred one active case to Serbia, where domestic courts found the accused unfit for trial.”*

² Representatives of competent government bodies for searching for missing persons in armed conflicts on the territory of the former SFRY, Serbia and Montenegro, BiH and Croatia attended the meeting.

Comments by the Ministry of Justice

23. We consider it indisputable that it is the **obligation of all participants in the process of prosecuting war crimes and achieving cooperation in the fight against criminality to fully condemn the violations of provisions of international law.**

24. **The violation of provisions of international law and impunity for heinous crimes committed against the Serbian population have practically become a common practice.** Unfortunately, its strong basis was found in the work of the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.

25. Impunity for gross violations of all types of human and civil rights of individuals of Serbian nationality in Kosovo and Metohija **continues to this day, and it is most pronounced at the present moment.**

26. **We also highlight the attempts by the so-called Kosovo to extradite individuals who have already been convicted before the Mechanism for International Criminal Tribunals.**

27. In conclusion, we emphasize that the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia has experienced complete **failure in investigations and trials for crimes committed in the territory of Kosovo and Metohija against Serbian and non-Albanian civilian populations**, thereby significantly undermining the reputation and trust in the International Criminal Tribunal for the Former Yugoslavia and the Mechanism.

V. Paragraph 19

28. **In this paragraph the Report inter alia states:** “Serbia has adopted national strategies for the prosecution of war crimes... The Strategy for 2021-2026 and its related action plan provide a framework and road map for the prosecution of war crimes.”

Comments by the Public Prosecutor's Office for War Crimes

29. Implementing the activities from the aforementioned National Strategy, the Public Prosecutor's Office for War Crimes adopted in December 2022 a **revised Prosecutorial Strategy** for the investigation and prosecution of war crimes and the accompanying action plan, through which numerous activities were defined, both from related documents such as the revised Action Plan for Chapter 23 and the National Strategy for War Crimes Prosecution, as well as other activities that are specific to the jurisdiction of the specific prosecutor's office and its internal organization, and all of which should collectively lead to a faster resolution of cases and raise the quality of work and regional and wider international cooperation to a higher level.

VI. Paragraph 20

30. **In this paragraph the Report inter alia states:** „The War Crimes Prosecutor's Office advised that it had indicted 238 persons since its inception, with an 85 per cent conviction rate. Ninety-four per cent of the defendants were Serbian nationals. Between 2016 and 2020, the Office had issued 34 indictments against 45 persons (65 per cent of the files had been transferred from Bosnia and Herzegovina). In 2022, the Office had brought 10 indictments to court. Notwithstanding, progress has remained slow, leading to a backlog of 1,731 cases at the pre-investigation stage. Several interlocutors expressed concern that most defendants were low-ranking officials. Currently, only four high-ranking officials are being prosecuted in Serbia, and one was recently indicted.”

Comments by the Ministry of Justice

31. **The bombing of the Republic of Serbia, 24 years ago, lasting for 78 days, occurred without any justification and without a decision by the United Nations Security Council.** For the victims of this monstrous act, it seems that no one is accountable or at fault, **except those who have been convicted before the International Criminal Tribunal for the Former Yugoslavia for crimes committed in the territory of Kosovo and Metohija. These convictions targeted high-ranking officials from the Republic of Serbia who were only defending their country.**

32. Every attempt by the Republic of Serbia to investigate and bring to justice the perpetrators of war crimes committed against its population in the territory of Kosovo and Metohija has yielded no results.

33. Those responsible for the persecution and murders of Serbs and non-Albanian populations have not been held accountable. It appears that justice for the victims of war crimes in Kosovo and Metohija remains elusive.

34. Since the establishment of the Specialist Chambers and Specialist Prosecutor's Office of the Temporary Institutions of Self-Government in Pristina in 2015 until today, this institution has not achieved any tangible results. Pessimism regarding its operational effectiveness is caused by obstruction by the Kosovo police, the special units responsible for arrests, as well as problems related to inadequate witness protection and evidence collection methods.

35. **In this paragraph the Report inter alia states:** *“The Ombudsperson Institution of Kosovo reported stagnation in the will to prosecute Serbian officials for crimes against Kosovo Albanians, with no such indictments filed in the past five years. It noted that 20 indictments had been filed for war crimes committed in Kosovo, leading to the conviction of 15 Serbian officers (mostly low-ranking) and two former Kosovo Liberation Army members. Serbia refuses to extradite Serbian nationals requested by Kosovo judicial authorities.”*

Comments by the Protector of Citizens

36. We would like to draw attention to the fact that the Ombudsman Institution of the Provisional Institutions of the Self-Government in Priština, is not recognized in the international system for the protection and promotion of human rights as a national human rights institution, so there is no independent confirmation of the credibility and legitimacy of work of this institution, meaning that there is no assessment of the conformity of work of this institution with the Paris Principles as the foundations on which the status and work of independent human rights institutions around the world is based.

37. Bearing in mind the above, due consideration should be given to the evaluations and data received from the Ombudsman Institution of the Provisional Institutions of the Self-Government in Priština.

VII. Paragraph 21

38. **In this paragraph the Report states that** *Special Rapporteur has information that witnesses and victims are still exposed to attacks and threats due to their testimony in war crimes proceedings, despite the fact that in R. Serbia, a legal framework has been established for the protection of witnesses and victims, and that for these persons adequate procedural and non-procedural protection measures are provided , as well as that there is a special criminal offense in the Criminal Code of the R. Serbia.*

Comments by the Ministry of Interior Affairs

39. It cannot be concluded which witnesses were involved, as well as what kind of threats or attacks they were exposed to, since a significant number of witnesses have only procedural

status in terms of the Criminal Procedure Law and they are not covered by protection measures in accordance with the Law on the Protection Program of participants in criminal proceedings.

40. In this regard, we would like to emphasize that not a single person who had been included in the Protection Program due to participation in criminal proceedings for war crimes, has been exposed to any threats or attacks.

41. **In this paragraph the Report inter alia states:** "...a strategy and plan of action for witness protection was adopted in 2020."

Comments by the Public Prosecutor's Office for War Crimes

42. In addition to the undoubted importance of the aforementioned **Strategy** (National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia (2020-2025), we must point out that the issue of improving the protection and support of victims and witnesses in war crime proceedings was also laid out in the National War Crimes Prosecution Strategy (2021-2026), as well as in the revised Prosecutorial Strategy for the Investigation and Prosecution of War Crimes adopted in December 2022, giving it special attention.

43. **In this paragraph the Report inter alia states:** that he "...received reports of continued intimidation and attacks on witnesses and victims, which deterred them from testifying in war crimes cases," and that "legal action has not been taken to counter such practices despite the existence of a specific offence in the Criminal Code."

Comments by the Public Prosecutor's Office for War Crimes

44. In connection with the previous allegations, we must point out that the intimidation and attacks refer to actions whereupon the victims, that is, the injured persons, are of Serbian and Roma nationality.

45. Guided by the principle of prohibition of discrimination, whenever there is solid evidence, all the necessary procedural actions are being undertaken in accordance with the powers prescribed by law. It should be noted that the legal framework provided by a series of laws (Criminal Procedure Code, Law on the Protection of Participants in Criminal Proceedings, Law on the Organization and Competence of State Authorities in War Crimes Proceedings, etc.) provides high-quality solutions for providing assistance and protection to witnesses and victims in criminal proceedings for war crimes.

46. We note that a number of procedural law institutes, adopted in accordance with international standards and experiences, provide solid protection (verified in practice) to those witnesses and victims who feel threatened, regardless of their national or religious affiliation. The possibility to testify from another room or another country, by using a pseudonym with a distortion of sound and image, to the possibility of moving to another country: these are all legal institutes that are used and have been used in the practice of this Prosecutor's Office. Also, there is the option that a person residing in another country cannot be deprived of liberty, detained or prosecuted for a previously committed criminal offence while on the territory of the Republic of Serbia for the purpose of testifying as a victim, witness or expert in war crimes cases.

47. In addition, in order to provide **additional protection and support** for witnesses and victims in the previous period, this Prosecutor's Office has worked to strengthen the capacity of the Support for Victims and Witnesses of Crimes service. Furthermore, a psychologist has been employed by the Prosecutor's Office from the beginning of 2021.

VIII. Paragraph 22

48. **In this paragraph the Report inter alia states:** "...judicial cooperation between Belgrade and Priština remained at a standstill..." while "cooperation between Bosnia and

Herzegovina and Serbia has reportedly improved and yielded some results...” as well as that “...cooperation in the field has stagnated in recent years, leading to reduced prosecutorial outcomes.”

Comments by the Public Prosecutor's Office for War Crimes

49. In connection with the above, it should be pointed out that numerous activities have been undertaken and that cooperation with Bosnia and Herzegovina in war crimes proceedings is continuous, of high quality and has produced specific results.

50. One of the indicators to support this claim is the recently concluded agreement on establishing the **Support for Victims and Witnesses** service, which was signed on 3 November 2022 between the War Crimes Prosecutor's Office and the Prosecutor's Office of Bosnia and Herzegovina. The main goal of this project is to facilitate the participation of witnesses and victims in criminal proceedings.

51. On the other hand, with regard to the allegations related to the **standstill in cooperation with the Republic of Croatia**, we point out that there is undoubtedly the full commitment of this Prosecutor's Office to, whenever the conditions exist, cooperate continuously and in good faith with the State Attorney's Office of the Republic of Croatia, fully implementing the concluded acts on cooperation with the state authorities of the Republic of Croatia regarding the criminal prosecution of war crime perpetrators.

52. The Public Prosecutor's Office for War Crimes mainly responds without delay to the requests of the competent authorities of the Republic of Croatia, either on the basis of the regulations governing the provision of international legal assistance, or on the basis of a concluded agreement, and whenever there are conditions prescribed by law, information, documents or evidence and in regard to carrying out evidentiary/investigative activities.

53. It is a fact that this cooperation is not at a satisfactory level, bearing in mind that the competent courts of the Republic of Croatia still make decisions in trials in absentia in a large number of proceedings and that **the 2011 Nullity Act relating to certain legal acts of the judicial bodies of the former JNA, the SFRY and the Republic of Serbia** is still in force in Croatia, which makes cooperation between the two prosecutor's offices difficult, and which further implies that the results of cooperation depend to a large extent on the attitude of the Ministry of Justice of the Republic of Croatia in each specific case. Practice has shown that a response to a request addressed to the competent authorities of Croatia in most cases takes a very long time, and sometimes it is completely lacking.

54. In other words, there is cooperation with the Republic of Croatia when the suspects or those accused of war crimes are of Serbian nationality or citizens of the Republic of Serbia. The aforementioned Nullity Act explicitly excludes the possibility of such cooperation with the Republic of Serbia if the suspects, accused or convicted citizens are also citizens of the Republic of Croatia.

55. It should also be mentioned that this law has a discriminatory character and has been in force since 2011.

IX. Paragraph 23

56. **In this paragraph the Report inter alia states:** “...a framework in place to prosecute war crimes, but (he) is concerned about stagnated judicial cooperation, and about the low prosecution rate despite the resources devoted to this endeavour and the substantial files at the disposal of the authorities.”

Comments by the Public Prosecutor's Office for War Crimes

57. Such statements are unspecific, since there has been certain stagnation (on all sides) only in 2020 and 2021 due to the **Covid** pandemic.

X. Paragraph 24

58. **In this paragraph the Report inter alia states:** *“The framework was updated in February 2020 with the adoption of the Law on the Rights of Veterans, Disabled Veterans, Civilian Disabled Veterans and Their Family Members.”*

Comments by the Protector of Citizens

59. In the Protector of Citizens Annual Report for 2020, it is noted that the Law on the Rights of Veterans, Disabled Veterans, Civilian Disabled Veterans and Their Family was adopted, with accompanying by-laws. Whereby this law combines the four laws that have been in force until now, regulating veterans and disabled persons' protection, it provided an improved legal protection and better quality of life to beneficiaries of veterans and disabled persons' protection.

60. **In this paragraph the Report inter alia states:** *“Eligible victims are entitled to health care, free public transport and, for those in situations of social vulnerability, a monthly stipend.”*

Comments by the Protector of Citizens

61. Acting on the complaints of citizens regarding the manner in which the right to disability allowance is regulated, the Protector of Citizens submitted to the National Assembly the initiative to amend this law with the aim of enabling the right on disability allowance to be exercised by disabled veterans who have acquired the right to a pension, but have not yet reached the age of 65, in which way they will be in the equal position as the categories of disabled veterans that the law recognizes as potential beneficiaries, such as disabled veterans who have reached the age of 65 (retired or not), disabled veterans who are employed, and unemployed disabled veterans.

Comments by the Ministry of Labour, Employment, Veteran and Social Affairs

62. The Republic of Serbia adopted the Law on the Rights of Veterans, Disabled Veterans, Civilians Disabled in War and Their Family Members, which was published in the "Official Gazette of the RS", No. 18/2020 of 3 March 2020, entered into force on 11 March 2020, and is applicable from 1 January 2021. This Law, for the first time, uniformly for the territory of the Republic of Serbia, regulates the area of veterans' and disabled people's protection and the protection of civilians disabled in war. On the day of the beginning of the application of this Law, among other acts, the Law on Basic Rights of Veterans, Disabled Veterans and Families of Fallen Soldiers ("Official Gazette of the FRY", No. 24/98, 29/98 and 25/00 - CC and "Official Gazette RS", No. 101/05 - other law, 111/09 - other law and 50/18) and the Law on the Rights of Civilians Disabled in War ("Official Gazette of RS", No. 52/96) were rescinded.

63. The rights established by this Law are based on the principle of compensation for bodily harm and the loss of life of a close relative, and provides for monetary benefits, the amounts of which are adjusted on a monthly basis. The status of a civilian disabled in war can be realized on the basis of physical damage resulting from a wound, injury or damage that occurred as a result of abuse or deprivation of liberty by the enemy during the war or during the conduct of war operations in the territory of the Republic of Serbia, as well as from residual war material.

XI. Paragraph 26

Comments by the Ministry of Labour, Employment, Veteran and Social Affairs

64. The Law on the Rights of Veterans, Disabled Veterans, Civilians Disabled in War and Their Family Members stipulates that a civilian disabled in war is a civilian person, a citizen of the Republic of Serbia, who, as a result of a wound or injury, has suffered damage to his/her body of at least 50%:

- a) as a result of abuse or deprivation of liberty by the enemy during the war or during the conduct of war operations in the territory of the Republic of Serbia;
- b) from residual war material in the territory of the Republic of Serbia;
- c) as a victim of an attack in a diplomatic or consular representation of the Republic of Serbia or on the way to that representation, in connection with the performance of official duties under the jurisdiction of the Republic of Serbia as an employee.

65. A civilian victim of war is a person who lost his/her life as a civilian under the specified circumstances.

66. A civilian who disappeared under the above circumstances is considered a civilian victim of war.

67. The Law stipulates that family members of civilian victims of war receive financial income, subject to the prescribed conditions related to material and family circumstances, so that the financially vulnerable receive greater material support.

68. In the process of passing this Law, citizens' associations that operate in the field of protection of veteran and disabled veterans and the protection of civilians disabled in war and civilian victims of war were involved. Forums for public debate on the Draft Law were held according to the Public Debate Program in: Vranje, Leskovac, Kragujevac, Užice, Sjenica, Kraljevo, Sombor, Zrenjanin, Novi Sad, Zaječar, Belgrade, and Niš. Due to the great interest in the Draft Law, a forum was also held in Ruma. In total, around 1,600 participants were present at these events.

69. The participants in the public debate were: representatives of provincial, city and municipal authorities responsible for veterans' and disabled veterans' protection, representatives of associations of veterans, disabled veterans, civilian disabled in war and their family members, and other interested parties.

Those present showed great interest in participating in the public debate.

70. A total of 207 participants verbally expressed their opinion, remarks, proposals and suggestions regarding the text of the Draft Law during the forums. On that occasion, 103 written submissions were made.

71. During the public debate period, 45 submissions with numerous objections and suggestions were received by regular and electronic mail at the Ministry of Labour, Employment, Veteran and Social Affairs.

72. The Law seeks to regulate matters in this area in a way that affirms the permanent value of respect for human rights through the constitution of rights and the protection provided by it. Furthermore, when passing laws, it is necessary to take into account the financial effects, that is, the state must take care to determine the available funds in the best possible way.

73. Efforts are made to provide greater protection through the legal framework to all beneficiaries in accordance with the financial possibilities.

XII. Paragraph 27

74. **In this paragraph the Report inter alia states:** *“Despite the update to its legal framework, Serbia provides reparation to a limited category of victims and keeps many others devoid of reparation. This requires urgent amendment.”*

Comments by the Ministry of Justice

75. **The call to authorities in Belgrade and Pristina to enhance their legal frameworks to ensure that all victims can access the right to reparations without discrimination is not clear.**

76. The reason for this is that **reparations are typically paid between two states**, which has not been the case so far.

77. We emphasize that members of the Serbian nationality who have survived terror by the so-called Kosovo Liberation Army cannot even consider reparations from the so-called Kosovo. A significant number of them were unable to return to their homes. Anyone who attempted to do so was at the very least discriminated against, and most experienced becoming victims of brutal attacks - from physical assaults on adults to children, and the destruction of property.

78. Here, we must mention the destruction of religious sites: in the Republic of Serbia, especially in Kosovo and Metohija, cultural and religious heritage are strongly interconnected. Objects of the Serbian Orthodox Church are essential elements of national identity. In Kosovo and Metohija, there are around 1,300 Serbian Orthodox churches, monasteries, and other structures that constitute the cultural heritage of the Serbian people. Orthodox churches and monasteries in Kosovo and Metohija bear witness to Serbia's statehood, the suffering, and survival of its people, to which Serbs have a strong connection. As a result, they are further targets of attacks by extremist movements and individuals within the majority community in Kosovo.

79. **In the region of Kosovo and Metohija, freedom of religion is inseparably linked to freedom of movement, and the right to freely practice one's own faith is inherently tied to the right to life itself. As in previous years, attacks on churches and monasteries are combined with attacks on returnees and their property.**

80. **Currently, the phenomenon of "appropriating history" is also at play.** Kosovar Albanians institutionally rename Serbian Orthodox churches and monasteries as "Kosovo", "Byzantine", "Catholic", "Christian" or simply "Orthodox", **but omit the term "Serbian Orthodox"**, as an attempt to alter their historical and cultural identity. In 2005, the Ministry of Culture of Kosovo (Temporary Self-Government Institutions) published a publication that **omits the identity of Serbian holy sites. A false narrative is promoted about supposed Albanian Catholic churches to which Serbs have allegedly changed names.**

81. In the western part of the international community, there is not much understanding for the suffering of Serbs and the destruction and appropriation of Serbian Orthodox Church heritage.

An exception comes from Italian intellectuals. The article by Andrea Lorenzo Capussela titled "Are 'Serb' churches Serb? Critique of an unwise choice" is encouraging (reference to the article: <https://europeanwesternbalkans.com/2020/09/28/are-serb-churches-serb-critique-of-an-unwise-choice/>).

82. **In this paragraph the Report inter alia states:** *“...judicial processes are lengthy and require a criminal conviction before compensation can be sought in civil courts. In addition, there is a high standard of proof and the expiration of the statute of limitations has prevented victims from obtaining compensation.” Also, “...lawsuits entail considerable costs on the part of victims-plaintiffs, and there is no legal aid available to them. These difficulties and the uncertainty of a positive outcome given the burden of proof placed upon victims, make this avenue for reparation practically unviable for victims.”*

83. **This position is expressed in Paragraph 91 (Conclusion), inter alia:** “*Many victims in Serbia... have not received adequate reparation, due to the shortcomings in the respective legal frameworks that fail to recognize and to afford equal rights and benefits to all categories of victims.*”

Comments by the Public Prosecutor's Office for War Crimes

84. In this regard, we would like to point out that the Public Prosecutor's Office for War Crimes is making significant efforts to resolve this issue, involving reparations that can be obtained in criminal proceedings. Namely, a property claim, which includes, among other things, compensation for damages, can also be raised in the criminal proceedings for war crimes.

85. Courts dealing with war crimes cases (as well as in any other criminal procedure) very rarely award damages. This is so because the subject of the criminal procedure is the determination of the accused person's guilt for a specific criminal offence, and therefore the presentation of evidence and the determination of facts for compensation for damages in that procedure would certainly lead to a prolongation of the criminal procedure.

86. Also, the injured parties/victims very rarely determine the property claim based on the basis and amount. Only in that case can the court make a decision regarding such a request of the injured party.

87. In order to enable the injured parties/victims to obtain compensation during the criminal proceedings, the Prosecutor's Office has provided for the additional training of prosecutors and administrative staff in its strategic documents.

88. In addition, in 2019, the Supreme Court of Cassation of the Republic of Serbia (now the Supreme Court) has issued **Guidelines** for the improvement of the judicial practice in proceedings for compensation of the victims of serious crimes in criminal proceedings. In doing so, it has additionally obliged both the **Prosecutor's Office, and even more so the authorized court**, to take into account compensation for damage to the injured parties/victims in each specific case.

89. In order to facilitate and speed up the section of the criminal procedure that is otherwise accessory and in its foundation, civil litigation, the Prosecutor's Office intends to organize additional training in this regard in cooperation with other authorities. At the same time, the acting Chief Public Prosecutor for War Crimes has issued a written recommendation to public prosecutors that in that part of the procedure for which they are actually and functionally competent, which is the investigation, they should also collect as much relevant data as possible for the realization of the property claim later on, in the court proceedings.

XIII. Paragraph 30

Comments by the Ministry of Labour, Employment, Veteran and Social Affairs

90. The Republic of Serbia adopted the Law on War Memorials ("Official Gazette of RS", No. 50/18), which entered into force on 7 July 2018. The aim of this Law is to make the state administration more efficient in the process of protection, regular and investment maintenance, financing the maintenance and arrangement of war memorials, establishing and keeping records, removing and building or setting up new war memorials. The goal is to unambiguously define responsibilities, replace outdated and obsolete solutions with new ones, and regulate this area in accordance with the established principles of modern civilized society, with respect for human rights. Such an organized system will bring uniform application, which contributes to the improvement of respect for human rights, national and religious feelings and traditions. A cross-sectoral approach is very important for a comprehensive assessment of needs, giving opinions and initiatives to improve the protection of war memorials, places of suffering, important places and other reverent symbols.

XIV. Paragraph 32

Comments by the Ministry of Labour, Employment, Veteran and Social Affairs

91. The Government of the Republic of Serbia adopted an act establishing the State Program for commemorating the anniversaries of significant historical events, the implementation of which is the responsibility of several departments. In addition to the ministry in charge of fostering traditions, the departments of culture, education, defence, foreign affairs and others are also responsible for the implementation of the mentioned program, in order to comprehensively promote social values.

92. The State Program to mark the anniversaries of the historical events of the liberation wars of Serbia was formulated based on the need to preserve the dignified memory of the victims and participants of armed conflicts in the past, it was created with the aim of strengthening and further affirming the principles of patriotism, anti-fascism, understanding, cooperation, as well as the fight against anti-Semitism. On the basis of the provisions of the State Program related to the place, interval, time and way of commemorating historical events, activities are carried out for manifestations and programs of commemorating historical events.

93. The State Program is one in a series of acts by which the Republic of Serbia completely rejects any relativization of crimes committed against innocent civilians in the past, attempts at historical revisionism and rehabilitation of political organizations, armed formations and individuals responsible for committed crimes, as well as inciting national, religious, racial and other forms of hatred.

94. During the development of the State Program, the principle of equality and respect for historical, national, political, religious and other specificities was respected.

95. The selection of historical events was made on the basis of the valorisation of their undoubted historical significance, while respecting previously established traditions aimed at preserving the memory of their occurrence. In addition to its basic commemorative function, the State Program also has an unequivocal educational significance.

96. As part of the State Program related to the anniversaries of the historical events of the liberation wars of Serbia, every year on 27 January, at the site of the World War II Genocide Memorial, Staro Sajmište, the **International Day of Commemoration in Memory of the Victims of the Holocaust**, established in 2005 by a resolution of the UN General Assembly, is observed. Deciding on the day when Auschwitz-Birkenau was liberated in 1945, the UN General Assembly was guided by the need to reaffirm human rights, prevent and punish the crime of genocide, as well as the ever-present danger of racial, national and religious hatred based on prejudice. The need to be reminded again and again of the horrors of the Holocaust, as well as to reject as untrue the claims that deny its character and the extent of suffering, is current in all democratic states. The need to learn the facts and reflect on the terrible consequences of the Holocaust contributes to the fact that in Serbia, the mass suffering of Jews in the World War II is seen, and will be seen in the future, as what it is in terms of its character and scope - one of the greatest crimes against humanity in history.

97. **The Remembrance Day for the Victims of the Holocaust, Genocide and Other Victims of Fascism in the World War II, 22 April 1945**, is observed every year in several locations: Memorial to the Victims of the Genocide in the World War II (Staro Sajmište, Novi Beograd), "Jasenovac" Memorial Area (Republic of Croatia), Memorial Complex in Donja Gradina (Republic of Srpska, Bosnia and Herzegovina). Article 5 of the Law on State and Other Holidays in the Republic of Serbia ("Official Gazette of the RS", No. 43/01, 101/07 and 92/11) stipulates that the Remembrance Day for the Victims of the Holocaust, Genocide and Other Victims of Fascism in the World War II is a working holiday. This day is dedicated to the memory of Serbs, Jews and Roma who died in mass and inhumane killings during the World War II. The Remembrance Day for the Victims of Genocide is marked on 22 April in memory of 22 April 1945, when a group of prisoners broke out of the Ustasha death camp in Jasenovac - Donja Gradina in the so-called Independent State of Croatia.

98. **The Remembrance Day of the Suffering of Serbs, Roma and Jews in Jajinci** is observed every year in the first week of October, at the "Jajinci" Memorial Park. The shooting range in Jajinci near Belgrade is the largest place of suffering from the World War II in the territory of the Republic of Serbia. More than 60,000 Serbs, Roma, Jews, members of the National Liberation War, anti-fascists, and all those who did not put up with the occupation of the country and who offered active resistance to the occupying forces, were brutally killed in that locality.

99. **The International Day against Fascism and Anti-Semitism** is marked every year on 9 November with a commemorative program. The violence that took place in German streets and squares on 9 November 1938 marked the beginning of a state-organized, legally sanctioned, and publicly supported persecution of Jews that ended with the murder of six million innocent men, women, and children. That event - known as Kristallnacht - is considered the symbolic beginning of the Holocaust and is marked by the decision of the Council of Europe as the International Day against Fascism and Anti-Semitism.

100. **The International Remembrance Day of Roma Victims in the World War II** is observed each year on 16 December, at the "Stratište" Monument, in Jabuka, Pancevo, in memory of 16 December 1942, when the German authorities began the systematic persecution and liquidation of Roma in occupied European countries.

101. In the Republic of Serbia, the **Remembrance Day of the Pogrom in Kosovo and Metohija** is also commemorated - 17 March 2004, the day when the pogrom in Kosovo and Metohija, ethnically motivated violence against Serbs, took place. During the three days of violence by Albanians against Serbs on 17, 18 and 19 March 2004, 10 Serbs were killed, and 35 churches and monasteries, 935 Serbian buildings, of which 738 were Serb houses, 10 public buildings, schools, post offices and health centres were destroyed and burned. 4,012 Serbs were expelled from six towns and nine villages. The consequences of the March violence have not been remedied even to this day, and the most tragic thing is that some places have remained without Serbs since then and that not even five percent of those expelled at that time have returned to their homes.

102. In the Republic of Serbia, civilian victims are honoured on 7 May and 4 August. The Remembrance Day of the Civilian Victims of NATO Aggression - 7 May 1999, when 16 residents of Niš were killed by cluster bombs, and the Remembrance Day of all Serbs who died and were exiled in the armed action "Storm" - 4 August 1995, as a caution and a reminder, so that it never happens again. Bearing in mind the tragic suffering of a large number of people, especially women, children and the elderly, expressing the deepest respect for the victims, there is a need to honour the innocent victims, as a pledge for the future.

XV. Paragraphs 38 and 39

Comments by the Ministry of Education

103. In schools in the Republic of Serbia, modern history and the wars of the 1990s are taught in an objective manner and without bias, in line with the reformed curriculum for the subject of *History*. One of the main goals of teaching *History* is to incite the students to develop a "responsible attitude towards themselves, their own and national identity, cultural and historical heritage, respect for human rights and cultural diversity, society and the country in which they live". This goal is further elaborated with standards and outcomes, as well as with general subject and specific subject competence. The reformed curricula are outcome-oriented, ensuring the development of cross-curricular competencies, including the *Responsible participation in a democratic society*, which is among the outcomes related to the respect for human rights and freedoms. Developing the spirit of tolerance and respect for the rights of persons belonging to different nationalities, is realized through examples of cooperation and cultural integration.

104. Textbooks contain countless examples of poets, painters, politicians, and war heroes not only of Serbian, but also of other nationalities, who jointly coped with the adversities they faced in the recent history.

105. Learning about the events of the 1990s is done not only within the scope of the subject of *History*, but also in other teaching and learning programmes, such as: *Civic Education*; optional secondary school programmes *Religion and Civilization*, *Individual, Group and Society*; and in the programmes of social and humanistic orientation, such as the mother tongue (through the study of literary works), foreign language, geography, etc. Bearing in mind that the programmes are process-oriented, schoolteachers plan and implement the teaching depending on the context in which it takes place, with the adequate application of the teaching forms, methods, procedures and tools whose value has been established and confirmed by modern practice and methodology of teaching and learning subjects (primarily: various types of work organization and the use of communicative, logical and professional (special) methods appropriate to the content of teaching and student capabilities).

106. **In these paragraphs the Report inter alia states:** “the school curriculum encompasses teaching about past conflict periods, including the Second World War and the Holocaust, and the 1990s conflict; reviews of past and present humanitarian law violations, and the concepts of genocide, holocaust and totalitarianism; the promotion of human rights, cultural diversity and mutual understanding; the prevention of violence and discrimination; and the development of critical and historical thinking in students. Teacher training also encompasses these areas.”

107. Despite noting the above mentioned efforts, **in these paragraphs the Report inter alia states:** “*the Special Rapporteur has observed the placing of greater attention in history teaching on Serbia suffering and victims to the detriment of other situations and victims. He is concerned that history teaching may be used to perpetuate the conflict narratives of Serbia*”, noting “*uniformity of narratives about the conflict and about its victims, which permeate the educational, cultural and media spheres. Deliberations in the public sphere, including the media, the press and the arts, as well as history teaching in certain textbooks, not seem to include comprehensive or plural narratives about the conflict or to allow all voices of victimhood to take centre stage.*”

Comments by the Institute for the Improvement of Education - Centre for Curricula and Textbook Development, Ministry of Education

108. In the valid history curricula, an appropriate space is dedicated to the suffering of all civilian populations in the conflicts, regardless of their nationality. In the learning outcomes of the valid curricula, it is stated, inter alia, that the student will be able to: draw conclusions about the causes, course and consequences of the wars conditioned by the disintegration of the SFRY by using sources of different origins and cognitive value; identify the causes, elements and consequences of historical conflicts and wars, and discuss possible ways to prevent future conflicts; express views, based on historical arguments, while respecting the opinion of the interlocutor; recognize propaganda, stereotypes and ideological stances in historical sources, and formulate a view which opposes manipulation; critically assess information stemming from the media by using historical knowledge and skills; analyze historical events and phenomena based on the available audio-visual source material; recognize, by using examples from contemporary history, the importance of respecting human rights; recognize how cultural interactions and cooperation between different ethnic and social groups have influenced political, social and economic life; explain the significance of cherishing the memory of important events and personalities from the history of the modern era; explore memorials in the local environment and participate in organizing and implementing joint school activities related to the development of the culture of memory; exemplify a responsible attitude towards the cultural and historical heritage of one's own nation and of other nations...” Learning outcomes defined in this way oblige the teachers to pay special attention to exactly those aspects of teaching and learning about history which the special rapporteur highlights, which concern the development of humanistic values in students, based on, inter alia, respecting all the victims of the conflict and cultivating a culture of memory.

109. A fact that is often overlooked is that Serbian primary and secondary schools are attended by the descendants of hundreds of thousands of Serbs from Croatia, Bosnia and Herzegovina, and the Serbian province of Kosovo and Metohija who died or were exiled

during the Second World War and in the wars of the 1990s, as well as by the descendants of millions of residents of Serbia and Montenegro who were subjected to the NATO bombing campaign for more than two months in 1999. Each and every one of them have been exposed to their family narratives about those events, where the history textbooks can have limited influence, no matter how objective and scientifically grounded.

XVI. Paragraph 41

110. **In this paragraph the Report inter alia states:** *“The Special Rapporteur is particularly concerned about numerous instances of glorification of convicted war criminals, denial of their crimes, and relativization of the judgments of the international Tribunal for the Former Yugoslavia and/or of local courts.”*

Comments by the Ministry of Justice

111. One of the observations from Mr. Salvioli's report pertains to examples where **individuals challenge the positions of the prosecution arising from the judgments of the International Criminal Tribunal for the Former Yugoslavia or the Mechanism**. In this context, we wish to emphasize that the Republic of Serbia is a democratic state where freedom of speech, professional and scholarly criticism is guaranteed, and it applies to judgments of the International Criminal Tribunal for the Former Yugoslavia and the Mechanism, as in any other democratic state.

112. Regarding complaints about "denial of crimes and glorification of the convicted", we must clearly state the position of the Republic of Serbia. The Republic of Serbia has concluded numerous proceedings in which severe penalties have been imposed for crimes committed in the former Yugoslavia, primarily by its own citizens or compatriots. Many proceedings are ongoing. **Its policy cannot be accused of denying crimes or glorifying them.**

113. By its legal nature, a judgment should represent a condemnation of specific behavior by the perpetrator. A punishment is imposed for such behavior. The purpose of punishment is the adoption of socially acceptable values. The aim of punishment is to prevent future sanctioned behavior. This is how any civilized society protects itself from criminality. Individuals who have been convicted and served their sentences cannot be subject to "further reporting."

114. **The prosecution's task is to present charges and, ultimately, deliver a verdict - once that is done, it is finished.** Specifically, we find it unacceptable to continuously mention "individuals" who have served their sentences imposed by the Tribunal and whose appearances are regularly discussed in public. **After serving a sentence, no one can be further sanctioned on any grounds, nor can anyone deprive them of personal and civil rights.**

XVII. Paragraph 46

115. **In this paragraph the Report inter alia states:** *“Kosovo is part of regional cooperation initiatives and agreements to facilitate the search for missing persons, including the ICMP Database of active cases of persons missing in conflicts in the territory of the former Yugoslavia; Joint Declarations of the Berlin Process and agreements on joint cooperation with Serbia.”*

Comments by the Commission on Missing Persons

116. In addition to the irreplaceable mechanism of cooperation between Belgrade and Priština through the Working Group for Missing Persons chaired by the ICRC, cooperation also takes place at the regional level on the basis of the Joint Declaration of the Berlin Process and other acts from it.

XVIII. Paragraph 47

117. **In this paragraph the Report inter alia states:** *“The Institute of Forensic Medicine has started the implementation of a new inventory of 300 unidentified remains in its morgues, but it is necessary to access to similar records of Serbian and relevant international institutions.”*

Comments by the Commission on Missing Persons

118. All the exhumed remains of missing persons in the area of Central Serbia from the conflict in the Autonomous Province of Kosovo and Metohija were handed over through the mechanism of the Working Group for Missing Persons. Considering that in Serbia there are no unidentified remains from the conflict in the Autonomous Province of Kosovo and Metohija, there are no records either. Out of the total number of unidentified mortal remains in the morgue in Pristina, over 70 mortal remains belong to persons of Serbian and non-Albanian nationality. Based on this assessment and legitimate interest, Serbia highlighted the request to participate in the revision of the cases of unidentified mortal remains in the morgue. Priština accepted this request at the meeting of the Working Subgroup on Forensic Issues, but this agreement was not implemented.

XIX. Paragraph 54

119. **In this paragraph the Report inter alia states:** *“Cooperation agreements with Serbian and regional prosecutorial counterparts appear, nonetheless, to be lacking,” and, “...with regard to the cases received from the Special Prosecutor’s Office established in 2018.*

Comments by the Public Prosecutor's Office for War Crimes

120. We point out that the international agreements and conventions to which the states in the region are signatories, as well as the agreements concluded with those countries, enable a solid level of cooperation between the Serbian and the regional prosecutor’s offices.

121. However, this type of cooperation is not possible with the judicial institutions of the AP Kosovo and Metohija, as the Republic of Serbia **does not recognize its own province as an independent state**, in accordance with the Constitution of the Republic of Serbia.

122. Cooperation with the Provisional Institutions of Self-Government in Priština is achieved through the European Rule of Law Mission in AP K-M (EULEX) and in accordance with the Conclusion of the Government of the Republic of Serbia 05 number 018-1862/2013-1 dated 3 July 2012, which has adopted the text of the MLA procedure.

XX. Paragraph 56

123. **In this paragraph the Report inter alia states:** *“...the absence of suspects in Kosovo due to the reluctance of Serbia to hand them over has been a notorious stumbling block,” and that, “As noted by interlocutors, Kosovo does not cooperate with Serbian authorities either, because it believes that its judiciary is the relevant authority to try crimes that occurred in Kosovo. The lack of cooperation in the investigation and prosecution of war crimes has been mutual and has significantly hampered progress.”*

Comments by the Public Prosecutor's Office of War Crimes

124. **Our comment:** the same as for Paragraph 54.

125. The Prosecutor’s Office continuously sends requests for legal assistance to the Provisional Institutions through EULEX in Priština, but the requests remain unanswered. At

the same time, the Provisional Institutions have not send a single request for assistance in the last 5 years to the Public Prosecutor's Office for War Crimes, so that no lack of cooperation can be implied.

126. Therefore, the Special Rapporteur's conclusion about "*Serbia's unwillingness to extradite suspects requested by Kosovo judicial authorities*" is both factually and legally unfounded.

XXI. Paragraph 90

127. **In this paragraph the Report inter alia states:** "*It appears as if decision makers in Serbia and Kosovo have embarked on a downward race in their truth-seeking and criminal accountability agendas, where political praise is awarded try each party for achieving lesser rather than greater results.*"

Comments by the Public Prosecutor's Office for War Crimes

128. The Prosecutor's Office has increased its working capacities, improved and expanded the legal framework of action also for the regional and wider international cooperation. This has in turn resulted in an increased number of suspects and accused persons, but also those convicted for war crimes.

129. Such results (in terms of the increased number of accused and the increased number of cases, especially complex ones, with considerable consequences in terms of the number of victims and acts committed) have contributed to a better regional cooperation and the transfer of criminal proceedings, primarily with Bosnia and Herzegovina.

Comments by the Ministry of Education

130. Some of the key terms of the content, i.e. teaching topics that are covered in *History* classes, for the promotion of principles and standards of human rights, as well as cultural diversity, mutual understanding and reconciliation, as measures to suppress hate crimes, glorification of war criminals, denying war crimes and anti-minority rhetoric are: ideas and ideologies – liberalism, nationalism, racism, socialism, communism, civil and political rights, abolitionism, decolonization.

131. The promotion of the principles and standards of human rights, the promotion of cultural diversity, mutual understanding and reconciliation in the education system is achieved through professional development programmes and activities that promote the standards of human rights in education, tolerance and diversity. In the new Catalogue of the programmes of continuous professional development of teachers, educators and professional associates for the school years 2021/2022, 2022/2023 and 2023/2024 <https://zuov-katalog.rs/> 95 programmes have been accredited with the topic of prevention and protection from violence, 14 programmes with the topic of interculturality, 4 programmes of gender equality, the topic of discrimination is represented by 11 programmes, then learning about the Holocaust by 6 programmes. The Ministry, in cooperation with partners, implemented a series of projects and programmes within which various resources for schools were prepared, and which specifically relate to the prevention of discrimination - <https://mpn.gov.rs/kategorija/publikacije/>.

132. The Ministry of Education hired 20 advisors-external associates for the implementation of the Reference Framework for Democratic Culture in Schools. Their role is to provide professional support to school employees in this area.

XXII. Paragraph 96 (Recommendations)

133. **In this paragraph the Report inter alia states:** *“To find sufficient sources and speed up the process of searching for and identifying missing persons, including the areas indicated by the Kosovo in an objective, transparent and non-discriminatory manner.”*

Comments by the Commission on Missing Persons

134. Serbia’s commitment for a transparent and non-discriminatory approach to solving the issue of missing persons, including speeding up of the process of search, and identification of missing persons, is reflected in the fact that the competent authorities of Serbia implement activities on the territory under their jurisdiction, without delay and through an extremely transparent process, with respect for diversity, while enabling presence of all interested parties in accordance with the positive regulations, adhering to the highest professional and expert standards, resulting in a significantly large number of solved cases of missing persons.

135. Out of 1,402 remains that have been exhumed, 457 of them were exhumed in city cemeteries and 31 were exhumed in individual burial sites related to armed conflicts in the territory of the former Yugoslavia, and five graves related to the conflict in the Autonomous Province of Kosovo and Metohija, where 914 persons were exhumed at the locations in Batajnica, Perućac, Petrovo Selo, Rudnica and Kiževak.

136. It should be noted that Serbia answered all requests from other parties for checking locations under suspicion of having the missing persons’ mortal remains buried there. Currently, there is no single request that has not been answered or previously acted upon.

137. Nonetheless, in order to find additional sources of information on missing persons, a Memorandum of Understanding (MoU) was signed between the Commission on Missing Persons and the ICRC (in Belgrade, on 6 September 2022) on the transfer and use of information and documents related to active cases of persons missing in past conflicts and obtained from relevant archives. MoU refers to obtaining relevant information and documentation on missing persons from the archives and databases of the International Residual Mechanism for Criminal Courts as well as other relevant international organizations and institutions. This will facilitate the exchange of relevant information and documentation, and will be useful for solving cases of missing persons, finding out their fate and their remains. The two parties to the MoU have agreed, within their mandates, to cooperate with and assist each other, making efforts to ensure a positive outcome of cooperation, respecting the humanitarian character of solving the issue of missing persons, and contributing to finding out the fate of persons who are still missing in connection with the armed conflicts on the territory of the former SFRY and the conflict in the Autonomous Province of Kosovo.

138. **In this paragraph the Report inter alia states:** *“Urgently to continue cooperation with the relevant authorities in Kosovo, especially with the Working Group, at the level of heads of delegations.”*

Comments by the Commission on Missing Persons

139. Since the last meeting of the Working Group for Missing Persons held on April 16, 2021 in Belgrade, when there was a standstill in cooperation on the part of the Priština delegation, the Belgrade delegation expressed willingness to continue the cooperation.

140. Belgrade is continuously intending to keep the process of searching for missing persons ongoing by holding meetings of the Working Subgroup on Forensic Issues and the Analytical Team, as part of the technical level cooperation, as well as by carrying out specific activities on the ground, in line with the previous commitments by both parties regarding the process of exhumations, autopsies, identification and handing over of mortal remains.

141. In order to implement activities in line with the previously assumed commitments, the Belgrade delegation, in cooperation with the competent authorities of Serbia, conducted an area search at the location of Štavalj mine, Sjenica municipality from May 10th to 25th 2022.

Representatives of the Priština delegation, international organizations (ICRC, ICMP and EULEX) and the Resource Center of Families of Missing Serbs and Albanians also attended the activities at this location. Activities at this location did not result in the discovery of any mortal remains.

142. After analyzing the documentation (150 pages) submitted by the Belgrade delegation, the Analytical Team prepared a report on the Vidomirić location. Based on this report, the Priština delegation conducted an area search in order to find the remains of Albanians.

143. On that occasion, the remains of 3 persons were exhumed and their identity will be determined by DNA analysis. The remains were found in the place that was marked in the documentation, which speaks of its quality. Despite the previously established common practice and the agreement on monitoring the field activities based on the documentation submitted by the other party, the Priština delegation did not invite the Belgrade delegation to be present and to participate in these activities.

144. The Working Group mechanism is the only place where final agreements on all activities are reached, while the Working Sub-Group on Forensic Issues and the Analytical Team are subsidiary bodies that implement all activities agreed by the Working Group. In accordance with the current practice, reports of these two bodies are presented to the Working Group for the adoption at a joint session, and decisions on specific field activities are made. A fact that causes a major concern is that these two operational bodies have processed dozens of analytical reports that indicate misidentifications, new locations of individual and mass graves and other useful information, which need to be verified by the Working Group on Missing Persons in line with the above described procedure, in order to be used in the process of searching for the missing persons.

145. With the aim of holding the next session of the Working Group for Missing Persons, the Head of the Belgrade delegation of the Working Group had a series of meetings with the ICRC regional delegate. On several occasion, he also addressed Mr. Miroslav Lajčak, EU Special Representative for the Belgrade-Priština dialogue; Mr. Jozsef Pandur, political advisor of the EU Special Envoy for dialogue between Belgrade and Priština; as well as Mr. Gabriel Escobar, Special Representative of the USA for the Western Balkans. He held a series of meetings with representatives of Embassies of the UK, France and the USA in Belgrade. Unfortunately, all these efforts yielded no results.

146. Priština refuses to comply with almost all of the Serbian requests, while constantly obstructing and politicizing the issue of resolving the fate of missing persons.

In this respect:

147. Priština obstructs the search of almost all locations requested by Belgrade (8 locations), except in the case of the joint survey of the Košare location in July 2022 (it is assumed that there are remains of 3 Serbs, members of the Army of Yugoslavia). The location Košare was not searched according to the coordinates marked by the persons from the video, who know the precise place of the burial. The Priština delegation emphasized that the search will continue after a more precise information is obtained. The Javor location was also searched, after a longer obstruction of Priština, on December 8, 2022. No remains were found on that location.

148. Priština violates the recently adopted Declaration on Missing Persons in Brussels, by preventing and disputing the work of the Working Group on Missing Persons, chaired by the ICRC, even though it had previously agreed that the Declaration contain a reference to the Working Group on Missing Persons remaining the only and irreplaceable mechanism for solving the issue of missing persons³.

³ In this respect, Priština is avoiding holding of the meeting of the Working Group on Missing Persons (the last one was held on April 16th 2021) and trying to move its jurisdiction to the Joint Commission, even though according to the Declaration on Missing Persons, the Joint Commission is authorized only for resolving disputed issues that cannot be solved in the scope of regular and established activities of the Working Group for Missing Persons.

XXIII. Paragraph 107 (Recommendations)

Comments by the Ministry of Education

149. The adoption of the Education Development Strategy of Serbia until 2030 (SROVRS 2030) and the accompanying Action Plan for its implementation represents the basis for achieving systemic improvement of education in the Republic of Serbia. Since these documents envisage the further development of new and improvement of existing teaching and learning programmes in pre-university education, we believe that this opens up additional space for expanding and explicating topics, key terms and content that address learning about topics from the subject of *History*, but also from all other subjects in which the following phenomena are addressed: segregation, discrimination, persecution of minority groups throughout history and crimes committed against them. It should be noted that SROVRS 2030 recognizes the necessity for new programmes in pre-university education to be sensitive to issues of gender equality and specificities of different social groups, including those that are not sufficiently represented, in accordance with the values of a democratic society, as well as to be aligned with the standards of public policy documents in the Republic of Serbia, the standards of the ratified international treaties on human rights and the relevant recommendations of international bodies that monitor the implementation of international treaties. This approach will also be applied in activities related to the development of textbooks and improving the capacities of employees in education.

150. Guided by the strategic directions of the Republic of Serbia, the Ministry of Education emphasizes that it is aware that educational institutions have an important public and cultural function. Realization of the public and cultural functions, and strengthening of the educational role of schools will also contribute to the activities of development and strengthening of the capacities of employees in education in areas that will lead to the development of a school environment that affirms the values of a modern democratic society, mutual respect and appreciation, non-violence and anti-discrimination, nurturing and developing national culture and cultural heritage, culture of national minorities and world cultural heritage.

XXIV. Paragraph 111

151. **In this paragraph the Report inter alia states:** “*Adopt effective vetting processes to ensure that convicted or indicted war criminals are not appointed to or selected for public office.*”

Comments by the Public Prosecutor's office for War Crimes

152. According to our information, there are no persons who have been accused or convicted of war crimes before this judiciary who at the same time hold public office.

153. In particular, we would like to point out that the positive regulations of the Republic of Serbia require appointed and elected persons to provide information on whether criminal proceedings are being conducted against them and whether they have been convicted of war crimes, among others. These data are also requested from the competent authorities of the state administration.

154. We believe that it should be noted that the revised Prosecutorial Strategy for the Investigation and Prosecution of War Crimes stipulates that, in cooperation with the Ministry of Defense of the Republic of Serbia and the Military Academy, training programs for the cadets of the Military Academy regarding the application of the provisions of international humanitarian law are being endorsed, with particular reference to prosecutorial and judicial practice in proceedings for war crimes from 1991 onwards which had taken place on the territory of the former SFRY.

XXV. Conclusion by the Ministry of Justice

155. Unfortunately, the expectations that the Ministry of Justice of the Republic of Serbia had from this report have not been met. The recommendations provided by Mr. Salvioli for the Republic of Serbia bear a significant resemblance to reports from the Mechanism for International Criminal Tribunals, particularly its Office of the Prosecutor. Given the context of the visit and the discussions between the Minister of Justice and Mr. Salvioli, we anticipated a broader and more independent approach to the mentioned topics.

156. Of particular surprise is the recommendation to enhance cooperation with the so-called Kosovo and the Republic of Croatia. As far as we are aware, Croatia was not a focus of his interest, and unfortunately, this gives the impression that the recommendations are "heavily reliant" on observations made by the Mechanism's Office of the Prosecutor regarding regional cooperation in the prosecution of war crimes.

157. Please ensure that after commenting, it is explicitly stated that the Republic of Serbia is fully committed to ensuring the right of access to justice for every victim. This commitment is evidenced by the dedicated development of the National Strategy for the Realization of Victims' Rights.
