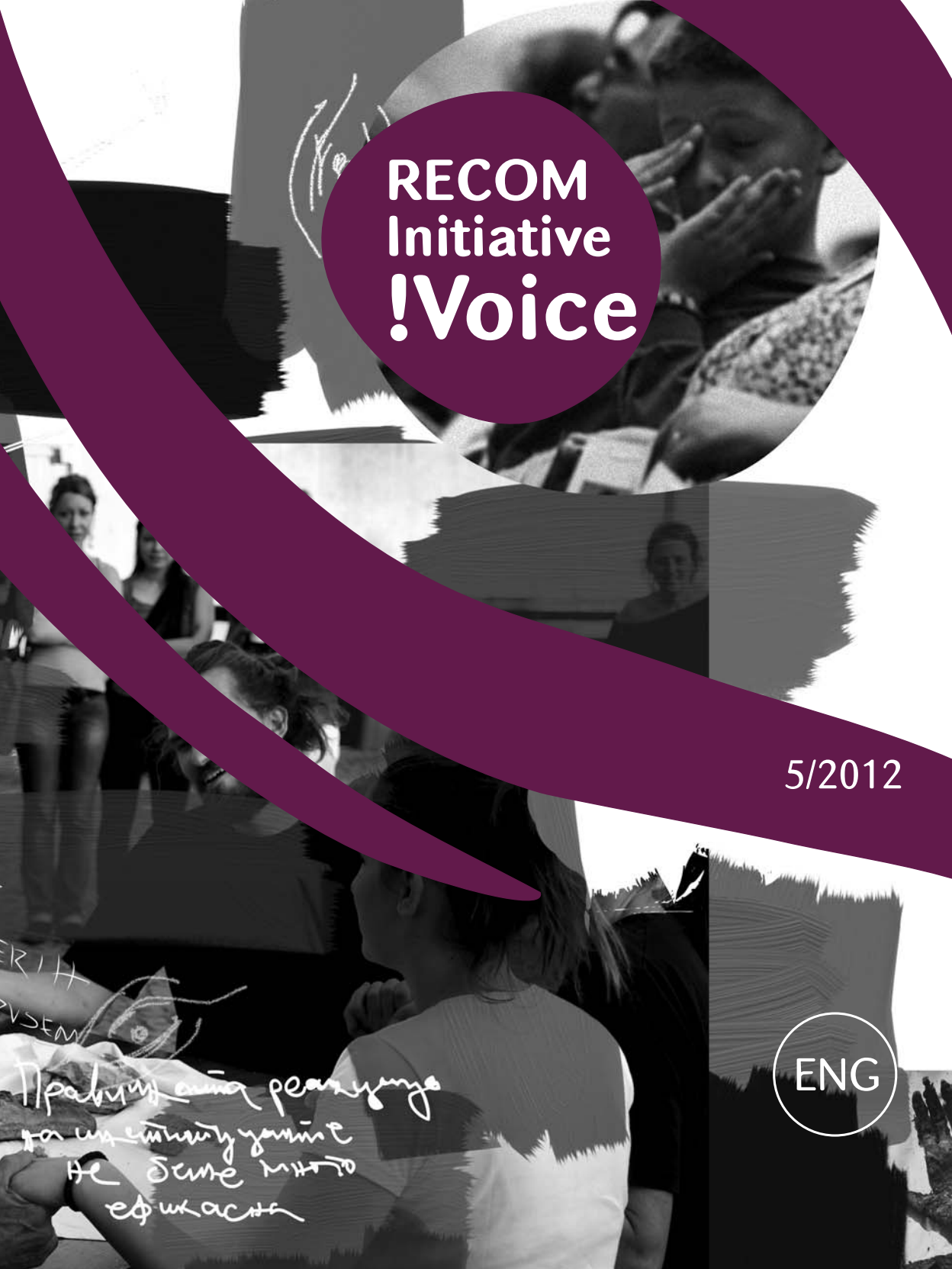




RECOM Initiative !Voice

5/2012

ENG

Правната реализация
за институциите
не бива много
ефективна



Vancouver
British Columbia

After seven years
of hard work
Jamaica

Jamaica
Jamaica

1927
1938
1948
1958
1968
1978
1988
1998

!Reconciliation as a Political Taboo



Dinko Gruhonjić

Following a number of declarations of support for the Initiative for RECOM, the voices of the Presidents of Serbia and Croatia, Boris Tadic and Ivo Josipovic, have gone silent on the subject. The meetings between the two presidents, who at one point met so frequently that we almost thought they had become best friends, have become less frequent too. Obviously, the theme of reconciliation is no longer a political priority for either of them. Through his meetings with Tadic, Josipovic positioned himself against the then government led by the HDZ. Tadic assessed that one should not “overdo” reconciliation, because “balance” should be established with the so-called patriotic opposition.

In Serbia, elections have been scheduled for May, and it is quite obvious that major local political actors won't make RECOM part of their pre-election rhetoric. As is always the case, the elections will become a stage for competing demagogues and their social and patriotic topics, while the voice of the victims will remain, alas, once again in the margins.

Bosnia and Herzegovina is still thwarted by its own internal problems, so it turns out that none of the politicians in that state has enough time to deal with reconciliation, even if the topic is in fact crucial to the future of the country. One gets the impression that it is actually in the interest of some politicians from Bosnia and Herzegovina that the facts about past wars are never established, so that they can continue to govern indefinitely, in the same manner that led to the wars.

Macedonia, on the other hand, finds itself in a maelstrom of nationalism that threatens to escalate into something much worse than mere skirmishes. The public, even if it really wanted

to, is now afraid to broach the subject of dealing with the 2001 conflict, because people believe it would almost be like adding fuel to the fire. Kosovo is also too busy dealing with its own internal issues and fighting battles on the domestic political scene, while in Slovenia the idea of RECOM has yet to be promoted, because the prevailing public attitude is that Slovenia has more or less nothing to do with dealing with the past.

Only in Podgorica, where the power of the DPS remains firm, has the courage not only to support RECOM, but also to offer itself, in the shape of President Filip Vujanovic, to be the 'advocate' of the idea in the entire region. Montenegro's

President has sent a letter about RECOM to the Presidents of all of the countries in the region. The only question is whether anyone has read it and understood the message...

Nationalist politicians don't like to see the facts established and don't like any such 'return to the past'.

Nationalist politicians don't like to see the facts established and don't like any such 'return to the past' They are in favor of the following logic instead: 'Enough of the past, let's turn to the future.' And if they have to talk about the recent past, they talk about it in terms of their own 'truth.' For, there are those among them who were, in one way or another, complicit in the crimes. As for the 'pro-European' political parties, their logic is this: 'Let those who started the wars and committed the crimes deal with the past.'

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Trying to convince the politicians in the region that RECOM is not only necessary, but also one of the preconditions for a successful future, will not be easy of course. After all, no one expected it to be easy. But the idea of RECOM has been personified in the 550,000 signatures of the citizens of this region, and in 150 consultative meetings with representatives of a wide range of civil society organizations, that resulted in the adoption of the Draft Statute of the future Commission; and it is personified, furthermore, in the hundreds of organizations and thousands of renowned individuals who support the Initiative for RECOM.

But if the countries of this region really want to become part of the civilized world, they will have to comply with the standards that apply in that world. It is therefore necessary to appeal to European politicians to become allies of RECOM and to 'refresh the memory' of their Balkan counterparts from time to time. The main work, however, is for us to do – together with our politicians. The sooner, the better.

Dinko Gruhonjić

Author is a journalist from Novi Sad, and member of the Regional Team of Advocates of the Initiative for RECOM

IN THE NEWS

Institutional support to Initiative REKOM

**!European
Parliament:
boost for
RECOM's role
in the Western
Balkans**



*European Parliament
photo: <http://chic-project.eu>*

The Resolution on Serbia's progress, adopted by the European Parliament, prominent place was given to the Initiative for RECOM and to the failures and omissions of the witness protection program

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The European Parliament “expresses its support for the Initiative for RECOM and its further channeling of the process of reconciliation in the entire region of the Western Balkans.”

On March 29, 2012, the European Parliament adopted a Resolution on Serbia's progress (2011/2886 RSP) - a document previously prepared by the Slovenian MP Jelko Kacin. In paragraph 20, the European Parliament warns of “serious failures in the operation of the witness protection program in relation to war crimes trials, due to which, and after

systematic intimidation, a number of witnesses voluntarily withdrew from the program; [The Parliament] calls on [the Serbian] Ministry of the Interior and the Office of the Prosecutor for War Crimes to be actively engaged in ensuring the safety and good status of all witnesses involved in the protection program; [The European Parliament] emphasizes that an effective protection program is essential for the rule of law in any country, as well as for a demonstration of the political will to effectively prosecute cases of war crimes, which have been transferred by the ICTY to national courts.”

The European Parliament urges the authorities in Belgrade to ensure “legal rehabilitation and financial compensation” for those who were convicted in the past on “political, ethnic or religious grounds,” including those who were victims of “collective guilt.”

Paragraph 39 of the Resolution expresses “support for the Initiative for RECOM (the Regional

Commission for investigating and disclosing the truth about war crimes and other serious human rights violations in the former Yugoslavia) and its continued initiation and channeling of the process of reconciliation in the entire region of the Western Balkans.”

!Council of Europe Human Rights Commissioner supports establishment of RECOM



*Commissioner Thomas Hammarberg,
photo: European Council*

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The positive effects of the RECOM process were already visible, said Thomas Hammarberg the Human Rights Commissioner of the Council of Europe, at a press conference

“The regional approach to the process of attaining justice and establishing the facts in the former Yugoslavia is very important, and the establishment of a Regional Commission for Truth and Reconciliation could be an important means of achieving that goal,” said **Thomas Hammarberg**, the Human Rights Commissioner of the Council of Europe, at a press conference in Sarajevo on March 19, following the publication of his report “Post-Conflict Justice and Lasting Peace in the Former Yugoslavia.”

Once again, Commissioner Hammarberg expressed his support for RECOM and pointed out the importance of this initiative, which he said was based on values that must not be neglected.

Once again, Commissioner Hammarberg expressed his support for RECOM and pointed out the importance of this initiative, which he said was based on values that must not be neglected. He appealed to political elites in the region, emphasizing that a serious discussion about RECOM must be launched as soon as possible. However, Hammarberg also expressed some skepticism that politicians in the region would ever truly and fully accept the idea of RECOM. The Commissioner said that the positive effects of the RECOM process were already visible – such as the general public discussion about the events of war – which, according to Hammarberg, was one of the essential elements of postwar justice. Speaking about the benefits

of RECOM, he stressed the importance of a common narrative in the region and of achieving consensus on the key facts, and he welcomed RECOM's exclusive focus on the process of establishing the facts. He added that in his opinion, such consensus did not preclude respect for and understanding of the different versions of the truth, which every ethnic group held, because that too was one of the aspects of reconciliation. However, a common position on the key facts of the events that took place during the wars in the 1990s must be established, he stressed. He also noted that RECOM could facilitate the region's path toward European integration.

In addition to the question of RECOM, Hammarberg also emphasized the necessity of a history curriculum based on objective facts, improvement of the witness protection system and the system of legal regulation of war crimes prosecutions, as well as the realization of the rights of war victims and their families to reparation. He also pointed out the failure of the ICTY's Outreach Program to explain the judicial procedure to the public in the region, and its failure to justify the court's rulings, something, which, he said, would have prevented local political manipulation of the Court's verdicts.

Edina Đurković, *Director of the association Transitional Justice, Responsibility and Memory in Bosnia and Herzegovina*

**!Excerpt from
the report by the
Human Rights
Commissioner
of the Council of
Europe, Thomas
Hammarberg, into
the Initiative for
RECOM**

The initiative aimed at establishing a regional truth commission (RECOM)

In 2008 a regional coalition of non-governmental organisations (Coalition) launched an initiative aimed at establishing a regional truth commission (RECOM). The Coalition consists of a network of about 1 500 non-governmental organisations, associations, and individuals. The

initiative was created by civil society representatives from Serbia, Bosnia and Herzegovina and Croatia with extensive experience in post-war justice.

On 26 March 2011 the Coalition adopted a draft statute for an international agreement which the former Yugoslav states have been asked to ratify in order to make it part of their national legal systems. The statute also provides that an official, independent commission shall be established to proactively investigate all alleged war crimes and human rights abuses committed during the wars of the 1990s. At the end of its three-year mandate, the commission would issue a report containing the facts established and recommendations in terms of reparations, non-recurrence and further steps to be taken. It would also create an archive, open to the public.

The Coalition has sought to collect one million signatures from citizens in the region in support of establishing the above commission. As of mid-2011 the Coalition had collected about half a million signatures, which were handed over to the President of Croatia, the Presidency of Bosnia and Herzegovina and a State Secretary of the Slovenian government.

As of February 2011 support for the Coalition had been expressed by the Parliament of Montenegro, the Presidents of Serbia and Croatia, the European Commission, the Subcommittee for Human Rights of the European Parliament and the Serbian Parliamentary Committee for European Integration. In April 2011 a number of political parties represented in the Parliament of Serbia and the Prime Minister of Montenegro expressed their support for the establishment of RECOM. In May 2011 the Slovenian President, Danilo Türk, and the Parliament Speaker, Pavel Gantar, also expressed their support for the initiative. However, reports have indicated that there are other leading politicians in the region who oppose this initiative.

Report: "Post-War Justice and Lasting Peace in the Former Yugoslavia," p. 35, available at: http://www.coe.int/t/commissioner/Source/prems/Prem14712_GBR_1700_PostwarJustice.pdf



!Chief Prosecutor of ICTY Serge Brammertz supports RECOM



*Chief Prosecutor Serge Brammertz
photo: ICTY*

In an interview with the Croatian T-Portal, Serge Brammertz emphasized the importance of the Initiative for RECOM.

Croatian T-Portal published an interview with the Chief Prosecutor of the ICTY, Serge Brammertz, before his visit to Croatia.

“We welcome every initiative in the region aimed at establishing the facts about the crimes committed in the 1990s, whose mission is to promote reconciliation. Initiatives such as RECOM are important, because as they are made by state level non-governmental organizations and members of civil society, they can complement the work both of the Hague Court and local courts.”

The interview is available at: <http://www.tportal.hr/vijesti/hrvatska/184500/Da-nije-bilo-Haskog-suda-ne-bi-bilo-ni-pravde-za-zrtve.html>

DEBATE

!Challenges to and Support for the Initiative for RECOM

A roundtable debate organized by the Human Rights Commissioner of the Council of Europe centered on the question of whether the European institutions should support the Initiative for RECOM

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At a roundtable with human rights defenders, held in Sarajevo on March 18, 2012, and organized by the Human Rights Commissioner of the Council of Europe, Thomas Hammarberg, on the occasion of the presentation of the report *Post-War Justice and Lasting Peace in the Former Yugoslavia*, several participants expressed the view that international institutions should not support the institutionalization of the Initiative for RECOM. Members of the Coalition for RECOM strongly argued that only RECOM had the potential to establish the factual truth about victims and war crimes.

A representative of an NGO from the Republika Srpska, asked the Commissioner not to seek the support of local authorities for RECOM because they were very concerned about the reasons for putting forward such a request to the authorities of Bosnia and Herzegovina. In her view, calls from the Coalition for RECOM for the international community to urge the authorities in the region to establish RECOM would be an act of aggression, something Serbia and Montenegro had already carried out against Bosnia and Herzegovina, back in 1992. She called on the Commissioner not to work to see RECOM established. The same position was put forward by another participant from a non-governmental organization based in the Federation. A representative of a non-governmental organization from Serbia agreed that the request to create the Commission should not be submitted to any government in the region: the Initiative for RECOM had already made a major contribution, by opening up public debate about the



recent past, but further investment in this initiative was likely to fail, she said. She warned that the RECOM process had monopolized the process of reconciliation in the region, as donors set aside money exclusively for that project, which she said was not good, because there were other initiatives dealing with reconciliation and truth.

Several participants expressed the view that there was a great risk that RECOM would fail even if it became established, and that this would be a new disaster for the victims. Some participants said that the process of establishment would take a long time and that many victims would not live to see the Commission's operation. Consequently, they said, it was better to support other initiatives, which were simpler and had greater chances of success. A participant from Republika Srpska added that during the process of the creation of a transitional justice strategy in Bosnia and Herzegovina (in which she had personally participated as a member of the strategy working group), the victims "clearly demanded" that the strategy omit the establishment of a truth commission as they "do not trust that particular the mechanism of justice." She then added that lack of confidence by victims was clearly demonstrated by the fact that in Bosnia and Herzegovina, several truth commissions have already failed – those for Bijeljina, Sarajevo and Srebrenica.

Other representatives from Bosnia and Herzegovina voiced different views, however. A representative of an organization that brings together young people in Bosnia and Herzegovina, pointed out that her organization strongly supported the establishment of RECOM, and sees it playing a part in the future of their country.

A representative of an organization that brings together young people in Bosnia and Herzegovina, pointed out that her organization strongly supported the establishment of RECOM.

A participant from Croatia responded to the remarks that victims do not support the establishment of RECOM, and argued that there was ample public support, and support from victims, for the establishment of RECOM. Lack of support from

certain groups is not always an objective measure of whether the idea of RECOM is good or not, he added. To corroborate that view he noted that in Croatia, it is associations of victims that most often protest against the rulings of the International Criminal Tribunal for the Former Yugoslavia, and which often do not support the court itself. He added that there was no alternative to RECOM, in terms of a mechanism at a regional level that could offer officially accepted facts which would then be used in the region's educational systems and which politicians would use as a basis for the interpretation of past events. Responding to further arguments that the region already had recourse to the facts established in the courts and that the problem was not the absence of facts but absence of their disclosure, a representative from Croatia said that it seemed rude to even say that the necessary facts have already been established, when there were more than 14,000 people in the region still registered as missing. A human rights defender from Montenegro added that it was rather insulting to say that victims do not understand RECOM's Draft Statute, and that it was groundless and arbitrary to say that they do not support the establishment of RECOM. Positive attitudes to the political stage of the RECOM process prevailed until the round table discussion closed.

A representative of a non-governmental organization from Macedonia said that RECOM was necessary for Macedonia, and that he saw no other way for Macedonia to deal with its past and with the victims. Members of the Coalition for RECOM informed the Commissioner that a team of public advocates for RECOM has been established, and that recently a meeting was held to map future activities, which marked the beginning of a new phase of the campaign for RECOM. The Commissioner said he was pleased to hear that there was still work ongoing on the establishment of RECOM and announced that he would use his forthcoming meetings with representatives of regional governments to seek their support for RECOM. Indeed, the Commissioner reiterated this decision at a press conference held a day later in Sarajevo.

Jelena Grujić

WHAT OTHERS SAID

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**!The battle
for sustainable
peace
is yet
to come**



Oliver Stanoeski

A new phenomenon in Macedonia – urban violence committed on ethnic grounds – has overshadowed the question of dealing with the past.

A decade after the armed conflict of 2001, which although a consequence of regional circumstances, broke out primarily because of the country's internal weaknesses and the inefficiency of its institutional mechanisms for early warning and prevention, the Macedonian government has once again responded lightly and casually to the incidents of ethnic violence that have recently flared up. The authorities were at first passive, and then responded inappropriately to the escalation of tension. Such institutional behavior and the consequences arising from it, are not in harmony with the concept of a supposedly successful completion of

the peace-building process following the signing of the Framework (Ohrid) Agreement.

Unlike the events of the past, a new phenomenon marks the recent incidents: urban violence committed on ethnic grounds. Why 'urban'? Simply because organized acts of violence have never before occurred in large Macedonian cities (Skopje, Tetovo, Prilep), or on the buses, in parks, squares, etc. Particularly worrisome is that the participants in this spiral of violence are young people, who openly express their frustrations in a way that is not characteristic of any democratic society.



Photo: <http://www.topix.com>

A retrospective look at recent incidents reveals the context and dynamics that led to the current situation. The nationalist chanting of Macedonian sports fans at the European Handball Championship in Serbia was only the trigger. Macedonian flags were burned in Kosovo and in Macedonia. At a sports match in Kosovo a banner with a slogan offensive to the Macedonian state and nation was displayed. The Vevcanski carnival followed, at which a number of masks and performances were interpreted as offensive to Muslims, which led to mass protests in Struga. Immediately after the carnival, both churches and mosques were torched and desecrated. The latest incident was in Gostivar, on February 28, in which an off-

Additionally disturbing is that an atmosphere unfavorable to the RECOM Initiative has been created in Macedonia.

duty police officer entered into argument about parking places with a group of people, and after a physical fight, he killed two attackers with his official gun, in the presence of his ten-year-old daughter.

This tragic act immediately acquired an ethnic dimension: the killer was a Macedonian, and the two men killed, ethnic Albanians. This was followed by street protests, under the slogan 'Macedonian Police Kill Albanians Because of Their Ethnic Origin'. When the spiral of violence reached the cities, urban violence had reached the point when even underage girls and older men had become victims.

The initial reaction from state institutions was initially ineffectual but when it became clear that the situation was on the brink of a much broader escalation, necessary measures were taken to prevent further tension. Police were deployed at critical locations (on buses, in schools, parks, etc.), and a ban on mass gatherings was imposed (especially in connection with sports matches). Measures to identify and arrest the participants in such incidents were also introduced. All political parties have condemned the violence. However, there have been some who have tried to profit politically, although others have responded with an appeal to refrain from using these events for political ends. The situation eventually calmed down, but tensions are still in the air.

What is additionally disturbing is that an atmosphere unfavorable to the RECOM Initiative has been created. Questions of dialogue and tolerance, especially among young people, have entirely overshadowed those of dealing with the past. It seems that the coexistence is unstable, and that the apparent peace may again be broken.

Despite everything, the civic initiative 'March in the Name of Peace' is an encouraging sign. It is aimed at bringing together a mass gathering of people from all ethnic groups, and is designed to send a message to all parties that the majority of citizens are against violence and want to live in peace and understanding. This is a good sign for Macedonia.

Oliver Stanoeski

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**!Croatia:
Information
from institutions
is unclear or
unavailable**



Photo: <http://www.biznis.ba>

Croatian institutions lack transparency in providing the public with information related to transitional justice. This was the conclusion of research into the state of transitional justice in Croatia

Croatian institutions are insufficiently transparent in providing the public with information related to transitional justice. This was the conclusion of research into the state of transitional justice in Croatia.

Research into, and evaluation of, the work of Croatian institutions has shown that the Croatian State Attorney's Office (DORH) is an institution which professionally communicates with the public and provides a relatively high quality of service. The State Attorney responded in less

than 48 hours to a complex statistical inquiry. The response was however incomplete because the State Attorney's Office does not keep specific statistics. DORH is one of the few institutions which has a database on its website. The database, unfortunately, is not a very useful tool for the study of progress in the process of war crimes prosecution. The information contained in DORH's internet database is not suitable for a comparative analysis over a longer period of time, nor does it contain all the data on all elements of the process – and these are the criteria against which the actual progress of the judicial system in Croatia is assessed.

The Witness Protection Department does not provide access to data on the capacities of the Department, because that information is classified as confidential, and publication would constitute a violation of the Law on Witness Protection. However, the head of the Department presented all of the data at a meeting of the Council of Europe's Sub-Committee for the Fight against Terrorism, where he spoke on the capacities of the Croatian Witness Protection Department. In its communications with the public, the Department was rather unwilling and slow.

The Prison system administration in Croatia refuses requests to reveal names of war crimes indictees, even when they have had a public trial.

The Ministry of Justice (MP) does not have high standards in its communication with the public. The Ministry says it does not have any statistics concerning war crimes trials, although it is clear that as an institution responsible for coordinating the judicial system, it must

have this kind of information. For the purpose of gathering the statistics on war crimes trials for a given period across the country, the MP advises researchers to address each individual county court. In addition, the experience of researchers indicates that the Ministry has often provided incomplete and inconsistent information. It is impossible to obtain any kind of information concerning victims where final judgments have been handed down, although this data that is of crucial importance and the very essence of transitional justice. On the other hand, the Prosecution publishes this information in its reports.

The principles of protection of personal information and public trial are not sufficiently harmonized between Croatian legislation and institutional practice. The Prison system administration, for example, refuses requests about the names of war crimes indictees, even when they have had a public trial. The war crimes courts in Croatia are insufficiently transparent. Answers like "We forgot to answer the submitted inquiry," "The inquiry was misplaced," "The officer working on the case is on vacation," and other similar inappropriate and unprofessional responses, are very frequent in communication with the courts.

The Supreme Court has a publicly available database on its website, which is more complicated, less clear and requires more information for any kind of search than the database of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

The Bureau for Detained and Missing Persons should have its statistics on the number of exhumed and identified persons ordered by the ethnicity of the deceased. This is not currently the case.

Although there has been significant improvement in transparency and accessibility of public information, perhaps because of the pressures of EU accession, the information on the processes concerning transitional justice is virtually impossible to obtain without extensive, professional research and lengthy communication with institutions.

Sven Milekić and Mario Mažić, *Youth Initiative for Human Rights Croatia*

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!Political prisoners in Kosovo: Huge commitments taken on for injustices



*The Parliament of Kosovo
photo: Government of Kosovo*

The Law on the Rights of Former Political Prisoners and Exiles in Kosovo faces huge challenges

Former political prisoners and convicts constitute a special category of victims in Kosovo. This category does not apply just to the period of armed conflict in Kosovo, but also to prisoners jailed for no reason or just cause in the former Yugoslavia. This includes the participants in the 1968 and 1981 demonstrations. According to data collected by **Sabila Keçmezi Basha**, author of *Albanian Political Prisoners in Kosovo 1945-1990 (Të burgosurit Politik Shqiptarë në Kosovë 1945-1990)*, in the period covered by the book's analysis, as many as 8,220 Kosovo Albanians were sentenced to long prison sentences. In 1981 alone, 3,348 Kosovo Albanians were imprisoned, charged with organizing and participating in the demonstrations. Further, based on the data from the same book, 1,346 Kosovo Albanians who served in the JNA, were arrested and imprisoned for alleged political activities.

In 1997, 1998 and 1999, many Albanians were arrested and, after the official end of the conflict

in Kosovo (June 10, 1999), were transferred to prisons in Serbia. Of the 2,150 ethnic Albanians who were recorded as such prisoners, at least 400 were held in detention without legal grounds. The testimonies of former detainees revealed that some of them had not been questioned, nor had any kind of indictment been issued against them. Of this number, at least 35 were minors, and were kept in custody alongside adult inmates.

According to data collected by Sabila Keçmezi Basha, between 1945 and 1990 as many as 8,220 Kosovo Albanians were sentenced to long prison sentences.

To date, only nine former political prisoners have been compensated for their unlawful detention. The Humanitarian Law Center, on behalf of dozens of political prisoners from the period of 1998-1999, sued the Republic of Serbia, seeking reparations for illegal detention. The vast majority of charges were rejected on the basis of the statute of limitation.

For all these reasons, the Association of former political prisoners in Kosovo has been advocating for many years for a legislation to be passed which would allow political prisoners to receive compensation.

On October 28, 2010, the Parliament of Kosovo adopted the Law on the Rights of Former Political Prisoners and Exiles. The law came into effect on December 25, 2010 following its publication in the Official Gazette of the Republic of Kosovo.

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According to Section 3, the following categories are covered by this Law: former political convicts, former political prisoners, and former political exiles. The law stipulates the right to compensation, the right to pension and disability insurance, and other related benefits, such as employment benefits, obtaining scholarships and so on.

The Law provides for the establishment of a Government Commission on the rights of former political prisoners and exiles. The Commission was established in February 2012. Former political prisoners and detainees have high expectations from this law, especially with regard to the right to compensation. Article 7, paragraph 3 of the law, stipulates that compensation for each day spent in prison be paid to unlawfully convicted persons. The application of these provisions will be very complicated because of the period covered by the Law, which begins on March 1, 1913. The first obstacle is that the Commission is unlikely to be able to register and keep records of all persons who were imprisoned since 1913, and it will be even more difficult to prove that these people really *were* political prisoners. Obtaining the funds for financial compensation will pose another significant problem, given the number of political prisoners and detainees in the period covered by this Law.

Bekim Blakaj, *Executive Director of the Humanitarian Law Center, Kosovo, and political prisoner 1999-2000*

!Trauma instead of catharsis



*Monument to Victims and Defenders
Photo: B. Tončić*

Monument to Victims and Defenders of the Homeland in Belgrade caused numerous controversies in Serbia

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On March 24 in Savski Square in Belgrade, a monument dedicated, as the marble plaque indicates, 'to the victims of the war and homeland defenders 1990-1999', was officially unveiled. The city authorities meant the monument to mark the thirteenth anniversary of the NATO intervention in the Federal Republic of Yugoslavia. During the ceremony, however, victims' families prevented Belgrade Mayor, **Dragan Djilas** and representatives of the Army and the Serbian Ministry of the Interior from laying wreaths and unveiling the plaque, an incident that most local electronic media and broadcast media did not report. In the painful event on the square, which is in fact an unfinished memorial park near the Belgrade railway station, dozens of members of the public, family members of victims and refugees from associations of refugees, shouted in protest at Mayor Djilas, asking about where the names of the victims were and why the monument was being unveiled in the midst of the election campaign. The media reported that some people responded indignantly to the protest, emphasizing that the public had waited for this kind of monument "for twenty years." The delegations laid wreaths at the monument at the spot designated for a fountain, and Djilas told the reporters that this was "a monument to all civilian victims of the wars and all those who died defending their homeland of Serbia." This was also the first mention of Serbia in the context of this monument, as previously the terms SFR Yugoslavia and Yugoslavia had been used.

The City of Belgrade has invested 60 million dinars in the building of the monument. According to the Mayor, the Government of Serbia decided "to construct a monument with the names of all victims." The city authorities began building the monument in 2007 and the former chief architect of Belgrade **Djordje Bobic** selected the conceptual solution for Savski Square. This

was part of a promise that the city authorities made to the Association of War Invalids and Serbia, the Association of Veterans of Wars 1990-1999, and the Families of the Victims and Injured during the Aggression (NOPNU), which had submitted an initiative calling for such a monument in 2002.

In early March the City Council Vice President, **Zoran Alimpic**, a member of the ruling Democratic Party, sparked strong reactions when, in an interview with the Radio Free Europe he was asked whether the monument would be dedicated to those who had destroyed Vukovar, Dubrovnik, and who bombed Sarajevo. Alimpic said: "It is a monument to defenders, people who were invited to defend their country, who went and gave their lives for it. They deserve a monument. Of course, there were casualties in the war. All monuments in the world dedicated to soldiers are in some way the monuments to those who killed, who shot. Well, that goes without saying. Everyone who goes there to light a candle or lay a wreath will understand it in their own way."

Maja Micic: It is highly suspicious that the victims are grouped and celebrated alongside those who had started the conflicts.

Attempts to get the views of the Socialist Party of Serbia and the Serbian Progressive Party were unsuccessful, despite assurances from party headquarters that their representatives would give statements to the *!Voice*. Associations of victims, in turn, have their own perspective.

Natasa Scepanovic from the Association of Kosmet Victims believes that the monument should be dedicated to Serbian victims and be placed in the Serbian capital, because during the wars, Kosovo was an integral part of Serbia. "Honestly, I have no objection to the monument being dedicated to others as well, but I think that monuments and memorial centers dedicated to those killed in the former Yugoslavia, in Croatia and Bosnia and Herzegovina, have already been erected," Natasa Scepanovic told *!Voice*.

Milica Tomic, an artist from the Monument Group, which arose from an idea to mark the suffering, and name the victims and perpetrators of crimes, reminds the public that the idea and the competition for the monument first appeared in 2002, „when we all believed that the events of October 2000 signalled a progressive change. Instead of its becoming part of the public discourse, the idea was removed from the agenda and offered instead to war veterans, invalids and associations of victims' families, who, although they were unfairly grouped together, belong to the majority of Serbia. A monument was offered to them which was meant to compensate for their loss and to include them in a project which was doomed from the very beginning," Milica Tomic told *!Voice*.

Among the first who publicly opposed the official stance was the Youth Initiative for Human Rights (YIHR). Director of YIHR **Maja Micic** told *!Voice* that it was highly suspicious that the victims were grouped together and celebrated not just alongside the soldiers who died on the battlefields but also with those who had started the conflicts. "Once again the victims will be degraded because someone is scoring political points. This act clearly shows the relationship of the Serbian authorities to the wars of the 1990s," says Maja Micic.

The Women in Black led an informal coalition of NGOs, which one day before the scheduled unveiling of the monument, staged a peaceful protest in front of City Hall. The monument, according to this peace group, deeply offends the victims and citizens of Serbia who consistently opposed the war from the very beginning of the conflicts and the realization of Serbia's criminal project.

"The former regime produced the wars and death in our name and with our money, and now, just like then, we say we refuse it – they cannot erect monuments to 'the defenders of the homeland' with our money. Who are the victims for whom this monument is created: those who destroyed the city of Vukovar, those who shelled Sarajevo, those who killed in Srebrenica...? Is the monument dedicated to the young men who deserted, half a million of them from Serbia, to whom we bow and call for a monument be dedicated to them!" said **Stasa Zajovic**, coordinator of the Women in Black.

On the first business day after the failed unveiling, the memorial park began to serve its intended purpose: citizens waiting for buses were sitting on benches, pensioners read newspapers, the wreaths were removed from the place intended for the fountain, and a rare passer-by walked on loose concrete slabs, approached the marble to decipher the small letters of the printed dedication. There were no traces of the recent 'ceremony'.

WHAT OTHERS SAID

**!European Union,
Transitional Justice
and Civil Society
in the Western
Balkans: Shifts
in Policy and
Debate**

**Restorative justice mechanisms
are now being taken as seriously as
trials.**

The European Union organised a study tour from 28 February to 2 March 2012, entitled 'The Contribution of Civil Society to Justice and Reconciliation in the Western Balkans,' for civil



Hague tribuna

Photo: archive of FHP Kosovo

society organisations (CSOs) from the region dealing with issues related to transitional justice. The tour was organised by the People 2 People Programme, whose aim is to allow CSOs ‘to expand their knowledge about the EU and the accession process through visits to European institutions, meetings with European civil society organisations and the opportunity to network internationally and regionally.’ This particular visit was geared towards introducing and familiarising civil society representatives from the Western Balkans, with the EU’s policies and programmes related to justice and reconciliation, and facilitating contact with their European counterparts working in the same field. The tour also included the visit to the International Criminal Tribunal for the former Yugoslavia (ICTY) at The Hague.

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Beyond its immediate aims, the study tour addressed broader developments in EU policy towards justice and reconciliation in the Western Balkans. For years, the EU has been criticised by civil society representatives and academics, from the region and from abroad, for its narrow top-down approach to transitional justice, almost exclusively focused on the ICTY conditionality. They have also pointed to the EU’s technocratic approach to justice and reconciliation. Fulfillment of the ICTY conditionality was equated with extraditions of suspected war criminals. Paradoxically, this also emerged as one of the obstacles to transitional justice, as it allowed local elites to consider justice being done rather than using the extraditions to start discussions about culpability and accountability.

The engagement with CSOs working in the field of justice and reconciliation in the Western Balkans signals a long-awaited change in the EU’s policies. It was certainly prompted by the planned closure of the ICTY. However, the fact that the EU now looks beyond local war crimes

trials in the Western Balkans, itself a critical part of its agenda of reform of judiciaries and strengthening of the rule of law, suggests that the EU has accepted civil society in the region as a transitional justice actor in its own right. This change in EU strategy is mirrored by a shift in the transitional justice debate in the Western Balkans, as was clearly demonstrated in the opening session of the study tour.

In a dialogue with EU officials, the discussion about justice and reconciliation led by civil society representatives focused on local war crimes trials as well as on RECOM. The absence of discussion of the ICTY and its impact was striking. But, this 'silence' on the ICTY also illustrates the degree of internalisation of the transitional justice debate in the region, that was initially introduced externally through the work of the ICTY. As such, it will stand as a long lasting and uncontested legacy of the ICTY, despite critiques that it has not managed to demonstrate effectively that justice has been done through this particular transitional justice mechanism. The discussion focused on RECOM, highlighted a range of views concerning this regional initiative, the dilemma between the primacy of national, versus transnational approaches to justice and reconciliation, being one of the key issues. Nonetheless, RECOM has become one of *the* references in the discussion on transitional justice in the Western Balkans. It demonstrates another shift in the debate: restorative justice mechanisms are now being taken as seriously as trials and a regional dimension has now become an integral part of the debate. The lack of agreement on these issues, as illustrated by the diversity of views presented by civil society representatives, underscores an important deliberative value of the debate on accountability for past wrongs. This debate is set to keep the issues of justice and reconciliation on the agenda in the countries of the Western Balkans for a long time to come. The EU's recognition of the contribution by civil society to justice and reconciliation is a start that needs to be followed up by further collaboration with local CSOs within the framework of the common goal of the Europeanisation of the region.

Dr Denisa Kostovicova

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INTERVIEW

**!The facts
speak for
themselves**



Nevenka Troha
Photo: Igor Mekina

Dr Nevenka Troha, a senior research associate at the Slovenian Institute for Recent History, took part in the Slovenian-Italian Historical Commission, which, despite numerous obstacles, managed in seven years to complete a joint report on previously disputed Slovenian-Italian relationships. The Commission, consisting of Slovenian and Italian historians, was tasked with establishing the historical facts of the relationship between the two nations between 1880 and 1956. We spoke with Dr Troha in Ljubljana about her experiences of working with the Italian historians, and we wanted to know how important it was to determine the facts of war crimes.

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What was the task of the Commission in which you were involved?

Our commission was established in 1993, with the aim of investigating the events that occurred after the Second World War, namely the issue of the *foibas** and the exodus of the

Italian population, primarily from Istra. Very quickly we came to the conclusion that it would be necessary to expand our research, because we could not separate the facts from their historical context if we wanted to show the events in an objective light. So we marked 1880 as the beginning of our investigation, the time of the first conflicts between Italians and Slovenes. The research ends in 1956, because that is the year when the expulsion of Italians from Yugoslavia was complete.

**Dr Nevenka Troha: We worked
without any political pressure.**

Relations between Italians and Slovenians have been very tense for years. How did you manage to agree on and determine the historical facts with your Italian colleagues, and to avoid the trap of politicization?

Historical facts are irrefutable, that was our starting point. The historical fact is, for example, that on April 6, 1941, an attack on Yugoslavia took place. The historical fact is that more than 1,100 Slovenians were killed in the (Italian) camp on the island Rab. It is clear that there are

different interpretations about the causes of all that occurred. This is why it is most important that while facts are being determined everyone act professionally, as experts. Nationality and citizenship must not be an obstacle here. I must say that I often agree more with my Italian counterparts, than with some Slovenian historians. Division along ethnic lines is not always a good thing. The same is true of Italian historians. The work of our committee took seven years and finally we came to some common conclusions. The truth is that our debates were long and sometimes it happened that my colleagues from Italy eventually changed their position. In Italy, for example, not much was known about the occupation of Ljubljana province. Italian historians have had an additional problem because they did not know the Slovenian language, while all the committee members from Slovenia knew Italian. Thus we are able to read their documents and papers, and they could not read Slovenian documents. Today the situation in this area is much better, because in the meantime several papers have been published in Italy about this disputed period of history.

Did you have to adhere to strict rules in your work?

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Elio Apih must take great credit for the success of our efforts; he was also the most famous member of our committee. Apih enjoyed a great reputation for his work and numerous publications, and therefore all of us on the Commission highly respected his views. At the very beginning of the Commission's work, he stressed that we must give the same name to the same things. This meant that we could not write, for example, that one side „killed ten hostages,“ while the other side „savagely killed“ some other victims. Apih requested that we refrain from ‚strong‘ expressions and adjectives, which can dangerously ‚inflate‘ some events. He argued that facts alone speak for themselves. This has led to a relatively accurate number of about 6,500 killed during the Italian occupation of the Ljubljana province. As for the *foibas*, in which primarily Italians were killed, we quickly reached the conclusion that it was not a genocide. This was partly due to the small number of victims, because several hundred people were killed in them, among whom were both Italians and Slovenians. We determined the numbers of several thousands of missing and about 7,000 others who were arrested by the Yugoslav authorities, most of whom were later released. About 25,000 people were expelled to Italy. Some revenge crimes were committed in Yugoslavia, although the then government was responsible for many of them. One dispatch came to light, which the Slovenian leadership sent to Trieste, which ordered a „cleansing, not on national basis, but on the basis of fascism.“ We tried to be precise, because the data about victims were used as an argument for changing the boundaries.

Did you have any major problems in determining the social context of these crimes?

We made a big step there. We did not agree on all details, but in the end we agreed on joint formulations.

Were you deciding by voting?

We wrote conclusions after long discussions, and these conclusions we reached by consensus.

Each party had to prepare a report, and then we formed subgroups made of experts. After a discussion, we would manage to agree on a common, relatively short text. Had we dealt with the whole period in more detail, would have certainly differed much more on particular issues. In the end, we all signed every report. We were members of the commission only in our capacity as experts and not as representatives of the state. We worked without any political pressure.

How was your report received in Italy and in Slovenia, respectively?

The Slovenian Ministry of Foreign Affairs was satisfied with the report, while the Italian was not enthusiastic because they expected more attention to have been paid to the *foibas*. We held that the length of the text also determined the weight and importance of a problem. We couldn't, for example, write three pages about fascism, and five about the *foibas*. We respected the rule that issues of equal weight would be treated equally – not just in the choice of words used but also by the length of the text. That's why the entire period of war and fascism is described in much more space than the *foiba* crimes.

Is it important to research and write about history in a manner that is not limited by borders?

Yes, because only in that way is it possible to explore history in the first place. The fact is that our borders have changed so many times. Take, for example, a person who was born in Ajdovscina in 1900: he was then a citizen of the Austrian part of Austro-Hungary. Then he became a citizen of Italy. The Italian occupation followed, and after it – the Yugoslav conquest. If a person lived, for example, in Sezana, he experienced the Anglo-American conquest as well. Then, after 1947, that person became a citizen of the Free Trieste Territory which was later 'annexed' by Yugoslavia, and today that person lives in the state of Slovenia. And that person was living in the same place the entire time! This is why all these events must be viewed from a broader perspective.

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What do you think about the idea that the successor states of the former Yugoslavia, can establish the facts of the crimes and the social circumstances from which the crimes emerged, through a regional truth commission?

This is a very good initiative. Facts must be determined. The fact is that every human life is special, but on the level of the state or collective memory there is a big difference whether five hundred, a thousand or ten thousand people died. It is therefore important to determine the objective facts as much as it is possible. Of course, manipulation will always happen. Our project was finally fruitful and we reached the final figure of about 14,000 persons who died during the war. And now no one can claim that there were only a thousand casualties, and likewise no one can exaggerate and claim that there were fifty thousand casualties. All this reduces the scope and chances for manipulation. Different opinions and other interpretations

of history will inevitably emerge. Here's an example: this year alone about 200 works have been published about the French Revolution. If there is only one truth, then for each event only one book would be enough. No doubt there will always be different interpretations of why something happened in history, but it is extremely important to establish accurate, indisputable facts, in order to reduce the risk of manipulation and the stirring of passions.

Igor Mekina

* the term refers to the pits into which victims were thrown

TRANSITIONAL JUSTICE IN THE WORLD

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**!The long
awaited truth
the Truth
Commission
in Brazil**



Marijana Toma

In November 2011, two new laws were passed in Brazil: The Law on Public Access to Information, and the Law on Establishing the National Commission for Truth. With her signature, President **Dilma Rusef** opened the space for the official establishment of a commission to examine the long-ignored and long-denied truth about the crimes committed during the time of the military junta in Brazil. Despite the fact that torture, kidnapping and murders took place in front of the eyes of the entire Brazilian population, and despite the fact that the last three Brazilian presidents of that time were imprisoned or forced into exile, the political elite for a long time remained silent about the demands of victims and their families.

Unlike many of its neighbors in Latin America, Brazil had chosen to be silent about the crimes committed during the military junta. In accordance with the 1979 Law on Amnesty, members of the armed forces never faced any charges for crimes committed over the period of more than twenty years (1964-1985) of the junta. In addition, the state did not allow any official efforts to establish the truth, despite efforts by human rights activists and the support of the church in Brazil. Spurred on by this attitude, a group of activists and human rights investigators, supported by the Archbishop of Sao Paulo and the World Council of Churches, secretly copied huge volumes of court documentation, on the basis of which a report was compiled and published: *Brazil: Never Again*. The report documented and analyzed in detail, the torture used by the military junta as a method against the left and other political enemies from 1964 until 1979. In 1995, a commission was established to offer redress to 135 families of the missing persons. But despite the fact that the commission had the authority to independently investigate every case of a disappearance, further investigations were never launched. Attempts by victims to obtain redress and recognition using international mechanisms, such as the Inter-American Court of Human Rights, as a rule failed, due to the government's refusal to allow access to official information.

After more than twenty years of silence, last November, Brazil opened a space for a formal review of the past.

After more than twenty years of silence, last November, Brazil opened a space for a formal review of the past. The Truth Commission, whose seven members should be appointed by the end of March by President Rusef, will have two years to meet a set of objectives: to clarify the facts and circumstances of human rights violations; to

raise public awareness about torture, killings, disappearances, the practice of hiding of bodies, and the instigators of these incidents; to identify all state structures, places and institutions linked to human rights violations; to submit all of the information collected about locations of mass graves to relevant institutions; to cooperate with all levels of government in the investigation of human rights violations; to recommend new policies and measures to prevent the recurrence of human rights violations; and finally to promote the reconstruction of history based on the newly established facts. The Commission was given broad powers when compared to truth commissions in other Latin American countries. In addition to the usual powers, such as collecting evidence, information and documents relevant to the mandate of the commission, and holding public hearings of victims, the Commission will be allowed to request information that it considers necessary, from government institutions, even in cases where that information may be classified as confidential. Unlike almost all other Latin American commissions, this body was given authority to summon those persons believed to possess the necessary information about human rights violations, and to require the assistance of all state institutions for its operation. The obligation of government representatives, and particularly of the military, to cooperate with the Commission has been especially emphasized.

Although most in Brazil have welcomed the establishment of the National Commission for Truth, retired military generals, gathered around the *Clube Militar*, vehemently opposed the

founding of the Commission. In a public statement, they accused the newly established Commission of a lack of objectivity and said the process was an attempt to revise history. However, unlike the previous President of Brazil, who was pressured by the Defense Minister and army representatives into stepping back from plans to establish a truth commission, President Rusef demanded that the statement be withdrawn. Her demand was met, and she received an apology from the country's Defense Minister and the group of retired generals. President Rusef thus clearly expressed her support for the truth commission. The President's response to the statement of those whose actions are likely to fall under the scrutiny of the Truth Commission is a clear message to all those who oppose the establishment of the body, and will be seen by future members of the Commission, as a sign that they will find the greatest support for their work from the very founder of the Commission, who will not back down under pressure or in the face of obstructions, which certainly won't be lacking in the future.

Marijana Toma

THE VOICE OF VICTIMS

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!„We lived
60 years
with these
Albanians.”

**As I was leaving the office, I saw my
father for the last time.**

Misko Deverdzic, from the village of Istok, Kosovo, lost his father Rados, and, to this day remains haunted by guilt.

Good day everyone. I am Misko Deverdzic from Kosovo and Metohija. I was born on April 10, 1975, the son of Rados. The war in Kosovo began in 1999. Bombing. No one knew whether to beware of the bombing or the Albanian terrorists. Merem Metaj, Hava and Daut Avdijaj, Hava's husband, all Albanians, asked my father to take them into his house, to save their lives. At that time I wasn't living with him. I lived in an apartment with my wife and two children.



Miško Deverdžić
photo: Arhiva FHP

Our third child was on the way. My father came to my apartment and asked me to drive the group to the village of Vrelo, and to hand them over to our police checkpoint. So I borrowed 10 German marks, bought four liters of gas, I borrowed a car from Srdjan, the police officer in Istok. He gave me the car and didn't ask any questions. We put them in the car and my father and I drove toward Vrelo. This was the first time I went to that bloody place. Until then, or actually until they caught me, I didn't even know it was the biggest stronghold of the KLA terrorists. I drove and drove, and kept asking my father: "How much longer?" "Not too long." As we entered the village, some armed men came out. I thought it was our police. But it was just the opposite. They took me out of the car, there were 20 or 25 of them, well-armed, masked, with KLA insignia. Bearded too... As soon as they took me out of the car, they started beating me – I still suffer the consequences of it. They didn't beat my father in front of me. They took us to the Teuta factory, some 200 meters from the place we were caught in. Then they ushered us into separate offices. They continued to beat me until Selman, Merema's brother came by. I personally helped Merema build a two-story house, me and my family, we all helped. They screamed, shouted at the men to let us go, to stop beating us. But when Selman entered the

office, they stopped. They didn't touch me after that. Then interrogations began: where was the Serbian army located; what kind of weapon do they have; what about the police. And I told them all I knew and even what I didn't know. They said they would let me go from the camp if I went to Istok and bring more [Albanian] women and children, if there were any left, that they would release my father too. But there was one more condition. They wanted me to kill Momir Pantic, Chief of Police in Istok. I agreed. The interrogation was led by Naser Shatri, the then commander of the KLA. I agreed to everything and they sent me toward Istok in the same car in which we came. As I was leaving the office, I saw my father for the last time. I stepped out of the office, looked at him, and on my way out he kind of smiled a little and waved his hand, as if he was trying to say "Go now," telling me to go and bring more Shiptars, so that they would let my father go, because I saved their people. Naser Shatri got in the car and sat behind me. He pointed a gun to my head and said: "Kill Pantic and you'll get one million marks. I'll save your entire family and I'll get you across the border where no one will harm you." I agreed to everything and I set out as fast as the car would go.

I ran into a group of police officers about a mile from the place they caught me. I asked them: "Where have you been?" And they said: "We were in the woods." They were roasting a pig on a spit. Zarko Zaric, that was the police officer I spoke to. And he said: "Go to the police immediately." I went straight to the police station in Istok and told everything to Momir Pantic, Chief of Police. Grujica Veljovic, his deputy, looked at me sadly. He understood my pain. But Momir Pantic just laughed and said: "That serves you right." I went for his gun which was on the desk. Grujica Veljovic settled things and I went home. My wife was pregnant. She could not recognize me. I want to know just where he is [the father]. The only one who knows is Selman, Merema's brother. Killed, alright... But I want to know where he is. We lived 60 years with these Albanians. Never said a bad word to one another. Kosova Vusaj beat me when we were kids. The third house from mine. Thank you. And sorry.

(From the public testimony of victims, held at the Third Regional Forum for the establishment of the facts about war crimes in the former Yugoslavia, organized by Documenta, the Humanitarian Law Center and the Center for Research and Documentation, on February 11-12, 2008 in Belgrade.)



March 1968 pending
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Načelnik Arhiva ne odloži
političarni ne odloži
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Kotim večkrat 1981,
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KAR SE TICE
FOJB, V KATE
SO BILI UBITI
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once again
Commissioner expressed his
support for RECOM

