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**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 on his visit to Croatia**

**Comments by the State\***

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\* The present document is being issued without formal editing.



## Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, on his visit to Croatia; comments by the State

1. The Croatian Government would like to take the opportunity provided by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (SR) to comment on his report on his visit to Croatia. Croatia has also separately taken the opportunity to correct a number of factual inaccuracies and misinterpretations in the draft report, while some unfortunately remained in the final report.
2. We note the SR's observations on the many areas where Croatia made discernible progress, including the search for missing persons, the prosecution of war criminals and the pace and quality of legislative and institutional reforms to promote the rule of law and democratic governance.
3. In addition, the SR commended the efforts made by the State institutions over a sustained period to achieve these goals, while the progress made has placed Croatia in an advantageous position to consolidate its transitional justice processes.
4. Croatian independence is inseparable from the Homeland War (1991 – 1995) - an international armed conflict and defensive war for independence, democracy and territorial integrity of the Republic of Croatia against the brutal Serbian aggression of the united forces of the former Yugoslav People's Army (YPA) under Serbian control, rebellious Serbian extremists in Croatia and Bosnia and Herzegovina, and the forces of Serbia and Montenegro.
5. Croatia was attacked by Serbian forces led by the regime of Slobodan Milošević, with the aim of achieving the goal of creating an ethnically pure state in which *“all Serbs would be living in one state”*. The International Criminal Tribunal for the former Yugoslavia (“ICTY”) confirmed that Croatia was the victim of a joint criminal enterprise led by Milošević and his regime, whose purpose was

*“to unite Serb areas in Croatia and in BiH with Serbia in order to establish a unified territory.”*<sup>1</sup> The ICTY ruled that this criminal plan *“was implemented through widespread and systematic armed attacks on predominantly Croat and other non-Serb areas and through the commission of acts of violence and intimidation.”*<sup>2</sup>

It should be emphasized that the International Court of Justice (“ICJ”) also confirmed this conclusion of the ICTY.<sup>3</sup> Similar to today's war in Ukraine, the modus operandi of Milošević's criminal war against Croatia included aggression justified by a supposed need for “denazification” and supposed protection of an ethnic minority, followed by invasion, the declaration of a self-proclaimed rebel republic on Croatia's soil, and occupation. Croatia was invaded and attacked on its own territory and within its internationally recognized borders, thus legitimating Croatian citizens and their democratically elected Government to fight for the preservation of their country's independence and their liberty, consistent with the right to self-defense guaranteed in Article 51 of the UN Charter.

6. Despite the suffering of civilians, and occupation of more than a quarter of Croatia's territory, the democratically elected Government of Croatia patiently attempted to resolve the occupation of its territory peacefully, including by granting the Serb minority appropriate future status and protection. With the support of the international community during 1993 and 1994, numerous agreements with Serbia-backed rebel Serbs were offered or signed, but Serb rebels never honoured their written commitments. In the course of the long four-year occupation, thousands died during the Serb shelling of Croatian cities and towns. Not even the UNESCO-protected heritage city of Dubrovnik was spared, while hundreds of thousands of Croats and other non-Serbs were expelled and ethnically cleansed from Croatia's Serb-occupied territories.

<sup>1</sup> See *Prosecutor v. Milan Martić*, Case No. IT-95-11-T, *Judgement*, paragraph 445 (12 June 2007).

<sup>2</sup> *Id.*

<sup>3</sup> International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, *Judgment*, at paragraph 426 (3 February 2015).

7. While all of this was playing out in Croatia, the same Belgrade-written scenario was playing out in neighbouring Bosnia and Herzegovina. In addition to its own internally displaced, Croatia also housed and cared for hundreds of thousands of refugees from Bosnia and Herzegovina, Croats and Bosniaks alike.

8. The diplomatic efforts by Croatia's leadership to return the occupied territory under its jurisdiction were internationally recognized as justified, legitimate and legal from the point of view of international law *inter alia* by the UN Security Council Resolution 871 of 4 October 1993, and by the UN General Assembly Resolution 49/43, adopted on 9 December 1994.

9. On 11 July 1995, Serbs seized Srebrenica in Bosnia and Herzegovina and committed genocide by killing Bosniak men and boys on a massive scale. Faced with the fact that the Serb-encircled city of Bihać on the border with Croatia was in imminent danger of becoming a new Srebrenica, and the continuous rejection by rebel Serbs of all proposals for a peaceful reintegration of Croatia's occupied territory, Croatia was left with little choice but to launch a military liberation operation to liberate its territory, consistent with Croatia's right to self-defence under Article 51 of the UN Charter.

10. Operation Storm ensued from 4 to 7 August 1995, planned and carried out with military precision and in full respect of international humanitarian law and the Geneva Conventions. Despite public calls by the Croatian authorities to Serbs living in occupied territories to remain in their homes, many followed the orders and appeals of the rebel Serb leadership and left the country, or left Croatia for other reasons unrelated to any unlawful conduct by Croatian authorities.<sup>4</sup>

11. Operation Storm was a military success and victory, ending the self-proclaimed Serb para-state in Croatia and saving thousands of Bosniaks in the Bihać area in Bosnia and Herzegovina. It terminated the Serbian occupation of Croatia's territory, and its accompanying destruction, terrorization of civilians and ethnic cleansing. While it enabled hundreds of thousands of displaced people, Croats and others, to return to their homes in Croatia, it also led to the peaceful reintegration of the occupied Croatian Danube region, including the previously completely destroyed city of Vukovar.

12. Croatia's liberation operation was also pivotal in the successful liberation of large portions of Bosnia and Herzegovina, in accordance with the agreement between the governments in Zagreb and besieged Sarajevo, as well as for the conclusion of the Dayton-Paris Agreement, a treaty which brought peace to Bosnia and Herzegovina.

13. This victory of the Croatian people and Croatian war veterans, by which the Croatian citizens expressed their determination and readiness to establish and preserve the Republic of Croatia as an independent and sovereign, democratic State, is woven into the foundations of modern Croatia. The Homeland War is incorporated in the Constitution of the Republic of Croatia as the just, legitimate, defensive and liberating basis for the independent and democratic country Croatia is today. Ever since, on 5 August every year Croats celebrate not only their final victory over an overpowering aggressor. They celebrate their freedom and their democracy, which they defended with their lives and for which many paid the highest price.

14. Operation Storm created conditions for today's EU and NATO member Croatia to partake in the common European project of building a united and democratic Europe, whole and free. Every August, Croatian citizens remember the sacrifice they made for their liberty.

15. Through sustained international cooperation in the aftermath of the aggression, particularly with the ICTY, Croatia paved the way towards comprehensive transitional justice.

16. Croatia continues its commitment and efforts in completing remaining residual issues and ensuring the sustainability of both the transitional justice process and memorialization

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<sup>4</sup> See *Prosecutor v. Ante Gotovina et al*, Case No. IT-06-90-T, *Judgement*, paragraphs 1754, 1762 (12 June 2007).

process, cognizant of their complexity. In that vein, we will analyze the SR's recommendations in detail.

17. However, there are a number of issues of concern in the SR's report. The Croatian Government would like to highlight some of the misinterpretations, generalizations and factual errors. Highly troublesome is the last recommendation in [paragraph 94](#), which Croatia rejects. Within the legal system of the EU, there is no supervisory mechanism for achieving transitional justice, therefore its establishment would be a precedent and would violate the very foundations and values on which the EU was created. Given that the EU is an alliance of equal and sovereign Member States, the aforementioned mechanism would put one Member State in a subordinate position and would violate the fundamental principles of sovereignty and equality.

18. Equally unacceptable are misinterpretations and generalizations in [paragraph 9](#). It is important to point out that for these allegations the SR used a report of Human Rights Watch (HRW) published twenty-six years ago. However, in its 1996 report HRW quoted witnesses who stated that columns struck by aircraft contained military personnel and hardware, as well as civilians. Based on this fact, HRW noted that it was not clear whether Croatian air forces were targeting the military personnel and hardware, or civilians, and called for further investigation of the incident. In the ensuing 26 years since the HRW report relied upon by the SR was published, the incident was investigated both by the ICTY and by Bosnia and Herzegovina. The ICTY ultimately decided not to charge anyone for this incident and, importantly, decided not to include this incident in its indictment of three Croatian generals for events related to Operation Storm in the case of Prosecutor vs. Gotovina et al. (IT-06-90). Notably, the Croatian generals were acquitted and no Croatian officer was convicted before the ICTY. The ICTY also rejected allegations that the leadership of Croatia planned or ordered any crimes against Serbian civilians in Operation Storm. Indeed, during the Homeland War, there were never any orders from the leadership of Croatia directed against civilians or civilian targets in any way. The Croatian Government, and Croatia as a country never supported or encouraged the commission of war crimes, and the goal of the Homeland War was not the creation of an ethnically cleansed country, but only the self-defence of Croatian territory within Croatia's internationally recognised borders, which was occupied by the Serbian aggressor. The fact that the ICTY never convicted any Croatian official for any crime committed on Croatian territory evidences these facts.

## **Our specific response to some of the key areas of the report is set out below.**

### **Paragraph 7**

19. The phrase "*non-ethnic Serbs*" used in this paragraph is too broad and it should be reformulated into "*Croats and other non-ethnic Serbs*", because at Ovčara (a farm located five kilometers from Vukovar, which is remembered in Croatian history as the site of the greatest war crime in the Homeland War) it was mainly Croats who were killed, although there were also other nationalities.

### **Paragraph 9**

20. In addition to comments on paragraph 9 of the Report provided in paragraph 16, Croatia would like to refer to the SR's mentioning of a purported "Krajina area" in Croatia. The name is associated with the internationally unrecognized and self-proclaimed Serb para-state on occupied territory of Croatia 1991-1995, whose leadership was convicted of atrocities before the ICTY. No region of "Krajina" has ever been recognized in the Republic of Croatia, or even in the former Yugoslavia from 1945 until its dissolution.

### **Paragraph 15**

21. The Report states data on 18,000 detained and missing persons in Croatia in 1991, however it refers that data is "unclear" (probably due to the fact that the SR refers to the data from the Report by the International Commission on Missing Persons that registers around 6000 missing persons). Therefore, we want to reiterate that in 1991, more than 18,000

detained and missing persons were registered in Croatia according to the official data of the competent authorities (Croatian Red Cross, Main Medical Headquarters of the Republic of Croatia). We wish to point out that in the Report, the data regarding two thirds of resolved cases of missing persons is inconsistent. In addition to this, information on the current number of missing persons for whom Croatia is searching was omitted – according to the state of the records as of 30 August 2022, Croatia is still searching for 1832 persons missing and killed in the Homeland War whose place of burial is unknown.

### **Paragraph 22**

22. Regarding the statement on the lack of transparency in relation to the methodology used in the selection of regions for investigation and exhumation, we would like to point out that the competent authorities of the Republic of Croatia, led by the Ministry of Croatian Veterans' Affairs, give equal treatment to all persons missing or killed in the Homeland War and whose place of burial is unknown, and to all possible locations of individual or mass graves, and that these authorities act based on the information gathered. Since the majority of unresolved cases from the Homeland War stems from the Croatian Danube region (Vukovar-Srijem and Osijek-Baranja County) and the Banovina region (Sisak-Moslavina County), most of the information gathered, as well as the majority of the field investigations and exhumations of remains, refer to these areas, as expected.

### **Paragraph 23**

23. This paragraph states that

*“enhanced regional cooperation resulted in joint digs and exhumations, joint scouting searches, transfer of remains, and exchange of information and documents between Croatia, Serbia, and Bosnia and Herzegovina”,*

which is incorrect in the case of Croatia. Fact is that exhumation, joint scouting searches, transfer of remains, and information exchange are a result of bilateral agreements/protocols, and arrangements with relevant authorities in Serbia and Bosnia and Herzegovina, not of the enhanced regional cooperation as stated.

### **Paragraph 25**

24. The Report leaves the impression of equated responsibility for lack of progress in resolving missing person's issues by the States on the territory of the former Yugoslavia.

25. However, facts and actions taken so far clearly refute that misinterpretation.

26. It is an irrefutable fact that the progress in solving missing person issues has slowed down and is hindered because of the lack of exchange of information and evidence regarding bilateral and multilateral cooperation.

27. The overview below of the activities between 1 June 2013 and 1 June 2022 (period of halted progress noted in the report) factually and accurately addresses Serbia as the responsible party for the lack of cooperation:

28. The Ministry of Croatian Veterans' Affairs has:

- Handed over the remains of 7 Serbian citizens, members of the YPA and paramilitary formations, and killed in the aggression against Croatia, to the Republic of Serbia.
- At the request of the Commission for Missing Persons of the Government of the Republic of Serbia, organized and conducted field searches in the Brod-Posavina County territory (no remains were found).
- Organized and conducted the exhumation of remains of a total of 305 persons, and during the exhumation of remains of 172 persons from the “clean-up” graves, expert observers from the Republic of Serbia were present (they were invited by the Ministry);
- Organized and conducted the final identification of remains of a total of 424 persons, and during the identification of remains of 201 persons, whose families

reside in Serbia, expert observers from the Republic of Serbia were present (they were invited by the Ministry);

- Organized the burial of all identified persons, which included the transfer of the remains of 96 persons to be buried in Serbian territory as requested by their families.

29. The Commission of the Government of the Republic of Serbia has:

- Handed over the remains of 6 persons from Croatia that were buried in Serbian territory
- Organized the sampling of remains from 2 N.N. persons buried in Serbian territory (the mentioned persons still remain unidentified)
- Delivered information to the Ministry of Croatian Veterans' Affairs on persons that were previously found, i.e., in some cases it was just the initial data, which does not make the solving of specific missing persons cases possible.

30. In conclusion, in the aforementioned period activities of the relevant authorities of the Republic of Serbia have not resulted in any progress in solving open issues/requests by the Republic of Croatia.

31. Regardless of the non-progress of the relevant authorities of the Republic of Serbia, the Ministry of Croatian Veterans' Affairs has devotedly continued with the activities directed at solving all missing person cases in Croatian territory, regardless of their origin, nationality, or any other factor. The results achieved are exclusively the product of individual efforts and work of Croatian relevant authorities.

#### **Paragraphs 34, 57, 65**

32. Throughout these paragraphs, it is pointed out that Croatian authorities are discriminatory against Serbs in number of cases such as processing of war crimes, memorialization of the victory and the remembrance of Croatian victims, or through placement of greater attention on Croat victims than on others.

33. These allegations ignore the historical record as established by the ICTY itself. The ICTY convicted numerous Serb officials for war crimes and crimes against humanity committed by Milošević and his regime, including Milan Babić, Milan Martić, Mile Mrkšić, Veselin Šljivančanin, Pavle Strugar, and Miodrag Jokić. As noted above, the ICTY never convicted any Croatian official for any alleged crime committed on Croatian territory. The historical record is therefore clear that Serbia and its satellites in Croatia committed war crimes and crimes against humanity as a matter of policy in pursuit of political goals, while the Republic of Croatia did not. It is therefore self-evident why Croatian courts prosecute a greater number of war crimes perpetrators who were members of the invading and occupying Serb forces. Croatia does not celebrate anyone's defeats, but instead commemorates all of the military and civilian victims of the criminal Serbian regime and its satellites in Croatia, and will honor those who defended our country through the magnificent victory in 1995.

#### **Paragraph 43**

34. The fact is that over 60% of the cases before the ICTY were against Serb defendants –Serbian leadership, Serb military and para-military units and the Serbian-controlled Yugoslav People's Army, of whom six were convicted by the same court (Martić, Babić, Mrkšić, Šljivančanin, Jokić and Strugar), three of them died before the verdict was pronounced (Milošević, Dokmanović and Hadžić), and two are awaiting final judgment (Stanišić and Simatović). On the other hand, only three defendants with respect to the war in Croatia were Croatian generals, who were acquitted by the ICTY on 16 November 2012. If one were to follow the distorted logic used in the report, the SR could have also concluded that there was a selective prosecution of war crimes by the ICTY since the overwhelming majority of those prosecuted and convicted by the ICTY were Serbs. Obviously, this is incorrect: the ICTY prosecuted and convicted exclusively Serbs for crimes committed in Croatia because Serbs were overwhelmingly more responsible for the commission of war crimes in Croatia. War crimes prosecutions in Croatia also reflect that same fact.

**Paragraph 50**

35. It is alleged that, among other things, the Act on Rights of Sexual Violence Victims of the armed aggression on Croatia in the Homeland War was implemented without an active participation of the victims in the preparation thereof. We cannot agree with this statement because civil society organisations for promoting a just reparation to the sexual violence victims of the Homeland War were acknowledged and actively involved in forming the legal framework of this legislative act due to their experience and expertise. The Working Group for the preparation of the Act on rights of sexual violence victims of the Homeland War included, but was not limited to, the representatives of: The Croatian Parliament-Committee on Gender Equality, the Office of the Ombudswoman for gender equality, the High Criminal Court, the Croatian Memorial and Documentation Centre, UNDP Croatia and UN Women, the Women in the Homeland War association, the Victim and Witness Support Service, the Medica Zenica association, the Documenta Centre for dealing with the past, the Croatian Legal Centre, Centre for Women's studies, and so on.

**Paragraph 51**

36. Regarding the statement: "Several interlocutors expressed concern that Serb civilians could have difficulties proving that they did not aid or collaborate with the enemy, as requested in the law," we would like to draw attention to the fact that the source cited next to this sentence by the SR is a newspaper article that had been published before the Act on Civilian Homeland War Victims entered into force, and from footnote 43 it follows that this is not a direct statement of a direct interlocutor but rather a transmission of a statement from a newspaper article that had been published before the law in question was adopted and had entered into force. Experiences with the implementation of the Act thus far have not indicated any difficulties in determining whether the applicant was a member, collaborator or helper of the enemy.

**Paragraphs 56 - 61**

37. The SR questions why Croatian memorials of the Homeland War place emphasis on Croatian victims and victories. Croatia wishes again to remind of the historical record as established by both the ICTY and ICJ: crimes committed against Croatia, Croats and other non-Serbs on Croatian territory were part of a policy to use war crimes and crimes against humanity in pursuit of the creation of an ethnically-pure Greater Serbia, while crimes committed against Serbs in Croatia were not. The crimes committed by Serbian perpetrators were thus of a fundamentally different nature, and war crimes memorialization in Croatia is reflective of this difference. By analogy to the current war in Ukraine, one has little difficulty understanding why Ukraine may place greater emphasis on victims of Russian aggression, which is of a more widespread and substantively different nature than other crimes committed on Ukrainian territory. The situation in Croatia is quite similar.

38. The section of the report related to commemorations mostly questions the justification of commemorations of Croatian victories and victims. According to official data of the Ministry of Croatian Veterans' Affairs, the consequences of Serbian aggression against Croatia are the following:

- 8,400 Croatian veterans killed
- 57,575 war-disabled veterans registered
- 402 children killed
- 352 children lost both parents/children without adequate parental care
- 7,815 people exchanged from enemy prisons. However, the numbers are much higher as many people that were imprisoned in Serbian concentration camps were killed, some of them were later found in numerous mass and individual graves, and are still counted as missing persons.

39. The Act on commemorating Homeland War victims' mass grave locations states ways of commemorating on mass grave locations of victims killed during the aggression against Croatia and article 136 of the Act on the Rights of Croatian Homeland War Veterans and

their Family Members states that the commemoration process should be conducted by the Ministry of Croatian Veterans' Affairs.

40. A mass grave (the definition is consistent with UN Special Rapporteurs on extrajudicial, summary, or arbitrary executions) is a place where remains of three or more victims were illegally buried without marking the grave and respecting the remains. All mass grave locations are commemorated by setting an identical memorial, regardless of nationality or religion.

41. The Homeland War mass grave location memorial unveiling ceremonies (commemorations) are structured the same and contain the same basic content, regardless of the number, status, or any other classification of the victims, they are accompanied by the highest state honour protocol in the presence of family members of the victims, local and state officials and/or their delegates. Every ceremony is customized according to local circumstances, local traditions, religion of the victims, languages of the victims, etc. Some of the examples are:

- location of the mass grave Bogdanovci - a grave from which some victims of Albanian nationality were exhumed, it was commemorated and ceremoniously unveiled in 2011
- location of the mass grave Daljski atar - Glogovac, from which, aside from Croatians, victims of Hungarian origin were exhumed, it was commemorated and ceremoniously unveiled in 2013, during the ceremony a commemorative song was performed in Hungarian
- location of the mass grave Golubnjača 1 - a grave from which victims of Serbian nationality were exhumed, it was commemorated and ceremoniously unveiled in 2014
- location of the mass grave Petrovci, from which victims of the Ruthenian, Ukrainian and Croatian nationality were exhumed, it was commemorated and ceremoniously unveiled in 2015
- location of the mass grave Vasić bare, from which victims of the Bosniak nationality, citizens of the neighbouring Bosnia and Herzegovina, were exhumed, it was commemorated, but it was not ceremoniously unveiled yet, because it is in the area afflicted by the earthquake.

42. Aside from commemorating victims' mass grave locations, the Ministry of Croatian Veterans' Affairs also realized the construction of monuments that commemorate the victims of the Serbian aggression, regardless of their nationalities, as follows:

(1) Memorial site for victims, civilians and veterans killed during the Battle for Vukovar on the Vukovar Memorial Cemetery of Homeland War Victims, constructed in 2002.

(2) Memorial site for all wounded people treated in the Vukovar hospital during the Battle for Vukovar in the yard of the Vukovar hospital, constructed in 2007.

(3) Memorial site for all children killed in the Homeland War in Croatia in Slavonski Brod (the city with the highest number of children killed in the Homeland War), constructed in 2016.

(4) Memorial site for veterans killed in the operation Flash in a park in Okučani, constructed in 2018, the same park also has a memorial area with a memorial ossuary, which was decorated in a compatible shape and made of compatible material, for the victims of World War II that are mostly of Serbian nationality. This fact makes this unique park area a place for commemorating Homeland War victims as well as World War II victims.

43. Set-up of other memorials of persons and/or events from the Homeland War is usually decided by municipal authorities that have the obligation of respecting regulations related to ownership, spatial planning, and construction. We would like to point out that there are many memorials, especially those in the places where people were killed, set-up by the brothers in arms or relatives of the victims. A large number of memorials is set-up on church grounds, as a sign of religious piety and belief in the afterlife, most commonly in the form of a crucifix.



44. It could be noticed that in last couple of years similar memorials were set-up in Orthodox churches in Croatia, or in municipalities where the majority of the population is Serb, in commemoration of Serb victims. It should be noted that setting-up memorial panels with names of victims from the Serb minority does not cause disputes, except in cases when they contain the names of members of paramilitary troops that participated in the armed aggression against Croatia. The fact that Croatia granted amnesty from criminal liability to members of Serb rebel units from the Homeland War does not imply the obligation of Croatia to set-up a memorial for them, and we are also not aware that memorials for aggressor soldiers were set-up in other countries devastated by war and aggression.

45. Considering the fact that many Croatian citizens were taken from Croatia and imprisoned in registered camps on the territory of Serbia, and that many prisoners were killed in mentioned places, the Croatian public would welcome a demonstration of good will from Serbia in the form of at least allowing the set-up of information panels on the objects where the camps were organized.

46. In the report, the SR expresses concern that the commemorations, and even school curricula and history lessons do not include a different interpretation of the war, its causes, and consequences, and that they do not include the voices of all the victims of the Homeland War. Croatia is the founder of the Public Institution “Memorial Centre of Homeland War Vukovar” which has the role of an objective presentation of the Battle for Vukovar based on historical facts. The School of Peace is the last stage of the two-day visit of eight graders to Vukovar (as a part of field education, i.e., it is non-mandatory). The goal of the School of Peace is for students to finish their visit to Vukovar in a positive environment, to help them build the base for their development into responsible citizens aware of the importance of respecting differences and cherishing long-lasting peace. It teaches them that there is no alternative to peace, that peace is not just a lack of armed confrontations and war, but also a permanent process of establishing mutual trust and respect. The primary goal is to teach young people that there is no alternative to peace, and we are saddened by the fact that, even though this program is non-mandatory, voluntary, and completely paid for from the State budget, children of Serb nationality regrettably do not participate in it. Nevertheless, Croatia will continue to encourage their full participation in national curriculum and aforementioned activities.

47. After the peaceful reintegration of the Croatian Danube Region into the constitutional order of the Republic of Croatia, in the spring of 1998 the process of a mass grave exhumation began in Vukovar at the edge of the local Dubrava cemetery, together with the construction of the Memorial Cemetery of Homeland War Victims for the burial of identified victims. The victims of the Serbian aggression are buried in this cemetery regardless of their nationality and with the consent of their families. The Ministry of Croatian Veterans' Affairs is taking care and maintaining the cemetery. All other found victims of the Homeland War, regardless of their nationality or religious beliefs, who were exhumed and identified, have the funeral equipment costs, transportation to the burial ground's costs, and burial costs covered by the State Budget.

48. A special form of commemoration based on Croatian religious traditions is held on the All-Saints' Day and All Souls' Day, on 1 and 2 November, when wreaths are placed and candles are lit at the central features of the county centre cemeteries with military/state honours in order to commemorate all victims of the Homeland War.

49. It is surprising that the report does not mention that every September in Vukovar, the Serb population commemorates members of the Serbian army killed during the aggression against Croatia and the siege of Vukovar in the Aleja memorial area, which was built during the occupation of the city in downtown Vukovar.

50. In order to improve the legal framework regarding procedures for the graves of World War II victims and post-war period victims, and in the spirit of humane treatment of victims, the Council of Europe Resolution on condemning communism and communist crimes, and the European Parliament resolution on European conscience and totalitarianism, the Croatian Parliament adopted the Act on research, regulation and maintenance of military cemeteries, cemeteries for victims of World War II and post-war period victims (NN, No. 143/2012, hereinafter: The Act), based on the suggestion of the Croatian Government, which for the

first time solved the issue of processing human remains of World War II victims and post-war period victims in a comprehensive manner.

51. From the day of entry into force of the Act on 1 January 2013, the Ministry of Croatian Veterans' Affairs has conducted research on the reported mass and individual grave locations for victims of World War II and the post-war period, has kept a register of the mentioned, and in cooperation with municipal authorities has respectfully permanently buried the exhumed remains, organised and maintained cemeteries, which fall under the jurisdiction of the Act, and has commemorated the locations where victims were killed.

52. The commemoration procedure has since been specified by the Act and by-laws, which state that locations where victims were killed are to be commemorated after they are explored and the precise number of persons killed in such a location is determined. By commemorating explored graves, where the precise number of victims is determined, and by specifying the manner in which a memorial text is to be formulated, it is ensured that the text on memorials will be based on verified information, which helps society face the truth and established facts from the past.

### **Paragraph 65**

53. The SR expresses concern that school curricula and the teaching of history do not include different interpretations of the war and its causes and consequences and do not include all voices of victimhood of the Homeland War. Croatia is the founder of the public institution Memorial Centre of the Homeland War in Vukovar, the role of which is to present the Battle of Vukovar in an objective way and based on historical facts. The School of Peace is the final part of a two-day visit to Vukovar organised for eighth-grade students (as part of education outside the classroom, meaning non mandatory). The purpose of the School of Peace is to enable students to finish their visit in a positive atmosphere and to help them build the foundation on which to develop as responsible citizens who are aware of the importance of respecting differences and nurturing lasting peace. It teaches them that there is no alternative to peace, and that peace is not merely the absence of armed conflict and war events, but also an ongoing process of establishing mutual trust and respect. For Croatia, it is of primary importance that young people learn that there is no alternative to peace. As regards the SR's suggestion regarding different interpretations of the war and its causes and consequences, we refer again to established historical facts regarding the aggression against Croatia. Education based on facts and truth is the prerequisite to lasting reconciliation and peace.

### **Paragraph 66**

54. The SR is trying to connect the memory of the destruction of Vukovar during the Homeland War and the crimes that took place in the Jasenovac concentration camp during World War II. While Croatia commemorates all victims, we consider it inappropriate to associate Vukovar, a symbol of the suffering of the Croatian people in the war for independence, with the concentration camp run by the Ustasha regime, a puppet of Nazi Germany and Fascist Italy, as this comparison represents a misleading mixture of historical contexts and periods.

### **Paragraph 73**

55. The SR considers it problematic that the bridge on the Korana River in Karlovac is named after the special police unit "Grom", whose commander was convicted by the Supreme Court of the Republic of Croatia. It is completely unacceptable to generalize the guilt of an individual who committed crimes, in respect of which appropriate judgements have been rendered, to an entire unit and all its soldiers who defended Croatia from the Serbian aggression and who were trying to preserve the territorial integrity of their country.

### **Paragraph 86**

56. In paragraph 86 the report states that during the last nine years worrying delays or setbacks have been observed, *inter alia*, in regional cooperation on missing persons. Contrary to this conclusion, we point out that Croatian competent authorities, led by the Ministry of

Croatian Veterans' Affairs, have made a significant step forward in all segments of the search process – from improving the implementation activities and the legislative framework and creating the conditions for strengthening bilateral cooperation (cooperation protocols with Bosnia and Herzegovina and Montenegro), to the full and constructive participation in multilateral (regional) mechanisms. On 6 November 2018, in order to improve multilateral cooperation, the Ministry of Croatian Veterans' Affairs (together with other authorities competent for the search for missing persons from the territory of the former Yugoslavia) signed the Framework Plan to Address the Issue of Persons Missing from Conflicts on the Territory of the Former Yugoslavia, established at the initiative of the International Commission on Missing Persons. The Ministry has fulfilled and is fulfilling the agreed obligations in full. Taking into account Croatia's membership in the EU and NATO and the standards attained, the Ministry has also assumed an advisory role under the Framework Plan, providing guidance to the competent authorities of other countries in strengthening the search for missing persons. However, the Framework Plan has not yielded the expected results because of open bilateral issues between the Republic of Serbia and the Republic of Kosovo. In addition, Croatian competent authorities participated/are participating in other multilateral projects, such as the United Nations Development Programme (UNDP) project "Strengthening transnational cooperation in the prosecution of war crimes and search for missing persons". Also, with the aim of examining documents of international bodies and organisations that were active in the territory of south-east Europe in the 1990s, the Memorandum of Understanding on the transmission and use of information and documents on missing persons in the Homeland War in the Republic of Croatia (1991-1995) obtained from international archives, was signed with the International Committee of the Red Cross in 2019 and is being implemented. The key obstacle to achieving progress in resolving the issue of missing persons is the absence of bilateral cooperation, for which the responsibility lies with the Republic of Serbia.

#### **Paragraph 91 e**

57. This recommendation calls for accelerating the search for and identification of all unresolved cases of missing persons based on objective and transparent criteria, and for providing continued financial, material and qualified human resources for that purpose. In this respect, we point out that the Ministry of Croatian Veterans' Affairs, which is the competent authority for issues concerning persons missing in the Homeland War in the 1990s, performs, in cooperation with other competent authorities, a wide spectrum of activities aimed at finding missing persons – ranging from key implementation activities, initiatives in bilateral relations, the continuation and intensification of multilateral cooperation, cooperation with international organisations and with associations of families of missing persons, to a very significant improvement of the normative framework. These activities are undertaken irrespective of the origin and other characteristics of missing persons, as corroborated by the aforementioned results. We point out that all relevant bodies in the Republic of Croatia provide support in the search for missing persons by undertaking activities within their fields of competence. In order to ensure a comprehensive approach to the search for missing persons, the search process is carried out through interdepartmental cooperation among all competent authorities, organisations and institutions: The Ministry of Croatian Veterans' Affairs (which has the leading role in the process), the Ministry of Foreign and European Affairs, the Ministry of the Interior, the Ministry of Defence, the Ministry of Justice, the Ministry of Health, competent state attorney offices and courts, security and intelligence agencies, health and medical institutions and the Croatian Red Cross. With regard to the requirement to provide financial, material and qualified human resources for the purpose of accelerating the search for and identification of the remains of missing persons, we point out that all these conditions for the efficient search for missing persons are in place in Croatia. The search process is financed from the State Budget of the Republic of Croatia. Sufficient funds are secured on an annual basis. In addition to activities directly aimed at finding missing persons, the Ministry, in order to increase efficiency, is continuously undertaking activities aimed at improving the search system and work methods, both as regards field investigations and as regards the processing and identification of remains. Thus, resources at the Ministry headquarters have been strengthened, regional offices have been set up, resources for field investigations and their competences have been strengthened, as has also the interdepartmental cooperation involving all relevant bodies, institutions and

organisations in the Republic of Croatia, led by the Ministry of Croatian Veterans' Affairs. In field investigations, which are the backbone of the search for missing persons, special attention is given to the improvement of work methods – state-of-the-art equipment has been purchased and is being used (geological radar, drones, etc.), and innovative methods of searching for hidden graves have been introduced, such as aerial surveys and biological detectors. There are also ongoing investments in the processing and identification of remains. We point out that state-of-the-art equipment for the identification of remains was purchased with funds secured by the Government of the Republic of Croatia in 2019. Further investments will continue to be made in the forthcoming period.

**Paragraph 91 f**

58. This recommendation calls for ensuring full access to relevant information to the families of missing persons and full cooperation with the countries in the region affected by the war. In this respect, we point out that the right of families to learn the truth about the fate of their missing members, which is incorporated in the Act on Persons Missing in the Homeland War, is the starting point in resolving the issue of missing persons in Croatia. Thus, the fundamental right of the family members of a person missing in the Homeland War is to be able to learn about the permanent or temporary whereabouts of the missing family member or to find their mortal remains for permanent burial, and also to learn to the greatest extent possible about the circumstances of their disappearance or death. The above mentioned Act, which is being fully implemented, also prescribes that competent state authorities are required to provide family members with available information regarding the progress and results of the search for their missing family members, and that no one may be subjected to violence, threats or any form of intimidation because they are seeking information about their missing family members. With regard to the requirement to ensure full cooperation with the countries in the region affected by the war, the preceding comments (paragraph 86) describe the efforts made by the Ministry of Croatian Veterans' Affairs in the area of multilateral (regional) cooperation. With regard to bilateral cooperation, we point out that there is continuous cooperation with the competent authorities of Bosnia and Herzegovina, and in 2017, in order to further improve it, the Cooperation Protocol was agreed and signed at the proposal of the Republic of Croatia, while the Rules of Procedure for its implementation were signed in 2019. Furthermore, at the initiative of the competent authorities of the Republic of Croatia, direct bilateral cooperation with Montenegro has been established and the Cooperation Protocol was concluded between the competent authorities of the Republic of Croatia and the competent authorities of Montenegro in 2017. Also, in order to enhance cooperation with the Republic of Kosovo, in particular concerning the transfer of knowledge and experience, a proposal for a cooperation protocol between the competent authorities of the Republic of Croatia and the Republic of Kosovo is currently being prepared. As pointed out in the preceding comments, the key obstacle is the absence of bilateral cooperation, for which the responsibility lies with the Republic of Serbia. We reiterate that the Ministry of Croatian Veterans' Affairs is committed in its activities aimed at resolving all cases of missing persons in the territory of the Republic of Croatia, irrespective of their origin, ethnicity or other affiliation. The achieved outcomes are solely the result of the independent efforts and work of the competent authorities of the Republic of Croatia.

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