

## **National Consultation with Victims' Associations on the Draft RECOM Statute**

Tuzla, BiH  
May 29, 2010

A National Consultation with Victims' Associations on the Draft RECOM Statute was organized by the BH Journalists' Association. The gathering was attended by 28 representatives of victims' associations from BiH and the discussion was moderated by Dženana Karup Druško, Vice President of the BH Journalists' Association and member of the Coordination Council of the Coalition for RECOM. Introductory speeches were given by Amir Kulagić (Coordination Council of the Coalition for RECOM), Anđelko Kvesić (Coordination Council of the Coalition for RECOM), and Dejan Kožul (Regional Coordinator of the RECOM Consultation Process).

### **Comments, Suggestions, and Recommendations of the Participants at the Consultation on the Draft RECOM Statute:**

#### **Article 5.**

##### **Timeframe for RECOM**

1. The timeframe set for RECOM's operation is two years plus a six-month preparation period.
2. RECOM can extend its operational timeframe for up to six months maximum.

#### **Comment:**

##### **A two-year mandate is way too short to collect all the facts.**

*Two years is too short a time for this whole job to be done, to collect all the facts about war crimes and other serious human rights violations.* (Mevludin Lupić, Association of the Families of Imprisoned and Missing Individuals from the territory of the Zvornik municipality, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).

#### **Article 9.**

##### **The Goals of RECOM**

RECOM has the following goals:

- a) To establish the facts about the wars/armed conflicts and war crimes and serious human rights violations committed on the territory of the former SFRJ in the period from January 1, 1991 until December 31, 2001;

#### **Article 21.**

##### **Time Period and Territory RECOM is Mandated to Investigate**

- a) RECOM establishes the facts on war crimes and other serious human rights violations committed in the period from January 1, 1991 until December 31, 2001 in the countries formed on the territory of the former Socialist Federal Republic of Yugoslavia (SFRJ), as well as the political and social circumstances that have in the period from January 1, 1991

until December 31, 2001 instigated the wars/armed conflicts, the commitment of war crimes, and other serious human rights violations.

**Comment:**

**For the sake of future generations it is important to investigate the causes instead of investigating only the consequences.**

*In the context of everything that was said here, I like the idea of going as far back as the 1980s. We don't want to start with consequences and ignore the causes. That is very important from the point of view of future generations. (Jasmin Imamović, Chief-of-Staff of the Tuzla Municipality, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**The hard-core nationalism began in 1941, and that's the year we should begin from in our investigation of the causes.**

*I don't agree with this, and I have already said that in several RECOM discussions. It is not a good idea to start from the 1980s because between the 1980s and the 1990s people lived well but all the while, the three major ethnic groups were strengthening their national bodies and nationalist cores. That began in 1941. Just remember 1971 and what happened to us in Bosnia and Herzegovina. What could have happened? Do you know about it or do you want me to tell you about a group of people tasked with breaking-up the Social Republic of Yugoslavia. And those are the nationalist cores that existed in all three ethnic bodies that wanted former Yugoslavia to be destroyed. (Dragoslav Mijanović, Association of War Veterans, Zvornik, BiH; National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**Human rights are being violated even today by withholding information on the location of mass graves.**

*I think it is all right to start with January 1, 1980 but I don't agree that it should end on December 31, 2001 because of the fact that in Bosnia and Herzegovina human rights are still being seriously violated because there are approximately 10, 000 missing persons. The human rights of the people in Bosnia and Herzegovina are being seriously violated even today because information on the location of numerous mass graves is being withheld. Therefore, I think that the time-mandate of this commission should be as short of time as possible in order to find information on mass graves. That's the reason the organization I represent believes that December 31, 2001 is the last possible date for an investigation into documentation of the facts. (Mevludin Lupić, Association of the Families of Imprisoned and Missing Individuals from the territory of the Zvornik municipality, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**It is necessary to extend the time period which will be investigated by RECOM.**

As for the objections concerning the time-period of RECOM's mandate, I agree with my colleagues here that the stated period is not a good solution. There should be no limits to the time-period which will be investigated, because there are terrible cases of human rights violations of victims and their families by individuals and state institutions who are in the way and obstructing the discovery and identification of victims, as well as the punishment of perpetrators. (Goran Dražić, *Together to the Truth* Association, Banja Luka, BiH, National

Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).

**Designating the year 1980 as the beginning of the time period to be investigated by RECOM can be a new apple for discontent.**

*Designating year 1980 as the beginning of the time period to be investigated by the commission can cause a lot of new conflicts.* (Mirko Šimunović, Association of Families of the Killed and Missing Veterans, Žepča, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).

**Article 10.**  
Composition of RECOM

[Option A – Recommendation of the Working Group]

RECOM is made up of 20 members distributed as follows:

- a. Bosnia and Herzegovina – five members;
- b. Croatia, Kosovo, and Serbia – three members each;
- c. Montenegro, Macedonia, and Slovenia – two members each.

**Comment:**

**It is necessary to revise the definition of human losses.**

*I think that it is necessary for Bosnia and Herzegovina to get five members for many reasons, and I don't think it is necessary to explain them. If there are three members from BiH, it means one Bosniak, one Serb, and one Croat will be on the commission, which will in the end add up to four Serbian members of the commission and four Croatian members of the commission in total. That's one thing. The second thing is the register of human losses, which I believe will require a revision. Here's one example: many victims from the community I come from, who lost their lives while having lunch or while looking for food and water, were listed as fighters, veterans, and homeland defenders, while in reality, they were killed as civilians.* (Fikret Grabovica, Association of Families of the Children Killed During the Siege of Sarajevo 1992 – 1995, Sarajevo, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).

**Ethnic minorities are being neglected.**

*I would just like to mention Article 10, in which Bosnia and Herzegovina elects five members of the commission. That's an awfully small number given the fact that we have three ethnic communities living in BiH. I think each ethnic community should give 2 members plus one member to represent the minorities, which means that Bosnia and Herzegovina will give a total of 7 members.* (Dragoslav Mijanović, Association of War Veterans, Zvornik, BiH; National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).

**It is unclear what RECOM's decision-making process will look like if RECOM has 20 members.**

*One of articles of the Draft RECOM Statute has two options – the regional commission should have 20 or 21 members. I support option A, not because of the number of members but because*

*of the math involved. It says that in order to make a decision within RECOM, it is necessary to have a two-third vote which for number 20 is not a whole number. (Amir Kulaglic, Coordination Council of the Coalition for RECOM, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**It is necessary to increase the number of RECOM members from BiH to include members from minority ethnic groups.**

*I agree with the gentleman from Zvornik that in addition to members representing the Bosniak, Serbian, and Croatian communities, there should be members from other ethnic minority groups as well. It became obvious through this consultation process that a lot of members of smaller ethnic communities were killed and victimized during the conflict, and that they should be given an opportunity to speak up about their suffering and have it documented by RECOM. Also, I agree that five members from Bosnia and Herzegovina is inadequate, and that seven members makes more sense. (Amir Kulaglic, Coordination Council of the Coalition for RECOM, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**Article 22.**

**Human Rights Violations RECOM is Mandated to Investigate**

Human rights violations RECOM is mandated to investigate include but are not limited to:

1. Killing of civilians and prisoners of war;
2. Enslavement;
3. Illegal imprisonment/detention;
4. Deportation and forceful relocation of civilians;
5. Rape and other serious form of sexual abuse;
6. Torture and other inhumane acts deliberately performed to cause great suffering;
7. Forced disappearances;
8. Confiscation and large scale property destruction;
9. Hostage taking;
10. Desecration of religious and cultural and historical buildings and monuments;
11. Use of civilians and prisoners of war as "human shields".

**Comment:**

**The crime of genocide is missing**

*Article 22 contains a list of certain human rights violations and war crimes. I am speaking from my own experience and from my own point of view, without any desire to enter an argument with any of you, that something is missing in this article and that is the crime of genocide. I don't know if it is going to be qualified as a mass execution crime or so on – that's an option, of course. But, having in mind that I am coming from Srebrenica and the Criminal Tribunal at the Hague ruled that the crime committed in Srebrenica was a genocide, I think it would not be fair to leave it out of the list of crimes RECOM will be dealing with. (Amir Kulaglic, Coordination Council of the Coalition for RECOM, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**Article 36.**

## The Role of RECOM in the Criminal Processing of Cases

RECOM is authorized to:

1. Make a recommendation to the court – in the case of criminal prosecution – to consider as significant extenuating circumstances in determining a sentence the fact that a person believed by RECOM to have conducted a war crime or a serious human rights violation, willingly disclosed to RECOM information leading to the discovery of a mass grave location or information significant for discovering other perpetrators;
2. Make a recommendation to the court to partially pardon a sentenced perpetrator of a criminal act, unless it is in contradiction with legal provisions of that specific Member State, in cases when RECOM receives from that individual information leading to the discovery of a mass grave location or information significant for discovering other perpetrators;
3. Propose an extraordinary pardon for a sentenced perpetrator of a criminal act if RECOM receives from that individual information leading to the discovery of a mass grave location or information significant for discovering other perpetrators.

### **Comment:**

**If during a court process a convicted individual failed to provide information leading to the discovery of mass graves, it is reasonable to suspect that the same person would try to take advantage of any premature sentence mitigation.**

*A convicted war crimes perpetrator or a person who ordered the commitment of a war crime, who is already serving a prison sentence, already had a chance to tell the court everything he knows, and that could have been used as extenuating circumstances in determining his sentence. Anything that happens after that, during the time the individual is serving a prison sentence, I am afraid that their cooperation would be suspicious. They might want to abuse the opportunity to be offered a premature sentence reduction. I still don't understand why that individual did not do it at the time he or she was tried, before the sentence was pronounced. (Mevludin Lupić, Association of the Families of Imprisoned and Missing Individuals from the territory of the Zvornik municipality, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**It is necessary to provide psychological support to victims to encourage them to talk.**

*Since I come from "Medica" from Zenica, I need to say that I am glad that the victims are receiving proper psychological support and counselling. Also, it is a good thing that victims and witnesses are receiving adequate protection. People need to talk, and that's why I like this concept of public hearings, but we need to be careful about that. If they had seen a therapist, then that person can also testify about the depth and the intensity of their suffering. (Nasiha Šehić, Medica, Zenica, BiH, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*

**Each victim must be personalized.**

*From the very beginning I keep urging the initiators of this process to personalize each victim, to create a file for each victim which will contain basic information such as their first and last name, father's name, their Unique Master Citizen Number (JMBG), date of birth, place of birth, the individual's occupation before the war, marital status, and if the individual had any children*

*– all very important criteria. Next – if the individual belonged to an armed formation or if he/she was a civilian, and, also very important – how that person died. That allows us to make a distinction between those who lost their lives in combat and those who lost their lives in another way. Finally, a very critical piece of information – was that person found, identified, and properly buried? (Amir Kulagić, Coordination Council of the Coalition for RECOM, National Consultation with Victims' Associations on the Draft RECOM Statute, Tuzla, BiH, May 29, 2010).*