

Article 11

If we want to establish the facts that are 100% accurate, there can be no secret files. (Jovana Ramović, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 12

*Article 12, point b) reads: “To help make political elites and societies in the member states accept the facts about war crimes and human rights violations” – I find ‘acceptance’ a subjective category and I think that the **Commission will not be able to make anyone accept anything. I believe that it should read: “to make them aware of the facts about war crimes and human rights violations” instead.*** (Jovana Ramović, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*“To acknowledge injustices inflicted upon victims of war crimes” – I think that something is wrong here. Who do we expect to acknowledge the injustices – us or those who are going to be in the Commission? Those who are with the Commission, those who support it, clearly they do need any convincing to acknowledge the crimes. I think it’s important to change this part to read: **“governments of member states are expected to acknowledge the injustice inflicted upon the victims”.*** (Edin Smailović, Faculty of Philosophy of the University in Ljubljana, Slovenia, Graduate School, Biljelo Polje, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 13

(...) Article 13 reads: “Civilians whose loss of life or disappearance was caused by the war or other form of armed conflict” – we should put a comma (,) here and continue: “with a special emphasis on children victims of war crimes”. (Almin Škrijelj, Faculty of Philosophy of the University in Sarajevo, French Language and Literature Department, Association of Lawyers and Association of the families of killed veterans, Sarajevo, BiH, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 12; point g) “To recommend measures to help prevent the recurrence of such human rights violations in the future” – I think the Commission should elaborate a complete set of recommendations concerning, first of all, changes in the education programs. By this I mean changes in history textbooks, where changes are really badly needed. (Edin Smailović, Faculty of Philosophy of the University in Ljubljana, Slovenia, Graduate School, Biljelo Polje, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 14

*I think that we should start investigation from the year **1918**. That's the time the Kingdom of Serbs, Croats, and Slovenians was formed which was later renamed to become Yugoslavia. We all originate from that state.* (Damir Nikočević, Faculty of Political Science, Herceg Novi, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*I am talking to my colleague next to me and we want to suggest a third option: remove the first two options. **The Commission must not be mandated to evaluate political and societal circumstances.*** (Timčo Mucunski, Justinijan Prvi Faculty of Law, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*(...) **the time period starting from 1980 is probably the right choice** and (...) that is the only period that has any significance for the context of the war. Why? Because we can't blame historical circumstances for a bad turn of events – it is individuals who create evil.* (Edin Smailović, Faculty of Philosophy of the University in Ljubljana, Slovenia, Graduate School, Biljelo Polje, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

(...) I have another suggestion – maybe the Statute of the Commission should contain an article specifying the obligation of the Commission to form, within a suggested period of time, a working body tasked with dealing with this particular issue [investigation of political and societal circumstances]. (Aleksandar Đorđević, Faculty of Law of the University in Niš, Youth Initiative for Human Right, Belgrade, Serbia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

I don't think that we should start investigating events from the year 1980. I think we ought to go back all the way to 1941, although it will be an additional work load for the Commission. (Seid Burić, Faculty of Law of the University of Sarajevo, Sarajevo, BiH, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 15

*(...) I think that we should not remove **"but not limited to"** because of the case of the erased residents of Slovenia because their case is neither a case of physical or psycho-physical abuse. They were simply bureaucratically removed from the register of residents and it was explained as a simple processing mistake.* (Nataša Stamenković, Justinijan Prvi Faculty of Law, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*(...) many **war crimes have been removed** from the list and if you ask me, **they should not have been removed**. There are many war crimes that do not belong to any listed categories from Option A, and true, maybe we should not list all those war crimes, but I think that it was much better the way it was before.* (Ana Oštir, Faculty of Law of the University of Ljubljana,

Ljubljana, Slovenia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 16

(...) the Commission will lose a lot of its edge if it does not have measures at its disposal to make unwilling witnesses come forward and testify. This, of course, does not apply to victims. (Ivan Đurić, Diplomacy and State Security Academy, Belgrade, Serbia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 19

Public service TV stations, previously known as state-run TV stations, have had a huge role during the war events in my country and in the countries in the region. Their role was more often negative than positive and for that reason it would be a very good idea to make it mandatory for public service TV stations to broadcast public hearings. (Danilo Ajković, Faculty of Law, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 20

(...) “Churches and religious communities” – this part should be changed to read: “religious communities” because the laws recognize ‘religious communities’, not churches and religious communities. Also, do you think that it is justified from a political point of view to tackle the issue of condemning churches or religious communities? In my opinion it is a very dangerous process and it can open the Pandora’s Box. (Timčo Mucunski, *Justinijan Prvi* Faculty of Law, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 23

(...) Article 23 reads - “persons enjoying the trust of the people in all State Parties to this Agreement” and the new version of Article 23 only reads: “persons enjoying the trust of the people”. I think it is awfully difficult to apply those criteria and find the necessary number of individuals to be nominated for RECOM membership. Therefore, I think that it would be a better idea to change this segment to read: “may enjoy the trust” because the assumption here is that each person having moral qualities, each person of integrity and so on, may potentially enjoy the trust of others, and it is almost impossible to find individuals who enjoy the trust in all six states. (Jovana Ramović, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

It is about an equal representation of ethnic communities in the Commission. I will analyse the example of Macedonia for which the Draft RECOM Statute provides two representatives from two different ethnic communities. However, the fact is that there are more than two ethnic

*communities in Macedonia and therefore I think that it should be stipulated in the Statute that **representatives from one country will demonstrate an equal interest into the victims from all ethnic communities from that country.*** (Miroslava Simonovska, High School for Journalism and Public Relations, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*(...) Article 23, paragraph 3: “Each member state will make every effort to ensure equal representation...” ‘every effort’ does not really mean anything. It can happen but it doesn’t have to. So this sentence should simply read: “**Each member state will ensure equal representation...**”* (Damir Nikočević, Faculty of Political Science, Herceg Novi, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*(...) It turns out according to the way it is stipulated here that **those who resign from their political offices today, should be able to join RECOM in two years.** For example, politicians who were in power during the war and who is active today although we all know that during their time in office they **committed horrible crimes in the Dubrovnik war zone.*** (Damir Nikočević, Faculty of Political Science, Herceg Novi, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*(...) it says here: “**prominent political figure**” (...) and I think that should be **replaced with a much more precise** term because there is a difference between a ‘political figure’ and a ‘prominent political figure’. This may be used against RECOM by member state governments once the initiative is adopted and we have to plan ahead and be ready to foil possible attacks.* (Jovana Ramović, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*(...) for me personally, this is a little too much – “the individual that has close ties with persons responsible for the commitment of human rights violations or persons being investigated for the commitment of such acts”. It sounds like **a restriction imposed in the dark middle ages** because a person can be closely connected to a person involved in war crimes but may have quite the opposite political views and behaviour that that person (...) If, however, we want to prevent the conflict of interest, we may exempt that member from voting or any activity.* (Unidentified participant of the Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

(...) this sounds like a very bad solution because anyone can be rejected as a member because of other people’s beliefs and acts. (Danilo Ajković, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

(...) I am not sure if the victims would really agree to testify if they see that former members of military or paramilitary formations are members of RECOM. Would the victims still perceive RECOM as an independent, non-political organization? (Nataša Stamenković, *Justinijan Prvi*

Faculty of Law, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 26

Why is it necessary to secure equal gender representation and why is this issue more important than the requirement to have representatives of associations of victims and minority communities as members of RECOM? (Ivan Đurić, Diplomacy and State Security Academy, Belgrade, Serbia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 27

*(...) I think that the **Election Committee should interview all candidates** because of the fact that the governments are going to have a say in the election procedure.* (Jovana Ramović, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

(...) each national assembly or law maker of prospective member states have permanent human rights committees. I think that those committees should be asked to nominate members which will be later elected by the assembly. The assemblies should apply the system we use in Macedonia named after famous French Constitutional Court judge Robert Banditer – the Banditer Principle of a double two-thirds voting system. This means a two-thirds majority vote for the law makers (the committee) and an additional two-thirds vote from the very judiciary body. My proposal comes from regulatory agencies that are mostly elected by a two-thirds majority which at the same time guarantees objectivity and a political consensus. I think that in this process it is crucial to secure a political consensus. (Timčo Mucunski, Justinijan Prvi Faculty of Law, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 28

*(...) when talking about the election of **future members of the commission**, I think that they should by all means elected in the parliaments and not by heads of state simply because parliaments are law makers and member of parliaments were elected directly by voters. For that reason I think the election by members of parliaments is the right decision.* (Edin Smailović, Faculty of Philosophy of the University in Ljubljana, Slovenia, Graduate School, Biljelo Polje, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 30

(...) Article 30, paragraph 2: “Members of the Commission can decide to limit the position of the Chairperson to a particular time period”. I think it should not read ‘can decide’ but the mandate of the chairperson should be limited to a certain time period immediately simply because that

person will always act on behalf of the commission and maybe that mandate should be limited right away. (Danilo Ajković, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 31

*(...) you have anticipated a quorum of 14 votes at least. That means that the commission can make decisions even if all representatives from one state are absent. (...) I think that this provision should be stipulated to imply the presence of a so-called '**qualified majority**'. You can still leave a two-thirds majority (...) but it has to be emphasized that **a representative from each state must be present at the time of vote**. (Boban Misoski, Kiril i Metod Faculty of Law, Skoplje, Macedonia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).*

Article 39

*(...) I think that it would be very useful to have **people from all member states included in the work of all RECOM offices**. (Edin Smailović, Faculty of Philosophy of the University in Ljubljana, Slovenia, Graduate School, Biljelo Polje, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).*

Article 44

There is an initiative already to write one and only history text book for the schools throughout the entire Balkans region. In the same spirit, the commission could make a recommendation to include the facts established by the commission in all history books. (Renata Eremić, Faculty of Political Sciences of the University of Belgrade, Peace Studies Graduate School Department, Zrenjanin, Serbia, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

Article 45

(...) if a person is unable to respond to the finding of the commission - what do we do in case someone died, as was the case with Mr. Slobodan Milošević. (Danilo Ajković, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).

*We have to be very careful with respect to Article 45 because **we cannot destroy one of the most fundamental law principles of double jeopardy**. We have to come up with a different solution here, maybe some sort of sanction for such perpetrators. (Jovana Ramović, Faculty of Law of the University in Podgorica, Podgorica, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).*

Article 46

(...) the **Final Report** of the commission must **be legally binding for the states that formed the commission**. In order to document it, we must introduce a clause that the **findings of the commission must be ratified in member state parliaments** and because it is the only way you will be able to have a legal protection for the results of your work. (Edin Smailović, Faculty of Philosophy of the University in Ljubljana, Slovenia, Graduate School, Biljelo Polje, Montenegro, Regional Consultation with Students and Young Scientists on the Draft RECOM Statute, Zagreb, Croatia, December 17, 2010).