



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria-Vlada-Government

No. 03/77
Date: 04.06.2012

Pursuant to Articles 92.4 and 93.4 of the Constitution of the Republic of Kosovo, and based on Article 4 of Regulation no. 02/2011 on administrative responsibilities of Office of Prime Minister and ministries, as amended supplemented with Regulation No. 07/2011 and Article 19 of Rules of Procedure of the Government of Kosovo No. 09/2011, Government of Republic of Kosovo, in its meeting held on 04 June 2012, took the following:

D R A F T – D E C I S I O N

On the establishment of Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (WG DwPR)

I. Composition

1. Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (WG DwPR) shall be composed of following representatives:
 - 1.1. a representative of the Office of the Prime Minister, Chair
 - 1.2. a representative of the Ministry of Justice, Deputy Chair
 - 1.3. a representative of the Office of the President, member
 - 1.4. a representative of the Ministry of Labour and Social Welfare, member
 - 1.5. a representative of the Ministry of Communities and Returns, member
 - 1.6. a representative of the Ministry of Health, member
 - 1.7. a representative of the Ministry of Education, Science and Technology, member
 - 1.8. a representative of the Ministry of Finance, member
 - 1.9. a representative of the Ministry of European Integration, member
 - 1.10. a representative of the Institute for War Crime Research, member
 - 1.11. a representative of the Government Commission on Missing Persons, member
 - 1.12. a representative of the Language Commission, member
 - 1.13. representatives of the civil society, 8 (eight) members.
2. The following are invited in the capacity of experts and observers:

- 2.1. a representative of the Kosovo Prosecutorial Council
- 2.2. a representative of Kosovo Judicial Council
- 2.3. a representative of the EU Office in Kosovo
- 2.4. a representative of EULEX Special Prosecutor's Office
- 2.5. a representative of EULEX
- 2.6. a representative of UNDP in Kosovo
- 2.7. a representative of OSCE in Kosovo
- 2.8. a representative of OHCHR in Kosovo
- 2.9. a representative of ICRC in Kosovo
- 2.10. a representative of US Embassy in Kosovo
- 2.11. a representative of Dutch Embassy in Kosovo
- 2.12. a representative of Norwegian Embassy in Kosovo
- 2.13. a representative of Swiss Embassy in Kosovo.

II. Purpose

3. The purpose of the establishment of the Working Group is to deal with gross human rights violations and serious violations of international humanitarian law in the past in Kosovo including the last war and the transition period taking into consideration the views of all communities in Kosovo in order to promote reconciliation and lasting peace, *inter alia*, by ensuring accountability, serving justice, providing remedies to victims, facilitating truth-seeking, promoting healing, taking all measures needed to restore confidence in the institutions of the State and implementing the rule of law in accordance with international human rights law and transitional justice standards.

III. Mandate

4. The mandate of the Working Group covers, *inter alia*, the four pillars of Transitional Justice including truth-seeking, reparations, justice and institutional reform.
5. In fulfilling its mandate, the Working Group shall be based on the Kosovo legislation, with special reference to Article 7 and Article 58.2 of the Constitution of the Republic of Kosovo, and shall particularly take into consideration international standards and obligations in the field of transitional justice, international jurisdiction and relevant reports and decisions of United Nations Institutions of Transitional Justice.

IV. Competencies

6. The Working Group shall be responsible for and competent to:
 - 6.1. establish a comprehensive, inclusive and gender-sensitive approach for dealing with the past in Kosovo including the last war and the transition

- period taking into consideration the views of victims of all communities in Kosovo, amounting to a National Transitional Justice Strategy,
- 6.2. design and implement a broad range of transitional justice initiatives, strategies, policies and measures to address gross human rights violations,
 - 6.3. promote a process of reconciliation among all Communities and their members in Kosovo.
7. The WG is a central focal point. It facilitates and supports dialogue and cooperation between targeted groups, state institutions, non-governmental organizations and the international community.
 8. The WG may cooperate and promote exchange of best practices with national and international organizations and academic institutions that may contribute to and enhance the purpose of the WG.
 9. In order to ensure the qualified expertise in addressing specific topics, the working group may invite experts or representatives of other institutions.
 10. Working Group may recommend amending laws and bylaws and shall participate in relevant processes to ensure compliance with transitional justice standards and promote the purpose of its mandate.
 11. Working Group may provide recommendations and advisory opinions to ministries and institutions of Republic of Kosovo, communities at the local level, citizens of Republic of Kosovo and any natural or legal person in relation to issues under its mandate.
 12. The WG may, if required, create other working bodies for the purpose of ensuring the high qualification of expertise in dealing with specific topics.

V. Operation

13. The WG and the Office are independent in exercising their functions and operate in compliance with the principles of impartiality, confidentiality and professionalism, and shall operate in accordance with the Constitution and the legislation of the Republic of Kosovo.
14. Office of the Prime Minister shall provide administrative and logistical support to the Working Group by establishing a secretariat of the working group.

VI. Rules of Procedure and Action Plan

15. The WG shall, within eight (8) months since its establishment, prepare its Rules of Procedures which shall regulate the manner and scope of work, rights and obligations, as well as any other issues of importance for the work of the WG and present them to the Government for approval.

16. The WG shall adopt, within ten (10) months from its establishment, an Action Plan for drafting of a National Transitional Justice Strategy and its implementation and present it to the Government for approval.

VII. Outreach

17. In the process of developing a National Transitional Justice Initiative, the Working Group engages in and supports an outreach program which includes the following communication channels:
 - 17.1. Dissemination of information about the work of the Working Group and the process of transitional justice.
 - 17.2. Establishing a dialogue between the affected population and the Working Group.
 - 17.3. Conducting consultations by giving the targeted groups a space to voice their concerns and supporting the possibility of ownership.
 - 17.4. Encouraging participation of the representatives of the affected population as well as NGOs by allowing them to take part in designing and implementation of transitional justice initiatives.

VIII. Standards

18. The WG shall perform all its duties and responsibilities in accordance with Transitional Justice Standards ensuring that the process of dealing with the past and reconciliation meets the following criteria:
 - 18.1. Inclusiveness - The perspective of all the relevant stakeholders including all the members of the Communities in Kosovo as well as all the victims of the conflict have been discussed and taken into consideration. The participation of the Communities of Kosovo and all the victims of the conflict in the WG as well as in the process of DwP and Reconciliation shall be ensured.
 - 18.2. Gender-sensitive approach - The special vulnerable position of women that suffered gender-based violence has been discussed and taken into consideration. The participation of women in the WG as well as in the process of DwP and Reconciliation shall be ensured.
 - 18.3. Comprehensive approach - The comprehensive approach incorporates the full range of judicial and non-judicial measures, including, among others, individual prosecutions, reparations, truth-seeking, institutional reform, vetting of public employees and officials, or an appropriately conceived combination thereof.
 - 18.4. Consultative process - The Working Group shall include the targeted population in the process of DwPR, gathering the relevant facts and information from them as well as giving them through consultations a voice and recognizing them as equal interlocutors.

This list is exemplary and non-exhaustive.

IX. International Support

19. The International Organisations/Embassies shall be invited to support the process of developing the Strategy on Transitional Justice and its implementation, by contributing the necessary resources, providing professional expertise, and providing administrative assistance within the Secretariat/Office in support of the WG's mandate.

X. Reporting

17. The Working Group shall submit annual work reports to the Government for approval and to the EU Office in Kosovo for consideration in Kosovo's progress along the path to the EU.

XI. Appointment Procedures

Government

18. The institutions mentioned in Section 1 herewith shall be required to nominate three (3) representatives for the working group and submit their nominations to the OPM within two (2) months from the entry into force of this decision.
19. Within four (4) months after this decision enters into force, the OPM, in coordination with the Ministry of Justice, the Ministry for Health, shall from these nominations elect one (1) member and one (1) replacement of each institution ensuring adequate gender and ethnic representation. The members of the WG shall fulfil the following criteria: a higher education (university degree), be respected individuals of high moral character who enjoy a good reputation, have outstanding professional experience, and have expertise in human rights, community rights, language rights, law, public relations, public administration and civil service.

Civil Society

20. The OPM shall, within two (2) months from the day this decision enters into force, make a public call via three daily newspapers distributed throughout Kosovo and on its webpage, and invite CSOs to apply for membership in the Working Group within 30 days of such publication. The applicants shall provide evidence for their expertise and substantial work in the area of transitional justice through appropriate documentation and demonstrate their motivation and vision to engage in a process of DwPR and to develop a National Strategy in writing according to the Standards set under Section 18.
21. Within four (4) months of the entry into force of this decision, the OPM, in coordination with the Ministry of Justice, the Ministry of Health, and after consultations with the experts and observers (as stated under Section I.2), shall elect eight (8) CSO representatives ensuring adequate gender and ethnic representation to ensure application of the Standards specified under Sections 18.1 and 18.2. The CSO representatives shall fulfil the following criteria: a higher education (university

degree), be respected individuals of high moral character who enjoy good reputation, have outstanding professional experience and expertise in transitional justice.

XII. Entry into Force

22. The Decision shall enter into force on the day of signature.

Hashim THAÇI

Prime Minister of Kosovo

Cc:

- Deputy Prime Ministers
- All ministries (ministers)
- Permanent Secretary OPM
- Government archives.