

## **Report on the RECOM Process: October – December 2014**

The Presidential Envoys for RECOM<sup>1</sup> ended their mandate on October 29, 2014. In one year – and in consultation with the presidents, including those members of the Presidency of Bosnia and Herzegovina (B&H) who had delegated envoys – they had jointly compiled the **Changes to the RECOM Statute** which, in their opinion, represent the legal and constitutional options for the establishment of RECOM.

### **The Seventh Assembly of the Coalition for RECM**

In accordance with the rules of the Coalition for RECOM, the Coalition Assembly resolved to support the Changes to the RECOM Statute, which it had originally adopted on March 26, 2011.

On November 14, 2014, the Coalition held its Seventh Assembly, this time in Belgrade (Serbia), with 104 delegates, representing 1950 members, taking part in it. With one vote against and two abstentions, the delegates supported the **Changes to the RECOM Statute**, compiled by the envoys of the Presidents of Montenegro, Serbia, Croatia and Kosovo, and the Bosniak and Croatian members of the Presidency of B&H,<sup>2</sup> in conjunction with the task of examining the constitutional and legal options for the establishment of RECOM in each country.

In an extensive debate, the delegates stated that the Changes “preserve the very essence of the Draft Statute, that the removal of RECOM’s punitive powers removes any suggestion that RECOM assumes a judicial authority, and that the procedure for the nomination and election of members of selection committees and members of the Commission has been considerably simplified.” On behalf of the Coalition for RECOM, the delegates strongly welcomed the changes in the funding of the Commission, which envisage that RECOM be funded by domestic and foreign donations, as well as by international organizations, rather than through contributions from states, as the Coalition initially proposed.

Delegates especially welcomed the Envoys’ position that the objectives of the Commission should include “the promotion of educational programmes in accordance with the facts established by the Commission.”

When informing the public on its support for the Changes to the Statute,<sup>3</sup> the Coalition noted that the Envoys and Presidents and Members of the B&H Presidency reached complete agreement on the Commission’s task of establishing the facts about war crimes and other human rights violations committed during the period from January 1, 1991 through the end of December 2001. The Coalition indicated that two opinions were expressed with regard to RECOM’s task of “exploring the political and social circumstances that decisively contributed to the outbreak of

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<sup>1</sup> Prof. Zlata Djurdjevic, envoy of the President of Croatia; Prof. Sonja Tomovic Sundic, envoy of the President of Montenegro; Legal Advisor Selim Selimi, envoy of the President of Kosovo; Deputy Mayor of Sarajevo, Aljosa Campara, envoy of the member of the Presidency of Bosnia and Herzegovina; ICTY liaison officer, Goran Mihaljevic, envoy of the member of the Presidency of Bosnia and Herzegovina; and Judge Sinisa Vazic, envoy of the President of Serbia.

<sup>2</sup> The President of Macedonia, Gjorge Ivanov, informed the Coalition for RECOM that he would support the decision on the establishment of RECOM if the presidents and members of the BH Presidency reach a consensus.

<sup>3</sup> The Coalition for RECOM Supports the Changes to the RECOM Statute, press release, November 17, 2014.

the wars, and to the commission of war crimes and other violations of human rights”: “it is crucial that RECOM investigate the causes of the war” and “investigating the causes of the war is possible only after the facts about war crimes have been established.” Both opinions are in full accordance with the Coalition's Proposal of the Statute of RECOM.

### **The Letter to Presidents/Members of the Presidency of Bosnia and Herzegovina**

On December 10, 2012, the Coalition for RECOM sent a letter to the Presidents and Members of the B&H Presidency, reminding them that the Assembly had endorsed the Changes to the RECOM Statute, whereby the conditions were created for a new step towards the establishment of the Regional Commission for establishing the facts about war crimes and other serious violations of human rights in the wars in the former Yugoslavia (RECOM). In this letter, the Coalition submitted that it expected the Presidents/Members of the B&H Presidency to reach an agreement on the ways in which they would inform the public and their respective Parliaments on the decision to jointly support the establishment of the Commission. The Coalition invited the Presidents/Members of the B&H Presidency to be attentive to the proposal by the President of the Croatia that all of them, within the agreed deadline, send an open letter to the public and their Parliaments concerning their joint support for the establishment of RECOM.

On the same occasion, the Coalition informed the Presidents/Members of the B&H Presidency that in the meantime it had made significant progress in documenting human losses, camps and other detention facilities in the wars of the 1990s.

On the International Day of Human Rights, the Humanitarian Law Center (HLC) from Serbia and the Humanitarian Law Center Kosovo (HLCK) set up on the website of the Kosovo Memory Book the Register of killed and missing persons in connection with the war in Kosovo in the period from January 1, 1998 until December 31, 2000. The Register contains 13,517 war victims, whose deaths or disappearances in connection with the war is confirmed by 27,511 documents.

For three years the Center for Dealing with the Past – Documenta, from Croatia, and the HLC have been jointly conducting empirical research on victims who lost their lives or went missing during the war in Croatia, by taking statements from witnesses and family members.

In late 2013, the Association for Transitional Justice, Accountability and Remembrance in B&H (TJAR) and the Center for Democracy and Transitional Justice (CDTP) launched a joint project, “Mapping camps and other detention facilities in B&H,” which directly contributes to fulfilling the part of RECOM’s mandate that refers to compiling the list of the places of confinement connected to the war and individuals who were unlawfully confined and tortured.

### **The current “standstill”**

Given that the new Presidency was elected in B&H<sup>4</sup> after the Envoys, in consultation with the Presidents and Members of the BH Presidency, had drafted and adopted the Changes to the RECOM Statute, the Coalition is obliged to consult with the new Members of the Presidency: the

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<sup>4</sup> The Presidency of Bosnia and Herzegovina was formed on November 17, 2014.

Croatian Member Dragan Covic, and the Serbian Member Mladen Ivanic.<sup>5</sup> Also contributing to the current “standstill” of the RECOM process were the presidential elections in Croatia,<sup>6</sup> held on January 11, 2015.

If the year 2015 sees the kind of political support RECOM enjoyed in 2014, prospects will be solid for post-Yugoslav countries to begin constructing – for the first time in the history of post-conflict societies, independently, and with no external conditions and pressure from the international community – a regional mechanism for dealing with the past that has the potential to eliminate the deficiencies of criminal justice as well as to remove the political obstacles to finding the remaining mass graves, establishing the facts about all war crimes, and ensuring respect for the experiences of others and their dignity.

### **The Tenth Forum for Transitional Justice in Post-Yugoslav Countries**

**“The only unit of measurement is today’s rally of Radicals here in Belgrade. I’m asking you now: Who are the winners? Just imagine the situation ten years ago – would it have been possible for us to talk in this room while they protested outside? There would have been an unnaturally disproportionate exercise of power, violence and might against a group of people who believe in basic human values. Today we are here, and although some have lost a lot, especially their loved ones, our system of values triumphs over those losers protesting in the square.”<sup>7</sup>**

The Tenth Forum was dedicated to the achievements of transitional justice, the promotion of the use of facts in works of art, and listening to the voices of the victims. The Forum was held on November 15 and 16, 2014 in Belgrade, and it was organized by the Coalition for RECOM. The Forum was attended by 158 members of the Coalition for RECOM and 150 representatives of civil society organizations, artists, writers, academic researchers of transitional justice, journalists and other professionals or activists dealing with transitional justice in post-Yugoslav countries. At the Forum, twelve panelists talked about the achievements in the field of transitional justice from the perspective of civil society and academia; sixteen panelists discussed the use of facts in works of art; and twelve victims spoke about their personal experiences in the war and about the search for the mortal remains of their loved ones.

The Forum was opened by Natasa Kandic, Project Coordinator of RECOM, and by Professor Zdravko Grebo, the Public Advocate of the Initiative for RECOM. In their key-note addresses, they announced a new phase of the RECOM process, in which the Coalition will monitor, help and encourage state institutions to establish RECOM. They invited the members of the Coalition to prepare for new activities and reminded everyone of the rapidity with which changes take place in the Balkans.

Professor Grebo said: “When it comes to civil society and the non-governmental sector, we have completed our mission. Of course, I myself will not let anyone use our achievement unchecked and solely according to their own ideas. We have reached a momentum when the Heads of

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<sup>5</sup> The Serbian Member of the BH Presidency, Nebojsa Radmanovic, did not participate in the process of RECOM.

<sup>6</sup> The second round of presidential elections is to be held on January 11, 2015.

<sup>7</sup> Branislav Radulovic, a lawyer from Montenegro, member of the Coalition for RECOM.

States, through their Envoys, should take the matter into their own hands, because we cannot, even if we wanted to, complete the task ahead of us on our own.”

### **Panel I: Achievements and Priorities in Criminal Justice – the Civil Society Perspective**

Criminal justice for the crimes committed during the wars of the 1990s in the former Yugoslavia has not yet come close to achieving its objectives. In all countries of the region, the disproportion between the crimes committed and the crimes prosecuted continues to stand out. At the same time, there is not a single proceeding before national courts that honestly and objectively discloses the role of the state in organizing and carrying out the crimes, or that prosecutes top officials, the masterminds of the crimes. Of particular concern is that a strong political influence on the judiciary is still obvious in all countries. This influence is manifested in different ways, but the most obvious one is the obstruction of war crimes trials. The panelists and participants in the debate concluded that the number of court proceedings steadily declines every year.

**Tea Gorjanc Prelevic**, from the Human Rights Action organization, said that, despite the European Commission’s recommendation that the practice of impunity for war crimes be terminated, the authorities in Montenegro act as though the prosecution of war crimes is pretty much completed. “The lack of will, obvious on all levels, to punish war crimes in Montenegro is a logical consequence of the fact that the current Prime Minister of Montenegro assumed the same position at the time when the crimes were committed. For a justice system that strives to join Europe, this very fact should be an incentive to demonstrate independence and a willingness to understand and deal with the crimes from the past. And although it is clear that Montenegro does not have such a judiciary in place, it is by now quite clear that the European Union insists on such a judiciary in order to accept Montenegro.<sup>8</sup> So, in the end, some hope still remains,” said Gorjanc Prelevic.

**Vesna Terselic**, Head of Documenta, made a similar remark on the attitude of the authorities towards the prosecution of war crimes in Croatia. “In Croatia,” she said, “the State Attorney’s Office has been entrusted with dealing with those who in the 1990s participated in covering up the crimes. It was reasonable to expect that in the new political circumstances some professionals would take advantage of the opportunity for better work, but this has inevitably meant that the continuation of interrupted procedures has been entrusted to those individuals who, out of sheer political opportunism, have deliberately ‘forgotten’ about them, so as not to jeopardize their position or promotion in the police structures or the State Attorney’s office,” said Terselic.

In Serbia, criminal justice for war crimes has had modest results “compared to the scale and character of the crimes committed during the wars in the former Yugoslavia, despite a solid legal and institutional framework,” said **Sandra Orlovic**, Humanitarian Law Center executive director. With regard to the system of protection and support during war crimes trials, first the victims and then the witnesses bear the worst consequences of the irresponsible actions of institutions. “One of the reasons for such modest achievements in the field of prosecuting those

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<sup>8</sup> ”There have been no serious efforts to combat impunity for war crimes. ... Montenegro must step up its efforts to combat impunity and to effectively investigate, prosecute, and punish war crimes in accordance with international standards.” Report of the European Commission on the Progress of Montenegro in 2014, as quoted by Tea Gorjanc Prelevic.

responsible for war crimes is the fact that Serbia, unlike B&H and Croatia, lacks a Strategy for War Crimes Prosecution. In this regard, the adoption (and application) of a Strategy, which would bind all relevant institutions to assume greater responsibility and undertake specific tasks to improve the prosecution of war crimes in the near future, is imperative," said Orlovic.

Of all the countries in the region, B&H conducts the largest number of war crimes trials. Such a vast judicial apparatus was supposed to be an adequate response to the fact that the largest number of crimes was committed in B&H and that B&H has most victims. **Dzenana Karup Drusko**, from the TJAR, drew attention to the state's failure to implement the National Strategy for War Crimes Prosecution adopted in 2008. The Strategy envisaged that all proceedings of complex cases be completed by 2015, and the rest by 2023. "It is quite clear that these deadlines will not be met," she concluded.

In B&H too – which carries the heaviest burden of war legacy – the judiciary faces political obstruction, despite the fact that the country's status is still one of an international protectorate. This was the conclusion by the European Commission in its report on Bosnia and Herzegovina's progress in 2014. This is particularly evident with regard to agreements with other countries in the region, which, among other things, are designed to allow the extradition of nationals suspected or convicted of war crimes. Dzenana Karup Drusko spoke about that as well: "No small number of persons against whom Bosnia and Herzegovina is conducting criminal prosecution, including those who have been legally adjudicated, find their refuge in Serbia, Montenegro or Croatia, through dual citizenship. In addition, the agreements Bosnia and Herzegovina signed with Serbia, Croatia and Montenegro on the execution of criminal sanctions are not being respected (e.g. the cases of final judgment against Momir Savic, Bosko Lukic, Velibor Bogdanovic, Mirko Todorovic). Most of the unresolved interstate issues on the prosecution of criminals have been resolved politically, by signing protocols and agreements, but those have not solved the fundamental problems," noted Dzenana Karup Drusko.

In contrast to B&H, Kosovo has a very limited local capacity to prosecute war crimes. For several years now, EULEX has been narrowing its mission and transferring responsibilities to the Kosovo authorities. "The question is how will the Kosovo institutions cope with their greater obligations to the victims of the war in general, and specifically to missing persons. Generally speaking, sufficient political support is still lacking, and so are adequate mechanisms for the collection of relevant information for the investigation of war crimes and missing persons. Witness intimidation is still a worrying problem, even though the police have made significant progress by establishing the Directorate of Witness Protection," said **Nora Ahmetaj** from the Center for Documentation, Research and Publication. She urged the NGOs and the Coalition for RECOM to encourage the European Commission to develop a strategy of transitional justice in post-conflict societies which would replace the obligation of "cooperation with the ICTY" – an obligation that has been seen as an instrument of transitional justice for years.

Discussing the achievements and priorities of the Hague Tribunal, **Mirko Klarin** pointed out that the most valuable legacy of the Tribunal are judicial facts: the facts of what happened, what the victims suffered, how it happened. "We may not have always accurately determined who the culprits were – certainly, that's a serious drawback. But even without identifying the guilty persons, it is extremely important to preserve for the future the facts that have been established,

and to present them in the right way to the communities of victims - and also to the communities to which the perpetrators belong”, concluded Klarin.

### **RECOM Process: Professor Žarko Puhovski**

“We kept on failing, time and again, we suffered rejections, we begged, they refused, they kept saying, ‘Wait, we’ll see,’ and somehow some of them got sick of us. And that’s the current state of affairs. It is important, however, to bear in mind that we did not reach what is called a ‘point of no return.’ That’s the point of irreversibility. Everything can still change. We could not choose whom to talk to, but we talked to those who, if they had good will, could do something. The question was whether we could convince them that it would be good for them to do so. But now we come to the point when we have the clear position of the Croatian President, shared for now by two and a half other Presidents. And that position, roughly, sounds like this: ‘The President, in consultation with the other Presidents of the post-Yugoslav states, gives to his Parliament a statement of his support to the RECOM process, and therefore the President requires that the Parliament take the steps necessary to make RECOM become what it was intended to be from the very beginning – an interstate, i.e. a regional commission for establishing the facts about war crimes and other serious violations of human rights committed in the territory of the former Yugoslavia.”

“And so, our great success, should it ever come about, would be to disseminate all that nastiness to the public of the post-Yugoslav states. But that would be a success in the sense in which Zdravko Grebo spoke about it in his keynote address – preventing what is now a post-Yugoslav victimology competition, as to who has the most victims, and who then has the best strategic position for the next conflict. This would be prevented if we succeed in the things we have been doing. And that’s why we are in fact dealing more with the future than with the past.”

### **Reparations for the Victims of Wars in the Former Yugoslavia**

**Igor Cvetkovski**, from the International Organization for Migration, concluded that, in the post-Yugoslav countries, reparations and the establishment of truth, the very basis of transitional justice and its practice, have been ignored and swept aside.

The panel was moderated by **Nenad Golcevski**, Outreach Program, ICTY.

### **Panel II: Achievements and Priorities of Transitional Justice – Academic Perspective**

**Professor Svetlana Slapsak** strongly advocated for a gadfly<sup>9</sup> ethic in contemporary Balkan politics and societies. As she put it, “In narratives formed by the newly created identities, there doesn’t seem to be any room for accountability, punishment and reconciliation. This area can be installed in our new societies only through the cooperation of activism, academia and the arts.

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<sup>9</sup> One of Plato’s more successful figures – a metaphor from *The Apology* (30e-31c) – when Socrates warns the Athenians that if they kill him, they would lose the gift that God has given them: namely, to have someone who constantly reminds them of their problems, needling them, making them think. He compares Athenian democracy to a large and noble, but slow and immobile horse, whom only a gadfly can move.

However, the state system itself, with all its injustices that are now becoming disclosed in impermissibly large numbers, is not the target of these demands.”

Among concrete achievements in the field of transitional justice in the Western Balkans, **Jelena Subotic**, Assistant Professor at Georgia State University, singled out the creation of an archive of documents and the introduction of the concept of “transitional justice” into public consciousness. Subotic explained these achievements in the following way: “Thanks to the activity of the ICTY and, to a lesser extent, the national courts for war crimes, today we have many documents and much information on the human rights violations of the 1990s, and their value is priceless. None of these documents would exist today without international courts and the persistence of human rights activists in the pursuit of international justice. While in the former Yugoslavia transitional justice might not be so popular, nor treated with the respect it deserves (and really needs), one very important fact should nevertheless be noted: namely, that everyone knows by now what “transitional justice” means. This is no small thing. Activists in the field of transitional justice have managed to incorporate the idea of post-conflict justice and dealing with the past into the overall national discourse. We may not like everything it has produced, but the dialogue is still there. This is a very big difference compared to the state of transitional justice fifteen or even ten years ago. Transitional justice is present, and this will not change.”

**Jasna Dragovic Soso**, Senior Lecturer at Goldsmiths, University of London, indicated that, at least in the professional literature, “truth commissions are essentially political institutions. The truth these commissions transmit inevitably privileges one narrative of the past, thus in fact suppressing or ignoring all other narratives. Thus, decisions about which narrative would be privileged, how to define victims and perpetrators, or how to determine the cause and responsibility for the events and crimes that any truth commission is trying to describe, are ultimately political decisions and their significance is huge. When it comes to recognizing the inherently political nature of truth commissions, I think it is a good starting to point precisely to RECOM’s approach, which is primarily aimed at establishing the facts and naming individual victims. Creating an archive of officially accepted and confirmed facts about human losses and violations of human rights in the region, along with a narrative that focuses on the victims, is the first step towards something I consider very important- a dialogue about the past.”

**Eric Gordy**, Lecturer at the University College London, said that in his opinion, which had emerged out of his research and study, “the foundation for sustaining dialogue about the past and overcoming conflicts related to it is shared memory, built not only on established facts but on mutual recognition and acknowledgement. Generating this is a process that requires openness and clarity, and probably also some emotional distance from the facts and events that are being considered.... the road away from incoherence involves free communication – not only across the national and the symbolic realms, but also between institutions and the public. Over the last two decades this is what has happened the least, and it is what is needed the most.”

## **Discussion**

Jelena Subotic’s praise of the Hague Tribunal and the archive of documents generated most reactions. **Munira Subašić**, President of the Association of the Mothers of Srebrenica and Zepa, warned that “the Hague Tribunal will in the end be assessed by the victims – whether it should

get a pass or fail, regardless of who defends it and how much. Anyone can say what they want, but we the victims have the right to say whether its mandate was good.” **Simo Spasic**, President of the Association of Families of the Kidnapped and Murdered in Kosovo and Metohija, supported Munira Subasic’s position, adding that “it is the victims who will ultimately decide whether to give support to any court, including the International Criminal Court in The Hague.”

**Amir Kulagić** from Srebrenica was very critical of the President of the Hague Tribunal: “We shall erect two walls, two commemorative pillars at the entrance to the Potocari Memorial Center – the Pillar of Shame and the Pillar for Honourable People. Mrs. Subotic, Mr. Theodor Meron will certainly be at the top of this Pillar of Shame, whether you like it or not.”

**Dragan Pjevač**, a refugee from Croatia and President of the Coordination of Serbian Associations of Victims’ Families, whose mother, Boja, was killed by members of the Croatian special police in September 1993, together with dozens of villagers from Serbian villages in Medacki Dzep, believes that the ICTY’s acquittals have damaged the victims in both Serbia and Croatia: “We must conclude that the ICTY’s recent acquitting judgments have sent the process of dealing with the past all the way back to its beginnings, and perhaps even farther back. I have in mind Serbia and Croatia especially. The process of dealing with the past has been stopped. I can illustrate this with Croatian Defense Minister Ante Kotromanovic’s first comment after the acquittal of the Croatian generals: “Now we are as clean as a whistle.””

Participants also offered their views on the Initiative for RECOM, often confusing the Initiative with the future Commission.

**Andjelko Kvesić**, Representative of the Croatian Association of Detainees from Bosnia and Herzegovina, commented on the achievements of the RECOM process: “I’m not absolutely satisfied with what RECOM has done so far, and with the fact that it hasn’t managed to introduce the Croat population from Bosnia and Herzegovina into its activities.”

**Kada Hotić** from the Association for “Mothers of Srebrenica and Zepa” said: “I was happy about RECOM at the beginning. I still think it has some results, but I am confused – what have we defined, what will be the conclusion, and what will be submitted to the governments.”

**Vesna Teršelič** called for patience and more energy: “More energy has still to be invested in getting the Initiative for RECOM closer to everyone. We need to continue to explain why it would be so important to have a commission that will further research the facts of the crimes and of the fate of the victims and the perpetrators of these crimes. I understand that we are impatient, and I especially understand the impatience of all those from the associations of victims, because it’s been more than twenty years now, since 1991, and so little has been done through trials and through all other forms of dealing with the past. A big responsibility is on all of us to be successful in bringing everything we propose through this initiative closer to the public in our countries.”

**Kushtrim Koliqi** from INTEGRA of Kosovo criticized the Inter-Ministerial Group for Dealing with the Past, founded by the Prime Minister of Kosovo, because it includes representatives of governmental and non-governmental as well as international institutions, but has no

representative of the victims. According to him, this is a failure of the Inter-Ministerial Group, which has a mandate to draw up a Strategy for Dealing with the Past, that is, for dealing with the legacy of the war. And the legacy of the war is, in fact, the victims.

**Branislav Radulović**, a lawyer from Podgorica, said that holding the Forum on the same day when Seselj holds his public protest is a great achievement of transitional justice: “The only unit of measurement is today’s rally of the Radicals here in Belgrade. I’m asking you now: Who are the winners? Just imagine the situation ten years ago – would it have been possible for us to talk in this room while they protested outside? There would have been an unnaturally disproportionate exercise of power, violence, and might against a group of people who believe in basic human values. Today we are here, and although some have lost a lot, especially their loved ones, our system of values wins over those losers protesting in the square.”

**Amir Kulagić** from Srebrenica: “What remains for the victims, what remains for the Srebrenica victims after twenty years, except to talk? Our story has many goals. First, to induce empathy in those who do not see us as victims. Second, to incite the academic community, the judicial community and civic organizations to be part of the front which will give us at least some justice. Thirdly, I feel that if mother Munira or mother Kada, or any other mother doesn’t speak up about her suffering, or that if I don’t speak about my suffering – I feel that I am betraying all those victims and that I have become an accomplice of those who killed our loved ones.”

Kulagić added his assessment of the achievements of the RECOM process: “I am happy to see that the victims haven’t lost confidence in the Initiative for RECOM and are ready to continue to fight for it to become what we always wanted it to be. And that should be the message of our meeting. Don’t be impatient. If we fail to carry this burden through to the end, our initiative will have failed. And one more thing: let’s not get too carried away by talking about how exclusive RECOM is. RECOM is really the only good thing in one segment of transitional justice, but how to integrate it with other pillars of transitional justice or its mechanisms is the real question?”

**Fikret Grabovica**, President of the Association of the Parents of the Murdered Children of Sarajevo, said: “RECOM is really a good idea, but the extent to which the objectives, envisaged by the Statute, will be realized is another question. As Mr. Andjelko Kvesic has mentioned that he is the only representative of the Croatian associations of Bosnia and Herzegovina, the question is whether and to what extent RECOM’s tasks will be realized in the first place, if Bosnian Croats and Bosnian Serbs and their associations are not represented appropriately. We must put effort into including all those who will be able to respond and who will participate in the implementation of all these tasks. Because if that doesn’t happen, I am afraid the implementation of RECOM will suffer from many shortcomings.”

**Milisav Stojković**, President of the Center for the Protection of Families of War Victims from Kosovo and Metohija, raised the question of equal treatment of victims and criminals: “Do we really need another hundred years, as with the First World War: some saying one thing, others another? When will a realistic attitude and reasoning ripen which will stop us from equating victims and aggressors, something that is being done everywhere today? How much longer will we also have to continue hearing about criminals and aggressors?”

**Mirjana Učakar**, from the Association of the Erased from Slovenia said: “In Slovenia we have hundreds of war veterans, heroes. We don’t say anything about the murdered young soldiers, nineteen and twenty years of age. We have only heroes who won the ten-day war. We have a president who does not care about the problems of the Erased.”

**Temelko Risteski**, Dean of the Law School in Skopje: “I urge us all to stand up to the divisions created by politicians, because in the Balkans, divisions along national or religious lines can easily turn into antagonistic oppositions. We have seen what civil war really is. Today we spoke here of the consequences of the civil war, of the difficult consequences. We have heard terrible things. We must not let it happen to us again. Life is the highest human value, and so we should fight to create a climate in which we can live together.”

The panel was moderated by Nenad Golcevski, Outreach Program, ICTY.

### **Panel III: Victims’ Perspectives**

**Bekim Gashi** is from the village of Trnje, in the municipality of Suva Reka, Kosovo. On March 25, 1999, members of the 549<sup>th</sup> Brigade of the Army of Yugoslavia killed at least forty villagers from Trnje, among whom were Bekim’s mother Hyra and four sisters: Selvete, Luljeta, Blerta and Lumtrurije. Their bodies have not been found. For the war crime in the village of Trnje, the War Crimes Prosecutor of the Republic of Serbia issued an indictment against two officers of the 549<sup>th</sup> Brigade. The trial has not yet commenced.

“I do not know if you can imagine my mental state, but if only for a second you can glimpse into my soul, you will feel my pain; for me this is the greatest pain in the world. I and all Albanians want to live in peace and we want to have good neighbourly relations with the Serbs. This also obliges the Serbian state and people of Serbia to apologize for the crimes, for the terror and barbarism against the Albanian people.”

**Nada Bodiroga** was born in Slavsko Polje, Croatia. Her parents, Danica and Teodor Samardzija, stayed behind in the village after Operation *Storm* by the Croatian forces on August 4, 1995. She is still waiting for the results of the analysis of the mortal remains found on the doorstep of her parents’ torched house.

“The answer was – I heard every word: ‘The remains found are not of human, but animal origin.’ Again, I suffered a shock. I don’t even remember how I got out of the police building. I still cannot sleep. I just do not know anymore whom to turn to, whom to ask, whom to believe. I ask only one thing – to inform me in writing whether the analysis of the exhumed remains has been conducted and of what nature they are. I will go on. I won’t give up. I want the truth. I have the right to know the truth.”

**Kada Hotić** from Srebrenica, member of the “Mothers of Srebrenica and Zepa”, lived with her husband Senad and son Samir in Srebrenica. Both were killed between July 11 and 17, 1995. “He has never come back, not even today... I have acquired the courage, the strength to fight and look for the missing, to look for the perpetrators. I get tougher, I cry a little, and then I say again

– at least I am not ashamed of anyone. No one in my family was a criminal. Praise be to beloved Allah, no one! I have my suffering, my tears, my pain. But how does a criminal fall asleep when the images start coming back? I say, that's harder for him. We received a letter from Vlasenica in which one such man described a similar life, a life that I would never want anyone to have, even those who killed my child.”

**Suncica Antić** is a displaced person from Kosovo. She lives in Serbia. On July 31, 1999, in the village of Koretin, in the municipality of Kosovska Kamenica, her husband Negovan and her uncle Novica Ilic were killed. KFOR buried them at the cemetery in Kosovska Kamenica. For fifteen years she was unsuccessfully trying to obtain from the administration of UNMIK and KFOR a document that would verify that her husband had been killed. Only a few months ago was she able to get a death certificate, on the basis of which she has managed to obtain basic welfare for her child and herself.

**Mevludin Lupić** comes from Zvornik, from the Lupic family, fifteen of whose men were killed between June 1 and 7, 1992. His father Ramo, uncle and brothers, cousins were all shot at Gerina klanica in Karakaj, in Zvornik. Thanks to the family members' insistence on testifying before the investigating judge in Belgrade, and thanks to their logistics, Mevludin directly contributed to the Office of OWCP's indictment of the Zvornik municipality wartime President and Commander of the Territorial Defense unit. He was indicted for the murder of approximately seven hundred men, captured on June 1, 1992 in Bijeli Potok.

“When the trial was completed in Belgrade, and when I saw my father's name and the confirmation of his death in the text of the judgment, I was hoping that this kind of justice would be served. But the verdicts were disastrous. The man who had all the power, got six years. The man who commanded the Territorial Defense and all those units stationed there, was sent to prison for fifteen years. Our suffering will remain with us, and you can perhaps comfort us with your compassion, because we need it...”

**Ljubisa Filipović** was displaced from Kosovo and is now living in Montenegro.

“With the help of the Great Britain Fund, I organized that ten houses for returnees be built in Prizren. These houses are erected on old foundations, but no one has moved in yet. There is no freedom of movement, and no one can guarantee the returnees' safety, they don't have schools in their own language, nor employment, and so no one can survive and live there. We should be working on reconciliation, on return, permanent return. I believe that, first and foremost, people must get reconciled. It is only then that return is possible. There is no other way.”

**Marica Šeatović** is from Novska in Croatia. Her husband, Mihajlo, was killed on November 21, 1991, together with the couple Iso and Sajka Raskovic, and Ljubomir Vujic, all in the Raskovics' family home. They were killed by members of the “Tigers,” the Croatian Army's First Guard Brigade.

“Let me tell you, I went to all those court hearings. Only those who are strong, who have a strong will, only they can take it and go through all those courts, in any country of the ones that have recently emerged. All those wrongs you have to suffer through in these courts, when defendants or their commanders lie, lie while looking at you in the eye, you simply can't endure it. It's

inappropriate. In the end, in the retrial, both defendants got acquitted. And so was the one tried in absentia. ... Now in the final judgment, I have not read it, but, generally, the judge seems to have somehow explained that the Croatian state was indeed responsible, because my parents were killed by Croatian soldiers. So here I have some kind of satisfaction maybe.”

**Amir Kulagić** is from Srebrenica. His father Safet was killed on May 8, 1992, by a gunshot in the back. He was about sixty years old, and 100 percent disabled. He was on crutches, both of his legs broken.

“My father was one of the examples of a crime without a punishment. Among us here, there are many similar experiences – we have the facts but no recognition. Many crimes will remain without punishment, and they will certainly remain long in the hearts of all of us who lost someone. I thought that a man could die only once – when he loses his physical life. But finding bones in four or five mass graves tells us that you can die a second time. They first dismembered the body, then scattered its parts around. ... Not only did they dismember the bodies, but after that they systematically denied that those people ever existed. This is what comes hardest in the end – it lands on you like the final blow.”

**Nikola Šašo** is a refugee from Croatia. His parents, Ljubica and Petar, lived in Banija, in the village of Ljeskovac. The mother was bedridden. Nikola’s parents were killed on August 5, 1995, in Dvor na Uni. They left the column of refugees and signed up to remain in Croatia.

“We waited far too long, for nineteen years. My wish is that you find peace of mind like we did. **We buried our parents in Belgrade. Their bones got their eternal home. We are satisfied with that.** Now, this second part that needs to happen, finding those who committed the crimes – that in itself will be yet another torture.”

**Munira Subašić** is President of the “Mothers of Srebrenica and Zepa”. She said: “In the Srebrenica genocide I lost twenty-two members of my immediate family, and over a hundred from my extended family. Last year, I buried two tiny bones of my son Nermin, found in two mass graves, twenty-five kilometers apart. And yet, I did not give birth to such a child – my child was born with hands and feet and eyes, a head and all. There. But then again, he is with 6,500 of his friends, neighbours, friends, so I’m at peace, sort of. **I have found at least some peace.**”

**Desanka Pejčinović** is a displaced person from Kosovo. She last saw her nineteen-year-old son Slobodan on March 26, 1999, when after breakfast he went to the city of Pec/Peja. Her neighbour told her he went over the hill with his Albanian friends.

“We are all ready to forgive everything and to be humiliated for the sake of truth. They are neither among the dead nor among the living, and so I beg, not only RECOM, but all people of good will, of good character, I beg them wholeheartedly to help us. It is unbearable to wait for the bones, to make him a grave, to pay mother’s dues. I am sorry if I am burdening you, but it’s hard for me, you understand me better than anyone else.”

Desanka read a poem by Dragica Majstorovic, whose son Ivan, a junior in the Pristina high-school, disappeared on August 19, 1999:

*Murderer, you will be forgiven, just tell me where my son lies buried?  
Did you rest a stone on his breast or scatter over him fine sand?  
Perhaps you laid him in my field?  
How did you convict him? What guilt did you find in him? What did you tell him at the end?  
Did you have his eyes covered? Or did you look the child bravely in the eyes?*

The panel was moderated by **Nataša Kandić**.

#### **Panel IV: Using Facts in Theater Plays**

An introductory video was screened, with excerpts from six theater plays that deal with the war in Yugoslavia and the facts concerning it. The excerpt from *Hypernesia*, directed by Selma Spahić (B&H), was especially funny, “because it shows the crazed residents of a Sarajevo skyscraper whom a soldier at the border orders into lines by nationality, then asking them to sign a document that they are voluntarily leaving their property... When you watch the whole video, you can see for example young men who play themselves (*Generation 91-95*, directed by Borut Šeparović, Croatia), whom their parents or society wanted to push into the war through their poisonous ideologies of hatred. You can also see Kosovo society (*Patriotic Hypermarket*, co-produced by Novi Sad, Pristina and Belgrade), in which both Serbs and Albanians acknowledge that “both are shit“ and that too much suffering had been inflicted by stupidity, corruption, and primitivism. You can see a segment from *Aleksandra Zec* (directed by Oliver Frljić), recounting a real event – the murder of young Aleksandra Zec, her father and mother, and the guilt and responsibility burdening the conscience of Croatian society... We then saw a theater report on the Srebrenica survivors (*The Potocari Party*, directed by Stevan Bodroža, Serbia), as well as a report on the death of the Erased, directed by Oliver Frljić, which shook the public in Slovenia.

The session was moderated by theater critic, **Bojan Munjin**.

#### **Using Facts in Film**

The films selected are based on generally accepted facts, in some cases established before the court, but not generally known to, or ejected from the public realm. The selection included the experiences of people whose lives were dramatically changed by the war, with full recognition that it had changed all of our lives. In accordance with the primary focus of the Initiative for RECOM, the selection highlighted the views of the victims. The aim was to examine and comment on the role of film as a means of making that view accessible to all, but also the role of film as an instrument of exploring personalities and context in relation to this specific and neglected problem.

*Three Windows and a Hanging*, written by **Isa Qosja**, focuses on a raped Albanian woman – a victim who becomes a criminal after she reveals her story to the media. Director **Janko Baljak**

spoke about the thorough research that went into his film *Vukovar – Final Cut*, and the unique experience of working on the first co-production between Croats and Serbs for this type of film. **Ivana Lalić**, author of *Witnesses*, showed footage of the statements of key witnesses in court trials and cases of violence against civilians in Kosovo. Serving as a protected witness drastically changes one's future life in the community. It also changes the witness's understanding of the events he or she testifies about, changing sometimes the rest of their lives and personalities, including their identities. *Children Like All Others*, a film by **Pjer Žalica**, looks at children who emerged from the war physically and mentally injured. Revealing their inner world, Žalica pointed out that in B&H there are no children undamaged by the war.

The session was moderated by Director **Lazar Stojanović**.

**Closing remarks:** Žarko Puhovski

“Our achievements are still hanging in the air, but they exist. We have a great opportunity to move from civil society into the intergovernmental sphere. That in itself would be an extremely rare achievement for any civil society. In other words, it launches a whole new phase.

If RECOM succeeds, its establishment will send a general signal to the whole region of the former Yugoslavia to interrupt all war crimes trials. This is not necessarily connected or logical, and it is not right, it is actually bad - but I am convinced that this is what will happen if RECOM is established. People will say, ‘Well, OK, now they will do it, let's leave the trials, it's been a long time, we won't bother anymore, let the Commission do the job.’ Because in the countries we live in, courts are the single worst part of the state organization. Why? Because they themselves don't believe that they are part of the state organization. Courts always talk about the state as something they themselves are not. And hence, they have been handling war crimes trials – as has been repeatedly shown and said here – as homework imposed from outside. After RECOM, no one will pressure them anymore from the outside - or from the inside, for that matter. This is the sad reality. And the second thing that seems terribly important to me is justice. This year is the centenary of the First World War. So many lies, so many misconceptions, so many nationalisms, after a hundred years, in the interpretation of the First World War, show that one should not expect that after “only” twenty-five years since the Yugoslav wars everything will become clear.

How much more is there to be done? Even if we transfer our work to others, to the state, we still have to subtly work with the public about what our side had done. Since everyone talks as much as they want about what others did. There is no way that the majority of perpetrators will even be identified, let alone punished. We need to live with that. What needs to be done now is to shame the political positions that led to the wars. In doing so, we will do one other thing that everyone here rejects: we will equate the victim and the aggressor, because we will count and name the victims, and both sides had victims. If it just so happens that the circumstances under which the deaths during the war occurred remain part of RECOM's mandate, we will have the basis to finally end the war.”

## Closing remarks: Nataša Kandić

“I am an optimist. In the debate on RECOM’s tasks, and proceeding from the Christian idea that all people are equal in death, the view was gradually crystallized that RECOM should compile a list of human losses, civilians and combatants, or as Zarko says, ‘victims and aggressors,’ and to determine the circumstances in which they lost their lives. As regards the relation between the courts and RECOM, we have concluded that RECOM – thanks to its regional character and intensive data collection over a limited period of time – is in a good position to eliminate the limitations of trials, limitations that, among other things, exist due to difficulties in obtaining evidence possessed by more than one country. RECOM thus has the potential to encourage the trials, which are fewer today than five years ago. That was the conclusion made by nongovernmental human rights organizations at yesterday’s panel as well. One trial takes several years, final judgment are scarce, victims are disappointed in trials, court services invite them to testify and then never get back to them again. All the activities of RECOM will be organized within a predetermined time-frame – i.e. within three years – during which time a high number of certificates and other evidentiary materials will be assembled. That will bring great pressure on the courts. In addition, the establishment of the Special Court for war crimes committed by members of the KLA is a strong legal argument against the pessimistic attitude that the establishment of RECOM would terminate war crimes trials. At stake here are two mechanisms: RECOM can encourage new trials, while the facts established by courts will help RECOM create a complete picture of what happened.”

## The Initiative for RECOM in the Media

In the period covered by this report, the media, particularly in Croatia and Montenegro, have extensively covered the decision of the Assembly of the Coalition for RECOM to support the Changes to the RECOM Statute suggested by the Presidential Envoys, and the Forum for Transitional Justice. Journalists reported on these events in the context of the rally held by Vojislav Seselj, highlighting the contribution of the Coalition for RECOM in alleviating victims’ fears, sown during the war by the Chetniks. The reports generally concluded that RECOM has become an interstate project.<sup>10</sup>

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<sup>10</sup> **Rekom će utvrditi činjenice o ratnim zločinima u eks-Jugoslaviji** [RECOM will establish the facts about war crimes in ex-Yugoslavia], Tportal.hr, 11/18/2014: <http://www.tportal.hr/vijesti/hrvatska/359289/Rekom-ce-utvrditi-cinjenice-o-ratnim-zlocinima-u-ex-Jugoslaviji.html> (accessed 12/16/2014)  
**Korak bliže ka formiranju REKOM-a** [A Step Closer to RECOM], Sven Milekic, BIRN Zagreb, 11/18/2014: <http://www.balkaninsight.com/rs/article/korak-bli%20C5%BE-ka-formiranju-rekom-a> (accessed 12/16/2014)  
**Rekom prerasta u međudržavni projekt** [RECOM is Becoming an Inter-State Project], Boris Pavelic, NoviList.hr, 11/18/2014: <http://m.novolist.hr/PogledajClanak.aspx?id=725689&datum=20141118> (accessed 12/16/2014)  
**Koalicija za REKOM podržala Izmjene Statuta REKOM-a** [The Coalition for RECOM Supports the Changes to the RECOM Statute], PCNEN, 11/18/2014: <http://www.pcnen.com/portal/2014/11/18/koalicija-za-rekom-podrzala-izmjene-statuta-rekom/> (accessed 12/16/2014)  
**Rekom će utvrditi činjenice o ratnim zločinima u eks-Jugoslaviji** [RECOM will establish the facts about war crimes in ex-Yugoslavia], Tportal.hr, 11/18/2014: <http://www.tportal.hr/vijesti/hrvatska/359289/Rekom-ce-utvrditi-cinjenice-o-ratnim-zlocinima-u-ex-Jugoslaviji.html> (accessed 12/16/2014)  
**Čudo mira: REKOM** [The Miracle of Peace: RECOM], Svetlana Slapsak, Pescanik, 11/28/2014: <http://pescanik.net/cudo-mira-rekom> (accessed 12/16/2014)

Damir Pilić from *Slobodna Dalmacija* described his stay in Belgrade in the following way: “The schizophrenia was total: on the left bank of the Sava river I talked to a prominent non-governmental activist, a longtime campaigner for the rights of victims of ex-Yugoslav wars and one of the most daring voices of the Serbian conscience; while on the right bank of the Sava river a disturbed Chetnik leader spoke to me, an as yet unconvicted war criminal and one of the greatest culprits for the ex-Yugoslav wars – a clash of radically disparate, inconceivably opposite worlds.

“And although I was surrounded by civilian victims of war, antiwar activists and independent intellectuals from five neighbouring countries, in the conference room of the ‘Crowne Plaza’ Hotel I felt I was actually among normal people. At the Square of the Republic, on the other hand, I felt I was among human scum. The official flags of different countries fluttered in front of the hotel, while at the Square there fluttered only the blue flags of the Serbian Radical Party and black Chetnik flags with skulls.

“At Crowne Plaza, people talked in a civilized manner about the tragic fates of individual victims of war, while at the Square of the Republic, primitive and inflammatory rhetoric offended entire nations: Croats were called Ustashas, Bosniaks Balijas, Kosovo Albanians Shiptars. On the left bank of the Sava river, several hundred people spoke in a low voice about the horrors of the Yugoslav wars, while on the right bank, thousands – many of whom were dressed in the black uniforms of the Chetnik guerilla movement, with Chetnik hats and cockades – screamed and invoked the Greater Serbia and new wars.”<sup>11</sup>

Unlike the media in Montenegro and Croatia, in Serbia only one portal, *e-novine*, reported on the changes to the RECOM Statute and on the Forum for Transitional Justice. The weekly *Pecat*, co-founded by Aleksandar Vulin, a Minister in the Government of Serbia, published his opinions (on multiple pages and in five consecutive issues, from November 14 – December 12, 2014) against the establishment of RECOM. His argument was that the real intention behind RECOM was to declare Serbia the main culprit for the outbreak of the war, aggression and war crimes.

## **Presidential Elections in Croatia**

On January 11, 2015, the second round of presidential elections was held in Croatia. The new President of the Republic of Croatia is Kolinda Grabar Kitanovic. Now it is up to the Public Advocates of the Initiative for RECOM to familiarize President Grabar Kitanovic with the political achievements of the RECOM process.

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<sup>11</sup> **Četnici na Trgu, žrtve u hotelu** [The Chetniks in the Square, the Victims in the Hotel], Damir Pilić, *Slobodna Dalmacija*, 11/22/2014: <http://www.slobodnadalmacija.hr/Spektar/tabid/94/articleType/ArticleView/articleId/265224/Default.aspx> (accessed 12/16/2014).

**Žrtve su važne, a ne Šešelj** [The Victims are the Important Ones, Seselj is Not], Drago Pilsel, PCNEN, 11/18/2014: <http://www.pcnen.com/porta1/2014/11/18/zrtve-su-vazne-a-ne-seselj/> (accessed 12/16/2014)