

**Sixth Regional forum on Transitional Justice
Organised by the Coalition for RECOM**

**Novi Sad,
Saturday, 20 March 2010**

Opening speech

Ladies and gentlemen,

It is for me a pleasure and honor to open this Regional forum on transitional justice.

Indeed, I am grateful for this opportunity to share with you some of my thoughts on this crucial topic. It is high on the agenda of the European Union policy, because every efforts in this area can contribute to lasting peace and reconciliation in the Western Balkans ; and because it is not possible to build a common european future without a capacity to face the past: we should not forget that the EU itself was based on the need to reconcile France and Germany after three wars in less than one century.

That is why the capacity to tackle the issue of War Crimes is part of the integration process. Facing the truth is and remains one of the key conditions for the deepening of the relations of the EU with the countries of the region.

This overall approach is a multi-faceted one. I can distinguish four of them.

1. We require "full cooperation" of the Balkans states with the ICTY

2. We expect an efficient treatment of War Crimes cases by the domestic judiciary

3. We back the need for regional cooperation

4. We support non-judicial initiatives to achieve a shared truth on the tragic events that unfolded in the Western Balkans.

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1. Let me tackle the first point I have just mentioned. As you all know, the European Union insists on the “full cooperation” of countries of the region with the ICTY.

This is and remains a constant policy, as those suspected to be responsible should not escape justice, whatever time it takes.

There are very visible examples of this efficient policy, which has allowed that only two persons from a total of 161 indicted by the ICTY in the region remain fugitives up to now.

This policy a lot of media attention. I will just mention two I know particularly well:

1 Serbia, to begin with. The start of the ratification by the EU Member States of the Stabilisation and Association Agreement clearly depends on the assessment of Serbian co-operation with the ICTY, based on Mr. Brammertz report. This ratification has been successively postponed since 2008, because, if 44 suspects were already arrested by Serbia, two fugitives remain at large. Commissioner Fuele repeated this week that continuous and serious efforts have to be made for their search, arrest and transfer to The Hague. Expectations are high. We trust PM Cvetcović, when he declares that is issue is not any more a political issue, but a technical one.

2 My second example deals with Croatia. The entire negotiation process with Zagreb was frozen between March and October 2005, until former prosecutor CdP would state that full cooperation was achieved; and indeed Ante Gotovina was arrested in December “outside Croatia”. Let me carify one point: the cooperation with ICTY is not a “stop and go” process, but a continuous one. Today, the chapter of negotiations dealing with Judiciary and Fundamental Rights, the chapter 23, is open, but it will be closed only when and if continuous cooperation is provided.

2. EU conditionality relating to full cooperation with the ICTY is one side of the coin. But local prosecution is equally important, as my second will show it to you.

Why is it so important ? The fact is that the Hague Tribunal has to concentrate on high level cases involved in the atrocities. But for the sake of the victims and the fight against impunity, it is also crucial that justice be done from the top to the bottom of the chain of command. All perpetrators have to be made accountable for their acts and subsequently punished. There must be a continuous effort to judge and sentence them, even after the closure of the ICTY and the accession of the countries of the region to the European Union. Attention must not be relaxed: in Croatia, some 700 so-called 'events' are still uninvestigated. In Bosnia and Herzegovina, 16.000 people have lodged complaints. Their demands cannot remain unanswered. **That is why it is vital for the domestic judiciaries to build up the capacity to deal with war crimes.**

Of course, it is not an easy task.

Of course, it requires strong and independent institutions. It requires police and judicial staff with significant expertise and, above all, clear political will and institutional support in all countries of the region.

The accession process has proven already to be the most powerful impetus for reforms in various key sectors – like justice, police and public administration. A substantial part of the accession chapter dealing with Judiciary and Fundamental Rights is dedicated to War Crimes. I refer here again to the chapter 23. Progress or absence of progress in this field is monitored very closely: benchmarks are set for the opening and for the closing of the chapter. These include criteria related, for instance, to the protection of witnesses, the treatment of *in absentia* cases, adequate defence, the application of amnesty law, or the execution of sentences. And those topics are not just seen *in abstracto*, but with key examples stemming from the monitoring of real cases.

The EU does not only set conditions or benchmarks. **We support also efficient capacity building activities.** These are urgently needed, as progress in the region has been made, but remains insufficient. Three types of projects can be distinguished.

1 The most successful one is peer-to-peer training between representatives of local and regional structures on the one side, and of the international community on the other. In this spirit, I was happy to sign with the ICTY last year the project allowing

the secondment of Serbian, Bosnian and Croatian prosecutors to The Hague. It gives them the opportunity to exchange information and have access to the database of the ICTY. Young professionals are also trained, so as to staff national prosecutors' offices and courts with qualified and promising people.

2 Secondly, the conference on the ICTY's legacy that took place a month ago in The Hague gave us the opportunity to reflect on this: the expected completion of the Tribunal's mandate and the further transfer of cases and evidence from the ICTY to the local judiciaries will put additional demanding tasks on the prosecutorial services in the region. That is why the EU is currently putting in place a programme under its "instrument for stability". It will be implemented by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR). Actions will encompass targeted training, development of electronic legal tools and translation of transcripts of ICTY proceedings in local languages.

These projects are only part of the solution.

3 A third type of project to which I personally attach great value is the monitoring of War Crimes trials: progress is possible only if relevant analyses of real cases is carried out. This is why

another important aspect is to contribute to the establishment of a strong civil society that will be able to take over some key tasks such as the effective monitoring of the war crimes trials. This is essential, as these trials must remain in conformity with our values of fair justice and impartiality. But this taking over from international monitoring to civil society is in itself a bargain not without challenges and risks. This is why, when the OSCE began to phase-out in Croatia, we implemented a two-year programme amounting to 600.000 Euros, and aiming at building-up the capacity of local NGOs.

These projects have an ultimate goal: to strengthen the judiciary according to European standards and to ensure that certain basic principles are respected. Why? An efficient, accountable and independent judiciary is key to the sustainability of the international community's efforts and to local ownership.

3. It is also crucial to achieve the subject of my third point: nothing can be done in the Western Balkans if there is no regional co-operation and co-ordination.

Many issues are here at stake: extradition, transfer of cases, protection of witnesses, exchange of information and also the execution of sentences. All these aspects of the judicial

procedures relating to War Crimes have a strong regional dimension.

You all know that a vast number of War Crimes are to be considered as regional, since the crime scene can be in one country, the victim in the neighbouring country and the perpetrator in a third one. With sometimes possible dual nationality issues on top of this! The problem is then the following: there are in the region still often constitutional or legal provisions prohibiting extradition of nationals, as well as the transfer of cases facing sentences of more than 10 years. So, many cases remain unprosecuted or unexecuted! State prosecutors are inventive characters and they have in many cases found ways to by-pass these legal obstacles by transferring evidence. This is certainly clever and useful, but remains a second-best solution, and there is still a long way to go to establish more efficient regional cooperation between judiciaries. And it would require more positive actions from all countries in the region. For instance, some bilateral agreements on the execution of sentences provide that a sentence passed in a country can be executed in the perpetrator's country of residence ... but only if this perpetrator agrees! And there is a limited number of people that agree to go for more than 10 years to jail. Fortunately, these provisions are now slowly being revised and extradition of nationals considered. But for that, we

need trust in others' legal systems! And that is why the building-up of the domestic capabilities is, again, so important.

4. I now come to the last of the four facets I was mentioning at the beginning of my presentation. This is one of great interest to the Coalition for RECOM, that has invited me today, because it deals with non-judicial initiatives, crucial also to achieve lasting peace and reconciliation in the region.

This last facet intends to complement the work of the Hague Tribunal and of the national courts.

This last facet recognizes that justice is essential for the victims, and instrumental to fight against the sense of impunity.

But at the same time, it acknowledges the need for a longer-term process to be set in motion, **out of the courts.**

What is it about? It deals with the establishment of jointly accepted facts at regional level, the very same level where the dramatic events unfolded during the last decade. It deals also with the public hearing of all the victims, to ensure that their dignity is upheld.

Why is it so important? Eventually, it prevents historical revisionism and enhance the capacity of people to resist political manipulation of the past. Indeed, recollecting facts and evidence could pave the way to shared grains of truth at the regional-level. At least, it could encourage regional actors to base their interpretations on realities that are mutually faced and acknowledged, that are beyond suspicion. This is not an easy process. 61 years were necessary for a franco-german history textbook to see the light.

NGOs advocate the setting-up of a regional commission. States of the region will have the final say on this matter. The precise mandate and modalities of this 'RECOM' are also to be discussed. This will be your task these following hours. I can say one thing to you: it is important to safeguard the regional dimension of the project. It also essential to examine thoroughly the relationship between this Regional Commission, and the international and domestic legal mechanisms dedicated to War Crimes.

The EU backs this initiative. This is the sense of my presence here this morning. We support, through the European Instrument for democracy and Human Rights Programme (EIDHR), the Humanitarian Law Centre and its regional partners. Together, you are consulting civil society on the right fact-finding and fact-

telling mechanisms. This EU project, worth 1.2 million Euros, pays tribute to you, NGOs playing a valuable role in documenting human rights violations and giving the word to the victims. Ultimately, your effort aims at strengthening the dialogue between civil and political society, and seeks to promote multi-ethnicity in the region, for current and future generations.

This goal lies truly and fully within the scope of the European project: as I said before, the EU's key objective is to help all the countries in the region to come to terms with their past, so that we can construct together a peaceful future.

This is why we follow so closely the current discussions, in the Serbian parliament, about the Declaration on Srebrenica.

This is why we would like also to see it reflecting very accurately the ruling and the words of the International Court of Justice.

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Let me finish by reminding you this reality once again: it is only if the War Crimes issue is correctly tackled, that the EU integration process will end successfully. It is hard to imagine the European Parliament, or national parliaments of the Member States, approving the accession treaty of a country still struggling with its past, or with its neighbours over it. The European Union, built

on principles of justice, mutual understanding and reconciliation, has learned from its own history. It is eager to see its friends from the Western Balkans, follow the same path. It stands at their side to assist them in this demanding and sensitive task.

I thank you for your attention.

I wish you a fruitful working session today and tomorrow.

Sixth Regional Forum on Transitional Justice

Novi Sad, Serbia
March 20, 2010

Working Group: *The Goals of RECOM*

Suggestions, Opinions, and Recommendations of Participants:

The goal of RECOM is to compile a list of all victims and all crimes and to bring all perpetrators to justice.

(...) the ultimate goal is to compile a list of all victims and all crimes and to bring all perpetrators to justice. So that would mean understanding the truth, dealing with the truth, and the prosecution all those responsible for war crimes. (Draško Bjelica, Faculty of Philosophy of the University of Niš, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The court-established truth and the documented truth must be integrated. The commission cannot deal with establishing a historical truth.

What kind of truth is possible to establish? Don't make a mistake here thinking that amateurs like us can establish a historical truth. In order to establish the historical truth it is necessary to open state archives. And the golden rule that applies here is that a time distance must be achieved in order to start establishing this historical truth. The science of history defines it as a 50-year period. Also, it is necessary to integrate the court-established truth and the documented truth, because truth commissions are not judicial bodies, they are not courts, and they cannot hand down judgments. However, they can form opinions. (Branislav Radulović, Association of Legal Professionals of Montenegro, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

A political truth is not a truth, it is an opinion. The goal of the commission is to establish a documented truth, because it has legal foundations.

(...) we should be very careful to avoid establishing a political truth because it is not a truth, it is an opinion - and every person can have one (...) I think that we should attempt to establish a documented truth, the kind of truth that has proper legal foundations, although the commission is not a court. (Branislav Radulović, Association of Legal Professionals of Montenegro, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Reconciliation and repentance are particularly important for the young people from the region.

(...) reconciliation between all generations, repentance from all generations who caused the conflict and carried out injustices and crimes -this is particularly important for the young people from the region. I have told a friend of mine from Kosovo and Metohija that I did not want my child to hate his child tomorrow. We need to overcome this so that they can live in peace and live like normal people all across Europe and all across the world. (Milosav Stojković, Center for the Protection of Victims' Family Members in Kosovo and Metohija, Serbia, Sixth Regional

Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Compensation and reparations for victims' family members must be provided.

(...) one of the more significant points, if not the most significant one, is the need to provide compensation and reparations for the families of the victims, who have lost their loved ones, their bread winners, and their basic income. They need to be helped. (Milosav Stojković, Center for the Protection of Victims' Family Members in Kosovo and Metohija, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Conducting exhumations must be one of the priorities of RECOM.

Governmental commissions keep excusing themselves in front of us, the parents and families of the missing persons, for not ordering more exhumations, saying that institutes conducting DNA analyses are overwhelmed and that they cannot provide enough body freezers while waiting for exhumations to proceed. No one accepts such excuses, of course, and we keep insisting that body freezers be bought if they don't have enough of them. If these three states cannot do it, we should ask the European Union, the United Nations (...) for that reason I ask you to include this in RECOM's plan of action. (Dragan Medić, Association of Parents and Families of Persons Arrested, Imprisoned, or Missing in the Federal Republic of Yugoslavia in 1991 and 1992, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The basic goals of RECOM have been determined already: truth, justice, and reconciliation.

I think that the basic goals of RECOM have already been established. In short, they are truth, justice, and reconciliation. (Persa Vučić, Women in Black, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

It is crucial to use the archives of the ICTY in analysing the events of the past.

(...) without the archives of the ICTY, without the trials conducted before the Tribunal, it is virtually impossible to work, and the Association of Former Detention Camp Inmates of Bosnia and Herzegovina uses their archive as much as possible if it wants to investigate war crimes committed on the territory of Bosnia and Herzegovina. (Murat Tahirović, Association of Former Detention Camp Inmates of Bosnia and Herzegovina, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

We can easily lose ground in the process of determining the goals of the commission.

If RECOM intends to establish the facts – that's something courts do; if RECOM intends to investigate causes – that's a job for properly staffed scientific institutions. I'm afraid that if RECOM's goals are defined too widely – dealing with the truth, establishing the facts, establishing responsibility, establishing causes – I think we are not going to be able to do it. (Salih Rasavac, Corridor, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

RECOM must focus on victims. It is way too pretentious to talk about reconciliation.

When we talk about the truth, I believe that RECOM should focus on victims. We have had many different kinds of truths and manipulations so far, and that's why it is important to put those who have suffered the most as the focus of our attention. (Borka Rudić, BH Journalists, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Victims need to be indemnified.

(...) in addition to establishing the truth and the causes of the conflict, it is necessary to indemnify the victims (...) for everything they have suffered. It still remains to decide what form of reparation is the most suitable one. (Bojan Gavrilović, Belgrade Center for Human Rights, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

All victims must be treated in the same manner.

(...) if you do not treat all victims in the same manner, and if all of the four or five different nations that suffered during the war in the region are not treated in the same manner, RECOM will not be able to function. (Smilja Mitrović, Coalition of Associations of the Families of the Missing of Republika Srpska, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

RECOM must deal with the court-established and documented truth.

(...) it would probably be more efficient if we stopped at the court-established and documented truth, as political and historical truth will come in the end as a result of our efforts to establish and document war crimes. However, if we deal with all of this, along with the political and historical truth at the same time, it will be very time-consuming. (Nora Ahmetaj, human rights activist, Kosovo, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Apologizing should be one of RECOM goals.

It is important to mention that one of the goals of RECOM is to apologize to victims, since representatives of civil society asked for it to be included in RECOM's mandate. (Nora Ahmetaj, human rights activist, Kosovo, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

“Breaking the vicious circle of violence” is a stage we have overcome.

(...) the war in Kosovo ended ten years ago and I think that point 3 “Breaking the vicious circle of violence” is a stage we have already overcome. (Nora Ahmetaj, human rights activist, Kosovo, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

We should compile a list of victims and a list of war crimes perpetrators.

(...) we should make a list of victims containing the exact names of each victim and at the same time, we should make a list of war crimes perpetrators. That should be task number one, and task number two should be to make the survivors face each other and punish the perpetrators by

taking the **radiant auras** away from these “heroes,” which they present themselves as to their own people. (Zaim Elezi, Better Perspectives, Kosovo, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The goal of RECOM is to turn bloody memories into forgiveness and compassion for the victims.

RECOM must use the media to stress the truth by telling the victims' truth. That should help reduce pressure and turn bloody memories into forgiveness and empathy for the victims. That's what RECOM should be doing. That's its main goal. (Nataša Gavrilović, Belgrade Center for Human Rights, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

(...) Victims' statements should contribute to the reconciliation process because they have a power of argument that can be recognized by ordinary people. Victims' testimonies will help people understand that other nations suffered too, and at the same time victims will emphasize the senselessness of all of those wars. (Bojan Gavrilović, Belgrade Center for Human Rights, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

It is necessary to create an atmosphere of compassion and solidarity with victims from other ethnic communities.

(...) at this level (...) of the consultation process I would say that the prevailing interpretation of reconciliation as one of the goals of RECOM is the understanding that it is necessary to create an atmosphere of compassion and solidarity with victims from other ethnic communities. Also, participants from our consultations believe it is very important to stop perceiving victims from other ethnic communities as enemies. (Nataša Kandić, Humanitarian Law Center, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

RECOM should not pass judgments.

(...) the legal truth can only be established by courts of law, international or domestic courts (...) If you ask me if RECOM should be passing judgments, I will answer with another question: can RECOM be a court of law? In my personal opinion – no. (Branislav Radulović, Association of Legal Professionals of Montenegro, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

We can't write history, but it is our obligation to leave documents behind.

(...) history is not written by the generation that created the event. History is written with a historical distance. We can't write history, but we can leave documents so that those who decide to write the history of the events of the 1990s can have plenty of documents on all victims and so on. That's why we need to leave documents behind. If the documents are gone, the event is gone, and if the event is gone, there is no responsibility, no guilt - like nothing has ever happened. (Branislav Radulović, Association of Legal Professionals of Montenegro, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Removing permanent residents without Slovenian citizenship from the list of residents of Slovenia is a crime.

It happened that in Slovenia, after it declared independence from the former Yugoslavia, permanent residents who did not become Slovenian citizens were removed from the list of permanent residents of Slovenia. (Nisveta Lovec, Civil Initiative of “Removed” Activists – CIIA, Slovenia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

RECOM should be dealing with both the facts and the causes.

Is RECOM going to be dealing with the facts or the causes? I think it should deal with both. (Kada Hotić, Movement of Mothers of Srebrenica and Žepa Enclaves, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

RECOM will not have the responsibility to deal with political and historical contexts.

When I say that our attention should be focused on these tasks, without taking on the political and the historical context of the events, I mean that it is too demanding to do so. We need a time distance, as somebody has already pointed out. A whole period of time should lapse before all the archives are opened and before things fall into place. Now, we are simply not equipped for a job like that. (Milosav Stojković, Center for the Protection of Victims’ Family Members in Kosovo and Metohija, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

RECOM should not attempt to establish the causes of war.

(...) establishing the causes of the recent conflict is a truly demanding issue. It is very difficult to establish who is responsible for what, who started the war, and so on, and even if that is established (...) the document may be in contradiction with other findings. Another potentially important thing is that this task may consume too much energy and RECOM will still fail to establish the causes, which would be degrading for the whole project. (Bojan Gavrilović, Belgrade Human Rights Center, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The basic goal of RECOM is to identify methods for finding the truth that are acceptable for all victims.

I think that the basic goal of RECOM is to find ways and methods for finding the truth, which will be acceptable for all victims. And also, RECOM should establish the practice of calling a crime a crime, and giving each victim a name. (Anđelko Kvesić, Croatian Association of Former Detention Camp Inmates in the Central Bosnia Canton, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

If reconciliation between nations is an overly ambitious goal, then the goal should be stated in terms of *climate, sense, and tolerance*.

(...) when I first joined this initiative, I was touched by the fact that some people were against including the goal of reconciliation. I asked them why and I could not understand because my reason for joining the initiative was to help achieve reconciliation, to help people learn to co-

exist, to create a climate of tolerance which will enable us to live, like in a normal world. (Šefika Muratagić, Key to the Future, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

I think we should attempt to establish a documentary truth.

I think we should attempt to establish a documentary truth, which can be achieved by collecting documents on everything that happened. That's the only way we can subsequently establish the causes and the facts. So, once the documents are collected and sorted out, they will clearly tell us what the cause is and what the consequence is, and then we will also know who the victims are. (Unidentified participant, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Victims should be the ones determining the priorities of the commission.

(...) we need to determine our priorities, what we want to establish first and foremost, and what aspects of truth we want to focus on. I prefer to call it 'aspects of truth' rather than the truth. In this case, I think it is important that we have agreed that victims and their best interest are by far the most important part of the work of the commission, and I think they should be the ones determining the priorities of the commission. (Lidija Zeković, Post-pessimists of Montenegro Youth Center, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

I am afraid that old wounds will be reopened and that institutions will not be able to help alleviate the pain and heal the wounds.

I am afraid that my country and civil society in my country don't have the capacity to respond to the needs of war victims in our midst. I am afraid that we may make a step which will open an old wound, and that our institutions and the people around us are not going to be able to heal it, to alleviate the pain. I am sure that the institutions are not going to be ready to handle it. That is a huge concern of mine. (Lidija Zeković, Post-pessimists of Montenegro Youth Center, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The documentation process should be public.

(...) we need to document the truth, but that should be a public process rather than a process happening on the margins of the main investigation process. A public process is something that can help us deal with what happened and move on. I strongly emphasize the healing powers of the public hearing process. (Ajša Hadžibegović, 35mm, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Governments in the region will have a hard time accepting a commission tasked with establishing the causes of the conflict, because that would ultimately result in disclosing institutional responsibility.

(...) I am in favour of the idea of mandating the commission to investigate the causes of the armed conflicts, but (...) being familiar with the current situation in the region, I am a little skeptical with respect to the readiness of our governments in the region to accept a commission like that simply because (...) that would mandate RECOM to investigate institutional

responsibility for the events of the 1990s. (Sandra Orlović, Humanitarian Law Center, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Public hearings should be held on as many occasions as possible and they should be aired by all available media.

We should organize as many public hearings as possible, and we should bring as many witnesses as we can and do it as often as we can. That is a sure way towards reconciliation. Of course, we need to secure media coverage for the hearings. (Ljubiša Filipović, Crveni Božur Associations of the Families of the Killed and Missing in Kosovo and Metohija, Montenegro, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

It is important to hear the subjective, narrative truth, which can be discovered through the process of public hearings and the recording of memories people have.

There are different ways to approach the issue of discovering the truth. In addition to the factual truth, we should very seriously consider the subjective, narrative truth which can be found in the personal testimonies and memories of the victims. (Svetlana Vicković, Luna Responsible Democracy Center, BiH, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Reconciliation can be achieved through telling the truth and providing the facts about war crimes.

I think that reconciliation can be achieved by telling the truth and discovering the facts about a committed war crime. Facts are what we need to know about the victims of the war and about the missing. (Marija Stojanović, Luč, Croatia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The goals of RECOM will define themselves if RECOM is formed.

(...) I think that the goals of RECOM will define themselves once RECOM is established. Once the work is underway, things will fall into place naturally. (Nail Kajević, Association of the Families of Kidnapped Individuals in Štrpci/Shtërpcë, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

The Coalition for RECOM should have both short-term and long-term goals.

(...) sustainable reconciliation, reconciliation coming from within, which is not imposed from the outside, is a very important goal. It should probably be considered a long-term goal and I am thinking in terms of dividing RECOM's goals into short-term goals and long-term goals. (Filip Pavlović, Fraktal, Serbia, Sixth Regional Forum on Transitional Justice – Working Group: The Goals of RECOM, Novi Sad, Serbia, March 20, 2010).

Sixth Regional Forum on Transitional Justice

Novi Sad, Serbia
March 20, 2010

Working Group: The Composition and Election of RECOM Members

Suggestions, Opinions, and Recommendations of Participants:

Young intellectuals and men and women who are not indoctrinated by the military, a political, party, or other goals should be the preferred RECOM candidates.

I would totally revise this point and I would say that young intellectuals, men, and women not indoctrinated by any military, political, party, or other goals should be the preferred RECOM candidates, but only if they were born after 1991. (Mirko Kovač, Mothers of Vukovar Association, Croatia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) I think that most members of the commission should be women and young people who weren't poisoned by the ideology which led to the situation we are in now. (Zahid Kremić, Association of Returning Refugees from Dobož, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Members of political parties or war veterans cannot be members of RECOM.

If we have members who represent any political parties or members who are war veterans, commanders of armed units or so on, we are certainly going to face a lot of prejudice and attempts to make the process anything but objective. (Shukrije Gashi, Partners Kosovo, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) when it comes to representatives of various political parties, I think that their participation would not be a good idea, because people would always question their true motives for being engaged in the work of the commission. (Rexhep Lushtra, Center for Peace and Tolerance, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Leading members of political parties cannot be members of RECOM, but belonging to a political party should not be an obstacle for RECOM membership either.

(...) individuals who have been professional politicians for years, individuals who lead certain political parties or who are members of parliament identifiable with a particular political party – those individuals should not be members of RECOM simply because one might conclude that it is a party run commission, the goal of which is to cover up war crimes instead of helping the victims and disclosing the facts about war crimes committed in a particular region (...) However, I don't agree that just for being a member of a political party one should be disqualified as a potential member of the commission. It is very simple – you can be a member without being a leader or a creator of the program or important political moves and decisions and (...) it is your

civic right to be politically organized. (Amir Kulaglič, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Members of political parties should be allowed to become RECOM members.

Why would anyone who's a member of a political party be restricted from becoming a member of RECOM, especially when we have people (...) people who belong or have belonged to political parties that contributed significantly to this whole project, although they were a minority, of course. (Daliborka Uljarević, Center for Civic Education, Montenegro, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Members of the armed forces should be allowed to become RECOM members.

(...) All in all, especially in Bosnia and Herzegovina, a lot of people were mobilized during the war, and they were members of the military. Being an honourable member of an army is not a sin, please. You defend yourself, your home, you defend your family, and I don't see why that person would not be allowed to be chosen as a member of such a commission. (Amir Kulaglič, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) we should definitely delete this part "or a former member of the military" because there are honest and honourable members of the military, and the part "or if his or her closest relative was a member of the military" (...) There are many soldiers who helped soldiers from the opposite side when they were wounded or captured, sometimes even covertly, because their fellow soldiers would not approve of that. If we ban them from the membership in RECOM, we will at the same time dismiss all those grieving mothers and widows, all women in black, all these associations. We are pushing them all aside if we don't accept members of the military. (Mirsad Dizdar, Association of Former Detention Camp Inmates of Bosnia and Herzegovina, Association of Former Detention Camp Inmates Jajce, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

There must be more space for young people in the RECOM organization scheme. The commission should have two members from each ethnic group instead of two members from each state.

(...) young people, 25 years old or so, can be quite intellectual and mature and I think that the commission should elect more of them because they feel responsible for the past of their parents and they want clarity and purity, they want a clean historical slate and a better life in the future. As for the representation of member states, I think that instead of electing two members from each member state, two members should be elected from each ethnic community. (Lush Krasniqi, victim family member, Đakovica/ Gjakovë, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

The minimum age limit for membership with RECOM should be 25 years old. Politicians should by no means be members of the commission.

We think that members of RECOM should not be younger than 25 years because there are many young people who graduated from college and who have been engaged with the civil sector for years which gives them a very strong background for this topic. We are against the participation of politicians in the RECOM process because the conflict in the former Yugoslavia was generated by politicians. (Isuf Halimi, Fisniket, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

I agree that RECOM members should not be younger than 25 years. (Rexhep Lushta, Center for Peace and Tolerance, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Foreign citizens cannot be RECOM members, but they can participate in the work of the commission as advisors or observers.

I think that foreigners should only participate in the work of the commission in their capacity of advisers and help the commission implement its mandate. These foreigners should have experience in other truth commissions outside the region RECOM is mandated to investigate. (Amir Kulagić, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) I am really against foreigners becoming members of the commission. Why? Because the work of the commission must always preserve the idea that it is something we have done ourselves and something we want to do because of ourselves. (Ivan Novosel, Legalis, Croatia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

When it comes to foreign representation in the commission, because of the lack of confidence that existed and that still exists, I believe that foreigners should only be observers without the right to vote. (Lush Krasniqi, victim family member, Đakovica/ Gjakovë, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

A representative of the United Nations should work closely with the commission.

(...) because of the fact that a large number of people in Kosovo and Metohija, and I mean Serbs, loyal Albanians, and other nationalities (Roma, Turks, Egyptians, and others) lost their lives in the period after the arrival of peace forces and nobody declared themselves in charge of solving those crimes and punishing the perpetrators of those crimes. That's why I think we should have a representative of the United Nations working closely with the commission. (Nataša Šćepanović, Association of the Killed and Missing from Kosovo and Metohija, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Individuals convicted of crimes in the past cannot be RECOM members, with the exception of politically motivated convictions in totalitarian regimes.

(...) individuals convicted in the past cannot become members of the commission unless the conviction was politically motivated in a totalitarian regime before or after the 1990s. (Ivan Novosel, Legalis, Croatia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

A number of representatives of associations of victims should be elected as RECOM members.

I think that victims or representatives of victims' associations should be allotted a number of positions with RECOM because it would give legitimacy and credibility to this regional commission. (Amir Kulaglič, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Members of RECOM must have a proven track record in advocating for the advancement and respect of human rights.

That person or persons should be recognizable, if not across the region, then at least in their own state; they should have a proven track record in advocating for the advancement and respect of human rights and civil freedoms, as well as the development of civil society and the spread of positive values. (Srećko Čeferjanović, Municipal Committee of the Democratic Party in Zaječar, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Each state should have its own commission tasked with investigating war crimes, and the central commission would be tasked with making decisions and compiling a joint report.

We are talking about a regional commission which would be a central commission consisting of a number of commission members. However, this commission would not be able to carry out its mandate successfully, and that's the reason we should think about the creation of national commissions which would investigate crimes on its own territory while the regional, central commission would make decisions and compile the joint report. These other commissions are under the umbrella of the regional commission and they are only mandated to compile the technical part of the job on their respective territories. (Amir Kulaglič, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

National commissions should be created first and RECOM should be created in the end.

(Rexhep Lushtra, Center for Peace and Tolerance, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

The number of commissaries from each state should be proportionate to the number of victims from that state.

(...) the representation must be based on the number of victims (...)(Shukrije Gashi, Partners Kosovo, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) I don't think we should have the same number of members from each post-Yugoslav state, because not all of the states share the same interest in this topic. The number of victims and the number of committed crimes is not the same. I think that Slovenia cannot be equally as motivated to participate in such a comprehensive task as for example, Bosnia and Herzegovina or Kosovo, simply because in BiH and in Kosovo there are many more victims than in Slovenia. (Amir Kulaglič, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Firstly, there should not be more than 30 members of the commission. Secondly, we must abide by the criteria that are mentioned often – the number of victims and the duration of the armed conflict will be used in determining the number of members from each member state. (Milena Savić, Center for Legal and Information Support, Zvornik, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

The number of commission members from a particular state should not be proportionate to the number of victims because that number is yet to be established by RECOM.

(...) when we are talking about the number of members from each state, I have heard several times that this number must be proportionate with the number of victims from that particular state. I would want to remind you that the number of victims is yet to be determined by this commission. So, when we say that, we contradict ourselves. (Ivan Novosel, Legalis, Croatia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Each state should delegate three members of the commission.

I think it is enough to have three members from each state and I don't think that the number of members should be based on the number of victims from member states. (Srećko Čeferjanović, Municipal Committee of the Democratic Party in Zaječar, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) I don't think that we should have a different number of members coming from different states, because their membership is not going to be a polygon for voting games but they are expected to bring their expertise and experience as tools for establishing the facts. In view of that, I don't see why we need more than 21 members. I think that is the right number of members, and that is a compromise in terms of having all states represented with more than a sufficient number of members. (Daliborka Uljarević, Center for Civic Education, Montenegro, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

I think that 21 members is the optimal number. That number will allow the commission to function and, at the same time, that number enables equal representation of member states. In my opinion, the prevailing criteria should be a professional, impartial, and objective approach in establishing the facts. I think that individuals should not become members of the commission

out of piety for the victims, but that the findings of the commission should be useful, so to speak, for victims. I think that in view of this, Bosnia and Herzegovina is particularly interested in the findings of the commission, as the state that suffered the most, and their major contribution to the process will come from public hearings and the kind of reparation that we hope will be provided at the end of this. (Nataša Šćepanović, Association of the Killed and Missing from Kosovo and Metohija, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Religious leaders should not be members of RECOM, but they should have an advisory role.

(...) this should not be a confessional commission, comprised of church officials who will engage themselves in endless debates (...) this job should be done by the civil society sector and any religious leaders or religious experts, such as theology professors, should only have an advisory role so that they can clarify certain issues to members of the commission. (Srećko Čeferjanović, Municipal Committee of the Democratic Party in Zaječar, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

(...) I respect and salute every religion, but (...) why do we need to introduce religious practices in the work of the commission by electing religious leaders as members of RECOM? Quite honestly, looking at our past, all those wars were waged in the first place because of different religions and beliefs. (Zvonko Gljuk, Association of Former Detention Camp Inmates 1991, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Religious leaders should be allowed to participate in RECOM.

I can accept the participation of religious leaders in RECOM because of their huge influence in our societies. People trust them, and they can easily acquire any information they want and, on the other hand, they can convince people to testify. (Rexhep Lushtra, Center for Peace and Tolerance, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

I think that this is not a bad proposal, if for nothing else, because of the credibility it could bring to the findings of the commission. (Drago Kovačević, Serbian Democratic Forum, Serbia, Sixth Regional Forum on Transitional Justice, Work Grouping: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Option A is better with respect to the election criteria of RECOM members.

*(...) I like **Option A** better because it is less complicated. Any complicated solutions and election procedures will require more time, or they will create a space for more challenges and problems that could prolong the entire process. (Daliborka Uljarević, Center for Civic Education, Montenegro, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).*

Option B is better with respect to the election criteria of RECOM members.

(...) this can be an ideal situation for the states to block the whole thing on a technical level because, coming from Montenegro, for example, I can say that I do not approve of the candidate coming from Serbia or the one coming from Croatia. Then somebody from Serbia will say 'you can't tell us who to nominate' and who is acceptable or who isn't (...) It makes more sense to allow states to have a final word on their proposed candidates. (Daliborka Uljarević, Center for Civic Education, Montenegro, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

*I vote for **Option B**. I think that this procedure requires more time and it is my own assessment that it will take anywhere between one and two years to be completed. Honestly, I don't know of a single situation where civil society organizations in this region proposed a list of candidates which was accepted by government institutions. (Vesna Teršelič, Documenta, Croatia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).*

I agree with previous speakers that Option A is almost ideal. Unfortunately, I think that in real life not a single state will agree with this model, so that I would consider Option B more carefully. I like the idea of candidates being proposed by non-profit organizations, associations of citizens, even political parties, why not? Those candidates will not necessarily be from those organizations. (Srećko Čeferjanović, Municipal Committee of the Democratic Party in Zaječar, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

I support the combination of options A and B.

I think we need to make a combination of options A and B. We have to cooperate with current governments in order to empower the civil society sector and establish contacts between the government and civil society, which are non-existent today. (Shukrije Gashi, Partners Kosovo, Kosovo, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

The greatest challenge for the election process would be to allow states to pass judgment on candidates from other states.

The greatest challenge is stage three, when member states submit their shortlists of let's say five candidates each and then (...) other states criticize those lists. I think it's important that the candidacy procedure is conducted on the state level, and that other states should have an opportunity to propose additional members from other states (...) i.e. national parliaments and states should have an opportunity to make comments on the other state's candidates, and that is a huge challenge, especially because there is no experience from other commissions to learn from. (Vesna Teršelič, Documenta, Croatia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

The number of RECOM members should be between 23 and 27.

(...) it is dangerous to have too many members, because the commission cannot function if it's too large, and at the same time, an insufficient number of members will not have the necessary capacity to conduct the job properly and efficiently. However, any number between 23 and 27 is

an optimal number with respect to the span of the territory that needs to be investigated and the number of war crimes that need to be established. (Amir Kulagić, victim's family member, Srebrenica, BiH, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).

Parliaments should elect and confirm the election of members of RECOM, not the president or the presidency.

(...) parliaments should elect and confirm the election of all members of the commission. I personally believe that it should be done by a two-third majority vote and I will explain why. In reality, in order for this whole idea to be successful, it should be accepted by a fairly large number of parliamentary political parties. The president or the presidency of the states should not be involved in the election procedure of the members of the commission because the Constitution does not allow it, although, legally speaking, they should be able to nominate some candidates. (Srećko Čeferjanović, Municipal Committee of the Democratic Party in Zaječar, Serbia, Sixth Regional Forum on Transitional Justice, Working Group: The Composition and Election of RECOM Members, Novi Sad, Serbia, March 20, 2010).