



COALITION FOR RECOM

The STATUTE

PROPOSAL

**OF THE REGIONAL COMMISSION FOR ESTABLISHING THE
FACTS ABOUT WAR CRIMES AND OTHER GROSS VIOLATIONS
OF HUMAN RIGHTS COMMITTED ON THE TERRITORY OF THE
FORMER YUGOSLAVIA**

March 26, 2011

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Preamble

Parties to the Agreement of the Regional Commission,

Mindful that the trials held before the International Criminal Tribunal for the Former Yugoslavia (ICTY) and before national courts, although contributing significantly to punishing war crimes perpetrators, do not fully satisfy victims' needs for justice and are insufficient for the creation of the conditions necessary to achieve a lasting peace in the region;

Empathising with victims from all communities living on the territory of the former Yugoslavia and at the same time opposing the manipulation of victims for political purposes;

Recognizing that this regional initiative, which is based on open dialogue, inquiry, and analysis of the facts, is the most efficient way to achieve a comprehensive historical record of the crimes committed in the period 1991-2001 and the role that national elites, institutions, and individuals played in those traumatic events;

Resolved to help, to the best of their ability, to establish the fate of a large number of individuals who are still missing;

Determined to jointly contribute to the process of dealing with the past by helping their citizens accept the facts about war crimes and other gross violations of human rights committed against all victims and by helping restore confidence between individuals, peoples, and states in the region;

In order to strengthen democracy, the rule of law, and a culture of respect for human rights,

Declare

the Establishment of a Regional Commission for Establishing the Facts about War Crimes and Other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia in the period from 1991-2001.

PART I - USE OF TERMS

Article 1 *Use of Terms*

- “**civilians**” are all persons who are not combatants;
- “**combatants**”- in the context of an *international* armed conflict are:
 - members of the armed forces of one side in a conflict as well as members of militia or volunteer corps forming part of such armed forces;
 - members of other militia groups and other volunteer corps, including those of organized resistance movements, belonging to one side in a conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:
 - a) that of being commanded by a person responsible for his subordinates;
 - b) that of having a fixed distinctive sign recognizable at a distance;
 - c) that of carrying arms openly;
 - d) that of conducting their operations in accordance with the laws and customs of war;
 - members of regular armed forces who profess allegiance to a government or an authority not recognized by their government;
 - inhabitants of a territory not occupied by an enemy, who on the approach of an enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war (the so called *levee en masse*).

Combatants in *non-international* armed conflicts are:

- members of the armed forces of a state;
 - members of dissident armed forces and other organized armed formations which, under a responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement norms of international humanitarian law as stipulated in the Additional Protocol II to the four Geneva Conventions;
- “**Commission**” is the Regional Commission for Establishing the Facts about War Crimes and Other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia in the period from 1991-2001 (RECOM);
 - “**Commissioner**” is any person selected by the president/presidency of the Party to the Agreement in the selection procedure stipulated in Part VII of the Statute;
 - “**gross violations of human rights**” include: murder, enslavement, unlawful confinement, torture, forced disappearance, deportation and forcible transfer of populations, systematic discrimination and other human rights violations listed in international Covenants on human rights and other international human rights treaties binding on the parties to the Agreement and deemed by the Commission to constitute “gross violations of human rights”;

- **“members of armed forces”** are members of the regular armed forces of a state, as well as members of groups and units put under the control of an armed forces command subordinated to state authorities;

- **“Minister for Human Rights”** implies this function in a state where such a position exists and in other states implies the Justice Minister or Minister for Communities and Returns;

- **“missing person”** is a person arrested, detained, abducted, or in any other way deprived of liberty by state authorities or armed formations actively opposed to them, or by persons or groups of persons acting with the authorization, support or acquiescence of the government or the armed formations, following which those authorities, groups or persons refuse to acknowledge the deprivation of liberty or conceal the fate or whereabouts of the disappeared person; or, a person who disappeared in the armed conflict under circumstances known to the competent authorities or still under enquiry;

- **“parliamentary body in charge of human and minority rights”** implies, depending on the name in different Parties to the Agreement, parliamentary committees, or commissions in charge of human and minority rights;

- **“perpetrator”** is a person who was sentenced by a final judgement as a perpetrator, co-perpetrator, or an accomplice in the commission of a war crime or other crime that constitutes a gross violation of human rights;

- **“place of confinement”** is an open or closed area where one or more detained individuals are held;

- **“Socialist Federal Republic of Yugoslavia (hereinafter referred to as: “SFRJ”)** is the state that was comprised of six republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia; and two autonomous provinces – Kosovo and Vojvodina. It existed from November 29, 1943 until the dissolution of the federal state in 1991, changing its name several times in the meantime;

- **“victims”** are persons who individually or collectively suffered harm, including physical and mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law or serious violations of international humanitarian law. The term “victim” also includes the immediate family of dependants of the direct victim and persons who have suffered harm in intervening to assist victims or to prevent victimization;

- **“war crime”** implies the meaning of the term “war crime” as defined in international humanitarian law, genocide, and crimes against humanity and includes but is not limited to the following crimes:

- a. genocide;
- b. persecution;
- c. murder;
- d. enslavement;
- e. unlawful confinement;
- f. torture;
- g. forced disappearance;
- h. deportation and forcible transfer of civilians;
- i. rape and other gross forms of sexual abuse;

- j. extensive destruction and appropriation of property;
- k. hostage-taking;
- l. destruction of religious, cultural and historic monuments and institutions;
- m. use of civilians and prisoners of war as “human shields”;

- “**war or other forms of armed conflict**” implies the use of armed force between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state.

PART II – GENERAL PROVISIONS

Article 2

Definition

1. The Regional Commission for Establishing the Facts about War Crimes and Other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia is an international regional organization established by this Agreement.
2. The abbreviated name of the Commission is RECOM.

Article 3

Identification Signs

The Commission shall decide on its own visual identity, including its symbol, logotype, and seal.

Article 4

Main Office and Executive Secretariat

1. The Main Office of the Commission shall be in Sarajevo, Bosnia and Herzegovina.
2. The Executive Secretariat, located at the Main Office of the Commission, shall provide support for the work of the Commissioners.

Article 5

Legal Status

1. The Commission shall have a legal personality.
2. The Commission shall adopt a Budget, Rules of Procedure, and a Code of Procedure regulating the operation of the organization and the implementation of its functions in accordance with this Statute.

3. The Commission shall conclude a headquarters agreement with the Government of Bosnia and Herzegovina.

Article 6
Timeframe of Operation

1. The timeframe set for operation of the Commission shall be three years.
2. The timeframe set for operation of the Commission does not include the preparation period, which begins at the constitutional session and may last no longer than six months.
3. The Commission may extend its operational timeframe for up to six months.

Article 7
Representation and Acting on Behalf of the Commission

1. The Commission shall be represented by its Chairperson.
2. The Commission may decide to be represented by another Commissioner.

Article 8
The Use of Language

1. The Commission shall make equal use of the Albanian, Bosnian, Croatian, Macedonian, Montenegrin, Serbian and Slovenian languages, and of the Cyrillic and Latin alphabets, as well as of sign languages, in accordance with the different persons and communities employing them.
2. The use of language and alphabet by the Commission shall be further regulated by the Rules of Procedure, having regard to the principles of efficiency and cost-effectiveness.
3. In communication with the Commission, each person can use his or her language and alphabet.
4. During public hearings participants shall use their own language.
5. In the Commission's offices in each Party to the Agreement, the official language shall be the language of that Party.

Article 9
The Right to Contribute to the Work of the Commission

Any person, in accordance with the Statute, shall have the right to contribute to the work of the Commission, if such participation is deemed by the Commission to be advancing the achievement of its objectives.

Article 10
Principles of the Commission

Commissioners and personnel shall act in accordance with the following values and principles:

- (a) Respect for human dignity;
- (b) Independence and impartiality;
- (c) Dedication to truth;
- (d) Equality and the respect for human rights and freedoms;
- (e) Accountability, accessibility, and openness;
- (f) Rigorous inquiry and procedural fairness
- (g) Integrity, resoluteness, and the maintenance of the highest standards of professional ethics;
- (h) Special care in providing protection for victims of sexual violence as well as persons who were underage during the period within the mandate of the Commission; and
- (i) Protection of confidentiality.

PART III – OBLIGATION TO COOPERATE WITH THE COMMISSION

Article 11
Obligation to Cooperate with the Commission

1. All Parties to the Agreement are required to cooperate with the Commission and facilitate its efficient work in accordance with the Statute.
2. At the request of the Commission, all competent government bodies in Parties to the Agreement must respond to the Commission's requests to provide timely access to information and data, including requests to take statements from representatives of state institutions and conduct field inquiries, unless it violates the law on protection of confidential data of the Party to the Agreement.
3. Information or documents detailing war crimes or other gross violations of human rights or containing information on possible perpetrators, as well as documents designed to conceal the commission of war crimes or human rights violations shall not be considered confidential.
4. If any Party to the Agreement believes that disclosure of information or a document requested by the Commission would violate the law on protection of confidential data, all reasonable

measures shall be taken by the Commission and the Party to the Agreement to resolve the matter by cooperative means. Such measures may include, but are not limited to:

- (a) A statement issued by the Commission explaining the relevance of the required document or information; and
- (b) An agreement on conditions for information disclosure, including, among other things, partial disclosure of the contents of the document, restrictions with respect to publishing the information, or other protective measures.

Article 12

Cooperation of the Commission with Other States and International Organizations

The Commission may enter into cooperation agreements with states outside the territory of the former SFRJ and with international organizations.

PART VI – OBJECTIVES AND FUNCTIONS OF THE COMMISSION

Article 13

Objectives

The Commission shall have the following objectives:

- (a) To establish the facts about war crimes and other gross violations of human rights committed on the territory of the former SFRJ in the period from January 1, 1991 until December 31, 2001, the political and societal circumstances that led to the commission of these acts, and the consequences of the crimes and human rights violations;
- (b) To acknowledge injustices inflicted upon victims in order to help create a culture of compassion and solidarity with victims;
- (c) To contribute to the fulfilment of victims' rights;
- (d) To help political elites and society in Parties to the Agreement to accept the facts about war crimes and other gross violations of human rights;
- (e) To help clarify the fate of the missing persons; and,
- (f) To help prevent the recurrence of war crimes and other gross violations of human rights.

Article 14
Functions

The functions of the Commission shall consist of:

- (a) Collecting information on war crimes and other gross violations of human rights, providing a detailed account of the crimes and other violations, and describing patterns of abuses and their consequences;
- (b) Collecting information pertaining to the fate of missing persons and cooperating with competent bodies of the Parties to the Agreement conducting the search for the missing;
- (c) Compiling registers of human losses related to wars or other forms of armed conflict, to include:
 - i. Civilians whose loss of life or disappearance was caused by the war or other form of armed conflict;
 - ii. Combatants whose loss of life or disappearance was caused by the war or other form of armed conflict;
- (c) Collecting information on places of confinement connected to the war or other form of armed conflict, individuals who were unlawfully confined, tortured or subjected to inhumane treatment, and compiling a comprehensive list of the places and victims, with the application of identity protection measures where necessary;
- (d) Researching the political and societal circumstances that decisively contributed to the outbreak of wars or other forms of armed conflict as well as to the commission of war crimes and other gross violations of human rights;
- (e) Holding public hearings of victims and other persons about war crimes and gross violations of human rights;
- (f) Recommending measures to help prevent the recurrence of human rights abuses and to ensure reparations to the victims; and,
- (g) Compiling, publishing, and presenting its Final Report in a manner that will facilitate broad access to the Report by the citizens of the states on the territory of the former SFRJ.

PART V – COMPETENCIES OF THE COMMISSION

Article 15
Temporal and Territorial Scope of Inquiry

The Commission shall establish the facts about war crimes and other gross violations of human rights committed in the period from January 1, 1991 to December 31, 2001 in the states formed on the

territory of the former Yugoslavia, inquire into the political and societal circumstances that decisively contributed to the outbreak of wars or other forms of armed conflict and to the commission of war crimes and other gross violations of human rights, and inquire into the consequences of the crimes and violations, including those which became manifest after 2001.

Article 16

Violations of Human Rights under the Mandate of the Commission

The Commission shall establish the facts related to serious violations of international humanitarian law and other gross violations of human rights listed in Article 1 of the Statute, where the crimes and violations include, but are not limited to, the following: genocide, persecution, murder, enslavement, unlawful confinement, torture, forced disappearance, deportation and forcible transfer of civilians, rape and other gross forms of sexual abuse, extensive destruction and appropriation of property, hostage-taking, destruction of religious, cultural and historic monuments and institutions, use of civilians and prisoners of war as “human shields”, and systematic discrimination.

PART VI – POWERS OF THE COMMISSION

Article 17

Statement-Taking

1. The Commission shall have the power to take statements concerning war crimes and other gross violations of human rights within the scope of its mandate, from victims, witnesses, representatives of institutions, and perpetrators.
2. The Commission shall endeavour to receive statements on a voluntary basis, while retaining the powers stipulated in paragraph 8 of this Article.
3. Victims shall not be under obligation to give statements about their own suffering or the suffering of their family members.
4. If a person refuses to give a statement to the Commission, invoking a statutory obligation to protect confidentiality of the data, Article 11, paragraphs 3 and 4 of this Statute, shall apply.
5. Provisions of the criminal procedure act of the Party to the Agreement shall apply to the right to withhold response to a question, the release of duty to give statements, as well as other issues concerning the questioning of individuals that are not regulated by this Statute.
6. The Commission may authorize the use of identity protection measures at the personal request of the person giving a statement.
7. The Commission shall summon persons from paragraph 1 of this Article in accordance with the provisions of the criminal procedure act of the Party to the Agreement about summoning of

witnesses. The Commission may enter into agreements with Parties to this Agreement to regulate the summoning procedures.

8. At its discretion, the Commission may file a criminal complaint with the competent office of the prosecutor for the purpose of securing an individual's presence, i.e. for the purpose of sanctioning an individual who refuses to give a statement, in accordance with the criminal procedure act of the Party to the Agreement in which the individual has permanent or temporary residence.
9. Prior to, during, and after the taking of a statement, the Commission shall provide psychological and social support to victims and witnesses as needed.
10. The Commission shall take statements from victims and witnesses:
 - (a) In the place of permanent or temporary residence of the person;
 - (b) In the offices of the Commission;
 - (c) In diplomatic and consular offices of Parties to the Agreement, if the statement is to be taken in third party countries; and,
 - (d) On the territory of third party countries, if it is not contrary to the laws of these countries and if it is not possible for victims, witnesses, or other persons to give statements in the embassies and consular offices of Parties to the Agreement.

Article 18 ***Collecting Documentation***

1. The Commission shall collect documentation and other relevant items, including:
 - (a) Documentation held by cabinets, parliaments, presidents and presidencies, local self-governing bodies, public and privately owned companies, the armed forces, police, and security services;
 - (b) Court judgments, transcripts, court and prosecutorial documents of the International Criminal Tribunal for the Former Yugoslavia (ICTY), national courts and offices of prosecutors in Parties to the Agreement, and other courts that have conducted trials for war crimes committed on the territory of the former SFRJ;
 - (c) Other archive materials;
 - (d) Newspaper articles and audio-visual material; and,
 - (e) Written opinions of experts and representatives of institutions and organizations, prepared at the invitation by the Commission, or at their own initiative.
2. Upon the request of the Commission, State organs, other legal entities, and citizens of Parties to the Agreement shall produce in a timely manner all documents and other items that may be necessary for the achievement the objectives of the Commission.

3. Before sending a request for the presentation of documents or other items, the Commission shall make every attempt to determine with precision the type of information the requested item may contain.
4. If a person, legal entity or state organ refuses to present to the Commission the requested item, invoking their obligation under national law to protect confidential information, the provisions contained in Article 11, paragraphs 3 and 4 of this Statute, shall apply.

Article 19

Field Inquiries and Visits to Scenes of Crimes

1. The Commission shall establish relevant facts by inspecting crime scenes, places of confinement, mass graves, and all other locations relevant to establishing the facts about war crimes and other gross violations of human rights.
2. The Commission may sign memorandums of understanding with competent state organs concerning the inspection of locations.
3. The Commission may visit crime scenes and mass graves in order to pay respect to victims.

Article 20

Public Hearings of Victims and Other Persons

1. The Commission shall hold public hearings in order to provide a platform for victims to speak about their suffering and the suffering of their family members.
2. Public hearings may also include perpetrators of war crimes or other gross violations of human rights, witnesses, and persons who helped victims.
3. Giving statements in a public hearing shall be voluntary.
4. Prior to, during, and after public hearings, the Commission may decide to apply identity protection measures, special measures to protect the psychological and physical well-being of persons, as well as measures of psychosocial support to victims and other participants.
5. State-owned electronic media, i.e. public service broadcasters on the territory of Parties to the Agreement shall air public hearings live or record them for later broadcast. The Commission and the public service broadcasters shall conclude agreements on broadcasting arrangements. Commercial electronic media shall be allowed to air public hearings under the same terms and conditions as the state-owned media, i.e. public service broadcasters.
6. Public hearings may be held in different locations.

Article 21
Thematic Sessions

1. The Commission may hold public sessions focused on the activity of state institutions, political organizations, cultural and scientific institutions, churches and religious communities, and the media before and during the war or other form of armed conflict in relation to commission of war crimes and other gross violations of human rights.
2. Participation in a thematic session shall be mandatory. If a properly summoned person, without a justified reason, fails to appear, or refuses to give a statement, Article 17, paragraph 8 shall apply.
3. State-owned electronic media, i.e. public service broadcasters, on the territory of Parties to the Agreement shall air thematic sessions live or record them for later broadcast. Commission and the public service broadcasters shall conclude agreements on broadcasting arrangements. Commercial electronic media shall be allowed to air public hearings under the same terms and conditions as the state-owned media, i.e. public service broadcasters.
4. Public hearings may be held in different locations.

Article 22
Rules of Procedure of the Commission

The Commission shall adopt the necessary Rules of Procedure in order to regulate uniform methodology for:

- Statement-taking;
- Collecting documentation;
- Carrying out public hearings;
- Carrying out thematic sessions;
- Compiling registers of human losses;
- Providing psychosocial support for victims; and,
- Other issues relevant to the work of the Commission.

PART VII – SELECTION OF COMMISSIONERS

Article 23
Composition of the Commission

The Commission shall have 20 (twenty) Commissioners, of which:

- (a) Five members shall be selected in Bosnia and Herzegovina;
- (b) Three members shall be selected in Croatia, three in Kosovo, and three in Serbia; and,
- (c) Two members shall be selected in Macedonia, two in Montenegro and two in Slovenia.

Article 24
Criteria for Selection of Commissioners

1. In order to be selected as a Commissioner, a person must be:
 - (a) A citizen of a Party to the Agreement;
 - (b) A person of integrity and repute, upholding high ethical standards, dedicated to fostering a culture of tolerance and constructive dialogue in solving disputes, and capable of enjoying the trust of the people in all Parties to the Agreement; and
 - (c) Mentally and physically fit to efficiently and continuously perform their duty as a Commissioner.
2. In each Party to the Agreement at least one woman and at least one man shall be selected as Commissioners.
3. Each Party to the Agreement shall make every effort to ensure ethnic diversity in the composition of the Commission, so that in addition to members of the largest ethnic group, at least one member from another ethnic community from that Party to the Agreement shall also be selected as a Commissioner.
4. The following shall be precluded from appointment as Commissioners:
 - (a) Persons who held prominent political position in the period of two years prior to the beginning of the selection procedure, or during the period covered by the mandate of the Commission; and,
 - (b) Persons against whom there exist a serious suspicion that they were responsible for violating human rights or international humanitarian law, or instigated or aided and abetted the commission of such violations or contributed to non-punishment thereof, or had close ties with persons responsible for the commission of human rights violations or persons convicted, indicted, or under investigation for the commission of such acts.

Article 25
Identical Selection Procedures in all Parties to the Agreement

In each Party to the Agreement, Commissioners shall be selected in an identical procedure specified by this Statute.

Article 26
Nomination of Prospective Candidates

1. Associations of citizens, educational institutions, scientific institutions, religious communities, trade unions, or groups of at least 30 citizens of a Party to the Agreement shall have the right to nominate candidates for Commissioners upon obtaining their approval.
2. The selection panel in each Party to the Agreement shall receive the nominations and conduct the primary screening of candidates.

Article 27

Composition and Selection of Members of Selection Panels

1. The selection panel in each Party to the Agreement shall consist of nine members, all of whom must meet the criteria set for Commissioners, except for the requirement excluding those persons who held prominent political positions during the period of two years prior to the beginning of the selection procedure, or during the period covered by the mandate of the Commission.
2. Members of the selection panel cannot be nominated as candidates for Commissioners.
3. Three members of the selection panel shall be appointed by the Minister of Human Rights, with the consent of the parliamentary body in charge of human and minority rights.
4. Three members of the selection panel shall be selected by members of the Coalition for RECOM in the Party to the Agreement.
5. The initial six members of the selection panel shall be appointed or selected in accordance with provisions of paragraph 3 and 4 of this Article within 45 days after the last ratification of this Agreement.
6. The competent Minister shall announce the appointment and selection of the initial six members of the selection panel and advertise open positions for the remaining three members of the selection panel within an additional eight days.
7. The six appointed i.e. selected members of the selection panel shall make every effort to select the remaining three members by consensus, if possible, but in the absence of consensus they shall decide by majority vote.
8. The competent Minister, the Coalition for RECOM, and members of the selection Panel appointed or selected in accordance with paragraphs 3 and 4 of this Article shall ensure that at least one third of members of the panel members are female, one third male, and shall endeavour to ensure that one third of members are representatives of victims' associations, including victims' associations outside of the Coalition for RECOM, provided that the respective association has been registered for at least three years before the Party signed this Agreement.
9. The competent Minister shall announce when the selection panel is fully staffed and provide the necessary conditions for its work.
10. The oldest member of the selection panel shall chair the work of the panel and schedule its constituent session to be held no later than 45 days from the day that the open positions from paragraph 6 of this Article were advertised.

Article 28

Selection of Candidates for Commissioners by the Selection Panels

1. No later than 8 (eight) days after the constituent session, the selection panel from each Party to the Agreement shall advertise the available positions for Commissioners. The application deadline shall be 30 (thirty) days.
2. No later than 8 (eight) days after the the expiry of application deadline, the selection panel shall publish the following information on the website of the competent Ministry as identified in Article 27, paragraph 3:
 - (a) The total number of applications received; and,
 - (b) The names of candidates whose applications shall be considered.
3. The selection panel may decide to interview all or some candidates. Interviews shall be open to the public.
4. The selection panel may request information on any candidate from the authorities and public institutions, who shall be obliged to respond as a matter of urgency.
5. The selection panel shall endeavour to reach all decisions unanimously, but in the absence of consensus it shall decide by a simple majority of five votes.
6. The selection panel shall assess the fulfilment of the required criteria on the part of the candidates whose applications it chose to consider and it shall create a shortlist of candidates which is between two and three times larger than the number of Commissioners which are to be selected in the respective Party to the Agreement.
7. No later than 40 (forty) days after the expiry of the application deadline, the selection panel shall publish the names of the shortlisted candidates and submit the list on the same day to the President or the Presidency of the Party to the Agreement.

Article 29

Selection of Commissioners by Presidents/Presidency of Parties to the Agreement

1. The President or the Presidency of the Party to the Agreement shall make the final decision on the Commissioners to be selected in that Party to the Agreement from the shortlist submitted to them by the selection panel.
2. On the thirtieth day from the day they received the shortlists of candidates from the selection panels, the Presidents and Presidencies of the Parties to the Agreement shall inform each other about their choices, before informing the public about their decisions.
3. On the fifteenth day from the day the Presidents and the Presidencies of the Parties to the Agreement receive the information referred to in paragraph 2 of this Article, they shall publicly announce the names of the Commissioners.

Article 30
The Constituent Session

1. The oldest Commissioner shall schedule the constituent session of the Commission, to be held at the Commission's Main Office no later than 15 days from the date set forth in Article 29, paragraph 3, of the Statute, and chair the Commission until the Chairperson of the Commission is elected.
2. The ceremonial, introductory part of the constituent session shall be attended by the Presidents and members of the Presidencies of the Parties to the Agreement.
3. In the introductory part of the constituent session, Commissioners shall sign a copy of the Statute and read aloud and sign the following statement: "I hereby swear on my honour that I shall conduct my duties as a Commissioner in a dedicated, impartial, and independent way, and that I shall strive to justify the confidence bestowed upon me in my contributions to the implementation of the objectives of the Commission."

Article 31
Selection of the Chairperson and Adoption of the Rules of Procedure

1. Commissioners shall select the Chairperson and adopt the Rules of Procedure regulating the work of the Commission no later than 60 (sixty) days after the day of the constituent session.
2. Commissioners may decide to limit the mandate of the Chairperson to a specific time period.

Article 32
Quorum and Decision Making

1. The quorum of the Commission shall be 14 (fourteen) Commissioners.
2. Decisions of the Commission shall, as far as possible, be taken by consensus and in the absence of consensus at least 14 members must vote for the adoption of a decision.
3. The Commission may decide that in order to adopt a specific procedural decision it is sufficient to obtain a simple majority of votes.

Article 33
Termination of the Mandate of Commissioners

1. The term of office of a Commissioner shall terminate upon the expiry of the Commission's mandate and in the following cases:
 - (a) The written resignation of the Commissioner;
 - (b) The death of Commissioner;
 - (c) A final court decision on deprivation or limitation of Commissioner's legal capacity;
 - (d) A final conviction of Commissioner to unconditional prison sentence; or

(e) The removal of Commissioner.

2. In cases listed in paragraph 1, points (a), (b), (c), and (d) of this Article, the Commission shall declare that the term of office of the Commissioner has terminated and inform the President or the Presidency of the relevant Party to the Agreement. The President or the Presidency shall within 15 days appoint a new Commissioner from the shortlist adopted by the selection panel during the initial procedure for selection of Commissioners.
3. A Commissioner may be removed in the case of a failure to fulfil the duties set forth in Article 35 and Article 37 of the Statute, or if he or she receives a final conviction for a criminal act which is detrimental to the integrity and credibility of the Commissioner, or in case of a continuous inability to perform his or her duty due to poor mental, emotional, or physical health.
4. The Commission shall adopt a proposal to remove a Commissioner without the presence of that Commissioner and submit a motion to the President or the Presidency of the Party to the Agreement in question. Prior to adopting the decision, the Commission shall inform the Commissioner about the evidence corroborating the motion and the Commissioner shall be given an opportunity to present evidence in his or her favor.
5. No later than 15 days after the submission of the motion for removal, the President or the Presidency of the Party to the Agreement shall decide whether the Commissioner shall be removed from duty, and if so, select a new Commissioner from the shortlist adopted by the selection panel during the initial procedure for selection of Commissioners.

Article 34

Suspension of Commissioners

If a Commissioner is being investigated for a criminal act detrimental to his or her credibility, if the Commission learns about other circumstances related to the Commissioner which could seriously damage the integrity and credibility of the Commission, or if the Commissioner is unable to perform his or her duties because of his or her mental, emotional, or physical condition, the Commission may decide to suspend the Commissioner until the Commission examines the reasons for suspension or until the reasons cease to exist.

Part VIII – RIGHTS AND OBLIGATIONS OF COMMISSIONERS AND PERSONNEL

Article 35

Conscientiousness, Independence, and Impartiality

1. Commissioners, employees, and other persons performing duty for the Commission shall act in accordance with the provisions of this Statute and legal acts adopted by the Commission, and

perform their duty in a conscientious and impartial manner, acting independently of the interests of any political party, government, interest group, or person.

2. Commissioners and employees of the Commission shall not perform any other activity which may prevent them from performing their duties on the Commission or bring into question their independence and impartiality. Commissioners and employees shall disclose to the Commission any existing or potential conflict of interest.
3. If the Commission finds that a Commissioner or an employee has a conflict of interest, the Commission shall exempt that person from further acting in the matter that includes the conflict of interest, undertake the necessary measures for the removal of the Commissioner, suspend the Commissioner, or discharge the employee.
4. If the Commission is not informed in a timely manner about any circumstances pointing to a conflict of interest of a Commissioner or an employee, and if that person took part in the decision-making process or executed other activities in a matter related to the conflict of interest, the Commission shall, as soon as it becomes aware of such a conflict of interest, reconsider the decision and the performed activity, and, if necessary, ensure a re-vote or repeat of the activity without the participation of said person.

Article 36 ***Privileges and Immunities***

1. In order to preserve the independence of the Commission and to ensure its unimpeded operation, during their mandate Commissioners and employees shall enjoy the following privileges and immunities:
 - (a) Immunity from personal arrest or detention and from seizure of their personal baggage;
 - (b) Immunity from legal process of every kind, in respect of their expressed opinion and all acts done by them in good faith, within the scope of their duty; and,
 - (c) Exemption from any restrictions on their freedom of movement in relation to the performance of the tasks of the Commission and the freedom of entry into and exit from the country in which they conduct their duty.
2. Immunity as stipulated in paragraph 1, point (b) of this Article, in respect to the expressed opinion, shall extend after the mandate with the Commission or the engagement with the Commission is terminated.
3. The Commission shall waive the immunity of a Commissioner or an employee if such immunity is in any way obstructing the course of justice and compromising the confidence of the public in the Commission.

Article 37 ***Protection of Sources and Confidential Information***

Commissioners, employees, and other persons performing duty for the Commission shall protect the confidentiality of all information they came into possession of while performing their duties with the

Commission, including the identity of persons who provided information on condition of anonymity, and refrain from using such information for personal reasons, until the Commission releases such information in the form of an official press release. This obligation does not refer to matters of common knowledge.

Article 38

Status of the Commissioners and the Personnel

1. As a rule, Commissioners and employees of the Commission shall be engaged on a full time basis.
2. The payment of wages and compensation to Commissioners, employees, and other persons performing duty for the Commission shall be regulated by the rule-book of the Commission and shall make up part of the Budget of the Commission.

Part IX – STRUCTURE OF THE COMMISSION

Article 39

Executive Secretariat and Departments of the Commission

1. The Commission shall establish its Main Office, the Executive Secretariat, in Sarajevo. The primary task of the Executive Secretariat shall be to offer technical, administrative, and operational support to the Commissioners and to coordinate the work of the different offices and departments established by the Commission.
2. The Commission shall appoint the Executive Secretary and heads of the departments and shall decide on the termination of their mandates.
3. Employees and other persons performing duties in the Executive Secretariat and departments of the Commission shall be employed without regard to their citizenship.
4. The restrictions specified by Article 24, paragraph 4 of this Statute shall apply to the recruitment of employees and other persons who perform duties in the Executive Secretariat, departments, teams, and other bodies established by the Commission.

Article 40

Offices of the Commission on the Territory of Parties to the Agreement

1. The Commission shall establish offices on the territory of all Parties to the Agreement and appoint and relieve from duty the heads of offices on a proposal from the Executive Secretary.

2. The Main Office of the Commission in Sarajevo, following consultation with the Executive Secretary and the Offices in a particular Party to the Agreement, may establish mobile inquiry teams and local offices in other towns on the territory of that Party to the Agreement, and appoint and relieve from duty the leaders of these mobile teams and local offices.
3. On a proposal from the Executive Secretary, the Commission may establish a mobile inquiry team to collect information in the territory of any Party to the Agreement.
4. Employees and other persons performing duties in the offices of the Commission in Parties to the Agreement and in mobile inquiry teams shall be engaged without regard to their citizenship.

Article 41
Archives of the Commission

1. The Executive Secretariat shall set up an Archive and Database Department of the Commission, which shall establish the archiving and digitalization methodology for collected documents.
2. After establishing the methodology referred to in paragraph 1 of this Article, but no later than six months after it has been set up, the Archive and Database Department shall become the Archives and Database of the Commission, tasked with archiving and digitalizing all collected documentation.
3. Each Office in a Party to the Agreement shall establish its own archive and database department tasked with archiving and digitalizing all collected documents. No later than six months after their establishment, the archive and database departments shall become the Archives and Databases of the respective Office.
4. The Archives and Database of the Commission in Sarajevo shall be integrated with the archives and databases of the offices in each Party to the Agreement no later than three months prior to the expiry of the mandate of the Commission.
5. No later than 15 days before the expiry of its mandate, the Commission shall submit copies of the integrated archives and databases to the state archives of the Parties to the Agreement or to institutions with the capacity to maintain the data.
6. Upon the expiry of the mandate of the Commission, the archive material and the database material of the Commission shall be made available without limitation to all interested institutions and persons, except for the classified documents.

Part X – FINANCIAL MATTERS

Article 42

Financing

1. The commission shall be financed by funds provided by the Parties to the Agreement and through donations.
2. Funds provided by the Parties to the Agreement shall come from annual budgetary contributions for the duration of the Commission's mandate.
3. The contributions of the Parties to the Agreement to the financing of the Commission shall be determined in nominal amounts corresponding to each Party's proportional share of the total amount necessary for the functioning of the Commission.
4. The Parties to the Agreement shall reach an agreement on the contributions from each Party, as necessary for the functioning of the Commission.
5. The Commission shall endeavour to obtain donations from various sources, including from international organizations and domestic legal entities.
6. Donations, for the purposes of this Statute, represent "funds which are managed directly" and shall be used in accordance with agreements reached between the Commission and the international donor organizations and domestic legal entities.
7. Donations in kind, including those received from Parties to the Agreement, shall not be considered part of the contributions stipulated in paragraph 2 of this Article.

Article 43

Financial Reporting

1. The Executive Secretariat shall prepare annual financial reports on the implementation of the basic budget, in accordance with the financial rule-books of the Commission.
2. The Executive Secretariat shall prepare reports on the use of donated funds, in accordance with the financial rule-book of the Commission and in compliance with the specific requests of donors.
3. An independent auditor shall conduct an independent annual audit of the use of basic budget funds and contributions received from the Parties to the Agreement and other donors. In line with an agreed procedure, and along with the comments made by the Commission, the Final Audit Report shall be made public.
4. The reports from paragraphs 1 and 2 of this Article shall be subject to revision by the independent auditor.

Part XI – FINAL REPORT OF THE COMMISSION

Article 44

Publishing the Final Report

1. Three months prior to the expiry of its mandate, the Commission shall publish its Final Report.
2. The Commission shall submit its Final Report to the Presidents and Presidencies of the Parties to the Agreement and publish it at the same time on the official web site of the Commission in all official languages of the Parties to the Agreement and in English, as well as in audio-format.
3. The Commission shall publish a short version of the Final Report at the same time or after the complete version has been submitted.

Article 45

Contents of the Final Report

1. The Final Report shall include: an introduction; description of relevant facts about war crimes and other gross violations of human rights in accordance with the functions of the Commission as stipulated in Article 14 of the Statute; registers of human losses; a list of places of confinement; a list of detained individuals; a list of individuals who were subjected to torture and a list of recommendations.
2. Recommendations shall include, but shall not be limited, to:
 - (a) Further steps to be taken by the Parties to the Agreement aimed at advancing trust among the States and communities on the territory of the former SFRJ;
 - (b) Appropriate forms of material and symbolic reparations, models of institutional reform, and mechanisms which will help integrate the established facts into the educational systems of the Parties to the Agreement; and,
 - (c) Ways to monitor the implementation of the recommendations of the Commission, which may include a proposal to form a separate mechanism for that purpose.

Article 46

Findings on War Crimes and Other Gross Human Rights Abuses

1. The Commission may conclude in the Final Report that the established facts lead to a serious suspicion that an individual committed a war crime or other gross violation of human rights. Such findings shall not have the effect of a court decision and shall not prejudice the outcome of criminal proceedings, if any.
2. In the Final Report, the Commission shall not make an adverse finding against any person unless it has taken all reasonable steps to:
 - (a) Give that person reasonable notice of the intention to make the finding;

- (b) Disclose to that person the contents of the proposed finding, the relevant material relied on for that finding, and the reasons on which the finding is based;
 - (c) Give that person an opportunity to respond to the proposed finding within a reasonable period of time; and
 - (d) Check findings on a deceased individual with at least three independent sources.
3. With respect to cases that have been processed by an international or domestic court in the presence of the accused, the Commission shall in the Final Report refer to the relevant judgment. The Commission may establish new facts.

Article 47

Obligations on Parliaments and Cabinets to Consider the Final Report

1. Following the publication of the Final Report, the President or the Presidency of each Party to the Agreement shall submit a copy of the Final Report to the Speaker of Parliament, who shall convene a special session of Parliament no later than 30 (thirty) days after receiving the Final Report, for the purpose of analysing the findings and recommendations from the Report, or shall include it in the agenda of a regular parliamentary session. One or more Commissioners shall attend the session.
2. In the six-month period following the publication of the Final Report of the Commission, the cabinets of all Parties to the Agreement shall adopt and publish in their country's Official Gazette their position on the implementation of the recommendations of the Commission.
3. Following the response of the cabinet, the Speaker of Parliament of each Party to the Agreement shall convene another special session of the Parliament for the purpose of analysing the response of the cabinet and considering the possible engagement of Parliament in the process of implementing the recommendations of the Commission.

Part XII – MISCELLANEOUS

Article 48

Offences and Penalties

1. Any person proven to have:
 - (a) deliberately provided false information to the Commission, i.e. to a person or body acting on behalf of the Commission;
 - (b) used threats, force, or promises of personal gain with the purpose of coercing another individual to give false information or refuse to give information to the Commission i.e. to a person or body acting on behalf of the Commission;
 - (c) destroyed a document or a piece of physical evidence in order to prevent the Commission from conducting an inquiry; or,

(d) made public a piece of information that the Commission received on condition of confidentiality, or disclosed identity of the confidential source; shall be considered to have committed a criminal offence punishable by a maximum one year prison sentence or by a fine of up to EUR 5,000.

2. The penalties stipulated in paragraph 1 of this Article shall also apply to officials or private individuals who refuse without justifiable cause to respond to a request submitted by the Commission, i.e. by a person or body acting on behalf of the Commission, to produce a document or other item.
3. If a person refuses to respond to the summons or refuses to give a statement to the Commission, Article 17, paragraph 8 of this Statute shall apply.

Article 49

The Role of the Commission in the Criminal Prosecution

The Commission shall have the authority to:

- (a) Recommend that, in the case of a criminal trial, the court conducting the case should consider, at the request of the accused, as a significant mitigating circumstance in the determination of sentence the fact that the person who is suspected by the Commission to have committed a war crime or other gross violation of human rights shared with the Commission information relevant to the disclosure of locations containing the bodily remains of missing persons or information relevant to identifying other possible perpetrators or other crimes;
- (b) Make a recommendation for partial pardon of a perpetrator of a criminal act who shared with the Commission information relevant to the disclosure of locations containing the bodily remains of missing persons or information relevant to identifying other possible perpetrators or other crimes, provided that it does not run counter to the national legislation; and,
- (c) Propose an extraordinary sentence reduction for a perpetrator of a criminal act who shared with the Commission information relevant to the disclosure of locations containing the bodily remains of missing persons or information relevant to identifying other possible perpetrators or other crimes, provided that it does not run counter to the national legislation.

Part XIII – FINAL PROVISIONS

Article 50

Termination of the Mandate of the Commission

1. The mandate of the Commission shall be terminated no later than three months after the Final Report of the Commission has been published.
2. In the three-month period following the publication of the Final Report, the Commission shall undertake measures to systemise, distribute, and preserve the Archives of the Commission, to rearrange its property, to fulfil its obligations with respect to third parties, to distribute and

present the Final Report, and to compile final financial reports and a report on the work of the Commission.

Article 51
Entry into Force

1. The original texts of this Statute in Albanian, Bosnian, Croatian, Macedonian, Montenegrin, Serbian, and Slovenian languages are equally authentic and shall be deposited with a competent body of the host state of Bosnia in Herzegovina.
2. Parties to the Agreement shall inform each other about the ratification of the Statute in their parliaments.
3. The Statute shall enter into force on the first day of the month after the fifteenth day following the date of the last ratification.