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# !Dilemmas of a Public Advocate



*Biljana Vankovska*  
*Photo: Nova Makedonija*

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It has been more than a year since I became a Public Advocate for RECOM in Macedonia. With that experience, and after some progress, I can point to the dilemmas that I faced and which still pose a problem for me. As a professor and public intellectual, I had been an advocate even before RECOM, though I never been really aware of a technical term such an activity. I never tried to measure the impact of my work, nor was I worried about whether it had any effect or if it was worthwhile. Simply put, it was and still is the task of any public intellectual – to care about social currents, public good, ethical principles, and human rights; to speak out in the media and at various forums and to participate in the projects of non-governmental organizations. But acting through the Coalition and arguing in favor of the need for dealing with the past and human losses of the past wars, is a far greater obligation and, as such, one has a huge responsibility to all those who have worked for years on these issues, and who finally produced RECOM's Draft Statute. What I have so far advocated as a 'freelancer', as it were, is now finally acquiring concrete meaning, but this also raises the question of concrete results. Traditional forms of advocacy have now transformed into lobbying and informal diplomacy. One of the dilemmas every public advocate faces is the relationship with all those who have made an investment in the process, and who can now begin to feel dispensable or marginalized. Some talk about it openly, others not so explicitly, but the fact is that public advocates are sandwiched between their base and the politicians, and more generally between the media and the general public, and they must convince them that the time is ripe to move the civil initiative for RECOM and place it in political and diplomatic spheres.

Every activist fears transferring his work to the politicians, because she/he dreads politicians' possible misuse of that work. The same goes for advocacy... It is much easier to act on one's own behalf, to criticize and to enter into confrontation with the politicians,

who may have legitimacy but rarely have wider public respect. We are now supposed to look for a way to get into direct talks with the highest governmental officials, to make them take seriously the establishment of a regional commission, or at least enter into regional intergovernmental negotiations. At the same time we have to be careful not to make them aloof while playing the card of their (often) guilty conscience, as my colleague Zarko Puhovski would put it. Sometimes your advocacy risks being criticized by the domestic public, sometimes by the public from a neighboring country (depending on the conflict), and sometimes you do things a free individual would not do – knock on the doors of those you may not even respect, but on whom the establishment of RECOM depends. Sometimes you don't really know why they receive you or how sincere they are in what they say, and even less you know whether advocacy is making any progress in other countries in the region. Sometimes you have to deal with the dilemma as to how to respond, when those same politicians do things in other areas that are not good for society. And that is how a process of reflection begins that comes too close to self-censorship (in order not to jeopardize the more important interest, i.e. RECOM).

**Advocating for something like the need for dealing with the past and human losses presupposes huge responsibility.**

Advocacy in Macedonia is going surprisingly well, despite the fact that Macedonia is a divided society in which those who had been involved in the conflict now occupy high government positions. We have managed to reach the President, Speaker of the Parliament, and several ministers and MPs, but they all want to know: how are things going in other countries? It's as though no one wants to take the lead and commit a 'false start'. The success of

advocacy depends on a number of things, but most importantly it depends on the trust and support of the Coalition. Every advocate's work will be stronger if they can rely, not only on internal support, but also on the results of their colleagues. We are all connected – we share dilemmas as well as successes and failures... But no one thought this was going to be an easy task anyway.

**Biljana Vankovska**

*Professor at the Faculty of Philosophy in Skopje, Macedonia, and member of the Regional Team of Advocates for RECOM*

## IN THE NEWS – NEWS ABOUT RECOM

**!RECOM for  
the future of  
youth: petition  
for RECOM  
continued**



*Petition-Signing in Pristina  
Photo: FHP*

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As part of a program of activities designed to strengthen public support for the Initiative for RECOM, on October 24<sup>th</sup> 2012, the Coalition organized public events under the banner of 'RECOM for the future of youth' on the streets of Belgrade, Zagreb, Ljubljana, Sarajevo, Banja Luka, Podgorica, Pristina and Skopje. during which 1,421 members of the public signed the petition for RECOM, and 57 individuals joined the Coalition for RECOM. Despite the cold weather, and rain in Zagreb and Banja Luka, the number of signatures secured in a single day was equal to that secured during an intensive day of the campaign in June 2011. Coalition members were very effective in promoting the Initiative for RECOM, in answering questions from the public about the goals and objectives of RECOM, and in reminding them that 543,000 people had already signed the petition for the establishment of RECOM. Reactions from the public were encouraging. Most people knew about RECOM. Many expressed disapproval for the passive attitudes of politicians, and their satisfaction that RECOM is a regional commission for the victims. The event in Podgorica received most media attention.

The news of the continued call for signatories for the petition was among the most important news in both the electronic and print media. Writer **Tone Persak**, and **Darko Strajn**, President of the Liberal Academy sent their written support for the event in Ljubljana. Written support was also received from **Oto Luthar**, from the Slovenian Academy of Sciences and Arts, the President of the Writers' Association of Slovenia **Veno Taufer**, writers **Simon Kardum**, **Miroslav Slana-Miros** and **Ales Debeljak**, and historian **Bozo Repe**. Through his spokesperson, **Bojan Brezigar**, Minister **Ziga Turk** apologized that he was unable to attend in person to sign the petition. In Pristina, the petition was signed by actors **Luan Dhaka** and **Afrim Spahiu**, jazz musician **Ilir Bajri**, and singer **Ron Nishilu**. In Skopje, the Vice President of the Social-Democratic Alliance of Macedonia **Zoran Jovanovski**, and musician **Simeon Ivanov Kang** added their signatures.

**The majority of  
citizens are in favor  
of RECOM.**

# **!Flash mob: Commemorating the victims of the war in Croatia**



*Commemoration on the Square of Franjo Tudhman in Zagreb  
Photo: Youth Initiative for Human Rights in Croatia*

The Youth Initiative for Human Rights in Croatia organized an illegal event to commemorate the victims of war on All Saints' Day, November 1, 2012 in Dr. Franjo Tudjman Square in Zagreb. The aim of this event was to draw public attention to the victims of war and missing persons, and to invite the public to support RECOM.

**Seventeen candles symbolizing the number of years since the end of the war remained untouched on the Square while the action was underway.**

During the night of November 1<sup>st</sup> 2012, YIHR activists placed two purple ribbons around the trees on the square, as a symbol of remembrance for the victims and in support of RECOM. The ribbons read '1,868', the number of missing persons in Croatia and 'RECOM'. On the footpaths, activists set out 17 purple candles to symbolize the 17 years that have passed since the ending of the war,

and among the trees they set up a net from which they hung 1,868 pieces of paper, each with the hand-written name of a person that went missing during the war in Croatia. The candles and slips of paper remained intact on the Square until November 15, 2012. News portals *H-alter* and [www.civilnodrustvo.hr](http://www.civilnodrustvo.hr), and the daily newspaper *Novosti* reported on the event. In Zagreb, the event prompted much positive comment for many days. Although the action had not been previously registered, the police and cleaning services did not remove the installation.



**Jelko Kacin:  
“The Moment  
is Right for  
RECOM”**

**It is an undisputable fact that regional reconciliation is a necessary precondition for the success of European integrations.**

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On November 23, 2012, **Igor Mekina**, the Public Advocate for the Initiative for RECOM in Slovenia, met with **Jelko Kacin**, Member of the European Parliament, where he is a member of the ALDE block (the Alliance of Liberals and Democrats for Europe), Rapporteur of the European Parliament for Serbia, and shadow rapporteur for Macedonia, Montenegro and Albania. Mekina presented developments in the RECOM process and told Kacin about the support that the Initiative has gained from organizations and politicians from across the former Yugoslavia, and from important international institutions.

Kacin said that the Initiative for RECOM was very important because he believed that the establishment, publication and acceptance of the facts about massive violations of human rights on a regional level was vital for all citizens in the region. Doing this would create a foundation for meeting the needs of victims and victims' family members, restoring dignity to victims, determining the fate of missing persons, and preventing the repetition of the horrors of the past.

Kacin said he believed that now was the right moment to put extra effort into the establishment of RECOM. “The process of reconciliation is imperative. Regardless of how the work of the Hague Tribunal for the former Yugoslavia is perceived, it is indisputable that regional reconciliation is a precondition for the success of European integration. Only then will the region be able to be reshaped into a potentially more stable and promising market,” Kacin said, stressing that in all of his public statements he persistently emphasized the need for the establishment of RECOM as a regional truth commission.



!There was  
no Joint  
Criminal  
Enterprise



*Judge Theodor Meron*  
*Photo: ICTY*

## Hague Tribunal acquits Croatian generals, Ante Gotovina and Mladen Markac

On November 16, 2012, in a majority verdict, the ICTY Appeals Chamber acquitted **Ante Gotovina** and **Mladen Markac**, overturning the first-instance verdict that had convicted the two Croatian generals and sentenced them to 24 and 18 years in prison, respectively. In his explanation of the acquittal, the Presiding Judge **Theodor Meron** stated that, in the opinion of the Appeals Chamber, the first-instance verdict was based on an erroneous conclusion that artillery attacks on Knin, Gracac, Obrovac and Benkovac during Operation *Storm* on August 4 and 5 1995, were illegal. Meron stated that the finding of the Trial Chamber on the illegality of these attacks was the “cornerstone” of the conclusion that the defendants had participated in a joint criminal enterprise among the Croatian leadership, whose goal was to permanently and forcibly remove the Serb population.

“The Trial judgement contains no indication that any evidence was considered in reaching this conclusion, nor is there in it any explanation as to how the Trial Chamber arrived at it ... In these circumstances, the Appeals Chamber unanimously finds that the Trial Chamber erred when it applied the standard that was founded on evidence,” said Judge Meron. “The Appeals Chamber considers that there is no evidence of a joint criminal enterprise,” he concluded. Gotovina and Markac were released on the same day.

In a press release examining the acquittal judgment, a Zagreb-based non-governmental organization *Documenta* – Center for Dealing with the Past, reminded the Croatian public of the families of the victims killed during the Operation *Storm* and stressed that “crimes committed during and after Operation *Storm* must not remain a tragedy without an epilogue.”

“During *Operation Storm*, hundreds of civilians were killed, thousands of houses and other buildings were burned. Nearly half of the refugees are still waiting to return to the areas from which they fled (according to the UNHCR, 132,922 refugees have returned to Croatia, although just 48 percent of them have returned permanently, while the rest only occasionally visit their former homes). Regardless of the Appeals Chamber’s decision in the case of Gotovina and Markac, the families of the victims have a moral right to expect the perpetrators be held responsible, regardless of the side they fought on or in whose name the crimes were committed,” the *Documenta* press release said.

The Youth Initiative for Human Rights – Croatia, said in a statement that “after 17 years the most serious crimes committed during *Operation Storm* have gone unpunished and the victims remain without justice or recognition.”

“After this ruling, more than ever before, there is a need for national courts to prosecute those responsible for the crimes that have been identified in this process, as well as other crimes about which the public have complained to the relevant institutions from 1995 onward. If the crimes committed during *Operation Storm* remain unprocessed, the existence of a system that discriminates will be irrevocably confirmed in practice and the stigma of these crimes will remain. Therefore, we welcome the statements of President Ivo Josipovic, Prime Minister Zoran Milanovic and the Minister of Foreign Affairs **Vesna Pusic**, who have announced that trials will be held before Croatian courts. Their statements also have symbolic importance for our fellow citizens – the victims of these crimes, who, due to the delay and lack of professionalism of the Croatian legal system are still waiting for justice,” a statement issued by the YIHR-Croatia read.

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In Serbia, the Humanitarian Law Center issued a statement which read: “The ICTY’s final judgment in the trial of General Gotovina and General Markac has brought no justice to the victims. The decision of the Appeals Chamber establishes no responsibility on the part of the Republic of Croatia for the crimes committed during and after *Operation Storm* and no joint criminal enterprise, or even individual responsibility on the part of the generals has been established.” The HLC statement concluded: “This judgment reduces the mass crimes committed during and after the military-police *Operation Storm* to isolated incidents. From now on, no one will criticize the Croatian authorities for their reluctance or failure to prosecute the war crimes committed against Serbs.”

In an interview with Novi Sad newspaper *Dnevnik*, Professor **Zoran Pusic** said: “*Operation Storm* returned one third of Croatian territory to the jurisdiction of the internationally recognized state of Croatia and no one is disputing that. But there is evidence that Tudjman and the then political leadership abused this military operation. Unlike Milosevic, who made all kinds of stupid mistakes, but was very careful not to talk about them in public, Tudjman could not restrain himself and so we have his statements about the need to “reduce the percentage of Serbs in Croatia.” Therefore, the intention to do that was clear and there is no doubt that the Croatian government has a very important task to undertake now: to show sincere sympathy for the suffering of ethnic-Serb Croatian citizens, who after the

ICTY verdict have been overcome by a strong sense of frustration and injustice. I am confident that (were they to do so), the situation would calm down quite quickly.”



**!My moral  
pillar is not  
Ante Gotovina  
but Dragan  
Pjevac**

**The Croatian government has  
a very important task to un-  
dertake now: to show sincere  
sympathy for the suffering of  
ethnic-Serb Croatian citizens.**

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*The following text about the acquittals was written for the portal <http://regionalexpress.hr> by **Drago Pilsel**.*

A few hours before the final judgment in the case of generals Ante Gotovina and Mladen Markac, I posted on Facebook the following text: “FORGIVE THEM, ALTHOUGH THEY KNEW WHAT THEY WERE DOING! To my friend **Dragan Pjevac**, whose mother was killed in Medacki dzep, or **Jovan Beric** whose parents, **Marija** and **Radivoj Beric**, were killed on the doorstep of their home in Varivode on September 28, 1995, 50 days after *Operation Storm*, I want to say today, a few hours before the final judgment in the Gotovina and Markac case, that there are some of us in Croatia who refuse to call the war crimes committed in *Operation Storm* and the Homeland War in general – ‘stains’ because only a fool would do that. And fools, to our great regret, have swarmed across not just Croatia, but also other countries in the region. Since the media are buzzing about the so-called ‘prayers’ of the so-called Catholics for a ‘fair’ court decision, while barely mentioning the victims, I do not want to go to sleep without saying to these people and to all those who lost their loved ones in war crimes committed by Croats – I am sorry. I am sorry from the bottom of my heart and I would act quite differently if I were to hear, say, HTV’s news program which, once again, embarrasses my profession. I’m sorry for your pain. I think I can understand it, because my mother mourns her lost (missing) son and because all those who suffered at the

hands of Serbs are also in my heart. I am with you also because I cannot comprehend crime, or a relativization of crimes, or glorification of criminals and criminal politics. Dragan and Jovan, I want you to know that you have, in Croatia, kindred spirits. Not all of us are bastards."

"Having learned that the generals were acquitted, I immediately wrote this: "Today's acquittal of the generals Gotovina and Markac, which comes as a great relief to the citizens of Croatia, must not be an obstacle to a much-needed process of dealing with the truth about the past and learning the lessons from the past. "It is high time to turn to the future of Croatia," says a statement from the office of the former President Mesic. To this I would add that I made the right decision when I criticized the Hague investigators who questioned me, and when through the Dutch newspaper *Handelsblatt* I told them that I would not testify – and that they could instead use my articles and research results from my time in the Croatian Helsinki Committee. Will the Republic of Croatia now finally start punishing 'our own' criminals?

"After these reports were published, I received a letter from Drago Pjevac, whom I mentioned at the beginning of this column, and whose mother was killed atrociously in Medacki dzep.

"Below is his letter in full, printed with his permission."

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"Dear Drago,

I know I sent this poem to you before, but it comes in handy again.

Thank you for what you wrote on Facebook. I just saw it tonight.

I have been home all day and friends and relatives have been calling. I'm trying to write something, but I can't.

I am watching the TV euphoria and shock over the verdict.

Distinguished generals, distinguished President Tudjman, Distinguished Defence Minister Susak... All of them have gone down in history today, for all time.

And what about the crimes? Again, no one is to blame... All of those in Croatia who have lost someone know how much injustice hurts.

Some like you, Drago, will say it, acknowledge, share, understand the grief and pain of others, and many others will not.

Today, all day, I haven't been able to get out of my mind the memory of a man who came to my office in mid-May this year.

Visibly upset, he sat down in the chair, said his name was Mile, and began his story...

At the beginning of *Operation Storm*, in a village near Knin, during the withdrawal of the

(so-called) army of the (so-called) RSK, he stopped by a house in the village to pick up his parents. The village was already been full of Croatian soldiers.

There were three Croatian soldiers with masks over their faces the front yard. In front of the house were his father, mother and grandmother (his father's mother). He had a gun and was watching from the bushes as the soliders tied up his father and led him into the house.

The house was then set on fire. He did not do anything. His mother and grandmother remained alive and the villains left after their 'heroic' deeds.

The man was shaking while he told me these things.

I told him frankly that it took a lot more strength not to shoot than to shoot, because shooting would have signed a death sentence for his mother, grandmother and himself.

He calmed down a bit. He told me that he had testified in The Hague and asked if I, as a lawyer, could help find the culprits or help him obtain damages for the harm he had suffered.

He wrote to the Croatian state, but there was no answer (I'll probably be able to tell him good news about the damages, because the President of the Republic and the Government today pledged that the Croatian state would provide aid to all victims).

The two questions that have been tormenting me all day are:

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Are the acquitted Croatian generals responsible for the crimes committed during *Operation Storm*?

Did the distinguished President Tudjman and Defense Minister Susak order the expulsion of Serbs?

Unfortunately, both answers are yes.

In the generals' area of responsibility horrible crimes occurred, looting, burning of houses and farm buildings (so that people had nothing to return to). This was a well-known and well-practiced activity among all warring parties in the former Yugoslavia.

And no one has been held responsible for it.

So these events were either permitted or quietly ordered.

The President and the minister may not have ordered the expulsion of Serbs, but through their actions they made it clear that it was desirable. There is much evidence for this, but the most obvious argument is the decade-long prevention of the return of Serb refugees to Croatia after the war, as well as the killing, with impunity, of some returnees.

There is euphoria and celebration all over Croatia now. I have heard tonight about sporadic atrocities against Serb civilians, which have sullied the glorious victory.



Now, finally someone may be legally convicted for the crimes against Serbs related to *Operation Storm*.

The Koran bridge crime, is worth about four years - with good behavior, a year and a half or less, since the boys were caught in a 'patriotic fervor'.

I was really happy that it wasn't all an illusion when, last spring, I read in the newspaper that the Appeals Court in Belgrade had overturned the judgment on one defendant, who had killed five elderly Croat men and thrown their bodies in a well in Banatski Kovacevci in Kordun – his sentence was increased from 15 to a maximum of 20 years in prison.

This judgment was pronounced by those 'notorious, primitive and uncultured' Serbs in Belgrade.

Most of those who commented on it, welcomed this judgment. There were no negative reactions at all.

I want, Drago, to see that happen in Croatia.

Will the Hague verdict give strength to those who have remained silent so far, to begin to speak in Croatia?

To speak out against crime? Not just to mind their own business and to not be afraid?

There is a comedy show here, Black Gruja, a parody of Serb heroism, Karadjordje and the battle against the Turks.

At one point (when the Serbs were fighting over something), Black Djordje gets up and shouts: "My Serb brothers, let us be men, although we are Serbs."

I think this joke applies to all of us in the former Yugoslavia.

All of us who are fighting for normal relations between people must not stop.

Drunkenness is a wonderful thing, but sobering up isn't really (a friend of mine sometimes says: "If sobering up was as pleasant as getting drunk, I'd never stop drinking!").

The euphoria about this judgment will pass.

We need to live, to work and cooperate in the former Yugoslavia.

There are many more consequences of the war that need to be solved.

Sincerely,

Dragan.

PS. I am finishing the letter and with grief I think of your brother. What was his name?"

Even the Professors at the Faculty of Political Science keep repeating, like parrots, that Ante Gotovina is a pillar of morality. Next to him, Don Ivan Grubisic is practically nothing.

Gotovina is not that kind of thing to me, not just because of his resume but because he fled and held Croatia hostage for so many years... But, above all, because he knew of the crimes committed during and after *Operation Storm*, especially the massacre of at least 181 Serbs on October 10, 1995 near **Mrkonjic** grad during *Operation Southern Move* in Bosnia and Herzegovina, which was coordinated from Sipovo. He did nothing, although he must have known about it and should have done something. For me, he is guilty as he had command responsibility, although that was not proven at The Hague – primarily, again, due to the poor performance of the prosecutors, something I told the investigators to their face, when they spent two days talking to me in the summer of 2007 in Zagreb, not because I wanted to see Gotovina in jail, but because I was advocating justice for those who were killed.

My moral pillar is Dragan Pjevac, the son of a killed woman Boja, a lawyer who went to Belgrade, because he forgives, because he wishes only good for Croatia because he helps the refugees, because he testifies in favor of peace and reconciliation, because he decided to become a bridge of cooperation, and because he did not let nationalism into his heart, not contempt or a desire for revenge. In fact, the exact opposite.

He, I want to say, serves peace. He is active in non-governmental organizations that deal with the fate of the missing and murdered. He was elected Chairman of the Board of the “Coordinating Body of Serbian Associations of Families of Missing Persons in the former Yugoslavia.” He is a member of the Board of Directors of the Association ‘Tears’ and the Coalition for RECOM.

To conclude, I want to repeat something that peace activist **Anne Raffai** says. We serve peace. Peace is a task too demanding and too huge for an individual, a group or a bigger institution to say that it masters it.

Peacebuilding presupposes changes in society. Society is too complex a reality to be approached in the capacity of a ‘master’. Peacebuilding is about working with people, working with individuals on personal growth. Changes that occur in people and between people, triggered by peacebuilding activities, are never the sole achievement of those involved in the process of change. They are both the creators and the servants of events.

We are neither just the originators of events, nor are we the only originators. But we are important. The sum of the individuals, like Dragan Pjevac and **Eugen Jakovcic**, from one of our best organizations for the protection of human rights, the *Documenta* Association, give us hope that we will achieve those much-needed changes, the state of mind for which Dragan pleads in his letter.

I share that hope.



*Following Parliamentary delay in adopting the Draft of the National Strategy for Transitional Justice in Bosnia and Herzegovina, the Human Rights Committee voices its concerns*

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The United Nations Human Rights Committee (UNHRC) adopted a set of conclusions and objections concerning Bosnia and Herzegovina's second Report on the implementation of the International Covenant on Civil and Political Rights in that country, at the UNHRC's 106<sup>th</sup> session, held between October 15-November 2, 2012 in Geneva. The Committee analyzed a Report prepared by the Bosnia and Herzegovina Ministry for Human Rights and Refugees alongside alternative reports prepared by *Amnesty International* and *TRIAL* (*Swiss association against impunity*) in collaboration with a group of non-governmental organizations in Bosnia and Herzegovina, which emphasized a number of facts about the human rights situation in the country which were not represented in the official report.

The Committee criticized Bosnia and Herzegovina for its slow processing of war crimes, particularly those involving sexual violence in war and the torture of prisoners in the camps. The Committee alleged that Bosnia and Herzegovina has no adequate psychological support service for victims who testify in trials, especially victims of sexual violence. It also pointed at the problem of the conflicts between laws in the country's entities (and the state) on the basis of which war crimes are being processed, because entities apply the "archaic penal code of the former Yugoslavia, which does not include crimes against humanity, command responsibility, sexual slavery and forced pregnancy." The Committee expressed concern that this could lead to inconsistencies in judgments.

The committee concluded that the measures pertaining to missing persons taken and implemented by the Government of Bosnia and Herzegovina were insufficient, and that the government must, in future, provide sufficient funding for the operation of the Institute for Missing Persons and adequate psychological support to the families of missing persons.

The Committee examined the current legislation from both entities, covering administrative reparations for war victims and their families. Article 21 of the Federation of Bosnia and Herzegovina Law on the Rights of Demobilized Soldiers and their Families, which required the prospective beneficiaries of monthly 'veterans' pensions to declare a family member

**The Committee criticized  
Bosnia and Herzegovina for  
its slow processing of war  
crimes.**

dead within two years of the adoption of the Law, a period that had already expired for many potential claimants. The same criticism is directed at Republika Srpska with regard to Article 25 of the Law on the Protection of Civilian Victims of War, which requires that a death certificate of a family member be submitted to the court in order for the dead person's family

members to be granted a pension. A similar practice exists in relation to other categories of war victims, such as family members of missing civilians. The Committee's recommendation to Bosnia and Herzegovina is that the obligation to declare a family member dead to qualify for payments be dropped. In addition to this, the Committee emphasizes the need to ensure that compensation for the families be proportionate to the degree of violence and suffering.

The Committee expressed concern that the Draft of the National Strategy for Transitional Justice, which claims to be focused primarily on providing fair reparations for civilian victims of war, including the survivors of sexual violence – has not yet been approved by the country's Parliament. They were also concerned that the Draft of the Law on the Rights of Victims of Torture has yet to be agreed by deputies. Special objections were raised about the fact that the benefits for civilian victims of war are still less than those paid to disabled war veterans. The Committee has addressed this particular concern in the past, and it is therefore particularly disconcerting that Bosnia and Herzegovina has made no move to combat this discriminatory practice.

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The remarks submitted to the Committee by *Amnesty International* about the Report of the Government of Bosnia and Herzegovina mainly concerned the failure of those responsible to adopt and implement appropriate legislative measures to ensure that sexual crimes are prosecuted according to international standards. *Amnesty International* is concerned that this could lead to impunity for such acts, as well as to the failure to ensure adequate reparations for survivors of those crimes. The Committee included virtually all of *Amnesty International's* remarks concerning the processing of war crimes in Bosnia and Herzegovina in the list of objections it addressed to the Government of Bosnia and Herzegovina.

**Jelena Grujic**

## TRANSITIONAL JUSTICE IN THE REGION

**!An appeal  
to mend  
injustice against  
civilian war  
victims in  
Croatia**

**Croatia meticulously works on  
multiplying the suffering of  
civilian war victims.**

### Report by Documenta, Center for Dealing with the Past

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Civilian victims of the Homeland War are some of the least privileged and most humiliated groups and citizens of the Republic of Croatia and many are still, 17 years after the end of the war, unsuccessfully searching for material and moral satisfaction. A research report, entitled 'Civilian War Victims in Croatia,' prepared by *Documenta* from Zagreb, calls on institutions to correct one of the gravest injustices inflicted by the state on its citizens in the last two decades.

*I am have been left without any material possessions, I don't even have any photographs. My children have no photographs. Everything is destroyed! Completely. It's not just that their father killed. It is absurd in this world, in our country, in our city that a victim must press charges, then be humiliated, and then told this: "You have no rights, you are guilty!" And then you lose. I do not know what kind of court this is, because my husband was a judge and I know that his aim was always to be just. But these judgments, forgive me, those of you who make them and those of you who are in court, if people are killed, and civilian casualties are the most innocent victims, they had no weapons, they could not defend themselves, nor could the elderly, or children, or women, but others came, torched, killed, and now the court says that the people have no rights. And then you have to repay your country for those expenses, and the court costs, because those who were prosecuted lost their precious time, attorneys, while nobody cares about us, the victims. We remain victims not once, but three times, a hundred times, always victims (**Tonka Pezelj**, Petrinja, July 4, 2012).*

*So I buried my husband in Novska. My story begins in 1992, when I started looking for truth and justice. In Sisak, I went from the State Attorney to all possible courts. I couldn't do anything there. Five years passed after my husband's murder and his case fell under the statute of limitations. So then I went to the County Court in Sisak. The Sisak County Court also confirmed the verdict and I already had to pay court costs to the Sisak County Court.*





*Campaign "Victims Have Waited Too Long"  
Photo: Documenta – Center for Dealing with the Past*

*Not all of them were court costs. Some had to do with the State Attorney's Office which represents the Republic of Croatia. Since I did not pay immediately, they arranged to take the money from my pension, which then amounted to 1,600 HRK. For eighteen months they took 500 HRK from my pension. You can imagine how it feels to know the reason why the money was taken from what was already a meager amount. (Marica Seatovic, Novska, July 11, 2012.)*

*I am one of the victims. I went through Bucje and Pakracka Poljana. I filed a claim for my house in Pakrac that had been burned down. That part of Pakrac had never been occupied, this has been proven in court. The appeals process required that I pay up 96,000 HRK for the lawsuit. I filed a revision, but I have no idea what will happen. (Djordje Gunjevic, Pakrac, July 11, 2012.)*

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## Waiting for justice

One common denominator that binds Tonka Pezelj, Marica Seatovic and Djordje Gunjevic is the institutional violence that the Republic of Croatia has been practicing against them, systematically and meticulously for the last two decades. They were civilian victims of the Homeland War. This is not just a failure to act, or an omission of politics at the expense of one segment of the population. Rather, something much darker is going on. The country, through its legislation and under the command of its *responsible* individuals, is multiplying the suffering of victims.

How else is one to characterize the court's decision that Djordje Gunjevic, must pay the state nearly 100,000 HRK for litigation costs? This is especially disconcerting when one takes into account that he will thus be paying for the defense of **Tomislav Mercep**, the man accused of being responsible for the massacre in Pakracka Poljana, to whom the same state has paid nearly 700,000 HRK in the last two years for defense costs. The most recent data, confirmed by the Ministry of the Interior, show that in 2011 Mercep was paid 350,670.00 HRK from the budget – the same one to which the victims' litigation costs are paid – , while on July 17<sup>th</sup>, 2012 he received an additional 322,166.00 HRK!

The three cases are a small but representative examples of what civilian victims in Croatia have been facing every day for years. What makes these three people special is that they dared to sue the Republic of Croatia, seeking damages for the peril that their innocent family members were placed in and/or for destroyed property. In return, they received rejection notices from the courts, along with an invoice for the costs incurred in the process. However, their stories reveal only part of the problem: civilian war victims include the victims of killings, woundings, terrorist and sabotage acts, sexual crimes and death from landmines, as well as the family members of war crimes victims. According to unofficial and incomplete data, currently there are between 4,000 and 8,000 such cases in Croatia.

This is why *Documenta's* research report 'Civilian War Victims in Croatia' is an extremely valuable and important first step. This publication was compiled by *Documenta* – Center for Dealing with the Past, in collaboration with a number of non-governmental organizations. The result is a 124-page booklet, which presented the results of several months of field research, during which the researchers interviewed 105 civilian war victims from across the country, be they Croats (two-thirds), Serbs (more than one-third) or Bosniaks, parents of wounded children, civilians disabled in the war, family members of the missing and the dead, victims of landmines, victims of torture and victims of terrorist or sabotage attacks.

According to *Documenta's* publication, supported by statistics, "family members of killed persons are still waiting for the crimes committed during the war to be prosecuted":

- In 89 percent of cases requesting the status of civilian victim (casualty), the claim was denied;
- In 52 percent of cases of civil or administrative proceedings, the victims either pay litigation costs or expect an enforcement order to be implemented;
- In 19 percent of on-going proceedings, an enforcement order is in place or one is expected, for the collection of litigation costs during the proceedings;
- Just 27 percent of claimants have successfully achieved some kind of social right, in the form of personal or family disability compensation, or increased family disability compensation. The remaining 73 percent were not awarded the status of civilian war victims, and therefore cannot claim any rights;
- In 61.4 percent of cases, the courts, after rejecting claims, have required the plaintiffs to pay between 5,000.00 and 107,400 HRK in litigation costs;
- In less than five percent of cases, the final judgment awarded in favor of the plaintiffs;
- Half of landmine victims are not receiving any form of assistance, while families of those killed by landmines have been unable to exercise their rights, although almost all of them have sought some form of compensation.

The legal obstacles the victims encountered when attempting to realize their right to redress arise from the effects of war crimes that have gone unprosecuted, the statute of limitations according to statutory terms, case law and the high litigation costs.

“This is a huge injustice that must be rectified. Families of civilian victims sued the state because the state did not fulfill its duty – to find and punish the perpetrators. Speaking at a conference entitled ‘Civilian War Victims in Croatia: the Right to Legal Remedy and Reparation for Victims of Crimes against the Values Protected by International Law’, where the report was presented, President **Ivo Josipovic** said: “This resulted in verdicts against the victims because the families were unable to prove who committed the crimes, and in the end, they were forced to pay the litigation costs.” Josipovic called this obligation for war victims to pay legal costs “the third stage of victimization,” and warned that civilian war victims are among the most vulnerable social groups, and that they deserved the respect of society. “The victims deserve our respect and if they do not get it, our society will have lost the most valuable component of any ordered society – solidarity,” said Josipovic, urging the government to amend the legislation under which the state pays for court costs only for the poorest families of civilian war victims.

“In financial terms, this isn’t of great concern for the country, but for the state and our citizens it is a matter of justice and social order. There is no reason why victims should wait any longer,” said the president.

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According to data published in *Documenta’s* study, in as many as 75 percent of cases, a war crime that had gone unprosecuted was the main obstacle to victim’s realization of the right to compensation. The Supreme Court refused to process some requests on the grounds that no judgment of conviction existed for the perpetrators of the crimes in question. The same goes for the Constitutional Court, which in such proceedings rejected claims for damages in record time on the grounds that the requests did not specify “a single important constitutional issue.”

Although *Documenta’s* research involved a dozen experts and about twenty politicians and representatives of institutions, willingness to take up an invitation to take part in the research was generally very low. *Documenta’s* President **Vesna Terselic** pointed to the indifference of the political elite, and asked why the government did not recognize the suffering of civilian victims. “Besides,” Vesna Terselic said, “how is it that the institutions responsible for civilian casualties keep changing their names over the years but have failed to address the problems of the victims?” She characterized as inappropriate the fact that the Administration for Civilian Victims of War within the Ministry of Health has been turned into a service, operating at “the lowest administrative level.” The only solution is, according to **Terselic**, the establishment of a Ministry of Veterans, modeled on the Office for Detained and Missing Persons.

**Documenta and H-ALTER**

# !Why did the JNA attack Vukovar?

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“Through its actions and unpreparedness for internal war, the Yugoslav National Army (JNA) only accelerated the events in the former Yugoslavia, for which the citizens of Serbia are still paying the price every day”. This was the conclusion of the majority of participants at the public debate, ‘The Role of JNA in the Break-up of Yugoslavia’, held on November 1<sup>st</sup>, as part of the wider project ‘Name IT War’, implemented by the Center for Cultural Decontamination in Belgrade. The forum gathered former officials of the JNA and the political regime that governed it: Chief of General Staff until 1989, **Stevan Mirkovic**, and former President of the SFRY Presidency, **Borislav Jovic**, as well as the critics of JNA actions – former military judge **George Dozet**, anti-war activists **Vesna Pesic**, **Pavlusko Imsirović**, **Srdja Popovic**, **Milos Vasic**, **Drago Kovacevic**, **Aleksandar Vasovic**, and others. **Miroslav Hadzic**, professor of political science who has written several books about the JNA, moderated of the debate.

Members of the former regime denied that the JNA had the power to make decisions on its own, denying therefore its role in the bloodshed in the former Yugoslav republics. General Mirkovic said: “Some things simply get attached to the Army, things it couldn’t have possibly done during the conflict. It entered conflicts when its units were attacked and when it had to protect civilians – it was not its war.”

Borislav Jovic expressed the view that the blame for the war in Croatia lay with the military forces of neighboring states, stressing that the JNA did not have the power of political decision-making. “The direct involvement of the army began on January 9<sup>th</sup>, following the decision of the Presidency of Yugoslavia to place it between Serbian and Croatian paramilitary units, in an effort to reduce the effect of warfare. But following the conflict between the army and the Croatian units, the momentum could not be stopped until the end of the war – that is, until the UN troops came in. Attributing political responsibility to the JNA for the breakup of Yugoslavia, and for all that happened in that period is an

exaggeration when compared to the responsibility of those who caused the war – [those] who made the decision to secede from Yugoslavia without following the procedure that had been proposed by the Presidency,” said Jovic.

Journalist Aleksander Vasovic, on the other hand, pointed out that the political dependence of the JNA on the Serbian regime served as a trigger for the formation of other armies and for further incitement of conflict.

“Given that it obeyed the political leadership, whom was it to obey in the end, when political leadership began to disappear? Only the leadership in Belgrade remained, however poor it was. Bad, or even poorer, and so on – and off the JNA went with rather limited resources. Eventually this led to the transformation of the JNA into what we had later. But it also led to the formation of the Army of the Republika Srpska Krajina, of the Army of the Republic of Croatia, and national armies,” said Vasovic.

A former judge of the Military Court, Djordje Dozet, who once filed a criminal complaint for ‘disintegration of Yugoslavia’ against Borisav Jovic and Veljko Kadijevic, a wartime Chief of Staff, noted that “Serbia spits on the JNA not because of it’s part in all that, but because it failed to win and make the dream come true: Karlovac-Karlobag-Virovitica.” Dozet’s lawsuit never reached a denouement in court, but in its investigation phase the court heard a number of witnesses, including Kadijevic. His testimony, given while he was Chief

**Through its acts and lack of preparedness, the JNA accelerated war activities in the former Yugoslavia.**

of the General Staff, was read out at the forum. Radio Free Europe reported that Kadijevic in his statement said that “Serb territory in the Republic of Croatia must be liberated first, and then JNA units should be deployed along the border of the future Yugoslav state.” As the opponents of the JNA at that time, Kadijevic named the “Croatian

Ustasha army and the majority of the indoctrinated Croatian people, the international community, while the third most dangerous and strongest opponent was a very organized and synchronized attempt by various organizations, mothers and women to prevent mobilization and the incitement to avoid the military draft.” Kadijevic said that “to achieve the tasks, the JNA needed another 15 to 18 brigades for the operation to end in 10-15 days. They weren’t able to obtain those brigades because the draft failed.”

Vesna Pesic also reminded the group that the plans of the JNA and the regime of Slobodan Milosevic were shaken by the poor response to the military draft, although the regime soon found an adequate solution. “The Chetniks appeared, we saw people with cockades. I think the security services made it all happen, the masquerade was quite obvious throughout Serbia,” said Pesic, who spoke about the absurdity of the official rhetoric that accompanied this process.

“When it comes to Vukovar, which was destroyed, and the tanks moved into eastern Slavonia directly from Belgrade while flowers were thrown on these tanks – so why go to Vukovar? Right at the end of that year, 1991, Dubrovnik was attacked. So explain to me – what kind of the defense of the Serbs was that?” concluded Vesna Pesic.



Despite the efforts of the representatives of the former regime to deny the JNA's culpability for the outbreak of the war, or for the crimes committed during the war, many participants at the forum rejected their position. Film director **Lazar Stojanovic** said that “the army didn’t end up before court just because, even today, we cannot get hold of its documents. And it’s not only we that are unable, not even the International Court in the Hague can get certain minutes from the War Councils, in which you, Mr. Jovic, took part.”

**Jelena Grujic**



# !What do we remember?

Every story I've heard is part of my own personal tragedy and I believe that what I am about to tell you has something in common with your history and tragedy.

## Part 2

On September 8, 2012, the Coalition for RECOM met in Belgrade. Instead of the usual introductions, the meeting began with a discussion about the things “we remember from the war and about the war.” In this issue, *The Voice* brings you a second instalment of the memories of the participants, who talk about what they remember from the war, what comes back to them, and most of all why they remember it:

**Amir Kulagić:** I come from Srebrenica. I do not have to remember. Every day I see and experience once again the terrible scenes that happened in the war. Things left over from the war constantly remind me, either of some unfortunate events, or of some dear persons, and so I'm always unhappy. If I am asked to talk about an event that is carved in my memory, I would talk about May 7, 1992 when from a nearby grove I watched houses being torched, watched people being burned alive in their homes, screaming and there was no one to help them. It was then, in that fire in which my neighbors house burned down, that my illusions burned down too, illusions that there wouldn't be a war, that it would all end in 10-15 days, and that life would go back to normal. Nothing was the same after that. And today, when I walk by those places, every day, the houses are gone, but the place remains and it makes me remember. I think that was the most terrifying night of my life, and I can never forget it. Another thing I remember was my experience of the march. For those of you who don't know, I was in the column from Srebrenica to Tuzla. The journey took seven days and eight nights. It was a very difficult march, very challenging, with plenty of hills and valleys, hunger, thirst, and of course, constant shelling and ambushes. But what remains most vividly carved in my memory are the images of sons having to leave their fathers behind, either because fathers had lost their mind or were wounded. Or when a father had to leave his son or his brother, and then you saw this man moving on forward, eating himself up inside with guilt, and you saw him literally wanting, every step of the way, for something bad to happen to him too. If it happened that either a father or a son got through it all, while his child or

father didn't, they have spent his entire life since, living with this guilt, often ending up with PTSD, with alcoholism or with family problems. I guess this is the scariest thing in the war – the fact that it keeps killing those who survive, destroying personalities, families, whole villages and towns, while the consequences of these terrible events remain fixed or etched into the lives of the survivors. Often I and many of my friends who survived, ask ourselves whether surviving was a reward or a punishment, especially when we see how the families of the dead and missing are treated, when we see poverty, social exclusion... Survivors often say that surviving is, in fact, the worst punishment.

**Draga Pjevac:** I want to talk about two things – what the Croatian state, the Croatian regime, did to me at the time; and what the Serbian regime did to me. I was born in Citluk, an area known as Medacki dzep, and the most vivid event in my memory is the killing of my mother. This was on September 9, 1993. The area was a zone protected by the United Nations. Croatian forces attacked the area and killed 36 civilians. When I talk about this I never forget to say, because it is important to say it too, that in August 1991 five Croat civilians had been killed in Lovinac, just like my mother, by people who called themselves Serbs. The second thing I want to talk about is what the Serbian regime did. When in 1995, during Operation *Storm* I managed to escape with my family and arrived in my brother's small apartment of 38 square meters. The Croatian police came on my birthday, May 25, 1995 and took me away on the pretext of taking me for interrogation. I could not believe that such things were being done to people. They picked us up like rabbits and I was first taken to Erdut, and then to the river Drava. There were some kind of trenches there, and we were supposed to wait for the main attack there. Arkan's men, who had picked us up, stood on some kind of dikes, three kilometers from the river Drava, waiting. It was a dangerous situation. I then promised myself two things. That I would, first of all, stay alive if I could help it. And secondly, that I would take my son away from this region, which is exactly what I did in 1998, when I took my whole family to America. I knew that I would return, so that we who have been most affected could put this segment of the war story on the right track. RECOM is the right way for that. If we do not push, nobody will do it for us. I must mention that I am now part of the Serbian coordination body for missing persons, and that we requested an audience with President Nikolic on the Day of the Disappeared. He did not reply. He is not at all interested in such things.

**Lush Krasniqi:** Every story I've heard so far is part of my own history and tragedy, and I believe that what I am about to tell you has something in common with your history and tragedy. I will describe the moment when on April 24, 1999, at about 7pm, members of my family were taken away. We were surrounded by the Serbian army and we were all forced into their hands. Along with our relatives there were about 50 members of my family. They gathered us together in a meadow, and we were not allowed to bring any food or clothes for the kids. They captured a man from a nearby village, his name was **Hysen Rragomi**, and tied his hands with wire. Then they separated my uncle **Pjetër** (45), **Pashk** (42) and **Mark** (38). We thought that they would be shot immediately. We were held in this tense situation for almost half an hour, and then they took them in the opposite direction to us. They ordered us to go to a nearby village, and not to turn off the road anywhere. The leader of the army

group told us “If even one of you fails to report to the police checkpoint in the village of Korenica, these three will be shot.”

I remember my uncle’s son when they took his father, Kolë; he was 16 and spoke no Serbian and he told me “Tell the soldiers to let my father free and take me instead,” and then I told him to keep quiet because they could take him too, or shoot him in front of his father. Fortunately, he kept quiet. I remember the moment when my brother Mark, after being separated from us, said to his wife, “I leave you the kids,” because he felt he would not see them again. It happened on April 27, 1999, around 7p.m. – from that moment on, we heard nothing further about them. They were shot and killed the next day two kilometers from my house. They buried them in another village, and then later dug up with a bulldozer. My brother’s leg remained in the village cemetery, his leg was cut off when the bodies were being dug out by the bulldozer, other parts of his body were found in Batajnica, in a mass grave known as Batajnica 5. One of my uncle’s shoes was found in the village cemetery, while the other was found in Batajnica. So this story may be nothing compared to yours, but for us it is difficult to talk about it. It is easier for us to remain silent than to speak of these events, which will always remain fresh in our memories, for the rest of our lives.

**Goran Taleski:** I am from Prilep, Macedonia. Two situations have stayed with me, and here’s how I see them from this distance. In 2001, I was a student in Skopje. Albanian students from the Faculty of Electrical Engineering suddenly stopped coming to classes, sometime around May or June 2001. It was a dangerous sign, a warning – what would all this come to? In July a military operation took place around Aracinovo, ten kilometers from Skopje. Shots were heard in the city, but in Skopje life continued normally. It was like a madhouse in a madhouse. People couldn’t stop living their lives, and there was indifference, as it was all ‘happening only on TV’, rather than ten kilometers from the capital. The second situation was a battle in which ten people from my city died in one day. They were killed fighting, and the city fell into a kind of hysteria. One man wanted to take up arms and go to neighboring villages with ethnic Albanian and Muslim populations. A mosque from the 14th century was destroyed, a cultural monument, shops owned by Muslims were burned. This was a traumatic experience from the war which my city still remembers.

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Edited by **Igor Mekina**

# Tunisia !Human Rights Must be at the Center of Transitional Justice



*UN Rapporteur De Greiff in Tunisia  
Photo: <http://www.tap.info.tn>*

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**We need a more comprehensive approach to the implementation of transitional justice mechanisms.**

**Pablo de Greiff**, United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, commended the Government of Tunisia on its efforts over the

last two years to implement transitional justice measures. However, he urged Tunisian officials to devote more time to the efficient prosecution of perpetrators, institutional reform of the justice and security system, and vetting as “key guarantees of non-repetition of crimes.” A statement issued by the office of the UN Special Rapporteur, noted that the Tunisian government faced major challenges, one of the greatest of which was “the lack of a comprehensive approach to equal implementation of all four transitional justice mechanisms, in order to avoid fragmentation of the overall process of providing justice to the victims.” The Special Rapporteur also proposed the formation of an inter-ministerial body to deal with the coordination of the implementation process, in order to ensure that the results are effective. Mr. De Greiff’s key recommendations to the Tunisian government was that they should put human rights at the center of all efforts concerning transitional justice.

The Special Rapporteur visited Tunisia “at the critical moment,” when the government was completing its draft of a new law on transitional justice.

The visit to Tunisia was one of the first missions undertaken by Pablo de Greiff, who was appointed in March 2012. He is the first holder of this new UN function, which was established in September last year by a resolution of the United Nations Council for Human Rights A/HRC/18/L.22.



Following the decision of the Council, The Initiative for RECOM issued a press release, which is available at <http://www.zarekom.org/vesti/Usvajanje-rezolucije-UN-o-specijalnom-izvestiocu-za-promociju-istine-pravde-reparacija-i-garancija-neponavljanja-zlocina.sr.html>.



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**Sign**

**For your own sake.**

**So that everybody knows. Lest we forget.**

**So it doesn't happen again. To move on.**

# Cambodia !Public Testimonies of Victims Reveal Crimes Unknown to the Public



*Victims' public testimony*  
Photo: Cambodian Defenders Project

The second *Truth-Telling Forum*, a two-day public hearing of women victims, dedicated to sexual and gender-based violence, was held in October in Phnom Penh, the capital of Cambodia. This year, the organizers invited female victims from Bangladesh, Nepal and East Timor, contributing to the Forum's evolution into a regional non-judicial institution for

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## Sign for Establishing RECOM

Name and surname \_\_\_\_\_

Country \_\_\_\_\_

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Driver licence number \_\_\_\_\_

**Sign**

**For your own sake.**

**So that everybody knows. Lest we forget.**

**So it doesn't happen again. To move on.**

transitional justice, known as the *Asia-Pacific Regional Women's Hearing on Gender-based Violence*.

During two days, a number of women testified, including victims and survivors of terrible torture in the camps of the Khmer Rouge during the **Pol Pot** regime between 1975 and 1979. And although it's been more than thirty years since, many of them said that only public testimony brought them long-needed peace.

One of the women victims, the **Kim Khem**, is 80 today. She testified for the first time about the sexual torture she survived in a 'labor camp'. Huge scars are visible on her face and hands from severe burns caused by having boiling water spilled over her entire body. This was the first time she had testified about what happened to her. "They did horrible things, and if I continue to keep quiet about it, it is as if I am hiding the enemy in my own village." Kim added that at least 600 women had died or were killed at the camp where she was held captive, and that all of them had been buried in a mass grave. "I speak on behalf of these dead women," she said.

**"I speak on behalf of  
all dead women," said  
the former inmate.**

Officials, some of whom testified about their personal tragedies, also attended the Forum, and this gave the event with special significance. Organizers from the Cambodian Defenders Project welcomed the attendance and support of the authorities, but stressed that without the establishment of forensic laboratories to gather evidence for the prosecution of sex crimes, there would be no justice for the victims. They stressed that their goal was for the Forum to gain international importance and open an on-going debate about the terms of extra judicial justice and the best and most effective non-judicial mechanisms.

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Participants at the meeting urged the Cambodian government to consider their recommendations for providing reparations to victims of the crimes of the Khmer Rouge, to organize non-judicial hearings, and to provide psychological support for victims of rape.

The Special War Crimes Court in Cambodia, jointly established by the UN and the Cambodian government, is prosecuting three high-ranking leaders from the period of the Pol Pot regime but the indictments did not include sexual crimes, other than rape by a third party, and forced marriage organized by the regime. Parts of the indictments that included rape and other sexual violence in the camps have been dismissed: it was concluded that it was not possible to establish a direct link between the accused and the specific crimes. Victims who testified at the Forum about the horrors they survived are outraged about this and some of them have expressed great doubt that the government of Cambodia will ever prosecute these crimes. It was recently announced that the mandate of the Special Court for Cambodia will end shortly.

**Jelena Grujic**

## INTERVIEW

**!Compensation  
is just one  
element in  
correcting the  
injustices inflicted  
on victims**

**Politicians don't act upon the  
measures in favor of the victims  
because they wish to help the  
victims but because they want  
to fulfill the wishes of those they  
need favors from.**

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Dr. **Neza Kogovsek Salamon** holds an MA from the University of *Notre Dame*, USA, and a PhD from the Ljubljana Law School, where she defended her dissertation on the problem of the 'Erased' in Slovenia. As a Director of the Peace Institute, alongside Italian lawyers **Andreo Saccucci** and **Antonio Giulio Lano**, she recently won the European *Pro Bono Award* for Exemplary Partnerships in the Public Interest in 2012. Neza Kogovsek Salamon spoke to *The Voice* about correcting the wrongs committed against the 'Erased' and other victims of human rights abuses in the former Yugoslavia.

**What are the consequences of the judgment of the European Court of Human Rights in the case of the Erased? Is this a step forward or will politics again trump that judgment?**

The verdict is a big step forward for the Erased and other victims. If the state fails to comply with the judgment, the Erased will have a door open to the European Court of Human Rights. In that case, the enforcement of the judgment would be in the hands of the Committee of Ministers of the Council of Europe, which is a political body. The process would be turned from a legal to a political one, because politics has the power to ensure that legal processes are realized. Legal arguments will always be very important, however.

**Compensation is not the only redress for the grievances of the Erased and the other victims of human rights abuses, is it?**

Compensation is only one element in the redress of grievances, and it cannot fully compensate for the damages inflicted on the victims. Hence, compensation cannot be expressed just in the form of money. All along we have been insisting that an apology from the state is necessary, it is important on a symbolic level. In Slovenia, a few individuals have apologized, those who felt a moral obligation and duty toward the dignity of the Erased, but the state itself has not apologized. So that's not enough. A resolution is also needed,



*Neza Kogovsek Salamon  
foto: I. Mekina*

passed in the Parliament, and signed by the President and the Prime Minister. Other, additional measures are needed. The process for restoring one's status, which is expensive and complicated, should have been simplified. Reintegration measures are also necessary. The Erased did not become citizens and so they had no occupancy rights and so they could not buy the apartments in which they lived. Even today they can not apply for social housing because, according to the law, they must be citizens to be eligible to apply. This is at odds with European legislation which requires that apartments be affordable to permanent residents, not just to citizens. When allotting scholarships, the state could consider awarding extra points to the children of the 'Erased' when they apply and give them priority because of the injustice handed out by the state. However, while preparing the policy, the state didn't even consult the Erased, but has instead commissioned a study from the Faculty of Applied Studies, without cooperating in any way with the Erased. And one does not want to create these measures together with the victims, it is unlikely that a good solution will be found.

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**What should the 'Erased, especially those originally from other countries of the former Yugoslavia, do now?**

The 'Erased' have only six months to make a claim for status [as a permanent resident] to the Slovenian government, because the deadline is July 2013. As for compensation, we are waiting for the state to enforce the judgment by June 2013.

**How is it possible that the Erased became so marginalized that, in the end, Italian – rather than Slovenian – lawyers helped them achieve justice?**

If you know the case of the Erased, the reasons are clear. At first, it took a very long time for the Erased to become aware of their collective identity and of the fact that at stake was a systematic violation of human rights which affected more than 25,000 people. In addition,

they were dehumanized, like victims everywhere in the former Yugoslavia. And that dehumanization is still very apparent today. Politicians don't act on measures in favor of the victims – the ECHR judgment in the case of the Erased is a typical example – because they wish to help the victims but only because they want to do the bidding of those from whom they need favors.

### **Was the 'erasure' made possible in Slovenia by the disintegration of the SFRY?**

**Reparations are just one part of correcting the injustices and cannot fully compensate for the injuries suffered by the victims.**

Certainly. The break-up of Yugoslavia was the reason for the 'erasure'. Without the country's dissolution, the Slovenian authorities would not have been able to implement such a measure which stripped 25,000 people of their legal status. They would not have been able to explain let alone to justify, and even less to hide such a measure. While the reasons for the 'erasures' were different, at stake were the mechanisms defined a long time

ago by Hannah Arendt – namely, that nationalism, dehumanization, the appropriation by the state of wealth and material goods for the benefit of one group only and the exclusion of other groups. All these are elements of totalitarianism which saw people in power give up moral judgment with respect to their decisions.

### **Do you therefore still consider a regional approach to solving the problem of all victims of mass human rights violations as necessary, or do you think these problems could be solved by national commissions?**

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I have always been a supporter of the idea of a truth commission that would determine the facts. Courts, even if they attempted to do these things, never bring justice to the victims. Even after judgments have been passed, victims still think that they are being neglected and that their lives have been destroyed. This situation can be prevented only by commissions that devote all of their attention to the victims. But establishing the facts is the most important task. In Slovenia, we know only the basic facts about the 'erasure'. We know which laws were adopted and who were those most responsible for the execution of the 'erasure'. However, we don't have a personal view – we do not know who was caught in the process. We do not know whether the 'erasure' was planned and we do not have truly independent data on the number of those who were 'erased'. On this issue, we are in the dark. I know that some in RECOM hold that the 'erasure' is an almost insignificant event in comparison to Srebrenica. On a physical level this is true – these two acts clearly cannot be compared in terms of the weight of the crime. But we must not miss the opportunity to establish the similarity of the mechanisms that led to these violations and crimes. Since these are similar problems, we need similar solutions to improve our society.

### **So it makes sense to persist in the efforts to establish RECOM, a regional truth commission?**

It is absolutely necessary and very important. RECOM should however never be identified with parliamentary committees, which often become their own opposite and are used only

for political purposes. No, RECOM would have to become a real fact-finding commission, and that is something that we, as a member of RECOM, always advocate.

Igor Mekina

## THE VOICE OF VICTIMS



! "Don't you worry, sister, nobody will harm him"

Thank God, I don't hate anyone. But listen, there is mistrust.

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*Zlata Jurela worked in a Vukovar hospital during the war. Her son **Damir**, who had been wounded, was killed by members of Serb forces. His body was found in 1998.*

After the incident with our Croatian police officers in Borovo selo, more and more wounded men arrived at the hospital. They were tightly packed in beds in the waiting room. One couldn't move between the beds, we were overcrowded, that's simply how it was. One couldn't choose to do this or that. We all did everything. We didn't have enough water or food. For two weeks we were literally starving in the hospital. People were dying in large numbers. It was like watching a horror film, especially since Vukovar is a relatively small city, and we all knew each other, and we were all simply shattered because the son of, say, this nurse had just been brought in, a husband of that one, etc. It was so awful that I just don't know anymore how we had the strength to endure all that and see it all.

On Wednesday morning, it was the 20<sup>th</sup>, one nurse came in and said: "All lightly wounded should go to the Emergency exit, while all staff should go to the plaster room." And, of course, we did so. My son was with a group of wounded men. I approached him and asked him: "Do you need some money?" He said, "No, I don't. I have enough." And that's how it was.



On that day, it was November 20<sup>th</sup> around a dozen more women came in. While we waited, they watched the wounded persons being taken out from the hospital. An hour later, Lieutenant **Sljivancanin**, **Mrksic** and **Radic** came in. These last two were silent. Sljivancanin was the main speaker: "Hello, brothers and sisters. As you can see, my troops and I have liberated Vukovar, but that does not mean that you can't stay here. What's more, you can choose to go to either Serbia or Croatia. Whatever you find appropriate." So, of course, most of us decided to go to Croatia. We ran all over the hospital, going into the wards where the wounded had been, but no one was there. Empty. Just beds. No one to be found. I ran to one room where I found a tall gentleman in dark blue uniform. I told him I had heard that the army had taken my son. He then took up a notebook, started flipping it with his finger, as if searching for something line by line, I saw a number of names there. "He's not here, no, not here." He took another notebook. Again: "No, no, no, no. He's nowhere to be found." Then he asked: "Was he a bit stronger, ma'am?" I said: "Yes. He is tall and strong." He took the third notebook, he didn't flip that one, but just kind of turned it and said, "Oh, do not worry, everything will be fine." No one else was left in the hospital. We were all crushed. We all left with our little wretched bags. With dirty laundry on the buses which were... I can't tell the number, but there were a lot of them. And somehow, as I boarded the bus, I noticed at the curbside, Lieutenant Sljivancanin. I ran out of the bus, got to him, and told him that I was a Medical Center employee, that my son had been injured in the leg and had been in the hospital, that I heard that the army had taken them away and that I wanted to know if he could let him go, what was that to him. He said to me: "Yes, the military took them for a routine interrogation." In the meantime, two men returned, **Jakov Simunovic**, an employee at the Vukovar Medical Center, and **Dusko Rajsic**, who is of Serbian ethnicity. Rajsic was so distraught, he behaved in such a way that you had to feel that something terrible had happened to this man... He was all distraught. Whenever someone asked him something, he just beat his head and hands. OK. So I suspected that something had happened in the barracks. I got off the bus again and went back to Lieutenant Sljivancanin. I told him that all this and I told him that I was afraid something bad would happen to these people, including my son. And he told me this: "Don't you worry, sister, nobody will harm him." So what can you do? Again, back on to the bus. I kept looking at Dusko Rajsic. The man simply couldn't calm down. He was in some kind of shock. Wasn't pleasant to look at. And so I decided to go to Lieutenant Sljivancanin for the third time. He was still standing on the curb, watching people get on the bus. When he saw me, he swore. Wouldn't let me approach him. With his hand, he motioned to me to get back on the bus. And so I didn't get to him a third time. I boarded the bus. In my bus, and probably in others, there were two soldiers. Young guys. I think they were in the regular military service. Then we were told we could not go to Zagreb: "We have to go this way, it seems Tudjman won't have you." Another disappointment. Where now? To Serbia? I knew no one there. What was I going to do there? I didn't know where my husband was. I didn't know where my child was. But you have no choice. There you are. I did not know about one, I did not know about the other one. Women were crying. They didn't know where their sons were, their husbands, fathers. Children were crying for their dads. Horrible atmosphere in the bus. But that's how the morning passed. Then the bus stopped in front of some building. Across the street from the building was a bakery and we went out and got some bread, because we were all hungry. On the radio or somewhere



*Zlata Jurela*  
*Photo: FHP*

else, I don't know where, a program was aired in which Lieutenant Sljivancanin was asked about the wounded from the Vukovar hospital. And he replied: "I sent them off to pick some violets." [a euphemism for being buried]. And that just shattered me. This is what I was thinking: Gosh, violets at this time of the year? What does that mean? So I tried to analyze, almost grammatically, word for word, what he wanted to say. Violets have roots, roots are in the soil. It can't be that they killed them? Impossible. Ooh, I shuddered. We got back on the bus again and the next morning we were heading to Croatia.

So I started looking for my son. You can only imagine what a parent, whether father or mother, will do for their child when they don't know where the child is. There was no life, no fun, nothing, nothing. Everything was reduced to a search for my son. It all came down to that, only that. My husband returned from the camp, a few days after he had his first stroke, which was followed by two more, later. While he was still mobile, we were out there every day, welcoming the politicians who came from outside, waiting endlessly in front of the Minister's office, through this connection, and that. I do not know whom we didn't use to look for him. We went abroad, I do not know where anymore, to Maastricht, to Ljubljana, to Geneva. To no avail. And of course, we were fed up with it by now, because we were out there every single day. We were looking for a clue, just like a hound expects to see a rabbit pop out from every bush. It was a terrible tension to live through, from 1991, until 1998 in my case.

And in the midst of that horror, since nothing was happening, no official information ever came, I reached this man, a Serb, through one lady. And so I thought, it doesn't matter, he could be blacker than the devil, but I have to know the truth. That man was playing with me for a long time: "Your son is alive. He works in the oil field in Djeletovci, but you certainly won't hear from him for a long time." The information seemed credible enough. But I still,

after a while, felt that the man was lying to me. I then told him once very aggressively, the way a mother can, or perhaps that's just my nature, I simply said to him, "I don't believe a word you are saying. Please tell me the truth. I won't move from here until you tell me the truth." He paused briefly, looked at me and said: "**Voja Stanimirović** knows everything. Ask him." No problem. I called Vukovar in the evening. Ljeposava, Stanimirović's wife, answers the phone. I worked with her at the clinic, only a waiting room separated us: "Ljeposava, this is what I want to know..." And so I told her everything. She didn't know anything. Voja is not home. Voja doesn't know anything either. He was at a meeting with Klein. "Should I call tomorrow?" "Don't, he's in a meeting again tomorrow, you won't find out anything, we fled from Sid anyway, and we know nothing."

I identified my son in 1998. I learned everything. And I had been shown three bodies that had nothing to do with my son. I only asked for the vest I had knitted for him: "I am not looking for a badge of this or that formation. I only ask for the vest I had knitted. I know the pattern, I will recognize it." And eventually everything fell together. I got all of the information about him, his crushed skull, and all that – you don't want to know. Many of you have gone through that. I buried my son, and 15 months later I buried my husband. Now I live alone in Zagreb, where I never intended to live. It is 2008 today, but I, you see, I still talk only about 1991. That year will go with me to the grave. I now live alone, instead of living with my family.

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I'm not planning any revenge. Thank God, I have no hatred for anyone either. But listen to me, there is distrust. I can not hide that. That's just how it is. I think that all of these lies, all that is partially concealed, the truth that is not given to the public the way it should be, all that is one big obstacle to a happy future. Not to me. I could die tomorrow, it won't matter. I've lived out my life. But to all the generations following us, it is a huge burden from the past. There, forgive me.

*Public testimony at the Third Regional Forum on the Mechanism for the Establishment of the Facts about War Crimes in the Former Yugoslavia, Belgrade, February 11-12<sup>th</sup>, 2008.*



## THE RECOM PROCESS

The debate about the best way to uncover the truth and for truth-telling about the past was launched in May 2006 at the First Regional Forum for Transitional Justice, organized by the Humanitarian Law Center (Serbia), the Research and Documentation Center (Bosnia and Herzegovina) and Documenta (Croatia). At the Forum, participants – representatives of NGOs and associations of missing persons and victims from the successor countries of the former Yugoslavia – committed to a regional approach in the establishment of the facts about war crimes, arguing that the war had taken place in more than one country, and that in most cases victims and perpetrators did not reside in the same state.

The Coalition for the founding 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 (RECOM) was constituted at the Fourth Regional Forum for Transitional Justice on October 28, 2008 in Pristina/Prishtinë. Over the course of three years, through intensive consultations across the former Yugoslavia, with over 6,000 participants, the Initiative for RECOM prompted the most extensive social debate ever in this region. Based on the proposals, requests, needs and views of the participants in the consultative process, a Draft Statute was drawn up and presented to the public on March 26, 2011. It was then submitted, together with more than half a million signatures in support of the process, to the highest state institutions of the countries in the region.

In October 2011, a regional team of Public Advocates for RECOM was established to press for the final stage of the RECOM Process. The states in the region have been requested to institute an independent, inter-state regional commission for the establishment of the facts about all victims of war crimes and other serious human rights violations committed on the territory of the former Yugoslavia between 1991 and 2001. The official position of the Coalition for RECOM is that RECOM's main task should be to establish the facts about war crimes and to compile a list of all casualties, killed and missing persons and that the final decision on other objectives and tasks should be made by the governments of the region who will jointly establish RECOM.

The main goal of *The Voice* is to provide information about the RECOM Process to the members of the Coalition for RECOM, to the many supporters of the Initiative and to all those interested in its development. In addition to this, *The Voice* focuses on the progress of transitional justice in the region.

It is available in in Bosnian/Croatian/Serbian/Montenegrin, Albanian, English, Macedonian and Slovenian.





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