

**STATES OF THE FORMER YUGOSLAVIA**  
*by the Humanitarian Law Center (updated May 2018)*

**Summary of Reparations Efforts and Programs**

Bosnia and Herzegovina (BiH), Croatia, Kosovo and Serbia have implemented reparations to address the armed conflicts following the disintegration of the Socialist Federal Republic of Yugoslavia in June 1991. While some forms of reparations generally exist, such as physical disability benefits or medical care, others are not led by the state and are instead supplied by civil society, such as psychosocial care. There is also disparity in how the states of the former Yugoslavia handle conflict-related sexual violence (CRSV).

**Context**

The dissolution of the Socialist Federal Republic of Yugoslavia after Slovenia's declaration of independence in June 1991 resulted in international and internal armed conflicts across the region in: Slovenia (June–July 1991), Croatia (1991–1995), BiH (1992–1995), Kosovo (1998–1999), and Macedonia (February–August 2001). The wars in BiH, Croatia, and Kosovo were marked by gross violations of international human rights law and serious violations of international humanitarian law. The fighting caused the deaths of over 130,000 people, most of whom were civilians killed by atrocity crimes, and displaced 4.5 million people in and outside the states of the former Yugoslavia.

**Reparations Efforts and Programs**

The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the United Nations (UN) General Assembly in 2005, directs states to provide victims with five forms of reparations: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.<sup>1</sup>

**1. Restitution**

Restitution aims to restore the victim to their situation before they had been violated. For example, enabling a victim's return to their place of residence, returning property, and restoring citizenship are acts of restitution.

*Return to one's place of residence*

Each state of the former Yugoslavia implemented mechanisms to encourage the return of displaced persons by; returning property, constructing new property, and delivering monetary incentives. States have faced challenges, as evidenced in inadequate infrastructure for sustainable return, insufficient financial support, inability to ensure the safety and security of returnees, under-enforcement of property restitution, and in some cases poor foresight and planning in delivering on legal obligations. The length of displacement of many internally displaced persons (IDPs) and refugees, some of whom have significantly integrated into their new community or state, further impacts the likelihood of an individual or family's return.

*BiH:* The armed conflict displaced 2.2 million people, 1 million of whom became IDPs. The Dayton Agreement, which ended the hostilities in BiH, guaranteed the right of all refugees and displaced persons to return, have their property returned, and be compensated for any property that could not be returned.<sup>2</sup> In the Dayton Agreement, the parties to the conflict also committed to enable returns, including by abolishing all discriminatory laws and administrative practices as well as by preventing and suppressing ethnic and religious incitement and calls for revenge.<sup>3</sup> By 2010, nearly half of all displaced persons had returned; of the 1,048,498 returnees, approximately 600,000 had been IDPs and 450,000 had been refugees. Among them were 650,000 ethnic Bosniaks, 256,000 ethnic Serbs, and 135,000 ethnic Croats. Over half of these returns occurred within three years of the end of the war, and over two-thirds of them were to the Federation BiH.

*Croatia:* By April 2014, at least 389,557 people had returned to Croatia, including approximately 133,000 ethnic Serbs.<sup>4</sup> The state has provided "returnees" with housing by renting out or donating a state-owned residence, renting out a damaged state-owned residence and supplying materials to fix it, donating state-owned land and materials to build a residence, or donating material to repair a damaged family-owned residence.<sup>5</sup> However, due to the lack of infrastructure and other challenges to a sustainable return, one-third of returning persons decided not to stay in Croatia. To incentivize returns, in 2013, the government began offering financial assistance to "returnees".<sup>6</sup> A returning person may obtain the status of "returnee" if they resided in Croatia until October 8, 1991 and have now returned with the intent of permanently staying.<sup>7</sup> Croatia has granted returnees who earn less than HRK 500 per month (approximately US\$87 as of 2013) the amount needed to increase their income to HRK 500 per month.<sup>8</sup> Returnees who live in collective housing are entitled to a smaller sum of HRK 100 per month (approximately US\$17 as of 2013).<sup>9</sup> As of 2013, there were 973 persons registered as IDPs, refugees, or returnees who are receiving financial help.<sup>10</sup> However, the state-offered amounts are too insignificant to encourage returns.

*Kosovo:* The pace of returns to Kosovo has decreased annually, but without public access to census information, it is difficult to accurately monitor the numbers and locations of displaced persons and returnees. The confiscation of displaced persons' properties, illegal construction on their land, and the non-execution of an April 2014 Constitutional Court decision related to these matters have hindered returns.<sup>11</sup> To address issues pertaining to return, the Kosovo Constitution and domestic regulations have tasked the Kosovo Property Agency (KPA), established in 2006, with handling property claims. With the cooperation of the police, the KPA has the power to evict unlawful occupants and reinstate the lawful owners. However, although the KPA and the Kosovo Police have ejected unlawful occupants, they have not always been able to prevent the reoccupation of the premises, and thus matters must be returned back to the courts. From 2008 to 2013, the KPA referred 326 cases of illegal reoccupation for prosecution; 95% of these involved the illegal reoccupation of Kosovo Serbs' property by Kosovo Albanians. Unfortunately, the court process is slow and courts often take between 10 to 40 months to render judgments in these matters.<sup>12</sup> Meanwhile, the illegal occupation of vacant properties has continued due to high poverty rates in Kosovo.<sup>13</sup> Finally, ethnic minority returnees, like Kosovo Serbs, are particularly vulnerable and are targets for having their property damaged and stolen. These targeted crimes have increased minority communities' feelings of insecurity, thus negatively impacted their livelihoods, and even deterred others from returning.<sup>14</sup>

*Serbia:* In 1996, 537,937 refugees and 79,791 war-affected people, mostly from BiH and Croatia, are registered in Serbia.<sup>15</sup> Government data has indicated that there are 203,006 displaced persons from Kosovo registered in Serbia as of mid-2017.<sup>16</sup> Serbia, however, has made some progress in dealing with displaced persons, as seen in the reduced numbers of housing centers and persons classified as displaced. The number of collective housing centers for IDPs decreased from 388 in 2002 to 13 at the end of 2017,<sup>17</sup> and approximately 69,500 people returned to Croatia, 79,000 to BiH and other states of the former Yugoslavia, and 46,000 to states outside the region. Another 300,000 refugees became naturalized citizens of Serbia and 40,000 died.<sup>18</sup> In the period of 2012–2015, Serbia implemented its first reparations program to entice Bosniaks from the Sandžak region to return.<sup>19</sup> As part of this, the government built 22 pre-fabricated houses but unfortunately did not get construction permits. Consequently, residents were not—and could not apply to be—on the electrical grid, effectively rendering the houses uninhabitable.<sup>20</sup>

### Regional Housing Programme

Acknowledging that displacement is a regional problem, the Ministers of Foreign Affairs of BiH, Croatia, Montenegro, and Serbia proposed the “Regional Housing Programme” at a 2010 international conference on the permanent housing of refugees in the region.<sup>21</sup> In 2012, the program secured €264 million, of which €230 million was pledged by the European Union, to provide housing for 27,000 households (74,000 people) across the region. The Regional Housing

Programme has aimed to benefit approximately 14,000 eligible individuals in BiH, 6,000 in Montenegro, 8,500 in Croatia, and 45,000 in Serbia.<sup>22</sup> Individuals who own an inhabitable housing unit in any of the states of the former Yugoslavia or who have sold such a unit since 1991 are disqualified from this program. As of May 2016, the Regional Housing Programme has approved 19 projects, building 351 housing units and helping 22,000 people.<sup>23</sup> Construction is expected to continue until 2021.<sup>24</sup>

### *Return of property*

The states of the former Yugoslavia have been primarily concerned with restoring real property, like houses and land, and have paid insufficient attention to the restoration of movable property.

*BiH:* The Dayton Agreement established the Commission for Displaced Persons and Refugees with a mandate to accept and resolve all claims regarding the return of real property.<sup>25</sup> By 2010, the Commission had dealt with 99% of claims for the return of real property. It should be noted that the success rate may be so high because many eligible claimants decided not to return, so they never even applied for property restitution. In spite of the positive statistic, the Commission has faced challenges on account of the state's non-recognition of claimants as "refugees" if they became citizens of another country and the exclusion of claimants who had served in a foreign army. Moreover, there is no appeal mechanism that individuals can access to challenge decisions against them.<sup>26</sup>

*Croatia:* Most property was restored to individuals by 2004. Croatia also has a specific law for resolving property claims regarding areas of special state concern, which are places that were occupied during the war or places that are economically, structurally, or demographically challenged.<sup>27</sup> Special protected tenancies, which safeguarded an individual's right to live in their housing unit, have posed a significant obstacle to the return of property. Ethnic Serbs living in apartments owned by their state employers, for example, had special protected tenancies. However, beginning in 1991, Croatia initiated 23,700 proceedings to revoke special protected tenancies, targeting Serbs and forcing them out of Croatia.<sup>28</sup> Efforts to compensate individuals who lost their protected tenancies did not begin until 2011.

*Kosovo:* The KPA has three key functions: to receive, register, and resolve conflict-related property claims; to enforce its findings; and to handle the administration of vacant properties. Conflict-related claims directly relate to or resulted from the armed conflict, such as claims regarding the occupation of a property following the owner's displacement, illegal construction on agricultural land that became inaccessible to the lawful owner, and the illegal occupation of a displaced person's residence or business.<sup>29</sup> In 2015, the KPA identified 35 cases of illegal construction, mediating amicable solutions in 10 of them and ordering demolitions in the rest. However, the government has not given the KPA the money needed to undertake the

demolitions, thus frustrating the rights of the lawful owners seeking the restitution of their land.<sup>30</sup> In April 2014, the Constitutional Court found that the KPA's non-execution of a decision by the Kosovo Property Claims Commission due to lack of funding violated the Constitution and the rule of law.<sup>31</sup> As of December 2016, other applicants have filed a total of 33 lawsuits against the KPA at the Constitutional Court.<sup>32</sup> Positively, Kosovo recently developed an annual National Strategy on Property Rights to help secure rights for displaced persons, among other people. The strategy finished its first year of implementation in March 2018.<sup>33</sup>

*Serbia:* In Serbia, Kosovo Serbs have made the most claims for the return of property. Although they can submit claims to the Kosovo court system through representatives in the Office for Kosovo and Metohija, as of May 2014, Kosovo courts have not initiated proceedings in 69% of complaints and all their decisions thus far have ruled against the claimants.<sup>34</sup> The lack of communication between Kosovo's and Serbia's institutions has exacerbated individuals' ability to obtain their property. For example, as of May 2014, the two states' institutions were not delivering mail to each other.<sup>35</sup>

## 2. Compensation

When damage is economically assessable, states should provide compensation. The financial situation in the region, coupled with each state's legal definition of victim and injury for the purposes of reparations, has impacted the granting of compensation in the states of the former Yugoslavia.

### *Physical harm*

To determine compensation, the states of the former Yugoslavia, except Croatia, have used a threshold of physical injury that is lower for veteran victims than civilian victims. States have also employed restrictive statutes of limitations and means testing to confine state spending. Furthermore, states have distributed compensation like benefits.

### Statutes of limitations

Statutes of limitations have restricted the ability of victims to claim their duly owed compensation. Generally, statutes of limitations help ensure fairness for defendants, including by protecting them from being forever exposed to claims; the "ordinary" presumption is that interested plaintiffs would not wait long before filing claims. However, in "extraordinary" postwar situations, victims may not come forward if they are afraid of reprisals or expect impunity, especially if the perpetrators are in power.<sup>36</sup> In addition, short statutes of limitations fail to account for the complexities of conflict and post-conflict societies, such as the time

needed for victims, particularly of CRSV, to cope with their trauma before coming forward to claim benefits.

*BiH:* The state had originally required medical proof obtained immediately after the injury occurred, which was later extended to one year after the injury. These short time limits disregard the fact that many injured during the conflict did not receive medical attention, let alone documentation, at that time.<sup>37</sup>

*Croatia:* The statute of limitations on compensation is five years.<sup>38</sup> The law, coupled with courts' narrow and restrictive interpretations as well as their rulings to further limit victims' access, has made it difficult for many victims to obtain compensation.

*Kosovo:* The Kosovo Law on Reparations, which was passed in 2004, grants reparations to veterans injured from 1997 through 1999 while only awarding reparations to civilians injured between February 27, 1998 and June 20, 1999.<sup>39</sup> This law has afforded veterans a larger timeline for injuries than civilians. Moreover, the early end date for both veterans and civilians excludes conflict-related retaliatory killings, disappearances, and regional hostilities that continued in the postwar period.

*Serbia:* The courts have borrowed statutes of limitations from tort and criminal law, liberally applying them to reparations claims in order to protect the state's budget by rejecting victims' claims.<sup>40</sup> The Law on Contracts and Torts provides for longer statutes of limitations on criminal offenses, but courts originally interpreted the extended statutes as applying only to natural persons responsible (individual perpetrators), not to legal entities responsible (states). Using this conception, courts rejected a large number of compensation claims as "time-barred." In 2011, the Constitutional Court determined that the longer statutes of limitations apply to any legal entity responsible for the harms, but its ruling is restricted to cases in which criminal proceedings had established the occurrence of a crime and convicted an individual perpetrator. Since criminal courts have yet to indict the majority of Serbian perpetrators, the Constitutional Court's decision will not significantly improve the ability of victims to receive compensation.<sup>41</sup>

### Means testing

BiH and Serbia have applied means testing to determine the amount of compensation owed to civilian victims based on their financial situation, even though reparations should be proportional to the gravity of the violations and harms suffered. States have used means testing to limit the number of beneficiaries and state spending. This approach, which differentiates between wealthy and poor victims, distributes pensions as social aid. While Serbia has always used means testing in granting civilians access to compensation, BiH adopted this approach following amendments in 2010.

### Veteran victims versus civilian victims

Reparations frameworks in the states of the former Yugoslavia, except Croatia, have prioritized veterans over civilians. BiH, Kosovo, and Serbia appear to entitle veterans to state compensation because they were injured as state employees. Meanwhile, those states' provision of compensation to civilian victims seems to be based on a desire to express solidarity with citizens and not on the state's responsibility for violations and reparations.

The discrepancy between the treatment of veterans and civilians is most evident in their different levels of access to benefits. Except for Croatia, all states of the former Yugoslavia have applied a lower threshold of physical injury for veteran victims than civilian victims, making it easier for veterans to qualify for money. BiH, Kosovo, and Serbia have a threshold of 20% injury for veterans, compared to thresholds for civilians that are at least twice as high: 50% injury in Serbia, 40% injury in Kosovo, and 60% injury in BiH.<sup>42</sup>

In Kosovo, as of October 2016, approximately 13,000 families have benefited from the Kosovo Law on Reparations.<sup>43</sup> Kosovo's budget for 2017 allocated €12 million toward the pension scheme for Kosovo Liberation Army (KLA) veterans and invalids. The International Monetary Fund has agreed to support this budget.<sup>44</sup>

### Conflict-related sexual violence

The states of the former Yugoslavia have handled compensation for victims of CRSV very differently.

*BiH:* The two legal entities, the Federation BiH and Republika Srpska, have regulated compensation for victims of CRSV differently. Since 2006, the Federation BiH has entitled rape survivors to approximately €280 per month in light of their psychological trauma. Different civil society organizations must confirm her injuries as part of her claim. By the end of 2016, only 1,000 women had obtained legal status as victims of war.<sup>45</sup> Meanwhile, in Republika Srpska, rape survivors must submit medical documentation proving they suffered at least 60% injury—the threshold for civilian injuries in BiH—as a result of the rape in order to qualify for €50–150 per month.<sup>46</sup> In practice, the threshold of 60% injury from a rape is nearly impossible for survivors to meet.

*Croatia:* Of the states of the former Yugoslavia, Croatia has dealt with CRSV the best, delivering a wide range of benefits to eligible victims. After a broad consultation process, Croatia adopted the Law on the Rights of Victims of Sexual Violence During Armed Aggression in the Republic of Croatia in May 2015. Under this law, testimonies are taken in good faith and victims with sufficient written evidence, such as medical documentation or a court judgment, do

not need to be re-interviewed. Croatia pays for all expenses, but the costs to the state may be reimbursed by convicted perpetrators.<sup>47</sup> Information about the incident of CRSV is shared with the authorities, which has resulted in greater reporting of CRSV crimes.<sup>48</sup> Although 2,200 survivors of CRSV were eligible for care and compensation, by the end of 2015, only 105 survivors (89 women and 16 men) had submitted applications. The Commission for Victims of Sexual Violence made headway in processing cases, resolving 106 of 158 cases by May 31, 2016 and another 26 cases by November 2016.<sup>49</sup> Compensation is a one-time payment of HRK 100,000 (approximately €13,180 as of 2016) and monthly payments (approximately €320 as of 2016). The one-time payment for impregnated victims or victims who were minors at the time of the crime is HRK 150,000 (approximately €19,800 as of 2016). In addition to compensation, victims are eligible for medical care, psychosocial support, and free legal aid.<sup>50</sup> Unfortunately, this law does not apply to women from BiH who were raped elsewhere before being moved to Croatia.

*Kosovo:* In 2014, Kosovo's Assembly amended the Kosovo Law on Reparations to acknowledge survivors of CRSV as victims of war. In September 2017, the government allocated a budget for the work of the Commission to Recognize and Verify Survivors of Sexual Violence During the Kosovo War to confirm survivors' status and eligibility for reparations.<sup>51</sup> The Commission received the first batch of applications on February 5, 2018, and the government will deliver €230 per month to verified victims.<sup>52</sup> Due to the stigma surrounding CRSV, it remains to be seen how many will publicly disclose their status as rape survivors to claim benefits.

*Serbia:* In Serbia, survivors of CRSV are excluded from compensation.

### *Mental harm*

While the states of the former Yugoslavia have recognized, quantified, and compensated victims for physical harms, they have not treated mental harms, like post-traumatic stress disorder (PTSD), similarly.

*Kosovo:* The Kosovo Law on Reparations defines veteran victims and civilian victims as individuals suffering physical harms. It does not list psychological harms, such as PTSD, as eligible injuries requiring compensation. Following pressure from KLA war veterans, the Ministry of Labour and Social Welfare, in cooperation with the Ministry of Health, committed to create the "Post-Traumatic Stress Centre for Kosovo Liberation Army Veterans" to provide veterans with emotional, spiritual, and psychological rehabilitation.<sup>53</sup> As of September 2017, the government has not built this center.



*Lost opportunities, including employment, education, and social benefits*

The dispersed nature of the armed conflicts, protracted displacement of many victims, and poor recordkeeping have made quantifying lost opportunities a difficult endeavor. In addition, states have granted blanket benefits to victims instead of assessing lost opportunities on an individual basis. Unfortunately, victims have not always known about the range of benefits for which they qualify, and states have not always transparently applied laws and policies.

*Costs required for legal or expert assistance and medical, psychological, and social services*

Victims often pay full legal costs if they lose a civil suit against any state of the former Yugoslavia.<sup>1</sup> For example, in Croatia, the courts have ordered up to 61.4% of unsuccessful claimants to pay prohibitively expensive trial costs. Although civil society organizations have advocated with the government to stop collecting from victims, particularly those suing for compensation for a death, Croatia was still taking these trial costs as of 2011.<sup>54</sup> For victims whose cases are taken up by civil society organizations, the situation is less dire because the organization handles the costs. However, not all victims are able to secure representation by a civil society organization.

### **3. Rehabilitation**

Rehabilitation involves redressing victims through, for instance, the provision of medical, psychosocial, and legal services.

*Medical and psychological care*

Similar to the situation regarding compensation, the states of the former Yugoslavia have taken care to ensure the treatment of physical injuries but paid less attention to rehabilitating survivors' mental scars. In fact, none of them have a coordinated psychosocial support system for victims.

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<sup>1</sup>At a session held on March 22, 2018, the Constitutional Court of BiH adopted S.A.'s appeal against the decisions of the Supreme Court of Republika Srpska and Banja Luka District Court regarding the costs of the proceedings. The Constitutional Court found that ordering the victim of wartime rape to pay the costs of Republika Srpska Attorney's Office in a trial against this entity, aimed at achieving compensation for the harm she suffered was a disproportionate and excessive burden on the appellant. This was determined to be a violation of the right to property and the right to a fair trial as provided for in the Constitution of BiH and the European Convention on Human Rights and Fundamental Freedoms. This is a very significant step for the appellant, a victim of wartime sexual violence whom this decision directly relates to, as well as for other victims of war crimes who are in a similar situation. Now the responsibility lies with the ordinary courts in BiH, and we expect them to by implementing those standards finally take away the unacceptable and excessive burden from the victims of sexual violence, former camp detainees and families of missing persons.

Victims possess access to compensation and rehabilitation for physical injuries. For example, Serbia's Law on Civilian Invalids of War entitles victims to funds for a caregiver, orthopedic allowance for disabilities, and other types of medical care.<sup>55</sup> Victims in Croatia have access to those rehabilitation-related services as well as pools and spa treatments.<sup>56</sup>

Unlike medical services, psychosocial help is rarely available and existing services are typically provided by civil society organizations. In light of under-resourced civil society organizations and the absence of state-funded programs, many victims are left with only costly options for their mental healthcare.

### *Legal and social services*

In the states of the former Yugoslavia, social services are reasonable and standardized but legal services are not. For example, in BiH, Croatia, Kosovo, and Serbia, eligible victims have access to professional rehabilitation in the form of vocational training and sometimes prioritization in employment and education for which they are qualified. There are additional social programs to aid victims of war in returning to normalcy.

*BiH:* The government grants free legal aid to underprivileged and indigent people for criminal and civil matters, in accordance with the conditions set forth in BiH's law on legal aid. Asylum-seekers, refugees, stateless persons, deported persons, trafficking victims, and individuals enjoying temporary protection are also beneficiaries of this law. Notably, other victims of war are excluded from accessing free legal aid unless they are poor.<sup>57</sup> Eligible individuals may receive information about their rights and duties, assistance in completing forms and filing court documents, representation before administrative agencies and courts, and mediation services.<sup>58</sup>

*Croatia:* Victims have not always known about the range of benefits for which they qualify and thus have not come forward to claim them from the appropriate mechanisms. Regarding legal services, the government has a list of names, locations, and contact information of authorized associations and legal clinics that can provide legal aid to victims. This list is publicly available online.<sup>59</sup>

*Kosovo:* States like Kosovo have treated veteran and civilian victims differently, offering a wider range of benefits to veterans than civilians. Additionally, victims have not always known about available rehabilitation schemes, their scope, or why packages were awarded or denied.<sup>60</sup>

*Serbia:* Serbia is the only country in Europe without a law on legal aid,<sup>61</sup> although the government expects to adopt one in 2018.<sup>62</sup> Meanwhile, civilian victims have gone to civil society organizations for legal representation. This model is unsustainable because it relies heavily on the organization's ability to secure funding and to survive the duration of the trial.

Since external funding to the states of the former Yugoslavia is decreasing, it is becoming increasingly difficult for civil society organizations to obtain funding for their programming.

#### **4. Satisfaction**

Satisfaction includes a wide range of measures, such as ceasefires, truth-seeking and documentation,<sup>63</sup> the search for missing or disappeared persons, and memorialization.

##### *Verification of the facts and full and public disclosure of the truth*

The states of the former Yugoslavia have been reluctant to publicly disclose accurate information about wartime violations, a tactic that some believe was adopted to avoid admitting responsibility. Instead, states have opted to present politically convenient facts and statistics, exploiting laws on data secrecy, data protection, and privacy in order to deny access to state-held information of public importance. For example, Serbia's absence of effective criteria for classifying information has allowed the state to conceal information of public importance. Over the last few years, to obstruct access to information about enforced disappearances and other atrocity crimes, the Ministry of Internal Affairs has denied possession of such information while the Ministry of Defense has hidden behind data secrecy and privacy provisions.<sup>64</sup> In 2014, the Commissioner for Information of Public Importance and Personal Data Protection ordered the Ministry of Defense to disclose to the HLC information about two army officers who had been indicted for war crimes. Two years later—and despite three more decisions by the Commissioner and the imposition of RSD 200,000 (approximately US\$1,800 at that time) in fines on the Ministry—the Ministry continued to ignore the Commissioner's directive.<sup>65</sup>

Due to governmental bias, civil society initiatives, such as the Regional Commission (RECOM) Initiative, the Human Losses Project, and the Women's Court, have provided the most accurate records of facts.

##### RECOM

Over 2,000 civil society organizations and individuals from the region formed the Coalition for RECOM to advocate for a regional commission (RECOM) to determine the facts about gross and serious violations committed in the former Yugoslavia from January 1, 1991 until December 31, 2001. The Coalition consulted 8,000 individuals about the possibility of a regional process and gathered the support of 630,000 locals.<sup>66</sup> Following the consultations, the Coalition determined that RECOM would be mandated to collect information about a variety of issues and provide a detailed account of wartime violations to be published and broadly distributed in the states of the former Yugoslavia. The final report would contain information about the root causes of the

conflict, incidents and patterns of gross and serious violations, the whereabouts and fates of missing or disappeared persons, and detention centers and the treatment of unlawfully detained persons. Information about human losses would be used to create registries. RECOM would also make recommendations to ensure reparations, including by preventing the recurrence of violations. As a truth-seeking and -telling mechanism, RECOM would hold public hearings during which victims, witnesses, persons who helped victims, and perpetrators could speak about their experiences of the conflict.<sup>67</sup>

The Coalition for RECOM has already gathered information on the deceased and disappeared as well as on detention centers. By the end of 2016, the Coalition had collected over 17,000 statements from witnesses, family members of deceased persons, and family members of disappeared persons; photographs of 12,000 victims; and 30,000 documents pertaining to the fate of victims. As of June 2017, the Coalition has identified 23,000 victims and recorded a total of 130,000 human losses. By the end of 2016, the Coalition had documented 600 detention centers, which had detained over 170,000 people, of the approximately 1,500 known sites in BiH.<sup>68</sup>

In January 2018, the Coalition for RECOM reported that BiH, Kosovo, Macedonia, Montenegro, and Serbia are expected to sign an agreement to establish RECOM at the next meeting in London in July 2018.<sup>69</sup>

### Human Losses Project

In 2004, civil society organizations throughout the region—the Humanitarian Law Center (HLC) (Serbia), Documenta (Croatia), BiH Research and Documentation Center in Sarajevo (BiH), and the HLC Kosovo (Kosovo)—began putting together a list of victims killed in BiH, Croatia, Kosovo, and Slovenia.

*BiH:* In January 2013, the Research and Documentation Center in Sarajevo published the “Bosnian Book of the Dead” containing the names of 96,000 confirmed victims and 5,000 more whose causes and places of death were unconfirmed. Approximately 10,000 were civilian women.<sup>70</sup>

*Kosovo:* The “Kosovo Memory Book Database,” compiled by the HLC and the HLC Kosovo, lists the names of the 13,554 killed or disappeared in Kosovo, including 10,825 Albanians and 2,199 Serbs. In 2015, international experts on databases and statistics determined that this database was complete and reliable due to the use of different sources to verify victims’ records.<sup>71</sup>

*Kosovo, Montenegro, and Serbia:* In March 2014, the HLC finished assembling the list of human losses in the North Atlantic Treaty Organization (NATO) bombings from March 24 to June 9,

1999. It documented 275 deaths in Serbia (without Kosovo) and Montenegro, of whom 180 were civilians, and 484 deaths in Kosovo alone, of whom 267 were civilians.<sup>72</sup>

### Women's Court

In 2010, civil society organizations launched the (non-judicial) Women's Court to provide a space for women's voices. The Women's Court used a feminist approach<sup>73</sup> to ensure the inclusion of women's experiences as victims and agents of change. At the first Women's Court in Sarajevo from May 7 to 10, 2015, over 30 women testified about their experiences of ethnic, military, sexual, and structural violence during and since the armed conflict and about women's resistance.<sup>74</sup> Afterward, women activists, researchers, and university professors from the region and the rest of the world devised feminist recommendations for states to adopt in order to advance feminist justice.<sup>75</sup> The work of the Women's Court has since continued. For three days in September 2017, over 30 women from BiH, Croatia, Kosovo, Macedonia, Montenegro, and Serbia met in Skopje to discuss the impact of the Women's Court, particularly on promoting a feminist approach to justice.<sup>76</sup> Moreover, the mere process of instituting the Women's Court resulted in the establishment of a strong, permanent regional women's network.

### *Search for the missing, disappeared, and killed*

As of September 2016, there were still 10,700 missing persons throughout the region.<sup>77</sup> Civil society organizations have implemented the most comprehensive efforts to locate and document missing or disappeared persons, although there are state-led initiatives as well.

*BiH:* 31,500 persons were missing at the end of the armed conflict, and as of May 2018, approximately 7,000 persons remain missing in BiH.<sup>78</sup> BiH has a Law on Missing Persons, which was enacted in 2004 and was the first of its type in a postwar state, mandating the formation of the Missing Persons Institute of BiH, the Central Records of Missing Persons (to unify information on missing or disappeared persons to ensure accurate and reliable numbers), and the Fund for the Families of the Missing. The Fund has yet to be established.<sup>79</sup> Since its inception in 2005, the Missing Persons Institute has searched for and identified missing persons across the whole country, precluding ethnicity-based searches. It has uncovered mass graves, including at Koricanske Stijene, where Serb forces executed over 200 Bosnian Muslim civilian men. Five exhumations between 2003 and 2013 recovered 117 remains; another 137 were unearthed in October 2017.<sup>80</sup>

*Croatia:* State authorities have resolved approximately 80% of the 6,000-plus cases of missing persons,<sup>81</sup> but 1,541 remain missing and the whereabouts of the bodies of 421 deceased persons

remain unknown.<sup>82</sup> In 2017, the International Commission on Missing Persons reported that Croatia had failed to account for 900 unidentified remains in its mortuaries.<sup>83</sup>

*Kosovo:* 6,057 persons were reported missing to the International Committee of the Red Cross (ICRC) following the armed conflict in Kosovo. As of April 2018, authorities have not found 1,650 persons.<sup>84</sup> Part of Kosovo's search has necessitated Serbia's cooperation, but as of 2017, Serbia has yet to disclose "classified" information about over 1,000 Kosovo Albanians whom security forces disappeared and killed in Kosovo before burying in mass graves in Serbia.<sup>85</sup> Outside parties have tried to no avail to access the sealed documents.

*Serbia:* As of August 2016, 4,000 Serbs were still missing, 1,101 of whom were either Serbian citizens living in Croatia or ethnic Serbs with Croatian citizenship. This is further complicated by the 699 persons who were reported missing, but only to the Red Cross in Serbia not also to the Red Cross in Croatia or the ICRC.<sup>86</sup> In addition, Serbia is searching for approximately 450 ethnic Serbs who disappeared in BiH and 500 ethnic Serbs who disappeared in Kosovo.

*Official declaration or a judicial decision restoring victims' dignity, reputation, and rights*

Victims have faced challenges in gaining acknowledgment from the states of the former Yugoslavia, but there have been some positive developments seen in Kosovo.

*Kosovo:* Ethnic minority victims have been marginalized and victimized. While the law considers them to be victims, unprofessional government staffers have not helped them obtain the documents necessary to prove their status as victims.<sup>87</sup> Survivors of CRSV fared better, and in September 2017, the government allocated a budget for the work of the Commission to Recognize and Verify Survivors of Sexual Violence During the Kosovo War to confirm survivors' status as victims who are eligible for reparations.<sup>88</sup> Kosovo also recognizes families of missing persons as victims and allows them to access benefits without declaring deaths. Unfortunately, Kosovo applies different standards to absent KLA members and civilians to determine if they are "missing." Any KLA member whose whereabouts and fates are unknown is a missing person. However, for civilians to qualify as "missing," their fate must be unknown to their family and the civilian must have been reported missing on the basis of reliable information, between January 1, 1998 and December 31, 2000, and as a consequence of the war in Kosovo.<sup>89</sup> Therefore, it is more difficult to assert the "missing" status of a civilian than a KLA member.

*Serbia:* Court decisions are anonymized, so parts of judgments containing personal data get redacted. Some courts have redacted much more than what was required for privacy purposes, such as the names of defendants, their lawyers, the judges, and the witnesses—even entire paragraphs and pages. These edits have made some judgments completely illegible. In fact, some

courts have redacted the names of victims, patently denying them recognition as individual rights-holders whose dignity had been violated by the perpetrator(s). More disturbingly, omitting the names of victims reduces them to statistics and effectively renders them invisible to the public. Unfortunately, the Commissioner for Information of Public Importance and Personal Data Protection has endorsed the practice of anonymization.<sup>90</sup>

### *Public apology*

Presidents of BiH, Croatia, Kosovo, Montenegro, and Serbia have publicly apologized for their state's crimes. However, in the absence of meaningful follow-up actions, some have doubted the sincerity of their apologies.<sup>91</sup>

### *Judicial and administrative sanctions against persons liable for the violations*

The prosecutorial and judicial institutions in all states of the former Yugoslavia have struggled with capacity issues, such as understaffing and inadequate training.<sup>92</sup> The lack of a systematic approach to atrocity crimes investigations and prosecutions has wasted invaluable resources and sometimes resulted in multiple charges being brought against perpetrators for the same crime or event.<sup>93</sup>

Atrocity crimes trials move very slowly in the region—some have lasted longer than a decade. Surviving victims and witnesses who are now elderly are less willing and likely to testify, especially if they need to travel far and testify multiple times,<sup>94</sup> which is tiring and even re-traumatizing. Due to the slow pace of trials and the number of retrials across the region, many victims have lost faith in the domestic system's ability to serve justice.<sup>95</sup>

Investigations have focused on direct perpetrators, who are typically low-ranking officers, instead of high-ranking officers under the legal doctrine of command responsibility. In fact, the Office of the War Crimes Prosecutor (OWCP) has not charged anyone who held a high-ranking position in Serbia or the Federal Republic of Yugoslavia. It was not until 2014 that the OWCP launched its first investigation into a high-ranking officer, General Dragan Živanović. Although the examination concluded in 2016, the OWCP has not charged Živanović.<sup>96</sup> In light of the few atrocity crimes trials of high-ranking officials in Kosovo, Kosovo and the Netherlands signed an agreement in 2016 to establish the Kosovo Specialist Chambers and Specialist Prosecutor's Office in The Hague.<sup>97</sup> This court has jurisdiction over certain war crimes, crimes against humanity, and other crimes under Kosovo's laws that allegedly occurred between January 1, 1998 and December 31, 2000.<sup>98</sup> As of May 2018, the court had not issued any indictments.<sup>99</sup>

Finally, the cross-border nature of the armed conflicts has resulted in the dispersal of victims, witnesses, perpetrators, and evidence across different jurisdictions. Because almost all states of

the former Yugoslavia have banned the extradition of their citizens for atrocity crimes trials in other countries, effective judicial cooperation between the states is a prerequisite for criminal justice. While agreements exist between the OWCP and the states of the former Yugoslavia, except Kosovo, political disputes have tainted them in practice.<sup>100</sup>

### *Commemorations and tributes to the victims*

Most monuments, including state-sponsored ones, are dedicated to victims and fighters of the majority group. The few tributes dedicated to victims from minority groups were typically produced by the families and friends of those who died.

*BiH:* By the end of 2016, 2,100–2,500 monuments and tributes had been erected.<sup>101</sup> Some municipalities have at least 70 monuments, mostly to killed soldiers.<sup>102</sup> Research has found that memory in BiH is ethnocentric and promotes a sense of collective victimhood that ignores the suffering of the “other.” The Central Record of Monuments in BiH, created by researchers and historians, is the only record of memorials built in postwar BiH. Its existence has prevented manipulation of the numbers and types of tributes in the country.<sup>103</sup> However, there is no official database of them, even with the local municipalities that grant permits for the erection of tributes.<sup>104</sup>

*Croatia:* In accordance with the Law on the Marking of the Mass Grave of Victims of the Homeland War, the government finances the marking of mass graves.<sup>105</sup> Since 2008, the Ministry of Croatian Veterans has covered the costs of other tributes to victims killed during the war, including a cenotaph to commemorate 15,640 killed veterans.<sup>106</sup> Croatia was also supposed to adopt a law to regulate the placement of monuments and the names of streets and squares, but as of March 2017, it has not passed this law.<sup>107</sup>

*Serbia:* Serbia has no national law regulating the construction of monuments, a matter left to the local authorities, but there are laws regarding the administration and maintenance of the graves of veterans and foreign fighters.<sup>108</sup> Additionally, the drafting of the Law on Military Memorials concluded in April 2017. This law would give local governments the ability to decide what, where, and how to build monuments while prohibiting the erection of anything contrary to the state’s values.<sup>109</sup>

### *Inclusion of an accurate account of the violations in training and educational materials*

School education about the wars of the 1990s is ethnocentric: states have focused on victims of the majority group and the crimes against them while largely ignoring minority victims and state-perpetrated crimes. Historians from BiH, Croatia, Kosovo, and Serbia have found that history schoolbooks are more political than educational. One historian commented that the ideological



arguments used in the war by different ethnicities survived in nearly all history books.<sup>110</sup> To combat the bias in state education, civil society organizations have launched initiatives to accurately educate the public about the wars of the 1990s through schools of transitional justice, lectures, workshops, and seminars.<sup>111</sup>

*BiH:* The ethnic divisions illustrated in school materials are even wider today than they were when the war ended.<sup>112</sup>

*Croatia:* In Croatia, schoolbooks use powerful and emotive language, emphasize the suffering of ethnic Croatians, and present “war heroes” as individuals with whom students should identify. The public seems uninterested in teaching students about the war’s impact on different ethnic groups, as exemplified by their pushback against one textbook author’s attempt to integrate a multidimensional perspective on Operation Storm. He used two pictures on the same page to illustrate how different groups perceived the operation: one was the positive reception of victorious Croatian soldiers in Zagreb and the other was of ethnic Serbs fleeing.<sup>113</sup> The latter image was poorly received by parts of the population.

*Kosovo:* The lack of political will, financial challenges, and strong state control over the schoolbooks and materials have hampered the education system’s ability to convey an accurate account of the war. Even before the war, parallel school systems for Albanians and Serbs exacerbated ethnic divisions and promulgated ethnocentric narratives among schoolchildren. During the war, the education system often excluded or deprioritized minority groups—such as ethnic Serb, Romani, Ashkali, and Egyptian students—and their narratives. In the postwar period, schoolchildren have learned inaccurate facts and figures about wartime violations. Some secondary students thought that 250,000 Kosovars were killed or disappeared during the 1998–1999 war. This number does not appear in their textbooks and is 25 times higher than the commonly accepted figure. As another example, Albanian textbooks mention crimes by Serbs but no Serb deaths and Serb textbooks mention crimes by Albanians but no Albanian deaths.<sup>114</sup>

## **5. Guarantees of non-repetition**

Guarantees of non-repetition center on institutional reform, such as vetting and lustration processes.

### *Effective civilian control of military and security forces*

The constitutions of all states of the former Yugoslavia affirm civilian control of the military and security forces.<sup>115</sup> Laws regulating the conduct of members of the military further detail the content of this idea.<sup>116</sup> However, the failure of states to lustrate the security sector has undermined legal protections in practice.

*Kosovo:* While the Constitution guarantees civilian and democratic control of security institutions,<sup>117</sup> the transparent operation of security institutions, and a security forces reflecting Kosovo's ethnic diversity,<sup>118</sup> this is not always the case. A 2011 study highlighted the absence of transparency in the recruitment process, financials, the employment of women and ethnic minorities as well as the weak civilian and democratic oversight during the early stages of the Kosovo Security Force's development.<sup>119</sup>

*Serbia:* Since suspected war criminals have remained in decision-making positions, laws aiming to give control and oversight to civilians are not necessarily effective. For example, Momir Stojanović was the chair of Parliament's Security Services Control Committee; during his tenure, Interpol issued an arrest warrant for him for war crimes committed in Kosovo.<sup>120</sup> Another member of the Security Services Control Committee was Vojislav Šešelj, who was a prominent politician in Slobodan Milošević's regime. The International Criminal Tribunal for the former Yugoslavia (ICTY) indicted Šešelj for crimes against humanity in 2003 and acquitted him in 2016; the Appeals Chamber of the residual mechanism overturned his acquittal and sentenced him to 10 years imprisonment in April 2018.<sup>121</sup> Because transparency is sorely lacking, it is difficult to obtain information about the security forces—even information of public importance that should be publicly available in accordance with international standards.

### *Independence of the judiciary*

The constitutions and domestic laws of all states of the former Yugoslavia enshrine the independence of the judiciary.<sup>122</sup> Unfortunately, political and media pressures have continued to influence the judicial branch.

*Croatia:* The Council of Europe reported that public prosecutors have received threats every year. In 2015, some were killed in connection with their duties.<sup>123</sup>

*Serbia:* Judges in the Department for War Crimes do not have a permanent mandate and have been removed, likely following direct political influence.<sup>124</sup> Additionally, in 2015, then-President Tomislav Nikolić warned the OWCP Prosecutor “to be careful about what he is digging up in Serbia” after the discovery of evidence implicating the Chief of Staff of the Armed Forces, General Ljubiša Diković, in a mass grave.<sup>125</sup>

### *Vetting and lustration*

The states of the former Yugoslavia have made minimal, typically unsuccessful, attempts to vet and lustrate the public sector, including the security forces.

*BiH:* Lustration schemes in BiH removed abusive police officers, prosecutors, and judges. In the period of 1999–2002, the UN Mission in BiH examined the wartime conduct of 24,000 police officers, dismissing 4% as a result. Domestic courts indicted some of the remaining police officers for atrocity crimes. As part of BiH’s 2002–2004 judicial reform, the High Judicial and Prosecutorial Council decided not to reinstate 200 of 1,000 prosecutors and judges. It is unclear how many were not reappointed on account of being implicated or involved in human rights violations.<sup>126</sup> In addition, individuals are ineligible to hold public office if they were convicted of atrocity crimes or if they refused to go before the ICTY.<sup>127</sup>

*Croatia:* As of October 2015, Croatia and Slovenia were the only members of the European Union without a law on lustration.<sup>128</sup> Croatia does have measures to keep war criminals out of office, as political parties cannot nominate any individual who served a sentence for war crimes, crimes against humanity, or genocide, among other international crimes, as a candidate for an election.<sup>129</sup>

*Serbia:* From 2003 to mid-2013, Serbia had a law on lustration, although it was never used. Due to a lack of political will to renew the law, it expired after 10 years of disuse.<sup>130</sup> By the end of 2015, there was only one known instance of an office suspending a government official because he was being investigated for committing atrocity crimes (specifically, war crimes in Kosovo).<sup>131</sup> Notably, Serbia’s failure to execute a vetting or lustration process has enabled a domestic system that is increasingly hostile toward change.

### *Protection of human rights defenders*

Over the last few years, the situation for human rights defenders in the region has deteriorated and individuals, groups, and states have threatened activists.

*BiH:* Individuals or groups often target human rights defenders. The state has also pressured them with financial penalties, which has a chilling effect on their work. Threats, coupled with the weak rule of law and the state’s slow progress in implementing human rights protections, have made it difficult to initiate activism.

*Serbia:* Some civil society organizations and human rights activists who spoke out against high-ranking officials’ involvement in human rights violations have been sued. For example, in February 2013, General Ljubiša Diković successfully filed for non-pecuniary damages against the HLC and its then-Director Nataša Kandić, alleging that an HLC dossier was libelous.<sup>132</sup>

*Croatia and Serbia:* Police harassed activists from the Youth Initiative for Human Rights in Croatia and Serbia. In Serbia, the youths interrupted a political party event in January 2017, which featured as a speaker Veselin Šljivančanin, a convicted war criminal who had completed

his ICTY sentence. Political party members responded by physically attacking them.<sup>133</sup> Just prior, in December 2016, police interrogated Youth Initiative activists for concealing a placard outside a former World War II concentration camp displaying “Za dom spremni” (a fascist motto). The youths’ cover-up contained a letter that condemned racism and fascism and called for human rights and democratic principles.<sup>134</sup>

### *Human rights education and training for law enforcement officials and security forces*

Most of the security forces in the states of the former Yugoslavia, like Croatia and Serbia, have received human rights education during their training.<sup>135</sup> Typically, this happens as part of a course, but sometimes students take a dedicated course on human rights, which is the case at the Police Academy in Belgrade. In spite of claims that most security forces are taught to respect and protect human rights, there is a lack of evidence and transparency regarding the effectiveness of such trainings in preventing the recurrence of violations.

### *Review and reform of laws contributing to human rights violations*

In 2016, Serbia revised its Criminal Code, criminalizing the denial of any genocide determined by a Serbian court or the International Criminal Court. This genocide denial is punishable by up to five years imprisonment.<sup>136</sup> Notably, it is not a crime to deny the genocide in Srebrenica, which was adjudicated by the ICTY and the International Court of Justice.<sup>137</sup>

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<sup>1</sup>Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, U.N. Doc. A/RES/60/147 (December 16, 2005), available at

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

<sup>2</sup> General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), December 14, 1995, ¶ 14, available at <https://www.osce.org/bih/126173?download=true>.

<sup>3</sup> Dayton Agreement, ¶¶ 28–30.

<sup>4</sup> United Nations (UN) High Commissioner for Refugees (UNHCR), *Implementation of the Durable Solutions Process (Sarajevo Process) for Refugees from Croatia Displaced by the 91–95 Conflict, Including Cessation of Refugee status*, ¶ 35 (April 2014), <http://www.refworld.org/docid/533d813f4.html>.

<sup>5</sup> *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in This Context*, UN Human Rights Council, ¶ 42, U.N. Doc. A/HRC/16/42/Add.2 (December 30, 2010) (by Raquel Rolnik),

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-42-Add2.pdf>.

<sup>6</sup> Zakon o statusu prognanika i izbjeglica [Act on the Status of Displaced Persons and Refugees] (1993), art. 1 (Croatia), available [http://narodne-novine.nn.hr/clanci/sluzbeni/1993\\_10\\_96\\_1879.html](http://narodne-novine.nn.hr/clanci/sluzbeni/1993_10_96_1879.html).

<sup>7</sup> Uredba o uvjetima za utvrđivanje i gubitak statusa izbjeglice, prognanika odnosno povratnika [Regulation on Conditions for Determining and Losing Status of Refugees, Displaced Persons, or Returnees] (2013) art. 2 (Croatia), available at [http://narodne-novine.nn.hr/clanci/sluzbeni/2013\\_11\\_133\\_2883.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2013_11_133_2883.html).

<sup>8</sup> Odluka o vrsti i visini financijske potpore prognanicima i povratnicima [Decision on the Type and Amount of Financial Support for Displaced Persons and Returnees] (2013), arts. 1–2 (Croatia), available at [http://narodne-novine.nn.hr/clanci/sluzbeni/2013\\_11\\_133\\_2886.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2013_11_133_2886.html).

<sup>9</sup> Decision on the Type and Amount of Financial Support for Displaced Persons and Returnees], art. 3.

- <sup>10</sup> Decision on the Type and Amount of Financial Support for Displaced Persons and Returnees, 2, available at <https://vlada.gov.hr/UserDocsImages/Sjednice/Arhiva/122.%20-%205.b.pdf>.
- <sup>11</sup> European Commission, *Kosovo 2016 Report* (Brussels: European Commission, 2016), 29, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_kosovo.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf).
- <sup>12</sup> Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo, *Review of Illegal Re-occupation Cases in Kosovo* (Pristina: OSCE, 2015), 6, <http://www.osce.org/kosovo/141131?download=true>.
- <sup>13</sup> Kosovo is the second-poorest country in Europe, and nearly 30% of people in Kosovo fall below the poverty line. “10 Facts About the Poverty Rate in Kosovo,” Borgen Project, August 25, 2017, <https://borgenproject.org/poverty-rate-in-kosovo/>.
- <sup>14</sup> HLC Kosovo, *War Reparations for Civilian Victims: What Access for Communities?* (Pristina: HLC Kosovo, 2016), 29.
- <sup>15</sup> Sasa Zakon o statusu prognanika i izbjeglica Dragojlo, “Serbia’s Plan for Refugees ‘Likely to Fail’,” Balkan Insight, July 31, 2015, <http://www.balkaninsight.com/en/article/solving-refugee-problems-requires-cooperation-between-states-07-30-2015>.
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- <sup>17</sup> “Collective Centers” [in Serbian], Republic of Serbia: Commissariat for Refugees, accessed May 18, 2018, <http://www.kirs.gov.rs/articles/centri.php?lang=SER>.
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- <sup>21</sup> Joint Announcement [in Serbian], March 25, 2010, available at [http://www.kirs.gov.rs/docs/regionalniproces/zajednicko\\_saopstenje201003.pdf](http://www.kirs.gov.rs/docs/regionalniproces/zajednicko_saopstenje201003.pdf).
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- <sup>24</sup> “About the Regional Process” [in Serbian], Republic of Serbia: Commissariat for Refugees, accessed May 18, 2018, <http://www.kirs.gov.rs/articles/oregprocesu.php?type1=67&lang=SER&date=0>.
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- <sup>26</sup> Đokić v. Bosnia and Herzegovina, App. No. 6518/04, European Court of Human Rights (2010), <http://hudoc.echr.coe.int/webservices/content/pdf/001-98692>.
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<sup>35</sup> Matijević, 11.

<sup>36</sup> Jaime Malamud-Goti and Lucas Grosman, “Reparations and Civil Litigation: Compensation for Human Rights Violations in Transitional Democracies,” in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford: Oxford University Press, 2006), 539–59.

<sup>37</sup> Documenta, HLC, Research and Documentation Center in Sarajevo, *Transitional Justice in Post-Yugoslav Countries: Report for 2006* (Belgrade: Documenta et al., 2007), p. 48, available at <http://recom.link/wp-content/uploads/2014/12/Transitional-Justice-in-Post-Yugoslav-Countries-2006.pdf>.

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<sup>40</sup> HLC and Civil Rights Defenders, *Victims’ Right to Reparation in Serbia and the European Court of Human Rights Standards: 2014/2015 Report* (Belgrade: HLC, 2016), 28–33, [http://www.hlc-rdc.org/wp-content/uploads/2016/01/Izvestaj\\_o\\_reparacijama\\_2014\\_eng\\_FF.pdf](http://www.hlc-rdc.org/wp-content/uploads/2016/01/Izvestaj_o_reparacijama_2014_eng_FF.pdf).

<sup>41</sup> HLC and Civil Rights Defenders, *Victims’ Right to Reparation in Serbia*, 30–31.

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<sup>122</sup> CONSTITUTION OF THE FEDERATION BiH (1994), § IV.C, art. 4, available at <http://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/001%20-%20Constitutions/FBH/FBH%20CONSTITUTION%20FBH%201-94%20and%2013-97.pdf>; CONSTITUTION OF REPUBLIKA SRPSKA (1992), art. 121, available at <http://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/001%20-%20Constitutions/RS/RS%20CONSTITUTION%20OF%20REPUBLIKA%20SRPSKA.pdf>; CONSTITUTION OF THE REPUBLIC OF CROATIA, art. 118; CONSTITUTION OF THE REPUBLIC OF KOSOVO, art. 102; CONSTITUTION OF THE REPUBLIC OF SERBIA, art. 4.

<sup>123</sup> Bureau of the Consultative Council of European Judges (CCJE) and Bureau of the Consultative Council of European Prosecutors (CCPE), *Challenges for Judicial Independence and Impartiality in the Member States of the Council of Europe* (Strasbourg: Council of Europe, 2016), ¶ 158, <https://rm.coe.int/168066d624>.

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