



**Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence,  
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*Preliminary Observations from the Official Visit to Serbia and Kosovo<sup>1</sup>  
(22 November to 2 December 2022)*

Belgrade, 2 December 2022

From 22 November to 2 December 2022, I conducted an official visit to Serbia and Kosovo. I would like to thank the authorities in Belgrade and Pristina for their openness and cooperation during the realization of the visit. I would also like to thank the United Nations Human Rights Adviser Team in Serbia and the United Nations Mission in Kosovo for supporting my team before and during the visit. I visited Belgrade and Pristina and had the opportunity to make field visits to sites of mass graves, search and exhumations locations, and memorials of past conflicts, in Belgrade, Stavalj, Rudnica, Pristina, Rezalla/Rezale village. I regret not having access, despite my request, to the police Unit in Batajnica, Belgrade, where a mass grave was found. I met with victims and survivors, representatives from civil society, international organizations and the diplomatic community, journalists and academic experts.

In Belgrade, I met with the Minister for Foreign Affairs the Minister of Justice, the Minister of Culture, the Minister of Human and Minority Rights and Social Dialogue, the Assistant Police Director, the President of the Commission for Missing Persons, War Crimes Investigation Service and Witness Protection Service, the President of the High Court in Belgrade, the President of the War Crimes Department, the Serbian War Crimes Prosecutor, as well as the Protector of Citizens of the Republic of Serbia.

In Pristina, I met with the Special Representative of the Secretary General, the Prime Minister, the Minister of Justice, and with representatives of the Office of the Good Governance, the Ministry of Education, Science and Technology, the Ministry of Returns and Communities, the Agency for the Management of Memorial Complexes, the Ministry of Interior, the Commission on Missing Persons, the Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War, the Assembly's Committee on Human Rights, Gender Equality, Victims of Sexual Violence During the War, Missing Persons and Petitions, as well as the Ombudsperson.

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<sup>1</sup> All references to Kosovo shall be understood to be in full compliance with [United Nations Security Council Resolution 1244 \(1999\)](#).

During the 1990s, gross violations of international human rights law and serious violations of international humanitarian law were documented during the armed conflicts that affected the region. A series of national, regional and international initiatives in the field of transitional justice were adopted in the intervening years to address the legacy of those violations. I will share my preliminary observations and recommendations below in this regard . A detailed report of my visit will be presented to the United Nations Human Rights Council in September 2023.

## Serbia

### *Truth and the fate of missing persons*

Although a Truth and Reconciliation Commission was established in March 2001 in the then-Federal Republic of Yugoslavia, it was criticized for lacking ethnic diversity in its membership and for consulting inadequately with civil society. The commission was disbanded in February 2003, without holding a hearing or delivering a report.

The unsolved fate of missing persons is a tragic legacy of the 1990s conflicts and remains critical for post-conflict recovery in Serbia, Kosovo and the rest of the region. The International Committee of the Red Cross (ICRC) registered 6,065 cases of missing persons in connection with the 1998-2000 Kosovo conflict. 22 years after the end of the conflict, and despite some progress in tracking and identifying missing persons, ICRC reported that 1,622 missing persons remain unaccounted for and that only one case was solved in 2022.

In June 2006, Serbia established the Commission on Missing Persons to coordinate the search, exhumation and identification of persons who went missing during the armed conflicts and were found on the territory of Serbia. Serbia is member of the Working Group on persons unaccounted for in connection with events in Kosovo between 1998 and 1999 (Working Group on Missing Persons). The Working Group was established in 2004, under the auspices of the United Nations, to facilitate the exchange of information on missing persons and grave site locations between the authorities in Belgrade and Pristina, and is chaired by the International Committee of the Red Cross. Although the amount of information effectively exchanged within the Working Group was initially limited, it led to some progress and the discovery of two mass graves. In recent years, however, the work of the entity has been substantially hampered by political animosity between Pristina and Belgrade and reached a stalemate.

It is believed that the police and the military in Serbia have information relevant for the search of missing persons, including in connection to the transfer of bodies. Access to the archives of these institutions was hampered for several years. In 2013, the Ministry of Interior opened its archives, which led to the resolution of several cases, however the Ministry of Defense is yet to allow access to the archives under its jurisdiction.

Serbia has signed regional cooperation agreements to facilitate the search of missing persons, which have led to the joint co-monitoring of excavations and exhumations, joint reconnaissance visits, transfers of human remains and the exchange of information and materials among the authorities of Bosnia and Herzegovina, Croatia and Serbia. Despite earlier progress, cooperation has slowed down significantly, hampered by the lack of exchange of information across borders (described by several interlocutors as a trade on missing persons) as well as the lack of effective investigation and prosecution of war crimes.

The country's legal framework does not adequately address the legal situation of missing persons and their relatives, in fields such as social welfare, financial matters, family law and property rights. A draft law on missing persons has been prepared by the Ministry for Labor, Employment, Veterans and Social Affairs, in consultation with victims, international organizations and civil society, which would regulate the status of missing persons and define the rights of families of missing persons. However, the law is yet to be passed through Parliament.

I note the efforts, albeit limited, taken so far by Serbia to search for the missing persons and call on the government to accelerate the search for all remaining victims, revive cooperation with Kosovo and all countries in the region, and adopt the draft law on missing persons without delay. I also wish to call on the relevant authorities, particularly the Ministry of Defense, to ensure urgent and unrestricted access to the archives of the military forces that can facilitate the search for missing persons in the country.

### *Justice*

Serbia has set up an institutional framework for the prosecution and trial of war crimes committed during the conflict, with sustained support from the international community. In 2003, it established a War Crimes Chamber of the Higher Court in Belgrade and the War Crimes Prosecutor's Office. The National Strategy for War Crimes Prosecution for 2021-2026 and related Action Plan provide a framework and road map for the prosecution of these crimes, but its implementation, as well as that of its predecessor, has been insufficient.

According to information provided by the War Crimes Prosecutor's Office, 238 persons have been indicted, since the establishment of the institution, with an 85% conviction rate. 94 percent of those indicted were Serbian nationals. Between 2016 and 2020, the War Crimes Prosecutor's Office issued 34 indictments against 45 persons (65% of which had been transferred from Bosnia and Herzegovina). In 2022, the Office brought 10 indictments before the Court. Despite these developments, progress has remained slow leading to a backlog of 1,731 pre-investigative cases. Defendants prosecuted at the Courts are mainly low-ranking officials. It is worth noting that only two high-ranking officials, (who had been handed over to Serbia with the relevant evidentiary file), are currently being prosecuted in Serbia. One of them has been recently indicted.

I have heard reports of continued intimidation and attacks against witnesses and victims testifying in war crime cases, some of whom have not been able to testify due to fear of retaliation. I note the strategy and plan of action for witness protection adopted in 2020, and the legal and administrative framework in place to provide protection and psychosocial support to victim and witnesses. I am nonetheless concerned that the measures are insufficient to deter perpetrators and to inspire trust among witnesses and victims, as evidenced by the continuity of such acts by the former and the reluctance to provide testimony of the latter. I am further concerned that despite the existence of a specific offence in the criminal code relating to violence or threats against witnesses, no legal action has been taken to counter such practices.

Serbia and its regional counterparts have adopted several agreements and protocols since 2006 to improve cooperation among the relevant prosecution authorities in the region. However, cooperation in the field has stagnated in recent years. The Mechanism for Criminal Tribunals (IRMCT) noted that regional judicial cooperation is at its lowest level in years and faces serious

challenges. It further noted that judicial cooperation between Belgrade and Pristina and between Serbia and Croatia remain at a standstill.<sup>2</sup> Serbian authorities cited the lack of cooperation from their counterparts in Croatia and recalled a report of the IRMCT in this regard<sup>3</sup>. Judicial cooperation between Serbia and Bosnia and Herzegovina, on the other hand, has improved and yielded some results.

I note the framework in place to prosecute and sanction war crimes and the progress obtained. I am however concerned about the low prosecution rate in the country despite the resources and support devoted to this endeavour, and despite the substantial files at the disposal of the authorities. I call on the relevant authorities to accelerate the prosecution of war crimes cases, at all levels of hierarchy, resume cooperation with their counterparts in Kosovo and Croatia, and ensure that all cases of threats or intimidation against witnesses in wartime related judicial proceedings are thoroughly and impartially investigated and lead to prosecution and appropriate penalties.

### *Reparation*

War crime victims in Serbia can claim compensation through lawsuits against the Republic of Serbia or through administrative procedures. The legal framework governing administrative reparations was for several decades governed by the Law on the Rights of Civilian Disabled Veterans, adopted in 1996. It was updated in February 2020 with the adoption of the Law on the Rights of Veterans, Disabled Veterans, Civilian Disabled Veterans and Their Family Member. However, victims and civil society were not adequately consulted in the drafting process and, as a result, the law retains the shortcomings of its predecessor. Under this legal framework, only citizens of Serbia who were victims of violence committed by members of “enemy troops” and who suffered a certain degree of physical impairment may initiate the administrative procedure. Eligible victims are entitled to health care, free public transport and, for those in situation of social vulnerability, a monthly cash benefit.

The framework has prevented most victims’ eligibility as beneficiary and has resulted in different treatment among different categories of victims. Victims whose injuries or loss of life resulted from actions of Serbian state agencies, or who did not suffer injuries in the territory of the Republic of Serbia, victims of sexual violence, victims of torture whose injuries resulted in bodily disability below a certain threshold, and camp detainees, cannot benefit from administrative reparation. Furthermore, the framework has been significantly less favorable to civilian than military victims. Until 2020, families of missing persons were forced to declare the death of their relative to qualify for reparation. Under the current reparation framework, this is reportedly no longer the case.

Victims who cannot qualify for administrative reparation due to the restrictive legal framework, seek financial compensation through the courts, but the judicial processes are lengthy and require a criminal conviction before compensation can be sought in civilian courts. In addition, there is a high standard of proof and the expiration of the statute of limitations prevented victims from obtaining compensation in most cases. Moreover, lawsuits entail considerable expenses on the part of victims-plaintiffs, and there is no legal aid available to them. These

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<sup>2</sup> <https://www.irmct.org/sites/default/files/documents/220519-progress-report-s-2022-404-en.pdf>

<sup>3</sup> <https://www.irmct.org/sites/default/files/documents/220519-progress-report-s-2022-404-en.pdf>

difficulties, and the uncertainty of a positive outcome given the burden of proof placed upon victims, makes this avenue for reparation practically inviable for victims.

Serbia provides reparation to a limited category of victims and maintains several others without access to this right, despite the recent update to its legal framework. I call on the authorities to improve the legal framework to ensure that all victims can access reparation without discrimination, as well as to adopt a reparation programme that facilitates the process for claiming and awarding reparations.

### *Memorialization*

In the last decade, the 1990s conflicts became the focal point of memory policies aimed at legitimizing the role of the Serbian government during that period and at revisiting the role of convicted war criminals in that context. This memorialization strategy includes large commemorations, and the use of media technologies and cultural productions that reproduce a narrative around the conflict centered in nationalist sentiments, the denial of responsibilities for past crimes and the obscuring of the harm suffered by non-Serbian victims.

While some much needed memorials have been erected to commemorate the suffering of Serbian victims, such as children killed during the NATO bombing, it is regrettable that similar initiatives do not exist with respect to victims of other ethnic groups. Moreover, initiatives from civil society to erect monuments to commemorate non-Serbian victims are often obstructed by the authorities or restrictive regulations, as was the case with the attempts to memorialize the mass grave in the training grounds of the Police at Batajnica where remains of 744 hundred Kosovo Albanians were found. In 2018, the government adopted a Law on Monuments which forecloses the commemoration of events that question Serbia's role in the conflict.

Memorialization processes in Serbia today show an exclusive focus on Serbian victims. Memorialization efforts aimed at commemorating all victims, and in particular ethnic minority victims, seem restricted to civil society efforts. In a similar vein, I noticed a scarcity of memorials, plaques or ceremonies remembering all violations committed during the conflict. Progress in this area will be vital to reconciliation processes and to restore the dignity of victims. Efforts to commemorate the 1990s conflict are important as long as they ensure an accurate and balanced view of the events that took place during that period, allow a democratic and pluralistic debate about those events, and ensure that the voices of all victims take center stage, regardless of their ethnicity, the place where they suffered the violations or who their perpetrator was.

Memorialization and education efforts about the previous periods of Serbian history in which gross human rights violations were committed, such as World War Two, should also be guided by these criteria.

### *Guarantees of Non-Recurrence*

Since the end of the conflict, some limited reforms have taken place in the Police, included the adoption of an Ethics Code for Active Police, a Manual of Proceedings for Active Police and the 2005 Police Act; the creation of an Internal Control Service made out of police officers, under the purview of the Ministry of Interior; and the instituting of an ad hoc second instance commission to assess public complaints, with representation from civil society. However, these

measures are insufficient. The police have not endured a vetting process and Parliament remains the sole oversight mechanism for security forces. Despite my request, I was not able to meet with the Ministry of Defense to discuss the reforms adopted in the armed forces.

While there are mechanisms to prevent persons with a criminal record to be appointed in public services, some convicted war criminals have held public office according to numerous reports received during the visit.

Since the end of the conflict, the judicial sector embarked on successive reforms which included dismissal and reappointments of judges and prosecutors, file transfers, and changes in roles and responsibilities; however, their implementation yielded limited outcomes. In 2022, a constitutional reform, including a substantial judicial reform package to address the insufficient independence and accountability of the judiciary, was adopted by referendum. The amendments resulted in improvements with respect to the independence of judges but risks of political influence over prosecutors remain, given their underrepresentation in the High Prosecutorial Council.

Regarding the measures adopted in the fields of education, culture and the media to address the legacy of the war, I have noted again with concern the uniformity of existing narratives about the conflict and about its victims, which permeate the educational and cultural spheres. Commemorations in the public sphere, including media, press and arts, as well as history teaching in certain text books about the period, do not seem to include different narratives about the war or allow all voices of victimhood to take center stage. Authorities indicated that the history of this period is not taught in detail at schools, however children participate in activities aimed at learning about particular events, such as the NATO bombing or Operation Storm. I have observed an excessive placement of attention on Serbian victims to the detriment of other victims. I am concerned that history, and history textbooks, may be used as a source or a way to continue the conflict by other means.

I am particularly concerned about numerous instances of glorification of convicted war criminals, denial of their crimes, and relativization of the judgements of the ICTY and/or of local courts. I have also observed with dismay numerous murals and graffiti dedicated to war criminals, which are not removed by the authorities, despite being in contravention with national regulations and blatantly immoral, but are protected from citizens who intend to protest against them. I have been informed that many of these instances have not been appropriately condemned by the relevant authorities, and some have been supported by them, which transmits a message to the general public that they are tolerable in Serbian society.

I have also received numerous concerning reports about verbal and physical threats and attacks against journalists and human rights defenders working on transitional justice issues, and the lack of investigation and punishment of those crimes, as well as about the criminalization of these actors for the peaceful exercise of their work. I call upon authorities to invest concerted efforts to identify and hold perpetrators accountable.

I also urge the relevant authorities to adopt all necessary measures to adequately respond to the rise in radicalization and hatred expressed in certain sectors of society, and to revert the shrinking of civic space, to ensure that Serbia embarks on a path towards sustainable peace and reconciliation thus ensuring that crimes from the past never happen again.

## Kosovo

The authorities in Kosovo have taken steps since 2012 to elaborate a transitional justice strategy. The last initiative in this regard was initiated in 2021 but has not been adopted. A draft strategy is currently being discussed with different stakeholders in focus groups.

### *Truth and the fate of missing persons*

Between January 1998 and December 2000, more than 6000 persons went missing as a result of the conflict in Kosovo. Following the end of the conflict, the task of locating and recovering missing persons was undertaken by the United Nations Interim Administration Mission in Kosovo (UNMIK) until 2008, and by the European Union Rule of Law Mission in Kosovo (EULEX) until 2018, but yielded insufficient results. The mandate was later transferred to the authorities in Kosovo.

A Commission on Missing Persons was established in Kosovo in 2006, although its capacities are limited. Kosovo is member of the Working Group on Missing Persons, which as previously mentioned has reached a worrying stalemate due to political discrepancies between Pristina and Belgrade. Negotiations on a joint declaration on missing persons in the framework of EU-mediated negotiations to normalize relations between Kosovo and Serbia, has also reached an impasse and is affecting further progress in this area.

The percentage of discovery of the fate of the missing from Kosovo is at 72%, a high rate compared to other regions in the world. However, progress in the last decade has slowed dramatically due to politicization. 1622 persons from all ethnic backgrounds remain unaccounted for from the conflict in Kosovo. Families of missing persons have expressed dissatisfaction and frustration over the slow progress and the politization of the agenda in recent years. Reports received indicate that the authorities in Serbia and Kosovo have not shared vital information about individual and mass graves in their possession. This, and the lack of access to armed forces' archives in Serbia, are reported as the main stumbling blocks in the clarification of unsolved cases.

In 2017, Kosovo set up a preparatory team to elaborate a Truth and Reconciliation Commission in Kosovo (TRC). In 2019, the team agreed on a draft normative act, well received by stakeholders, but is yet to be finalized due to an apparent lack of political will.

I note the efforts, albeit limited, taken so far by Kosovo to search for the missing persons and call on the relevant authorities to accelerate the search for all remaining victims, including in areas indicated by their counterparts, and to urgently reactivate cooperation with authorities in Belgrade.

### *Justice*

War crimes investigation and prosecution was undertaken by UNMIK until 2008, supported by EULEX until 2018, and gradually transferred to Kosovo authorities. In 2018, the Special Prosecution of the Republic of Kosovo received exclusive competencies to investigate and prosecute war crimes. In addition, in 2016, the Kosovo Specialist Chambers and Specialist Prosecutor's Office were established with jurisdiction over crimes against humanity, war crimes and other crimes under Kosovo law were committed in Kosovo between 1 January 1998

and 31 December 2000. The latter are based within Kosovo's legal system but based in The Hague. The progress made by UNMIK and EULEX in the prosecution of war crimes has been reported as unsatisfactory by numerous stakeholders. Progress afterwards has also been very scarce. Between 2007 and 2014, the ICTY also prosecuted serious crimes committed in Kosovo, leading to the sentencing of five Serbian officials and one commander of the Kosovo Liberation Army (KLA).

The absence of suspects in Kosovo, mainly due to Serbia's reluctance to hand them over, hampered prosecutions in this period and continue to do so today. In the absence of legal cooperation with Serbia, in 2019 and 2021, the Kosovo Assembly amended the Criminal Procedure Code to allow trials in absentia for war crimes, an approach praised by some experts and criticized by others. In 2019, the European Commission<sup>4</sup> expressed significant concern about the unwillingness of authorities in Kosovo to investigate, prosecute and sanction war crimes cases involving former KLA members. The lack of cooperation in the investigation and prosecution of war crimes has been mutual and significantly hampered progress. Prosecutions were further hampered by witnesses' reluctant to provide testimony due to fear of retaliation, which emphasizes the need for an effective and properly functioning witness protection program currently lacking in Kosovo.

The authorities noted the duplication of human resources devoted to war crimes prosecution in the last year, from 4 to 8 prosecutors and 6 professional associates, to redress the insufficient institutional capacity in the sector and improve war crimes prosecutions outcomes. In addition, a Draft Law on the Institute of Crimes Committed during the War in Kosovo is currently being deliberated in the Assembly. The institute, which replaces an earlier similar initiative and will operate within the Office of the Prime Minister, will process and publish data on serious crimes committed in Kosovo between 1998 and June 1999, and may address those committed from this date until December 2000. Civil society noted insufficient minority representation and consultation in this process, and concern about uncertainties regarding the time scope of the initiative. Although requested, I regret that the meeting with the War Crime Prosecutor did not take place

I note the framework in place to prosecute and sanction war crimes and the recent strengthening of its capacities, I am however concerned about the low prosecution rate in Kosovo. I call on the Kosovo authorities to accelerate the prosecution of war crimes cases, increase cooperation with authorities in Belgrade, and ensure that a witness protection system is effectively in place.

### *Reparation*

The authorities in Kosovo have taken measures to provide reparation to victims. Law No.04/L-054 on the Status and Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families, and its amendment Law 04/L-172, afford the status of victims to those who died or suffered injuries at the hands of "enemy forces" between February 1998 and 20 June 1999. Due to the law's temporal scope and the use of the term 'enemy forces', victims killed, tortured or injured after June 1999, and those who were victims of forces not consider as an 'enemy', are excluded from its scope even if numerous such acts have been reported in relation to the conflict. Under this framework, different sets of benefits are afforded to war veterans and to civilians. Although

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<sup>4</sup> <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20190529-kosovo-report.pdf>



the law prescribes compensation, rehabilitation and paid healthcare, reports indicate that rehabilitation is only provided by civil society organizations, with some limited support from public institutions. The legal framework in place forces victims who have suffered more than one form of violation, and were therefore granted more than one victim status, to choose between the benefits that are afforded to them under each category, as only one benefit can be received per victim. When they reach retirement age, victims must also choose between receiving conflict-related reparation or retirement pensions. This practice clearly defeats the purpose of granting reparation to victims for the harm suffered.

In 2016, pursuant to amendments to the law, the victims of conflict related sexual violence were recognized as civilian victims. The amendment continues to exclude conflict-related sexual violence committed after June 1999. Pursuant to this amendment, victims can apply to the Commission on Recognition and Verification of the Status of Survivors of Sexual Violence to receive victim status and related social benefits. Since its establishment, the Commission has received a total of 1837 applications, out of which 1382 applicants (1314 women and 67 men) were granted survivor status. Survivors of conflict-related sexual violence in Kosovo are still stigmatized and marginalized by society in every aspect of life, an issue that must be urgently address by the relevant authorities.

In 2011, a Law on Missing Persons (No. 04/L-023) was adopted to protect the rights of missing persons and their families from 1 January 1998–31 December 2000. In 2021, a Working Group for Amending Law on Missing Persons was established, with a view to reviewing the benefits for the families of missing persons, a longstanding request of the families, but an amended draft is yet to be finalized.

Besides the administrative procedures, the legal framework in Kosovo allows discretion to the judges to direct victims on a civil procedure for compensation after they have finished the criminal procedure.

Despite both reparation frameworks in place (administrative and judicial), many victims in Kosovo have not received adequate reparation for their suffering due to the aforementioned shortcomings in the legal framework. I call on the authorities to improve the legal framework to ensure that all victims of the conflict can access reparation without discrimination, and to adopt measures in the areas of administration, education, culture and media to urgently address the social stigma associated to the harm suffered by victims of conflict related sexual violence.

### *Memorialization*

The memorialization of the conflict in Kosovo is largely mono-ethnic and permeated by nationalist discourses about the conflict. Memorials established by central authorities in Kosovo and authorities in Albanian majority municipalities are mainly dedicated to commemorating KLA fallen soldiers and Kosovo-Albanian civilian victims, albeit the latter to a lesser extent. In Serb-majority areas, most memorials are dedicated to the commemoration of Serbian victims or the remembrance of war campaigns against Serbia.

A marked focus on war heroism and triumphalism permeate most memorials. Other remembrance symbols, commemorations and rituals, also possess an ethno-nationalist focus. Numerous memorials have been built by families and veterans' associations. However, in most

cases, the memorials also commemorate the fallen heroes and civilian victims of one ethnic group.

Few inclusive memorials have been erected, either by the authorities or civil society. The government established a monument dedicated to missing persons near the Kosovo Assembly, and another one commemorating victims of conflict related sexual violence in the center of Pristina. The latter was, however, design without proper consultation with victims and its inscription is only in Albanian language. Memorials dedicated to either Kosovo-Albanian or Kosovo-Serb victims have been vandalized.

Public and private memorialization efforts aimed at commemorating all victims and remembering all violations committed during the conflict, are alarmingly scarce, which hampers mutual understanding and sows social division. Progress in this area will be vital to reconciliation processes and to restore the dignity of victims. Efforts to commemorate the conflict are important as long as they ensure comprehensive accounts, allow a democratic and pluralistic debate about wartime events, and ensure that the voices of all victims take center stage, regardless of their ethnicity.

### *Guarantees of Non-Recurrence*

Following the conflict, the international community oversaw the security sector and judicial reform in Kosovo. New security agencies and bodies were established. After the dissolution of the Kosovo Liberation Army, its former members were demobilized and integrated into civil life. Some were integrated into newly created forces such as the Kosovo Protection Corps and the Kosovo Security Force, under KFOR control. Security sector reform also entailed the creation of a Kosovo Police Service, which included the creation of a police academy and the recruitment of police officers. The creation and development of this institution has been facilitated by UNMIK and the OSCE-mission in Kosovo. After 2008, the Police undertook full legal and operational competencies.

The judiciary was restructured and reinforced (including with international staff for a period) after the conflict, led by UNMIK, and training was provided to judicial and prosecutorial officials with support from the international community. Despite the progress achieved in the judicial sector, the European Commission recently noted that Kosovo is still at an early stage in developing a well-functioning judiciary, which is still inefficient, slow, inadequately coordinated, and vulnerable to undue political influence. In addition, the existing tools to ensure the independence and integrity of the system is insufficiently implemented.<sup>5</sup> In 2021, the government announced a judicial vetting, which was criticized by members of the judiciary and discouraged by international partners, and is currently being implemented.

Regarding the measures adopted in the fields of education, culture and the media to address the legacy of the conflict, I have noted with concern ethnocentric and one-sided narratives about the conflict and its victims which hamper mutual understanding and social cohesion. Commemorations in the public sphere, including media and arts, as well as history teaching, do not seem to include inclusive and comprehensive narratives about the conflict or allow all voices of victimhood to take center stage. Students follow different school curricula depending

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<sup>5</sup> [https://ec.europa.eu/commission/presscorner/detail/en/country\\_22\\_6090](https://ec.europa.eu/commission/presscorner/detail/en/country_22_6090);  
[https://ec.europa.eu/commission/presscorner/detail/de/COUNTRY\\_19\\_2776](https://ec.europa.eu/commission/presscorner/detail/de/COUNTRY_19_2776)

on whether they attend Kosovo-Albanian or Kosovo-Serb administered schools, or in mixed schools where there is no interaction between children of different ethnic groups. Textbooks and teaching material used in both systems contain elements of nationalism and prejudice against other ethnic groups. The teaching of history about the conflict is permeated by the prevailing narratives of the administrative area in which children live. The authorities informed about efforts to introduce multi-perspective and human rights compliant curricula and training in the education system, with support of the international community, as well as about efforts to introduce bilingual teaching in line with Kosovo's legal framework. However, reports received from civil society indicate that such initiatives are not reflected in practice.

Media outlets, including the Kosovo public broadcaster, further ethnocentric, politically divisive and one-directional narratives. Sensationalist and reckless reporting has in occasions led to grave instances of inter-ethnic violence, such as the campaign against Serbs and orthodox monuments of 2004. Concerning instances of hate speech, defamation and insults, primarily among inter-ethnic levels in Kosovo, have also been reported.

I have also received reports about worrying statements from public officials and politicians about war related topics, including the denial of war crimes, as well as about the criticism placed on officials who have tried to honour victims from ethnic groups other than their own. I also received concerning information about convicted war criminals holding public office, including in high ranking positions.

I urge the relevant authorities to ensure that education in their respective administrative areas transmit multi-perspective and comprehensive accounts about the conflict, and to promote cultural and educational activities that foster mutual understanding and respect for human rights, to ensure that Kosovo embarks on a path towards sustainable peace and reconciliation where crimes from the past are never again repeated.

### *Final observations*

The search for truth regarding the fate and whereabouts of missing persons and the pursue of criminal justice has, rhetorically and factually, dominated the transitional justice agenda in Serbia and Kosovo since the end of the conflict. Notwithstanding numerous efforts by the authorities and the international community in these fields, progress has been alarmingly slow recently, worsened by the lack of cooperation among authorities in Belgrade and Pristina. The politicization of the search for missing persons and the manipulation of its humanitarian mandate for political gain has raised immense frustration in civil society and the international community, but above all among victims. The families of missing persons find themselves hostage to political interests, and to the unwillingness of authorities who do not take the necessary measures to put an end to their suffering.

It appears as if decision-makers in Serbia and Kosovo have embarked on a downward race in their truth-seeking and criminal accountability agendas, where political praise is placed by each party on achieving lesser rather than greater results. This destructive race to the bottom is violating the rights of victims, hampering social cohesion, undermining institutional trust-building, and finally preventing sustainable peace. I urge the relevant authorities in Serbia and Kosovo to immediately cease the use of politicized tactics in their transitional justice agendas and to put the pressing needs of victims, and those of society as whole, at the center of all legal, policy and technical decisions and actions in this area.

I am concerned about the insufficient recognition and commemoration of the harm suffered by all victims to the conflict. I would like to recall that for a process of transition and reconciliation to be effective, the acknowledgement of the suffering and dignity of all victims is vital, as is the transmission of their stories to current and future generations, not only through school curricula and text books, but also through cultural activities and through the media. The legacy of past violations in all its complexities must be adequately and comprehensively addressed to assist in the process of social reconciliation, placing the victims at the center of this process and ensuring that perpetrators are held accountable.

I am also concerned about the extensive use of ethnocentric, nationalistic and biased narratives about the conflict in the fields of education, memorialization, culture and the media in both Serbia and Kosovo. The manipulation of past events and the concomitant exaltation of nationalistic and ethnic-related sentiments for political motivation, even if it appears to provide short-lived political gain for its supporters and perpetrators, is not only illegitimate and contrary to international standards, it is short-sighted, ill-advised and above all an act of utmost public irresponsibility which can lead to the recurrence of past violence.

I would like to recall that memorialization efforts must aim at establishing the conditions for a debate within society about the causes, direct and indirect responsibilities, and consequences of past crimes and violence. The objective of such processes is to enable victimized populations to explain a brutal past - without justifying it - thus easing existing tensions and allowing society to live more peacefully with the legacy of past divisions. Without falling into a dangerous relativism or creating a homogeneous thought, different narratives and interpretations of past violence can coexist in a democratic society; in this way, they cooperate with the dynamics of social reconstruction. However, this process should never result in denial or relativization of the violations committed.<sup>6</sup>

I have further noted with concern the existence of many obstacles to the voluntary return of displaced persons in Serbia and Kosovo, and the dire needs of affected communities, particularly Roma, Ashkali and Egyptian people. I urge authorities at all levels to intensify their efforts to achieve durable solutions for those who have been living in protracted displacement since the end of the conflict 22 years ago.

Since the end of the conflict, the authorities in Serbia and Kosovo have undertaken efforts to address certain aspects of the legacy of the conflict. While I commend the progress made, I wish to recall that for a transitional justice process and reconciliation to be effective, it is vital to adopt a comprehensive approach in the fields of truth, justice, reparation, memory and guarantees of non-recurrence. I call on the authorities in Serbia and Kosovo to renew their efforts to advance the transitional justice agenda. Its success will aid to achieve effective reconciliation as reconciliation and sustainable peace depend on it.

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<sup>6</sup> A/HRC/45/45