PERMANENT MISSION
OF THE REPUBLIC OF SERBIA
TO THE UNITED NATIONS
AND OTHER INTERNATIONAL
ORGANIZATIONS

MISSION PERMANENTE
DE LA RÉPUBLIQUE DE SERBIE
AUPRÈS DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS
INTERNATIONALES

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The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, in reference to the call for inputs from the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Mr. Bernard Duhaime, dated 6 November 2024, has the honor to enclose herewith the response from the Government of the Republic of Serbia to the questionnaire for the preparation of the thematic report on "Documentation of serious human rights violations in the context of transitional justice processes" to be presented to the Human Rights Council in September 2025.

The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 25 December 2024

Office of the High Commissioner for Human Rights
Special Procedures Branch
Palais des Nations, 1211 GENEVA 10

5 Ch. Thury, CH-1206 – Genève, tel. +41 22 839 33 44 , fax. +41 22 839 33 59 , e-mail: mission.serbia.ungeneva@mfa.rs

Ministry of Human and Minority Rights
and Social Dialogue
Human Rights Department
Belgrade, 24 December, 2024

„Documentation of serious human rights violations

in the context of transitional justice processes"

Answers:

1.The Public Prosecutor's Office for War Crimes is responsible for detecting and prosecuting perpetrators of war crimes and proceedings in accordance with the provisions of the Law on the Organization and Competence of State Authorities in War Crimes Proceedings.

Data collection and submission of requests to state and other authorities and legal entities for providing the necessary information, as part of the pre-investigation procedure, are the responsibility of the public prosecutor. If the public prosecutor is not able to take these actions himself, he is authorized to request the police to collect the necessary information and to take other measures and actions in order to discover the criminal offense and the perpetrator. These issues are regulated by the Criminal Procedure Code, which applies regardless of whether it is a matter from the general jurisdiction or the special jurisdiction of the prosecution, which exists in war crimes proceedings.

Other important regulations are the Law on International Legal Assistance in Criminal Matters and the Law on the Cooperation of Serbia and Montenegro with the International Tribunal for the Criminal Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991.

We also list strategic documents - the planning document adopted by the Government of the Republic of Serbia in 2021 - the National Strategy for Prosecuting War Crimes for the period of validity from 2021-2026. Year and revised Prosecutor's strategy for the investigation and prosecution of war crimes, both documents with the accompanying action plan, among other things, regarding the cooperation of state authorities dealing with the collection, processing and analysis of documentation on committed war crimes.

Also, with the aim of direct cooperation, and the collection and exchange of evidence, other documents and data, with the aim of more effective research, proving and punishing the perpetrators of war crimes, numerous bilateral agreements, memoranda and protocols concluded between the state authorities of the Republic of Serbia and the competent authorities of Croatia, Bosnia and Herzegovina and Montenegro.

The Registry office is in charge of receiving and storing case files in the premises of the Public Prosecutor's Office for War Crimes, and access to the files is restricted in accordance with the regulations when a party to the proceedings, as well as another

interested party, with a reasoned request and in full compliance with the rules on confidentiality, can view the files.

The Public Prosecutor's Office for War Crimes does not have an electronic database that is publicly available, such as the International Residual Mechanism for Criminal Courts.

Regarding to violation of human rights and serious violation of international humanitarian law in context of transitional justice, Commission on Missing Persons according to its mandate (Decision of the Government of the Republic of Serbia on establishing Commission on Missing Persons „Official Gazette of the Republic of Serbia" 49/06, 73//06, 116/06, 53/10 and 108/12; Rules of Procedure of the Commission on Missing Persons, Law on Migration Management article 10, paragraph 4 „Official Gazette of the Republic of Serbia" 107/2012, Law on Archival Material and Archival Activities „Official Gazette of the Republic of Serbia" 6/2020, Act on Classification of Documentary Material with Retention Periods „Official Gazette of the Republic of Serbia" 14/2023) Commission on Missing Persons is obligated to document all materials from its activities that arise from acts above. As an example of good practice and preference ofcompetent authorities for resolving the issue of missing persons all concrete activities (survey and terrain search, exhumation, identification and handover of mortal remains) conducted on the territory of the Republic of Serbia are documented and completed through transparent process despite differences, including enabled access for all interested parties in accordance with positive rules and highest professional standards, which gave results in resolving numerous cases of missing persons.

2. Commission on Missing Persons cooperates with other state authorities, relevant international organisations in accordance with their mandates and non-governmental organisations which gather families of missing persons in order to registrate, map, collect and preserve evidences, data and testimonies about serious violation of human rights and humanitarian law in transitional context. Considering mutual dependency with other state authorities, non-governmental organisations, but also with governmental bodies of other states and international organisations all initiatives that contribute completing the assignments of the Commission on Missing Persons are priority.

Considering specificity of responsibilities, primarily humanitarian issue of resolving cases of missing persons from armed conflicts on the territory ofthe former Yugoslavia (1991-1995) and on the territory of AP Kosovo and Metohija (1998-2000) accent of Commission's work is on documenting collected and arose material. As a governmental body, Commission on Missing Persons is focused on searching for missing persons. In order to ensure the above, precondition is to coordinate the work of competent state authorities, competent governmental bodies of other states, international organisations and families of missing persons and their associations. Legal framework for cooperation (which serves to registrate, collect and preserve evidences, data and testimonies of victims) consists of numerous legal documents (from international agreements and other mechanisms of cooperation to internal legal standards) considering complexity and cross-border character of the issue of missing persons. Provisions related to exchange of

available documentation and information mainly are in almost all documents which legally regulate mutual cooperation. Documents from archives of Commission on Missing Persons are available in accordance with Law on Free Access to Information of Public Importance „Official Gazette of the Republic of Serbia" 120/2004, 54/2007, 104/2009, 36/2010 and 105/2021.

3. Commission on Missing Persons contacts with families of missing persons and their associations, but also with other non-governmental organisations on daily basis in order to inform them about current status of cases and to collect new facts and evidences that can help in resolving fate of missing persons. Commission on Missing Persons also cooperates with associations of missing persons' families and through them accomplishes part of activities, gives them material and other kind of support. In order to realize projects of associations (financed/co-financed from the budget of the Republic of Serbia) President and representatives of the Commission on Missing Persons participate in press conferences, round tables, commemorative ceremonies and other thematic gatherings organised by families. Relevant information and documents are exchanged on that occasion in order to find the truth and responsibility. Based on the above, in accordance with requested response, main characteristics of this framework are correspondence, obviousness, consistency and verification. Combination of those characteristics provides base for expendient work.

In conclusion it is necessary to emphasize that international standards are completely respected in the issue of missing persons due to its domain in national framework.

4. Speaking of efforts in documenting, in context of transitional justice, Commission on Missing Persons actively participates in intiatives in order to enable it in cooperation with all relevant domestic, foreign and international partners. On 25th anniversary of Commission on Missing Persons, publication, 25 years, missing persons, ongoing process" is published with support of UNDP on December 18, 2019 in Belgrade. This publication summarizes results in the work of Commission on Missing Persons in the past 25 years and represents comprehensive review of the issue of missing persons. It was published in a moment of complex political relations between states formed after disintegration of former Yugoslavia, and complicated relations between Belgrade and Pristina. It was attempt to make additional efforts to overcome differences in order to resolve remain cases of missing persons. Publication contains part of material arose from long-term work of the Commission on Missing Persons. Based on agreement between International Commission on Missing Persons (ICMP) and Commission on Missing Persons on participating in project „Data base of active cases of missing persons from conflicts in countries of the former Yugoslavia" (October 26, 2017) Missing Persons Group and ICMP launched data base on November 3, 2023 in Hague within Berlin Process Summit. Representatives of regional Coordination of Associations of missing persons' families, ambassadors of member-countries of Berlin Process accredited in Hague, as well as representatives of the Government ofthe United Kingdom and Government of the Federal Republic of Germany supported this event.

Establishment of unified, interactive database has provided current record of missing persons cases public available in every moment. Through database families of missing persons, citizens and other interested parties can see and review current records, but also to submit feedbacks for domestic institutions competent for the issue of missing persons in Serbia, BiH, Croatia, Montenegro and so-called Kosovo. Memorandum of Understanding between Commission on Missing Persons and International Commettee of Red Cross (ICRC) was another effort to document material in order to implement transitional justice. Memorandum defines activities of ICRC which refer to international archives search (ICTY, UN...) in order to collect documents and information about missing persons, but also to obtain satellite images of terrain. Based on those images micro locations of mortal remains of missing persons are determed.

5. In context of transitional justice Commission on Missing Persons in cooperation with other state authorities, non-governmental organisations, international organisations, competent bodies of other countries and partners actively participates in initiatives in order to record, map, obtain and preserve evidences, information and testimonies of victims about serious violation of human rights and humanitarian law which contribute honouring all the victims of human rights violation. These activities can help Government to reduce tension, acknowledge the past and demonstrate respect for victims, but also to prevent a recurrence.