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**Mr Miloško SPAJIĆ**  
Prime Minister of Montenegro

Strasbourg, 15 January 2024

Dear Prime Minister,

As Council of Europe Commissioner for Human Rights my mandate is to foster the effective observance of human rights in all 46 member states of the Council of Europe, including through dialogue with the member states' governments and thematic work. I am writing today to draw your attention to an Issue Paper which I released at the end of last year as part of my work on transitional justice – an area of human rights that relates to states' obligations to address gross human rights violations and international crimes through holding the perpetrators accountable, providing reparations for the victims, truth-seeking and guarantees of non-recurrence.

A first Issue Paper on [Post-War Justice and durable peace in the former Yugoslavia](#) was published in 2012 by my predecessor Thomas Hammarberg, and a decade later, I am examining these issues again and evaluating the current situation in this new publication entitled "[Dealing with the Past for a Better Future: Achieving Justice, Peace and Social Cohesion in the region of the former Yugoslavia](#)". Building on the long-standing work by the institution of the Commissioner for Human Rights on transitional justice issues, it examines, from a regional perspective, the state of play of processes to deal with gross human rights violations and grave breaches of international humanitarian law committed in the 1990s and early 2000s.

With this letter, and similar ones I am sending to the Prime Ministers of the concerned Council of Europe member states, allow me to share some of the key findings of this Issue Paper, followed by the most significant steps that, in my view, would be required for Montenegro specifically to move toward justice and reconciliation more resolutely.

### **Key findings from the Issue Paper**

The Issue Paper begins with highlighting the significant lessons to be learned from the region regarding the fight against impunity through international and domestic war crimes trials, the search for missing persons, the role played by civil society, the need for long-term international engagement and the handling of conflict-related sexual and gender-based violence.

However, it is my assessment that, instead of accelerating to reach completion, processes to deal with the past have slowed down or stagnated in recent years. I find particularly concerning, in several countries, the return to ethno-nationalist discourse, denial of wartime atrocities and the glorification of war criminals by political leaders and other influential societal actors such as the media, religious leaders and other public figures. This is contributing to a sharp rise in hate-speech, and inter-ethnic intolerance and an increasingly hostile environment for human rights defenders working on dealing with the past.

In this context, it is necessary to stress that dealing with the past is not a past-oriented endeavour that would somehow stand in the way of countries moving forward, but on the contrary, it is a pre-condition for building cohesive, democratic societies grounded in respect for human rights and the rule of law. There are considerable linkages between the failure to fully deal with the past and current human rights challenges in the region, such as rising hate speech and discrimination, the weakness of rule of law institutions, challenges to freedom of assembly and civic space, threats to media freedom and gender-based violence.

In the final part of the Issue Paper, I underscore the responsibility of national authorities in the respective countries to take measures to curb these negative developments and to promote an inclusive and

human rights based approach to dealing with the past in order to truly advance justice and reconciliation among people. In this regard, I urge renewed efforts on war crimes trials, reparations, the search for missing persons and truth-seeking, which would truly centre around the needs of victims – irrespective of their ethnic background and with particular attention to those who tend to be forgotten. I also call for an urgent focus on the intergenerational dimension of dealing with the past, by involving young people and equipping them with the competencies to build peaceful, cohesive societies through integrated education, truthful history teaching and inclusive memorialisation. Providing an enabling environment for human rights defenders and enhancing regional co-operation are other important recommendations.

### **Recommendations to Montenegro**

The Issue Paper also includes discussion of efforts to deal with the past in Montenegro. Acknowledging positive developments, it highlights for example the firm rejection of genocide denial in your country, efforts to solve the situation of forcibly displaced persons and the issue of statelessness, as well as participation by political leaders from Montenegro in joint commemorations with officials from Croatia at the Morinj detention camp.

In addition to my general recommendations above, I would like to emphasise some selected steps to be taken by Montenegro, which in my view would enhance respect for victims' rights and dealing with the past both in your country and regionally:

- End impunity for wartime gross human rights violations through effective implementation of the 2015 war crimes strategy, including by allocating sufficient resources to the Special State Prosecutor for dealing with war crimes cases and by formulating clear deadlines for action. This should include determined steps to investigate and bring to prosecution the files handed over by the International Residual Mechanism for Criminal Tribunals (IRMCT) in 2020.
- Execute war crimes related extradition requests from other countries in the region when these have been positively assessed by the domestic judicial system. If an extradition request is declined, ensure that the suspect is prosecuted before Montenegrin courts, in line with the obligation to extradite or prosecute under international law.
- Adopt the law on compensation for civilian victims of war and ensure that it does not discriminate against any victims.
- Enable young people to learn about the events of the 1990s in an objective manner that allows multiple perspectives, condemns all atrocities, and promotes tolerance and openness, both in school curricula and extra-scholar activities, including at the regional level.
- Foster policies of inclusive memorialisation which condemn violations of international humanitarian law regardless of who committed them and recognise the suffering of all victims.
- Firmly condemn all instances of glorification of past crimes as well as hate speech and promote reconciliation and social cohesion among various ethnic and religious groups.

I believe that Montenegro has the potential to lead by example and to be a positive force in the region in the field of dealing with the past. Firmly condemning past atrocities is essential to build peaceful democratic societies, fully aligned with the human rights values underpinned by the European Convention on Human Rights.

I look forward to hearing your views and potential suggestions on the way forward on these important matters.

Yours sincerely,



Dunja Mijatović

