

Ref: CommHR/DM/sf 003-2024

Mr Andrej PLENKOVIĆ
Prime Minister of the Republic of Croatia

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, including in Croatia.

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 Croatia 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 Croatia

The Issue Paper also includes discussion of efforts to deal with the past in Croatia. Acknowledging important positive developments, it highlights for example as a good practice the Law which regulates the status of civilian victims of war related crimes of sexual violence adopted in 2015, which not only covers compensation but also other forms of support. The Issue Paper also welcomes the adoption of the Law on the Missing Persons in the Homeland War in 2019 which regulates the non-material rights of families of missing persons, as well as the adoption in 2021 of the Law on the Civilian Homeland War victims providing for the rights and benefits to civilian victims who are citizens of Croatia or were residents when they were harmed.

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

- Recommit to effective regional co-operation in all areas of dealing with the past, notably war crimes prosecutions and the search for missing persons. This should include intensifying judicial co-operation, so that suspects are effectively tried in person either in Croatia or in the courts of the country where they live.
- Ensure that pending files of wartime crimes are investigated and prosecuted according to gravity and irrespective of the ethnic group to which the victims and perpetrators belong.
- Evaluate the implementation and redress reported shortcomings of the laws on civilian war victims, including the above-mentioned law on the status of civilian victims of war related crimes of sexual violence, with a view to ensuring that all victims have access to reparation without discrimination and undue hurdles.
- Firmly condemn instances of glorification of past crimes as well as hate speech and ethnic discrimination, including by extreme right-wing groups, and promote reconciliation and social cohesion among various ethnic and religious groups.
- Foster an enabling environment for civil society organisations working on dealing with the past, including access to public funding and their ability to participate in regional activities.
- Enable young people to learn about the events of the 1990s - as well as those related to WWII - in an objective manner that allows multiple perspectives, condemns all atrocities, and promotes tolerance and openness, in school curricula and through inclusive memorialisation policies.

Given its specific position as part of the former Yugoslavia and now a member state of the European Union, Croatia can play a distinctive role in engaging with states of the region that are not EU member states yet on dealing with the common violent past, in a way that contributes to fostering reconciliation and upholding human rights for a peaceful common future. Firmly condemning past atrocities is essential to building peaceful democratic societies, fully aligned with the values that underpin 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