



*Permanent Representation of the Republic of Croatia to the Council of Europe
Ambassador*

Dear Madam Commissioner,

I thank you for your letter dated 15 January 2024 in relation to your recently released Issue Paper.

We note your observations on many areas of Croatia's progress, including in the search for missing persons, the prosecution of war crimes and the pace and quality of legislative and institutional reforms to promote the rule of law and democratic governance. Allow me to reflect on some of your assessments and provide clarifications on some of the issues you have raised.

As you are aware, Croatia's independence is inseparable from the Homeland War (1991-1995), an international armed conflict and defensive war for independence, democracy and territorial integrity of the Republic of Croatia. As the International Criminal Tribunal for the former Yugoslavia (ICTY) established, Croatia was the victim of a joint criminal enterprise led by Slobodan Milošević and his regime, whose purpose was *"to unite Serb areas in Croatia and in BiH with Serbia in order to establish a unified territory"*. The ICTY ruled that this criminal plan *"was implemented through widespread and systematic armed attacks on predominantly Croat and other non-Serb areas and through the commission of acts of violence and intimidation"*. This conclusion was also confirmed by the International Court of Justice (ICJ).

Furthermore, it should be noted that the ICTY - dealing with the aggression on the Republic of Croatia - convicted exclusively Serbs, while not a single Croat was ever convicted by the ICTY for any crime committed during the armed conflict on the territory of the Republic of Croatia. This fact speaks for itself, and testifies of the way in which the conflict was waged by its parties, and primarily their readiness and ability to respect and implement international humanitarian law. War crimes prosecutions in Croatia reflect that same fact.

At the same time, what characterizes the prosecution of war crimes is the dispersion and unavailability of witnesses, evidence and perpetrators. That is why, in order to avoid impunity, the cooperation with other countries is of crucial importance. Croatia has continuously invested efforts aimed at improving regional cooperation. Croatia has also demonstrated its continued commitment to investigating and prosecuting war crimes during the process of EU accession negotiations and had to fulfil strict and comprehensive criteria, implement a number of extensive reforms, as well as process war crimes.

When discussing regional cooperation in the fight against impunity, the actions of the Republic of Serbia, which inter alia continues to avoid its international obligation to execute the warrant for the arrest and transfer of indictees to the International Residual Mechanism for Criminal Courts and is not responding to the calls of Croatia to continue dialogue regarding the bilateral agreement in place since 2019, unfortunately speaks volumes on the conditions in which regional cooperation takes place.



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With regard to your recommendation on recommitting to regional cooperation in the area of searching for missing persons, I wish to point out that Croatian competent authorities, led by the Ministry of Croatian Veterans' Affairs, are committed to resolving all cases of missing persons in the territory of Croatia, irrespective of their origin, ethnicity, religion or other affiliation. The key obstacle to achieving progress in resolving the issue of missing persons is again the absence of bilateral cooperation, for which the responsibility yet again lies with the Republic of Serbia. The achieved outcomes so far are solely the result of independent efforts and diligent work of the competent authorities of Croatia, which have made significant steps forward in all segments of the search process – from improving the implementation activities and the legislative framework and creating the conditions for strengthening bilateral cooperation (cooperation protocols with Bosnia and Herzegovina and Montenegro), to the full and constructive participation in multilateral (regional) mechanisms, as well as fulfilment of our agreed obligations.

As an example of Croatian efforts of reconciliation, it should also be noted that Homeland War memorials commemorating Serb victims were set up in Orthodox churches in Croatia or in municipalities where the Serb minority forms a significant part of the population. Furthermore, the Act on Civilian Victims of the Homeland War envisages expanding the circle of potential beneficiaries of rights, removes the property thresholds that were an obstacle to the realization of rights for some civilian victims of war, and enables parents who lost children in the war to file a claim. Already during the first year of its entry into force, 596 out of 1,775 requests for the status and rights of civilian victims of war were resolved. Representatives of the Serb minority in Croatia actively participated in the drafting of the Act, as well as of the rulebook for its implementation through public consultations. Moreover, Croatia encourages and financially supports, through the Government's Office for Cooperation with NGOs, the work of several civil society organizations dealing with the past and supporting the process of reconciliation.

In addition, the Act on the Rights of Sexual Violence Victims of the armed aggression on Croatia in the Homeland War (2015) was drafted with the active participation of victims and civil society organizations, promoting just reparation without discrimination. According to the Act, victims of sexual violence suffered during the armed aggression against Croatia are entitled to financial compensation, psychosocial support, legal aid, medical assistance and rehabilitation, physical examination, mandatory and supplementary health insurance, accommodation in an institution providing support and services to war veterans and victims and compensation of transportation costs to exercise their rights. As a country with tragic, first-hand experience of war crimes and crimes against humanity, Croatia continues to advocate the importance of prevention of conflicts and conflict related sexual violence, establishing conflict related sexual violence as a war crime, dismantling social taboos and assisting survivors. Following her vast experience, Croatia will also continue to promote the importance of meaningful engagement of women in conflict and post-conflict societies.



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In view of the recommendation to develop school curricula and teaching of history to include different interpretations and voices of victimhood of the Homeland War, it should be noted that Croatia established the public institution “Memorial Centre of the Homeland War” in Vukovar, a city which in 1991 became the first city in Europe to be completely destroyed since World War Two. The Memorial Centre presents the siege and the battle of Vukovar objectively, based on established historical facts. The “School of Peace” is a programme and the final part of a two-day visit to Vukovar organised for eighth-grade students in the whole of Croatia as part of their non-mandatory education outside the classroom. The purpose of the “School of Peace” is to help raise the students’ awareness of the importance of respecting differences and nurturing lasting peace. It teaches them that there is no alternative to peace, and that peace is not merely the absence of armed conflict and war, but also an ongoing process of establishing mutual trust and respect. For Croatia, education of the youth based on mutual respect, established facts and truth is the prerequisite to lasting reconciliation and peace.

In the same vein, Croatia is fully committed to combating hate speech and discrimination, and hate crime, which is prominently reflected in all Government activities during our Presidency of the International Holocaust Remembrance Alliance (IHRA), primarily through the adoption of all three IHRA’s definitions, as well as reflected in legislative changes. Strict penalties are envisaged by the amended Criminal Code, Criminal Procedure Act, and the Act on Electronic Media, as well as the Act on Misdemeanour Offences Against Public Order and Peace imposes very high fines for misdemeanours against public order and peace, which mostly involve displaying authoritarian and totalitarian symbols, where fines have also been increased. Furthermore, the issue is addressed through schooling of the youth, as well as civil servants and law enforcement officers by investing in life-long, continuous education.

In conclusion, Croatia will continue to support the reform-based process of accession of all South East Europe to the European Union. The transformational nature of this process, coupled with decisive efforts in the prosecution of war crimes, sincere cooperation in the search for missing persons and provision of just reparations to victims, as well as upholding international law, established historical facts and truth will be pivotal in achieving transitional justice, lasting stability and reconciliation.

Sincerely,

Toma Galli
Ambassador
Permanent Representative