

The draft of a Declaration on Srebrenica put forth to the National Assembly of the Republic of Serbia by the following non-governmental organizations: Lawyers' Committee for Human Rights, Center for Cultural Decontamination, Civic Initiatives, Helsinki Committee for Human Rights in Serbia, Women in Black, Belgrade Circle, Humanitarian Law Center and Youth Initiative for Human Rights

On the strength of Article 72, paras 1.1, 1.2, 1.6, 2, and Article 73, para 1.2 of the Constitution of the Republic of Serbia, and Articles 130 and 156 of the Rules of Procedure of the National Assembly of the Republic of Serbia,

The People's Assembly of the Republic of Serbia adopts this day, _____

DECLARATION

ON THE STATE OF SERBIA'S OBLIGATION TO UNDERTAKE ALL MEASURES AIMED AT PROTECTING THE RIGHTS OF THE VICTIMS OF WAR CRIMES, PARTICULARLY THE RIGHTS OF THE VICTIMS OF THE SREBRENICA GENOCIDE

The National Assembly of the Republic of Serbia,

- Taking into account that Serbia-Montenegro is a full-fledged member of the UN and the Council of Europe, while the Republic of Serbia a member-state of the State Union of Serbia and Montenegro,

- Bearing in mind that Serbia-Montenegro has ratified the *Convention on the Prevention and Punishment of the Crime of Genocide*,

- Underlying that genocide is a crime under international law, contrary to the spirit and goals of the United Nations and condemned by civilized world,

- Reminding that, throughout history, genocide, whether committed in time of peace or in time of war, has inflicted immeasurable harm to the entire mankind, and that the international law bounds all contracting parties of the Convention to prevent it and punish, if committed,

- Recognizing that there should be no impunity for genocide, planning of genocide, propagating it indirectly or in public, genocide attempt and any complicity in genocide,

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- Recognizing that any denial or support of genocide has the character of complicity in the crime, given that prevention and punishment of the crime of genocide mirrors the conscience of mankind,

- Bearing in mind crucial and widely recognized national interests such as:

- Building up and development of a democratic society and the rule of law in the Republic of Serbia, conducive to full respect of human rights,
- Maintenance and advancement of regional stability and the cooperation in the territory of ex-Yugoslavia and South East Europe, and
- The Republic of Serbia's moving towards European integrations and its goal to join the European Union as a member-state of the State Union of Serbia and Montenegro;

- Recognizing the efforts relevant international institutions, governmental and non-governmental organizations exert with a view to full cooperation with the International Criminal Tribunal in The Hague,

- Recognizing that major steps have been taken toward creating favorable conditions for instituting war crime trials before domestic courts,

- Insisting on the principles and goals enshrined in the UN Charter, primarily on the respect for human rights and security, and

- Underlining basic tenets of the *Universal Declaration of Human Rights*, stating, inter alia, that:

- Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world;
- Disregard and contempt for human rights have resulted in barbarous acts, which have outraged the conscience of mankind;
- It is essential that human rights should be protected by the rule of law;
- It is essential to promote the development of friendly relations between nations;
- A common standard of achievement for all peoples and nations, to the end that every individual and every organ of society, keeping this *Declaration* constantly in mind, shall strive by teaching and education to

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promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member-states themselves and among the peoples of territories under their jurisdiction.

Now, therefore, the National Assembly of the Republic of Serbia CONSIDERS that, in keeping with international documents that have been integrated into Serbia-Montenegro's legal system and in accordance with the Constitutional Charter and Serbia-Montenegro's legislation, i.e. the legislation of the Republic of Serbia, governmental bodies of the Republic of Serbia are obliged to take all available measures aimed at facing up genocide and war crimes, and assisting the rehabilitation of the victims of genocide and their families.

The above-mentioned obligation of the governmental bodies of the Republic of Serbia derives from:

1. *The International Covenant on Civil and Political Rights*, adopted by the UN General Assembly, declaring in its preamble,

“In accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” and providing:

- 1) The freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
- 2) The exercise of the right to hold opinions and the right to freedom of expression carries with it special duties and responsibilities. It may, therefore, be subject to certain restrictions, but these shall only be such as are provided by law and are necessary for the respect of the rights or

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reputations of others and for the protection of national security or of public order, or of public health and morals.

- 3) Any propaganda of war shall be prohibited by law.
- 4) Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law.

2. The European Convention for the Protection of Human Rights and Fundamental Freedoms that, as a component of domestic legal systems, provides:

1) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others;

2) The exercise of all freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

3. The Constitutional Charter of Serbia and Montenegro that emphasizes:

1) The Charter on Human and Minority Rights makes a component part of the Constitutional Charter, and, therefore, the provisions of international covenants on human and minority rights are applied directly;

2) The ratified international agreements and generally recognized provisions of the international law have the primacy over the legislation of Serbia-Montenegro, and the legislation of each of the two member-states.

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4. *The Charter on Human and Minority Rights and Civil Liberties* providing, inter alia:

1) The human and minority rights guaranteed under this Charter shall be interpreted in the manner that promotes the values of an open and free democratic society and in accordance with the valid international guarantees for human and minority rights and practices of international bodies supervising their implementation.

2) The freedom to express one's religion or conviction may be limited by law if so is necessary for the purpose of protecting public security, health, morality and rights of other persons.

3) The right to freedom of expression may be restricted by law, if so is necessary towards protecting the rights and reputation of other people, preserving the authority and impartiality of courts, national security, public health or morality, or public security.

4) The freedom of assembly may be restricted by the laws of member-states if so is necessary for reasons of public security, public health and morality, national security or protection of the rights of other persons.

5) The right to free organization may be restricted by the laws of member-states if so is necessary for reasons of public security, public health and morality, national security or protection of the rights of other persons.

6) Organizations the activities of which are aimed at forcible destruction of the constitutional system, revocation of guaranteed human rights or provoking racial, ethnic, or religious hatred, may be banned by decision of a competent court.

7) Any provocation of and incitement to ethnic, religious and other inequality, as well as provocation and stirring up of national, ethnic, racial, religious and other hatred and intolerance, shall be prohibited and punishable.

8) The State Union of Serbia and Montenegro, and the member-states shall encourage the spirit of tolerance and multicultural dialogue, and shall apply efficacious measures towards upgrading mutual respect and understanding and cooperation among all people living in its territory, irrespective of their ethnic, cultural, linguistic or religious identity.

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5. *Serbia-Montenegro's Law on National Minorities* that prohibits any form of national, ethnic, racial or linguistic discrimination against persons belonging to national minorities, and guarantees that the rights provided under it shall not be used for the purpose of attaining the goals that are contrary to the principles of international law or threaten public security and morals, and people's health.

In accordance with the above-mentioned international documents, the Constitutional Charter and the Charter on Human and Minority Rights and Civil Liberties,

The National Assembly of the Republic of Serbia **CONCLUDES** as follows:

- Governmental bodies of the Republic of Serbia shall urgently take all available measures so as to secure full implementation of the provisions of international documents and domestic legislation referred to in the paragraphs above;
- The process of building up a democratic and multiethnic society cannot be based on the denial of the crimes allegedly committed on our behalf;
- The respect for human rights implies due respect for victims;
- Fair assessment of crimes implies facing up the past, which is the cornerstone of a democratic future;
- Genocide shall not be glorified, negated, or sunk in oblivion;
- Facing up the past implies institutionalization, as well as mechanisms and processes Serbia is obliged to adopt and apply.

REPUBLIC OF SERBIA COMMITS ITSELF

- To expose and punish any ideological justification of crime;
- To open up avenues for citizens to renounce the compromised value judgments, and to ban the instruments, actors and consequences of massive violence from public and social life;

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- To secure discontinuity with the adverse policies of the past by adopting regulations that will constitute a legal frame for abandoning the policy of crime, affirming an adequate value system and reviving the lost sense of justice;

- To encourage a political dialogue that shall not open the door to legal institutionalization of crime or question the sum and substance of proper and fair conduct;

- To take all measures so as to firmly place the issue of responsibility for crimes on social and political agenda;

- To hinder the acceptance of the consequences of crime by denying that any justification of genocide constitutes a legitimate political stand;

- To acknowledge the judgments that have clearly defined the character of the crime of genocide committed in Srebrenica;

- To candidly address the victims and their families, and confess that the crime of genocide has been committed on our behalf, and thus legitimately and morally demonstrate that it distances itself from the crime.

Victims are entitled to it and rightfully expect us to confess.