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Administrative reparations in Serbia - an analysis of the existing legal framework

Introduction

The wars in the former Yugoslavia during the nineteen-nineties left behind a difficult legacy of mass atrocities committed in the countries formed on the territory of the former Yugoslavia. Around 130,000 people lost their lives, more than 12,000 are still missing and tens of thousands of victims suffered torture and sexual violence. All this is just a part of the horrific outcome of these wars. After a decade of destruction and the collapse of the rule of law that unleashed the violence and systematic violations of fundamental human rights, these countries still face the challenges of consolidating their legal systems, and building democratic institutions which will adopt a responsible attitude towards the violent past and foster a culture of human rights.

The process of the democratization of societies which have gone through periods of massive human rights violations in the past is inconceivable without the use of mechanisms of transitional justice as a precondition for reconciliation and successful democratization: establishing individual responsibility for crimes committed, establishing and publicly presenting and acknowledging the facts about the crimes, granting reparations to the victims and implementing comprehensive institutional reforms that will create mechanisms that will further guarantee the non-recurrence of such crimes.

Realizing the victims' rights to reparations is among the most complex issues when it comes to establishing the process of transitional justice. The fact that, as a rule, periods of violence have severe and long-lasting consequences for the economic stability in these countries, only adds to the complexity of the issue. Such is the case in Serbia, as well as in other countries of the former Yugoslavia. However, here it must be emphasized that the difficult economic situation or weak institutional capacity are neither legal nor legitimate excuses for disregard, and especially not for a selective observance of human rights, as is the case with Serbia.¹

The legacy of mass human rights violations in Serbia is special in the sense that it includes the violations committed by the security forces in Serbia during the armed conflicts in the former Yugoslavia, therefore during the time when formally there were not any military operations in Serbia. The main feature of these cases is the nexus with the wars in Bosnia and Croatia. Although documented

¹ See e.g. *Bottazzi v. Italy* (Application number: 34884/97), verdict dated 28 July 1999.



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by the national organizations for human rights,² the United Nations³ and local government bodies,⁴ these cases have never received adequate institutional attention.

About the analysis

The aim of this analysis is to point to the drawbacks of the existing legal framework which regulates the reparations for victims of gross human rights violations in the wars or in relation to the wars that happened on the territory of the former Yugoslavia during the nineteen-nineties. A case in point: reparations realized by administrative means (administrative reparations).

The present system of administrative reparations in Serbia is based on the Law on Rights of Civilian Victims of War,⁵ the Law on Fundamental Rights of War Veterans, Disabled Veterans and Families of Fallen Soldiers⁶ and the Law on Rights of War Veterans, Disabled Veterans and Members of Their Families.⁷

This identification of the key drawbacks with administrative reparations in Serbia is based on a comparative analysis of the most important elements of the legal framework in Serbia and the laws of the successor countries of the former Yugoslavia. These countries are also burdened with the grave legacy of systematic violations of human rights and they have inherited the same legal traditions as Serbia. In addition, we have provided a review of the most important international standards in protection of victims' rights, as well as the opinions and recommendations of international institutions relating to the victims' right to reparations in Serbia.

What are reparations?

State reparations for individuals became common legal practice after World War II, when human rights started developing within the system of the United Nations. Until then, they belonged exclusively to the sphere of public law and relationships between countries.⁸ Today, reparations are

² See e.g. HLC, Police Repression in Sandžak, Under the Spotlight number 11, 1994; Sandžak Committee for the protection of human rights and freedoms: Witness reports from Sandžak, The Sandžak chronicle of evil I, II, III and IV, Rights and freedoms in Sandžak I, II, III and IV.

³ Reports of the Special Rapporteur from the Commission on Human Rights: E/CN.4/1994/47 dated 17.11.1993; E/CN.4/1994/110 dated 21.2.1994; A/49/641'S/1994/1952 dated 4.11.1994; E/CN.4/1995/57 dated 16.1.1995.

⁴ The Conclusion and the Report of the Municipal Assembly of Sjenica no. 06-3/2002-2 dated February 14th, 2002; The Conclusion and the Report of the Municipal Assembly of Tutin no. 06-1/03 dated February 14th, 2003.

⁵ The Law on the Rights of War-disabled Civilians, The Official Gazette of Serbia, no. 52/96.

⁶ The Law on Fundamental Rights of War Veterans, Disabled Veterans and Families of Fallen Soldiers, FRY Official Gazette nos. 24/98, 29/98, 25/00 and The Official Gazette of Serbia, no. 101/05.

⁷ The Law on Rights of War Veterans, Disabled Veterans and Members of Their Families, The Official Gazette of Serbia, nos. 54/89 and 137/04.

⁸ Andrew Woolford and R.S. Ratner, *Informal Reckonings - Conflict resolution in mediation, restorative justice and reparations* (Abington: Routledge-Cavendish, 2008), 94.



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considered as part of the transitional justice strategies in post-conflict societies and post-authoritarian regimes, as well as in democratic societies which strive to correct certain historical injustices committed in the relatively recent past; and they encompass all kinds of measures and mechanisms aimed at alleviating the consequences of violence, acknowledging the victims' sufferings, respecting their dignity and assisting their reintegration into society. The most common divisions of reparations are as follows: material and symbolic, individual and collective, judicial and administrative.

Material reparations include all measures or acts that can be expressed in money. These are: compensation, restitution, facilitated acquisition of real estate property, exemption from paying certain taxes, facilitated access to education, health, social insurance and employment, etc.

Symbolic reparations are measures that, in a symbolic way, demonstrate a different relationship between the state government and victims and violations of human rights from the past. As an example of these initiatives, government officials publicly and officially acknowledge the state's responsibility in committing injustices in the past. This acknowledgement can be achieved through government officials' apologies, commemorations, the erection of memorials, memorial centers and museums, the establishment of remembrance days, the naming of streets and squares and so on.

Individual reparations are aimed at specific individuals and their advantage is that they are the best way to satisfy the particular needs of each victim. Collective reparations are aimed at groups of victims' membership of which can be determined according to different criteria (origin, race, sex, age, religion, political affiliation, sexual orientation, assets and property) and whose rights were violated precisely because of their affiliation with one of these specific groups.

Judicial reparations are determined by court order in proceedings before a competent court. The judgment establishes the liability of the state for the violation of rights and the state is obliged because of that liability to provide some kind of compensation to the victim.

Administrative reparations are determined by laws, bylaws or other legal regulations. These reparations help establish certain rights for the victims, the conditions for the realization of those rights and the procedures and institutions authorized for the implementation of these measures. It is considered that these types of measures advance the development of collective memory and social solidarity.⁹

In international legal instruments, reparations were defined as part of transitional justice strategies in 1997, in the report 'Question of impunity for perpetrators of human rights violations', prepared for the UN Commission on Human Rights by Louis Joinet, an expert on international law.¹⁰ In this report, Joinet defined a set of principles, that is, the necessary conditions needed to fight the impunity of individuals responsible for the gravest violations of human rights in the past. Within this set of principles, the

⁹ Pablo de Greiff, *The Handbook of Reparations, Justice and Reparations*, (Belgrade, Humanitarian Law Center, 2011) 450.

¹⁰ Question of the impunity of perpetrators of human rights violations (civil and political), E/CN.4/Sub.2/1997/20/Rev.1. Available at: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.sub.2.1997.20.Rev.1.En](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.sub.2.1997.20.Rev.1.En).



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following rights of victims in post-conflict and post-authoritarian societies were defined: the right to truth, the right to justice, the right to reparations and the right to non-recurrence. The right to reparations, according to Joinet, involves restitution, compensation and rehabilitation.

In order to advance human rights and suppress impunity, the UN Commission on Human Rights continued with the formulation of principles, that is, with the definitions of victims' rights. Diane Orentlicher, a prominent expert in the field of international law, developed the set of principles for fighting impunity in 2005, by defining the rights and obligations of the state with the aim of realizing the rights to reparations in post-conflict and post-authoritarian societies, as well as adequate procedures for achieving reparations.¹¹ As a result of these two documents, but also because of the growing importance of mandatory implementation of transitional justice strategies, countries emerging from conflict or periods marked by massive violations of human rights are increasingly developing in practice a variety of reparative measures in accordance with the recommendations of the Joinet-Orentlicher principles.

I Legal framework for administrative reparations in Serbia

The system of administrative reparations in Serbia is based on the Law on Rights of War-disabled Civilians (hereinafter: the Serbian Law). This is the basic legal source for administrative reparations which regulates the rights of war-disabled civilians and the families of civilian victims and disabled victims of war. The Law also specifies the requirements for acquiring the status of a war-disabled civilian or of a family member of a civilian victim or disabled victim of war.

The process of acquiring the status and the content of the specific rights are regulated by the Law on Fundamental Rights of War Veterans, Disabled Veterans and Families of Fallen Soldiers and the Law on the Rights of Veterans, Disabled Veterans and Members of Their Families.

At this point, it is necessary to point out a certain terminological inconsistency. Although the very name of the law, the specification of the beneficiaries and the nature of the rights indicate that these are administrative reparations, neither the legislator nor the institutions responsible for their implementation ever apply this or any other term in a manner close to the modern concept and understanding of reparations and human rights.

Beneficiaries

The Law provides for the following beneficiaries of rights prescribed in the Law:

¹¹ Updated Set of Principles for the protection and promotion of human rights through action to combat impunity, E/CN.4/2005/102/Add.1. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>.



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- war-disabled civilians;
- the families of civilian victims of the war;
- the families of war-disabled civilians.¹²

According to the legal definition, a war-disabled civilian is “a person who has become physically damaged by at least 50% on account of wounds or injuries that have left visible traces, sustained by harassment or detention by the enemy during the war, conducting military operations, or injuries sustained from leftover war materials or enemy sabotage or terrorist acts”.¹³

The family of a war-disabled civilian, as defined by the Law, is considered to be “[a member of] the family of the deceased war-disabled civilian, if (s)he lived with him/her in the same household before death; member of the family of an individual who died or was killed under the circumstances mentioned in Article 2 of the Law; spouse, children (born in or out of wedlock, adopted or stepchildren) and parents”.¹⁴

The content of the rights of civilian victims and their families

The rights that the Law provides for civilian victims and their families can be divided into three groups:

1. monetary compensation;
2. healthcare;
3. reduced price of public transport tickets.

Monetary compensation includes various payments in cash that the victims and their families (the ones meeting legal requirements) receive from the state. These measures include:

- a) disability benefits – monthly cash benefit granted to war-disabled civilians where the amount of money depends on the degree of disability;¹⁵
- b) allowance for care and assistance - monthly cash benefit given to a war-disabled civilian who needs to acquire necessary assistance and care provided by a caregiver - the amount depends on the degree of disability;¹⁶

¹² The Law on Disabled Civilian Victims of War, Articles 2 and 3.

¹³ *Ibid.* Article 2.

¹⁴ *Ibid.* Article 3.

¹⁵ Benefits defined according to the degree of disability are prescribed in Article 29 of the Law on the Fundamental Rights of War Veterans, Disabled Veterans and Families of Fallen Soldiers.



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c) orthopedic aids – monthly cash benefits given to war-disabled civilians who had their extremities amputated, or had the functions of the extremities badly damaged, and persons who have completely lost their eyesight;¹⁷

d) monthly cash benefit – cash benefits given to war-disabled civilians and the families of deceased war-disabled civilians and persons who died or were killed during the war, provided they are financially unsecured, that is, if they fulfill the requirements regarding the inability to provide for themselves and regarding their means test;¹⁸

e) reimbursement of funeral expenses – one-time cash amount granted to a person who has buried a beneficiary of a monthly cash allowance; these are in most cases family members of civilian victims of war.¹⁹

Free healthcare is provided to the victims, under the condition that they are not already having their healthcare covered by another insurance.

Certain reductions in prices of public transport tickets are provided to victims and their families according to the provisions of the Law on Fundamental Rights of War Veterans, Disabled Veterans and Families of Fallen Soldiers.²⁰

Eligibility for the law-prescribed rights

Only citizens of Serbia, who cumulatively meet all the requirements specified in the Law, are eligible for the acquisition of the rights prescribed in the Law.

a) The condition referring to “who the perpetrator is”

The Law on Civilian Victims of War includes only those victims who were injured “by the enemy during the war during the execution of military operations, by discarded war material or enemy sabotage or terrorist acts...”²¹

The Law thus explicitly excludes from the circle of potential beneficiaries all victims who survived violence or were injured by formations that the Republic of Serbia does not consider as an enemy,

¹⁶ *Ibid.* articles 39-42

¹⁷ *Ibid.* articles 43-44.

¹⁸ *Ibid.* articles 7-15.

¹⁹ *Ibid.* article 32.

²⁰ *Ibid.* articles 54-59.

²¹ Article 2, Law on Rights of War-disabled Civilians.



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such as the Yugoslav National Army (JNA), the Yugoslav Army (VJ), the Ministry of the Interior (MUP) or the Republic of Srpska Army (VRS) and their subordinate formations.²²

The timeframe in which this Law can be applied is limited in Article 2 of the Law only to the period during the war and the execution of military operations. Considering that the Federal Republic of Yugoslavia (SRJ), the legal predecessor of the Republic of Serbia, was formally a participant in the armed conflict only in the period from March 24th until June 26th 1999,²³ by setting this restrictive requirement, all victims who had their rights violated during the nineteen-nineties, but not during the period herein mentioned, have not been able to exercise their rights, even though their injuries were sustained during the war or in relation to the military operations.

c) The condition referring to “where the injury happened”

The legal framework that covers the realization of administrative reparations does not prescribe the requirement of territoriality, that is, it does not set a requirement concerning the territory where the injury happened. However, the Ministry of Labour and Social Policy and the Serbian Supreme Cassation Court interpret this Law in a way that only recognizes injuries that happened on the territory of Serbia.²⁴

By such interpretation of the legal provisions, the victims of the violence committed on the territories of neighbouring states were excluded from the circle of potential beneficiaries of rights guaranteed by this Law.

d) The condition referring to “physical injuries”

In terms of impact on victims’ lives, both medicine and the law have for decades now treated the physical and psychological consequences of violence equally. Despite that, this Law considers that victims are only “persons who have a physical damage of at least 50% due to wounds or injuries that have left visible traces...”²⁵

²² The Decision of the Department of Social Services of the Town Administration for original and delegated tasks of Novi Pazar, number: 585-12/13, dated April 26th, 2013; The Decision of the District Department for Healthcare, Social Policy and Demography, number: 129-585-79/2012-02, dated November 29th, 2012 following the appeal against the decision of the Department of General Administration, Social Affairs and Municipal Affairs of the Municipal Administration of Apatin, number: 585-1/2012-IV/03, dated October 4th, 2012.

²³ The Decision on Abolition of War, Official Gazette of FRY, number: 15/99 and 44/99.

²⁴ See Humanitarian Law Center and Documenta, Transitional Justice in the Post-Yugoslav countries: Report for 2007, pp. 44 and 45; Decisions of the Municipal Administration of Priboj 04 Number: 580-5/2012 dated October 10, 2012, November 4th Number: 580-4/2012 dated October 9th, 2012, November 4th Number: 580-3/2012 dated October 8th, 2012, November 4th Number: 580-2/2012 dated April 22nd, 2013, November 4th Number: 580-6/2012 dated October 10th, 2012; Judgment of the Supreme Cassation Court of Serbia, UŽ 83/10 dated January 28th, 2011, rendered in a session held by the Civil Department of the court on March 21st, 2011.

²⁵ Article 2, Law on War-disabled Civilians.



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This requirement excludes all victims that have suffered serious and life-long psychological consequences of violence. From a human rights standpoint, this solution has a serious drawback, since rape victims are not entitled to administrative reparations in Serbia because of this condition.

e) The condition referring to “degree of the damage to physical health”

When it comes to the degree of physical health damage, the Law on War-disabled Civilians sets the requirement that the right to administrative reparations can be exercised by the victim who has suffered “bodily damage of at least 50% due to a wound, injury or injury that has left visible traces...”²⁶ By prescribing a threshold of bodily damage, all victims with minor body damage are denied any kind of help. The discriminatory nature of this provision is particularly evident if one takes into account the fact that the prescribed threshold of body damage for war veterans is 20%.

f) The condition referring to “social vulnerability”

In order for victims (direct victims and their family members) to receive their monthly cash benefits, they have to fulfill three cumulative conditions in terms of:

- financial insecurity of existence;
- inability to provide for oneself; and
- the means test.

When it comes to families of civilian victims, the monthly cash allowance is the only right realized financially. The conditions for acquiring this right (if fulfilled, they point to social vulnerability) point to the nature of this right. By including this condition by which the families of civilian victims also have to be socially vulnerable, the legislator has reduced this right to a mere social welfare allowance, which contradicts the government’s basic obligation to provide reparations to individuals who were victims of human rights violations. In other words, the families of civilian victims who are not socially vulnerable cannot acquire the most important right that this law provides for.

g) The conditions referring to „family member” and „life in the same household”

The Law specifies which members of the family are entitled to administrative reparations, and it prescribes an additional condition, that “before the victim’s death the following members were living in the same household”:

- spouse;

²⁶ *Ibid.*



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- children (born in or out of wedlock, adopted or stepchildren); and
- parents.

This condition excludes siblings of victims, but also children and parents in cases where they did not live in the same household. In this way, the connection between close relatives is reduced to a mere economic community in one household, and completely ignores the emotional dimension of family relationships.

h) The condition referring to “family members of persons who died or were killed”

Under the current law, victims of enforced disappearance are not considered to be civilian victims of war. Because of that, their families cannot exercise the rights that belong to the families of killed persons (civilian war victims). In practice, a certain number of these families have declared their missing family member as deceased in extrajudicial proceedings,²⁷ and thus acquired the rights prescribed in this Law.

On the other hand, many families refuse to declare their loved ones dead until their mortal remains are found and before the circumstances of their enforced disappearance are determined. Starting from the fact that the families of the missing belong to one of the most vulnerable categories of victims, and that they live in a state of continuous trauma, their decision not to declare their loved ones deceased should not affect their right to receive help and support from the state. It seems as if they are being subjected to a kind of administrative punishment.

The obligation to provide reparations to the families of missing persons is foreseen by the Convention on the Protection of All Persons From Enforced Disappearance, which was ratified by Serbia in April 2011.²⁸ Although this convention, in a formal and legal way, cannot be applied in cases of enforced disappearances from the nineteen-nineties, it does however clearly indicate the trend of the development of international law regarding the obligations of the state towards the families of missing persons.

II Administrative reparations in the countries and entities in the region

In this section we will give a brief comparative overview of some of the key elements in the legislative frameworks of the countries in the region, which relate to: a) the legal definition of a civilian victim of war (type and degree of injury and the circumstances under which they occurred), b) the nature and scope of the right and c) the setting of condition(s) for the realization of the rights of families of

²⁷The Law on Extra-judicial procedure of Serbia, Official Gazette of the Republic of Serbia, numbers 25/82 and 48/88, and Official Gazette of the Republic of Serbia, numbers 46/95 - other law, 18/2005 - other law, 85/2012 and 45/2013 – other law.

²⁸ Official Gazette of the Republic of Serbia - Treaties, number 1/2011.



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civilian victims of war (financial insecurity of existence, means testing and the inability to work). This comparative analysis does not include the procedures for acquiring these rights.

1. Croatia

In Croatia, the rights of the civilian victims of war are regulated by the Law on the Protection of Military and Civilian War-disabled Victims (hereinafter referred to as the Croatian Law).²⁹ The definition of civilian victims under this law is significantly broader than the one contained in the Serbian law.

A civilian war-disabled victim is considered to be a person who has suffered damage to the body of at least 20%, owing to wounds or injuries related to the events of war, sabotage, terrorist activities, the activities of the Yugoslav Peoples' Army (starting from August 17th, 1990) or explosion of leftover war material.³⁰ In contrast to the Serbian Law, the Croatian Law considers individuals whose bodies are at least 60% damaged due to a disease that is a direct result of abuse or deprivation of liberty as civilian victims of war.³¹

Formulations that describe the circumstances under which the injury or violation happened (related to the events of war, sabotage, terrorist activities, the activities of the Yugoslav Peoples' Army (starting from August 17th, 1990) or the explosion of leftover war material) are broad enough to encompass virtually all cases of human rights violations that the citizens of Croatia might have suffered during the nineteen-nineties, regardless of nationality, the individual or group responsible for the violation, the connection with military operations, etc.

The formulation 'related to the events of war' is of particular importance. This formulation allows the application of the law in cases where victims were injured by members of the Army of the Republic of Croatia.³² The abovementioned formulation also includes those victims who were harmed before or after the official declaration of war.

Unlike the Serbian Law, in this Law it is irrelevant whether the government declared a state of war. Instead, it takes into consideration the actual situation and the well-known fact that the human rights violations during the nineteen-nineties in the former Yugoslavia often happened outside the framework of military actions and furtherance of the state of war.

²⁹ Law on the Protection of Military and Civilian War-disabled Victims, Official Gazette, nos. 33/92, 77/92, 27/93, 58/93, 2/94, 76/94, 108/95, 108/96 and 82/01.

³⁰ *Ibid.* Article 8.

³¹ *Ibid.*

³² See: Transitional Justice in the Post-Yugoslav countries: Report for 2006., HLC and Documenta, p.40.



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The Croatian Law guarantees rights for family members of the killed, and for family members of the missing.³³ According to this Law, family members are considered to be children, parents, adoptive parents, adopted children, and spouses, and extramarital partners if they had children and a shared household at the time of injury.³⁴

Family members of killed or missing civilian victims are entitled to family disability cash allowance and the allowance for care and assistance. The right to family disability allowance can be granted to a widow or a widower after the ages of 55 and 66 respectively, or earlier if they are not capable of work; and then to children (including adopted or stepchildren) until the age of 15, or until 26 if they are full-time students.³⁵ The Croatian Law guarantees the right to family disability allowance to the parents of the killed or missing, regardless of whether another family member has already acquired this right.³⁶ The Law does not link the acquirement of these rights to the financial and material status of the immediate family members.³⁷

The Croatian Law provides a much wider range of rights for civilian victims of war than the Serbian law. Civilian victims of war in Croatia are entitled to a personal disability allowance, the right to vocational rehabilitation, spa and climate treatments, assistance in the purchase of medication, etc.³⁸ In addition to the rights herein mentioned, Croatian war-disabled civilians and their families are entitled to receive a social welfare allowance (the so called 'opskrbnina'), an allowance for help at home, free textbooks, separate child support, student scholarships, priority in getting a room at student dormitories, priority in employment and priority in placement in social protection homes.³⁹

2. Bosnia and Herzegovina

Reparative measures in Bosnia and Herzegovina are regulated by laws on the state and entity levels.

State level

The Law on Missing Persons is the only law on the state level that regulates the rights of war victims in BiH. This Law, enacted in 2004, regulates the status of missing persons and the rights of their families. The Law on Missing Persons was created on the basis of a number of international legal

³³ The Law on the Protection of Military and Civilian Disabled War Victims, Article 12.

³⁴ *Ibid.* Article 13.

³⁵ *Ibid.* Article 26.

³⁶ *Ibid.* Article 27.

³⁷ *Ibid.* Articles 26-31.

³⁸ *Ibid.* Article 14.

³⁹ *Ibid.* Articles 34-47.



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acts in the fields of human rights and humanitarian law.⁴⁰ According to this Law, missing persons are considered to be civilians and soldiers who disappeared during the armed conflicts in BiH in the period from April 30th, 1991 to February 14th, 1996.

The conditions that must be cumulatively fulfilled in order to consider the person missing are that the family has no information about the missing member, that the disappearance is reported and that there is no reliable information about the fate of the missing person.⁴¹

The family members of the missing person are children, born in or out of wedlock, adopted children, stepchildren that the missing person supported, spouses or common-law partners, parents (including stepfathers or stepmothers), adoptive parents, and blood-related siblings that the missing person supported. The conditions for the acquirement of rights is that the family members lived in the same household with the missing person, that they were economically dependent and that they are in the need of support.⁴²

Pursuant to this Law, the family members of the missing person are guaranteed the following rights: a cash allowance, the right to temporarily control the property of the missing person, funeral expenses, priority in employment and schooling, free healthcare, marking of the burial site and the excavation site, and the right to financial assistance for associations of families of missing persons.

Federation of BiH

At the level of the Federation of BiH, the fundamental rights of civilian victims of war are prescribed by the Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (hereinafter referred to as the Federal Law).⁴³ In terms of conditions for acquiring the status of a civilian victim of war and the rights that the victims and their families may exercise, this Law is more favourable than the Serbian Law.

In terms of the degree of damage to the body, the Federal Law sets the same requirement as the Serbian law. Therefore, in the Federation, civilian victims of war are considered to be persons who have suffered physical damage to the body of at least 60% owing to wounds or injuries.⁴⁴ However,

⁴⁰ The Law was drafted on the basis of the following documents: Convention on the Prevention and Punishment of the Crime of Genocide, The Third Geneva Convention Relative to the Protection of Victims of War, Additional protocols I and II to the Geneva Conventions, European Convention for the Protection of Human Rights and Fundamental Freedoms and 13 additional protocols, The General Framework Agreement for Peace in Bosnia and Herzegovina, Convention on the Rights of the Child, International Covenant on Civil and Political Rights, and the Declaration of the United Nations on the Protection of All Persons from Violent or Enforced Disappearance. The Law on Missing Persons, Official Gazette of BiH, no. 50/04.

⁴¹ Article 2, Law on Missing Persons.

⁴² *Ibid.*

⁴³ Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, Official Gazette of the Federation of BiH, nos. 36/99 and 54/04.

⁴⁴ Article 54, Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children.



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unlike the Serbian law, this law grants the status of a civilian victim to those individuals who suffer from some disease caused by abuse, deprivation of liberty, illegal punishment, illegal deprivation of liberty, imprisonment, detention in a concentration camp, forced labour during the war or under imminent threat of war, on the condition that the disease has led to „ a significant impairment of health“.⁴⁵

Civilian victims of war are also missing persons, as well as individuals who have sustained subsequent bodily damage due to deterioration of health or a long period of disease incubation.⁴⁶

The Federal Law explicitly mentions the victims of rape and sexual harassment as a special category of civilian victims.⁴⁷

With regard to the circumstances in which the injury occurred, the Federal Law provides that the events that led to death, disappearance, wounding and other forms of health damage must have happened during the war, under imminent threat of war, in relation to war-related events, in special cases after the end of the war (explosions of landmines and other leftover war material etc.), in sabotage and terrorist activities. Thus, unlike the Serbian Law, the Federal Law recognizes the situations that occurred under imminent threat of war or „war-related events“.

The Federal Law does not set any conditions regarding who is responsible for the death or disappearance of a person, nor for the sustained injuries and other body damages.

In addition to the monthly allowances for war-disabled civilians (individual disability allowance) and the families of civilian victims (family allowance), the Federal Law provides rights that the Serbian law does not recognize. These are, for example: professional training (vocational rehabilitation, re-training and further training), priority in employment and housing, as well as psychological and legal help.⁴⁸

To realize the right to family disability allowance, the Federal law sets an age condition for the widow and widower, in that they have to be 55 and 65 years old respectively, although this right can be acquired earlier in cases where they are unable to work and provide for themselves. Regardless of these conditions, the spouse of a disabled person who was a recipient of the allowance for the care and support of another person on the basis of physical disability is entitled to the family disability allowance if they were married to the disabled person, living in the same household as that person, for five years prior to their death, and if the spouse is not employed, engaged in a business or professional activity, or is a retiree. The condition of inability to work also applies, if it occurred before the age of 15, to children, adopted children and stepchildren as

⁴⁵ Article 5, Law on Amending the Law on Social Protection, Protection of Civilian victims of War and Protection of Families with Children , Official Gazette of the Federation of BiH, no. 39/06.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.* Article 8.



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well.⁴⁹ The law does not condition the acquisition of this right with financial insecurity or a means test.

The Law acknowledges the right to family disability allowance for members of the family of a deceased war-disabled civilian who was the recipient of an allowance for the care and support of another person, and the Law does not set any requirement concerning a means test, inability to work or material insecurity.⁵⁰

The Republic of Srpska

The rights of civilian victims in the Republic of Srpska are regulated by the Law on the Protection of Civilian Victims of War (hereinafter referred to as the Law of the Republic of Srpska).⁵¹ Similar to the laws in Croatia and the Federation of BiH, this Law gives a significantly broader definition of civilian victims of war and provides a wider scope of rights.

Pursuant to this Law, civilian victims are persons who have damaged health caused by abuse, rape, imprisonment in a concentration camp, confinement, forced labor, wounding or injury which caused damage to the body to an extent of at least 60%.⁵² This Law specifically recognizes missing persons as civilian victims of war.⁵³ Unlike the Serbian Law, this Law gives civilian victim status to two large categories of victims of serious violations of human rights - missing persons and persons suffering the psychological consequences of a past trauma.

Regarding the circumstances under which the death, disappearance or body damage happened, this Law does not set the requirement that these events had to happen during the formal state of war; instead, it determines the time period (after January 9th, 1992, which is the date when the Republic of Srpska was declared).⁵⁴

The members of a civilian victim's family who can acquire rights under this Law are: the spouse, children (born in or out of wedlock, adopted or stepchildren) and parents.⁵⁵ The Law conditions the right to family disability allowance by a means test (which is determined by the government of the Srpska Republic), with the consideration that this does not apply to children who are full-time students until the

⁴⁹ *Ibid.* Article 63.

⁵⁰ *Ibid.* Articles 62-64.

⁵¹ Law on the Protection of Civilian Victims of War, Official Gazette of the Republic of Srpska, nos. 25/93, 32/94, 37/07, 60/07, 111/09 and 118/09.

⁵² *Ibid.* Article 2.

⁵⁷ *Ibid.* Article 9.

⁵⁸ *Ibid.* Article 8.

⁵³ *Ibid.* Article 9.

⁵⁴ *Ibid.* Article 2.

⁵⁵ *Ibid.* Article 3.



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age of 26.⁵⁶ This Law offers a much broader definition of the family members who can acquire the right to family disability allowance than is the case in the Serbian Law, since family members of missing persons are also included in this category, and the acquisition of this right is not conditioned by inability to work or material insecurity.⁵⁷

This Law does not set any conditions regarding who is responsible for the death or disappearance of the person, or the injuries and other damages to the body, except in the case of a refugee from enemy forces. This distinction cannot be found in any other law in the region.

In addition to the rights that the Serbian Law provides, the Law of the Republic of Srpska provides the right to professional rehabilitation.⁵⁸

3. Montenegro

In Montenegro, the rights to administrative reparations for civilian victims of war are regulated by the Law on Protection of War Veterans and Disabled Persons (hereinafter referred to as the Montenegrin Law).⁵⁹ Considering the fact that there were no armed conflicts on the territory of Montenegro, with the exception of a brief period during the NATO intervention, Montenegro has by far the smallest number of civilian victims of war in the region of the former Yugoslavia.⁶⁰

The Montenegrin Law, like the Serbian, does not provide support for the families of missing persons. In other words, this law does not recognize missing persons as civilian victims of war. The status of civilian victims of war is also not granted to persons killed, but only to those individuals who have suffered damage to their body to an extent of at least 50% due to wounds or injuries sustained during war-related events, and psychosomatic illness that has left visible traces.⁶¹ Like the Serbian Law, the Montenegrin Law does not recognize impairments of a purely psychological nature.⁶²

The Montenegrin Law considers the same group of persons as family members as is the case with the Serbian Law.⁶³ However, in terms of the rights guaranteed to civilian victims and their families, the Montenegrin Law provides for the right to family allowance, financial compensation,⁶⁴ as well as the right to family disability allowance which can be acquired by a spouse or a

⁵⁶ *Ibid.* Article 6.

⁵⁷ *Ibid.* Article 9.

⁵⁸ *Ibid.* Article 8.

⁵⁹ Law on the Protection of War Veterans and Disabled Persons, Official Gazette of the Republic of Montenegro, no. 69/03.

⁶⁰ Transitional Justice in Post-Yugoslav Countries: Report for 2006 (Belgrade: Humanitarian Law Center, 2007), pp. 48-49.

⁶¹ Article 18, Law on the Protection of War Veterans and Disabled Persons.

⁶² *Ibid.* Article 24.

⁶³ *Ibid.* Article 19.

⁶⁴ *Ibid.* Article 20.



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child,⁶⁵ and the right to an increased family disability allowance,⁶⁶ while the Serbian Law only provides a monthly cash allowance, conditional on social vulnerability.

In order to realize these rights, the Montenegrin Law does not set the condition of a means test, but it does include financial insecurity and inability to work for family members to be able to acquire these rights, and only if they do not have an income from employment, pension, self-employment or any other type of social income.⁶⁷ The condition of a means test is only set for two rights that the Serbian Law does not recognize: material compensation (civilian war-disabled individuals and members of their families are entitled to this),⁶⁸ and the right to a family allowance (family members of the deceased war-disabled individual are entitled to this).⁶⁹

4. Kosovo

The rights of civilian victims in Kosovo are regulated by the Law no. 04/L-054 on the Status and Rights of Fallen Soldiers, Disabled Persons, Veterans, Members of the Kosovo Liberation Army and Civilian Victims and their Families (hereinafter referred to as the Kosovo Law).⁷⁰ Similar to the Serbian law, this Law contains provisions that are unacceptable because of the violation of the principle of equality, although when it comes to the civilian war-disabled victims it gives a much broader definition of this category of victims.

According to the Kosovo Law, a war-disabled civilian is a person who has suffered damage to the body (due to injury or disease) to a degree of at least 40% because of confinement, wounding or explosive devices, regardless of who was responsible for that (there is no condition referring to 'enemy forces').⁷¹

Civilian victims of war are those persons who were killed or wounded by enemy forces, and then died in the period between February 27th, 1998 and June 20th, 1999. All victims who were detained by the enemy for at least 72 hours belong to the group of civilian prisoners of war.⁷² So, for these two categories of victims, both the Kosovo and Serbian Laws set the same discriminatory condition - that 'enemy forces' be responsible for the injuries.

⁶⁵ *Ibid.* Article 34.

⁶⁶ *Ibid.* Article 39.

⁶⁷ *Ibid.* Article 43.

⁶⁸ *Ibid.* Articles 41-42.

⁶⁹ *Ibid.* Article 50.

⁷⁰ Law no. 04/L-054 on the status and rights of fallen soldiers, disabled persons, war veterans, members of the Kosovo Liberation Army, civilian victims and their families, Official Gazette of the Republic of Kosovo, no. 30 dated December 31st, 2011.

⁷¹ *Ibid.* Article 3.

⁷² Article 3, paragraphs 1.8, 1.10, 1.12 of the Law no. 04/L-054 on the status and rights of fallen soldiers, disabled persons, war veterans, members of the Kosovo Liberation Army, civilian victims and their families.



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The victims of sexual harassment cannot acquire the status of civilian victim under the Kosovo Law. Regarding this aspect of the Law, the Kosovo and Serbian Laws represent the two negative exceptions in the countries on the territory of the Former Yugoslavia.

Unlike the Serbian Law, the Kosovo Law recognizes missing civilians as a special category of victims, and the missing person is defined as every person whose whereabouts are unknown and who disappeared in the period from January 1st, 1998 to December 31st, 2000.⁷³ The law gives the right to a family pension to family members of missing persons.⁷⁴

Regarding the time period of the circumstances under which the injuries or body damages happened, the Kosovo law recognizes the time during the war, which is the period from February 27th, 1998 to June 20th, 1999. This is a discriminatory condition in relation to the victims whose injuries were war-related but happened after June 20th, 1999.⁷⁵

In addition to the basic healthcare, the Kosovo Law is the only law in the region that provides war-disabled civilians with the benefit of medical treatment abroad, if it is necessary, and in cases when the patient's health deteriorates,⁷⁶ then also exemption from property taxes,⁷⁷ and professional re-training,⁷⁸ as well as housing.⁷⁹ With respect to the rights mentioned herein, the Kosovo Law sets the condition of material insecurity (there are no conditions relating to a means test or inability to work) of the war-disabled civilian or family members,⁸⁰ provided that housing priority is given to the families of fallen soldiers and missing persons and disabled persons who have not resolved their housing problems.⁸¹

The Kosovo Law guarantees the right to a family pension for the civilian victim's immediate family members, as well as free primary and secondary healthcare, exemption from property tax, and the right to a cheap and reduced electricity tariff.⁸² The Law links the last two rights only with the financial status of the family member, while the other rights are realized regardless of the existence of the conditions of inability to work or a means test. The Law guarantees the right to a family pension to the family members of the missing civilian only if they do not have the right to a pension on a

⁷³ *Ibid.* Article 3, paragraph 1.14.

⁷⁴ *Ibid.* Article 5.

⁷⁵ After the retreat of the Serbian army and police, a great number of murders, forced disappearances and other kinds of violation of human rights of non-Albanians and Albanians that the Albanian community considered to be Serbian accomplices, was reported.

⁷⁶ *Ibid.* Article 6, paragraph 1.5.

⁷⁷ *Ibid.* paragraph 4.

⁷⁸ *Ibid.* paragraph 1.6.

⁷⁹ *Ibid.* paragraph 6.

⁸⁰ *Ibid.* Article 6, paragraph 4.

⁸¹ *Ibid.* Article 6, paragraphs 6 and 6.1.

⁸² *Ibid.* Article 13, paragraphs 1.1 - 1.4.



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different basis. The Law does not specify a means test, financial insecurity or inability to work as conditions.

In addition to this Law, the Law no.04/L-023 on missing persons was passed in Kosovo, which, among other things, establishes the rights of families of missing persons. One of the most important aspects of this Law, from the standpoint of families of missing persons, is the regulation of their right to dispose of the property of missing persons, without having to declare the death of their missing family member.⁸³

III Opinions and recommendations of the international institutions regarding the question of reparations and the protection of civilian victims of war

System of the UN

The most important contribution to the definition of the concept of reparations, the content and the scope of the state's obligations towards the victims, as well as the precise definition of a victim was given by the UN General Assembly in the 2006 Resolution „Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law“⁸⁴ (Basic principles and guidelines of the UN). According to this document, victims are persons:

„Who individually or collectively have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law.“

The basic principles and guidelines of the UN also point to the five basic forms of reparations: restitution, rehabilitation, compensation, different forms of satisfaction (cessation of continuing violations, verification and full and public disclosure of the facts about human rights violations, inclusion of these facts in educational materials, search for the whereabouts of the missing, commemorations, public apologies and guarantees of non-repetition).

The principle of fair compensation for victims of human rights is one of the fundamental principles of a number of conventions that protect and promote human rights, that have been drawn up within the UN system: the International Covenant on Civil and Political Rights (articles 2 and 9)⁸⁵,

⁸³ Article 6, paragraph 3, Law no. 04/L-023 on missing persons.

⁸⁴ A/RES/60/147 dated March 21st, 2006.

⁸⁵ The International Covenant on Civil and Political Rights, Official Gazette of SFRY – International contracts, no.7/71



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the International Convention on the Elimination of All Forms of Racial Discrimination (article 6)⁸⁶, The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 14),⁸⁷ and the Convention on the Rights of the Child (article 39).⁸⁸ The victims' right to reparations is also guaranteed by regional mechanisms for the protection of human rights, by the stipulations in the European Convention on the Protection of Human Rights and Fundamental Freedoms (articles 13 and 41),⁸⁹ the European Convention on the Compensation of Victims of Violence (articles 2 and 4),⁹⁰ as well as by the practice of international bodies for the protection of Human Rights (European Court of Human Rights⁹¹, the UN Committee Against Torture,⁹² the Commission on Human Rights,⁹³ and the Committee on Elimination of Racial Discrimination).⁹⁴

The UN Committee Against Torture, as a body competent for providing authoritative interpretations of the provisions of the Convention, in its General Comment no.3 interpreted the obligations of the State Parties specified in Article 14 relating to the compensation of victims of torture.⁹⁵ This is one of the most comprehensive UN documents concerning reparations for victims of violence.

According to the position of the UN Committee Against Torture, the states „within their legal systems, guarantee each torture victim the effective right to remedy the violations and the right to fair and appropriate compensation, including the means for the fullest possible rehabilitation.“ Furthermore, it is emphasized that Article 14 is applicable to all victims of torture and cruel, inhumane or degrading treatment and punishment. Victims are persons who:

⁸⁶ International Convention on the Elimination of All Forms of Racial Discrimination, Official gazette of SFRY - Appendix, no. 6/67.

⁸⁷ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Official Gazette of SFRY – International contracts, no.9/91.

⁸⁸ Convention on the Rights of the Child, Official Gazette of SFRY– International contacts, nos. 15/90 and 2/97 and Official Gazette of FRY no. 7/2002.

⁸⁹ European Convention on the Protection of Human Rights and Fundamental Freedoms, Official Gazette of Serbia and Montenegro – International contracts, no. 9/2003.

⁹⁰ European Convention on the Compensation of Victims of Violent Crimes, CETS No.:116, text available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/116.htm>.

⁹¹ European Court of Human Rights: *Cyprus vs. Turkey* (application no. 25781/94), verdict dated May 10th, 2001.

⁹² The UN Committee Against Torture, Com. No 161/2000, CAT/C/29/D/161/2000, dated December 2nd, 2002, the Danilovgrad Case.

⁹³ The UN Commission on Human Rights UN, Com. No. 107/1981, U.N. Doc. CCPR/C/OP/2, dated July 21st, 1983, Case of María del Carmen Almeida de Quinteros et al. v. Uruguay.

⁹⁴ The UN Committee on Elimination of Discrimination Against Women, Com. No. 5/2005, CEDAW/C/39/D/5/2005, dated 6 August 2007, case of Şahide Goekce v. Austria.

⁹⁵ The UN Committee Against Torture, General Comment no.3, CAT/C/GC/3 dated 13th December 2012.



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"due to acts or omissions that constitute a violation of the Convention, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights. A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted or convicted and regardless of the familial or any other relationship between the perpetrator and the victim. The term 'victim' also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization."⁹⁶

The Committee Against Torture among other things points out that the notion of „remedy of violations“ in the Convention Against Torture implies the provision of “effective remedy“ and “reparation“.⁹⁷

In addition, the Committee noted that states have the duty to enact appropriate legislation and establish mechanisms for determining the rights of victims of torture or abuse to correction of the violation and compensation, which implies five mechanisms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁹⁸

The Committee also noted that state parties should ensure that their laws provide adequate care and protection for victims who have suffered violence or trauma, in order to avoid their re-traumatization in the judicial and administrative procedures that are designed to provide victims with justice and reparation.

Council of Europe

In 2010, the Republic of Serbia signed the European Convention on the Compensation of Victims of Violence (1983).⁹⁹ The Convention obliges the state parties, because of the „principles of equity and social solidarity“, to provide all victims of deliberately inflicted violence with a compensation, in order to alleviate their psychological suffering and to compensate for the physical injuries that the victim has suffered.¹⁰⁰ The Convention, among other things, provides for the formation of public funds and mechanisms for compensation of victims, particularly in cases when the perpetrator is unknown and cannot be prosecuted or there are no assets from which the victim can be compensated. The Convention states that the minimum form of compensation should be considered lost earnings, medical costs, hospitalization, burial costs, and compensation for the loss of support (for dependents).¹⁰¹

⁹⁶ Translation by the HLC.

⁹⁷ The UN Committee Against Torture, General Comment no.3, CAT/C/GC/3 dated 13th December 2012.

⁹⁸ *Ibid.*

⁹⁹ CETS No.: 116, text available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/116.htm>.

¹⁰⁰ European Convention on the Compensation of Victims of Violent Crimes, CETS No. 116, Explanatory Report .

¹⁰¹ Article 4 of the Convention.



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Although Serbia has yet to ratify this Convention, it is important to emphasize that the Convention will establish a modern and comprehensive system of support for the victims of gross violations of human rights in Serbia. This system will take care of the victims of violence that occurred after the ratification. However, it is also important to emphasize that unless a similar system is established for the victims of human rights violations in the nineteen-nineties, the Serbian discriminatory legal regime will become fossilized, and a significantly larger group of victims will have no support from the government or significantly fewer rights compared to the victims of violence that occurred after the ratification of this convention.

Criticism of the UN and the Council of Europe

The UN Treaty bodies and the Council of Europe have on several occasions, within the regular monitoring of the implementation of international norms on human rights in Serbia, pointed out to the Serbian institutions the non-compliance of the existing legal framework governing administrative reparations in Serbia with international standards of human rights.

In the Concluding Observations of the Committee for the Prevention of Torture on the implementation of the Convention for the Prevention of Torture in Serbia in November 2008, it was concluded that Serbia has neither special programmes for realizing the rights of victims of torture and abuse and the correction of injustices, nor services that would specifically deal with the trauma of victims of torture. Serbia was advised to strengthen its efforts in relation to compensation, correction of injustices and rehabilitation, so that the victims of torture and other forms of cruel, inhumane or degrading treatment or punishment can be provided with fair and adequate compensation, including the provision of funds for immediate and complete rehabilitation. In the Concluding Observations it was also recommended that Serbia develop a special programme of assistance for victims of torture and abuse.¹⁰²

In the Concluding Observations of the Human Rights Committee on the implementation of the International Covenant on Civil and Political Rights in Serbia, dated March 2011, the Committee recalled that Serbia has the obligation to fully investigate all instances of human rights violations, especially those committed in the nineteen-nineties, and that the victims and their families be provided with adequate compensation for the injuries suffered.¹⁰³

¹⁰² Concluding Observations of the Committee for the Prevention of Torture on the implementation of the Convention for the Prevention of Torture in Serbia, CAT/C/SRB/CO/1, dated November 21st, 2008.

¹⁰³ Concluding Observations of the Human Rights Committee on the implementation of the International Covenant on Civil and Political Rights in Serbia, CCPR/C/SRB/CO/2, dated March 24th, 2011.



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The issue of reparations for victims of human rights violations during the nineteen-nineties was discussed in the report of the Council of the Europe Commissioner for Human Rights, Thomas Hammarberg, in April 2011. The report pointed to the lack of mechanisms for reparations for victims and the fact that the Law on the Rights of War-Disabled Civilians provides compensation only for a certain number of victims, and excludes those whose injuries or losses resulted from actions of the Serbian government agencies. It was also noted that, according to the Serbian Law, former detainees in concentration camps, victims of sexual violence and victims of torture do not have the right to administrative compensation, except if they have physical injuries beyond a certain limit. To amend these shortcomings, the Commissioner called on the Serbian authorities to take all necessary measures to ensure reparation for the victims of war-related crimes and their families, in accordance with the established principles of international law as they are defined in the Basic Principles and Guidelines of the UN.¹⁰⁴

IV Conclusions

All states in the region have, within their legal frameworks, mechanisms of administrative reparations that differ in the degree of comprehensiveness, complexity and the type of right they provide their users with.

Comparative analysis leads to the conclusion that while all systems have certain deficiencies, the Serbian Law is the one that treats this important segment of transitional justice in a drastically worse way than other regional laws.

A large number of victims of war and war-related human rights violations are not recognized as civilian victims of war in Serbia because of the legal definition of a civilian victim of war. The four largest categories of victims that the law does not recognize are: victims of systematic violations of human rights during the nineteen-nineties in Serbia, victims of sexual violence, families of missing persons and victims with diseases caused by the violence suffered.

The existing law reduces administrative reparations to cash allowances (which are conditioned by three requests concerning social vulnerability when it comes to family members of the victim), healthcare, limited allowances for public transportation and several other practically meaningless rights.

Bearing in mind that the purpose of these laws – these mechanisms of reparations, in other words -, is to grant official recognition and fair compensation to the victims of human rights violations, and to resocialize the victims, setting discriminatory conditions and reducing the reparations to (conditional) cash allowances and healthcare do not correspond to established international standards.

¹⁰⁴ Report by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights, after a visit to Serbia from June 12th to June 15th, 2011. CommDH(2011)29, dated 22nd September 2011. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=1834869>.



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International standards and the standpoints and recommendations of international bodies clearly indicate the trends and efforts to be made in order to raise the bar in victims' protection standards, as well as the fact that the legal framework in Serbia does not comply with international standards.

The most important recommendations

1. The existing legal framework for the protection of civilian victims of war in Serbia must be subjected to a fundamental reform that will take into consideration the international standards in this field, as well as the observations and recommendations of the international bodies that monitor the implementation of international conventions for the protection of human rights.
2. The representatives of the government of the Republic of Serbia, independent institutions, associations of victims, academics, human rights organizations and international experts should all be involved in the development of the new legal framework.
3. The new legal framework should broaden the definition of war-disabled civilians so that it includes victims of sexual violence and victims who have health problems of a psychological nature due to the violence they suffered.
4. The new legal framework must broaden the definition of civilian victims of war, so that it includes victims of enforced disappearance and citizens of Serbia who perished or were harmed during the war and in war-related events on the territory of other countries.
5. The new legal framework must also acknowledge the citizens of Serbia who were victims of violence committed by members of the Ministry of the Interior and the Army on the territory of Serbia, during the wars in other countries of the former Yugoslavia.
6. The new legal framework must provide protection to those war-disabled civilians and family members of victims who at present live in Serbia, but who during the conflicts were citizens of other Yugoslav republics, if they do not have that protection in/from those other countries.
7. The new legal framework must provide more rights that will contribute to the re-socialization and stronger protection of war-disabled civilians and families of civilian victims of war, such as professional rehabilitation or priority in employment and education.
8. The rights guaranteed by the new legal framework must not be reserved for the socially vulnerable families of civilian victims of war only.



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9. The procedures for granting rights to war-disabled civilians and the families of civilian victims of war must be simplified, the level of providing evidence adjusted to the context in which the violence happened, and the employees of institutions who make decisions in these procedures must be familiarized with international standards in this field and be attuned to working with victims and their families.

10. The responsible institutions must create a system of informing the victims on all aspects of their rights.