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COMISION DE DERECHOS HUMANOS
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CUESTION DE LOS DERECHOS HUMANOS DE TODAS LAS PERSONAS
SOMETIDAS A CUALQUIER FORMA DE DETENCION O PRISION

CUESTION DE LAS DESAPARICIONES FORZADAS O INVOLUNTARIAS

Carta de fecha 27 de marzo de 1997 dirigida al Presidente de
la Comisión de Derechos Humanos por la Misión Permanente de
la República Federativa de Yugoslavia

Tengo el honor de transmitirle adjuntas las observaciones del Gobierno de la República Federativa de Yugoslavia sobre el informe presentado por el Sr. Manfred Nowak, experto de la Comisión de Derechos Humanos encargado del proceso especial sobre las personas desaparecidas en el territorio de la ex Yugoslavia, con arreglo al párrafo 38 de la resolución 1996/71 de la Comisión (E/CN.4/1997/55, de 15 de enero de 1997), junto con un memorando* relativo a personas desaparecidas de la República Federativa de Yugoslavia, y de rogarle que las observaciones, junto con el memorando, se distribuyan como documento oficial de la Comisión en relación con el tema 8 c) del programa.

(Firmado): Miroslav Milosevic
Encargado de Negocios interino

* El anexo se reproduce como se presentó, en el idioma original solamente.

ANNEX

COMMENTS

OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA ON THE REPORT SUBMITTED BY MR. MANFRED NOWAK, EXPERT OF THE COMMISSION OF HUMAN RIGHTS IN CHARGE OF SPECIAL PROCESS DEALING WITH MISSING PERSONS IN THE TERRITORY OF THE FORMER YUGOSLAVIA, PURSUANT TO PARAGRAPH 4 OF THE COMMISSION RESOLUTION 1996/71 (E/CN.4/1997/55)

In an effort to clear up some parts of the report submitted by Mr. Manfred Nowak, Expert Member of the Commission of Human Rights in charge of Special process dealing with missing persons in the territory of the former Yugoslavia, enclosed herewith is a copy of the Memorandum on Missing Persons of the Federal Republic of Yugoslavia, which was submitted to Mr. Syrus Vance, Chairman of the International Commission for Missing Persons (ICMP) on February 14, 1997, by the Chairman of the Commission of the Government of the Federal Republic of Yugoslavia for Humanitarian Issues and Missing Persons, Professor Pavle Todorovic.

It is evident from the Memorandum that the Federal Republic of Yugoslavia has been actively participating in the process of resolving the issues of imprisoned, arrested, killed and missing persons in the territory of the former Yugoslavia since 1991, thus making the remarks made by Mr. Nowak (paras 6, 113 and 15) unreliable (detailed information to be found on pages 1 and 2 of the Memorandum).

The Memorandum also gives information on the demands of the Federal Commission on the Government of the Federal Republic of Yugoslavia made to the Government of Croatia concerning Serbs disappeared, missing or imprisoned in Croatian prisons to this day (pages 3 - 8).

Efforts to solve these issues have been made with active participation of the Federal Republic of Yugoslavia ever since 1991, in cooperation with the International Committee of the Red Cross and within bilateral commissions of the governments involved; currently, the International Commission for Missing Persons is also instrumental in the effort to accelerate this continuous process.

Paragraph 81 of the Report contains severe accusations when stating that "Several thousand persons of Serb origin who were fleeing through the highway to Belgrade were allegedly killed by the Croatian Army in Spacva Forest. Owing to the large size of the Spacva Forest, the exact site of the mass grave where they were buried is not known, but it could be between the village of Bosnjaci (near Zupanja) and the village of Lipovac. According to the reports, during operation "Storm", the Croatian army conducted another mass killing on the road between Glina and Bosanski Novi, near the villages of Gornji and Donji Zirovac, where mass grave sites have allegedly been located." The gravity of these charges calls for an immediate demand to be submitted to the Croatian side, for a detailed information to be submitted to the ICMP, thus making it possible for the ICMP to proceed further with its deliberations on the above tragic events.

However, Mr. Nowak remains silent, even though the international practice prevailing in such cases calls for the international expert to propose concrete action against Croatia, which is responsible for such brutal violation of human rights of Serbs.

The figures given in the Report paras 83, 84 and 85 are inaccurate. The exact figures can be found in the Memorandum, as well as in the statement given by professor Pavle Todorovic on March 21, 1997, at the Third ICMP Meeting, held in Zagreb, whereby 1112 death certificates, along with 552 detailed post mortem protocols, have been transmitted to Croatia to this date.

In paras 18, 74 and 112 l.a., Mr. Nowak refers to figures and alleged responsibility of the Federal Republic of Yugoslavia which are not to be found in any other relevant official sources, nor have they been on the agenda of the bilateral commission meetings. Furthermore, the Federal Republic of Yugoslavia has never "officially accepted responsibility for the cases of missing persons which occurred during armed conflict in 1991", nor was the Croatian Army established at that time (para 13).

In our opinion, the above-mentioned and other examples are of no help to the Special process or to the establishment of the needed confidence between the parties involved.

February 1997

MEMORANDUM
on missing persons of the FR of Yugoslavia

On the basis of the letter of Mr. Cyrus Vance, Chairman of the International Commission for Missing Persons (ICMP) addressed to the Federal Minister for Foreign Affairs, Mr. Milan Milutinović, the Federal Ministry for Foreign Affairs and the Commission of the Government of the FR of Yugoslavia for Humanitarian Questions and Missing Persons, have prepared a reply in the form of a Memorandum.

This Memorandum highlights the past activities of the FR of Yugoslavia i.e. its competent authorities in resolving the question of imprisoned, arrested, killed and missing persons in the territory of the former Yugoslavia, as a result of the war conflicts. It also emphasized the accompanying problems and difficulties which are still making it difficult to resolve the question of missing persons as soon as possible.

1. Immediately after the outbreak of armed conflicts in the Republic of Slovenia, and later in the Republic of Croatia and after the first arrests of the members of the former JNA, the Government of the FR of Yugoslavia has undertaken all measures with a view to finding all missing persons on the basis of its humanitarian orientation, the Constitution of the FR of Yugoslavia as well as the rules of the international law.

With small initial difficulties, all imprisoned and killed persons in the Republic of Slovenia were registered and after that, they were released or their mortal remains were turned over.

However, the resolution of these issues with the Republic of Croatia was ever since the beginning fraught with difficulties, still partially in evidence in the present period.

At the initiative of the FR of Yugoslavia and the International Committee of the Red Cross, a meeting was held in Geneva on 27 November 1991 between the representatives (authorized persons) from the SFRY and the Republic of Croatia, whereupon a Memorandum of Understanding was adopted. A way was agreed in the Memorandum to resolve humanitarian problems and implement the rules of humanitarian law. Inter alia, it envisaged the establishment of a Joint Commission for the search of missing persons and mortal remains. The Commission was established at a meeting held on 16 December 1991 in Pecz, Hungary.

The Commission held 9 sessions in all (seven in Pecz and two in Budapest). The work of the Commission was ended by a unilateral decision of the Croatian side in August 1992 and was officially terminated at the meeting of the delegations of the FR of Yugoslavia and Republic of Croatia headed on 15 February 1994 in Zagreb. At the same time, it was agreed at the meeting that this Commission be replaced by another, also comprised by the representatives of the two Governments.

In that respect, the Federal Government made a decision on 17 November 1994 to establish a Commission of the Federal Government for Humanitarian Questions and Missing Persons whose task was to follow, study and make proposals for the resolution of humanitarian questions as well as those related to missing persons from the territory of former Yugoslavia, primarily the citizens of the FR of Yugoslavia.

Prof. Dr. Pavle Todorović, Deputy Federal Minister for Labour, Health and Social Welfare, was appointed Chairman of the Commission by the decision of the Federal Government.

The newly-appointed Commission has had ten meetings with the Commission of the Republic of Croatia for Imprisoned and Missing Persons, at which they resolved the fate 1,000 persons sought by both sides. Also, a Protocol on Cooperation was signed on 17 April 1996 in Zagreb between the Commissions of the Government of the FR of Yugoslavia for Humanitarian Questions and Missing Persons and the Commission of the Government of the Republic of Croatia for Imprisoned and Missing Persons which laid down the groundwork to mutually resolve the question of the missing persons. By the signing of the Protocol, new preconditions have been created to resolve more speedily the question of missing persons in the territory of the former Yugoslavia.

Annex 1: Protocol

In this Protocol, the Republic of Croatia committed itself to resolving, through talks and negotiations, also the question of missing persons from the Serb Krajina i.e. from the UNPAs. It is well-known that after the activities of the Croatian army ("Lightning" and "Storm") between 210,000 and 236,000 Serbs were expelled and 2,084 persons were reported missing and from the Serb Krajina (UNPA sector) 2,985 persons were reported missing.

In the circumstances, the Commission of the Government of the FR of Yugoslavia for Humanitarian Questions and Missing Persons has undertaken to resolve the question of missing persons from the FR of Yugoslavia parallel to the question of the missing Serbs from the Serb Krajina under the protection of UNPA forces.

The problems related to the missing Serbs from the Serb Krajina (UNPA Sector) are addressed in this Memorandum as a separate whole, representing its integral part. The material is enclosed herewith.

Under the Dayton Agreement, a bilateral agreement was signed in August 1996 by the FR of Yugoslavia and the Republic of Croatia, which provides for that the issue of missing persons be resolved without delay and that the available data be immediately exchanged.

The FR of Yugoslavia has fulfilled all its obligations arising from the Agreement as well as from the Protocol on Cooperation between the Commission of the Government of the Federal Republic of Yugoslavia for Humanitarian Questions and Missing Persons and the Commission of the Government of the Republic of Croatia for Imprisoned and Missing Persons

Namely, the Yugoslav side released all war prisoners originating from the Republic of Croatia as early as 14 August 1992 and on 12 January 1994 also released the members of the subversive-terrorist group, so called "Sombor Group", which infiltrated to the FR of Yugoslavia from the Republic of Croatia. Since then, there is no person in the FR of Yugoslavia with the status of a war prisoner. In that respect, the FR of Yugoslavia has made an official statement in a written form.

On the other hand, the Republic of Croatia has not fulfilled its obligation. According to available records and its own admission, even after the latest amnesty it still holds some persons in its prisons whose names

figure on the lists of missing persons from Yugoslavia and from the Serb Krajina (UNPA Sector). Three persons from the Yugoslav list have been in the Croatian prisons since 1992. For Ivica Vuletić, a Yugoslav national, no legally effective ruling was made although he is charged with alleged war crimes.

In addition, according to the statements of the persons released from Croatian prisons, the Republic of Croatia still has in its prisons a number of persons that have not been identified or visited by the International Committee of the Red Cross.

2. In fulfilling its commitments arising from the Protocol, the FR of Yugoslavia made available all lists and documents on the registered persons to the Republic of Croatia, whereas the latter failed to do the same. The FR of Yugoslavia handed over to the Republic of Croatia the list of the persons killed in Vukovar in 1991:

- a) a list of 770 identified persons from Vukovar killed in 1991;
- b) a list of 335 unidentified persons from Vukovar killed in 1991;
- c) the files on killed persons in Vukovar in 1991, available to us, sought by the Croatian side, are soon to be handed over. So far 1,012 death certificates were handed over as well as 140 files on killed identified and unidentified persons.

2a. According to the current lists of the Commission of the FR of Yugoslavia, the Republic of Croatia is asked to provide:

2a.1 Information on 956 persons. This broader list contains the names of all persons from the territory of the former Yugoslavia since the beginning of war conflicts in Slovenia (26 June 1991) regardless of nationality and religion. Data for a smaller number of persons are incomplete since those persons were registered in the beginning of the war conflicts. Subsequently some of them remained in the territory of the Republic of Croatia and Bosnia and Herzegovina and further data are unavailable.

Annex 2: List

2a. 2 On the basis of the statements of persons released from

Croatian prisons and other sources, out of 956 persons following the imprisonment and arrest, 61 persons, mostly members of the former JNA, were alive and kept in the prisons in the Republic of Croatia. In the meantime, 5 persons were released and mortal remains of one person were recovered.

The list of 55 persons believed alive includes:

a) pilots:

1. Colonel Radislav Moric, of father Antun, reported missing on 13 April 1992,
2. Captain Slobodan Medić, of father Dragan, reported missing on 2 May 1992,
3. Major Miroslav Milutinović, of father Momir, reported missing on 2 October 1991,
4. Captain Nešo Vrangellovski, of father Ramazan, reported missing on 5 September 1991, and
5. Lieutenant Valter Jurišić, of father Mario, reported missing on 19 September 1991.

Pilots Colonel Radislav Moric and Captain Slobodan Medić are reportedly imprisoned after their aircraft were downed. The statements are enclosed to their files.

b) Soldiers taken prisoner on 2 May 1992 in the vicinity of village Donje Kolibe (Bosanski Brod) were interrogated for several days by the official authorities in a prison in Slavonski Brod (Republic of Croatia), after which 4 persons were released and mortal remains of 3 were taken over. we seek information on seven persons from the Republic of Croatia.

c) Reservists from the so called "Nikšić Group". Eleven persons were taken prisoner on 14 April 1992 in Mostar. Those persons were reportedly alive and were kept in prison Lora, Split. They were subsequently taken to Duvno and Livno.

d) Three reservists from the so called "Šavnik Group" taken prisoner

on 6 May 1992 near Čepikuće were also held by the Republic of Croatia.

e) There are indications that all above persons as well as other thirty persons from the list of 55 members of the former JNA are still alive and are held in various Croatian prisons, most of them in Lepoglava, despite the Croatian claims to the contrary.

Annex 3: File for persons from the list of 55

2a. 3 It is also requested from the Croatian side to hand over the mortal remains of 96 members of the former JNA. There is evidence that these persons were killed and buried in the territory of the Republic of Croatia. The FR of Yugoslavia provided all relevant information to the Croatian side concerning the time and place relevant to their death.

Annex 4: List

2a.4. The Yugoslav side seeks information on the persons taken prisoner in 1991 in Vukovar before the outbreak of war conflicts when the authorities of the Republic of Croatia were in power in Vukovar.

Annex : List and files

2a.5 The Commission of the Government of the FR of Yugoslavia for Humanitarian Questions and Missing Persons has still not received the information and documentation for persons reported missing in 1991 from the following localities: Gospić; Zagreb, Military Hospital; Bjelovar barracks; Bjelovar-Kišova farma; military barracks in Osijek; military Barracks in Vinkovci; Military Barracks in Logorište in Karlovac; the Bridge over the Korana River, Karlovac; Paulin Dvor and Kip; Village Vaški and Maćeška Šagovina.

2b. In addition to problems related to the missing persons in the Republic of Croatia, the FR of Yugoslavia is also looking for 112 persons members of the former JNA, whose fate is still unknown.

Since the outbreak of the war conflicts in the territory of Bosnia and Herzegovina and the departure of JNA from Bosnia and Herzegovina, there were several attempts to establish contacts with the Muslim side to resolve the questions of missing persons from the list of the FR of Yugoslavia in

order to clarify the fate of the members of the former JNA who were killed in the attacks on the JNA columns in Sarajevo and Tuzla, in May 1992 and other individual cases. Due to well-known events in Bosnia and Herzegovina until 15 October 1995 there were no official contacts and talks with the Muslim side. There were some contacts and talks through the Republic of Srpska, whereupon the Muslim side released a number of the imprisoned and arrested persons. Second meeting and talks with the Muslim side was scheduled for 5 November 1996 in Belgrade, but it failed to appear. On 10 and 11 December 1996 there was a meeting in Belgrade between the members of expert groups of the Commission of the Government of the FR of Yugoslavia for Humanitarian Questions and Missing Persons, Commission of the Government of the Republic of Croatia for Imprisoned and Missing Persons, Commission of the Republic of Srpska and the Croatian part of the Commission. The representatives of the Muslim side in Bosnia and Herzegovina were also invited but again failed to appear.

We particularly appeal to you to help us resolve the question of the missing persons in the territory of Bosnia and Herzegovina whose names appear on the list of the FR of Yugoslavia.

Annex 6: List

3. Persons from the list of missing persons for whom there is information that they are in Croatian prisons.

The information that are sought concerning the knowledge that the Republic of Croatia holds a number of imprisoned persons, arrested persons from the Yugoslav list and from the list of the Centre for Collecting Documents and Information "Veritas" are already provided attached to the files of those persons and need not be repeated. However, the Republic of Croatia has denied all those allegations at all past talks, nine in all, with the Commission of the FR of Yugoslavia. We therefore ask that the statements attached to the files on imprisonment and arrests have to be carefully considered by Mr. Vance's Commission. All those information should be presented to the Croatian side and means and methods should be devised to have the Republic of Croatia honour them. From the past practice, talks and the exchange of prisoners, it is evident that the Republic of Croatia has consistently denied that some persons were on the lists only to subsequently release them. For example, Croatia has denied for more than a year that it held Major Glavaš. It was not possible to determine his fate. Suddenly, at the prisoner exchange in Čelebić, on 19 June 1993, Major Glavaš was

brought in.

There is a great problem involving missing persons in view of the fact that the Republic of Croatia provided different information to the Commission of the Government of the FR of Yugoslavia for Humanitarian Questions concerning the fate of pilots Radislav Moric and Slobodan Medić. Namely, at several talks and meetings, the Croatian authorities claimed that the two pilots were killed and the sites where they were buried were known. However, the fate of the two pilots even after five years and negotiations with the Republic of Yugoslavia has not been established. The Republic of Croatia now claims that they do not have the mortal remains of Radislav Moric and Slobodan Medić. Instead they have submitted "certain papers" from which it stems that those persons are neither dead nor alive which is unacceptable for the FR of Yugoslavia.

We consider that in connection with this problem special efforts need to be undertaken to be able to resolve the question of the pilots. The Croatian side has to be aware, which is evident from the enclosed documents (witness accounts) that the authorities of the Republic of Croatia are aware of problems related to the pilots and that they have to act accordingly.

4. The information suggesting that the Croatian Government has information which it failed to provide on the question of some of the persons from para 2.

The information which the Croatian Government failed to provide on the question of persons looked for by the FR of Yugoslavia are based on:

- the statements of released persons (attached to the files).
- information gathered from the relatives through different channels,
- telephone and written information sent to relatives from abroad informing that their relatives are in prison,
- tapes and videos on the arrest of the missing persons in possession of the relatives or competent authorities.

5. The most pressing requests for financial or other help concerning missing persons where we expect the support of the ICMP.

1. Identification and release of all persons

2. Financial help is needed for:

- the work of the teams to establish burial sites of the killed and unidentified persons outside the territory of the FR of Yugoslavia as well as the work of the teams for exhumation and identification;
- burial of killed persons;
- assistance to families related funeral costs;
- assistance to the activities of the Association of the relatives of missing persons.

Most importantly, the Association of families and members of the family should be informed of the actions undertaken by the Commission with a view to investigating the question of missing persons, difficulties arising therefrom and which of the sides fails to cooperate in that respect.

6. As for para 6, from Mr. Vance's letter, concerning the issue of missing persons, the Commission of the Government of the FR of Yugoslavia for Humanitarian Questions and Missing Persons cooperates with non-governmental organization "Veritas" which covers the Serb Krajina (UNPA Sector) and which so far extended minimum financial assistance.

7. As for para 7, the ICMP can help expedite the process of resolving the question of missing persons, if:

1. pressures are brought to bear on all interested parties in Bosnia and Herzegovina and Republic of Croatia so that the provisions of the Dayton Agreement relating to the release of all prisoners be implemented. All deadlines expired long ago.

2. the Republic of Croatia which holds in its prisons persons from the territory of Bosnia and Herzegovina and denied at all meetings that the provisions of the Dayton Agreement pertain to the release of persons from the Republic of Croatia, is made to honour the provisions of the Dayton Agreement.

3. all sides be as soon as possible made to submit all available documentation on killed, identified or unidentified persons, and the sites where they were buried.

4. all sides (Republic of Croatia, Muslim-Croat Federation of Bosnia and Herzegovina) respond to submitted requests concerning missing persons

as soon as possible.

The FR of Yugoslavia stands ready to cooperate and consistently implement all commitments it has undertaken.

COMMISSION OF THE
GOVERNMENT OF THE FR OF
YUGOSLAVIA FOR HUMANITARIAN
QUESTIONS AND MISSING PERSONS

Chairman of the Commission

Prof. Dr. Pavle Todcrović, sgd.