



International Organization for Migration (IOM)  
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## **Reparations for Wartime Victims in the Former Yugoslavia: In Search of the Way Forward**

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### *Disclaimer*

This Report does not represent the views of either the Ministry for Foreign Affairs of Finland or the International Criminal Tribunal for the Former Yugoslavia. While its content draws from consultations with local, regional and international stakeholders, the recommendations and views contained herein do not necessarily reflect their opinions either. It is the author who takes full responsibility for the views expressed in this Report, including any errors.

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## Abbreviations

<b>BiH</b>	Bosnia and Herzegovina
<b>ECtHR</b>	European Court on Human Rights
<b>ICMP</b>	International Commission on Missing Persons
<b>ICTY</b>	International Criminal Tribunal for the former Yugoslavia
<b>IDPs</b>	Internally Displaced Persons
<b>IMF</b>	International Monetary Fund
<b>IOM</b>	International Organization for Migration
<b>Kosovo/UNSC 1244</b>	UNSC resolution 1244-administered Kosovo
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>RECOM</b>	Regional Commission Tasked with Establishing the Facts about All Victims of War Crimes and Other Serious Human Rights Violations Committed on the Territory of the Former Yugoslavia in the period from 1991-2001
<b>RHP</b>	Regional Housing Programme
<b>RWL</b>	Regional Women's Lobby
<b>SFRY</b>	Socialistic Federative Republic of Yugoslavia
<b>UNDP</b>	United Nations Development Programme
<b>UNFPA</b>	United Nations Population Fund
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Executive Summary

The **core objective** of this Report is to facilitate discussions and political decision making about reparations for victims of international crimes (genocide, crimes against humanity and war crimes) committed during the “Yugoslav wars,” as they are defined in and covered by the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY). This Report is the outcome of a project initiated by a request from the Office of the President of the ICTY to develop a set of concrete recommendations or suggestions on this issue. To provide a starting point for discussions, this Report examines what a comprehensive reparations effort could look like and how it could be achieved given the current context. It is intended to support ongoing efforts by international organizations, civil society actors, victims’ associations, and a number of political actors to try and move this issue forward. The Report was put together on the basis of broad consultations in the region,<sup>1</sup> a comprehensive desk review and the experience of IOM in implementing large-scale reparations programs and working with authorities and civil society actors around the world on victims’ reparations efforts.

In **Part I**, the Report sets the scene by reviewing the current status of the “reparations issue,” including the principal expectations and prospects for future action. As will become clear in the Report, many (if not most) victims of international crimes committed during the Yugoslav wars have remained without an effective remedy. Despite the fact that these crimes occurred many years ago, victims continue to demand that justice is finally done. In the view of those consulted by IOM, full reconciliation remains impossible without a holistic and integrated way of dealing with the wartime past, including reparations for all victims. A “comprehensive” approach to reparations would entail that all victims have access to an effective remedy for the violations they suffered from, and this implies the establishment of a dedicated procedure and process, i.e. a reparations program. Despite the absence of a comprehensive approach, there are multiple and ongoing initiatives to address the reparations gap, which hold significant promise and could be built upon in the context of a comprehensive reparations program.

Victims’ associations and civil society actors are unlikely to abandon their political fight for reparations any time soon. There is an active civil society sector that will continue to pursue a variety of strategies to make governments take action on this matter, including strategic litigation before domestic, regional and international jurisdictions. Many interlocutors made the explicit connection between the former Yugoslavia countries becoming modern, forward-looking democracies and the need to finally provide victims with the redress they are entitled to. Adopting adequate reparations policies is hence perceived not only as something to address the past, but as something that is required for a more prosperous and peaceful future. Views about victims’ reparations differ amongst national political actors, but many acknowledged that a victims’ reparations gap remains and should be addressed. The evident lack of significant progress appears to have more to do with the lack of strong political leadership than with an active resistance to address the issue. This provides an opportunity for willing international and/or regional (inter)governmental actors to encourage willing local political actors to come together and pursue a common strategy around concrete proposals for a comprehensive reparations effort.

In **Part II**, the Report identifies the different “decision points” – i.e. critical issues and topics – that stakeholders need to consider when giving shape to a comprehensive reparations effort. These decision points include whether to have one regional effort or multiple national efforts; the victims that should be included in the reparations policy; what the content and objectives of a reparations effort would be; what remedies or benefits a reparations program should provide;

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<sup>1</sup> The available resources for this project did not allow for consultations amongst the large diaspora community from the former Yugoslavia, amongst whom there are also many victims. It is clear, however, that their participation in the eventual political process to establish a comprehensive reparations program would be critical.

what the standards of evidence should look like; what institutional framework should be used or established to implement the reparations program; how to fund the effort; the relationship between the new reparations program and past assistance programs; and, finally, the form the foundational document would take (e.g. international treaty, declaration, law).

While this part is mostly intended to provide an overview of the areas where decision making is required, it also contains some strong recommendations based upon IOM's consultations, the context and the experiences of other countries. The first recommendation is to establish one regional rather than several national reparations programs. This recommendation has its basis in the context in which the international crimes occurred, the need to ensure that the reparations effort includes a strong formal recognition element that goes beyond each community or country solely recognizing "its own victims," and the potential for such a reparations effort to contribute to reconciliation at the national and regional level. The second recommendation is to opt for a reparations program that provides benefits based on violations rather than harm, has a light administrative process rather than a judicial or a quasi-judicial one, uses flexible evidentiary standards, foresees a broad range of future forward-looking benefits, and is victims centered in both its conception and implementation. It also suggests considering whether some victims would receive symbolic reparations, concentrating limited resources on victims who are the most vulnerable today. The third and final recommendation is, for the purpose of the institutional framework, to distinguish between victims' registration and the recognition of victims' status on the one hand and the provision of material benefits on the other hand. Notably, implementation of the former could start prior to a full agreement about the latter.

Finally, in **Part III**, the Report discusses the process that could lead to the establishment of a comprehensive reparations effort for victims of international crimes committed during the Yugoslav wars. To increase the chances of success, such process would need to be participatory, inclusive and transparent, with the Report pointing towards what this could mean in practice. The Report also highlights the need to pay special attention to ensure the participation of victims belonging to minority communities, victims who are not organized or part of existing victims' associations, and victims who face particular social stigma or exclusion such as victims of sexual violence. Gender considerations are also critical for a process that wants to create a genuinely victims centered reparations effort.

As concrete next steps, the Report firstly proposes a set of technical workshops around reparations for key stakeholders in the region to encourage a common understanding and language around reparations, which would facilitate the eventual political process to create a reparations program. In the same vein, the Report also proposes that relevant international and regional actors support victims' associations and civil society actors across the region to develop a common reparations program proposal. In preparation of an eventual reparations program, but also to contribute to victims' recognition, the Report suggests to map the currently available information about victims and identify what data gaps exist. The current situation of multiple actors who each hold some victims' data is not unique to the former Yugoslavia, and the experience in other post-conflict countries suggests that efforts to find out what actors hold data of what victims and to identify the extent of the data gaps are in itself meaningful, independent of how soon a reparations program will become operational. To support the political process, the Report recommends the organization of a regional political meeting by interested international and/or regional actors (e.g. the ICTY) to discuss possible ways forward to address the victims' reparations gap related to the Yugoslav wars. Finally, the Report suggests that stakeholders create a mixed civil society – government regional working group on victims' reparations to start working out the concrete details of what can be done. International and/or regional actors could then support this working group by providing technical assistance where requested and facilitating progress when difficult issues arise.

*Genuine inter-ethnic reconciliation and durable peace in the region of the former Yugoslavia cannot be achieved without justice. Post-war justice is not only judicial and retributive, aimed at punishing those who have committed crimes through fair proceedings. It is above all restorative and preventive, aiming to provide redress to victims and to eliminate impunity and ensure that all people in the region come to terms with the past, and live in peace and security in cohesive, pluralist democratic societies.*

*Council of Europe, Commissioner for Human Rights,  
Post-war Justice and Durable Peace in the Former Yugoslavia, 2012, 9*

## Introduction

This Report is the outcome of a project initiated by a request from the Office of the President of the International Criminal Tribunal for the former Yugoslavia (ICTY) to the Land, Property and Reparations Division at the International Organization for Migration (IOM) to develop a set of concrete recommendations or suggestions on how the issue of reparations and redress to victims of war crimes in the former Yugoslavia could be addressed. This request occurred within the frame of the ICTY's Legacy Program and the ICTY President's commitment to explore to what extent, and how, the ICTY could contribute to ensuring that the victims would obtain redress for the crimes they suffered from.

The Report hence concerns the question of reparations for victims of international crimes (genocide, crimes against humanity and war crimes) committed during the "Yugoslav wars," as they are defined in and covered by the mandate of the ICTY. The Yugoslav wars include the conflict in Slovenia between June and July 1991; the conflict Croatia from 1991 to 1995; the conflict from 1992-1995 in Bosnia and Herzegovina; the conflict in UNSC resolution 1244-administered Kosovo<sup>2</sup> that took place between 1998 and 1999 and the conflict in the Former Yugoslav Republic of Macedonia that occurred between January and August 2001.

As will become clear in the Report, many (if not most) victims of international crimes committed during the Yugoslav wars have remained without an effective remedy, in breach of international law provisions in this respect. Despite the fact that those crimes occurred many years ago, victims, through their associations and with the support of local and international NGOs, continue to demand that justice is finally done. Together with many other observers, they argue persuasively that full reconciliation remains impossible without a holistic and integrated way of dealing with the wartime past, including reparations for all victims.

### a. Purpose and Scope

The **core objective of this Report** is to facilitate the discussions and political decision making about reparations for wartime victims of international crimes in the former Yugoslavia. It is intended to support ongoing efforts by international organizations, civil society actors, victims' associations, and a number of political actors to try and move this issue forward. As a starting point, this Report examines what a **comprehensive** reparations effort could look like and how it could be achieved given the current context.

A "comprehensive" approach entails that all victims of international crimes committed during the Yugoslav wars would have access to an effective remedy for the violations they suffered from, independent of where they currently reside; what ethnic, national or religious community they belong to; and what gender they are. By necessity, this implies the establishment of a dedicated procedure and process, i.e. a reparations program. This Report examines what would be involved in creating such a program.

Institutionally, IOM does not "advocate" for one particular reparations effort over another, to the extent of course that the relevant international law provisions are respected. Indeed, what such an effort would look like in the context of the Yugoslav wars is for the relevant stakeholders to decide. At the same time, by setting out the key decision points and providing some recommendations for both the contours and the concrete next steps for a comprehensive reparations program, IOM does hope that the Report will provide stakeholders with clear ideas on what can (and maybe also cannot) be done.

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<sup>2</sup> Hereinafter referred to as Kosovo/UNSC 1244.

In pursuit of this objective, the Report first provides a brief overview of the current status of the “reparations issue” in the former Yugoslavia (**Part I**). The Report then proceeds by setting out the many decision points that policymakers and stakeholders need to consider when giving shape to a comprehensive reparations program (**Part II**). Finally, the report suggests a number of concrete next steps that various stakeholders could take towards the establishment of a comprehensive reparations program for victims of international crimes committed during the Yugoslav wars (**Part III**).

## b. Methodology

This Report and the recommendations it contains are based upon:

- **An extensive desk review** of relevant academic literature; official documents; and NGO and civil society reports and press releases (the bibliography of all documents reviewed in this respect is contained in [Annex 1](#) to the Report);
- **Broad consultations** with victims’ associations, NGOs, civil society actors, government representations and relevant regional and international stakeholders, involving multiple field trips to Bosnia and Herzegovina, Croatia, Montenegro, and Serbia and Kosovo/UNSC 1244 as well as Brussels, Oslo and Washington DC ([Annex 2](#) to the Report contains a list of all individuals consulted in the frame of this endeavor);
- **IOM’s operational experience** in implementing large-scale reparations efforts including the German Forced Labor Compensation Program (providing compensation to, amongst others, thousands of victims in the Former Yugoslavia); the Holocaust Victims Assets Program; the Roma Holocaust Survivors Programs; and IOM’s involvement in advising multiple governments, international partners, civil society actors and communities on developing and implementing victims’ reparations policies in countries like Colombia, Iraq, Nepal, the Philippines, Sierra Leone and Turkey as well as its peacebuilding and victims’ reparation activities in the region (e.g. IOM’s past and present engagement with providing reparations to Roma Holocaust survivors in the frame of the Swiss Bank funds); and
- **International norms and standards** regarding victims’ reparations as well as good practices related to victims’ reparations programs and transitional justice efforts in post-conflict contexts.

## c. Terminology: Victims or Survivors

At the outset of drafting the Report, IOM considered whether to refer to those who suffered from international crimes during the Yugoslav wars as “victims” or to employ the term “survivors”, which seemed to better capture the experience and agency of those affected. While there is much to be said to more routinely employ the latter term in academic research, advocacy work and policy development around transitional justice, IOM decided in the end to use the term “victim,” as it is also this term which can be found in international law and policy governing reparations for international crimes. Rightly or wrongly, it was felt that this would facilitate the acceptance of the Report by the different audiences it is intended for.

## d. General Considerations and Principles

The following general considerations and principles guided the drafting of this Report as well as the formulation of the recommendations contained herein:

- ✓ The right of all wartime victims of international crimes to an effective remedy for the harm inflicted on them;
- ✓ The right of such victims to receive reparations on the basis of fairness, equality, impartiality and hence independent from the religious, political, ethnic or other type of community they belong to;
- ✓ The fact that, under international law, states bear the prime responsibility for providing victims with an effective remedy including reparations for the humanitarian law and/or human rights violations they suffered from on their territory;
- ✓ The critical importance of a victims-centered and gender-sensitive approach to both the development and the implementation of any reparations scheme;
- ✓ The need to put “practicability” at the heart of any proposed reparations effort and to take into account the local, regional and international context in which such effort would need to be developed and implemented;
- ✓ The incomplete nature of reconciliation in the former Yugoslavia, the highly sensitive nature of the war’s legacy, and the need to avoid creating new divisions and/or further deepening existing divisions amongst individuals and communities; and
- ✓ The mandate and jurisdiction of the ICTY and the content of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.<sup>3</sup>

Throughout the consultations and the drafting of this Report, IOM has been careful to observe full impartiality and objectivity towards the various stakeholders, while at the same time clearly siding with the wartime victims of serious violations of human rights and humanitarian law and seeing this project as an opportunity to advocate for the full respect of their right to an effective remedy.

#### **e. Exclusion of Land and Property Rights Violations**

This Report does not cover the question of wartime related land and property restitution for refugees and internally displaced persons. This is mainly due to the fact that, unlike other types of wartime human rights and humanitarian law violations, the issue of housing, land and property rights violations has already formed the object of a number of more or less comprehensive efforts to provide redress to the victims. These efforts include the large-scale land and property restitution carried out in Bosnia and Herzegovina (BiH) in implementation of the Dayton Peace Accords, as well as the more recently established Regional Housing Program that aims to provide housing solutions to vulnerable families who became refugees or internally displaced during the Yugoslav wars.<sup>4</sup>

While the existence of such initiatives does not exclude that some victims may continue to have legitimate claims or complaints about their wartime land and property losses, it does mean that

<sup>3</sup> The ICTY mandate includes Bosnia and Herzegovina, Croatia, Kosovo/UNSC 1244, Montenegro and the Former Yugoslav Republic of Macedonia. Considering the relatively low number of wartime victims residing on the territory of Montenegro and the Former Yugoslav Republic of Macedonia, IOM field consultations have primarily focused on BiH, Croatia, Serbia and Kosovo/UNSC 1244. This decision was based solely upon the need to balance the limited financial resources available for this assessment and does not in any way imply that the past suffering of victims in those two countries deserve less attention or inclusion in any future reparations effort.

<sup>4</sup> For further information, see page 18.

it is highly unlikely that any new large-scale initiatives will be undertaken as regards these particular types of violations. In that sense, the exclusion of land and property rights violations from this Report seems justified. Clearly, victims who were also forcibly displaced and recovered their property under past efforts could still fall within the scope of this Report to the extent that, as was often the case, they also suffered from other serious human rights violations or war crimes.

## f. Consultations with the Diaspora

In light of the limited resources available, IOM focused its attention exclusively on consultations with victims' associations and civil society actors currently present inside the countries of the former Yugoslavia. No outreach was done in respect of victims amongst the diaspora from the region, which is a sizeable population as shown in the table below.<sup>5</sup>

Places of Origin	Diaspora Size	
	Total	Top Countries of Residence
Bosnia and Herzegovina	Estimated around 1.3 million	Germany: 216,085 Austria: 134,650 USA: 100,134 Switzerland: 82,000 Sweden: 53,949
Croatia	<i>Not available</i>	Australia: 51,909 Austria: 38,994 Canada: 39,656 Germany: 243,614 USA: 41,962
Macedonia	Estimated between 350,000 to 700,000	Australia: 43,527 Switzerland: 41,833 USA: 19,022 Germany: 16,287 Canada: 7,330
Serbia and Montenegro	<i>Not available</i>	Germany: 425,358 Switzerland: 161,068 Austria: 143,563 USA: 116,568 Turkey: 112,419
Kosovo/UNSC 1244	Estimated around 800,000	Germany, Switzerland, Italy, Sweden, USA <sup>6</sup>

From a transitional justice viewpoint, the participation of the diaspora in the deliberations about the shape and scope of an eventual reparations program would be desirable, as this population also includes a significant proportion of victims. The feasibility of an extensive, international consultative process will, however, inevitably depend at least in part on the resources available, although the use of social media could reduce the cost somewhat. Moreover, the access to the eventual reparations program should, ideally, also be open to victims currently living outside the countries of the former Yugoslavia to the extent that they fill the eligibility criteria determined for such a program.

<sup>5</sup> Following sources were used: Development Research Center on Migration, Globalization and Poverty, Global Migrant Origin Database, Updated March 2007, [http://www.migrationdrc.org/research/typesofmigration/global\\_migrant\\_origin\\_database.html](http://www.migrationdrc.org/research/typesofmigration/global_migrant_origin_database.html); Halilovich, H. (2012), Trans-Local Communities in the Age of Transnationalism: Bosnians in Diaspora. *International Migration*, 50: 162-178.; UNDP Kosovo Remittances Study 2010, <http://www.kosovo.undp.org/mwg-internal/de5fs23hu73ds/progress?id=7tRxoqm13y>

<sup>6</sup> Detailed figures are not available.

## PART I: PAST EFFORTS AND FUTURE PROSPECTS

This first part of the Report briefly looks at two related issues: first, what have been the main results and what are the prevalent views about past efforts to provide reparations to victims of international crimes committed during the Yugoslav wars; and second, what are the principal expectations and prospects for future action in this respect. The intention is not to treat either topic in a comprehensive or exhaustive manner. Rather, in line with the scope and the focus of the project, this section sets the scene regarding the current status of reparations efforts by providing a set of relatively broad findings and observations.

### 1. Past Efforts Regarding Victims' Assistance and Reparations

#### **Key Observation 1: Reparations efforts have been insufficient and incomplete and many victims remain without an effective remedy**

This observation, sustained by both the desk review and the consultations carried out by IOM in the frame of this Report can be broken down in a number of sub-observations that together confirm a widespread sense of “justice not done”:

- *Past victims' assistance efforts differ from country to country but no state has made a comprehensive effort, with NGOs and victims' associations left to fill the gaps*

The countries of the former Yugoslavia have dealt with reparations and assistance for wartime victims in different ways, reflecting in part their distinct experiences during the Yugoslav wars. None, however, have dealt with victims' reparations in a comprehensive manner, and nowhere have all victims been able to access the effective remedy to which international human rights and humanitarian law entitles them. In that sense, these country experiences are similar, with the current situation in all of them remaining one of “justice not done”.

In the absence of an adequate state response, NGOs and victims' organizations have filled some of these gaps by providing humanitarian assistance to those victims they feel need it most. Most organizations have “specialized” in one particular category of victims, frequently related to what their founders went through during the war. Their assistance has been provided largely with international donor funding, which, as most organizations told IOM, has been on the decline, resulting in assistance gradually being cut back.

- *Existing mechanism do not cover everyone and frequently fail to cover even those for whom they are intended*

The difficulties victims face in accessing established benefits are well documented. They include restrictions imposed on the basis of current place of residence, application deadlines that are too short, and evidentiary rules that lack sufficient flexibility to accommodate genuine victims' claims. This is particularly the case in BiH, where organizations complained of the inconsistent application of existing victims' legislation and the outright discrimination that some victims faced in the context of continuing ethnic divisions. In all countries, victims' associations complained of a widespread lack of interest amongst authorities when it comes to matters related to victims.

In all countries, there appeared to be some consensus that victims of sexual violence have had the greatest difficulties, both in accessing assistance and in obtaining some form of redress. IOM was told of many victims who were excluded from their own families and communities, and are now trapped in poverty and persistent vulnerabilities, with their children frequently facing cruel discrimination. Due to the slow progress and piecemeal nature of criminal prosecutions,

many of their perpetrators continue living in the same communities, which was often cited as posing an additional burden for victims of sexual violence.

Finally, the existing legislation in each state only covers certain categories of victims of international crimes committed during the Yugoslav wars. For those that are not covered, the only option for pursuing reparations from the perpetrator or the state is through a judicial process, an option that is also fraught with difficulties, as will be discussed further.

This failure of the respective states to fully satisfy the victims' right to an effective remedy has led to multiple expressions of concern and condemnations from a wide-variety of human rights bodies including the UN Human Rights Committee and the UN Committee on Social and Economic Rights, as well as respected international NGOs such as Human Rights Watch and Redress, amongst others.

### ***Law on Missing Persons in BiH: Compensation Blocked Through Political Disagreements***

The Law on Missing Persons of 21 October 2004 is the only state-level law in the BiH that contains provisions for victims' compensation, as all other victims' assistance and benefits legislation exists at the entity<sup>7</sup> level only. While there have been positive developments in terms of implementing this law, the articles providing for compensation for family members have remained inoperative due to the inability of the two entities to agree on whom should finance what proportion of the fund. This is in turn related to a fundamental disagreement about who was responsible for what proportion of the wartime violations and, indeed, the starting of the war itself.

The inability of the political actors to come together to establish the missing persons fund, and the strong politicization of the missing persons file as a whole, are themselves symptomatic of the deep divisions that continue to persist amongst political elites in BiH. These divisions have led to what some observers have termed a "paralysis of governance" in BiH, which, undoubtedly, is in itself a formidable obstacle to decision making on a future reparations effort for wartime victims. In the particular case of the families of missing persons, the end result of the political deadlock on the compensation fund issue is that, in terms of reparations, so far they have received nothing.

- *Past programs are not seen as genuine "reparations programs" but are considered more as ordinary "social programs"*

A comprehensive opinion survey could reveal the full range of opinions amongst victims, but the victims' associations consulted by IOM did not appear to regard past or ongoing state programs as genuine "reparations programs," even when accounting for the fact that levels of knowledge and understanding about what a genuine effort should look like tend to vary quite strongly amongst those actors. Interlocutors described these programs as welfare or social benefit programs that differ little from the ordinary state support provided under the remnants of the social assistance infrastructure of the Socialistic Federative Republic of Yugoslavia (SFRY).

Reasons cited for why these programs fall short of reparations included the lack of formal recognition they provide to victims; their piecemeal nature targeting some but not all victims; the lack of awareness amongst the general population about their nature and purpose; the fact that they did not result from a broad and inclusive process of dealing with the wartime past, but were the outcome of ordinary legislative acts; and their similarity to programs designed to

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<sup>7</sup> The term entity here describes political/administrative unit as applicable to BiH.

support war veterans, patriotic defenders and former combatants and persons living with disabilities, amongst others.

- *Despite formal rights, judicial reparations have remained elusive for most victims*

Under the prevailing national law in each country, victims generally have the right to file a claim for reparations in the criminal proceedings against their perpetrator(s). Civil compensation claims also tend to be an available avenue, and sometimes this is the only option given to the victim. In BiH, for example, criminal courts frequently decide to refer victims' reparations claims to the civil court, ostensibly to avoid delaying the criminal judgment.

In practice, however, IOM was told that victims in all countries face a multitude of frequently insurmountable barriers to obtain redress through the courts. These include the lack of financial means for court and lawyers' fees, the psychological and physical burdens that the invariably long trials pose on victims, the unavailability of sufficient documentary evidence, and a continued lack of awareness amongst victims about the extent of their rights in this respect. Hurdles are even higher for those victims whose perpetrators have never been caught or prosecuted, since a criminal trial was never held in which they could participate and demand reparations. Finally, IOM was told that obtaining a reparations award does not guarantee an effective remedy, as enforcement frequently turns out to be every bit as cumbersome as obtaining the award itself.

As a result, the judicial route has not been able to offer effective access to reparations for the vast majority of victims of international crimes in the former Yugoslavia, an experience that is common to many other post-conflict settings. While a minority of victims has obtained redress through court procedures, most have been unable to do so.

- *Continued discrimination between veterans and civilian victims under existing programs contributes to the sense of "justice not done"*

It is well documented in various Reports, and was repeatedly raised during IOM's consultations with victims' association, that existing war-related payment and benefit schemes tend to treat civilian victims and veterans differently. Not only do the former invariably receive less benefits than the latter (even when the harm is similar or, at least physically, identical) but, according to many interlocutors, veterans also tend to have it easier than civilian victims when it comes to accessing the established benefit schemes.

This discrimination against civilian victims was frequently presented by local IOM interlocutors as symptomatic of a dominant post-war discourse that exalts those that fought "for our side" but has remained silent about the civilian victims that got hurt in the process. Interlocutors highlighted that, up until recently, political discussions about reparations and compensation almost invariably only concerned former combatants and their families, a fact that was often connected with the prominent role that veterans have played – and continue to play – in local and national politics.

Regardless of its origins, the differential treatment of civilian victims and veterans is seen as contributing to the civilian victims' perception of "justice not done" and their feelings of abandonment by their state and the broader society.

- *As important gaps regarding victims' data remain, it is difficult to assess how many victims are in need of reparations today*

Much information about victims has been collected and meticulously kept since the Yugoslav wars ended, including large data sets such as the Bosnian Book of Dead Database. The data, however, is spread out amongst a multitude of organizations and authorities, which have not necessarily followed identical data collection methods nor collected the same type of information about the victims they covered or were interested in.<sup>8</sup> IOM was told that efforts to build comprehensive victims' lists or databases have faced multiple difficulties, including funding gaps, and that this consolidation work remains to be done.

In addition, there are victims whose information has never been captured. A recent OHCHR Report on the victims of sexual violence from the armed conflict in Kosovo/UNSC 1244, for example, concludes that there is no accurate data on the incidence of this type of violence during the conflict and that victims' figures remain incomplete and flawed. Given the fact that existing victims' data is highly dispersed, it is difficult to determine whether existing information is up to day or to say how many victims have remained outside data collection efforts altogether.

The lack of a comprehensive overview of victims' data, including what information is available where, renders it difficult to determine the number of victims that would need to be covered by a future reparations program, although studies with estimates of victims' numbers do exist. This is not a challenge that is unique to the former Yugoslavia. It is a common phenomenon in most post-conflict situations, and experience shows that this challenge can be overcome through a combination of mapping what is available and modeling based upon existing studies.

Finally, interlocutors also pointed out that in the absence of one centralized victims' database also made it easier to politicize the data held by organizations from other communities or other real or perceived political leanings. It was felt by some of the civil society actors that the scattered nature of victims' data today had hindered reconciliation and that it is one of the key obstacles to formal recognition for the victims.

- *The symbolic, reparative impact of public apologies is seen as having been limited by the absence of a comprehensive reparations*

Public apologies can, in certain contexts, have an important symbolic reparative impact upon the victims and their broader community. While there have been multiple public apologies about the crimes committed during the Yugoslav wars from political and military leaders from all sides, including some by those convicted by the ICTY, victims' associations have frequently questioned the real impact they could have, particularly given the continued absence of a comprehensive approach to reparations in the region.<sup>9</sup>

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<sup>8</sup> These differences in approaches are usually connected to the fact that data was collected with a particular project, program or policy in mind.

<sup>9</sup> Most recently, the newly elected Serbian President, Tomislav Nikolic, apologized on Bosnian public television for the killings in Srebrenica, although this drew criticism from victims' organizations for his failure to use the word "genocide. Other prominent leaders to apologize have included Yugoslav Army General Dragoljub Ojdanic (for war crimes committed against Kosovo Albanians); Croatian President Ivo Josipovic (for crimes committed in Bosnia and Herzegovina); the then Serbian President Boris Tadic (for war crimes committed in Bosnia and Herzegovina); the then President of Serbia and Montenegro Svetozar Marovic (for crimes committed in Croatia and Bosnia and Herzegovina); the then President of Croatia Stjepan Mesic (for crimes committed by citizens of Croatia); and then Bosnian Presidency Chairman Alija Izetbegovic (for war crimes committed by Bosnian Armed Forces against Bosnian Croats and Serbs).

## **Key Observation 2: Despite the absence of a comprehensive reparations approach, there are multiple initiatives ongoing to address the reparations gap**

The fact that the various states involved have so far failed to adopt a full reparations policy for victims of international crimes committed during the Yugoslav wars does not mean that there have been no attempts to address this situation. If anything, the past two or three years have seen an upsurge in initiatives, debates and publications around restorative justice for those victims and the urgent need to comprehensively deal with the legacy of the Yugoslav wars, often emanating from the vibrant civil society inside the region but sometimes also involving government actors. Clearly, any additional efforts towards a comprehensive reparations policy will benefit from, and should build upon, these existing initiatives.

➤ *A number of recent initiatives hold significant promise but still remain incomplete*

Looking at the transitional justice landscape in the former Yugoslavia today, there are a number of initiatives of scale that stand out in terms of their significance and potential for improving the way in which the wartime past is addressed in each of the countries. Sometimes they are regional in nature, while in other instances they are nationally based. One common feature, however, is that despite the sometimes considerable progress made in process and policy, all remain incomplete today as they await political decision making in order to become full-fledged programs or laws.

The effort in BiH to develop a ***National Transitional Justice Strategy*** is a first example in this respect, one which holds both positive and negative lessons for the future development of a reparations policy. The UNDP-supported strategy development process was successful in bringing together the federal Ministries of Justice and Human Rights and Refugees; the relevant entity, district and local-level authorities; and representatives of civil society and victims' associations from all parts of the country. These actors were able to come to a consensus on a final text which was adopted at the end of 2011 by the Expert Working Group established by the Federal Council of Ministers. At the time this Report was being finalized, however, there was no indication that the Council would soon adopt the Strategy and turn the document into an operational reality for the victims. While some interlocutors criticized the fact that the final text of the Strategy leaves many sensitive matters unaddressed, essentially deferring them to the moment of implementation, the adoption of a text by consensus is undoubtedly an important positive development, and an encouraging sign for the prospects of an eventual comprehensive reparations program. On the other hand, the subsequent lack of political decision making regarding adoption of the Strategy points towards a more troubling legacy of political deadlock in BiH on initiatives to address the wartime past, and indeed many other issues that have no direct relationship with the past.<sup>10</sup>

As another example, efforts have been underway in BiH to establish a **Program for Improvement of the Status of Women Victims of Wartime Rape, Sexual Violence and other Forms of Torture**, a process supported by UNFPA. The Program plans to improve the national legal framework for dealing with those victims and its harmonization with international standards; improve access to free legal aid and adequate protective measures for victim witnesses at war crime proceedings; strengthen the capacity of service providers working with victims; and build partnerships between the governmental and the non-governmental sector in BiH. Undoubtedly, the program would be a significant step forward, as it would be the first state-level program to systematically deal with the consequences of the

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<sup>10</sup> This outcome is also in line with the precedent set by the Law on Missing Persons, in which case the victims' compensation provisions in the Law have never been implemented due to the inability of the Government to come to a decision on the funding mechanism. See also above, page 14.

sexual violence that occurred during the war in BiH. At the time of writing this Report, however, this Program had yet to be adopted as a formal policy by the Council of Ministers in BiH.

In recent years, Kosovo/UNSC 1244 has also launched a number of initiatives to deal with the wartime past and the violations that took place in that period, including the establishment of the **Kosovo War Crime Institute** with a mandate to initiate truth-seeking initiatives and collect data in this respect. Still, it is too early to say how these initiatives will develop further in practice, and to what extent they will indeed contribute to efforts to provide redress for all victims of international crimes in Kosovo/UNSC 1244.

At the regional level, an *initiative aimed at establishing a regional truth commission (RECOM)* that was started in 2008 by a coalition of NGOs is a prominent example of social and political mobilization around the wartime past. The core objective of RECOM is the establishment of a regional truth commission to determine the facts relating to victims and international crimes committed during the Yugoslav wars. The RECOM initiative now includes around 1,500 NGOs, associations and individuals from all countries of the former Yugoslavia, and has received political support from many quarters, including the Parliament of Montenegro; the Presidents of Croatia and Slovenia; the European Commission; the Subcommittee for Human Rights of the European Parliament; the Prime Minister in Montenegro and some political parties in the Serbian Parliament (prior to the 2012 elections).

While RECOM also faces some political opposition, it has emerged as the sole regional initiative around the wartime past that has gathered a high level support across countries and communities in the former Yugoslavia. The fact that it pursues a goal of regional truth-seeking renders it very compatible with an effort to establish a regional reparations effort, which the Report will discuss in its second part. Despite the promise it holds in terms of achieving momentum for a comprehensive approach to the wartime past, it is nevertheless important to underline the fact that, in spite of the considerable support RECOM has been able to gather, so far no truth commission has been established.

- *The establishment of the Regional Housing Program can serve as an example for a future reparations program*

One example of a recent regional effort that did result in the establishment of an actual program is the “**Sarajevo process**,” which aimed to find housing solutions for an estimated 74,000 wartime refugees, internally displaced persons (IDPs) and returnees in BiH, Croatia, Montenegro and Serbia. The process began with the Sarajevo Declaration in 2005, was supported by UNHCR and also the European Commission, and culminated in a joint declaration of the four countries in November 2011 to cooperate to address the enduring forced displacement issue in the region. The establishment of a **Regional Housing Program** was an integral part of this declaration, which in turn was followed by donor conference in April 2012, where nearly 500 million Euro was pledged towards housing solutions for these displaced populations.

From the perspective of a future reparations program, the Sarajevo process provides an important precedent for how all of the countries can come together to address an outstanding wartime legacy. Potentially, it provides a model that a future effort to establish a comprehensive reparations program could follow, particularly in terms of international and regional involvement and support. International interlocutors did caution, however, that this level of external financial support was unlikely to be repeated, though of course this does not preclude similar types of political support for the process as such.

➤ *The increase in regional collaboration on war crime prosecutions also holds promise*

The increased regional collaboration regarding both the prosecution of those responsible for war crimes and the identification of the remaining missing persons are additional positive developments that a regional discussion on reparations could build upon. A number of interlocutors highlighted the positive role that the desire for future European integration plays in this respect, pointing towards a potential role that the European Commission and key European Union Member States could play in supporting a political process to address the remaining issue of victims' redress.

➤ *Strategic reparations litigation is on the rise and unlikely to cease until a comprehensive reparations effort is put in place*

The continued absence of a comprehensive, state-led approach to victims' reparations has caused a number of national and international NGOs and victims' associations to step up their judicial efforts and to file or support reparations cases against the countries involved in the Yugoslav wars. Multiple cases have been brought before national courts in the region, the European Court on Human Rights (ECtHR) and the United Nations Committee on Human Rights.<sup>11</sup> Notably, victims' associations have also brought a number of cases in jurisdictions outside the region, with some cases even being brought against those governments themselves, such as in the Netherlands.

Potentially, these cases pose a considerable financial liability for the states involved. In BiH, for example, government actors have expressed full awareness of the prospect of having to pay large awards to victims, although no precautions had as yet been taken to ensure space in the national budget for the associated costs. Many interlocutors also highlighted that these cases, and especially those pending before the ECtHR, also constituted a political liability, especially in light of the desire of all countries to eventually join the European Union (with Croatia set to become an EU member on 1 July).

Both victims' associations and NGOs involved in these cases indicated that they intend to continue pursuing such strategic reparations litigation until a satisfactory, comprehensive solution is adopted by the relevant governments. Examples in other countries show that this type of litigation can continue for a long time and, eventually, compel the states concerned to establish a reparations program to end the ongoing litigation. One example is the litigation around reparations for WWII forced labor, which continued for more than five decades, eventually leading the German Government and German industry to establish the German Forced Labor Compensation Program in 2000. Similarly, victims of forced displacement in Turkey brought hundreds of cases for reparations before the ECtHR for years, until the Turkish Government eventually decided to establish a broad compensation program for those victims and adopted Law 5233.<sup>12</sup>

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<sup>11</sup> BiH, for example, has currently seventeen cases pending against it before the ECtHR. The violations alleged in these cases include the continued lack of effective investigations into disappearances and arbitrary detentions during the war amounting to a violation of Article 2 (right to life), Article 3 (prohibition of torture and inhuman treatment) and Article 5 (right to liberty and security) of the European Convention on Human Rights (ECHR). Additionally, the absence of a remedy amounts to a violation of Article 13 (right to an effective remedy) of the ECHR. Applicants usually ask the Court to grant adequate pecuniary compensation to cover both material and immaterial damages, in addition to other particular remedies.

<sup>12</sup> Law 5233 on the Compensation of Damages that Occurred due to Terror and the Fight Against Terrorism, July 2004.

***PALIC v. BOSNIA AND HERZEGOVINA:  
ECtHR Jurisdiction over Wartime Violations Related Cases***

Some (government) interlocutors told IOM that they were not overly worried about the cases pending before the ECtHR, as the wartime violations addressed in those cases all occurred before the countries of the former Yugoslavia ratified the European Convention on Human Rights. They argued that given this fact, the chances of being condemned by the ECtHR to pay considerable amounts of compensation were rather low. Following the ECtHR's decision in *Palic v. Bosnia and Herzegovina* (15 February 2011), however, it appears far from certain that this confidence is justified.

The case concerned the disappearance of the applicant's husband and the alleged failure of the authorities to properly investigate and provide adequate information. The Court ruled that, contrary to the argument of BiH, it did in fact have temporal jurisdiction to rule on the applicant's complaint by invoking the concept of a "continuing situation." While it is impossible to say whether the Court will always assert jurisdiction on this basis, the case clearly indicates that cases of wartime violations are not by definition beyond the ECtHR's purview to decide.

## **CONCLUDING OBSERVATIONS**

The general sense from both consultations and the desk review is clearly that past and ongoing reparations and victims' assistance efforts have fallen well short of what is required and, indeed, expected by those that suffered from wartime international crimes. Despite the considerable resources that governments have spent on a variety of programs and schemes, their piecemeal nature combined with their considerable shortcomings have meant that victims' redress is seen as something that still very much needs to happen. The consultations also clearly indicated that it is not an issue that will go away, and that there is an active civil society sector that will continue to pursue a variety of strategies to make governments take action on this matter, including strategic litigation before domestic, regional and international jurisdictions. Many interlocutors made the explicit connection between the former Yugoslavia countries becoming modern, forward-looking democracies and the need to finally provide victims with the redress they are entitled to. Adopting adequate reparations policies is hence perceived not only as something to address the past, but as something that is also required for a more prosperous and peaceful future.

## 2. Prospects for a Comprehensive Reparations Effort

Whether or not a comprehensive reparations effort for wartime victims of international crimes in the former Yugoslavia will ever be implemented depends on a number of factors, which as a whole are difficult to predict and assess. Usefully, however, a number of stakeholder groups can be distinguished who would influence the success of any effort at a comprehensive program. The key stakeholders are identified below, with the acknowledgement that this is somewhat of an oversimplification and that different stakeholder configurations could also be envisioned:

- Victims, their families and the associations that represent them (although not all victims are members of a victims' association, and some members are inactive), including those living outside the region;
- National and international NGOs and other civil society actors who often play a key role in supporting the victims and their reparations cause;
- National and local political actors who will need to come to a political agreement on the way forward in order to achieve any eventual reparations program;
- International and regional intergovernmental actors and countries who can play a role (both positively and negatively) in encouraging and supporting local political actors to come together around the topic; and
- The "general public" in the various countries of the former Yugoslavia, whose interest or lack thereof will have an impact on how local political actors view the reparations issue.

While it was well beyond the scope of this project to exhaustively assess all viewpoints and attitudes regarding victims' reparations amongst and within the many stakeholder groups listed above, the IOM consultations and desk review did allow for the formulation of a set of general findings and observations in this respect.

### **Key Observation 1: Victims' associations and civil society actors alike are unlikely to abandon their political fight for reparations any time soon**

As already indicated when describing the ongoing initiatives in this area, victims' associations and national and international NGOs and other civil society actors have no intention of ceasing to act and advocate for a comprehensive solution to victims' reparations. Although this is not the only issue they fight for – they also work to increase criminal prosecutions against perpetrators of international crimes, establish the truth about the wartime past and the violations that took place, strengthen local reconciliation efforts, and finalize and speed up the work regarding the remaining missing persons – interlocutors of these two stakeholder groups invariably stressed the central place of victims' reparations in their struggle for wartime justice.

The multiple non-governmental organizations working with victims or around victims' issues form a considerable resource from which a future reparations program could draw, and the RECOM initiative indicates to what extent multiple organizations can come together around a particular topic. In terms of their views on reparations and what should be done to fill the gap in this respect, IOM consultations suggest that each organization has distinct levels and ways of understanding reparations, which can translate into quite different views of the best way forward. A continued and reinforced discussion amongst those stakeholders of how a future reparations effort should look would help maximize their political impact on national, regional and international political actors alike.

Finally, not much is known about the views and preferences of victims who are not associated with any victims' organization and, indeed, their needs and broader socio-economic profile. As discussed earlier, even the number of victims that is not connected to any organization is difficult to ascertain. Clearly, any political process that would be undertaken to establish a

comprehensive reparations effort would also need to try and draw in this directly affected constituency.

**Key Observation 2: Views about victims' reparations differ amongst national political actors, but even those in favor of a comprehensive effort appear unlikely to take the lead**

In and of itself, the fact that none of the countries covered by the project have so far taken a comprehensive approach to victims' reparations is indicative of the limited ability and/or willingness of national political actors' to tackle the issue. However, as indicated by the non-exhaustive consultations held by IOM with national political actors, it would be wrong to conclude that there is a complete lack of interest or willingness to address this gap. The picture is more nuanced, although it also appears to be true that, at least for the moment, there is no obvious political leadership to turn a concern about victims' reparations into a concrete policy.

Country-specific observations in respect of the local political actors include:<sup>13</sup>

➤ BiH

The dominant opinion amongst the stakeholders consulted by IOM is that at present there is little or no political will and ability amongst the ruling political parties at the Federation-level to address victims' reparations in a comprehensive manner. Reasons cited included the continued political deadlock on many wartime past and non-war related issues; the lack of a common vision about the future and, indeed, the legacy of the past; and the little weight the victims' population as a whole has on political decision making. This prevalent perception was largely confirmed by the meeting IOM had with political actors at the State level, although some actors at the entity level appeared more willing to consider action in this area.

➤ Croatia

The Office of the Croatian President contacted IOM pro-actively to request a meeting on the issue of victims' reparations in the former Yugoslavia. While the President expressed support for the attempt to find a comprehensive solution for victims' reparations related to the Yugoslav wars, he also pointed out the difficulties that would likely be involved in coming to a political consensus around this sensitive issue. The question of political leadership to take the initial steps to bring actors together remained unresolved.

While civil society actors acknowledged the important and positive role the President plays in addressing the wartime past, they also pointed out that other political actors inside and outside the Government have a more reluctant attitude. They highlighted in particular the continued sensitivity of the issue of Serbian civilian victims in Croatia and the resistance that addressing their right to reparations is likely to raise for the more nationalistic political actors in the country.

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<sup>13</sup> It should be noted that, as seen from Annex 2, the level and number of government actors IOM was able to meet varied strongly from country to country, which of course impacts the extent to which the below can be regarded as representative of the official Government position in the respective countries and, indeed, as indicative of how willing these Governments would be to take concrete political action in respect of victims' reparations.

➤ Serbia:<sup>14</sup>

The Government actors consulted by IOM expressed their commitment to regional cooperation as well as their willingness to address the issue of victims' reparations. However, concern was expressed about the bias amongst the international community in this respect, and the need to ensure that any regional reparations effort would not turn into another attempt to only blame Serbia about what happened. It was also noted that any political efforts in the direction of a regional solution would require further consultations within the Government to determine Serbia's final political position in this respect.

Civil society actors highlighted that the issue of reparations remains politically charged and divisive and that portions of the general public remain reserved toward the whole transitional justice process on the territory of the former Yugoslavia. This is partly due to the politicized perception of the ICTY proceedings, but also due to the fact that Serbia continues to host a large number of ethnic Serbian refugees from Croatia and IDPs from Kosovo/UNSC 1244. Finally, the issues related to the status of Kosovo/UNSC 1244 were also mentioned as contributing to reservations that segments of the Serbian public and politicians feel toward more systematic engagement on the issues of victims' compensation and reparations.

➤ Kosovo/UNSC 1244:<sup>15</sup>

Interlocutors pointed out that the issue of reparations had been fairly absent from both government and civil society agendas, but that recently the issue had gained more prominence. Interlocutors cited many examples of the political will to tackle the issue, including the establishment of the Kosovo War Crime Institute, with a mandate to initiate truth-seeking initiatives and collect data in this respect, and the organization of various consultations and workshops on the topic, e.g. by the Ministry of Justice. All interlocutors agreed however, that the unresolved status of Kosovo/UNSC 1244 would render the adoption of an actual reparations policy for the victims of the Kosovo war difficult to achieve.

➤ Montenegro:

The number of victims originating from or currently residing on the territory of Montenegro is relatively low compared to the other countries in the region. The issue of war crimes and compensation for the human rights violations during the Yugoslav conflicts is most prominent within the several court cases where representatives of the victims who were denied safe residence and deported back to Bosnia and Herzegovina, and subsequently killed or detained, are suing the state of Montenegro and demanding compensation. According to the consultations carried out by IOM, it appears that the outcomes of these proceedings are mixed, both in terms of judgment as well as in terms of enforcement. At the same time, it should be noted that the Government of Montenegro expressed its firm and long-standing policy and commitment toward all forms of regional cooperation, including the possibility for regional comprehensive reparations mechanism.

Taken together, these various country findings suggest that significant political advocacy work will be required for local political actors seeking to take the necessary steps to establish a

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<sup>14</sup> The consultations with the Serbian Government actors occurred before the ICTY decisions, the first involving Ante Gotovina and Mladen Markac and the second regarding Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj, decisions which were both issued in the course of November 2012. It is likely that the feedback would have been quite different, had conversations taken place after these judgments, which, rightly or wrongly, were portrayed by many political actors as a further sign that Serbian wartime victims mattered less than others.

<sup>15</sup> This designation is without prejudice to final status determination

comprehensive reparations effort. Almost invariably, IOM interlocutors agreed that even those political actors favorable to addressing the victims' reparations gap tend to wait for others to actually start the process of getting there. Many interlocutors maintained, however, that if a credible international or regional actor trusted by all sides would take such initiative, the chances of success would be good. The ongoing European integration process was often cited as a unique opportunity to move the issue forward, although some expressed their disappointment with the limited attention that the European Commission has so far given to this matter.

### **The Global Financial Crisis: An additional complicating factor**

The global financial crisis has hit the Western Balkans countries particularly hard. All countries are struggling with a decline in economic output and massive unemployment in a context of high levels of public debt and significant fiscal deficits. International lenders like the World Bank and the IMF have put considerable pressures on those countries to reduce their public spending and, especially, the very significant social benefit programs that make up an important proportion of public spending. In the context of wartime related payments, social unrest has already been generated by proposed cuts to veteran payments in both the Federation of Bosnia and Herzegovina and Republika Srpska. Clearly, this is not an environment conducive to adding large new burdens on state budgets. The fiscal argument was raised by a number of government interlocutors as a barrier to a comprehensive reparations effort, and it is clear that a future reparations program would need to integrate the fiscal realities in the affected countries (almost certainly excluding the possibility of large amounts of financial compensation being paid out to all victims).

### **Key Observation 3: International and regional intergovernmental and governmental actors have been active in this area and could provide important political support**

There are multiple international and regional intergovernmental actors active in the former Yugoslavia, in addition to those countries that provide support either financially or politically to the countries of the former Yugoslavia, such as in the context of their move towards EU membership. The former category includes UN Agencies such as UNFPA, UNDP, UNWomen and UNHCR; the World Bank; IOM; OSCE; and, of course, the European Union. Beyond the EU member states (with Finland already funding this Report), other countries that play a role in the former Yugoslavia include Norway, Switzerland and the US. These different actors are involved in a broad variety of areas, and do not always share the same focus or priorities.

In terms of victims' reparations, a number of UN Agencies have been providing technical support to various transitional justice initiatives (such as UNDP in the context of the National Transitional Justice Policy and OSCE to national criminal proceedings relating to war crimes) and civil society actors working in this area. They also have engaged in political advocacy work (such as UNHCR in the context of the Regional Housing Program) and implemented certain victims' assistance efforts together with local actors (for example, IOM is currently working with local NGOs in BiH, the former Yugoslav Republic of Macedonia and Serbia to provide assistance to Roma Holocaust survivors) in the countries of the former Yugoslavia. This combined technical experience and expertise can be drawn upon if and when local actors decide to pursue a comprehensive reparations effort.

While there is some important technical work that can be done in the short-term, as will be discussed further in this Report, there is also a need for political support from international and regional actors to kick-start the political process towards a comprehensive reparations effort. The Regional Housing Program is a recent example of what such support can help to achieve. From the limited consultations IOM had with those actors, however, the reparations issue does not currently appear to be amongst the priorities for the region. Rather than a result of a

conscious strategy to avoid looking at reparations, this appears to be a result of the many competing priorities that exist for the region, and there certainly appeared to be an openness to discuss increasing the priority given to this issue. Suggestions were made to organize a high-level meeting with selected actors to discuss the possibility of unified support towards a comprehensive reparations effort.

The possibility of the ICTY taking further initiatives following this study gave rise to many different viewpoints amongst local actors, usually depending on their view of the work of the ICTY. Many interlocutors expressed concern, however, that given the controversies around a series of recent decisions, the involvement of the ICTY in the reparations issue (for example, as convener of local actors to discuss ways forward) would risk further politicizing the matter and would render obtaining a consensus more rather than less complicated and difficult.

**Key Observation 4: The perception amongst many victims' associations is that the general public has little interest in their plight, but more information is needed**

Within the scope of the project, IOM did not carry-out any surveys of the views of the “general public” on reparations or, indeed, the need for additional transitional justice measures to address the wartime legacy. The question did come up during the consultations with victims' associations, during which representatives frequently complained about the lack of interest amongst the broader population in the issues they were trying to address. It was frequently mentioned that this (real or perceived) lack of concern contributed to the feeling amongst many victims of exclusion and continued marginalization. Targeted surveys would be useful to shed more light on the different views that exist amongst the “general public” in each of the countries of the former Yugoslavia in this respect.

All interlocutors agreed, however, that it would be critical to ensure that a comprehensive effort to provide reparations to victims of international crimes committed during the Yugoslav wars would be well understood and known by the general public. Moreover, it was also agreed that the process of getting to a reparations program would need to be a public process, with special efforts taken to allow for more popular participation than what is usual with ordinary legalization. Indeed, the value of such a program was often seen in the conversation it would engender about the wartime past and the victims that have so far remained very much outside the public discourse.

## **CONCLUDING OBSERVATIONS**

There are multiple actors working on (and/or in favor of) a more comprehensive reparations effort, although more work could be done to encourage those actors to come together and pursue a common strategy around concrete proposals for moving this issue forward. While the situation is distinct in each country, with possibly the biggest challenge being overcoming the broader political deadlock in BiH, no country currently appears to be close to political decision making on the reparations issue. The issue appears to be more one of missing political initiative than opposition to addressing the reparations gap per se. It is in this respect that international and regional (inter)governmental actors could play an important role e.g. by convening the different countries and supporting a high-level discussion on what to do about the unfulfilled rights of victims of the Yugoslav wars to reparations. Ideally, this would be done by multiple actors working together – which would require the development of a joint strategy amongst those regional and/international actors – but also one actor alone could achieve sufficient momentum for the reparations issue to start moving forward in the region.

## PART II TOWARDS A COMPREHENSIVE REPARATIONS PROGRAM: DECISION POINTS

This second part of the Report is constructed around a number of **decision points**, i.e. the critical topics and issues that policymakers and stakeholders need to consider and decide upon during the process of establishing a reparations program in the context of the Yugoslav wars. It is hoped that this structure will be helpful in a number of ways:

- To support victims' associations and civil society actors with the identification of the issues around which a consensus would facilitate their advocacy for a reparations program towards the different governments and the relevant regional and international actors;
- To allow policymakers and political actors to get a full and comprehensive view of what a reparations program would entail from a technical perspective, and what issues they need to develop positions or views upon; and
- To provide a concrete "checklist" for the eventual political process on the issues that will need to be decided upon in the frame of the establishment of a comprehensive reparations program

For some of the decision points, the Report includes a recommended way forward, based upon its desk review, consultations, and other countries' experience with victims' reparations. These are not intended to represent IOM's institutional preferences, but rather reflect what looks like the best solution, given the local context. Local stakeholders are of course the only ones that can decide whether this is indeed the case.

### Decision Point 1: One Regional Reparations Effort or Multiple National Efforts?

Two broad options exist for a future reparations program for victims of wartime violations:

- Several national efforts to provide reparations for victims that have the nationality of the states in question and/or are currently residing on their territory; or
- A regional reparations effort, whereby the affected states come together and establish a program that covers all victims of wartime violations during the Yugoslav wars.

The decision making on this critical issue needs to be taken through an inclusive political process that also comprises a real solicitation of the victims' opinions and preferences in this respect.<sup>16</sup>

Based upon the following considerations informed by the consultations IOM held, however, it would appear that **a regional reparations effort makes the most sense** in the context of the former Yugoslavia:

- The violations and the wars during which they were committed have a regional nature, which involved almost all former Yugoslavia countries;
- There is a need to avoid differential treatment of victims that have suffered similar violations during the same conflict, as this is likely to further increase ethnic polarization;

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<sup>16</sup> For further information, see page 44.

- Victims were victimized on the territory of a state where they do not or no longer live, and they would face difficulties in accessing a national initiative in another state;
- There is a need to ensure that a future reparations effort includes a strong formal recognition element that goes beyond each community or country only recognizing “its own victims”;
- It is important to ensure that a reparations effort contributes positively to both national and regional reconciliation, particularly in light of the ongoing EU integration; and
- Finally, the support of the international community (if any) appears more likely to be forthcoming in the case of one regional approach, rather than multiple national approaches.

A regional approach towards victims’ reparations would also be in line with the improved regional cooperation regarding the wartime legacy, especially in the areas of domestic criminal proceedings and durable solutions for the remaining IDPs and refugees. Many interlocutors pointed out that this improved collaboration was directly related to the ongoing EU integration process, and that also a reparations effort potentially could benefit from this “entente.” Such approach would of course not take away from the individual state responsibility to provide reparations to victims. Indeed, and this should be made explicit in the foundational document of the reparations program, a regional, comprehensive reparations program could be the way in which the participating states honor the legal obligations that each of them has in this respect.

*The remainder of this Report will take as a starting point that local stakeholders would opt for one regional reparations program rather than multiple national reparations programs. In case this would not be the way forward chosen by those stakeholders, then the below decision points would still be valid. They would simply need to be considered separately, in each national context.*

## **Decision Point 2: Who are the Victims that Should Be Included in the Reparations Effort?**

The decision on a definition of the victims to be included in a comprehensive reparations effort is obviously critical for both the success and the impact such an effort would have. The consultations carried out in the frame of this Report suggest that it should not be too difficult to reach a broad political consensus on a suitable victims’ definition and that the broad contours of such definition are not in dispute.

For the decision making process, it is useful to distinguish between the following issues: (a) the core definition; (b) the specific crimes that could be listed in the foundational document of the reparations program; (c) the geographical and temporal scope of such a program; (d) the extent to which relatives and family members of victims should be able to benefit from the reparations effort; and (e) other victims’ definition related matters that ideally would be spelled out in the foundational document of the reparations program.

### **(a) Core Victims’ Definition**

For the core victims’ definition, the UN Basic Principles on the Right to a Remedy and Reparations provide a good starting point for both the political discussions and the eventual foundational document that will set out the scope of the reparations program. These principles define victims as:

*“Persons whom collectively 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.”*

This definition covers the victims of all the international crimes that are included in the mandate of the ICTY, i.e. grave breaches of the Geneva Conventions of 1949 (Art. 2, ICTY Statute), violations of the laws or customs of war (Art. 3, ICTY Statute), genocide (Art. 4, ICTY Statute), and crimes against humanity (Art. 4, ICTY Statute). The use of this definition also appears to be compatible with what prevails in the national legal systems of the countries concerned.

In light of current practices and the discussions that took place during the consultations, it is worthwhile to point out that:

- **A reparations program based upon the UN Basic Principles definition would not make a distinction between civilian and non-civilian victims per se.**

To the extent a person has suffered from a gross violation of international human rights law and/or a serious violation of international humanitarian law, he or she would be considered a victim under the program. The question of how to deal with earlier benefits received, such as under programs for veterans, is best dealt with as a separate matter that has no impact on whether or not someone will be recognized as a victim under the reparations program.

- **Such a reparations program would not cover all war victims, i.e. all people who were killed, injured or otherwise harmed during the Yugoslav conflicts.**

Rather, such a program would focus on those people within this group who suffered harm during these conflicts as a consequence of gross violations of international human rights law and/or serious breaches of international humanitarian law. Equally, such a reparations program would only cover former soldiers or combatants who suffered harm during the conflict to the extent that this harm was due to the violations covered in the program – excluding, for example, harm sustained in “ordinary” military battle.

## (b) **Listing and Defining Specific Crimes**

Beyond the broad definition of victims discussed above, it would be best if the foundational document for a reparations program included a specific list of crimes and violations covered by the program. The starting point for a discussion in this respect could be the ICTY Statute and the crimes it contains, while also taking into account the following considerations:

- The symbolic meaning that the mentioning of particular crimes in the foundational document can have, such as highlighting a particularly prevalent crime or a crime that has received little attention in the public discourse;
- The need to ensure that the crimes covered by the reparations program are formulated in such a way that they are as close as possible to the lived experience of the victims and, as such, are “recognizable” for those victims; and
- The need to avoid too many strictly defined crime categories that would unnecessarily slow down the claims determination process or, worse, result in the exclusion of victims on the basis of legal technicalities.

On the basis of the IOM consultations, the following provisional list of crimes to be explicitly mentioned and defined in the reparations program’s foundational document could include:

➤ **Wartime sexual violence**

Victims’ associations frequently mentioned that despite its well-documented prevalence during the Yugoslav wars, wartime sexual violence all too frequently continues to be minimized or ignored in political discourse around the wartime past. Victims, and often also their children, reportedly remain excluded from social life, their situation worsened by an overall climate in which even non-wartime sexual violence is all too often ignored or trivialized.

➤ **Internment in camps and camp-like settings**

Internment in camps and camp-like settings was another sad feature of the Yugoslav wars, as also established through various ICTY judgments. Conditions were frequently extremely harsh, with documented cases of maltreatment, torture, sexual violence, and deliberate denial of food and health care. Some circles continue to negate that this type of internment ever took place, and few victims reportedly received any reparations for their wartime plight.

➤ **Torture**

Torture is one crime that some victims’ associations highlighted as a “forgotten crime,” with victims continuing to struggle for even the most basic formal recognition.

➤ **Forced displacement**

Mass forced displacement as a tool of “ethnic cleansing” was one of the emblematic crimes of the Yugoslav wars, affecting hundreds of thousands of people. The general sense that the most important adverse effects of forced displacement have been addressed (most recently through the already mentioned Regional Housing Program) should, however, not preclude a formal recognition of its victims in a future reparations program’s foundational document.

➤ **Enforced disappearances**

While important progress has been made, especially under the impetus of the International Commission on Missing Persons (ICMP), the file of the missing persons remains of serious concern in the former Yugoslavia. Figures differ somewhat depending on the source, but it is estimated that some 14,000 of the 40,000 individuals that went missing during the Yugoslav wars remain unaccounted for today, affecting the lives of another 200,000 persons who are still searching for their family members. The table below provides the overall figures and figures per country.

<b>Unaccounted/Missing Persons in the former Yugoslavia</b>	
<b>Persons that went missing during the Yugoslav Wars</b>	
<b>Total</b>	<b>40,000</b>
Bosnia-Herzegovina	30,000
Croatia	5,500
Kosovo/UNSC 1244	4,400
Macedonia	23
<b>Persons still missing or unaccounted for today</b>	
<b>Total</b>	<b>14,000</b>

Bosnia-Herzegovina	10,000
Croatia	2,000
Kosovo/UNSC 1244	1,900
Macedonia	13

Source: ICMP, "Southeast Europe," <http://www.ic-mp.org/icmp-worldwide/southeast-europe/> (accessed 2 November 2012).

### ➤ **Forced mobilization**

This category is peculiar to Serbia. Reportedly, there is an increasing number of people who are coming forward and claiming that they were forcibly recruited into regular and semi-regular armed forces and compelled to engage in combat or combat support operations. According to some interlocutors, the fact that this is a little known crime is one reason to explicitly mention it in a reparations program's foundational document.

### (c) **Geographical and Temporal Scope**

The foundational document would also need to determine the geographical and temporal scope of the reparations program. This is unlikely to be very controversial, and the following rules could be used in this respect:

- The territory scope of the program could, similar to the jurisdiction of the ICTY, be limited to crimes and violations that occurred on the territory of the former Yugoslavia.
- For the temporal jurisdiction, two principal options exist:
  - Adopt a short definition that would take the ICTY Statute as a starting point, and refer to crimes and violations committed after 1991 as falling within the scope of the reparations program. Depending on the definitions of the crimes and violations this could, however, lead to the inclusion of reparations outside the war context.
  - Adopt a more detailed definition that would refer to the start and end dates of the particular conflicts that made up the Yugoslav wars, provided that efforts are made to ensure that the timeframe is broad enough to include all violations that occurred.

The dates could be 1991-1995 for the conflict in Croatia; June-July 1991 for the conflict in Slovenia; 1992-1995 for Bosnia and Herzegovina; 1998-1999 for the conflict in Serbia/Kosovo; and January-August 2001 for the Former Yugoslav Republic of Macedonia.

## **Decision Point 3: Content of Reparations and Objectives of the Reparations Program**

A shared understanding, amongst as many stakeholders as possible, of what reparations is exactly and what objectives a reparations program is intended to achieve tends to be an important condition of success for such a program. Without it, the risk of important constituencies eventually perceiving the program as a failure or falling short of its promise is considerably heightened. In the context of the former Yugoslavia, such shared understanding still needs to be constructed; both the level of knowledge and understanding about reparations

and the views and opinions about the objectives an eventual program should pursue tend to differ quite significantly within and amongst stakeholder groups.

The section below sets out some basic considerations in respect of the content of reparations and the objectives a reparations program can pursue.

#### a) **Reparations in the Juridical Context and Reparations as a Comprehensive Policy**

In terms of what type of reparations a regional reparations program could pursue, it is useful to make a distinction between reparations in the juridical context and reparations as part of a national or, in this case, regional state policy.

In general, **reparations in the juridical context** tend to have the following characteristics:

- Victims have to file a reparations claim through the ordinary court system, either in the frame of an ongoing criminal trial or as a separate civil law suit;
- Such reparations are decided upon using ordinary criminal and civil law rules and procedures, including those related to evidentiary standards, and frequently require significant involvement of the victims and/or their legal representative;
- The overall objective of judicial reparations is often “integral restitution,” i.e. returning victims to the situation they were in prior to the violation. This is achieved by undoing the harm, or if that is impossible, by providing compensation for all forms of material and physical harm inflicted on the victims;
- Judicial reparations hence tend to be “harm-centered,” i.e. the level and type of reparations awarded will depend upon the level and type of harm suffered;
- Methodologically, judicial reparations require the identification, evaluation and proof of the particular harm each victim has suffered; and
- While not always the sole option under national laws, judicial reparations are often associated with financial compensation.

**Reparation as a comprehensive policy** can usefully be thought of as having the following characteristics:

- In a comprehensive reparations policy contexts, victims can usually access reparations through a dedicated, victim-centered process outside the ordinary court system that is accessible to all without legal representation, and that is administrative in nature;
- The overall objective of reparations here is usefully understood as providing benefits directly to victims of certain types of violations, as part of a broader transitional justice effort;
- Reparations in this context are best considered as “violation-centered” in that the level and type of reparations awarded depends on the type of violation a victim suffered, i.e. all victims that have suffered from the same violation can receive the same benefit(s);
- Violation-centered reparations do not require detailed investigations into individual harm, and do not require victims to provide extensive evidence of the harm they sustained. Evidentiary rules can be more flexible, and multiple techniques have been

developed in the context of administrative reparations that allow solid eligibility determinations also when victims do not possess significant formal evidence;

- The symbolic component of recognizing what has happened to the victim and reconfirming his or her full citizenship status is an integral and important part of reparations in this sense;
- The range of material benefits that can be offered to victims is broad and can be tailored or diversified in accordance with their needs and/or preferences; and
- For individual victims, the material benefits tend to be of lesser value than the reparations that can be obtained through judicial reparations.

In the context of the former Yugoslavia, the following set of contextual elements would appear to plead in favor of using the latter concept of reparations:

- The likely size of the victims' population that a reparations effort would have to serve, combined with the urgency of providing reparations to a victims' population that is getting older and has already been waiting for redress for far too long;
- The high degree of vulnerability amongst the victims' population, which calls for easily accessible and rapid procedures to provide reparations that do not require much from the victims themselves;
- The lack of formal, individualized legal evidence, especially but not exclusively amongst those whom have not (yet) seen the perpetrators of the international crimes inflicted on them prosecuted and tried;
- The abundance of available general information on the violations that occurred during the Yugoslav wars, which could be used in absence of individualized evidence if flexible rules were to be applied;
- The complexity and time-consuming nature of a process to establish the harm each victim suffered from individually, and the psychological and physical burden such a process tends to put on the victims;
- The funding limitations, which make it almost impossible to imagine an effort that covers all victims and pursues full restitution for those victims; and
- The savings that would come from having a light administrative process rather than a much more resource-heavy judicial or quasi-judicial process.

#### b) **Objectives of a Reparations Program**

Reparations programs can pursue all or some of the following objectives (with the understanding that how the reparations program should be organized and implemented should be informed by the objectives stakeholders determine as important):

- *Provide restorative justice to the victims by fulfilling their right to a remedy for the violations they suffered from*

Victims' perceptions and opinions provide a key yardstick in this regard. Achievement of restorative justice essentially depends upon a large proportion of the victims perceiving a reparations program and the process that led up to it as genuinely victim-centered; fair; transparent; and sufficient, i.e. in line with what they feel they can legitimately expect from the state and the broader society. Without such a perception, it is difficult for a reparations program to achieve true restorative justice, even if the benefits it awards are substantial.

- *Improve victims' lives; address their present-day vulnerabilities; and support them in using their capabilities to build a better future for themselves and their families*

This forward-looking, material aspect of reparations can be especially relevant in contexts like the former Yugoslavia, where an important proportion of the victim population continues to face hardships in their daily lives and struggles to fulfill their basic needs. Achievement of this objective is connected to the type of benefits the program provides, which need to be tailored to the victims' particular vulnerabilities and needs, possibly in combination with the pursuit of broader socio-economic development goals.

- *Contribute to establishing and recognizing the truth about wartime violations*

While a reparations program requires information about wartime violations to identify eligible reparations claims and recognize victims' status, it can also contribute to the construction of the historical truth about wartime violations. In a context like the former Yugoslavia, where no comprehensive truth seeking effort has yet taken place, such an objective would appear to be critical. It is thereby easy to imagine how a regional reparations program could work hand in hand with a regional truth commission as sought by RECOM.

- *Re-establish trust between victims and the state*

By confirming that victims have rights that need to (and will be) respected and protected by the state, a reparations program can thereby reinstate or improve trust between the state and the victims. This objective, as was mentioned several times during the IOM consultations, is particularly relevant in the former Yugoslavia context given the sense of abandonment felt within the victim population and a broader disappointment with post-war institutional arrangements. Minority advocates also referred to the positive impact that an inclusive reparations program could have by increasing the level of trust that minorities have in the state.

- *Contribute to broader societal reconciliation<sup>17</sup>*

A reparations program that has broad political support can contribute to a broader societal reconciliation, although impacts of this kind tend to be very difficult to measure. It has been widely reported in the past years, and confirmed by IOM consultations, that reconciliation has not really been achieved. Many interlocutors maintained that, if anything, relationships between the communities were getting progressively worse, especially in Bosnia, indicating that the need for reconciliation is growing rather than reducing. In light of this reality, broader societal reconciliation may be an appropriate goal to consider.

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<sup>17</sup> It is important to underline that broad societal reconciliation is quite distinct from reconciliation at the individual level, i.e. between the victims and their perpetrators. Reparations at the individuals level is in essence a private affair for the victims, in respect of which a reparations program has no particular objective to pursue.

## Decision Point 4: What Benefits Should the Reparations Program Provide to Victims?

The fourth decision point is about what remedies or benefits an eventual reparations program would provide to victims that fall within its jurisdiction. The following considerations could be taken into account in determining the best way forward in the context of the former Yugoslavia:

### (a) **Starting Point: A broad range of possibilities**

If decision makers adopt the concept of reparations as a violation-centered program that aims to provide benefits to victims, then the possible range of benefits is very broad. In principle, a reparations program could provide any type of benefit to those it is intended to serve, with no type of benefit necessarily excluded. Benefits can be either material or symbolic and can be provided to victims either individually or collectively, and it is not uncommon for a reparations program to provide all these types of benefits. A recent example is the Victims' Law in Colombia,<sup>18</sup> which includes collective reparations, such as to indigenous victims; material reparations, including compensation and access to certain specific services; and symbolic reparations. At a minimum, however, the vast majority of victims should agree that the benefits included in the program are fitting, reasonable and, indeed, restorative in light of what they went through during and after the Yugoslav wars.

### **Reparations versus Humanitarian or Social Assistance Programs: The distinction is not about the type of benefits**

A recurring discussion in the context of transitional justice policymaking concerns whether a program or policy can be considered a genuine reparations effort, or whether it is better understood as a humanitarian or social assistance effort. The answer does not lie in the type of benefits a program provides, but rather in (a) the basis for granting benefits and (b) in the victims' status. In a reparations program, victims have access to benefits based on their right to a remedy following a violation of their rights, rather than simply based upon their vulnerability or needs, as is the case with humanitarian or social assistance programs. Also, within reparations efforts, formal recognition of the violations and the ensuing victims' status plays a central role in both the political process leading up to the reparations program and the actual content and implementation of the program, an element missing from social and humanitarian programs. Ultimately, of course, it is the perception of the vast majority victims that will determine whether a program is in fact a reparations program in the substantive sense.

### (b) **Ideally, Material Benefits Need to Be Forward-Looking**

Focusing on a violations-centered approach to reparations also allows for a reparations program to provide forward-looking benefits to victims, i.e. benefits that are geared towards supporting victims with constructing better lives for themselves and their families; overcoming vulnerabilities related to, or aggravated by, their earlier victimization; and developing their individual capacities e.g. in terms of socio-economic integration. Such forward-looking benefits could be developed in line with broader socio-economic development policies that are already in place. Finally, in the context of limited resources, vulnerability criteria could be used to prioritize certain victims over others when it comes to receiving material benefits.

<sup>18</sup> Law 1448 (2011), Ley de Víctimas y Restitución de Tierras, "por la cual se dictan medidas de atención, asistencia y reparación integral a las víctimas del conflicto armado interno y se dictan otras disposiciones"

**(c) Certain Categories of Victims Could Receive Only Symbolic Benefits**

Although there is a need to be comprehensive, the reality of limited resources poses significant challenges. To the extent that such resource limitations are genuine, a violations-centered approach could allow for some victims – such as those who do not fall within certain established vulnerability criteria and/or those who have already received identified types of support – to only receive symbolic recognition, such as a formal recognition of victims’ status. A key requirement for such an arrangement, however, is that it must be found to be acceptable by the victims themselves.

**(d) Victims Need a Voice in Determining the Remedies, but “Practicability”<sup>19</sup> also Needs to be Considered**

Given that the perception of victims ultimately determines whether or not the offered benefits are sufficient to provide restorative justice, it is critical to ensure that they have a voice in the process of determining what those benefits will be. To ensure that this is the case, it would be advisable to organize direct victims’ consultations around this topic, to the extent possible. Surveys could play a role as well, in those instances when it would be impossible to reach (certain) victims through direct consultations.

At the same time, there are limits to what can be achieved within a reasonable period of time, due for instance to resource constraints or a limited institutional capacity to deliver. One way to carry out such consultations and surveys is to organize them on the basis of a menu of options, which itself has been developed taking practicability concerns into account. This can mitigate the risk of unrealistic expectations, provided that the menu of options presented in the consultations or surveys is itself credible in the eyes of the victims.

**(e) Remedies Proposed During the IOM Consultations**

In the course of the IOM consultations, interlocutors put forward the following benefits:<sup>20</sup>

✓ *Formal recognition*

Almost invariably, victims’ associations insisted on recognition as a critical (symbolic) remedy to be provided by a future reparations effort. They maintain that many civilian victims continue to feel that their plight has been ignored by the state and the broader society, and that their suffering has been marginalized in the political discussions about the wartime past. An official declaration aimed at restoring the dignity, reputation and rights of the victims was mentioned by many as a critical element of a meaningful reparations effort.

Formal recognition could come in different forms, and interlocutors mentioned as examples the establishment of appropriate monuments or remembrance events; the creation of dedicated victims’ centers; and/or the creation of a victims’ archive open to the public. Discussions also indicated the importance for victims of *individual* recognition through a credible process, such as a reparations claims determination.

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<sup>19</sup> “Practicability” in this context refers to the need to consider what can realistically be implemented within a reasonable period of time, given the full context (including e.g. institutional capacity, available resources, size and nature of the victims’ population, etc.)

<sup>20</sup> This list should not, however, be regarded as authoritative or final and cannot replace proper consultations or surveys carried out by the relevant authorities in the course of a process to establish a reparations program.

✓ *Financial compensation*

NGOs and victims' associations frequently mentioned financial compensation as an important remedy for victims. There appears to be considerable awareness, however, that awarding large amounts of compensation for large numbers of victims is not possible, and that the current fiscal crisis has further limited the scope of what could be done. Moreover, it was pointed out that victims could also be provided with other material remedies (see below), and that in some cases this type of remedy was needed more than cash payments. Nevertheless, it would seem that, for some categories of victims, compensation would be the expected remedy. Given the real and credible resource constraints, however, considerable leeway would be needed to allow existing resource constraints to limit the amount of compensation provided.

✓ *Adapted medical and psychosocial care, especially for victims of sexual violence*

Multiple interlocutors referred to the particular difficulties that women continue to face in accessing appropriate medical care and support that is adapted to their needs, including both physical and psychosocial care. This is especially the case for victims of sexual violence. The care that is currently available in this regard was often described as insufficient and in need of modernization and upgrading. Including adapted care provision in a reparations program could help to fill this gap, provided that sufficient resources are allocated.

✓ *Preferential education support*

Various victims' associations and NGOs pointed towards (preferential) education support as an important possible remedy for certain victims, especially for those that remain very vulnerable and poor today. Scholarships and other tailored forms of material assistance to make it easier for their children to go to and remain in school were mentioned as possible options. This was often connected to the desire amongst victims to ensure that their children will have a better life than they had, and was frequently mentioned in the context of victims of sexual violence.

## Decision Point 5: Standards of Evidence

The standards of evidence that a reparations program uses have a considerable impact on the victims' access to the program as well as the legitimacy and credibility of the outcomes it produces. To determine what standards of evidence to use in the context of the former Yugoslavia, the following considerations could be taken into account:

✓ *Ensuring that false or ungrounded claims are not accepted is important for the credibility and legitimacy of the process*

It is in the interest of the those victims looking for formal recognition through the reparations program that those who did not actually suffer from war crimes do not obtain victims' status through a lax review of reparations claims. Their own recognition would lose symbolic value if the process is open to abuse and illegitimate use, or is perceived as such.

✓ *Evidentiary standards should, however, not be set so high as to exclude victims simply on the basis that they cannot provide the necessary proof*

There is an inevitable tension between ensuring that false claims are not accepted and the need to ensure that victims are not excluded simply because of a lack of evidence. Measures should be put in place to minimize the risk of the latter, and hence avoid re-victimization.

- ✓ *Evidentiary standards should be grounded in what type of evidence victims' are likely to be able to provide, and should be flexible enough to give the implementing agency leeway to pursue creative solutions and to use information from a broad variety of sources*

One important starting point in this regard is the consideration of what type of evidence victims are, in reality, likely to be able to provide in support of their claims. During the IOM consultations, victims' associations and civil society actors highlighted the difficulties that many victims face in providing documentary evidence for their plight, an indication that documentary evidence should not be an absolute requirement for the recognition of victims' status.

Experience from other large-scale reparations programs – including, for example, the German Forced Labor Compensation Program and the Colombian administrative reparations effort established by Decreto 1290<sup>21</sup> – indicate that the best approach may be to allow sufficient flexibility so that the implementing agency can use creative approaches to address the issue of evidence, provided that there is sufficient transparency and communication about the methodologies used.

Finally, given the many organizations that hold some victims' information,<sup>22</sup> it would be useful for the rules to establish what information, in and of itself, can be considered as sufficient proof of victims' status. Examples exist where registration with credible NGOs or victims' associations is accepted as sufficient evidence of victims' status for the reparations program. A list of credible organizations could be included in the document establishing the reparations program.

- ✓ *Victims' recognition should be automatic for those victims who were recognized as such in ICTY proceedings and/or national criminal trials against war crimes' perpetrators*

Victims who already went through a legal process at the ICTY or a national criminal trial would not need to have their victims' status established again, as their recognition in these legal proceedings could be explicitly recognized by the reparations program as proof of victims' status.

- ✓ *A victims-centered approach requires that the institutions implementing the reparations program provide assistance to victims who lack sufficient evidence*

Providing formal evidence of what happened to them during the Yugoslav wars will be difficult for many victims, and especially for the most vulnerable victims – a situation likely to be aggravated by the time that has passed since that time. It would thus be important to ensure that the institutions implementing the reparations program has the mandate and the resources to assist victims with establishing the facts about what happened to them.

## **Decision Point 6: Institutional Framework for the Implementation of the Reparations Program**

The determination of what institutional framework to establish for the implementation of the reparations program can be broken down into two separate issues: what institution(s) to establish or use for implementing the reparations program, and what procedures and rules will be used to determine victims' claims and to recognize victims' status.

<sup>21</sup> Decreto 1290 (2008), "Por el cual se crea el programa de reparación individual por vía administrativa para las víctimas de los grupos armados organizados al margen de la ley"

<sup>22</sup> For further information, see page 16.

(a) **What Institutions?**

Although there are a broad variety of options that could be pursued, considerations that could guide decision making in this respect include:

- ✓ Legitimacy across communities for existing institutions, with political neutrality as one of the key issues in this respect;
- ✓ Political acceptability of the institution to the states involved;
- ✓ Levels of confidence that victims' populations have in the particular institution(s) across communities, in the case of existing institutions;
- ✓ Institutional capacity for existing institutions and, if necessary, feasibility of expanding the institution(s);
- ✓ Accessibility for victims and especially those living in rural or remote areas, but also for those living outside the country; and
- ✓ Availability of resources and the likely cost of the different institutional options.

The IOM consultations yielded the following additional or specific considerations:

- ✓ The need to ensure that the phase of the process involving victims' recognition, in particular, is carried out through an institutional mechanism that has sufficient strength and guarantees to avoid both politicization and the perception of politicization;
- ✓ The need to keep costs under control and, as much as possible, to avoid the creation of new institutions in a context where governments are under pressure to shrink rather than expand the state;
- ✓ The need to avoid overly centralizing the delivery of material benefits, especially if they include services or preferential access to services, if this would lead to excessive bureaucratic processes; and
- ✓ The fact that some international involvement in the actual institutions charged with implementing the reparations program may contribute to both the reality and perception of impartiality.

Given the above considerations, policy makers could consider the following options regarding the institutional framework:

- ✓ *Distinguish between victims' registration and the recognition of victims' status on the one hand, and the provision of material remedies on the other hand.*

The former could be implemented by a regional body, while the latter could be implemented by the relevant national authorities or Ministries.

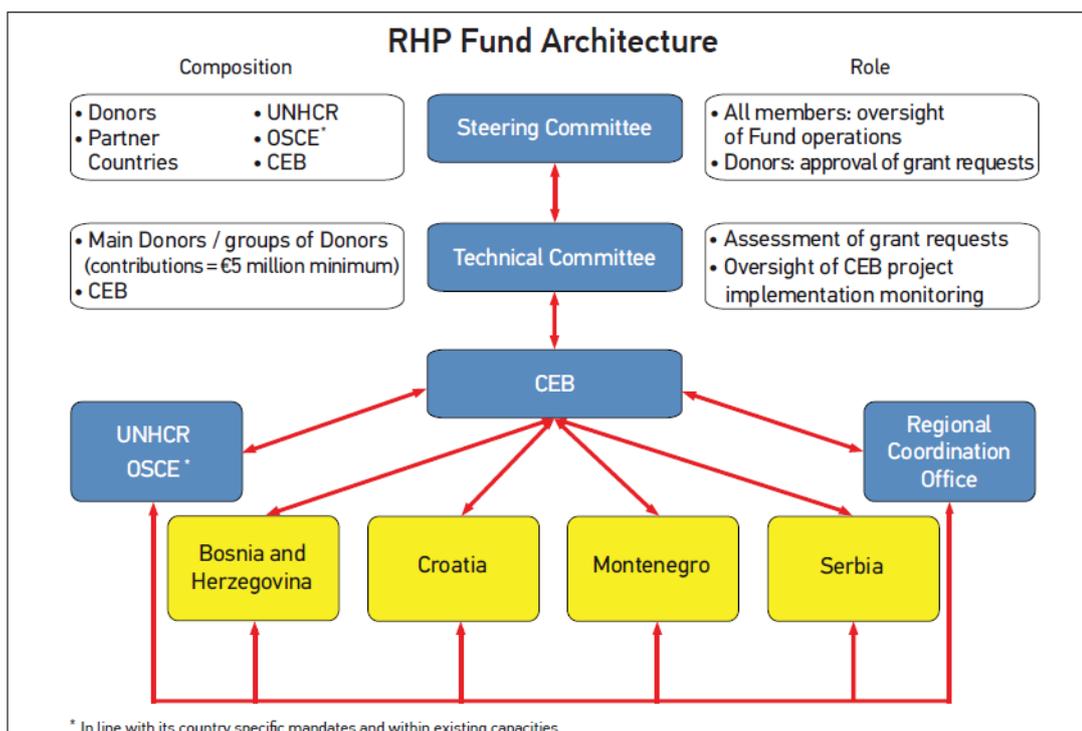
Advantages of this approach would include: (a) ensuring a uniform approach to victims' registration and status recognition by having all victims go through exactly the same recognition process, including those living outside the region; (b) at the symbolical level, providing a comprehensive and joint recognition of the status of all victims and, de facto,

creating one single database of all war crimes' victims in the former Yugoslavia; (c) controlling costs by having existing institutions implement the actual provision of services and d) contributing to the overall reconciliation and regional coordination by reducing existing controversies surrounding the available victims' data.

The decision regarding which national entities would provide victims with the material remedies would depend, of course, on what remedies are provided in any eventual reparations program.

- ✓ Consider using the Regional Housing Programme (RHP) structure as the regional mechanism to implement the victims' registration and victim' status recognition component of the reparations program and to manage the reparations fund or, alternatively, consider the establishment of a similar structure

The use of the RHP structure offers many advantages, given that it is an already existing, operational regional structure that includes international representation. Further, the RHP already deals with the wartime legacy and is intended to serve a beneficiaries' population that, at least in part, is likely to overlap with the population served by a comprehensive reparations program. These factors all point to the overall suitability of the RHP for use within a comprehensive reparations program.



<http://www.regionalhousingprogramme.org/24/about-rhp-governance.html>

The use of the RHP within a comprehensive reparations program would entail revision of the foundation document, and likely also its name, a process that would require the agreement of all actors involved. Sub-groups would need to be created within the Steering Committee and the Technical Committee for, respectively, the RHP and the reparations program, and a dedicated entity would need to be established for receiving and reviewing victims' claims. This entity, which could be placed directly under the Steering Committee, could be responsible for recognizing victims' status and identifying, in accordance with the reparations program's foundational document, what remedies a

victim would be entitled to. With a positive decision from this entity, victims could then go to their relevant national authority to obtain the remedy to which they have the right.

To the extent that the use of the RHP structure would not be acceptable or considered practical by the national or international stakeholders involved, the structure could be used as a model or an inspiration for the separate institutional set-up for reparations.

- ✓ *Determine where and with what entity victims would need to physically submit their reparations claims.*

This is one additional choice that would need to be made, and for which it would appear again that using existing national structures would be preferable over creating a whole new structure. The national authorities that are designated to receive claims, which could include embassies and consular offices for victims living outside their country of origin or nationality, could then transfer the claims to the dedicated entity mentioned in the preceding paragraph for victims' status recognition. Clearly, existing institutions chosen to carry-out this function would require both capacity-building (through victims' centered approach) and dedicated resources to exercise this particular function.

#### (b) What Rules and Procedures?

Unavoidably, a regional reparations program intended to serve tens of thousands of victims will be complex to manage and implement. However, much can be done to limit this complexity as much as possible by ensuring an adapted framework of rules and procedures that are as light and as non-bureaucratic as possible. Critically, such a framework would need to be victims-centered and allow victims to access and understand the process without any need for legal representation or support.

Technical support could be made available to the relevant decision makers and drafters of the foundational documents, including the sharing of experience and practices of large-scale reparations programs such as Colombia's Victims' Law; Turkey's Law 5233; and the German Forced Labor Compensation Programme.

### **Decision Point 7: Funding**

Many interlocutors cautioned that decision-making around funding would likely be complicated and sensitive, and that a consensus would be difficult to find. The principal issues include:

- *What proportion of the costs associated with a reparations program should each participating state cover and what criteria should be used to determine each state's contribution?*

Interlocutors identified this as one of the most sensitive topics that the political process leading up to a reparations program would need to address, in essence because the determination of who will pay for what is perceived as being closely linked to the question of the degree of accountability and responsibility different state actors have for the international crimes committed during the Yugoslav wars.

While alternative or complementary criteria could be devised, additional consultations would be required to determine which ones are politically feasible for all involved, and which ones are not. Given the high sensitivity of the matter, this Report will hence not speculate on what potential ways forward would look like. Clearly, however, it is a topic

that needs to be given sufficient attention by those who would eventually facilitate or support the political process around the establishment of a reparations program.

- *What international financial support would be available for funding a reparations program?*

While IOM consultations cannot be seen as conclusive in this respect, initial discussions with international and regional interlocutors indicate that international support is likely to be limited. There was a sense amongst some of the donor country' interlocutors that the Regional Housing Programme was likely to be the last wartime legacy effort that the international community would provide large funding sums for. All interlocutors insisted that, if at all available, international support could only come on top of serious efforts of the affected former Yugoslavia states themselves.

One avenue to consider, in this respect, is to make a distinction between the costs associated with the victims' registration and processing of victims' application and those required for the actual remedies. International support could focus on the former, while national governments would cover the latter part, for example.

- *How would national contributions to the reparations program be funded?*

Clearly, the bulk of the cost for a reparations program would need to come from the respective national budgets which, as indicated earlier, are already under pressure following the global financial crisis. Dedicated resources, however, could be considered including assets seized from perpetrators to the extent legally feasible.

- *What would the likely cost of a reparation program be?*

It is beyond the scope of this Report to estimate the likely costs of a reparations program. Two determinant factors would be the type of remedies the reparations program would provide and the number of victims that would likely to benefit from the program. Clearly, it will be important make such costing estimates to inform the eventual political process. It would need to be combined with an estimation of the likely resources that the participating countries possibly together with the international community could make available for a reparations program.

To the extent that there is sufficient political will to move towards the establishment of a regional reparations program, a dedicated team will need to look at the likely financial picture ahead of looking at what the reparations program can offer for whom, including the number of victims; types of remedies; and different administrative implementing structures.

### **The choice is not between spending or not spending resources on reparations**

One important point to highlight is that the choice that governments are faced with is not one between not spending any resources on victims' reparations (i.e. in case no reparations policy is adopted) and spending resources on victims' reparations (i.e. when a reparations policy would be adopted). As indicated earlier in the report, in the absence of a comprehensive reparations policy, reparations litigation by victims against the different states will continue and, in all likelihood, increase in the future especially, as is expected, the currently pending cases before the ECtHR would be successful for the victims. Such litigation engenders substantive costs for the states involved both in terms of the resources used to represent the states and the time and money spend by the different national courts in processing these cases. Moreover, awards given by the ECtHR and courts in general tend to be considerably higher than those foreseen in national reparations policies or programs. While more difficult to quantify, also the continued

vulnerabilities of important parts of the population, i.e. certain victims and their families, impose a cost on the different states, as do the missed opportunities related to a lack of overall reconciliation and ongoing disputes over the wartime past. The question is hence how the different governments want to spend their resources on reparations rather than whether or not they want to spend resources on reparations.

### **Decision Point 8: Relationship with Past and Ongoing Initiatives, Including Litigation**

As indicated earlier, a number of past and ongoing initiatives have provided or continue to provide assistance and, to a limited extent, reparations to victims of war crimes in the former Yugoslavia. Moreover, there are also a number of ongoing national and regional court cases that could result in some victims receiving compensation.

The establishment of a comprehensive reparations program would need to consider the following issues in this respect:

- What past assistance and/or reparations to take into account when it comes to material remedies provided by the program (such as deduction of compensation received under a court case for the same crime). It is common practice for reparations laws or foundational documents to provide a list of earlier reparations that could be deducted under the program at hand and/or foresee that victims cannot receive reparations twice for the same violation.
- Whether or not to ask victims who claim reparations under the program to waive any further reparations claims for the same violation as the one for which they will receive reparations under the program. It may be advisable, in this respect, to make a distinction between claims against the participating states (which victims could be asked to waive if their reparations claim is successful) and claims against the perpetrators (which victims would be free to continue to pursue).

Far from being a mere technical issue, the second consideration would offer also substantial value through “closing the reparations file” as part of a broader normalization effort in a post-conflict society. To the extent that a reparations program is comprehensive and credible in terms of the remedies it provides, such an approach would appear to be legally acceptable. Moreover, it can also be a means to promote equality amongst victims that can afford to submit legal claims against the state in the ordinary court systems and those that cannot afford to do so.

There are previous cases of victims being asked to sign a waiver, as for example under the German Forced Labor Compensation Programme, in which case victims were asked to agree that the compensation received under the Programme would be the final settlement of their claim against Germany or German companies in relation to their past forced labor. This waiver was challenged in court by some victims, but was upheld in the various jurisdictions where cases were filed.

### **Decision Point 9: The Form the Foundational Document Will Take**

If a regional program is established, the participating states will have to agree on what form the foundational document will take (such as a treaty, or a declaration followed by national legislation) as well as the necessary national steps that would need to be taken so as to give it legal force.

## **PART III: TOWARDS A COMPREHENSIVE REPARATIONS PROGRAM: PROCESS AND NEXT STEPS**

The process that is used to establish a reparations program is almost as important as the program itself and the broad objectives sought through a reparations effort should also inform the process itself. This part of the Report sets out what ideally should be the characteristics of the process that would lead to the establishment of a comprehensive reparations effort for victims of international crimes committed during the Yugoslav wars. It also points towards a number of concrete next steps that could hopefully lead from the situation today – in which many actors are in favor of addressing the “reparations gap” but few concrete initiatives of scale appear to be on the horizon – to a future context where the political process of establishing a reparations program has become a realistic prospect.

### **1. Conditions for Success: Basic characteristics of the political process leading to a comprehensive reparations program**

Ideally, the political process leading up to a comprehensive reparations program should have the below set of characteristics, so as to maximize the reparations program’s impact in terms of restorative justice. This would include the provision of recognition to the victims as citizens and rights-holders, the reestablishment of trust between victims and the state, and the promotion of political participation of marginalized victims. Civil society actors can play an important role in monitoring and advocating for a political process that has the characteristics set out below.

#### **(a) The political process needs to be participatory**

During the IOM consultations, NGOs and victims’ organizations invariably highlighted that many individual victims feel disenfranchised from mainstream politics and the state more broadly. They reported very low levels of trust amongst victims in the state, the political parties and the wider political process. These sentiments are not necessarily unique to victims, with a number of recent surveys and studies indicating that high proportions of the population throughout the former Yugoslavia countries feel disenfranchised, are highly critical of their governments’ performance and generally feel disappointed with how their states function.<sup>23</sup>

In such a context, it is even more important to ensure that victims can participate directly in the political discussions about what should be done in terms of reparations. Such a participatory approach pursues a number of distinct but complementary objectives:

- It helps to ensure that the reparations program actually responds to the preferences and needs of those it is intended to serve;
- It can contribute to ensuring that the eventual program has legitimacy in the perceptions of those affected by it;
- The mobilization and participation of victims is part and parcel of their formal recognition as full citizens and bearers of rights; and
- It can be a meaningful step towards rebuilding the trust between the victims, the state and the broader community.

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<sup>23</sup> E.g. The 2010 Galup Balkan Monitor and *20 Years after 1991: a Tale of Two Generations*

Drawing from the Colombian and other experiences, the following considerations are relevant as regards the nature of a participatory process:

- ✓ Open-ended consultations are rarely advisable, and it often works best to provide a set of options around which the consultations can be held, and to ensure that resource limitations and practicability are integrated from the outset. This requires preliminary policy work and a genuine effort to identify what is feasible and what is not.
- ✓ Victims' organizations can play an important and constructive part in such an exercise, and can for example work together with the relevant authorities to determine the set of options that will be presented to victims in direct consultations.
- ✓ It is important to also ensure that those victims who are not well organized and/or may face social stigmas or pressures not to come forward are somehow given the chance to have their voices heard. Well-adapted surveys can, in this respect, play an important role.
- ✓ Expectation management needs to be an integral part of such exercises, as making promises that cannot later be fulfilled (or giving the impression of doing so) can undermine any future reparations program.
- ✓ The process should not be open-ended. A clear plan on how to move from direct consultations to the eventual establishment and implementation of the reparations program needs to be in place, and communicated to victims in the consultations.
- ✓ A successful participatory process requires close collaboration between the relevant civil society actors and the government actors, which sometimes requires preliminary confidence building measures.

### **(b) The political process needs to be inclusive**

Given the nature of the conflict in the former Yugoslavia, it is critical to ensure that all communities are involved in the political process, and that the process is also perceived as being inclusive. Beyond this obvious "inclusiveness requirement," special attention is also likely to be required for the following categories of victims:

- *Victims belonging to minority communities at the national level and/or at the local level.*

Consistent reports indicate a continued need to improve minority rights protection in most if not all of the countries of the former Yugoslavia.<sup>24</sup> Given this background, ensuring participation of such minorities in the political process is likely to require particular efforts.

- *Victims who are not organized and are not a member of any of the existing victims' organizations or NGOs.*

Not all victims are either active within or a member of the many victims' associations or included within other civil society actors that exist in the former Yugoslavia. Targeted surveys, direct consultations or a combination of both could be used to also ensure that those victims can participate.

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<sup>24</sup> A recent European Parliament Report focusing on Croatia, Vojodina/Serbia and Kosovo, for example, found that while the legal frameworks for the protection are generally in place, their implementation invariably lagged far behind (2012, *Mainstreaming Human and Minority Rights in the EU Enlargement with the Western Balkans*, 9).

- *Victims who face barriers to participation from social stigma or fear of exclusion.*

This most likely includes many victims of sexual violence, including their children and families. Specialized civil society actors can advise on how best to create space for them to participate, such as through dedicated sessions rather than in larger group consultations.

Finally, gender equality in participation also needs to be ensured in order for the process to live up to the inclusiveness requirement.

### **(c) The political process needs to be transparent**

The sensitivity of the topic, the high risk of politicization, and the low levels of trust that appear to exist between victims and their governments all require that the political process is transparent and clearly understood by all stakeholders.

Transparency requires that a roadmap is known and available to all participants in the process. This would ensure, for example, that victims participating in consultations understand where their input fits and how it contributes to the eventual creation of a program. Transparency also requires the existence of an outreach and information effort from the moment the process starts, so that the broader population and stakeholders who are farther removed from the process can easily stay informed of what is going on.

## **2. The Next Steps**

This section contains a number of proposed next steps that stakeholders could take with the overall objective of creating an environment that enables the initiation of a political process towards a reparations program. These next steps form a mixture of technical and political work that, if taken together, can hopefully generate and sustain a momentum around the issue of victims' redress.

- *Organize a set of technical workshops around reparations for key stakeholders to encourage a common understanding and language around reparations*

As indicated earlier in the report, stakeholders tend to have quite disparate levels of understanding and views on what reparations are and what objectives they can or should achieve. Having a shared language and understanding of reparations could facilitate the eventual political process that would lead to a reparations program. A set of technical workshops targeted at both government and civil society stakeholders, and with the participation of relevant international and regional actors, could assist in creating a set of common understandings and shared views. They could also be used to introduce participants to relevant experiences of other countries in respect of reparations.

- *Support victims' associations and civil society actors across the region to develop a shared reparations program proposal*

Victims' associations and civil society actors have been critical in keeping the reparations issue on the political agenda in the countries of the former Yugoslavia. Multiple regional networks already exist, doing important work on both advocacy and direct victims' assistance. Given the current lack of political leadership, it may be a good strategy for the civil society organizations to develop a concrete proposal for a comprehensive reparations program in the region, building for example upon what RECOM is doing in the context of a regional truth commission or what

the Regional Women's Lobby (RWL) is doing to advocate for the women victims and victims of sexual violence. To the extent that civil society actors would indeed be willing to do this, relevant international organizations and donor countries could provide technical assistance and/or support for the development of this proposal.

➤ *Map existing victims' data and identify the data gaps*

The current situation of multiple actors holding some victims' data is not unique to the former Yugoslavia, as it is a common occurrence in post-conflict settings prior to centralized efforts to register victims, such as in the frame of a national reparations program. Understanding what victims' data is available where is important in the frame of the eventual establishment of a reparations program, as well as from the viewpoint of creating a historical record of those who suffered. A mapping exercise could look at what actors hold data on what type of victims (including diaspora organizations); what type of data the different actors hold on the victims whose information they collected; what methodologies were used to take victims' statements and information; when the information was last updated; and in what technical format the data is kept (important for any future exchange of information within a reparations program).

Such a mapping exercise could be accompanied by an assessment of what victims' data is missing and how many victims are likely to have never been registered by any of the relevant actors. This could result in a set of concrete recommendations on how to start working towards the eventual goal of a single victims' register. Such a single victims' register would not only facilitate the prospective reparations process, but also render the victim identification and recognition process politically neutral and uncontroversial, thereby contributing toward overall reconciliation at national and regional level.

➤ *Organize a regional political meeting to discuss ways to discuss possible ways forward to address the victims' reparations gap related to the Yugoslav wars*

Moving towards a regional reparations program will require sufficient political will at the highest levels in the various countries involved. As indicated earlier, there currently appears to be no clear political leadership in terms of bringing together all stakeholders and discussing what can be done and how to move forward. A regional or international actor could usefully play the role of convener, uniting the relevant political actors around the issue of reparations and the possible (and concrete) ways forward in this respect. It is not for IOM to determine which regional or international actor would be both willing and able to play this role, and a number of such actors working together would also be a good option. Local interlocutors did, however, frequently mention the European Commission as an actor that could play a very productive role in this respect. Ideally, such a meeting would be organized as soon as possible, as its outcome would frame what can or should come next.

➤ *Establish a mixed civil society – government regional working group On victims' reparations*

To the extent that sufficient political will would exist to at least consider and work out the contours of a regional reparations effort, it may be useful to establish a mixed civil society – government working group on victims' reparations to commence the process of working out what can be done. Given the scope of what needs to be considered, and the need for an open, participatory process, this working group could then establish a number of sub-working groups with each focusing on different aspects of the process. International actors could then support the working group by providing technical assistance and facilitating progress when thorny issues arise.

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## Annex 2: Interlocutors

The below list contains the interlocutors IOM spoke to in the course of the project in alphabetical order.

Ademagic Ernesa	ICTY, BiH
Ahmetaj Nora	Center for Research Documentation and Publication, Kosovo (Pristina)
Alic Almir	ICTY, BiH
Alvarez Yaiza	ICTY, The Hague
Alvir Ljiljana	Union of Associations of imprisoned and missing Croatian defenders, Croatia
Baca Jorge	IOM, Kosovo
Bain Jannicke	Norwegian Ministry of Foreign Affairs, Norway
Bakovic Merima	Ministry of Justice and Human Rights of Montenegro
Basic Haris	Presidency, BiH
Behxhet Shala	Council for the Defence of Human Rights and Freedoms, Kosovo (Pristina)
Bijedic Suzdina	Vive Zene NGO, BiH (Tuzla)
Blakaj Blerim	Humanitarian Law Centre, Kosovo
Bomberger Kathryne	International Commission on Missing Persons, BiH
Brown Diane	ICTY, The Hague
Brown Diane	OSCE, BiH
Burzan Dragisa	Cabinet of the President of Montenegro
Camber Vjekoslav	FBiH Minister of work and social policy
Caruso Francesco	OSCE Mission to BiH
Coguric Milisav	Ministry of Justice, Serbia
De Baan Pieter	ICC Trust Fund for Victims, The Hague
de Witt Augustus	ICTY, The Hague
Decker Chris	UNDP Kosovo
Dedic Alma	UNDP, BiH
Djuderija Saliha	Ministry for human rights and refugees, BiH
Dokic Petar	Ministry of Labor and Veterans, Republica Srpska, BiH
Dragisic Miodrag	UNDP, Montenegro
Dukic Branislav	Union of Former Camp Detainees, Republica Srpska, BiH
Dzamai Becirovic	Institute for Missing Persons, BiH
Engels Christopher	OSCE, BiH
Feller Erika	UNHCR HQ, Geneva
Ferran-Verger Myriam	European Commission Directorate General for Enlargement, Serbia
Forsberg Lars Erik	European Commission, Serbia
Gruda Zejnula	Kosovo War Crime Institute, Kosovo
H.E.Bangura Zainab	Special Representative of the Secretary General on Sexual Violence in Conflict, SRSG, New York
Hadrović Faris	UNFPA, BiH
Halilagic Jusuf	Ministry of Justice, BiH
Hasecic Bakira	Women Victims of War, BiH
Hrvacic Esad	Union of civilian war victims of Sarajevo Canton, BiH
Hulse Jeffrey A.	US Department Of State (Office of Caucasus affairs and Regional Conflicts), Washington DC
Husic Sabiha	Medica Zenica, BiH

Jarab Jan	OHCHR, Belgium
Jelacic Nerma	ICTY, The Hague
Jonsson Jonas	European External Action Service, Belgium
H.E Josipovic Ivo	President of Croatia
Jovanovic Ivan	OSCE Mission to Serbia
Jug Jasna	Association of families of imprisoned and missing Croatian defenders Croatian Phoenix, Croatia
Jurasic Branko	Serb National Council, Croatia
Jurišić Marko	Institute for Missing Persons, BiH
Jusufbegovic Senad	FBiH Union of former camp detainees, BiH
Kalla Kristin	ICC Trust Fund for Victims, The Hague
Karovic Senida	Union of Civilian Victims of War in the Canton of Sarajevo, BiH
Kojic Dragana	ICRC, Serbia
Kosovic Medic Amela	UNDP, BiH
Krcmar Goran	Missing Persons Commission , Republica Srpska, BiH
Krumova Theodora	OHCHR, Kosovo
Kuljuh Klaudia	ICMP, BiH
Kurteshi Sami	Ombudsperson, Kosovo
Lhoste Céline	European Commission, Belgium
Limi Besart	Youth Initiative for Human Rights, Kosovo
Macula Flora	UN Women, Kosovo
Mamut Lejla	TRIAL, BiH
Mandic Milan	Union of Associations of Families Missing (East Sarajevo), BiH
Manjoo Rashida	UN Special Repporteur on Violence against Women, New York
Marin Slavko	Chairman's Office, Council of Ministers, BiH
Mašović Amor	Institute for Missing Persons, BiH
McIntyre Gabrielle	ICTY, The Hague
Mehmedovic Hatidza	Mothers of Srebrenica, BiH
H.E. Meron Theodor	ICTY, The Hague
Micic Natasha	Regional Women's Lobby, Serbia
Miladinovic Ljubomir	Red Cross of Serbia, Serbia
Milunovic Dusko	Ministry of Labor and Veterans, Republica Srpska, BiH
Mirel Pierre	EC Enlargement Directorate, Belgium
Mišić Milutin	Institute for missing persons, BiH
Mitrovic Nedeljko	Republic Organization of Families of War Prisoners and Fallen Soldiers and Missing Civilians, Republica Srpska, BiH
Muharemovic Amna	UNWOMEN, BiH
Nehari Shari	Forum ZFD, Kosovo
Nicic Jovan	Office of the National Council for cooperation with the ICTY, Serbia
Nikolic Danilo	Ministry of Justice, Serbia
Novoberdaliu Suzana	Parliament of Kosovo, Kosovo
Orlovic Sandra	Humanitarian Law Centre, Serbia
Osorio Thomas	UNDP, BiH
Pacoli Sebahate	Kosovo Rehabilitation Centre for Torture Victims, Kosovo
Paripovic Sanela	UNDP, BiH
Pelkonen Nina	EULEX Kosovo

Porobic Isakovic Nela	UNFPA, BiH
Pusić Zoran	NGO Civic Centre for Human Rights, Croatia
Qerimi Donike	Ministry of Justice, Kosovo
Rasic Nenad	Ministry of Labor and Social Affairs, Kosovo
Refaeil Nora	International Civilian Office, Kosovo
Rehn Elisabeth	ICC Trust Fund for Victims, The Hague
Reynolds Diana	OSCE, BiH
H.E. Robinson Patrick	ICTY, The Hague
Rocco Gianluca	IOM, BiH
Rugova Igbale	Kosovo Women Network, Kosovo
Saarela Anu	Ministry for Foreign Affairs of Finland, Finland
Sarandrea Lucio Valerio	EU Delegation, BiH
Selman Dzerard	Minister of Justice, Republica Srpska, BiH
Sepic Senad	Parliament of BiH, BiH
Shehu Veprora	Medica Kosova, Kosovo
Sliskovic Marija	Victims' association Association Women in Homeland War, Croatia
Strbac Savo	Veritas, Centre for Collecting Documents and Information, Serbia
Subasic Munira	Mothers of Srebrenica and Zepa Enclaves, BiH
Sundholm Mattias	Office of the Special Representative of the UN Secretary General on Sexual Violence in Conflict, SRSG
Tahirovic Murat	FBiH Union of former camp detainees, BiH
Teršelič Vesna	NGO Documenta, Croatia
Teskeredzic Muzafer	Association of Civilian War Victims of the Canton of Sarajevo, BiH
Toma Marijana	Humanitarian Law Centre, Serbia
Vankovska Biljana	Ss. Cyril and Methodius University, Faculty of Philosophy, Macedonia
Velimirovic Svetlana	Commissariat for Refugees, Serbia
Vinton Louisa	UNDP, Croatia
Zahner Luke V.	US Dept of State (Office of South Central European Affairs), Washington DC
Yared Dima	Regional Office for Europe, OHCHR, Belgium
Zajovic Stasha	Women in Black, Serbia
Zakovska Suzana	IOM, Macedonia
Zecevic Jasna	Vive Zene NGO, BiH
Zmak Petar	Humanitarian Law Centre, Serbia
Zirnite Peter	Office of South Central European Affairs, US State Department, Washington DC



International Organization for Migration (IOM)  
Organisation internationale pour les migrations (OIM)  
Organización Internacional para las Migraciones (OIM)

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