

WAR REPARATIONS FOR CIVILIAN VICTIMS: WHAT ACCESS FOR COMMUNITIES?

Humanitarian Law Center (HLC) Kosovo

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LIST OF ABBREVIATIONS

HLC Kosovo – Humanitarian Law Center Kosovo

The Law on Reparations – Law No. 4/L-054, the main law observed in this report

KLA – Kosovo Liberation Army

UNMIK – United Nations Mission in Kosovo

KFOR – Kosovo Force - North Atlantic Treaty Organization-led international peacekeeping force

IMF – International Monetary Fund

KMB – Kosovo Memory Book

MLSW - Ministry of Labour and Social Welfare

DMFWI - The Department of Martyrs' Families and War Invalids within the Ministry of Labour and Social Welfare

MOCR – Municipal Offices for Communities and Return

UNDP – United Nations Development Programme

UNKT – United Nations Kosovo Team

IMWGDWP – Inter-Ministerial Working Group on Dealing with the Past

CSOs - Civil Society Organisations

EXECUTIVE SUMMARY

This report has been prepared as the conclusion of the project “*Promoting the realization of victims’ right to reparations - Reporting on the shortcomings of the Law on Reparations*”, and is supported by the Catholic Committee against Hunger and for Development (CCFD).

The purpose of this project is to improve the access to reparations of family members of civilian victims, in particular those from minorities. In order to do so, the first phase of the project, to which this report is the conclusion, aims at presenting the current state of the Law on Reparations in Kosovo, denounce its shortcomings, and issue recommendations to local and central institutions for improving both its content and its implementation. This report will also serve as the basis on which the second phase of this project will take place, which will be seeking to build an advocacy network to support improvements of the law.

In preparing the present report, the Humanitarian Law Center (HLC) Kosovo has implemented a demonstrative methodology consisting of: 1) preliminary assumptions - derived from the organization’s knowledge of the context of and experience in transitional justice in Kosovo; and 2) field research conducted to evidence or disprove these assumptions. HLC Kosovo carried out qualitative interviews with families of victims from various municipalities of Kosovo, in order to monitor their knowledge of and access to reparations, as well as with officials from various public institutions at the local and central levels.

This report, drawing from the aforementioned methodology, substantiated the preliminary assumptions, although at different scales than had been anticipated. Moreover, the interviews revealed new shortcomings of the Law on Reparations, which were therefore added to the present report and to its recommendations.

Ultimately, this report evidences, on the one hand, some deep gaps in the current Law on Reparations, causing the exclusion of families that HLC Kosovo considers entitled to reparations. The current reparations scheme in Kosovo is inadequate, as it proves to be unfavourable to minorities. On the other hand, even in its current form the Law on Reparations lacks proper implementation, thereby excluding many potential beneficiaries.

In more concrete terms, three great impediments to a fair, extensive and appropriate reparations regime in Kosovo can be noted. Firstly, the limited timeframe that the Law on Reparations foresees excludes many victims from minority communities from its scope, and sustains a biased narrative about the war in Kosovo. Secondly, the lack of awareness of the law’s existence and dispositions among the general public is largely hindering its proper implementation. Finally, many administrative shortcomings, due to insufficient institutional support, have been reported.

The Law on Reparations as it stands today in Kosovo is not sufficiently inclusive of all victims of the war, nor protective enough of the different minorities living in Kosovo, as both its dispositions and implementation are flawed. The recommendations drawn from the research advocate for legal reform, and involve all levels of local and central government working in this field.

As this report is being made available to the public in all 3 languages used in Kosovo, it serves both to denounce the several shortcomings of the law as it currently stands, to advocate for the importance of the amendments being designed and supported, and to enhance the transparency about the law by making its dispositions, existence, and implementation more understandable to the population of Kosovo.

INTRODUCTION

The importance of reparations for transitional justice

In post-conflict societies, the right to reparations is a central element for the establishment of the rule of law and for instituting a culture respectful of human rights and promoting solidarity between citizens.¹ Further, it is an extremely important aspect of the delivery of justice to victims, and consequently, an essential transitional justice component, entrenched in international standards of criminal law, by which the state of Kosovo must abide.² While monetary compensation is the most common form of reparation, different methods can be used,³ all executing the important psychological and social functions of the reintegration and rehabilitation of the victimized.

On the one hand, reparations given to victims contribute to some form of symbolic acknowledgment of their loss, which is needed as part of the recovery from war trauma, as well as to a sense of fairness and compensation for their loss. It allows victims to exercise their right to redress, and is an important tribute to those they remember. In this respect, reparations are essential to social peace and stability and so to any post-conflict peace-building agenda. On the other hand, in societies where armed conflict has largely affected poor and vulnerable groups of society, reparations are an indispensable element of post-conflict justice in order for victims to be able to re-establish their dignity, resume their lives and participate on an equal footing in society. In this respect, the right to reparations may be one of the most 'concrete' dimensions of justice restored to the victims of conflict, and should therefore be given as much attention as the other TJ actions which it complements.

Reparations processes will be legitimate and effective only if they are perceived to be fair. If wrongly designed, a reparations programme can exacerbate political tensions. Indeed, in post-conflict states undergoing political transition, various considerations need to be considered, such as how the reparation process is perceived by different parts of the population, and how the balance of power is affected by it. A partisan and biased distribution of reparations, or differentiations between victims, will further divide the society and exacerbate grievances.⁴ Moreover, in a context of state building, the fate of minority communities must also receive special attention, in order to avoid disenfranchising the most vulnerable parts of the population. Adequate and suitable reparations are therefore a necessary element to both reconciliation and integration of minorities.

1 'Victims' Right to Reparations in Serbia and the European Court of Human Rights Standards' (2014/2015), pp.3-4

2 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (2005)

3 A full spectrum of measures including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition

Many different social categories that emerged after the war are entitled to reparations as a result of the conflict in Kosovo (veterans, invalids, civilian victims, etc.), and have been the focus of previous research.⁵ **This report choses to focus exclusively on the reparations to which families of civilian victims are entitled, both of the missing and the killed, with special attention to minority communities.**

Human casualties: the dead and missing from the conflict in Kosovo⁶

Since 2011, HLC Kosovo has been engaged in the Kosovo Memory Book (KMB) project, aiming to produce a record of all individual human losses from the conflict in Kosovo. This recording of casualties has been recognized internationally as comprehensive, systemized, and extremely accurate.⁷ It can therefore be a very useful tool in providing assistance to victims in the post-conflict context, and in particular the realisation of their right to reparations.

As of 01/11/16, a total of 13,549 deaths or disappearances have been documented in the KMB – of which 10,334 were of civilians. Amongst these civilian casualties, 8693 were Albanians, 1196 were Serbs, and 445 were Roma and others.⁸ These casualties occurred in connexion with the war in Kosovo, in a period extending from 1/1/98 to 31/12/00.

Within this period can be distinguished the war itself, officially ending on 15/06/99, when the NATO bombing stopped and Serb forces withdrew from the territory of Kosovo, and the period corresponding to the immediate aftermath of the war (from 15/06/99 to the end of 2000). 1146 civilians died or went missing just during this period. As far as Serb casualties are concerned, more than 50% of civilian losses occurred after the official end date of the war.⁹

4 'Transitional Justice: Concepts, Mechanisms and Challenges' (2015) pp.285-7

5 in particular, see 'Monitoring of the Law No. 04/L-054' (2014)

6 HLC data from the Kosovo Memory Book

7 The Human Rights Data Analysis Group (HRDAG) concluded in 2014 that the KMB "documents all or nearly all the human losses during the conflicts in Kosovo over the period 1998-2000 (...) it is very unlikely that there are more than a few tens of undocumented deaths" - Kruger and Ball (2014)

8 Appendix No. 1, Graphic 1 and 2

9 Appendix No. 1, Graphic 3

CONTEXT AND BACKGROUND: THE CURRENT REPARATIONS SCHEME IN KOSOVO

I. The legal framework in Kosovo with regard to reparations

In accordance with international legal standards, the relatives of the victims, both missing and killed, from the armed conflict in Kosovo, have the right to adequate and effective reparations. The history of the right to reparation in Kosovo starts with the temporary emergency UNMIK Regulation No 2000/66 'ON BENEFITS FOR WAR INVALIDS OF KOSOVO AND FOR THE NEXT OF KIN OF THOSE WHO DIED AS A RESULT OF THE ARMED CONFLICT IN KOSOVO'¹⁰. It was extended in 2006 with the Law No. 2/L-02, drafted, and adopted by the Provisional Institutions of Self-Government of Kosovo.¹¹ This Law came into force in January 2007, with the purpose of regulating the status and rights of the families of heroes, invalids, veterans, and members of the KLA, and of the families of civilian victims of the war, until the year 2012.

Further, the Law No. 04/L-054 'ON THE STATUS AND THE RIGHTS OF THE MARTYRS, INVALIDS, VETERANS, MEMBERS OF THE KOSOVO LIBERATION ARMY, CIVILIAN VICTIMS OF WAR AND THEIR FAMILIES'¹² came into force on January 2012, replacing all previous legislation. The main source of the right to reparations for war victims in Kosovo is the abovementioned Law. It deals with the determination of the status and financial support accorded via pensions and special benefits to

different categories of participants to the conflict in Kosovo. The Law regulates, on the one hand, the rights of the martyrs and missing of the KLA, the invalids, veterans, members of the KLA and their close family members, and on the other, the status and the rights of civilian victims and their families, those still living (the disabled or taken hostage), and those disappeared (killed or missing).¹³ Recently, the Law on Reparations was amended with the recognition of one more category of war victim category: the victims of sexual violence during the war.¹⁴

In addition, the Law No. 04/L-023 "ON MISSING PERSONS" was adopted in August 2011, with the purpose of protecting the rights and interests of missing persons and their family members. This law established the Governmental Commission on Missing Persons, responsible among other things for establishing the Central Register of Missing Persons.¹⁵ The issue of missing persons is therefore dealt with by this specific law, but the definition of this category and its entitlement to reparations is also foreseen in the Law on Reparations.

Moreover, in 2015, the Law No. 05/L-021 "ON PROTECTION FROM DISCRIMINATION" entered into force. In accordance with a Directive by the Council of the EU, and with the prohibition of discrimination set out in article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, this new law lays down that **equal treatment** must be extended to all individuals regardless of their

10 <http://www.unmikonline.org/regulations/2000/reg66-00.htm>

11 <https://mpms.rks-gov.net/Portals/0/Ligji/PrimarAnglisht/Law%20No%2002%20L-2%20ON%20THE%20STATUS%20AND%20RIGHTS%20OF%20THE%20FAMILIES%20OF%20HEROES.pdf>

12 Thereafter referred to as the 'Law on Reparations' – accessible at: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20the%20status%20of%20the%20martyrs%20of%20war.pdf>

13 article 1 of the Law on Reparations

community affiliations. In particular, the Law states, with its article 2, that it applies to the field of social protection.¹⁶ The Law No. 05/L -019 “ON THE OMBUDSPERSON” was adopted in 2015, regulating the organization and functioning of this institution dedicated to the support of equal treatment without discrimination in all spheres of society in Kosovo.¹⁷

II. Specific legal dispositions of the Law on Reparations

The Law on Reparations categorizes its different beneficiaries and the conditions to be met in its articles 2 and 3. As this report focuses on the family members of civilian victims and missing civilians, it is paragraphs 1.10 and 1.15 of Article 2 that are central for understanding the legal criteria to be met in order to be granted reparations under this law.

As a preliminary matter, a word can be said about the conditions to be fulfilled in order for someone to qualify as a family member of victims. A family pension will be granted to the ‘close family’ of the civilian victim or missing civilian person - that is, to “*husband, wife, children, children out of wedlock, adopted children (foster), parents, step-father, step-mother, step-child and extramarital husband/wife*”.¹⁸ It is outside of the scope of this report to assess whether these family categories are suitable.

More crucially, the law differentiates between civilian victims whose mortal remains have been found and identified, and missing civilians, when

establishing the requirements necessary to receive benefits.

The law defines a civilian victim as: “*A person who died, or who was wounded and then died, **at the hands of enemy forces, between 27/02/1998 and 20/06/1999**, as well as persons who have suffered as a consequence of the war, within three (3) years after the war ended, from explosive devices left over from the war*”;¹⁹

It further defines a missing civilian person as: “*A person whose whereabouts is unknown to his or her family members and who, on the basis of reliable information, was reported missing during the period **between 1/01/98 and 31/12/00**, as a consequence of the war in Kosovo during 1998-1999*”;²⁰

In its phrasing, the current law raises two issues, while an additional one can be derived from HLC Kosovo’s experience in the field and contact with the general public.

1. Discriminatory dispositions and minority access to reparations

The Law on Reparations foresees granting reparations to families of civilians who have been killed by enemy forces. The notion of “enemy forces” is left undefined by the Law on Reparations. As civilian victims were created on all sides of the conflict, the notion of “enemy” can be understood quite differently, depending on the side from which one observes.²¹ However, when dealing with civilian human losses, the identity of the perpetrator should not matter. This extensive

14 Law No 04/L-172 “ON AMENDING AND SUPPLEMENTING THE LAW No.04/L-054 ON THE STATUS AND THE RIGHTS OF THE MARTYRS, INVALIDS, VETERANS, MEMBERS OF THE KOSOVO LIBERATION ARMY, SEXUAL VIOLENCE VICTIMS OF THE WAR, CIVILIAN VICTIMS AND THEIR FAMILIES”. This law entered into force on March 2014

15 <http://www.ic-mp.org/wp-content/uploads/2007/11/law-on-missing-persons-republic-of-kosovo.pdf>

16 <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-021%20a.pdf>

17 <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-019%20a.pdf>

18 Article 3 of the Law on Reparations, para. 1.15

19 Article 2 of the Law on Reparations, para. 1.10

20 Article 2 of the Law on Reparations, para. 1.14

21 “Monitoring of the Law No. 04/L-054” (2014), p.65

and indiscriminate protection of all civilians in times of warfare is internationally agreed upon and foreseen by the Geneva Conventions. So this disposition of the Law on Reparations, in distinguishing between civilians killed by enemy forces and those who were not, is redundant, even though in this case the identity of the “enemy” is undefined and so not wrongful as such; because all civilians ought to be protected, no matter who killed them

However the time frame for being entitled to reparations as a family member of a civilian victim is problematically narrow, and because of this, the notion of “enemy forces” takes a different meaning, rather implying “the Yugoslav authorities” or “Serb forces”. Indeed, while the official end date of the armed conflict in Kosovo is defined as 20/06/1999, many killings and disappearances occurred after that date, when Serb forces had left the country, and when NATO air strikes had stopped.²² As a result of this narrow time frame, a very large category of victims is in fact excluded from the Law: all those killed and missing after June 1999 - that is, over a thousand civilians.²³

Even though the current law aims to assist all civilian victims irrespective of their ethnicity, these two dispositions are evidently slanting this law in disfavour of non-Albanian victims of the war in Kosovo, and in particular of Serbian victims. Indeed, over 50% of civilian casualties in the Serb population in Kosovo occurred after June 1999. The undefined notion of “enemy forces” and the time frame given are excluding many victims, specifically those from minorities, victims of retaliatory killings by Albanians after the official end of the conflict.²⁴

HLC Kosovo, in order to fulfil its mission to help Kosovo society come to terms with its past, has

chosen to adopt a larger time frame in its research and activities to account for the realities of the war and its immediate aftermath, and be more inclusive of all victims. Moreover, the criteria set by the Law on Reparations for a person to qualify as a ‘missing person’ encompasses individuals reported missing until the end of 2000, showing that the consequences of the war had repercussions well after its official end.

2. Unequal time frame and legal inconsistency:

The same Law provides two different time frames, depending on whether a body has been identified (therefore belonging to the ‘civilian victim’ category) or is still missing. This is a central issue for the credibility and fairness of the Law on Reparations in Kosovo. Indeed, due to the complexities of body identification, it is very frequent that one family successively falls under the scope of both of these articles, therefore pertaining to different time conditions.²⁵ Not only does this dual regime cause inequalities between families of victims, those with missing members being entitled to a more extended recognition of their losses, but it also formalises legal uncertainty and unacceptable opportunities for forum shopping.

3. Lack of available information on the law’s dispositions

HLC Kosovo’s staff has long lasting experience of transitional justice in Kosovo, and acquired great understanding of civilian victims’ post-conflict needs thanks to years of field investigation, in particular in the context of the KMB research. Long prior to the present report, HLC Kosovo

²² KMB

²³ Appendix No. 1, Graphic No. 3

²⁴ Appendix No. 1, Graphic No. 3

²⁵ Such a process can last several months or years, as explained in “The situation in Kosovo: A Stocktaking” (2010)

²⁶ For instance in “Monitoring of the Law No. 04/L-054” (2014)

had noticed that the legal dispositions pertaining to reparations in Kosovo were hardly available to the general public. Indeed, previous interviews revealed that families of victims often were not informed of the conditions for the granting of reparations, nor of the full extent of the benefits offered. Furthermore, the general public in Kosovo is very little aware of the special needs that families of civilian victims and missing persons have. This information deficit which, albeit evidenced in previous research,²⁶ continues to stall the reparations scheme in Kosovo, was one of the factors prompting the field research that this report brings to conclusion.

III. Current realities: beneficiaries entitled to reparations

The Ministry of Labour and Social Welfare (MLSW) has, for the year 2016, identified and provided reparations to **5063** families of civilian victims and missing civilians. This official record does not show the ethnicity of the beneficiaries. By comparing this list with HLC Kosovo's Kosovo Memory Book database on victims of the war, the following results were obtained. As some families can receive reparations for several of their relatives, the total number of reparations payments for 2016 amounts to 5494, spread out as follows:

Albanian	5165
Ashkali	21
Bosniak	9
Egyptian	12
Gorani	1
Montenegrin	4
Romany	13

Serb	81
Turk	5
Unknown ethnicity	183
TOTAL	5494

It is obvious that not all of the families of victims of the war in Kosovo would qualify under the conditions of the law to obtain reparation for their losses. Nevertheless, the discrepancy between the figures of the war, and the small amount of victims entitled to war reparations in 2016, seems rather high. Moreover, the ethnic ratio is quite unbalanced, and gives the impression that minority access to reparations is impeded.

IV. Additional contextual elements

In addition to the questionable dispositions in place, in June 2011 the director of the departments of the DMFWI, in charge of all social benefits in the MLSW, received an official request from the Minister notifying all public officials to stop receiving applications for reparations as of 31/05/11, due to the enormous growth of the numbers of applicants.²⁷ Almost two years later, this decision was partially repealed and applications were opened again, but solely for families of missing persons (and not for families of civilian victims).²⁸

In its 2014 annual report, the Ombudsperson office in Pristina rightfully denounced this arbitrary decision in a report recommending the simple and complete annulment of the aforementioned decision, along with the repair of the damages caused by it.²⁹ So far the recommendations addressed to the MLSW by the Ombudsperson institution have remained unaddressed.

²⁷ Decision No. 171 (2011) MLSW, see Appendix No. 1

²⁸ Decision No. 10 (2013) MLSW, see Appendix No. 2

²⁹ Annual Report 2014, No. 14 (2015) Ombudsperson Institution

Moreover, since October 2016, new developments have taken place. Following a recommendation from the International Monetary Fund (IMF) highlighting extraordinary over costs in the state budget, internal auditors pointed out that some beneficiaries were receiving benefits from different pension schemes simultaneously - for instance, on the basis of retirement and on the basis of war compensation. As a consequence, some of the beneficiaries who so far had received monthly reparations for their missing family members or for civilian victims, were deprived of their right. Public declarations were made by

the MLSW announcing a review of the entire pension scheme in order, inter alia, to allow the cumulating of different schemes in certain conditions.³⁰ However, these developments have illustrated how the issue of war reparations is unfortunately and unjustifiably confused with that of regular social pensions. These issues also take place in the context of growing pressure to limit public spending on social benefits in Kosovo.³¹ While these developments are contemporary with this report, they are political and uncertain and therefore will not be discussed here.

30 'Qeveria synon të ndryshojë ligjin për marrjen e dy pensioneve (Video)' (2016)

31 Complaints about the amount spent for veterans pensions have been frequently heard in the last year, see 'Kosovo Budget Held up by Row over Veteran Benefits' (2016)

RESEARCH METHODOLOGY

I. Research assumptions

The research gathered in the present report was carried out following a demonstrative methodology, whereby the goal was to test, by means of on-the-ground research, certain assumptions previously detailed - namely, the discriminatory dispositions of the Law on Reparations and the lack of public information available about it - in order to evidence the causes of the restrained access to reparations for many victims of the Kosovo conflict, in particular in the minority communities. By doing so, HLC Kosovo aims to initiate a public debate on the topic of reparations and promote a legal reform.

II. Organization of the research: preliminary work, questionnaire and sample selection

The direct target group of this research report are the families of civilian victims of war crimes committed during the conflict in Kosovo and in its aftermath (both dead and missing), who currently fall outside of the scope of the Law on

Reparations, and those who qualify under the law but do not receive reparations. HLC Kosovo carried out qualitative interviews with families of victims from various municipalities of Kosovo, in order to monitor their knowledge of and access to reparations, as well as with officials from various public institutions at the local and central levels.

During the very first months of this research activity, the project received the official record list of all current beneficiaries of reparations submitted by the Ministry of Labour and Social Welfare offices, with the 5,063 beneficiaries. This list was cross-referenced with the existing list of victims in the Humanitarian Law Center database, in order to identify potential beneficiaries (family members who are entitled to reparation) left out of the official list of the MLSW, due to the law's provisions. A second list was therefore obtained, from which a sample for interviews was selected.

As a preliminary action, contacts were established with the associations of the families of civil victims and missing persons and with the municipal offices for communities and return. These meetings were useful in narrowing down our research, by establishing more precisely where families are located, obtaining their contact details, and targeting specific families in need.

Meetings/interviews	Institutions/ Organizations
5	Associations of the missing civilian Serbian victims in: Mitrovica e Veriut/ Mitrovica North, Graçanicë/Gračanica, Hoça e Madhe/Velika Hoča, Prilluzhë/ Priluzhe and Klinë/Klina
3	Heads of villages / Community leaders in: Dubravë/Dubrava (Ferizaj/Uroševac municipality) Gracë/Grace (Vushtrri/Vučitrn municipality) and Plemetin/ Plemetina (Obiliq/Obilić municipality)
10	Municipal offices for the communities and returns in: Prizren, Pejë/Peć, Mitrovicë/Mitrovica, Fushë Kosovë/Kosovo Polje, Istog/Istok, Kamenicë/ Kamenica, Rahovec/Orahovac, Gjilan/Gnjilane, Novobërd/Novo Brdo, Parteš/Partesh
2	Ombudsperson
2	MLSW/DMFWI

As the goal was to assess whether the dispositions of the law are preventing families of victims from being granted reparations, and to assess their knowledge of the law, HLC Kosovo focused in the sample selection on those potential beneficiaries whose situation would test these assumptions. Therefore, the interviewees were selected as follows:

- Family members of victims killed outside the time frame of the Law.
- Family members of victims killed by 'non-enemy forces'.
- Family members of victims of all minority communities in Kosovo.
- Family members of victims killed in various municipalities of Kosovo, including mixed municipalities. Special focus was directed on families living in villages and remote settlements.

HLC Kosovo staff encountered some difficulties finding relevant family members in several cases, owing to them having moved abroad.

A questionnaire was designed for approaching the families selected, in order to gain proper feedback about the following questions:³²

- Did the families have any information about the current law on reparation? If they had, which were the channels whereby they received the information about the law (through media, municipal officials, associations, NGOs, friends or other families)?
- Did they try to fulfil their right to reparation? If not, what were their reasons for not doing so?
- In cases where they tried to fulfil their right and failed, what were the obstacles they faced?

III. Conducting the interviews

Between 1st April and 30th September 2016, HLC Kosovo conducted **115 interviews** in the field,

approaching family members who might have a right to reparation.

Ethnicity division: the interviewed included 71 Serbs; 10 Roma; 1 Egyptian; 24 Albanians; 3 Ashkalis; and 6 Bosnians.

Places in which the interviews were conducted:

Interviews were held with families living in the following municipalities and villages: Gračanica/ Graçanicë, Bërnica e Epërme/Gornja Brnica (Pristina municipality) Suhodoll/Suvi Do, (Lipjan/ Lipljan municipality) Hoça e Madhe/Velika Hoça (Rahovec/Orahovac municipality) Strazhë/Straža (Novobërdë/Novo Brdo municipality), Ponesh/ Poneš (Gjilan/Gnjilane municipality), Mogillë/ Mogila, (Viti/Vitina municipality) Rudica/ Rudicë (Klinë/Klina municipality) Kamenicë/ Kamenica, Rudare/Rudare (Zveçan/Zvečan municipality), Svraqkë/Svračak (Vushtrri/Vučitrn municipality), Leqinë/Leočina (Skenderaj/ Srbica municipality), Mitrovica North, Veliko Ropotovo/Ropotovë (Ranilug/Ranillug municipality) , Gjakovë/Đakovica, Cërcë/Cerce, (Viti/Vitina municipality), Dubravë/Dubrava, (Ferizaj/Uroševac municipality), Gorazhdec/ Gorazdevac, (Pejë/Peć,municipality) Pristina, Vitomiricë/Vitomirica (Pejë/Peć municipality) Klinë/Klina, Plemetinë/Plemetina(Obiliq/Obilić municipality), Sibovc/Sibovac(Obiliq/Obilić municipality) , Shillovë/Šilovo (Gjilan/Gnjilane municipality), Pasjan/Pasjane (municipality of Gjilan/Gnjilane), Fushë Kosovë/Kosovo Polje,Paralovë/Paralovo(municipality of Gjilan/ Gnjilane), Bajmovc/Babin Most (Obiliq/Obilić municipality), Shtërpce/Štrpce, Prizren/Prizren, Gracë e Vjetër/Staro Gracko (Lipjan/Lipljan municipality), Negroc/Negrovce (municipality of Glogovc/Glogovac), Fushtica e Epërme (Glogovc/Glogovac municipality) Dobratinë/ Dobratin (Podujevë/Podujevo), Dubravë/ Dubrava (Ferizaj/Uroševac municipality), Rabovc/Rabovce (Lipjan/Lipjan municipality), Suharekë/Suha Reka, Godancë i Poshtëm/

Donje Godance, (Shtime/Štimlje municipality) Novosellë/Novo Selo, (Lipjan/Lipljan municipality) Gushtericë e Poshtme/Donja Gušterica (Lipjan/Lipljan municipality), Sushicë/Sušica (Lipjan/Lipljan municipality), Malishevë/Mališevo, Krushë e Madhe/Velika Kruša (Rahovec/Orahovac municipality), Caralevë/Carljevo (Lipjan/Lipljan municipality) Bregu i Zi/Crni Breg, (Lipjan/Lipljan municipality) Petrovë, (Shtime/Štimlje municipality) Sojevë/Sojevo (Ferizaj/Uroševac municipality), Rancë (Shtime/Štimlje municipality), Petroviq/Petrović (Shtime/Štimlje municipality) and Fshati i Vjetër/Staro selo (Ferizaj/Uroševac municipality).

Along with in-person interviews, correspondence via e-mails and telephone connections were conducted with the families of Kosovo who are now living in Serbia (Niš, Vrnjačka Banja, Beograd, Kraljevo, Vranje, Valjevo, Kruševac and Požarevac).

The families interviewed were presented with HLC Kosovo's mandate and with the explanation of the project goal. Further, they were asked to complete the questionnaire, and given a copy of the current Law on Reparation in their native language. Relevant documents pertaining to their applications were collected and added to the KMB database.³³

³³ i.e. death certificates, photos, marriage certificates, correspondence, official documents released by KFOR, UNMIK, Kosovo Police, etc.

RESEARCH FINDINGS

After 6 months of fieldwork, the findings obtained were juxtaposed with the preliminary assumptions that the research was designed to test. The observations made by HLC Kosovo in the field substantiated the preliminary assumptions, although on different scales than anticipated; but they also added many layers to the issue of reparations in Kosovo, which in turn fuelled this report and its recommendations.

I. Lack of information about the existence and conditions of the Law on Reparations

A crucial obstacle for family of victims to realize their right to reparations proved to be the lack of publicly available information about the law, the benefits it provides and the eligibility of citizens to those benefits. Many victims' family members, albeit entitled to reparations, fall short of enjoying their right simply because they are misinformed about its features and availability. In this respect, the Law on Reparations is yet another aspect of public life from which minorities are excluded because of lack of transparency and accessibility.

"I did not know about the Law on Reparations for civilian war victims provided by Kosovo Institutions. My husband was kidnapped on 12/06/1999 together with his two brothers. Some witnesses testified that he and his brothers were kidnapped by members of the KLA. Since that date, he has been missing, and I do not know anything about his destiny. The International Committee of the Red Cross considers his case still open".

D.A., Serbian Community – HLC Kosovo, interview No. 12, held on 08/04/2016

"My son was killed on 17/04/1999. He was only 18 years old. To date, I have not heard about the law and applications to it, therefore I have not tried

to approach the municipal authorities regarding reparations".

V.V., Serbian Community – HLC Kosovo, interview No. 15, held on 15/04/2016

"My son was taken from a bus by some people on 19/05/1998. By profession he was a policeman, but that day he was not on duty, so he was not wearing the uniform. He was traveling in civilian clothes for a private trip to Pejë/Peć. He has been gone missing since that day. I have not heard about the Law on Reparations"

LJ.Đ., Serbian Community – HLC Kosovo, interview No. 24, held on 27/04/2016

"My son was kidnapped on 22/06/1999. Since then, he has remained missing. I just recently heard from a friend about your research and about the right to reparations. I got the phone number of your organization and decided to contact you to hear more in detail about this law."

LJ.V., Serbian community – HLC Kosovo, interview No. 115, held on 26/10/2016

"My husband was killed during the NATO bombing. The NATO forces bombed the building where the executive council was seated at Gërmija on 21/04/1999. My husband was killed inside that building. I did not know about the law and never applied for reparations".

D.G., Serbian community – HLC Kosovo, interview No. 80, held on 25/08/2016

II. Civilian victims killed by non-enemy forces

Investigating the foreseeable risk that cases of disappearance caused by KLA or NATO may be understood as provoked by 'non-enemy forces', therefore excluding from reparations, was complex. Indeed, in many cases the identity

of the perpetrator remains unknown, so that the determination of 'enemy' is in fact left out. Moreover, HLC Kosovo's researchers faced great level of anxiety and reluctance from families of victims to spell out clearly the nationality of their loved ones' perpetrators if they were not Serbs.

In the end, while the field research did evidence a number of families of victims excluded from reparations owing to the identity of their loved one's perpetrator, this observation was much smaller in scope than what was expected. In fact, in several cases families of victims killed by members of the KLA or NATO forces did obtain reparations.

Ultimately, HLC Kosovo concludes that the potentially discriminatory disposition of the law on who qualifies as 'enemy' is not a significant obstacle to the obtaining of reparation, albeit a redundant element of the law. Rather, it is its limited time frame that has to be challenged.

"I have approached the municipal department regarding the reparations. The municipal clerk told me that I do not have a right to reparation since my husband was not killed by Serbs. My husband was killed on 02/10/1999 by unknown persons."

R.H., Bosnian community – HLC Kosovo, interview No. 32, held on 23/05/2016

"At about 4 o'clock in the afternoon, on 20/06/1999, my son was taken by four persons who were in KLA uniforms. Since that day, I do not know anything about the fate of my son. I never thought I could be entitled to reparations".

SH.K., Ashkali community – HLC Kosovo, interview No. 67, held on 05/08/2016

III. Civilian victims killed outside of the time frame set by the Law

Several of our interviews highlighted the issue of the time frame in the Law on Reparations, as being the factor preventing families to be granted reparations. Most of the time it proved to be a reason motivating families' refusal to even apply for reparations.

Victims' communities largely understand this condition as an arbitrary condition, deliberately leaving out individuals from minority communities killed after the official end of the hostilities. Indeed, a considerable number of civil victims among the Serbian, Bosnian, and Roma communities were killed after the official period as defined by the law.³⁴

Moreover, the time frame pertaining to civilian victims is also discrepant with regard to the date entitling families to obtain reparations for missing persons. In fact, those whose loved ones' mortal remains have not yet been found or identified (missing persons) can benefit from reparations, even though the date when the victim was reported missing was after June 1999. We have encountered several cases of families who, profiting from this different regime, hid their loved ones' mortal remains in order to leave them marked as 'missing', so as to continue under a more favourable legal regime.

As a consequence, the time frame foreseen by the Law on Reparation is discriminatory both in terms of the ethnicity of the victims and of their status (either dead or missing).

"My father was missing since 02/08/1999. He was found dead, with gunshot injuries to his head and chest. He was identified and buried on 14/08/2003. My mother and I did not know nor have any information about the Law on Reparations. Even

if we had had, we would not have been able to exercise this right, since my father's murder does not fall under the time frame foreseen by the law".

V.Ž., Serbian community – HLC Kosovo, interview No. 18, held on 08/04/2016

"The municipal official told me that I do not have a right to reparations since my husband had been missing since 03/07/1999 after being kidnapped, and then his body was found in 2001. During the year 2014, I again contacted again the municipal officials to try to obtain the right on reparations, and they told me that the process of applications had been stopped".

T.H., Roma Community – HLC Kosovo, interview No. 01, held on 01/04/2016

IV. Administrative issues hindering adequate implementation of the Law

1. The administrative decision to stop receiving applications

The research confirmed that the political decision taken in 2011 by the MLSW to stop receiving applications for reparations has been an important factor hindering access to reparations, by arbitrarily denying this right to potential beneficiaries. This decision often creates incomprehension and a sense of injustice amongst families of victims, who may not have applied for reparations before for reasons over which they had no control, such as the lack of information about the law, the delays in obtaining documents, or the reluctance of public officials to assist them.

"My husband was missing since the 22/06/99. His mortal remains were found and identified on 29/07/11. I heard about the Law on Reparations just a few months after the deadline for submitting the applications, unfortunately. I missed the date because I was very sick and being treated with chemotherapy. However, the compensation

would help me now."

V.S., Serbian community – HLC Kosovo, interview No. 03, held on 04/04/2016

"Yes, I was informed about the Law on Reparations. I prepared all the requested documents and I approached the municipal department for social welfare in Klinë/Klina municipality at the beginning of the year 2014. The municipal officials told me that the process for receiving the documentation regarding reparations applications had been stopped and that they did not know when the process would restart again. My husband has been missing since 10/06/1999."

R.D., Serbian community- HLC Kosovo, interview No. 14, held on 14/04/2016

"My son was murdered on 22/02/1999. He is buried in the graveyard in our village. A few years ago, I approached the municipality department in Ferizaj/Uroševac. I have been told that the municipality cannot help us and that I should go to Pristina and contact the Department of Family and War Invalids within the Ministry of Labour and Social Welfare. A few months later, we went to Pristina and they told us that we were late with the application and that they were now closed."

S.L., Albanian community – HLC Kosovo, interview No. 113, held on 30/09/2016

2. Lengthy, flawed and inequitable administrative procedures

It has been consistently observed during the field research that when reparations were requested, the process of obtaining the right documentation was impeded or slowed down by heavy and time-consuming administrative formalities. Each step took an unacceptably long time, often with no explanation.

The extreme lengthiness of the procedures, and the lack of timely information available, often meant that family members missed their opportunities for seeking their rights, or were

discouraged from doing so. Notably, according to the law, family members must fall into one of the categories foreseen by article 1.15 in order to obtain reparations. The lengthiness of the procedures meant that the passing of time progressively excluded from the requirements of the law the relevant family members, who either died or reached adulthood. However, the families of victims should not bear the consequences of the inability of the state administration to administrate the law in a timely manner. Moreover, this is to be coupled with the political decision to stop receiving applications as of 2011, depriving of the chance to obtain reparations even more families of victims.

Finally, in several cases members of minorities could not access the relevant documents in their own languages. This breach of the principles of equality of access to documents and of transparency of procedures, discouraged or impeded some potential applicants from seeking reparations.

"My husband was killed on 17/06/1999, his mortal remains were found in the village of Rahovicë/Oraovica. We buried him in the village of Vaganesh/Vaganeš in the Kamenicë/Kamenica municipality. I submitted all requested documentation in my application for reparations to the municipal authorities in Gjilan/Gnjilane, but up to now I have not received any decision regarding reparation or any informative letter from the municipality."

M.V., Serbian community – HLC Kosovo, interview No. 14, held on 20/04/2016

"I have been trying to realize my right to reparation for several years now. I am a father of two missing sons. My boys have been missing since 18/06/1999, and a court decision set the date of their death as 26/06/1999. I submitted all requested documents for application to the Gjakovë/Đakovica municipality. So far nothing has been decided. The authorities in the municipality suggested that I should talk with the deputy mayor and then with the current mayor and some other official agent. I am an old man and I live as a tenant, since my home was destroyed

during the war"

A.B., Egyptian Community – HLC Kosovo, interview No. 25, held on 04/05/2016

"I tried to realize my right to reparation, but I faced a big struggle in submitting the needed documents. My husband has been missing since 18/06/1999. I approached the municipality for issuing the certificate for missing persons. In the beginning, they refused to issue this document, though after 3 months I got the certificate, but written in the Albanian language."

Z.G., Serbian community – HLC Kosovo, interview No. 62, held on 11/07/2106

3. Unwillingness and inability of public clerks to assist beneficiaries with their requests

A third contributing factor further inhibiting the proper realisation of the right to reparations is the very frequent lack of professionalism of public officers in charge of the files. Many of the people interviewed recalled the difficult relations they faced with the administrative staff in charge of delivering the documents needed for making applications. With reactions ranging between reluctance and incompetence, some of them also clearly refused to help with their requests, without facing any sanctions from their hierarchical superiors.

"I could not realize my right to reparation because the person in charge in the municipality refused to issue the certificate that will state that my husband was kidnapped in the territory of Pejë/Peć. The officials also refused to issue my marriage certificate, so I could not collect all the needed documents for initiating the request for reparations for the loss of my husband, who has been missing since 24/06/1999."

Ć.O., Serbian Community – HLC Kosovo, interview via email

“My brother was severely wounded on 13/04/1999 by a NATO grenade. As a result of his wounds, and after surgery at the Pristina Hospital, he died on 14/04/1999. He left behind a pregnant wife who gave birth to his son 4 months after his death. My father learned about the Law on Reparation on time, and has tried since the very beginning to obtain the certificate from the Pristina municipality, which confirms my brother’s death caused by NATO bombing. For several years the municipal officials persistently refused to issue the certificate, even though the case about the death of my brother was clear. My father lost the opportunity to obtain the right to reparation exclusively owing to the negligence and lack of responsibility of the officials, who are supposed to do their job in a professional manner. Meanwhile, my father passed away, and my mother has been taking care of my brother’s

son, who is now a grown-up, and will soon be 18 years old this year, so there are chances that he will lose his right to reparation as well. I am thinking of suing the officials who deliberately refused to issue the aforementioned certificate”.

S.T., Albanian Community- HLC Kosovo, interview No. 31, held on 20/05/2016

This specific case was chosen as a pertinent conclusion to these research findings. In fact, in this case the relevant family member (the father) first has to struggle to obtain the right documents to pursue his application for reparations, on account of an unjustified refusal from the public officer; then he dies, given the lengthiness of the handling of the case, thereby losing his right; and now his son is threatened with the same fate, because he is about to come of age.

GENERAL CONCLUSIONS FROM THE RESEARCH:

HLC Kosovo's research evidenced, on the one hand, some deep flaws of the current Law on Reparations that are excluding families that should be entitled to this right. Short of a legal reform, the reparations scheme in Kosovo cannot be deemed fair and adequate, as it proves to be unfavourable to minorities. On the other hand, even in its current form the Law on Reparations lacks proper implementation, owing both to administrative shortcomings and to a huge gap in the public information available on this law. The conclusion of this report can therefore be divided into three fundamental axes that must be addressed by the government of Kosovo:

The information deficit:

The public information available about the current Law on Reparation is extremely limited, both in the potential beneficiaries' circle and in the general population in Kosovo. The lack of knowledge of beneficiaries of their right, the lack of understanding of how the law functions, and the absence of public awareness of the rights of family members of victims and missing persons are the crucial contributing factors inhibiting proper realisation of the right to reparations in Kosovo. This results from a failure of the Kosovo institutions to provide families of war victims with accurate and intelligible information on the reparations, combined with the failure so far of the Civil Society Organisations (CSOs) in Kosovo to convey this information and advocate for more transparency.

The exclusionary dispositions of the Law

The notion of 'enemy forces' raises two issues. Firstly, it creates an inappropriate and redundant distinction between civilian victims. Secondly, when coupled with a time frame excluding from reparations families of victims who died after 36/37/38, this notion is discriminatory towards non-Albanian victims. In fact, the time of the events under consideration is a prominent factor in the ability of families of victims to receive reparations, and often leads to the exclusion in particular of members of minorities. It is particularly unjust as regards the different legal regimes to which family members of missing persons are subject, since they enjoy a wider time frame.

The flawed administrative implementation

Many administrative shortcomings are currently obstructing the proper implementation of the reparations regime in Kosovo. Lengthy proceedings, lack of equality in access to documents, arbitrary political decisions and the unprofessionalism of public officials are issues that must be resolved to make the process of obtaining reparations more fluid, victim-friendly, and respectful of all ethnic and social backgrounds. In the field of war reparations, involving individuals who have suffered great trauma, adequate sensitivity is required in dealing with each case, and this implies timely and respectful handling by the authorities.

Appropriate reparations are fundamental both to the integration of minorities and to reconciliation. Currently, the perceived bias against Serbs that the law entails perpetuates a wrong 'black and white' narrative about the war, and is detrimental to reconciliation between the two communities. The law is often perceived as politically motivated and discriminatory, creating discord amongst victim communities, and resulting in the counterproductive effect of dividing rather than reconciling, exacerbating grievances and furthering the marginalization of some victims belonging to minority communities. More generally, equality before the law is a fundamental principle on which all modern democracies must be based. It is protected by Article 39 of the Constitution of the Republic of Kosovo, and by the recent Law No 40/L-41. The Law on Reparations must be reformed and properly implemented in order to abide by these fundamental principles Kosovo has chosen to embrace.

RECOMMENDATIONS TO KEY PLAYERS

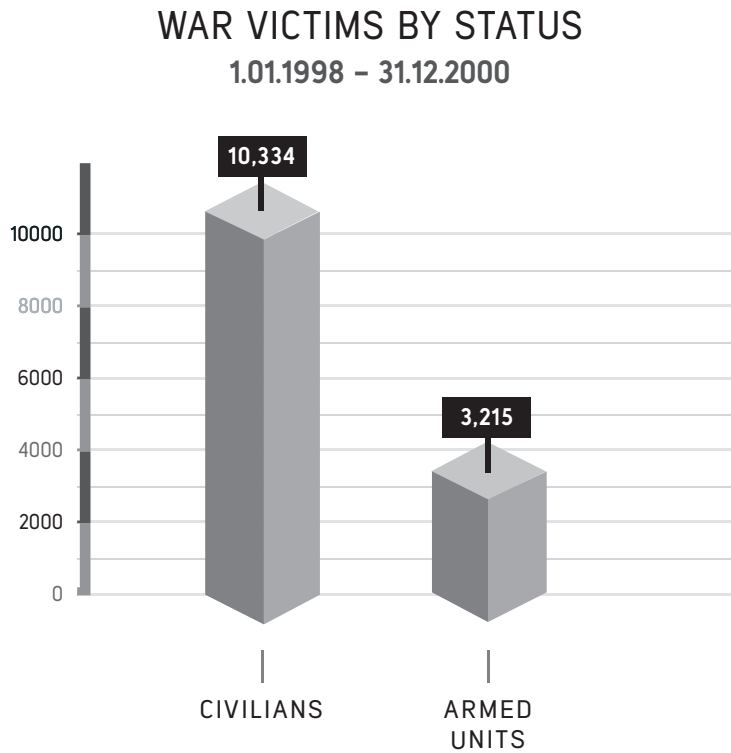
1. The Government of Kosovo should amend the Law on Reparations by extending the period for acknowledging the status of all civilian victims who lost their lives until the end of the year 2000. Doing so will enable Kosovo to abide by the prohibition of discrimination set out in Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It will also unify the legal regime in place for reparations, by making civilian victims and missing civilians subject to the same legal conditions, thereby increasing the stability of Kosovo's legal body.
2. The Government of Kosovo should also remove any mention of "enemy forces" from the Law on Reparations, as it is not useful to distinguish between the identities of perpetrators when dealing with civilian victims of armed conflict.
3. In reforming the law, the Government of Kosovo should work together with the Inter-Ministerial Working Group on Dealing with the Past supported by UNDP/ UNKT. The national strategy on dealing with the past, which the Group is currently drafting, will include the issue of reparations. It is a great opportunity to improve the current regime and fit the reparations issue into a national transitional justice framework.
4. The administrative decision to suspend applications for reparations must be repealed, as was recommended by the Ombudsperson in 2014. This decision is against the main principles of the Kosovo Constitution, and particularly in disfavour of the most vulnerable communities in Kosovo.
5. All members of the current administrative staff at the local and central levels must be trained to deal with reparations applications in a professional and timely manner, and to inform families of victims of the rights they are entitled to. Extra administrative staff should be recruited to meet the demand for reparations without unreasonable delays.
6. The misbehaviour of clerks or their unwillingness to apply legal dispositions must be monitored and subject to criteria of professional accountability. More generally, respect and non-discrimination must be practiced in all administrative bodies of Kosovo.
7. The documents must be issued in the language of the applicants, in accordance with the principle of equal treatment set out by the Council of the EU, the European Convention, and in the Law No. 02/L-37 'ON USE OF LANGUAGES'³⁵ currently in force in Kosovo.

8. The office of the Ombudsperson should continue to investigate the cases of violation of human rights and discrimination regarding the most vulnerable groups, who need protection and a recognition of their right to reparation. The government of Kosovo must abide by the recommendations spelt out in the Office's 2014 Report, and enact the simple and complete annulment of decision No. 141.
9. The government should undertake a nation-wide campaign to raise public awareness about reparations, with the help of CSOs in Kosovo.
10. CSOs in Kosovo should engage in assisting victims in their administrative procedures to obtain reparations. Furthermore, all publicly visible organizations must contribute to informing and raising the awareness of the general public on opportunities for reparations - for instance, by conducting informative public campaigns reaching minority communities.
11. Information about and access to the benefits minorities are entitled to must become a national priority, in order to support their complete integration into the society and public life of Kosovo
12. HLC Kosovo offers its support to the government of Kosovo in the completion of the present recommendations. It strongly prompts all the actors involved, at the local and central levels and from all spheres of public life in Kosovo, to form a network of advocacy supporting legal reform based on this report.

APPENDIXES

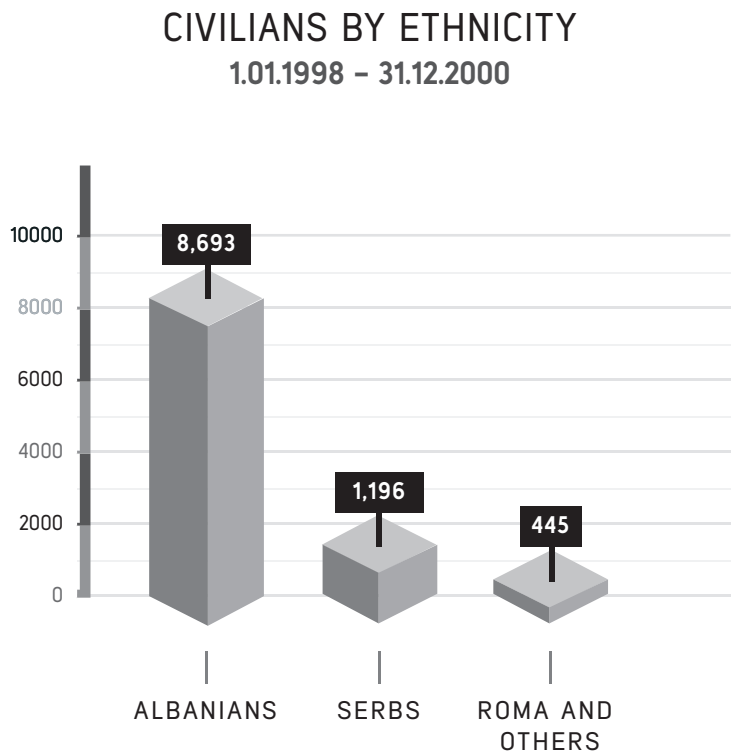
Appendix No. 1: Tables detailing the casualties during the war in Kosovo, KMB

Graphic 1



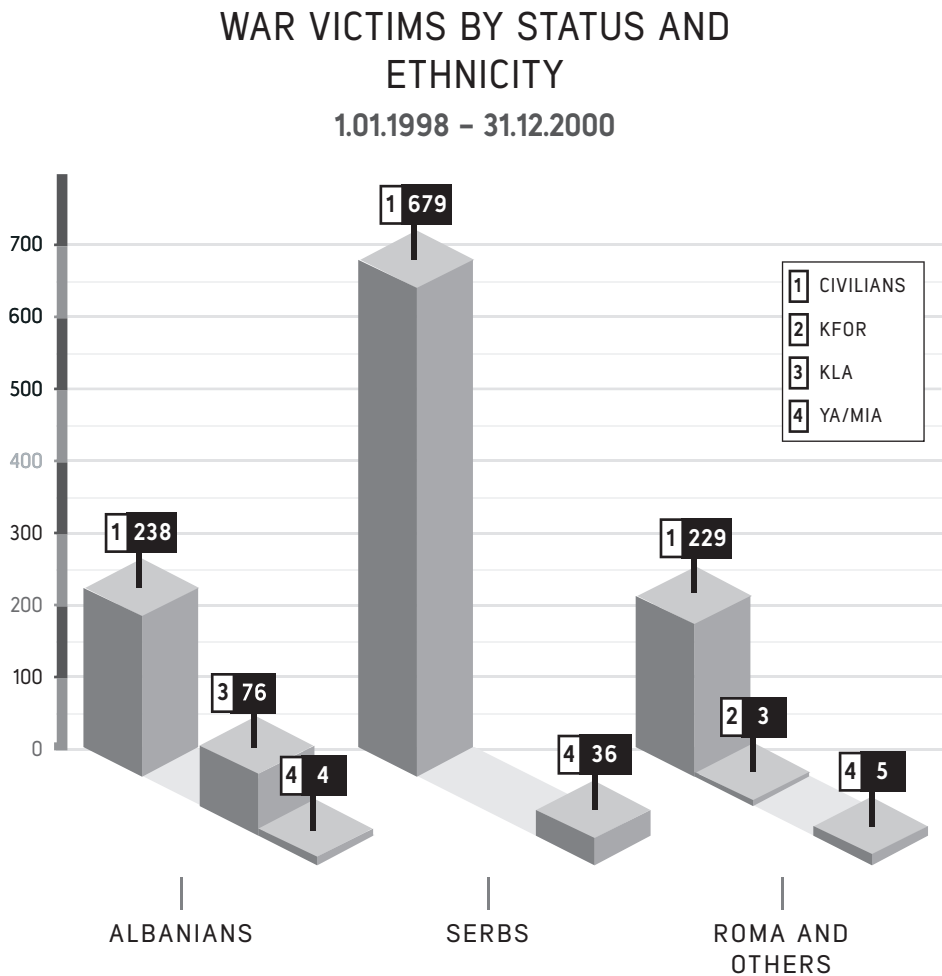
Graphic 1: civilian and combatant casualties from 1/1/98 to 31/12/00

Graphic 2



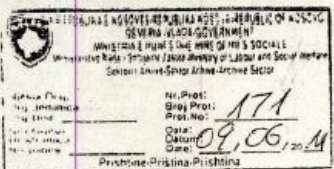
Graphic 2: civilian casualties by ethnicities from 1/1/98 to 31/12/00

Graphic 3



Graphic 3: civilian and combatant casualties by ethnicities from 15/6/99 to 31/12/00

Appendix No. 2: Decision, date 07/06/11, from the MLSW, addressed to the Director of the DMFWI by whom applications for reparations were closed after 31/05/00

Republika e Kosovës
Republika Kosova - Republic of Kosovo
 Qeveria - Vlada - Government
 Ministria e Punës dhe Mirëqenies Sociale
 Ministarstvo Rada i Socijalne Zastine - Ministry of Labour and Social Welfare.
 Departamenti Ligjor / Zakonodavni Departament / Legal Department

REFERENCË:	07.06.2011
PËR/ZA/TO:	z. Bajram Pajaziti, Drejtor i Departamentit të DFDIL-së i MPMS-së
CC:	
PËRMES/PREKO/THROUGH:	
NGA/OD/FROM:	Nenad Rashiq, Ministër i MPMS-së dhe Eshref Shabani, Sekretar i Përgjithshëm i MPMS-së
TEMA/SUBJEKAT/SUBJECT:	Rekomandime për veprimet që duhet ndërmarë

Inderuari z. Pajaziti

Ju përkujtojmë se takimet e fundit të zyrtarëve të MPMS-së me përfaqësuesit e Fondit Monetar Ndërkombëtar, nga këta të fundit janë ngritur disa shqetësime lidhur me rritjen enorme të shfrytëzuesëve të pensioneve dhe beneficioneve, sipas Ligjit për vlerat e luftës. Prandaj, duke pasur parasysh faktet e përmendura më lartë, ne ju rekomandojmë që ju si drejtues të DFDIL-së të ndërmerri këto veprime:

1. Numri i aplikuesëve për pensione dhe beneficione, sipas Ligjit për vlerat e luftës të përbyllet me gjendjen e datës 31 maj 2011.
2. Deri në nxjerrjen e një vendimi të ri politik nga Ministri i MPMS-së, mos të pranohet asnjë kërkesë e re për realizimin e pensioneve të parapara me Ligjin për vlerat e luftës si dhe mos të pranohet asnjë kërkesë për njohëjen e asnjë të drejte.
3. Ndërsa aplikacionet të cilat janë pranuar deri më datë: 03.05.2011 në kordinim me menagjimentin e lartë të MPMS-së do t'iu gjindet një zgjidhje ligjore.

Shpresojmë se rekomandimet e përmendura, ju dhe personeli i juaj do ti përfillni me përpikëri.

Ju faliminderit për vemendjen e juaj!

Faqe 1 nga 1


<http://www.ks-gov.net/memos>

Appendix No. 3: Decision from the MLSW dated 21/01/13, partially repealing the previous decision, thereby opening applications again for families of martyrs, veterans, invalids of the KLA, and missing civilians only.



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government
Ministria e Punës dhe Mirëqenies Sociale
Ministarstvo Rada i Socijalne Zastine - Ministry of Labour and Social Welfare

Ministria e Punës dhe Mirëqenies Sociale
Ministarstvo Rada i Socijalne Zastine

Nr. Prap: _____
 Detyr. Prap: _____
 Prof. Nr.: 10
 Data: 21.01.13
 Datum: _____

Data: Janar/2013

Ministri i Ministrisë së Punës dhe Mirëqenies Sociale, në mbështetje të nenit 145 (pika2) të Kushtetutës së Republikës së Kosovës, pastaj duke marrë parasysh nenet 4, 21, 22 të Ligjit nr. 03/L-189 për Administratën Htëtorore të Republikës së Kosovës, si dhe duke u bazuar në nenin 8 (paragraf 1.4) dhe Shtojcën e rregullores nr. 02/2011 për fushat e përgjegjësisë administrative të Zyrës së Kryeministrit dhe Ministrive (3.2011); nxjerr këtë:

V E N D I M

- Shfuqizohet pjesërisht Vendimi Nr. 171 i datës 09.06.2011, i nxjerrë nga Ministri dhe Sekretari i Përgjithshëm i Ministrisë së Punës dhe Mirëqenies sociale, që ka të bëjë me mospranimin e aplikacioneve të të gjithë aplikuesve (të gjitha kategorive të luftës së fundit) për realizimin e të drejtave në pensione dhe beneficione të përcaktuara sipas legjislacionit të aplikueshëm.
- Në pajtim me pikën 1 të këtij vendimi, nga data 15 janar 2013 familjet e të zhdukurve të luftës, mund të aplikojnë në DFDIL të MPMS-së për realizimin e të drejtave në pensione dhe beneficione në përputhje me Ligjin nr.04/L-054 dhe aktet nënligjore të nxjerra sipas këtij Ligji.
- Familjet e dëshmoreve, invalidët e luftës së UÇK-së dhe veteranët e luftës mund të aplikojnë për realizimin e të drejtave në pensione dhe beneficione, pas përmbanimit të procesit të njohjes dhe verifikimit të statusit nga ana e Komisionit Qeveritar i themeluar nga Qeveria e Kosovës në përputhje me dispozitat e Ligjit nr. 04/L-054.
- Obligohet DFDIL që në përputhje me aktet ligjore dhe nënligjore të aplikueshme, nga data 15 janar 2013, t'i pranoj të gjitha aplikacionet e aplikuesëve sipas pikës 2 të këtij vendimi, të cilët aplikojnë për realizimin e të drejtës në pensione dhe beneficione.
- Vendimi hyn në fuqi ditën e nënshkrimit nga Ministri i Ministrisë së Punës dhe Mirëqenies Sociale.

Vendimi ju dërgohet:

- o DFDIL
- o Kabinetit të Ministrit
- o Arkivit të MPMS.

Ministri i MPMS-së



Appendix 4: questionnaire for interviews

The main purpose of this questionnaire will be to interview the family members of civilian victims and missing civilian persons during the conflict in Kosovo that currently fall outside of the scope of the Law on Reparations, in particular the victims belonging to minority communities. The “Law on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and their Families” – (Law No: 04/L-054) was promulgated on December 2011 and implemented from 01.01.2012. Recently this law was amended, supplemented and promulgated on March 20, 2014, with the inclusion of one more category – the category of wartime victims of sexual violence (Law No: 04/L-172).

INFO DATA ABOUT CIVILIAN WAR VICTIM

WAS THE CASE REPORTED TO HLC OR STATE INSTITUTION?	YES – NO?
Name of the civilian war victim or missing person	
Father's name	
Surname	
Date and place of birth	
Victim's gender	
Nationality	
Village, city, municipality	
Date of death	
Date and time and place when his/her mortal remains were found	
The place where the victim was buried	
Cause or circumstances of death (Direct or indirect)	
Indicators of possible perpetrator/s	
For missing persons: Date and place of disappearance	

INFO DATA ABOUT FAMILY MEMBER WHO FILLS IN THE QUESTIONNAIRE

Name of family member	
Father's name	
Surname	
Date and place of birth	
Gender	
Nationality	
Village, city, municipality	
Family relation to civilian war victim or missing civilian person	
ID number or personal number	
Contact address, phone number and e-mail	

Do you have any knowledge about the “Law on the Status and the Rights of the Victims, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and Victims of Sexual Violence and their Families” - Law No: 04/L-054?

YES – NO (Please mark the answer)

IF THE ANSWER IS YES, PLEASE SPECIFY HOW YOU LEARNT ABOUT THE LAW AND YOUR RIGHTS?

- | | | |
|----------------------------|----------------------------|------------------------------|
| a) Through TV , radio; | b) From daily newspapers; | c) Through official gazette; |
| d) Through internet; | e) From municipal sources; | f) Through MLSW; |
| g) Through friends/family; | h) From other sources | |

DID YOU EVER TRY TO REALIZE YOUR RIGHT TO PENSION (REPARATION) AS MEMBER OF THE FAMILY?

YES – NO (Please mark the answer)

IN THE CASE THAT YOU DID NOT REALIZE YOUR RIGHT TO PENSION (REPARATION) AS A CLOSE FAMILY MEMBER, PLEASE EXPLAIN WHY NOT. WHAT WERE THE OBSTACLES?

Describe reasons/obstacles:

Note: Any relevant documents submitted by family member (during the interview) regarding proofs on civilian war victim or civilian missing person:

- 1) Copy of birth certificate
- 2) Copy of death certificate
- 3) Photo
- 4) Other additional and relevant documents i.e. official correspondence, newspaper articles, registers, etc.

Additional comments:

Date and place of the interview:

Signature of the interviewed person:

Interview conducted by:

WHAT THE LAW SAYS?

Information about the Law on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and their Families”
– (Law No: 04/L-054)

WHO ARE THE CIVILIAN VICTIMS OF THE WAR ACCORDING TO THE LAW?

Article 1.10. - Civilian Victim of War - A person who has died or was wounded by enemy forces from the period between 27.02.1998 and 20.06.1999, as well as the persons who have suffered as a consequence of the war within three (3) years after the war ended from explosive devices left over from the war;

WHO ARE THE MISSING CIVILIAN PERSONS ACCORDING TO THE LAW?

Article 1.14. Missing Civilian Person - A person whose whereabouts is unknown to his other family members and who, based on reliable information, was reported missing during the period between 1 January 1998 and 31 December 2000, as consequences of the war in Kosovo during 1998-1999;

WHO IS CONSIDERED AS A MEMBER OF THE CLOSE FAMILY OF THE CIVILIAN WAR VICTIMS AND MISSING CIVILIAN VICTIMS ACCORDING TO THE LAW?

Article 1.15. Members of close family in terms of this law are: husband, wife, children, and children out of wedlock, the adopted children (foster), parents, stepfather, stepmother, stepchild and extramarital husband/wife;

Article 1.15.1. The status of marriage out of community of property according to this Law is determined by out contentious judicial procedure.

WHICH ARE THE RIGHTS OF THE CLOSE FAMILY MEMBERS ACCORDING TO THE LAW?

Article 13 - The rights of the family members of civilian victims of war

1. Close members of the family of civilian victims of war, according to the terms and criteria set forth in this Law, shall realize the following rights and benefits:

1.1. Family pension;

1.2. Primary and secondary health-care without compensation in public healthcare institutions,

1.3. Release from taxation on property, if the close family is in a difficult financial situation,

1.4. Cheap and reduced tariff of electricity consumption for personal use, if the close family is in difficult economic conditions and it fulfills criteria set up in the scheme of social assistance.

WHO IS ENTITLED FOR PENSION – REPARATION?

2. Pension users, as per the line are: husband/wife, children, out-of-marriage children, adopted children, parents, stepfather, and stepmother.
3. Husband/Wife who contracts a new marriage loses the rights foreseen in this Law, which he/she used as a member of the close family of the civilian victim of war.
4. When children of the civilian victim of war without parental care are beneficiaries of a family pension, they shall realize this right until the age of eighteen (18), respectively until the age of twenty-six (26) if they are attend regular school.
5. The base of the civil family pension for civil victims of war shall be determined according to Annex 1 of this Law and shall be foreseen by the Law in the Annual Budget of 2011.
6. The civil family pension base for a close family which has two (2) civilian victims, shall be increased by 20%.
7. The base of the civil family pension for a close family which has three (3) civilian victims shall be increased by 30%.
8. The base of the civil family pension for a close family which has four (4) civilian victims shall be increased by 40%.
9. The base of the civil family pension for a close family which has more than four (4) civilian victims shall be increased by 50%.
10. Close family members of missing persons or persons taken hostage in the war realize all the rights and benefits of close family members of victims of civil war as determined by this law.

Article 15 – RECOGNITION AND ADJUSTMENT OF STATUS

2. Status of civil victims and civil invalid of war shall be concluded by the responsible municipality body under the conditions and criteria established by sub legal act issued by the Government.

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