



*Inicijativa za REKOM
Initiative for RECOM
Иницијатива за PEKOM
Nisma për KOMRA
Pobuda za REKOM*

Analysis of Public Criticism and Support of the Initiative for RECOM

Igor Mekina / August 2011

The first report about the Initiative for the establishment of the Regional Commission for truth and truth-telling about war crimes in the former Yugoslavia was aired on Radio Free Europe on October 29, 2007. From then, until the end of August 2011, both print and electronic media published over 600 reports. These include, first and foremost, statements, interviews and opinions by advocates of RECOM; reviews of the Initiative; interviews with supporters or opponents of the idea of RECOM, articles, columns and op-eds; television and radio programs about RECOM; as well as various contributions directed against the Initiative.

1. Analysis objective and assessment criteria

The main objective of this analysis is to investigate a number of critical evaluations and public controversies surrounding RECOM. In an effort to establish the truth, the analysis focuses on those contributions that launched a variety of charges against the Initiative for RECOM.

The analysis comprises of more than 220 interviews, responses, articles, programs or written contributions in electronic media, all published on the website of the Initiative for RECOM (www.zarekom.org).

In any evaluation of media coverage, truth is always the most important criterion. A commitment to truth and accuracy in reporting have been embraced in journalistic ethics as a basic obligation. From this obligation stem the fundamental principles of a journalistic code of ethics: journalists have a moral obligation to transmit, to the greatest extent possible, relevant and truthful information of public interest.¹ For this reason, journalists are obliged to convey the truth as best as they can, to avoid intentional and unintentional falsehoods, recourse to prejudice and stereotypes, and to verify the veracity of others' statements and allegations in order to detect and correct random or intentional errors.

¹ Dale Jacquette, *Journalistic Ethic* (Dejl Žaket, „Novinarska etika“), JP *Službeni glasnik*, Beograd, 2007, p. 42.

The truth may be defined as an agreement with the facts. A statement is true if the state of affairs it presents corresponds with the actually existing conditions. This applies equally to an analysis of media coverage. In an analysis of media reports, one is often faced with a more complex problem, posed by media reports that at first glance, and with conventional reasoning, seem correct, while in reality they are not. To characterize a widely accepted, yet albeit wrong, conclusion as essentially incorrect, four basic preconditions must be met: the conclusion must be a) wrong, b) convincing, c) generally accepted, and d) irreparable, in the sense that even after the errors in logical reasoning have been corrected, identical erroneous arguments are still more than likely to occur.²

2. Content analysis of published contributions

Based on the number of articles and their subject matter, one can conclude that in the last two years (in 2010 and 2011), the number of reports dealing with the RECOM Initiative, including those negatively colored, has increased considerably. Advocates of the Initiative, for example, spoke out 19 times, gave 51 interviews and received the support of 19 newspaper articles and op-eds, but there were also 67 critical articles or reviews, the vast majority of which did not deal with the Initiative itself, its objectives, or any legal and political consequences. A good portion of these 67 articles are *ad hominem* attacks on the supporters of the Initiative, and many are filled with a variety of stories about “frauds” allegedly committed by supporters of the Initiative.

2.1. Well-argued debate

The controversial debate about RECOM between Branimir Ristivojevic, Assistant Professor at the Law School in Novi Sad (Serbia), and Bogdan Ivanisevic, a consultant from the International Center for Transitional Justice (Marijana Toma, a historian; Slobodan Orlovic, assistant professor at the Law School in Novi Sad; Dragan Pjevac, a lawyer; and Luka Bozovic, a student of the Faculty of Political Sciences in Belgrade joined the debate later) demonstrates how well-argued conclusions can sometimes be based on errors in reasoning. This controversy, published on the portal of New Serbian Political Thought (NSPM), is equally crucial for its assessment of media coverage about RECOM.

2.1.1. Charges against the ‘straw man’: logical errors and falsehoods by RECOM critics

i. Arguments that the RECOM Draft Statute is unconstitutional in nature and illegal

In his article “RECOM’s Draft Statute from the Perspective of the Constitution of the Republic of Serbia and its Criminal Law,” Branislav Ristivojevic launches a number of serious accusations against the objectives and competencies of RECOM.³ Ristivojevic

² Dr Janez Bergant, dr Boris Vezjak, “Misconceptions and Errors in the Argument” (“Zmote in napake v argumentaciji”), *Subkulturni azil Maribor*, 2007, p. 26

³ Branislav Ristivojevic, “RECOM Draft Statute from the Perspective of the Constitution of the Republic of Serbia and its Criminal Law” (“Nacrt statuta REKOM-a iz ugla Ustava RS i njenih krivičnopravnih propisa”), NSPM, May 21, 2011, available at: <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/nacrt-statuta-rekom-a-iz-ugla-ustava-rs-i-njenih-kriticno-pravnih-propisa.html?alphabet=l>

argues that RECOM's objectives and intended mode of operation raise doubts even for "those lawyers whose professional orientation is not criminal law." "How is it possible," asks Ristivojevic, "that criminal acts – in this case war crimes – are taken up by some 'commission' while there are courts to do precisely that?" Ristivojevic claims that the establishment of the Commission to be in violation of Article 32 of the Constitution of the Republic of Serbia, which guarantees everyone the right to judicial protection. RECOM, according to him, was in contravention of Article 194 of the Constitution of the Republic of Serbia, which stipulates that ratified treaties should be in line with the Constitution, which is to say – they must not be inconsistent with the Constitution. As the act of determining whether an activity is criminal or not belongs solely to the courts, Ristivojevic concludes "RECOM's jurisdiction to be unconstitutional *tout court*." He adds that the creators of RECOM's Draft Statute "wish to usurp judicial power in the Republic of Serbia." Ristivojevic further admits the possibility of "the Republic of Serbia's yielding part of its sovereignty, including its judicial power, to an international judicial institution, as it had done in 2002, when the Convention on the establishment of the International Criminal Court was confirmed." This, however, was not done "in order to limit judicial power with regard to criminal acts committed on the territory of the Republic of Serbia to the detriment of values protected by the Criminal Code of the Republic of Serbia or at the expense of its citizens." Since the right to punish (*ius puniendi*) constitutes the most important feature of sovereignty, "states fiercely guard this right and refrain from passing it on to other states or international bodies." "The State that surrenders its right to criminal prosecution to another is no longer a state."

Ristivojevic sees another controversial element in the fact that, according to its Draft Statute, "RECOM is authorized to summon, among others, perpetrators of the crimes within RECOM's jurisdiction to give statements before the Commission." He characterizes as a "dimension of narrow-mindedness the obligation of state-run media to broadcast these scenes of collective madness, as they are being directed by the non-governmental sector." Forcing convicted persons to appear before the Commission would also be contrary to the laws of Serbia, as "no one except courts has the right to review court decisions, and such reviews may take place only in the manner stipulated by the Law on Criminal Procedure of the Republic of Serbia." In this aspect of RECOM's Draft Statute, Ristivojevic sees "collective brainwashing about the causes of the war." As "the culmination of lawlessness" he qualifies "RECOM's right to detain those who turn down the invitation to attend the event as collective madness." The reason for this, in Ristivojevic's interpretation, is that the individuals RECOM would summon to appear before it "must comply under the threat of arrest, while those who do not have the honor of being invited will be forced to watch!!!"

Finally, Ristivojevic compares RECOM's procedures with examples of people's courts and courts-martial, which "put on trial" the people for their alleged cooperation with the occupying enemy. In his next article,⁴ Ristivojevic continues to criticize RECOM's Draft

(viewed on: August 20, 2011).

⁴ Branislav Ristivojevic, "RECOM's Responsibilities and the Code of Criminal Procedure of the Republic of Serbia" ("O nadležnosti REKOM-a i Zakonik o krivičnom postupku RS"), NSPM, June 5, 2011, available at: <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/o-nadleznostima-rekom-a-i-zakonik-o-krivicnom-postupku-rs.html> (viewed on: August 20, 2011).

Statute, which, he claims, “has the potential to fundamentally undermine the painstaking and time-consuming process of building the rule of law in Serbia, which is, unfortunately, still in its infancy,” because “the Commission assumes the judicial role and function.” In a similar vein, he opposes the practice, according to which witnesses are to be invited to testify, and he describes this practice as a “mish-mash consisting of courts’ inherent powers to prosecute, bestowed on them by the Code of Criminal Procedure, and a non-judicial proceeding,” although “under the Criminal Procedure Code, witnesses can be summed only by court order and examined only within a criminal procedure.” Hence, “no other witnesses or evidence (in criminal matters) exist in the legal process of the Republic of Serbia.” On the basis of this, Ristivojevic suggests that RECOM is trying to “use the powers of the courts, albeit circumventing all the formalities and restrictions that courts operate under, since they are the ones bringing the criminal proceedings. RECOM is trying to treat those it summons to give statements before it, as witnesses, despite the fact that no indictment has been issued, and no one is sure who the accused is, and who the witness.”

According to Ristivojevic, the text of the Draft Statute indicates that “the writers equated murder, torture and deportation with other violations of human rights, as they are defined by the International Convention on Human Rights and other international human rights treaties.” RECOM’s Draft Statute has identified “criminal acts with human rights violations,” which in turn has led to “equating the procedure which determines the existence of a criminal act with the procedures which establish the violation of human rights.” Those two forms of violations, however, are “entirely different” because “their consequences are entirely different.” Ristivojevic concludes his criticism with an assessment that RECOM’s “extortion of evidence” is identical to the “proceedings conducted before the notorious judicial institutions of the Roman Catholic Church – namely, the Inquisition.”

In his next article,⁵ Ristivojevic criticizes Article 15 of RECOM’s Draft Statute, according to which RECOM can “explore the political and social circumstances that have decisively contributed to the outbreak of the war or other forms of armed conflicts, war crimes and other serious violations of human rights, because it is authorized to investigate the consequences of crimes and human rights violations committed after 2001.” Such investigation of “political and social circumstances that have decisively contributed to the outbreak of the war,” Ristivojevic sees as something that should remain in the domain of history as a social science. He continues by asking whether it is at all “possible to establish any historical facts in a quasi-judicial procedure such as RECOM’s?”

Ristivojevic criticizes Article 47 of the Draft Statute according to which the governments of all contracting states are to adopt a binding document to implement RECOM’s recommendations and publish it in the *Official Gazette* of their countries within six months.⁶ They will do so, argues Ristivojevic, by first “establishing” the historical

⁵ Branislav Ristivojević, “RECOM and Whether the Historical Facts Can Become Legally Binding” (“REKOM i da li istorijske činjenice mogu da postanu pravosnažne?”), *NSPM*, June 13, 2011, available at: <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/rekom-i-da-li-istorijske-cinjenice-mogu-da-postanu-pravosnazne-q.html> (viewed on: August 20, 2011).

⁶ To this claim Luka Bozovic responded: “As for the argument concerning the disclosure of ‘the best historical truth,’ the answer is simple. The Commission will not be tasked with determining the truth, but

“truth” about the causes of wars, and then by attempting to bar anyone from speaking, writing, debating or thinking aloud about the so determined “truth.” RECOM’s ultimate goal, with this basic authority, “is to ban freedom of speech in the countries of the former Yugoslavia, particularly when it comes to the historical quasi-truth determined by this body,” concludes Ristivojevic.

Slobodan Orlovic launched similar criticism of RECOM,⁷ claiming the principal and entirely unconstitutional ambition of RECOM was the “exercise of judicial power.”

ii. Arguments in favor of RECOM’s Draft Statute

Bogdan Ivanisevic was the first to respond to the criticism presented above. In his first article,⁸ Ivanisevic warns of Ristivojevic’s “distortion of the content of the document he sets to write about”; that he has resorted to a false comparison of RECOM with courts-martial, which were in operation in the former Yugoslavia after the Second World War; and of employing inaccurately a number of legal terms, such as “judicial power,” “with a connotation these concepts do not have in any serious literature or any serious state practice.” Ristivojevic, therefore, as Ivanisevic claims, “distorted the facts, and got himself entangled in legal imporvisations and logical incoherences.”

Ivanisevic notes that RECOM, as it has been envisaged in the Draft Statute, does not prosecute, nor does it exercise judicial power. RECOM indeed has the authority to establish the facts about war crimes and other serious human rights violations, but it has no authority to do so in any final, definitive way, nor does it have the right to impose any sanction. And whenever such powers are lacking, there is no exercise of judicial power. Ivanisevic reveals what he says is Ristivojevic’s perverse “logic,” according to which RECOM prosecutes and puts people on trial merely by having the right to “establish the facts.” “Ristivojevic’s reasoning makes the following detour: the courts determine facts; RECOM also establishes facts; ergo, RECOM is a court. Wrong. Conclusions of this type follow this logic: a car has wheels; a bicycle too has wheels; ergo, a bicycle is a car. However, a bicycle is most obviously not a car,” warns Ivanisevic about Ristivojevic’s rhetorical trick.

facts. It is true that each state has an ‘established’ official truth about the events of the 1990s, but that is precisely what does not lead to lasting peace. The truth about the operation ‘Storm’ is not the same in Croatia and Serbia, and this opens the way for new conflicts in the future. Fact-finding, on the other hand, leads to something else. Fact-finding is one of the guarantees of non-repetition of what happened in the past. The facts will make it impossible to manipulate the numbers of victims, which is often used to justify the crimes.” Luka Bozovic, “RECOM – One Human Idea, Not an Attempt to ‘Resurrect Yugoslavia,’” NSPM, available at: <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/jedna-ljudska-idea-a-ne-pokusaj-vaskrsenja-jugoslavije.html?alphabet=l>.

⁷ Slobodan Orlovic, “A New Post-Yugoslav Idea or an Unconstitutionality in the Making – RECOM Draft Statute” (“Nova postjugoslovenska ideja ili jedna neustavnost u najavi – Predlog statuta REKOM-a”), NSPM, June 5, 2011, available at: <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/nova-postjugoslovenska-ideja-ili-jedna-neustavnost-u-najavi-predlog-statuta-rekom-a.html?alphabet=l#yvComment41829>.

⁸ Bogdan Ivanisevic, “RECOM Will Not Usurp Judicial Power” (“REKOM ne uzurpira sudske vlast”), NSPM, May 24, 2011, available at: <http://www.nspm.rs/polemike/rekom-ne-uzurpira-sudske-vlast.html?alphabet=l> (viewed on August 20, 2011).

This analytical point is key to understanding all other false media reports about RECOM, because allegations that RECOM would have the power to “prosecute” lingered in a number of other articles and public appearances of the critics of the Initiative. At issue is defective reasoning based on a faulty premise (a logical fallacy also known as “denying the antecedent”),⁹ wherein one is quick to conclude that one of the premises is at the same time necessary. The courts determine the facts, as does RECOM, but to infer that RECOM is, consequently, a court is wrong because it is possible to imagine many situations in which institutions “establish the facts” which do not result in court judgments and verdicts, just like there are many vehicles with wheels, but that in itself does not imply that they are all cars, since a car must have wheels (though not only wheels) in order to really be a car... The error consists in the misuse of the term and claims that “all” fact-finding (and especially the facts about criminal acts) is in itself a “trial.” That would be true if a trial were indeed a requirement for all, and not just for some, fact-finding activities. History and propaganda are full of faulty arguments. In the past, for example, women were denied the right to vote because women “were not politically endowed,” which may be true for some women (and some men) but ought not apply to all (women).¹⁰

Since the courts also have specific powers that make them courts, and so-called truth commissions do not have such authority, it is clear that the latter are not courts. Along with the power to establish the facts (which is what a truth commission can do too), the judicial function entails delivering a final decision which definitively resolves a dispute in each case and imposes a sanction. RECOM, according to its Draft Statute, does not resolve any specific, individual dispute, and it particularly has no authority to make final decisions or impose sanctions. Ivanisevic asserts that, the Supreme Court of the Philippines considered an argument similar to Ristivojevic’s with regard to the operation of the national truth commission. In a decision dated December 7 2010, the Supreme Court rejected a complaint which purported that the powers of the local commission rendered it a body with judicial power. The Court explained that in order to perceive and treat the inquiry by which facts are established as judicial function, a body “must be accompanied by the authority of applying the law to the factual conclusions to the end that the controversy may be decided or resolved authoritatively, finally and definitively, subject to appeals or modes of review as may be provided by law.” The Court clarified that in order for a “fact-finding investigation, the purpose of which is to establish the facts as basis for future executive action” to be endowed with judicial function, “it must be accompanied by the authorization of relevant bodies to apply the law for an authoritative, final and definitive decision or a resolution of a dispute. The Philippine Commission, or other truth commissions for that matter, had no such authority.”

In addition, Ivanisevic warns that what judicial power determines, after appeal mechanisms have been exhausted, becomes final, while “the facts established by a commission of inquiry, including a truth commission as one of its forms, is not fixed in any definitive way.” Article 46 of RECOM’s Draft Statute clarifies this, as it specifically

⁹ Dr Janez Bergant, dr Boris Vezjak, “Misconceptions and Errors in the Argument” (“Zmote in napake v argumentaciji”), *Subkulturni azil Maribor*, 2007, p. 178.

¹⁰ Robert H. Thouless, “True and false ways of thinking” (“Prava in kriva pota mišljenja”), *Dopisna delavska univerza*, Ljubljana 1979, p. 24.

stipulates that RECOM's findings "do not have the effect of court rulings, nor do they predict possible outcomes of judicial proceedings." RECOM only makes recommendations (Article 45, Draft Statute) and, contrary to Ristivojevic's claims, does not have "the right to punish" (*ius puniendi*) even when, on the basis of the facts, it finds that, beyond reasonable doubt, a person has committed war crimes or gross human rights violations. All that RECOM can do is note in its final report that, according to Commission's findings, there is sufficient evidence in a particular case; it can then submit relevant material to the prosecutor.

Ivanisevic also warns that, contrary to what Ristivojevic claims, according to its Draft Statute, RECOM has no authority to "detain" persons who refuse to appear (or speak publicly) at the so-called "thematic sessions," but it can file a criminal complaint with the competent territorial prosecutor's office to ensure the attendance of a person, or for the purpose of sentencing a person who refused to give a statement, "in keeping with the Law on Criminal Procedure of the state of the person's residence."

Ristivojevic labeled as "usurpation of judicial power" RECOM's authority to cause that a person be punished if they do not give a statement to the Commission (a fine, or imprisonment: one month maximum in Croatia, Bosnia and Kosovo; two months in Montenegro). Ivanisevic, however, argues that the authority to file criminal charges clearly does not constitute a "usurpation of judicial power" simply because it is still the court that decides about possible punishment. New Zealand, Belgium, Italy, Israel, Canada, Australia and other countries have similar provisions in place for persons who refuse to disclose information to investigative commissions. In Belgium and New Zealand such provisions have been in place for more than a century. Sanctions for those who refuse to provide the requested information have been verified by the founding documents of a number of truth commissions, including that in South Africa and that established in East Timor by the United Nations. Ivanisevic points to the fact that Croatia and Kosovo have already adopted laws on the investigative commission (Croatia) and a parliamentary investigation (Kosovo), which determine fines and (relatively mild) prison sentences for those who refuse to testify before the commission. It should be added that similar parliamentary commissions and identical punishments for persons who refuse to give statements to parliamentary investigations exist in Slovenian law as well.¹¹ Finally, Ivanisevic is right in rejecting Ristivojevic's comparisons with "courts-martial." In another article,¹² Bogdan Ivanisevic provides arguments which refute Ristivojevic's claims about RECOM's usurpation of judicial power concerning individuals who refuse to give a statement to the Commission.

¹¹ Slovenian Law on Parliamentary Investigation (Zakon o parlamentarni preiskavi), Article 17, stipulates that a person who destroys documents with an intent of obstructing the investigation, or who without reasonable excuse refuses to testify before the commission of inquiry, may be sentenced to one year in prison; available at: dostupno preko: <http://www.dz-rs.si/index.php?id=101&sm=k&q=Zakon%2Bo%2Bparlamentarni%2Bpreiskavi&mandate=-1&unid=SZ%7CCF58659EE69E2779C125662B002924E4&showdoc=1>

¹² Bogdan Ivanisevic, "Procrustean Bed for RECOM" ("Prokrustova postelja za REKOM"), *NSPM*, June 5, 2011, available at: <http://www.nspm.rs/polemike/prokrustova-postelja-za-rekom.html?alphabet=l#yvComment40744>

“Here is a short answer to Ristivojevic’s claims: (a) (future) RECOM does not usurp judicial power because it does not engage in establishing the facts ‘in criminal matters,’ nor does it establish individual criminal responsibility, or impose sanctions; (b) RECOM does not usurp police powers because it does not take statements from citizens ‘for the purpose of gathering the information for successful conduct of criminal proceedings’ (as Ristivojevic says); and finally, (c) there is not a single valid reason why there should be no penalty for an act that prevents an extra-judicial body (RECOM in this case) from performing its duties, just as the law sanctions those actions that hinder the courts in performing their duties,” warns Ivanisevic. He reminds his readers of the fact that in modern societies, human rights violations are dealt with by the police, prosecutors, domestic and international courts, and also by so-called investigative commissions (or commissions of inquiry), including so-called truth commissions as one of their forms. Hence, such commissions “are neither the police, nor prosecutors, nor the courts, as Ristivojevic insists in his attempts to subsume them under one of these categories,” concludes Ivanisevic.

Ivanisevic also stresses that RECOM does not recognize the category of “defendant” or “the accused” (as Ristivojevic insinuates), and that no one is obliged to give statements before RECOM against themselves or persons they know. On the contrary, the Draft Statute provides (Article 17, paragraph 5) that, in this respect, the same guarantees apply to RECOM as those that apply in the courts with regard to person’s right to refuse to answer certain questions, while certain categories of persons have the right to be released from a duty to testify (or in the case of the Commission, the duty to give a statement).

Marijana Toma warned of some additional logical errors that Branimir Ristivojevic makes in his reasoning about RECOM.¹³ Toma asserts that “Ristivojevic claims the Draft Statute contains something that, in fact, does not exist in it,” and proceeds to quote Ristivojevic’s claims about RECOM’s authority to “force” people to watch its sessions. The Draft Statute, however, does not say that citizens of any country in the region are to be forced to watch the testimony of victims or witnesses, or any of the thematic sessions that Ristivojevic classifies as “collective madness” and “collective brainwashing.” Every citizen is still the owner of his own remote control. Marijana Toma continues to describe in great detail, the work of various truth commissions, and then decisively rejects the comparison of such commissions with “people’s courts” or “courts-martial.” “I absolutely agree with Ristivojevic that the accused must appear before court, but never and nowhere has a truth commission sentenced anyone. Never and nowhere has a commission sentenced anyone to torture, or subjected anyone to ‘mob justice,’ covered him in tar and feathers, and then displayed them humiliatingly in a public place. Never and nowhere has a commission sentenced anyone to death, even if it has obtained information, from a survivors’ testimony, of a person having committed murder, torture, rape, or a similar terrible atrocity,” notes Toma.

In her analysis, Marijana Toma reveals yet another faulty conclusion in Ristivojevic’s reasoning: the rhetorical trick known in theory as “straw man.” The logical error called

¹³ Marijana Toma, “Kostunica’s Commission, too, Wanted to Investigate War Crimes” (“I Koštuničina komisija htela da istražuje ratne zločine”), NSPM, May 28, 2011, available at: <http://www.nspm.rs/istina-i-pomirenje-na-ex-yu-prostorima/i-kostunicina-komisija-htela-da-istrazuje-ratne-zlocine.html?alphabet=l>

“straw man” is at stake when, in order to attack opponent’s view more easily, we present the argument incorrectly. In other words, we substitute the original claim with one that at first glance seems similar, only to use this “straw man” construction to prove that the original statement is wrong. Ristivojevic employs this “method” to present the public sessions (which are essential to RECOM) as compulsory, as if RECOM was “forcing” people to watch them, something he criticizes, seemingly plausibly, as “collective madness.” In the same way, using another rhetorical “straw man,” he misrepresents victims and convicted prisoners as being compelled to testify against themselves and their loved ones, in order to attack RECOM as an “inquisition,” and villify it by identifying it with “people’s courts” or “courts-martial.” Ristivojevic constructed the same non-existent verbal “straw men” when he claimed that RECOM was trying to be the definitive historical “arbiter” and that the project’s ultimate objective is to restrict freedom of speech.

3. Nationalistic voices against RECOM

Other articles use controversy as an important element of their analysis of RECOM, often in a far simpler form, most of which consists of false and logically faulty accusations made against RECOM. Besides those already analyzed, critics of RECOM have resorted to a number of other rhetorical tricks, primarily *ad hominem* attacks on the promoters of RECOM. *Ad hominem* is a logical fallacy which can be defined as an “argument against a person,” which aims to injure the credibility of a person who advocates a particular position. These attacks have two “classical” forms: in the first, the attacker or critic rejects an idea on the grounds of the “bad character” (nationality, beliefs, attitudes) of the one who advocates it; the second, the critic discredits the idea because the person advocating it “lacks principles” as a person.

3.1. Objections from Bosnia and Herzegovina

Thus, for example, the President of the Association of Prisoners in Republika Srpska, Slavisa Dukic, called on all former Serb prisoners and citizens to refuse to support the One Million Signatures Campaign for RECOM, because “Serbian patriots known very well that the director of the Humanitarian Law Center, Natasa Kandic, the greatest Serb-hater, is behind this project which aims to minimize the number of Serbian victims in the recent Homeland War, and to declare the Serbs the sole perpetrators of the war, designating Republika Srpska as a genocidal creation.” In his “manifesto,” Dukic committed several logical errors.¹⁴ Even if Natasa Kandic really were “the greatest Serb-hater,” this in itself is, of course, no argument against the idea of RECOM. Dukic’s other assertions are Equally lacking in evidence to support them.

In a similar vein, Stasa Kosarac, Head of the Republika Srpska team for war crimes research and the search for missing persons from Republika Srpska, urged the public to boycott the Million Signatures Campaign for RECOM, saying it was “the latest fraud by the director of Belgrade’s Humanitarian Law Center, Natasa Kandic,” who, according to Kosarac, is trying by every means possible to “see through to the end, a project which demonizes the Serbs” in the former Yugoslavia. Kosarac then identifies certain “bank accounts” as the main motive of the “humanitarians.” Without providing any evidence,

¹⁴ “Boycott RECOM” (“Bojkotovati REKOM”), *Fokus*, April 28, 2011, p. 4.

Kosarac says: “If the international community wants to help us, they should do so by objectively and impartially considering all aspects of the war in the former Yugoslavia, and by finally admitting that Serbs were victims rather than aggressors, executioners and criminals, as they have been characterized for two decades by world powers and their media.”¹⁵ This type of “claim” constitutes a subvariant of an *ad hominem* attack (against the person): it ventures to prove alleged inconsistencies between the representation of victims’ on the one hand and those who fill their “bank accounts” by claiming to represent them on the other. No evidence has been provided to back the claims.

The association of families of imprisoned and killed soldiers and missing civilians of Republika Srpska called on its members to refuse to contribute to the One Million Signatures Campaign, because in their opinion, the commission is “a deliberate action to throw the Serbian people back in an untenable position, since what was supposed to be respected in the reconciliation process of all peoples in this region has not been respected, or has been swept under the rug.”¹⁶ What it is that was not “respected” is not, however, defined. In the name of such vague reasons, the association sought to boycott RECOM. In a similar manner, the veterans’ organization of Republika Srpska (BORS) alarmed the public, war victims and families of the missing persons, by claiming that the mission of Natasa Kandic and Vesna Terselic’s project was not “the search for missing persons or to record the names of the killed,” but that the commission instead “was designed to ensure public acceptance of the existing image of the last war.”

“All this is yet another spoof from the world powers and some neighboring countries,” said representatives of BORS.¹⁷ Another article on the same topic, published in *Focus*, reported that “families of missing and dead persons from Republika Srpska do not want to be part of a project designed to reduce the number of Serb victims.” The article’s subtitle claims that RECOM had never analyzed the number of Serbs killed, and always augmented the importance of Bosniak victims.¹⁸ Milijana Bojic, head of the Institute for Missing Persons of Republika Srpska in Banja Luka, claimed that “a number of Bosniak organizations” were against the Initiative, adding that any Commission would act on “the indictments and convictions of the Hague Tribunal.” “Since we all very well know how the Hague Tribunal operates, it is clear that CORECOM will one day reach a ‘truth’ according to which Republika Srpska will be declared an entity founded on genocide and ethnic cleansing, and that consequently, in light of all that has already been ‘proven,’ should not exist.”¹⁹

Goran Krcmar, head of the Operational Team for Missing Persons, said in a similar vein that RECOM’s intention to deal with the issue of missing persons was incomprehensible. “An association or a group of volunteers cannot engage in a search for missing persons; only professionals can do that. Republika Srpska has a team that works on this issue meticulously,” said Krcmar in *Focus*, overlooking the fact that the Commission which

¹⁵ “Using the Petition to Get Foreign Donors’ Money” (“Peticijom do novca stranih donatora”), *Pravda*, April 29, 2011.

¹⁶ “Veterans’ Families against the Petition” (“Porodice boraca protiv peticije”), *Pravda*, April 28, 2011, p. 9.

¹⁷ “RECOM is a Hoax” (“REKOM je podvala”), *Press*, April 28, 2011.

¹⁸ “Demonization of Serbs” (“Satanizacija Srba”), *Fokus*, April 29, 2011, p. 6.

¹⁹ “Kandic Works to Make Republika Srpska Disappear” (“Kandićeva radi na nestanku RS”), *Press*, August 31, 2010, p. 69.

would conduct any search would be a regional, inter-governmental body, rather than an ‘association’ or ‘a group of volunteers.’ With rhetorical deception, Krcmar in fact attacked the ‘straw man,’ not RECOM itself.

Branislav Dukic, head of the Union of former prisoners of Republika Srpska, said that any signature in support of RECOM would help the executioners and murderers of the Serbs to forever avoid accounting for their crimes. The campaign for RECOM is apparently designed to “cement the on-going marginalization of Serb victims,” and “such a project would have been worth pursuing, had it not been backed by world lobbyists, whose only goal is to get rich on the tragedies of ordinary people. By erasing the prefix of victims, they label the Serbs as aggressors.” Employed here again is an *ad hominem* attack on the promoters of RECOM, which fails to prove the mistakes of the Initiative, as the Initiative is being disqualified merely because international donors, or rather “world lobbyists,” support it. The President of Republika Srpska’s National Organization of the Families of Imprisoned and Missing Persons, Nedeljko Mitrovic, similarly stated that “in her public appearance, Kandic promotes only the Bosniak victims.”²⁰ Once again, this is an *ad hominem* attack, because the critic fails to provide any evidence about RECOM’s intention to cement the allegedly “on-going marginalization of Serbian victims.”

Some Bosniak victims’ associations and media in Sarajevo have followed a well-known pattern of nationalistic discourse, as they perceive RECOM as ‘Belgrade’s project,’ thus continuing and deepening the politics of stereotypes. For example, Edin Ramulic, from the citizens’ association of Prijedor ‘Source,’ qualifies RECOM as “yet another attempt by Belgrade and the people there to inaugurate processes in my own country.”²¹ The same claim is repeated in several articles in *Dnevni Avaz*.²² Bogdan Ivanisevic has already noted this problem. He rejected the standard division between the ‘good and the bad Serbs,’ since in this case the ‘bad Serbs’ would necessarily include some Serb victims’ associations, while the ‘good Bosniaks,’ and especially the ‘good Albanians,’ have rejected the initiative for RECOM. Just like some especially ‘good Serbs,’ they fear that the Initiative could inflict damage on their own people. In the case of some Bosniaks and Albanians, someone from Belgrade is using RECOM to ‘even out the guilt’ for the crimes committed during the 1990s.²³

Dnevni Avaz published six articles in which RECOM itself is only secondary, while the prevailing issues are alleged “fraud” and “expenditure” by the director of the Humanitarian Law Center. It is interesting to note that all its data on the way funds for RECOM was spent, were obtained by *Avaz* directly from the HLC’s website. The data is publicly available on the website, which clearly shows that the “millions of euros” spent for 127 meetings in seven countries, travel and accommodation for participants,

²⁰ Remulic, “Natasa Kandic Obsessed with Nobel Prize” (“Natašu Kandić opseda Nobelova nagrada”), *Euro blic*, March 23, 2010, p. 3.

²¹ “Kandic Asks that Donations to her Critics be Revoked!?” (“Kandić tražila da se njenim kritičarima blokiraju donacije!””), *Dnevni Avaz*, March 25, 2010.

²² The claim that Zagreb and Belgrade inflict harm on Bosnia is repeated in several articles in *Dnevni Avaz*. For more on this topic, see: “RECOM has Inflicted Enormous Damage to Reconciliation in the Region” (“REKOM je nanio ogromne štete pomirenju u regionu”), June 29, 2011.

²³ Bogdan Ivanisevic, “RECOM Will Not Usurp Judicial Power” (“REKOM ne uzurpira sudsku vlast”), NSPM, May 24, 2011, available at: <http://www.nspm.rs/polemike/rekom-ne-uzurpira-sudsku-vlast.html?alphabet=l> (viewed on August 20, 2011).

translation and printing of materials in seven languages, had not gone into the pocket of the HLC Director, as was the clear inference from the titles of the articles in *Dnevni Avaz*. Similar stories about ‘how money is being spent on expensive hotels’ are repeated in other Bosniak and Serbian media, although none of them notes the information with which all participants of the consultation process were familiar – namely, that only some major hotels had enough capacity and suitable conditions to organize the Forum for Transitional Justice, with 300 or more participants.

The same goes for the claims about HLC’s ‘dictatorship’ or criticism about the involvement of particular staff members in the project. The media that produced and repeated the allegations without verifying them, failed to state that such involvement was in keeping with the rights and obligations of an organization accountable to donors for the project.

3.2. Objections from Croatia

Interestingly, ‘patriotic’ critics of RECOM in Croatia use exactly the same arguments. For example, Hrvoje Hitrec in *Hrvatsko Slovo*²⁴ rapidly concluded that the RECOM Initiative was a “conspiracy against the Croatian people.” “Does Documenta sympathize with the tragedy of the Croatian people in the Bleiburg massacre and the Way of the Cross? No, it does not,” answers Hitrec himself, proceeding to ask several more fateful rhetorical questions to which he himself, again, responds with a “no.” His logic is this: if RECOM won’t investigate Bleiburg and the Way of the Cross, then it is bad. Therefore, investigating the Bleiburg massacre is good, and those who fail to do that are automatically doing something wrong. The logic is, of course, wrong, because it is quite possible to investigate and research various crimes other than the massacre at Bleiburg, and this would not be something bad in itself. At the end of his comments, in which he presents himself as defender of Croatia’s sovereignty, the author even indirectly seeks reprisals against supporters of the Initiative and presents his interpretation of the Initiative’s goals: “It does the job in the name of colonial Great Britain and its pet Greater Serbia.” Hitrec says that at stake is “the establishment of a parallel state attorney’s office and parallel police, which is nothing but a mockery of Croatian institutions and possibly subversive activity, that the real state law should deal with. Perverse in all this is the cunning way it attracts veterans’ associations, especially mothers, fathers and families of missing Croatian soldiers and civilians, the families that in extreme distress can become a suitable ‘material’ for the TV.” Instead of RECOM’s activities, Hitrec recommends that a list of victims be compiled. The text ends by claiming that a new regional commission based in Sarajevo will not even come into existence because “after the parliamentary elections, the new Croatian government will put a stop to all these adventurous regional projects that now exist.”

Similarly, in an interview with Dr. Ante Nazor, director of the Croatian memorial and documentation center of the Homeland War, *Vecernji list*²⁵ reports that most veterans do not support RECOM, because Croatian institutions exist to perform the same work. At

²⁴ Hrvoje Hitrec, “Show RECOM and Documenta the Door” (“Pokažite vrata Rekomu i Documenti”), *Hrvatsko slovo*, December 24, 2010, p. 5.

²⁵ Zvonimir Despot, “Manipulations that Undermine RECOM’s Objectivity” (“Manipulacije zbog kojih je objektivnost REKOM-a upitna”), *Vecernji list*, December 18, 2010, p. 16.

the end, the newspaper puts forth a number of conditions under which RECOM should operate, conditions that would certainly make it impossible for the Commission to do its job. In short, it requires that it be determined unequivocally “who caused the war, and which side started the aggression during which crimes were committed,” a call Sonja Biserko has repeatedly insisted upon in Serbia. Biserko believes that regional governments should first establish their national commissions; for her, the very idea of RECOM has been imposed from abroad.²⁶ An identical thesis appeared in Zagreb’s weekly *Globus*, which blamed Kandic and Vesna Terselic for “anti-war profiteering”²⁷ and accused them of attempting to establish a “private Hague Tribunal.” The project of the Regional Truth Commission is supposed to award them with the Nobel Peace Prize, according to *Globus*. The journalist Jelena Jindra ‘shocked’ the readers of *Globus* when she claimed that Croatia could be classified alongside countries such as South Africa, Paraguay and Sierra Leone, which have established similar commissions. In the manner of the previously analyzed style of Branislav Ristivojevic, RECOM was presented in *Globus* as a non-governmental commission, which will compete with national bodies and by exercising the power to punish will bypass the courts. RECOM’s Draft Statute, however, clearly states that this will not be the goal of the Commission. Again, of course, this is a text-book example of a ‘straw man attack,’ rather than a well-argued criticism of RECOM.

Defense of ‘Croatia’s sovereignty’ and resistance to international approaches to the way crimes are to be investigated, are evident in statements by the former President of the Croatian Helsinki Committee Ivo Banac, and director of the Croatian Memorial and Documentation Center, Ante Nazor. They both agreed that RECOM could be dispensed with. The entire newspaper text is based on fundamentally flawed attitudes about RECOM’s essence, while the interviewees’ statements in *Globus* reveal their fear that RECOM “could really compete with national myths.”²⁸ In the first sentence of the text, which announces itself as “research,” the *Globus* journalist incorrectly states that the initiative to create the Commission promotes the establishment of a “non-governmental Regional Commission which will ... establish the facts about war crimes, and by punishing their perpetrators [...] it will put a face on guilt ...” The claim is false, because the Draft Statute of the future regional Commission does not propose that the Commission “punish the perpetrators,” as the author wrongly states in her text, since this is the exclusive business of the courts. In this case, the establishment of a non-judicial investigative body has been suggested instead. Such a proposal, the *Globus* journalist sees as a “duplication of existing institutions and suspension of national law.” The article then goes on to falsely present the Commission as a future non-governmental association.

²⁶ In an interview for *Dnevni Avaz*, Biserko claims to have no insight into the work of RECOM, but that “a national commission should be established first”; that “victims are not enough” of a component for a commission. This argument doesn’t seem plausible, because the Initiative for RECOM from the very beginning was clear that RECOM is a regional project. For more on this issue, see: “Natasa Kandic got the Idea and the Logistics from the Outside” (“Nataša Kandić je ideju i logistiku dobila izvana”), *Dnevni Avaz*, March 26, 2010.

²⁷ “Vesna Terselic’s Private Hague Tribunal” (“Privatni Haški sud Vesne Teršelič”), *Globus*, November 5, 2010.

²⁸ Nikola Bajto, “Globus’ Chase After RECOM” (“Globusova hajka na REKOM”), *H-Alter*, November 17, 2010, available at: <http://www.h-alter.org/vijesti/europa-regija/kome-smeta-rekom> (viewed on August 20, 2011).

Further, the attorney Jadranka Slokovic inaccurately represents Article 44 of the Draft Statute of the future Regional Commission, and criticizes it because its proponents “assume the right to determine whether a person committed war crime or serious violation of human rights,” although the findings “will not have the effect of court ruling.” The Coalition for RECOM responded to these false allegations by sending an open letter to the editor in chief of *Globus*. The Coalition for RECOM has reacted similarly in Montenegro, when the coordinator of the Coalition for RECOM in Montenegro Mirela Rebronja responded to accusations launched by Radan Nikolic, President of the Association of Veterans of Yugoslav Wars since 1990, which criticized the new organization for being manipulative. Radan Nikolic in fact asked RECOM “to inform the Montenegrin public who funds and with what amount, the campaign which should secure one million signatures in support of this commission.” Information about this issue can be found on HLC’s website.²⁹ Mirela Rebronja warned that the Association’s statement presented a number of lies and unfounded accusations, but not a single piece of evidence against RECOM and the Center for Civic Education, as RECOM’s liaison organization in Montenegro.³⁰

An especially popular thesis in the Croatian media is that the aim of RECOM is to “even out the guilt,”³¹ which is seen as a project of the ‘Yugosphere.’ The media tend to seek from RECOM to determine the ‘aggressor,’ while some see “RECOM’s goal”³² precisely in its refusal to do so. Zarko Puhovski responded to such claims by saying that Josip Jurcevic “fails to state a single fact, quote or relevant interpretation, but instead uses phrases to merely replace the (forecasted) events – which are non-existent.”³³

In a similar way, the Croatian Alliance of Associations of Families of the Detained stepped forward against the Initiative for RECOM. In this case, however, at stake was not criticism of the Initiative itself, but an objection about an allegedly “untimely” campaign for securing the signatures of support for RECOM. Croatian citizens they purport, are largely unfamiliar with the program and the principles of the Coalition for RECOM; the fact that a truth-seeking process is based on a campaign to garner signatures from the public, will manipulate victims’ sensitivity to everything concerning the Homeland War; and they will give their signature to support the principles and objectives of RECOM with which they would otherwise disagree. The Association claims that the Coalition for RECOM should not have been permitted run its campaign at a politically sensitive time when Croatia was dealing with extremely important issues. Such a campaign was, they asserted, “absolutely unacceptable at that point.”

The Alliance of Associations of Families of Detained and Missing Croatian Defenders did not provide any evidence for its claim alleging manipulation of Croatian citizens who

²⁹ “RECOM Should Say Who Gives them Money” (“REKOM da kaže ko ih finansira”), *Dan*, May 20, 2011.

³⁰ “Coalition for RECOM’s Response to Radan Nikolic’s Accusations” (“Reagovanje Koalicije REKOM povodom optužbi Radana Nikolića”), *Dan*, May 21, 2011.

³¹ Josip Jurcevic, “Vukovar 91 is not Official Demolition of Croatian State!” (“Vukovar 91 još nije službeno rušenje hrvatske države!”), January 22, 2001, *Obzor – Večernji list*.

³² Tihomir Dujmovic, “RECOM’s Goal is to Not Establish Who the Aggressor Is” (“Cilj je REKOM-a – ne utvrditi konkretnog agresora”), *Večernji list*, September 7, 2011.

³³ Zarko Puhovski, “JJ’s Phantasms about RECOM and Own-Goals of One’s Worldview” (“Fantazme JJ o Rekomu i svjetonazorski autogolovi”), *Obzor – Večernji list*, January 29, 2011.

support RECOM, but it did “oppose the manner in which the Coalition for RECOM, the Regional Commission for establishing the facts about war crimes and other serious human rights violations committed from 1991 to 2001 in the former Yugoslavia, was trying to win over the citizens of Croatia to get involved in the ‘One Million Signatures for RECOM campaign.’” The campaign’s alleged negative effects were never identified or explained. At the end of the statement, the Alliance concludes that “the Coalition for RECOM uses the present situation, where most citizens stand in solidarity with the soldiers and victims of the aggression against Croatia, in order to secure signatures for their campaign on behalf of victims.” The Alliance says nothing about the fact that the campaign was launched simultaneously in all countries of the region, regardless of any particular ‘situation’ in Croatia.³⁴

3.3. Objections from Kosovo

Although the campaign to secure signatures in support of RECOM was very successful in Kosovo, complaints against RECOM were raised there too. The Coordinators of the Associations of the Families of Missing Persons issued a statement which “opposes the campaign initiated by the Humanitarian Law Center to collect support signatures in some cities of the Republic of Kosovo and the region.” However, the only substantial objection raised in their claim was that “like before, the servants of Belgrade are manipulating the public, and especially the families of missing persons, by falsely stating that this initiative is supported mainly by Albanians from Kosovo, and particularly by the families of victims of the conflict in Kosovo.”³⁵

3.4. Unprofessional media reporting in Serbia

Strikingly unprofessional reporting about the Initiative for RECOM (the central argument being that someone from the Initiative spent €2.5 to 3.5 million) has been obvious in some Serbian media too.³⁶

A particularly striking example of manipulation is the article published in the *Contra* tabloid, where the title suggests the claim that Natasa Kandic too, recognized Kosovo’s

³⁴ “Alliance of Associations of Detainees’ Families against the Campaign for RECOM” (“Savez udrug ubitelji zatočenih protiv kampanje za REKOM”), *Dnevno.hr*, April 26, 2011.

³⁵ “Membersof the Families of Missing Persons againts the Campaign” (“Članovi porodica nestalih protiv kampanje”), April 28, 2011; available at: www.ekonomisti.info.

³⁶ “Kandic Eats Caviar, while Victims Eat Cheap Salami!” (“Kandićeva jede kavijar, a žrtve jeftinu salamu!”), *Press*, March 24, 2010; “Throwing Money while Poeple Starve!” (“Baca pare dok ljudi gladuju!”), *Kurir*, December 5, 2011; “Natasa Kandic Spends Millions for Horror Video Clips!” (“Nataša Kandić troši milione za horor spotove!”), *Kurir*, November 5, 2011; “Natasa Kandic Worse then Stalin!” (“Nataša Kandić gora od Staljina!”), *Press*, August 27, 2010; “Kandic like Stalin!” (“Kandićeva kao Staljin!”), *Press BiH*, August 27, 2010; “Kandic Hires her Ex-Husband in RECOM” (“Kandić zaposlila bivšeg muža u REKOM-u”), *Press*, July 28, 2010; “Lavish Spending as ‘Human Right’” (“Rasipanje novca kao ‘ljudsko pravo’”), *Pravda*, December 17, 2010; “Kandic Spent 2,5 Million Euros and Left” (“Kandićeva potrošila 2,5 miliona evra i otisla”), *Press*, June 29, 2011; “Natasa Kandic – Dictator” (“Nataša Kandić sprovodi diktaturu”), *Glas Srpske*, July 2, 2011; “RECOM will Live for as long as there is Money for Kandic” (“REKOM će živjeti dok bude novca za Kandićku”), *Glas Srpske*, May 18, 2010; “Natasa Kandic Spent 2.5 Million Euros and Left” (“Nataša Kandić spiskala čak 2,5 miliona i otisla”), *svet.rs*, June 29, 2011; “RECOM to Rectum” (“Ode recom u rektum”), *serbiancafe.net*, June 29, 2011; “Boycott RECOM” (“Bojkotovati REKOM”), *Fokus*, April 28, 2011.

independence, although such an assertion does not appear in the text itself. In the text, Bruno Vekaric, Deputy Prosecutor for War Crimes of the Republic of Serbia, said that the idea of a regional organization “is generally OK” and that “the thing itself is not a problem”; but he expressed “certain reservations” and objections to RECOM’s Draft Statute (which had, in the meantime, been eliminated). It should be stressed that firstly, recognition of a country can never be the act of an individual;³⁷ and secondly, that there was not a single sentence in the article which could have reasonably justified the editor’s decision to use a headline containing such an unfounded claim.³⁸ This example, which shows how facts are turned upside-down, runs contrary to the Professional Journalists’ Code of Ethics, which stipulates that journalists must “be certain that headlines, news announcements and promotional material, photos, video and audio recordings, drawings and allegations, do not present the state of affairs falsely, should not over-simplify events or decontextualize them.”³⁹

The portal *Vestionline* reported about RECOM as if the Commission had already completed its work, and even used the past tense to claim that “the Serbian and Croatian arms of RECOM spoke of crimes committed by the armies of the two states,” while “RECOM in Bosnia and Herzegovina was selective,” because “its seat in Sarajevo dealt exclusively with the crimes committed by the Croatian and Serbian military, without having investigated the crimes of the BiH Army.” It is worth noting, however, that RECOM as a commission does not yet exist and therefore, of course, could not ‘investigate’ anything, and surely could not have completed any investigation which had not previously begun.⁴⁰

4. Contradictions

The unfounded accusations against RECOM, the fact that the media that attacked proponents of RECOM, in most cases, did not give the accused a chance to respond to serious allegations, and finally insults and slander at the expense of some well-known proponents of the Initiative, are undoubtedly examples of violations of journalistic ethics. Media that have reported on RECOM in this way, are characterized primarily by hate speech, lies, decontextualization and concealment of facts.

All this points to two additional conclusions: a) baseless objections have been regularly raised by the critics of RECOM (the same argument about RECOM being a ‘court’ is used by critics from various areas), and b) there is an apparent contradiction in the allegations against RECOM, demonstrated by comparative reading of the texts published in some areas in which the authors accuse the Initiative for RECOM of being variously ‘anti-Serbian,’ ‘anti-Croatian’ or ‘anti-Bosniak.’

³⁷ Not only is it impossible for an individual to “recognize” a state, but from the standpoint of international law, even signing a treaty does not presuppose that all parties recognize each other as a state. Even participation in conference and signing or ratifying a contract does not automatically entail multilateral recognition of a previously unrecognized state. For more about this see: Juraj Andrassy, *International Law*, Skolska knjiga, Zagreb, 1987, p. 68

³⁸ “Natasa Kandic Too Recognized Kosovo!” (“I Nataša Kandić priznala Kosovo!”), *Kontra*, May 26, 2011.

³⁹ Dale Jacquette, *Journalistic Ethic* (Dejl Žaket, “Novinarska etika”), *JP Službeni glasnik*, Beograd, 2007, p. 390.

⁴⁰ Nobody Counts Serb Victims” (“Srpske žrtve niko ne broji”), *Vestionline*, June 29, 2011.

Regarding the first (a), it is more than obvious that the arguments used by authors such as Branimir Ristivojevic in the (alleged) defense of the Constitution and sovereignty of Serbia (for example, in *Nova srpska politicka misao* [*The New Serbian Political Thought*]) are used in the same manner by the critics of RECOM in *Hrvatsko slovo* or in *Globus*, as well as by the critics of RECOM in Bosnian *Dnevni Avaz* or Montenegrin *Dani*. It is perhaps even more absurd that exactly the same arguments about how unnecessary RECOM is, and about the need to first establish a “national commission” which will establish the facts about the aggression, are used equally both by authors who attack RECOM on ‘patriotic’ grounds, and also by some human rights activists such as Sonja Biserko, President of the Helsinki Committee for Human Rights in Serbia.

This alliance of irreconcilable authors from different countries in the region, as well as their deployment of nationalistic rhetoric, demonstrates an inherent weakness when texts critical of RECOM are read comparatively. It is logically impossible that an initiative could be defined in each country of the region as harmful to local (i.e. national) interests (because it is supposedly beneficial to the national interests of neighboring peoples and states) with the state ‘harmed’ or ‘benefitted’ depending solely on the nation in which a particular critical article is published. Simply put, it is not possible for RECOM to be simultaneously ‘the project of Belgrade and Zagreb’ against the Bosniaks, whilst at the same time acting in the interest of Bosniaks by ‘exaggerating the number of Bosniak victims.’ Nor is it possible that in researching the facts, RECOM attempts to ‘even out the guilt’ of all nations, and hence doing a favour to Serbia, while the project itself is simultaneously in the business of ‘demonizing the Serbian people.’ Finally, RECOM cannot possibly be Great Britain’s offspring which benefits the ‘Greater Serbia,’ as Hrvoje Hitrec claims, while at the same time ‘cementing’ the present view of the war to the detriment of the Serbian people, as critics in Republika Srpska have argued. Comparative analysis of critical texts about RECOM proves that they are erroneous, logically incoherent, and contradictory. Hence, regardless of how convincing they may seem when read separately, together they amount to little more than nonsense and falsehoods.

5. Violation of journalists’ Code of Ethics

Despite widely acknowledged ethical standards which require journalists, when presenting serious accusations against individuals, to seek a response from persons to whom the charges relate, those supporters of RECOM who have been attacked in the above described articles had no opportunity to put their case. This is not only evidence of the unprofessional nature of these media, but also a violation of international standards of reporting, primarily of the Munich Declaration,⁴¹ which sets standards recognized by many respected international media outlets.⁴²

⁴¹ Adopted at a meeting of representatives of journalist trade unions of six EU Member States in Munich, 1971.

⁴² Examples of violations are numerous, the most notorious ones being: “Natasa Kandic Got the Idea and Logistics from Aborad” (“Nataša Kandić je ideju i logistiku dobila izvana”), *Dnevni avaz*, March 26, 2010; “RECOM Budget: To Pay the Salaries to ‘Journalists’ Borka Rudic and Dzenana Karup / 57.000 marks” (“Budžet REKOM: Za plaće ‘novinarkama’ Borki Rudić i Dženani Karup 57.000 maraka”), *Dnevni avaz*, March 29, 2010; “Lavish Spending of the Money Intended for War Crimes Investigation” (“Rasipaju se novcem za istraživanje zločina”), *Dnevni avaz*, March 26, 2010; “Kandic Demands that Donations be

This kind of reporting constitutes a violation of professional principles of journalistic ethics. All journalistic codes (adopted by various international journalists' associations and organizations) require that journalists verify the accuracy of the information from all available sources and attempt to avoid inadvertent errors. Deliberate distortion of the facts is never allowed. Journalists are obliged to constantly seek out news subjects and give them the opportunity to respond to any allegation of wrongdoing or error. The Declaration on the Rights and Duties of Journalists, adopted in Munich in 1971, binds journalists "to respect the truth whatever be the consequence to him or herself, because of the right of the public to know the truth."⁴³ Similarly, a Declaration adopted by the International Federation of Journalists stipulates that plagiarism, slander, defamation, libel, insult, bribery of any kind, whether for the purpose of publication or suppression of information, are to be considered serious violations of journalistic ethics.⁴⁴ The Code of Ethics of the Society of Professional Journalists binds all authors to "Diligently seek out the subjects of news stories to give them the opportunity to respond to allegations of wrongdoing."⁴⁵

6. Support

Despite resistance from the media and the breach of these codes by some media, the Coalition for RECOM managed to garner significant media support, both in the region and beyond. The Executive Director of the Humanitarian Law Center responded, in a number of interviews⁴⁶ and op-eds,⁴⁷ to some of the accusations levelled by the critical media that published false and one-sided reports. The President of Documenta, Vesna Terselic,⁴⁸ director of the media campaign Lazar Stojanovic,⁴⁹ and other members of the Initiative for RECOM responded similarly, by continuously directing public attention to the goals of the Coalition for RECOM in electronic and print media, and by warning the public about these misrepresentations.

Revoked to her Critics!?" ("Kandić tražila da se njenim kritičarima blokiraju donacije!?"'), *Dnevni avaz*, March 25, 2010; "Five More Organizations Leave RECOM" ("Još pet organizacija napustilo REKOM"), *Dnevni avaz*, July 7, 2010; "RECOM Inflicted Huge Damage to Reconciliation in the Region" ("REKOM je nanio ogromne štete pomirenju u regionu"), *Dnevni avaz*, June 29, 2011.

⁴³ "Munich Declaration on the Rights and Obligations of Journalists of the European Union," in: Daniel Korni, *Etika informisanja*, Clio, Beograd, 1999, p. 146

⁴⁴ Adopted at the Second Session of the World Congress of International Federation of Journalists, April 1954, with amendments adopted at the 18th session of the International Federation, June 1986.

⁴⁵ Dale Jacquette, *Journalistic Ethic* (Dejl Žaket, "Novinarska etika"), *JP Službeni glasnik*, Beograd, 2007, p. 389.

⁴⁶ For example, in an interview for the weekly *Vreme* (Serbia), "A Fight for Facts" ("Bitka za činjenice"), *Vreme*, July 7, 2011.

⁴⁷ Natasa Kandic, "The Shame fo Serbia," *The New York Times*, June 5, 2011.

⁴⁸ For example, *Slobodna Dalmacija* and *Novi list*: "RECOM is a Superstructure of the Hague Tribunal" ("REKOM je nadogradnja Haškog suda"), *Slobodna Dalmacija*, December 3, 2008; and "Political Support to RECOM is Getting Stronger" ("Jača politička potpora REKOM-u"), *Novi list*, October 18, 2010.

⁴⁹ "Facts are the Most Powerful Weapon" ("Činjenice su najbolje oružje"), *Danas*, July 31, 2010; "Lazar Stojanović", *Mladina*, March 4, 2011; Lazar Stojanovic: "Support RECOM so that the Dead Don't Get Silenced" ("Da mrtvi ne utihnu podržimo REKOM"), *Danas*, May 19, 2011.

Notable support came from many well-known journalists and public figures, among them, Zarko Puhovski, Miljenko Jergovic,⁵⁰ Drago Pilsel,⁵¹ Svetlana Slapsak⁵² and many others. Television shows, programs and roundtable discussions played a significant role in the Initiative's public visibility. The program *OKO*, broadcast by RTS and hosted by Tomislav Visnjic, a lawyer, Amir Kulaglic, a member of the Coordination Council of RECOM for Bosnia and Herzegovina, and Teki Bokshi, a member of the Working Group for the preparation of RECOM's Draft Statute.⁵³ Participants warned of the need for a broader perspective on war crimes, explaining why it was important to hear the voice of the victims, and why court proceedings were insufficient, as they were focused on determining guilt, while the victims, in fact, remained marginalized.

In the show *Club BHT*,⁵⁴ broadcast on BHT in Bosnia and Herzegovina, participants Dino Mustafic, a director, Srdjan Puhalo, a psychologist, Suada Kapic, author of the FAMA Project *The Siege of Sarajevo 92-96*, and Velimir Psenicnik-Njiric, an actor (all from Bosnia and Herzegovina), spoke about how artists could contribute to reconciliation and dealing with the past.

In the program *Rubicon*, broadcast on Koha Vision in Kosovo, Natasa Kandic pointed out that RECOM had the potential to end the manipulation of the numbers of victims in the Balkans. Further, she noted that court proceedings were slow, and that, according to some assessments, the courts will not have been able to process more than 800 cases by 2025.⁵⁵ In a TV program *Hands Full of the Past*, Natasa Kandic stated a number of reasons why public hearings were a sound basis for solidarity and compassion, and why people should stop saying 'our' and 'their' (victims, crimes), and also why politicians should support the establishment of RECOM.

The following public figures were involved in public discussions supporting RECOM's mission on TV and radio stations throughout the region and internationally: Amir Kulaglic, Tomislav Visnjic, Teki Bokshi, Srdan Puhalo, Suada Kapic, Velimir Psenicnik-Njiric, Lazar Stojanovic, Zarko Puhovski, Dragoljub Vukovic, Eugen Jakovcic, Vesna Pesic, Sonja Biserko, Bekim Blakaj, Maja Micic, Mario Mazic, Nikola Tanasic, Drago Pilsel, Branko Todorovic, Dzenana Karup Drusko, Veljko Odalovic, Dragan Pjevac, Milan Antonijevic, Daliborka Uljarevic, Mirela Rebronja, Director of the European Commission's Department for the Western Balkans Pierre Mirel, Member of the EU Parliament Tanja Fajon, Frosina Pandurska-Dramikjanin, Gordana Duvnjak, Bruno Vekaric, Srdan Cvetkovic, Zeljko Stanetic, Jovana Kolaric, Vesna Terselic, Zeljko Sabo, Muharem Bazdulj, Miljenko Dereta, Dragan Popovic, Aleksandar Deric and Dino Mustafic.

⁵⁰ Miljenko Jergovic, "Why I Supported RECOM" ("Zašto sam podržao REKOM"), *Jutarnji list*, May 31, 2011.

⁵¹ Drago Pilsel, "For Social of Solidarity" ("Za pobotano in solidarno družbo"), *Vecer*, July 22, 2010.

⁵² Svetlana Slapsak, "A Mouthful Stuck Locally in the Throat" ("Zalogaj koji lokalno zastaje u grlu"), *Danas*, July 23, 2011

⁵³ *OKO Magazin* (RTS, Serbia), December 3, 2010, available at: http://www.zarekom.org/press/Emisija-OKO-RTS-Srbija-3_12_2010_sr.html

⁵⁴ *BHT Klub*, December 14, 2010, available at: http://www.zarekom.org/press/Emisija-BHT-KLUB-BHT-BiH-14_12_2010_sr.html"

⁵⁵ *Rubikon* (Koha Vision, Kosovo, April 21, 2011), available at: http://www.zarekom.org/press/Emisija-Rubikon-Natasa-Kandic-KTV-Kosovo-21_04_2011_sr.html

Whilst some victims' associations have expressed objections and reservations about RECOM's Draft Statute, most of those directly affected by the wars sincerely support the idea of a regional commission.

At a consultation meeting with former prisoners and political detainees held on February 19, 2010 in Dubrovnik, victim and former inmate of three camps in Serbia, Zoran Sangut, now President of the Vukovar 1991 Association of Lawyers, supported the establishment of RECOM because of its regional character: "Let all those camps in the former Yugoslavia, regardless of who organized them and who stood behind them, be marked, and let all war crimes be answered for and the people responsible answer for them."⁵⁶

At a gathering of the Association of former inmates from the Zenica-Doboj Canton in Zepce on April 29, 2010, Zdenko Supkovic from the Association of Detainees from Zepce said: "In these consultations we provide opportunities for people to hear each other and hear the other. Victims must not be manipulated. Here today were individuals from all nations and no one even mentioned this fact. We have reached a level where victims respect and understand each other. Today we have all supported RECOM, which should restore the respect and dignity of the victims."⁵⁷ Branko Budimir from the Association of Croatian War Veterans (HVIDR) also supported the establishment of RECOM: "This is my first time at a consultation meeting of this kind, and I am glad that we are here from all nations and that we can talk like this about the past."⁵⁸

The Association of Detainees of Zenica-Doboj from Bosnia and Herzegovina took part in a consultation meeting with a local community in Zenica on March 6, 2010. On that occasion, the Association unanimously supported the Initiative for RECOM, which they saw as a response to their need to record all detainees and detention sites, to mark the places of suffering, and to preserve former prisoners' memory of their own suffering.⁵⁹

"It is in the interest of the families of victims in the Republic of Croatia, as well as all groups of those who suffered, that one such mechanism reveal answers to the questions concerning victims that remain unresolved. RECOM will perhaps face a difficult task and I would like its Draft Statute to establish some priorities to make the entire process more efficient," said Stefica Krstic, mother of a Croatian defender who lost his life, at a consultation meeting with the local community in Osijek, on July 14, 2010. Stefica Krstic strongly emphasized that most important for the families were peace, completion and pressure to be exerted on the institutions in the former Yugoslavia to participate in resolving the fate of missing persons.⁶⁰

Naser Kadriu, a member of the 22nd maji Association of Families of Missing Persons from Vucitrn, supported the idea of establishing a regional commission at a consultation meeting with victims, held on September 5, 2010 in Kosovo: "We support you in this initiative on behalf of family members of missing persons and, God willing, with our and your collaboration, and the collaboration of our government, we will find those who are

⁵⁶ <http://www.zarekom.org/vesti/Logorasi-podrzavaju-osnivanje-REKOM.sr.html>

⁵⁷ <http://www.zarekom.org/vesti/Zrtvama-se-ne-smije-manipulisati.sr.html>

⁵⁸ <http://www.zarekom.org/vesti/Zrtvama-se-ne-smije-manipulisati.sr.html>

⁵⁹ <http://www.zarekom.org/vesti/Gradjani-Zenicko-dobojskog-kantona-podrzali-Incijativu-REKOM.sr.html>

⁶⁰ <http://www.zarekom.org/vesti/Lokalne-konzultacije-o-Nacrtu-statuta-REKOM-a-u-Osijeku-i-Vukovaru-13-14-srpnja-2010.sr.html>

missing [...] My greatest desire and greatest wealth would be to find my father, to know where his grave is.”⁶¹

At a consultation meeting in Prishtina on September 15, 2010, former political prisoners from Kosovo gave their support to the Initiative for the establishment of the Regional Commission. Twenty-one former political prisoners joined the Coalition for RECOM.⁶²

At a consultation meeting with representatives of the victims, held on September 18, 2010 in Sarajevo, Avni Melenica from the 22nd maji Association of the Families of Missing Persons from Kosovo, said: “We have all had difficult experiences, and our general interest is the establishment of RECOM. Everyone needs to give support to the Initiative for RECOM because that is the only way to attain justice.”⁶³ Other associations of victims supported the RECOM Initiative at the same consultation meeting. Hiba Mehmedovic from the Association of Victims of War 92-95 from Vlasenica in Bosnia and Herzegovina, stated how important it was that the commission began its operation, so that peace could be finally given to victims. Hiba lost two sons. She had been searching for them since 1992, and only in 2010, found and buried them: “Identification, opening – it is a slow process. Believe me, I had been waiting, in uncertainty, for 17 years. I wanted to move on, to find them, I wanted all to know the truth. What happened – happened. I cannot forgive, but I do not want anyone to have to live through this again.”⁶⁴ At the same consultation meeting, Snezana Zdravkovic from the Association of Families of Kidnapped and Murdered Serbs in Kosovo, said that by their ongoing participation in the consultations, members of her Association supported the Initiative for RECOM. “In order to talk about my victims, I have to hear and understand other victims,” said Snezana, adding that RECOM wanted to do something that state governments had not done so far – to acknowledge ‘ours’ and ‘theirs’ - all of the victims.

Dragan Pjevac from the Association of Families of Killed and Missing Serbs in Croatia, spoke about compassion for those ‘other’ victims, which the Initiative for RECOM encourages: “We cannot seek justice just for ourselves. I cannot have the right to investigate and establish the facts about a crime, about what happened when my mother was killed, if I do not sympathize with the people who suffered in Sarajevo.”⁶⁵

Murat Tahirovic, President of the Association of Prisoners of Bosnia and Herzegovina, said she believed that the commission was necessary, to force the governments of the region to begin resolving the issue of war crimes more promptly: “Given that we have many members who were arrested in the territory of neighboring states, where some, unfortunately, were killed, we need a commission to try to consolidate, or force, the authorities of the region to start addressing these issues on a regional level.”⁶⁶

Marija Lovric, a member of Victims’ Family Members from Osijek, whose husband was killed in 1991, said she believed that the truth about the victims could not be revealed

⁶¹ “Consultative Processs on the Establishment of the Facts about War Crimes and Other Serious Violations of Human Rights in the Former Yugoslavia,” Belgrade, June 2011, p. 141.

⁶² <http://www.zarekom.org/vesti/Politicki-zatvorenici-sa-Kosova-podrzali-Inicijativu-za-REKOM.sr.html>

⁶³ <http://www.jugpress.com/index.php/okrujenje/6809-rekom-u-sarajevu>

⁶⁴ http://www.slobodnaevropa.org/content/rekom_bih/2163218.html

⁶⁵ http://www.slobodnaevropa.org/content/rekom_bih/2163218.html

⁶⁶ http://www.slobodnaevropa.org/content/rekom_bih/2163218.html

without political support. “Without truth there is no future. Many graves are still here, and life won’t be better unless these issues are resolved. Political will is required for the establishment of RECOM,” said Lovric at a consultation meeting with victims’ associations, held in Sarajevo on September 18, 2010.⁶⁷

Andjelko Kvesic, a former inmate from Busovaca, said that in his view, the Initiative for RECOM would not exist without political will to face the past. At a consultation meeting with representatives of the associations and families of victims, held in Medjugorje on December 11, 2010, Kvesic said: “The path to truth and facts is difficult. We need to force our policy makers to take responsibility and do what they have been reluctant to do for the past 15 years. It is high time to establish everyone’s responsibility and disclose the facts about all victims in Bosnia and Herzegovina, and the entire region.”⁶⁸ Zlatko Prkic from the Association of Prisoners from Vares said, at the same consultation meeting, that daily politics had been creating their own truth for 15 years now: “Basic human rights are violated in Bosnia and Herzegovina. The Coalition for RECOM is trying to do what current governments do not want to do. It doesn’t suit them to have the truth and facts revealed, because it allows them to manipulate the victims all the time,” said Prkic.⁶⁹

Munira Subasic, from the Movement of Mothers of Srebrenica and Zepa Enclaves, which regularly and actively participates in the consultation process, added: “We give great support to RECOM, because RECOM can do much more than individuals or individual organizations.”⁷⁰

At a consultation meeting held in Skopje on December 18, 2010, more than 40 veterans and defenders who had been involved in the wars in the former Yugoslavia from 1991 to 2001, agreed that the region needed a regional commission. “I think this process should end when the causes and errors that led to the war are established. I personally think that you have to ask yourself what led to the conflict. I think the Commission cannot achieve success merely with the assistance of victims’ families. Its real goal is to prepare a platform for reconciliation,” said Ilija Nikolovski from the Association of Defense and Security Veterans of Macedonia.⁷¹

7. Conclusions

In their coverage of RECOM, some media in the region are in constant breach of local and international ethical norms. A good portion of media outlets are still acting as PR agents for the state, playing the role of defenders of national interests. Some, in their opposition to the Initiative, use hate speech, defamation, libel, slander and unfounded accusations against the promoters of RECOM.

The accusations against RECOM presented in this Analysis are based on faulty logical reasoning or wrongly presented facts, and do nothing other than show that the Initiative,

⁶⁷ <http://www.zarekom.org/vesti/Zajedno-do-pravde-i-istine.sr.html>

⁶⁸ <http://www.zarekom.org/vesti/Ratna-istina-je-zatrpana-lazima.sr.html>, (December 11, 2010)

⁶⁹ <http://www.zarekom.org/vesti/Ratna-istina-je-zatrpana-lazima.sr.html>, (December 11, 2010)

⁷⁰ <http://www.zarekom.org/vesti/Odrzane-regionalne-konsultacije-sa-udruzenjima-i-porodicama-zrtava-o-Nacrtu-Statuta-REKOM-a.sr.html>

⁷¹ <http://www.zarekom.org/vesti/Veterani-ucesnici-u-ratovima-u-bivsoj-Jugoslaviji-dali-su-podrsku-Inicijativi-za-REKOM.sr.html>

which has been given various nationalistic labels, is really not ‘anti-Serbian,’ ‘anti-Croatian,’ ‘anti-Bosniak,’ ‘anti-Macedonian,’ ‘anti-Slovenian,’ or ‘anti-Albanian.’ The multiplicity of labels that have been used against the Initiative for RECOM, show that it is truly a universal initiative in its character, dedicated to uncovering the facts about war crimes and other serious human right violations – regardless of the obstacles and regardless of the nationality of victims and perpetrators.