

**Mandates of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls**

Ref.: AL OTH 18/2023  
(Please use this reference in your reply)

1 March 2023

Dear Mr. Kurti,

We have the honour to address you in our capacities as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 45/10, 43/20, 50/7 and 50/18.

In this connection, we would like to bring to your attention information we have received concerning the **extension of the deadline to submit requests for recognition of status as victim of sexual violence during the war under the “Draft law to amend and supplement the law no.04/L-054 for the status and rights of martyrs, disabled, veterans, participants of the Kosovo<sup>1</sup> liberation army, persons violated during the war, civilian victims and their families, amended and supplemented by law no. 04/L-172”, currently being drafted by the Government, and take this opportunity to remind the Government that no statutes of limitations are applicable to the category of crimes constituting grave breaches of the 1949 Geneva Conventions or otherwise serious human rights violations.**

According to the information received:

On 5 February 2018, the Government Commission for the Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War (CRSV) was established and took up functions to provide recognition of the status and provide financial support through pensions and special benefits to categories of victims resulting from the conflict in Kosovo, namely victims of sexual violence:

The legal framework underpinning the work of the CSRV includes:

- Law No. 04/L-054, on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, civilian victims and their families
- Law No. 04/L-172 on the amendment and completion of Law No. 04/L-054 on the status and rights of martyrs, invalids, veterans,

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<sup>1</sup> All references to Kosovo shall be understood to be in full compliance with [United Nations Security Council Resolution 1244 \(1999\)](#).

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members of the Kosovo Liberation Army, victims of sexual violence of war, civilian victims and their family members

- Regulation (QRK) No. 22/2015 for determining the procedures for recognizing and verifying the status of victims of sexual violence during the Kosovo Liberation War, amended and supplemented by Regulation (QRK) No. 10/2016;
- And a series of guiding documents that further regulate the related procedures.

The procedures for the recognition and verification of the status of victims of sexual violence during the war is ascertained by the CRSV according to the conditions and criteria defined by Regulation (QRK) No. 22/2015 and Regulation 10/2016.

The final deadline to submit the request for recognition of the status of victims of sexual violence was originally five years from the moment the CRSV took up functions on 5 February 2018.

In January 2023, the mandate of the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War was extended until 2025 to allow victims to continue to submit requests.

Currently, the Ministry of Finance and Labor is finalizing the *Draft law to amend and supplement the law no.04/l-054 for the status and rights of martyrs, disabled, veterans, participants of the Kosovo liberation army, persons violated during the war, civilian victims and their families, amended and supplemented by law no. 04/l-172*. The draft law extends the deadline for applications for recognition of the status of victims of sexual violence during the conflict in Kosovo until 15 May 2025.

The Ministry of Finance and Labor convened a two-weeks consultation for the public to submit comments to the draft law. The consultation period ended on 8 February 2023.

We welcome the extension of mandate of the Government Commission on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War until May 2025 to allow victims to continue to submit requests for the recognition of the status of a victim of sexual violence during the war and claim related reparation. We also welcome the extension of the deadline to submit requests for recognition of status as victim of sexual violence during the war until 15 May 2025, under the “Draft law to amend and supplement the law No. 04/l-054 for the status and rights of martyrs, disabled, veterans, participants of the Kosovo liberation army, persons violated during the war, civilian victims and their families, amended and supplemented by law No. 04/l-172”, currently being drafted by the Government.

However, we would like to underscore that the proposed two-year extension for the consideration of victim status requests and related reparation claims is not

compatible with the nature of the crimes under consideration by the CRSV, which constitute *inter alia* grave breaches of the 1949 Geneva Convention, crimes against humanity and potentially other serious human rights violations such as the prohibition of torture and, therefore, they cannot be subject to statutes of limitations. In light of the gravity and nature of these violations, and the challenges faced by victims of sexual violence to make claims, even many years or decades after an incident, victims should not be time bound to submit claims for remedy and reparation of the harm suffered. On the contrary, the government should ensure that the legal, institutional, and administrative framework in place facilitate and promote the realization of this right and provide all necessary support to victims to come forward. To comply with international standards on the matter, the amendment of the law would need to include a safeguard such that there is no definitive end date from which victims are disqualified from applying for the recognition of victim status to ensure that all victims have the opportunity to submit their claims when ready and/or have the capacity to do so, regardless of the time-limited mandate afforded to the CRSV. We recall that the right afforded to victims of serious human rights violations to remedy and reparation is paramount and while we understand the goodwill intended by extending the deadline, victims' rights in this situation cannot be constrained by administrative objectives.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the steps taken to ensure access to reparations for victims of conflict related sexual violence, including such measures to promote and facilitate that access.
3. Please provide your analysis of how the existing framework and the draft law comply with international legal standards on the matter as set out in this letter.
4. Please provide information if victims, particularly women and girls, have been meaningfully consulted on their views about the adequacy of the existing legal framework to provide an effective avenue to remedy the harm suffered and how their views have been taken into consideration in the drafting of the proposed legislation.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from you will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Mr. Kurti, the assurances of our highest consideration.

Fabian Salvioli

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Alice Jill Edwards

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck

Chair-Rapporteur of the Working Group on discrimination against women and girls

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, and without prejudging the accuracy of these allegations, we would like to draw your attention to the relevant international norms and standards.

Even though Kosovo is not a party to any of the international conventions of human rights, article 22 of its Constitution foresees the direct applicability of international human rights conventions. By incorporating these instruments into the Constitution, the legal system and the authorities of Kosovo shall be obliged to adhere to them.

We would like to refer to article 2 of the Covenant on Civil and Political Rights, which establishes that States must undertake measures to ensure that persons whose rights or freedoms are violated shall have an effective remedy. In addition, the 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 establish the right of victims to have equal access to an effective judicial remedy and receive adequate, effective and prompt reparation for the harm suffered, and to have access to relevant information on reparation mechanisms (paragraphs 10, 11, 12 and 15).

In addition, we would like to recall that the imprescriptibility of crimes against humanity is a norm of jus cogens, i.e. a peremptory norm of international law that does not admit of any contrary provision. The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, of 26 November 1968, establishes the imprescriptibility of crimes against humanity committed both in wartime and in peacetime, whenever they were committed. In addition, the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of February 2005 establishes that the rule of prescription (or status of limitations) shall not apply to crimes that are imprescriptible under international law. Even when such principle is applicable, it shall not be effective for victims seeking reparations for their injuries (principle 23). Similarly, the 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 determine that “statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law” (principle 6).

In addition, we would like to refer to the right of victims of human rights violations to receive full reparation for the harm suffered. The Updated Set of Principles (articles 31-34) recall the duty of States to make reparation to victims. Similarly, the 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 establish the right of victims to receive adequate, effective and prompt reparation for the harm suffered. Reparation should be proportional to the gravity of the violations and the harm suffered. Victims should be

provided with full and effective reparation, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (paragraphs 10, 11, 15, and 18). Besides, the 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 (UN Doc. A/Res/60/147) guarantees effective legal protection and the right to reparations in cases of human rights violations and breaches of international humanitarian law.

With respect to protections afforded to victims of sexual violence, we would also like to recall CEDAW general recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, particularly addressing access to justice for victim of sexual violence in paras 74-81.

In his report on practical experiences of domestic reparation programmes (A/HRC/42/45), the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence stressed that when reparation programmes are created, the number of victims registered at any given point in time cannot be taken to be the whole universe of victims, as under registration is a common challenge. He therefore stipulated that registration processes for victims should include flexible time frames to truly reach out to all victims (paragraph 48). In addition, he stressed that authorities should ensure and facilitate effective participation and consultation and a meaningful role for victims in the design, implementation and monitoring of reparation programmes (paragraph 129 (l)).