

**Resolution 1782 (2011)<sup>1</sup>**

Final version

**Investigation of allegations of  
inhuman treatment of people and  
illicit trafficking in human organs  
in Kosovo**

Parliamentary Assembly

1. The Parliamentary Assembly was extremely concerned to learn of the revelations by the former Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), who alleged that serious crimes had been committed during the conflict in Kosovo, including trafficking in human organs. These crimes had hitherto gone unpunished and had not been the subject of any serious investigation.

2. In addition, according to the former Prosecutor, these acts were committed by members of the Kosovo Liberation Army (KLA) militia against Serbian nationals who had remained in Kosovo at the end of the armed conflict and been taken prisoner.

3. According to the information gathered on behalf of the Assembly and to the criminal investigations now under way, numerous concrete and convergent indications confirm that some Serbians and some Kosovo Albanians were held prisoner in secret places of detention under KLA control in northern Albania and were subjected to inhuman and degrading treatment, before ultimately disappearing.

4. Numerous indications seem to confirm that, during the period immediately after the end of the armed conflict, before international forces were really able to take control of the region and re-establish a semblance of law and order, organs were removed from some prisoners at a clinic on Albanian territory, near Fushë-Krujë, and taken abroad for transplantation.

5. This criminal activity, which developed through taking advantage of the chaos prevailing in the region and at the initiative of certain KLA militia leaders linked to organised crime, may be continuing today, albeit in other forms, as demonstrated by an investigation being carried out by the European Union Rule of Law Mission in Kosovo (EULEX) relating to the Medicus clinic in Pristina.

6. Although some concrete evidence of such trafficking already existed at the beginning of the last decade, the international authorities in charge of the

region did not consider it necessary to conduct a detailed examination of these circumstances, or did so incompletely and superficially.

7. Particularly during the first years of their presence in Kosovo, the international organisations responsible for security and the rule of law (Kosovo Force (Kfor) and the United Nations Interim Administration Mission in Kosovo (UNMIK)) had to cope with major structural problems and serious shortages of staff with the skills to take on the tasks with which they were entrusted. All of this was aggravated by rapid and constant staff rotation.

8. The ICTY, which had started to conduct an initial on-site examination to establish the existence of traces of possible organ trafficking, dropped the investigation. The elements of proof taken in Rripe, Albania, have been destroyed and therefore cannot be used for more detailed analyses. No subsequent investigation has been carried out into a case nevertheless considered sufficiently serious by the former Prosecutor of the ICTY for her to see the need to bring it to public attention through her book.

9. During the decisive phase of the armed conflict, the North Atlantic Treaty Organization (NATO) took action in the form of air strikes, while land operations were conducted by the KLA, de facto allies of the international forces. Following the departure of the Serbian authorities, the international bodies responsible for security very much relied on the political forces in power in Kosovo, most of them former KLA leaders.

10. The international organisations in place in Kosovo favoured a pragmatic political approach, taking the view that they needed to promote short-term stability at any price and thereby sacrificing some important principles of justice. For a long time little was done to follow up on evidence implicating KLA members in crimes against the Serbian population and against certain Kosovo Albanians. Immediately after the conflict ended, when the KLA had virtually exclusive control on the ground, many scores were settled, without any kind of trial, between different factions and against those considered to be traitors because they were suspected of having collaborated with the Serbian authorities previously in power.

11. At the end of 2008, EULEX, which took over certain functions in the justice sector that were previously fulfilled by United Nations structures (UNMIK) at the end of 2008, inherited a difficult and sensitive situation, particularly when combating serious crime, including incomplete records, lost documents and uncollected witness testimony. Consequently, a large number of crimes may well continue to go unpunished. Little or no detailed investigation has been carried out into organised crime and its connections with representatives of political institutions, or in respect of war crimes committed against Serbians and Kosovo Albanians who were regarded as collaborators or were members of rival factions. The latter is still a truly taboo subject in Kosovo today, although everybody talks about

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1. Assembly debate on 25 January 2011 (3rd and 4th Sittings) (see [Doc. 12462](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Marty). Text adopted by the Assembly on 25 January 2011 (4th Sitting). All reference to Kosovo in this text, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

it very cautiously in private. EULEX seems very recently to have made some progress in this field, and it is very much to be hoped that political considerations will not impede this commitment.

12. The team of international prosecutors and investigators within EULEX that is responsible for investigating allegations of inhuman treatment, including those relating to possible organ trafficking, has made progress, particularly in respect of proving the existence of secret KLA places of detention in northern Albania where inhuman treatment and even murders are said to have been committed. The investigation does not, however, have the desired co-operation of the Albanian authorities.

13. The appalling crimes committed by Serbian forces during the conflict, which stirred up very strong feelings worldwide, gave rise to a public mood that was reflected in the attitude of certain international agencies and was based on the assumption that invariably on one side there were the perpetrators of crimes and on the other side were the victims, who were necessarily innocent. Reality is less clear-cut and more complex.

14. The Assembly strongly reaffirms the need for an absolutely uncompromising fight against impunity for the perpetrators of serious human rights violations and wishes to point out that the fact that these were committed in the context of a violent conflict could never justify a decision to refrain from prosecuting anyone who has committed such acts (see Resolution 1675 (2009) on the state of human rights in Europe: the need to eradicate impunity).

15. There cannot and must not be one justice for the winners and another for the losers. Whenever a conflict has occurred, all criminals must be prosecuted and held responsible for their illegal acts, whichever side they belonged to and irrespective of their political role.

16. The question which, from the humanitarian viewpoint, remains the most acute and sensitive is that of missing persons. Of the more than 6 000 disappearances on which the International Committee of the Red Cross has opened files, approximately 1 400 individuals have been found alive and 2 500 bodies have been found and identified. For the most part, these were Kosovo Albanian victims found in mass graves in regions under Serbian control and in Kosovo.

17. Co-operation between international agencies and the Kosovo and Albanian authorities to discover the fate of missing persons is still clearly insufficient. Whereas Serbia ultimately co-operated, it has proved far more complicated to carry out excavations on the territory of Kosovo, and impossible, at least so far, on Albanian territory. Co-operation by the Kosovo authorities is particularly lacking in respect of the search for the almost 500 persons who officially disappeared after the end of the conflict.

18. The working group on missing persons, chaired by the International Committee of the Red Cross and the EULEX Office on Missing Persons and Forensics, needs the full and wholehearted support of the international community in order for the reluctance on both sides to be overcome. Knowing the truth and enabling victims'

families to mourn at last are vital preconditions for reconciliation between the communities and a peaceful future in this region of the Balkans.

19. The Assembly therefore invites:

19.1. the member states of the European Union and the other contributing states to:

19.1.1. clarify the competences of EULEX and/or any other international judicial bodies mandated to conduct follow-up investigations, such that their territorial and temporal jurisdiction is recognised as encompassing all criminal acts linked to the conflict in Kosovo;

19.1.2. allocate to EULEX the resources that it needs, in terms of logistics and highly skilled staff, to deal with the extraordinarily complex and important role entrusted to it;

19.1.3. set a clear objective for EULEX and give it political support at the highest level to combat organised crime uncompromisingly, and to ensure that justice is done, without any considerations of political expediency;

19.1.4. commit all the resources needed to set up effective witness protection programmes;

19.2. EULEX to:

19.2.1. persevere with its investigative work, without taking any account of the offices held by possible suspects or of the origin of the victims, doing everything it can to cast light on the criminal disappearances, the indications of organ trafficking, corruption and the often condemned collusion between organised criminal groups and political circles;

19.2.2. take every measure necessary to ensure effective protection for witnesses and gain their trust;

19.3. the ICTY to co-operate fully with EULEX, particularly by making available the information and elements of proof that are in its possession and are likely to help EULEX to prosecute those responsible for crimes within its jurisdiction;

19.4. the Serbian authorities to:

19.4.1. make every effort to capture the persons still wanted by the ICTY for war crimes, particularly General Ratko Mladic and Goran Hadzic, whose impunity still constitutes a serious obstacle to the process of reconciliation and is often referred to by the authorities of other countries to justify their lack of enthusiasm about taking judicial action themselves;

- 19.4.2. co-operate closely with EULEX, particularly by passing on any information which may help to clear up crimes committed during and after the conflict in Kosovo;
- 19.4.3. take the necessary measures to prevent leaks to the press of information about investigations concerning Kosovo, which are prejudicial to co-operation with other authorities and to the credibility of investigative work;
- 19.5. the Albanian authorities to:
- 19.5.1. co-operate unreservedly with EULEX and the Serbian authorities in the framework of procedures intended to find out the truth about crimes linked to the conflict in Kosovo, irrespective of the known or assumed origin of the suspects and the victims;
- 19.5.2. in particular, take action on the requests for judicial assistance made by EULEX concerning criminal acts alleged to have occurred in a KLA camp in northern Albania;
- 19.5.3. start a serious and independent investigation in order to find out the whole truth about the allegations, sometimes concrete and specific, of the existence of secret detention centres where inhuman treatment was purportedly inflicted on prisoners from Kosovo, of Serbian or Albanian origin, during and immediately after the conflict; the investigation must also be extended to a verification of the equally specific allegations about organ trafficking said to have taken place during the same period, some of it on Albanian territory;
- 19.6. the Kosovo administration to co-operate unreservedly with EULEX and/or any other international judicial body mandated to conduct follow-up investigations and in the framework of any other procedures intended to find out the truth about crimes linked to the conflict in Kosovo, irrespective of the known or assumed origin of the suspects and the victims;
- 19.7. all the Council of Europe member and observer states concerned to:
- 19.7.1. respond without undue delay to the requests for judicial co-operation addressed to them by EULEX and by the Serbian authorities in the framework of their current investigations concerning war crimes and organ trafficking; the delayed response to these requests is incomprehensible and intolerable in view of the importance and urgency of international co-operation to deal with such serious and dangerous crime problems;
- 19.7.2. co-operate with EULEX in its efforts to protect witnesses, especially when the persons concerned can no longer continue to live in the region and must therefore adopt a new identity and find a new country of residence.
20. The Assembly, aware that trafficking of human organs is now an extremely serious problem worldwide, manifestly contravening the most basic standards in terms of human rights and dignity, welcomes and concurs with the conclusions of the 2009 joint study by the Council of Europe and the United Nations, "Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs". It agrees, in particular, with the conclusion that it is necessary to draft an international legal instrument which lays down definitions of human organ, tissue and cell trafficking and stipulates the action to be taken in order to prevent such trafficking and to protect its victims, as well as criminal law measures to prosecute the perpetrators.