



Dealing with the Past Principles

**Principle: Persons convicted of conflict-related crimes
should not hold public posts or be treated as national heroes**

Case studies



Principles for dealing with the past

Principles for Dealing with the Past is a civic initiative, promoted by an informal coalition of 5 organizations and an expert: Kosovo Humanitarian Law Center, Kosovo Center for Rehabilitation of Torture Victims, Integra, Youth Initiative for Human Rights, BIRN, and Nora Ahmetaj. The group has taken a joint initiative to design and adopt a set of principles that will inform and guide political and public actors on how to deal with victims, survivors, the painful past, and historical narratives. The initiative aims to prevent harmful discourse and actions related to the legacy of the conflict and will serve as a reference document, where anyone who violates its principles should be held morally responsible. The aim is therefore to apply these principles and respect the values and feelings they embody, in order to ensure that victims and survivors are not harmed and that actions related to dealing with the past will contribute to the reconciliation process.¹ Now that the principles have been developed and organized, and are well explained, it is crucial that they be presented to the general public and promoted correctly. We believe that one way to get people to understand the importance of principles is to tell about the harms, consequences, and pain that can be caused in situations where the principles are violated. Therefore, the coalition will publish several analyses which will be compiled by the Kosovo Humanitarian Law Center (KHLC) and we will try to bring concrete examples from the past where the principles have been used properly or even misused. One of these principles is "Persons convicted of conflict-related crimes should not hold public office or be treated as national heroes."

Persons convicted of conflict-related crimes should not hold public posts or be treated as national heroes

The right to guarantee non-repetition, as the fourth pillar of Dealing with the Past, states that those convicted of war crimes in connection with armed conflict should not hold any institutional duty, nor should they have access to sensitive information related to state and public security. Treating war crimes convicts as heroes violates the dignity of victims and survivors. Moreover, praising and holding war crimes convicts in a public position would seriously undermine the process of restoring citizens' trust in institutions, especially of victim community. In the longer term, praising war crimes convicts would distort historical narratives for future generations.

Introduction

Persons who have committed war crimes, crimes that have been proven by court decisions, are persons who must serve their sentence given by the court and in no way should be glorified. Also, they should not hold high public and state positions, even after serving their sentence. Glorifying and treating them as heroes is unacceptable and does not help the process of dealing with the past. This undermines the victims' efforts to overcome their pain and trauma, which they experienced during the recent war in Kosovo, as well as the over 20-year effort to highlight to citizens the accurate narratives of the events of the war. Victims or survivors of the recent war in Kosovo may feel insecure because glorifying those who have committed crimes puts them in a higher position about the victims. In this way, the dignity of the victims is destroyed again and their trust in state institutions is lost.

Such cases when certain persons who have been convicted of war crimes, have held high state positions, or have even been honored with various decorations, and have been treated as heroes, have occurred in the past but continue to occur also today. This is undoubtedly a paradox of its kind, as one state governance punishes them for the actions committed during a

¹ [Principi Eng \(yihr-ks.org\)](http://PrincipiEng(yihr-ks.org))



certain period, while the other governance praises them for those actions. Such things can cause confusion among citizens, questioning first the credibility of the justice system and on the other hand obviously the credibility of other public and political institutions.

Many such cases had occurred in Serbia, including that of V.L., who was the commander of the Pristina Corps of the Yugoslav Army and convicted by the International Criminal Tribunal for the former Yugoslavia of war crimes during the Kosovo conflict. After his release from serving his sentence, he was welcomed and exalted as a hero. Shortly afterward he was appointed lecturer at the Serbian Military Academy. The President of the Republic of Kosovo, Hashim Thaçi², also reacted to such a thing, in addition to the reactions from the international community. The former president's reaction can be mentioned as a positive example to follow in Kosovo, for anyone who has been convicted with final verdicts for war crimes, making it impossible to appoint them to high and important state positions.

Although no law of Kosovo prohibits the exercise of various public activities in case they are convicted, still it is not a good example to follow. Surely, in the judgment it renders, the court has the right, in addition to the main or alternative sentence, to impose additional sentences, which consist of the prohibition of exercising functions in public administration or public service, or the prohibition of exercising the profession, activity or task. These punishments are provided by the Criminal Code of the Republic of Kosovo³, and their execution is done through the Law on Execution of Criminal Sanctions.⁴ Unfortunately, these additional sentences are not practiced by local courts in war crimes cases.

Due to the great weight of such an issue, we have analyzed several cases which have violated this principle. Through this analysis, we will understand that such a phenomenon occurs continuously. It is therefore important to identify and report such cases so that such acts do not turn into a negative precedent.

Glorification and appointment of war crimes convicts to high political posts

Based on the information provided by the HLCK on the case of SS, the former commander of the KLA General Staff, he was charged in the "Drenica 2" case and also convicted of war crimes against the civilian population. The same person was also convicted by a final judgment, by which he was sentenced to a single sentence of imprisonment for a term of 7 (seven) years⁵.

Despite this fact, he had begun to be treated as a war hero by the time he was released from serving his sentence. Above all, he had received high public/political positions, which undoubtedly has a negative impact on the dignified treatment of victims.

During the time he was serving his sentence, S.S. had received a decoration from the then President of the Republic of Kosovo, Hashim Thaçi, on the occasion of the 10th anniversary of Kosovo's Independence. This is a harmful precedent, because if a person is praised and decorated for his achievements during a certain period, in this case, there is an armed conflict and he is serving a sentence for the crimes he committed. has committed during this conflict, is controversial and harmful.

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² Kallxo.com, 26.10.2017, <https://kallxo.com/shkurt/thaci-kerkon-reagim-te-se-per-gjeneralin-serb-te-punesuar-ne-akademi-ushtarake/>

³ Criminal Code of the Republic of Kosovo, Chapter - Supplementary Sentences, article 62-63, page 17-18, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

⁴ Law on Execution of Criminal Sanctions, Part Four - Execution of Complementary Sentences, Chapter XI-XII, Article 160-163, page 41-42, (Microsoft Word - 1 - Ligji nr nr 04L-149 p\353r ekzekutimin e sanksioneve penale - shqip_red .doc) (rks-gov.net)

⁵ Humanitarian Law Center Kosovo, HLCK Annual Report 2017, "War Crimes Trials - What's Next?", page 154, <https://www.hlc-kosovo.org/storage/app/media/2017.pdf>

⁶ Kallxo.com, 16.02.2018, <https://kallxo.com/shkurt/njerez-te-denuar-e-te-akuzuar-nder-te-dekoruarit-e-presidentit-thaci/>



He was released on parole from serving two-thirds of his sentence on January 25, 2019⁷. Shortly after his release, a considerable number of public figures had written about him on various social networks, welcoming him and treating him like a hero.

The then President of the Republic of Kosovo, on his account on the social network Facebook had posted a photo with S.S., where he had written "with the living hero, General S.S. in freedom, Kosovo is better and safer"⁸. In the same manner, Isa Mustafa, who was the leader of the opposition at the time, had written on his account on the social network Facebook "I was glad to hear about the release of General S.S. .. General S.S. made a special contribution to war and peace. General, I wish you health!"⁹ The then Prime Minister Ramush Haradinaj had posted in the same way to congratulate S.S. for his release. He wrote on his Facebook account, "The war hero has returned to freedom. Welcome, General S.S.!"¹⁰

It is unethical and unacceptable for the country's top political leaders to glorify a personality who has been convicted of war crimes.

In addition to congratulations and public praise made by key personalities of that time in Kosovo, due to his release from prison, the then Prime Minister of Kosovo himself, a few days later, appointed S.S. as his political adviser¹¹.

The HLCK 2018 report states that this is the first time a war crimes convict has been appointed to a senior political position. Above all, according to this report, it is stated that there are no legal provisions that prohibit such a thing, but that the political and legal weight of such a decision is huge, both for the prosecution of other perpetrators of war crimes and for rule of law on politics¹².

Such an action was opposed by two non-governmental organizations and also by the United States Ambassador to Kosovo, Philip Kosnett.¹³ According to the reaction published by the Youth Initiative for Human Rights in Kosovo (YIHR Kosovo) and the Youth Initiative for Human Rights (YIHR Serbia), they have condemned and opposed the appointment of S.S. as an advisor to Prime Minister Ramush Haradinaj. According to them, "War criminals have no place in the Government."¹⁴ Following these events which took place after his release from prison, S.S. was proposed for reappointment to the position of Ambassador of Kosovo in the Republic of Albania, a position he had held even before his arrest in 2013. In this case, his defense lawyer stated that "no legal provision in the Republic of Kosovo does not prohibit the appointment of SS in the capacity of the Ambassador of the Republic of Kosovo in Albania while he is also an advisor to the Government of the Republic of Kosovo and it is a very normal issue for him to be reappointed in the Republic of Albania because he has held this position before."¹⁵

Same as for the appointment to the position of advisor to the Prime Minister of the Republic of Kosovo, after the reappointment to the position of Ambassador of Kosovo to the Republic of Albania, the Ambassador of the United States of America, Philip Kosnett, reacted again. He asked on his Twitter account "what message does Kosovo send to the world when it proposes a convicted war criminal to represent him as Ambassador? Does this show respect for the rule of law?"¹⁶ But despite the fact of reactions to such an action, which publicly there stating that such a thing is not right, yet it was not taken into account for these actions to come to an end.

⁷ Balkan Insight, January 2019, [Ish-komandanti i Kosovës Sylejman Selimi lirohet nga burgu](https://www.balkaninsight.com/en/article/ish-komandanti-i-kosoves-sylejman-selimi-irohet-nga-burgu) | Balkan Insight

⁸ Facebook, Hashim Thaçi, <https://www.facebook.com/HashimThaciOfficial/photos/a.606015099468853/2428212453915766/?type=3&theater>

⁹ Facebook, Isa Mustafa, <https://www.facebook.com/IsaMustafaKS/posts/2027743190625241>

¹⁰ Facebook, Ramush Haradinaj, <https://www.facebook.com/RamushHaradinajOfficial/photos/a.179881242136298/1045931905531223/?type=3&theater>

¹¹ Insajderi, 19 June 2019, <https://insajderi.org/emerimet-e-te-denuarve-per-krime-lufte-e-korrupsion-qe-nxiten-reagimin-e-nderkombetareve/>

¹² Humanitarian Law Center Kosovo, War Crimes - A Transition That Is Not Promising, FDHK Annual Report for 2018, page 111, [Krimet e luftes Tranzicioni qe nuk premton.pdf \(hlc-kosovo.org\)](https://www.hlc-kosovo.org/premton.pdf)

¹³ Twitter, Ambassador Philip S. Kosnett, 06.02.2019, <https://twitter.com/USAmbKosovo/status/1093221846043029505>

¹⁴ YIHR Kosovo and YIHR Serbia, <https://yih-ks.org/yihr-kosova-dhe-yihr-serbia-denojne-dhe-kundershtojne-emerimin-e-sylejman-selimit-si-keshilltar-te-kryeministrit-ramush-haradinaj-kriminelet-e-luftes-nuk-kane-vend-ne-qeveri/>

¹⁵ Insajderi, 23.04.2019, [Sylejman Selimi ambasador i Kosovës në Shqipëri ? – Flet avokati i tij - Insajderi](https://insajderi.org/emerimet-e-te-denuarve-per-krime-lufte-e-korrupsion-qe-nxiten-reagimin-e-nderkombetareve/)

¹⁶ Twitter, Philip S. Kosnett, <https://twitter.com/usambkosovo/status/1124308101388173312>



Appointment of war crimes convicts to high public posts

Even today, as we are speaking about the principles for dealing with the past, the position of B.Z., a person with public and political baggage is in complete contradiction with the principle we are elaborating on in this analysis. He was upheld part of the decision of the Court of First Instance and part of the appeal filed in his favor regarding the sentence, and as a result was sentenced to six years imprisonment by the Supreme Court of Kosovo on 10 April 2009, as a final judgment for *war crimes against the civilian population*¹⁷. Despite the fact that he has been convicted of war crimes, he currently exercises a very important state function, in the capacity of Chief Executive Officer of the State Agency of Archives of Kosovo¹⁸. It is clear that he runs one of the country's most important institutions and where he has access to sensitive documents from state archives.

In the same year when B.Z. was convicted, respectively from November 23, 2009, after serving his sentence, he had held the position of Media and Public Relations Advisor at the Post and Telecommunications of Kosovo (PTK)¹⁹. Whereas from August 25, 2014, he was appointed acting director of the National Library of Kosovo "Pjetër Bogdani"²⁰ and was appointed director of the same on October 3, 2014²¹.

On December 17, 2019, B.Z. got the position he already holds, in the capacity of Chief Executive Officer of the State Archives Agency of Kosovo, for a 3-year term²².

The appointment of persons convicted of war crimes as leaders of cultural and educational institutions, especially those that contain sensitive documentation, is unacceptable and may damage the image of these institutions but also of the rule of law.

Recommendations

In order to have a few such cases in the future, first of all, we recommend that the "Principles for Dealing with the Past"²³, be respected and adapted by all political and public actors, who deal with the treatment of the past.

Proof of criminal past should be regulated by various legal acts, appearing as a basic criterion, for all persons who apply to high positions in public and state institutions and not only to persons who apply to become part of the justice system.

In the framework of the national strategy for Transitional Justice, which is in the process of drafting, provisions should be included by which persons who are convicted with full-fledged verdicts for war crimes should not be allowed to hold high decision-making or even public/political posts.

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¹⁷ Verdict of the Supreme Court of Kosovo, 10 April 2009, https://www.hlc-kosovo.org/storage/app/media/Selim-Krasniqi-dhe-te-tjere-Aktgivkimi-10.04.2009_Redacted-1.pdf

¹⁸ Kosovo State Archives Agency, <http://www.asha-ks.net/?page=1,45>

¹⁹ National Library of Kosovo "Pjetër Bogdani", <https://biblioteka-ks.org/Ngjarje/N-X-1.php>

²⁰ National Library of Kosovo "Pjetër Bogdani", <https://www.biblioteka-ks.org/Ngjarje/N-ud.php>

²¹ National Library of Kosovo "Pjetër Bogdani", <https://www.biblioteka-ks.org/Ngjarje/N-X-1.php>

²² Insajderi, 17 December 2019, <https://insajderi.org/kater-dite-pasi-u-ftua-nga-specialja-babai-i-keshilltarit-te-pacollit-emerohet-kryeshef-ne-agjenci-shteterore/>

²³ [Principi Eng \(vihr-ks.org\)](#)

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