



**REPUBLIC OF ALBANIA
THE ASSEMBLY**

ADOPTED

THE SPEAKER

Lindita NIKOLLA

RESOLUTION

**ON THE UNFOUNDED ALLEGATIONS ON ILLICIT TRAFFICKING IN HUMAN
ORGANS IN KOSOVO AND ALBANIA**

1. Having regard to Resolution 1782 (2011) of the Parliamentary Assembly of the Council of Europe (hereinafter "PACE") "Investigation of Allegations of Inhumane Treatment of People and Illicit Trafficking in Human Organs in Kosovo", which was based on a report (Document 12462, of 7 January 2011) by Dick Marty (hereinafter "The Report"), a then-member and Rapporteur of the Committee for Legal Affairs and Human Rights in PACE;

2. Recalling that the Report was drawn up following a motion for a resolution (Document 11574, of 15 April 2008), authored by the former PACE member, Konstantin Kosachev, Russian Federation, European Democratic Group, based on the memoirs of Ms. Carla Del Ponte, Former Prosecutor of the International Criminal Tribunal for Former Yugoslavia (hereinafter "ICTY"), who, in her book *The Hunt: Me and the War Criminals*, published two months after the declaration of Kosovo's independence and about three months after she had resigned as an ICTY Prosecutor, raised suspicions that members and leaders of the Kosovo Liberation Army (hereinafter "The KLA") had committed inhumane treatment of people and illicit trafficking in human organs in Kosovo and in Albania, crimes that could not be investigated by the ICTY due to lack of jurisdiction, as well as due to the limited mandate both in terms of *ratione temporis* and *ratione loci* of this Court; and that these allegations had been previously investigated by the ICTY Office during Del Ponte's mandate, but no evidence had been found to substantiate the allegations on such crimes;

3. Noting that Dick Marty's Report, following the allegations of former Prosecutor Carla Del Ponte and the motion for a resolution initiated by the Russian MP representative at PACE, Kosachev, even though not a fact-finding or investigative report, raises allegations of inhumane treatment of people and illicit trafficking in human organs, which are suspected to have been

committed by KLA members and leaders against Serbian, Kosovar citizens and the Roma community or other minorities of Kosovo on the Albanian territory, more specifically in Northern Albania, namely in Kukës, Burrel, Rripe, Cahan and Fushë-Krujë, in the period after the end of the war in Kosovo, mainly after June 1999, and served as the document in forming the recommendations of PACE Resolution 1782 (2011), which was addressed to the Council of Europe Member States, the European Union, international organizations, Kosovo, Albania, Serbia and based on which a series of Constitutional and/or legal and regulatory initiatives were carried out, as well as institutional activities in Kosovo, Albania and the European Union (EULEX), as described below in the text of this Resolution;

4. Commending the Assembly of Kosovo which had the political will, even though some of those who voted were accused of the crimes alleged in the Dick Marty's Report, to approve the Constitutional Amendment No. 24 of August 2015, which provided for the establishment of the Specialist Chambers for the criminal prosecution of the allegations related to the crimes alleged in the Dick Marty's Report and which was also the subject of investigation by the Special Investigative Task Force of the European Union, set up according to the Decision of the Political and Security Committee of the European Union in May 2011 *On Some Changes in the EULEX Operational Plan, following PACE Resolution 1782 (2011)*;

5. Bringing attention to the action of the political class of Kosovo regarding the Constitutional Amendment No. 24 of August 2015, which was also appreciated by PACE in its Resolution 2094 (2016) "The Situation in Kosovo and the Role of the Council of Europe", which in its paragraph 3 expressly states: "The Assembly welcomes the adoption by the Assembly of Kosovo of the constitutional amendments which paved the way for the creation of specialist chambers to prosecute the cases investigated by the Special Investigative Task Force, as a follow-up to Assembly Resolution 1782 (2011) on inhuman treatment of people and illicit trafficking in human organs in Kosovo. The Assembly considers this decision as a step towards reconciliation and a sign of the authorities' willingness to fight against impunity.";

6. Appraising and also recalling that in implementation of the Constitutional amendment, as well as the Law No. 04/L -274 "On the Ratification of the International Agreement between the Republic of Kosovo and the European Union on the European Union Rule of Law Mission in Kosovo", the Assembly of Kosovo also approved Law No. 05/L-053 "On the Specialist Chambers and the Specialist Prosecutor's Office", giving jurisdiction to these independent and temporary bodies, as part of the justice system of Kosovo, in which composition there are no Kosovar citizens, to investigate and prosecute the alleged crimes referred to in the Dick Marty's Report and that were also subject to criminal investigations conducted by the Special Investigative Task Force of the European Union;

7. Underlining that even the Special Investigative Task Force of the European Union, chaired by Clint Williamson, authorized in 2011 for a full criminal investigation into the allegations of killing of people, with the aim of extracting and selling their organs, never found any evidence or facts supporting the allegations of Dick Marty's Report;

8. Noting that neither the Special Prosecutor's Office, which was established to investigate and prosecute individuals for the crimes alleged in the Dick Marty's Report, in any of its

investigations and any of its indictments brought against former KLA leaders in 2020, does not mention any case related to the trafficking in human organs;

9. Emphasizing the readiness and willingness of Albania to cooperate without reservations with all international institutions, in order to give a final answer to the allegations raised in Dick Marty's Report and to go to the end of this process, to once and for all close this chapter and ascertain that no alleged crimes as those mentioned in Dick Marty's Report were committed in Albania, as well as underlining Albania's effective assistance and cooperation with any fact-finding or investigative mission of the United Nations, the Council of Europe, EULEX, the European Union or any other organization having an interest in conducting investigations, in particular with regards to the implementation of the recommendations of PACE Resolution 1782 (2011) even before the establishment of the Kosovo Specialist Chambers or the Specialist Prosecutor's Office;

10. Noting that an expression of the willingness of Albania to cooperate in the interest of justice for finding out the truth about the alleged crimes referred to in the Dick Marty's Report is also the approval by the Assembly of Albania of Law No. 53/2012 "On Jurisdictional Relations in Criminal Matters with the EULEX Special Investigative Task Force", which authorizes the competent authorities of the Republic of Albania to provide the European Union Special Investigative Task Force with the cooperation and relevant assistance requested;

11. Recalling that the approval of Law No. 53/2012 by the Assembly of Albania was welcomed in the PACE Report (Document 13586, of 2 September 2014), "Honoring of Obligations and Commitments by Albania", which paragraph 5.5 provides that "Following up on the Assembly Report on Inhumane Treatment of People and Illicit Trafficking in Human Organs in Kosovo", paragraph 129, expressly states: "We welcome the fact that the Albanian authorities have given full and unhindered co-operation to the EULEX investigators of these alleged crimes on Albanian territory. Considering it of utmost importance that the allegations raised in this report are investigated fully and in a transparent manner, the Albanian Parliament adopted the Law "On jurisdictional relations in criminal matters with the EULEX special investigation unit" in May 2012. Based on this law, EULEX prosecutors are allowed to investigate within Albanian territory on the alleged implications of Albania in the illicit trafficking in human organs on Albanian territory. They have had the full support of all competent institutions. With regard to the independent and separate investigation by the Albanian authorities, as requested by the Assembly, the authorities stated that their investigations have until now not confirmed Mr. Marty's findings.";

12. Underlining that after the entry into force of the Law No. 53/2012, the Albanian authorities have closely cooperated with the Special Investigative Task Force of the European Union and the specialized bodies in Kosovo, providing all the help, necessary assistance, required information, as well as carrying out the relevant actions in relation to them, with the aim of finding out the truth about the allegations raised in the Dick Marty's Report;

13. Finding that from the entry into force of the Law No. 53/2012 up until now, no one of the specialized bodies in Kosovo or international organizations have raised any allegation on the lack of cooperation of the Albanian authorities in this process;

14. Noting the seriousness and responsibility of the Assembly of Albania to exercise its parliamentary oversight role on the implementation of PACE Resolution 1782 (2011), as well as Law No. 53/2012, by virtue of Decision No. 71/2020 of the Assembly of Albania, an Ad-Hoc Committee was established for the performance of this parliamentary function, which could not complete its activity due to the end of the IX legislature of the Assembly (2017-2021), nevertheless it managed to receive complete information and reports which prove that the willingness of the Albanian authorities has been effective and these authorities have responded in time and constructively to the requests for cooperation, help, assistance and concrete actions by foreign authorities, in line with the provisions of Law No. 53/2012, thereby simultaneously fulfilling the recommendations of Resolution 1782 (2011) for Albania;

15. Noting that the acts, evidence, reports and information gathered by the Ad-Hoc Parliamentary Committee established by Decision No. 71/2020 of the Assembly, contain no fact or evidence to sustain the allegations made in Dick Marty's Report for killing of people with the purpose of extracting and selling their organs and illicit trafficking in human organs in Kosovo and/or Albania;

16. Emphasizing that Dick Marty, after his visits to both Kosovo and Albania, has never presented any evidence to prove the alleged crimes committed in relation to the trafficking in human organs, as he claims in his Report;

17. As a result, and even though after more than a decade from PACE's Resolution 1782 (2011), it turns out that none of the missions and/or investigations of the national or international justice bodies have found any fact or any evidence to prove the allegations raised in Dick Marty's Report on murder for the purpose of illicit trafficking in human organs in Kosovo and/or Albania;

18. With full respect for and not interfering in any investigation or trial procedure against specific persons, the KLA war leaders and committed to the full implementation of the recommendations of PACE Resolutions as a Council of Europe Member State;

19. Sharing the same opinion with Dick Marty, where he states in his Report that: "Truth and accountability are an absolute necessity if there is to be lasting reconciliation and stability in the region";

20. Appreciating the legitimacy of the heroic KLA war for the liberation of the country and being convinced that, despite the fact that no parallel lines can be drawn between the inhumane massacres, ethnic cleansing, deportations, murders, rapes, looting and war crimes committed by the leaders and members of the official Serbian war machinery and its paramilitaries during the war in Kosovo, on the one hand, and the integrity of the just cause of the KLA war as a reaction to defend the life and freedom of the people in Kosovo, on the other hand, any doubts about crimes must be solved by the justice bodies according to the principles of fair trial, but trial about such case will have to end at a certain time in order for the peoples to find the strength to reconcile and live together, by healing the wounds of the past.

The Assembly of the Republic of Albania:

Finds that after more than ten years of in-depth investigations by the EU's Special Investigative Task Force and its successor, the Specialist Prosecutor's Office, the allegations raised in the Dick Marty's Report about killing of people for the purpose of extracting and selling of their organs and illicit trafficking in human organs in Albania and/or Kosovo, referred to under paragraph 1 and 4 of PACE Resolution 1782 (2011), remain unfounded, unproven and not based on evidence and facts, therefore, they should be considered as such by all national and international institutions.

Congratulates the authorities of the Republic of Kosovo, which, in accordance with the requirements provided for under paragraph 19.6 of PACE Resolution 1782 (2011), have cooperated without reservations with EULEX and any other judicial body mandated to carry out follow-up investigations and in the context of any other procedure aimed at finding out the truth.

Commends the authorities of Kosovo, which, in accordance with an international agreement and the Constitutional Amendment No. 24 of August 2015 approved the establishment of the Kosovo Specialist Chambers and the Specialist Prosecutor's Office, an integral part of the judicial system of the Republic of Kosovo and of a temporary nature, with the main purpose of investigating and/or adjudicating the crimes alleged in Dick Marty's Report.

Calls upon the Parliamentary Assembly of the Council of Europe to produce a follow-up report and, consequently, to review its Resolution 1782 (2011) by reassessing the allegations of illicit trafficking in human organs in Albania and/or Kosovo, in the light of the developments that have taken place during the last decade, the facts, evidence and updated information, also considering the commitment, willingness and full cooperation of Albania and Kosovo in service of the truth and establishment of justice.

Urges the Albanian Government to remain fully committed to assisting justice and identifying the responsibility for all crimes committed in former Yugoslavia and reiterates its call for all those concerned to cooperate with the International Residual Mechanism for Criminal Tribunals (hereinafter IRMCT) within the remit of its jurisdiction.

Expresses its unwavering will to assist justice and support any effort aimed at finding out the truth.

Done in Tirana, on 21 July 2022