

**Security Council**

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Letter dated 3 May 2011 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit herewith a letter dated 19 April 2011 from the Minister for Foreign Affairs of the Republic of Serbia, Mr. Vuk Jeremić (see annex), with an enclosure on the follow-up to the resolution adopted by the Parliamentary Assembly of the Council of Europe entitled “Investigation of allegations of inhuman treatment of people and illicit trafficking in human organs in Kosovo”.

I would like to take this opportunity to express my support for an in-depth, impartial and independent investigation into these serious allegations. The United Nations will cooperate fully with such an investigation, should one be carried out.

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(Signed) **BAN** Ki-moon



Annex

[Original: English]

At our last meeting, held on 16 February 2011, we discussed the consequences of the Report on Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo, prepared by the Parliamentary Assembly of the Council of Europe. We agreed that these allegations must be taken very seriously and treated appropriately.

The debate in the Security Council on the same date which centred on your report on the United Nations Interim Administration Mission in Kosovo (UNMIK) (S/2011/43) demonstrated that all Council members believed that the facts presented in the aforementioned report were extremely serious and required a thorough investigation.

The gravity of the alleged crimes presented in the report of the Parliamentary Assembly, including the fact that the practice of organ harvesting and trafficking was known for a long time, compels us to work together in order to establish the truth and bring the perpetrators to justice.

So far, all investigations into war crimes allegedly committed in the former Yugoslavia have been conducted under the auspices of the Security Council. This basic standard of justice should be applied in the case of the harvesting of human organs as well.

Since there is no institution with a mandate to carry out a thorough investigation of this kind, an investigative ad hoc mechanism under the authority of the Security Council should be created. An internationally mandated, as well as internationally accountable and independent, criminal investigation would make it comprehensive and ensure the cooperation of all concerned. It should also be able to provide an effective witness protection and relocation programme. Serbia stands ready to fully cooperate with such an investigative ad hoc mechanism, as well as with UNMIK and the European Union Rule of Law Mission in Kosovo.

We believe that the imperative of conducting a proper investigation must be neither politicized nor linked to diplomatic disagreements over Kosovo. That investigation must ultimately be put at the service of truth and reconciliation.

I would like to reassure you that the Serbian Government remains strongly committed to the dialogue with Priština. My country is dedicated to solving all differences at the negotiating table, in the interest of arriving at a comprehensive settlement and reaching a historic reconciliation between Serbs and Albanians as soon as possible.

I would highly appreciate your assistance and support in establishing an investigative ad hoc mechanism under the authority of the Security Council. I enclose herewith a concept paper which sets out an outline of such a mechanism.

I should be grateful if you would bring this letter and its enclosure to the attention of the members of the Security Council. I would further appreciate it if this letter and its enclosure could be circulated as a document of the Council.

(Signed) Vuk Jeremić

Enclosure

Concept Paper

I. On the basis of the report of the Rapporteur of the Parliamentary Assembly of the Council of Europe Committee on Legal Affairs and Human Rights, Mr. Dick Marty, entitled “Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo” (Document 12462, 7 January 2011), the Parliamentary Assembly adopted resolution 1782 (2011) on 25 January 2011.

The gravity of the allegations of crimes contained in the above-mentioned documents, such as unlawful arrests, torture and inhuman treatment, “disappearance” of captives, atrocious murders after the taking of captives’ organs, trafficking in human organs through links with organized crime rings, etc., necessitates an immediate and independent international criminal investigation and bringing those held accountable to justice.

The debate in the United Nations Security Council held on 16 February 2011 about the report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (UNMIK) demonstrated that all Council members believed that the facts presented in Mr. Marty’s report were extremely serious and required an immediate and thorough investigation.

II. In view of the positions expressed at the Security Council meeting, and the limited territorial jurisdiction of the European Union Rule of Law Mission in Kosovo (EULEX Kosovo),^a the Republic of Serbia deems it necessary that the Security Council establish, as urgently as possible, an appropriate investigative ad hoc mechanism under its authority. Such a mechanism should comprise independent, competent and impartial investigators proposed by the United Nations Member States. It should be chaired by a Special Representative of the Secretary-General appointed by an appropriate decision of the Security Council, which would also include the terms of reference for his mandate. Throughout and after the investigation, the Special Representative should report, through the Secretary-General, to the Security Council, which may take appropriate decisions, as necessary. The Special Representative of the Secretary-General will closely cooperate with the head of UNMIK.

In the activities, the proposed investigative ad hoc mechanism will establish full cooperation with relevant national authorities from the United Nations Member States as well as with UNMIK and EULEX. The relevant national authorities, UNMIK and EULEX will provide the mechanism with all necessary technical, organizational and logistical support.

The Special Representative would be authorized to seek from all members of the investigative ad hoc mechanism and relevant national authorities included in the

^a The mandated and activities of EULEX are solely related to the territory of the Autonomous Province of Kosovo and Metohija (Council Joint Action 2008/124/CFSP, Article 1, paragraph 1), whereas the activity of the EULEX Rule of Law Mission is only centred around monitoring, mentoring and advising the competent Kosovo institutions (established under Security Council resolution 1244 (1999)) on the areas of the rule of law (Council Joint Action 2008/124/CFSP, Article 3, paragraph a). Activities related to police and justice are carried out by EULEX jointly with the Kosovo institutions and only in part independently (Council Joint Action 2008/124/CFSP, Article 3, paragraph d).

investigation, as well as from UNMIK and EULEX, all information, facts and documents of relevance to the investigation, as well as to demand additional investigative actions, as necessary.

This mechanism should ensure a comprehensive investigation and the cooperation of all countries relevant to the investigative procedures and their institutions. In accordance with its resolution 1244 (1999), the Security Council should issue a call to all Member States to cooperate with the investigation.

III. In addition, in view of the complex and specific nature of investigations in the territory of Kosovo, EULEX human resources and financial capacity need to be upgraded. Consequently, the Republic of Serbia considers that the capacity of the EULEX Witness Protection Unit should be considerably strengthened to ensure an appropriate and effective protection programme and the relocation of witnesses outside Kosovo.^b In that regard, there are several already existing practices which could be used, such as relocation, field-based protection, field-based support programmes, security and support during and after court proceedings, increasing protection and support for victims and intermediaries, enhanced psychological support to victims and witnesses, etc.

Moreover, the nature of investigation points to the need to strengthen also the Investigations Department, War Crimes Unit, police unit and other relevant EULEX components so that the extremely serious allegations contained in the report can be thoroughly and carefully investigated, and so that crimes, if proven, are prosecuted in accordance with international judicial procedures.

IV. It is in the interest of Serbia and all other countries, particularly those in the region, as well as international organizations deployed in Kosovo, to participate and make their full contribution to the international investigation aimed at establishing the truth. For its part, the Republic of Serbia stands ready to provide all necessary support to such an investigation.

We are convinced that these allegations must be taken very seriously and treated appropriately. So far, all investigations of the war crimes committed during the conflicts in the former Yugoslavia have been conducted and prosecuted by Security Council-mandated bodies. That principle must be applied in this case as well.

While stressing the urgency of an impartial United Nations investigation, Serbia seeks to avoid politicization of this issue. Serbia remains committed to the dialogue between Belgrade and Priština, in the interest of reaching a historic agreement between Serbs and Albanians as soon as possible.

^b Parliamentary Assembly of the Council of Europe resolution 1782 (2011), para. 19.2.2.