

**ADDITIONAL INFORMATION
ON THE FOLLOW-UP
OF THE CONCLUDING OBSERVATIONS
BOSNIA AND HERZEGOVINA
(CCPR/C/BIH/CO/1)**

SEPTEMBER 2010

Submitted by

TRIAL (*Track Impunity Always*)

**Association of Families of Killed and Missing Defenders of the Homeland War
from Bugojno Municipality**

Association of Relatives of Missing Persons from Hadžići Municipality

Association of Relatives of Missing Persons from Ilijaš Municipality

Association Women from Prijedor – *Izvor*

Association of Relatives of Missing Persons of the Sarajevo-Romanija Region

Association of Relatives of Missing Persons of the Vogošća Municipality

1. The Associations submitting this Additional Information

The Associations submitting the present Additional Information to the Human Rights Committee are:

a) **TRIAL (*Track Impunity Always*)**

TRIAL (*Track Impunity Always*) is a Geneva-based NGO established in 2002 and in consultative status with the United Nations Economic and Social Council (ECOSOC). It is apolitical and non-confessional. Its principal goals are: the fight against impunity of perpetrators, accomplices and instigators of genocide, war crimes, crimes against humanity, enforced disappearances and acts of torture. TRIAL has set up an Advocacy Centre (ACT), born from the premise that, despite the existence of legal tools able to provide redress to victims of international crimes, these mechanisms are considerably underused and thus their usage should be enforced.

Considering that the needs of victims of gross human rights violations during the war, their relatives and the organizations which represent them are sadly overwhelming and that there is no similar initiative in Bosnia and Herzegovina (BiH) and the region, ACT has been active and present in the country since early 2008. ACT is thus currently providing legal support to victims of gross human rights violations committed during the war and their relatives who wish to bring their cases before an international human rights mechanism. So far, ACT has submitted 35 applications related to gross human rights violations perpetrated during the war to the European Court of Human Rights (ECtHR) and to Human Rights Committee (HRC). On 29 June 2009, ACT submitted a general allegation to the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID) about the numerous obstacles encountered in the implementation of the 1992 Declaration for the Protection of All Persons from Enforced Disappearance. On that occasion, ACT highlighted that a country visit of the WGEID to BiH could contribute to maintaining such a fundamental issue high on the political agenda, until relatives of disappeared people are granted their rights to justice, truth and integral reparation. As a consequence of the general allegation submitted by ACT, the WGEID visited BiH from 14 to 21 June 2010 and it is expected to present a report on its mission to the Human Rights Council in March 2011.

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b) Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality

The **Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality** was founded in 1995 and it has 102 members. To date, the Association is seeking for 43 missing persons (29 soldiers and 14 civilians). The Association represents the relatives of missing persons of Croat origin in and around Bugojno Municipality and it is actively involved in different types of activities such as: 1) tracing missing persons in cooperation with the International Commission on Missing Persons (ICMP) and the Missing Persons Institute (MPI); 2) providing help and support to families of missing persons in the realization of their rights; and 3) cooperating with other associations of relatives of missing persons, with the International Committee of the Red Cross (ICRC), with government institutions and with the Prosecutor's Office.

The President of the Association, Mrs. Serafina Kolovrat is a member of the Coordination Committee of the ICMP, and Mrs. Vanda Havranek is a member of the MPI Advisory Committee.

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c) Association of Relatives of Missing Persons from Hadžići Municipality

The **Association of Relatives of Missing Persons from Hadžići Municipality** was founded in 2000 with its headquarters in Hadžići. The Association represents the relatives of missing persons in and around this region and it is actively involved in different types of activities such as: 1) pointing out to families of missing persons the significance of giving their blood samples for a DNA analysis; 2) tracing missing persons in cooperation with the former Office for Tracing Detained and Missing Persons of the Republika Srpska, the MPI, the ICMP and the ICRC; 3) organizing the commemoration day for the suffering of citizens of Hadžići (25th May each year); 4) helping relatives of missing persons to fulfil their rights and to obtain compensation, disability pensions and return of property; and 5) cooperating with the State Prosecutor's Office and the International Criminal Tribunal for the former Yugoslavia (ICTY).

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d) Association of Relatives of Missing Persons from Ilijaš Municipality

The **Association of Relatives of Missing Persons from Ilijaš Municipality** was founded on 6 June 2009 with its headquarters in Ilijaš. The Association represents the families of missing persons in and around this region and it is actively involved in different types of activities. In particular: 1) pointing out to families of missing persons the significance of giving their blood samples for a DNA analysis, 2) tracing missing persons in cooperation with the former Office for Tracing Detained and Missing Persons of the Republika Srpska, the MPI, the ICMP and the ICRC and 3) helping the relatives of missing persons to fulfil their rights, and to obtain disability pensions, return of property, etc.

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e) Association of Women from Prijedor - Izvor

The **Association of Women from Prijedor - Izvor** was founded on 3 June 1996 with its headquarters in Prijedor, Bosanska Krajina region. The Association represents the victims of the war in and around this region. Over the past years, *Izvor* has been working on the collection of data and the documenting of facts about the people from this region who were arbitrarily killed or were subjected to enforced disappearance. A concrete result from this effort is an established database and two editions of a book "*Ni krivi ni dužni*" where 3,227 disappeared persons from Prijedor municipality have been registered. In addition to this, *Izvor* gives advice and provides help to all the victims of gross human rights violations perpetrated during the war and their relatives to realize their rights and obtain justice and reparation before domestic institutions and judicial bodies. One of the most frequent activities of *Izvor* is the support given to witnesses in war crimes trials before the State and other courts in BiH. Since 2008, *Izvor* established cooperation with the ACT and, since then, the two organizations are filing applications to the ECtHR and to the HRC on behalf of relatives of disappeared people from the Bosanska Krajina region.

Izvor is part of the working group coordinated by the United Nations Development Programme (UNDP) for the development of a National Strategy for Transitional Justice.

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f) Association of Relatives of Missing Persons of the Sarajevo-Romanija Region

The **Association of Relatives of Missing Persons of the Sarajevo-Romanija Region** was founded on 12 December 2002 with its headquarters in East Sarajevo. The Association represents the victims of the war in and around this region and has around 1,500 members. Some of the Association's activities are: 1) pointing out to relatives of disappeared persons the significance of giving their blood samples for a DNA analysis; 2) tracing missing persons in cooperation with the former Office for Tracing Detained and Missing Persons of the Republika Srpska, the MPI, the ICMP and the ICRC; 3) organizing the commemoration day for the suffering of Serbs on 20 August each year; 4) helping the relative of missing persons to fulfil their rights (e.g. to obtain disability pensions or the return of property); and 5) helping relatives of disappeared people with procedures before domestic and international human rights mechanisms.

The Association of Relatives of Missing Persons of the Sarajevo-Romanija Region is part of the working group coordinated by UNDP for the development of a National Strategy for Transitional Justice. Mr. Milan Mandić is a member of the Coordination Committee of the ICMP.

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g) Association of Relatives of Missing Persons of the Vogošća Municipality

The **Association of Relatives of Missing Persons of the Vogošća Municipality** was established in 2001 and its main aim is to help relatives of disappeared people to realize their rights before domestic courts and State institutions. The Association represents the interests of its members before all relevant institutions and organizes the holding of a commemoration ceremony (in June each year) to mark the enforced disappearance of people from Vogošća. The Association is also an active member of the Coordination body of families of missing persons from the former Yugoslavia. As part of this engagement, the Association gives its contribution in organizing conferences and lobbying for the signing of an agreement between neighbouring countries of the former Yugoslavia for the establishment and disclosure of the fate and whereabouts of missing persons. This activity is organized under the supervision of the ICMP. Since 2008 the Association cooperates actively with

the ACT to implement activities related to the filing of individual communications on behalf of relatives of victims of enforced disappearance to the HRC.

Mrs. Ema Čekić is a member of the Coordination Committee of the ICMP.

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2. Background

From the Concluding Observations on Bosnia and Herzegovina (CCPR/C/BIH/CO/1 of 22 November 2006)

Paragraph 14

The Committee notes with concern that the fate and whereabouts of some 15,000 persons who went missing during the armed conflict (1992 to 1995) remain unresolved. It reminds the State party that the family members of missing persons have the right to be informed about the fate of their relatives, and that failure to investigate the cause and circumstances of death, as well as to provide information relating to the burial sites, of missing persons increases uncertainty and, therefore, suffering inflicted to family members and may amount to a violation of article 7 of the Covenant. (arts. 2(3), 6 and 7)

The State party should take immediate and effective steps to investigate all unresolved cases of missing persons and ensure without delay that the Institute for Missing Persons becomes fully operational, in accordance with the Constitutional Court's decision of 13 August 2005. It should ensure that the central database of missing persons is finalized and accurate, that the Fund for Support to Families of Missing Persons is secured and that payments to families commence as soon as possible.

From the Letter of 27 August 2009 from the Special Rapporteur for Follow-up on Concluding Observations of the Human Rights Committee to Bosnia and Herzegovina

The Special Rapporteur for Follow-up requested additional information from Bosnia and Herzegovina on the implementation of the recommendations contained in the concluding observations, including on paragraph 14 and, in particular, on:

- a) the current functioning of the Missing Persons Institute of Bosnia and Herzegovina;
- b) the establishment of a central database on missing persons; and
- c) of the Fund for the support of the families of missing persons.

Follow-up process with regard to Bosnia and Herzegovina¹ on the Subject of Missing Persons

- ▶ CCPR/C/BIH/CO/1/Add.1 of 9 July 2008 (paras. 19-33 refer to the subject of missing persons and to the recommendations formulated by the Committee in paragraph 14 of its concluding observations);
- ▶ CCPR/C/BIH/CO/1/Add.2 of 2 February 2009 (paras. 5-15 refer to the subject of missing persons and to the recommendations formulated by the Committee in paragraph 14 of its concluding observations);
- ▶ CCPR/C/BIH/CO/1/Add.3 of 2 June 2009 (paras. 14-20 refer to the subject of missing persons and to the recommendations formulated by the Committee in paragraph 14 of its concluding observations); and
- ▶ CCPR/C/BIH/CO/1/Add.4 of 7 April 2010 (paras. 11-39 refer to the subject of missing persons and to the recommendations formulated by the Committee in paragraph 14 of its concluding observations).

2.1 General Context concerning Missing Persons and their Relatives in Bosnia and Herzegovina

1. During the conflict in BiH (1992-1996), more than 100,000 people were killed, more than two millions were displaced, and thousands of people were subjected to enforced disappearance. A first wave of enforced disappearances occurred during the armed conflict and “ethnic cleansing” operations in the spring and summer of 1992 and continued over the following years.² A second wave of enforced disappearances occurred in Bosnian Krajina between May and August 1992, most prominently in the region of Prijedor. In Herzegovina, most of the enforced disappearances occurred during the summers of 1992 and 1993. The last and most notorious wave of enforced disappearances occurred in eastern Bosnia after the fall of UN-declared “safe areas” of Srebrenica and Zepa in July 1995. At the end of 1996 the estimates of disappeared people in BiH amounted to between 25,000 and 30,000.³

¹ BiH is a State party to the International Covenant on Civil and Political Rights (on 1 September 1993 it succeeded the former Yugoslavia, which ratified the treaty on 2 June 1971), as well as to the First Optional Protocol to the International Covenant on Civil and Political Rights (ratified on 1 March 1995). Among others, among others, BiH is also a State party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (on 1 September 1993, it succeeded the former Yugoslavia, which ratified the treaty on 10 September 1991); to the Convention on the Rights of the Child (on 1 September 1993, it succeeded the former Yugoslavia, which ratified the treaty on 3 January 1991); to the Convention on the Elimination of All Forms of Discrimination against Women (on 1 September 1993, it succeeded the former Yugoslavia, which ratified the treaty on 26 February 1982) and to the European Convention for the Protection of Human Rights and Fundamental Freedoms (12 July 2002). Further, BiH ratified the Rome Statute on the establishment of an International Criminal Court on 11 April 2002. On 6 February 2007 BiH signed the International Convention for the Protection of All Persons from Enforced Disappearance. According to Article 18 of the 1969 Vienna Convention on the Law of the Treaties, a State that has signed a treaty is under an obligation not to defeat the object and purpose of the treaty prior to its entry into force. Finally, it is noteworthy that, under Annex 6 of the Dayton Peace Agreement (“Human Rights”) BiH, the Republika Srpska and the Federation of BiH are under an obligation to secure to all persons within their jurisdiction the highest level of internationally recognized human rights and fundamental freedoms, including the rights and freedoms provided in the International Covenant on Civil and Political Rights as well as in other international human rights treaties listed in the Appendix to Annex 6.

² See Report by Mr. Manfred Nowak, Expert Member of the WGEID, *Special Process on Missing Persons in the territory of the former Yugoslavia*, doc. E/CN.4/1995/37 of 12 January 1995, para. 3. Hereinafter “Expert Report No. 1”.

³ See Report by Mr. Manfred Nowak, Expert Member of the WGEID, *Special Process on Missing Persons in the territory of the former Yugoslavia*, doc. E/CN.4/1997/55 of 15 January 1997, paras. 3, 94 and 99-106. Hereinafter “Expert Report No. 3” In this sense see also WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, available at <http://www2.ohchr.org/english/issues/disappear/group/docs/PR21.06.10.pdf>.

2. As pointed out in June 2010 by the WGEID after its visit to BiH, “the number of missing persons is a highly political and controversial issue. There are disagreements about the number of people who went missing. Nevertheless, the WGEID learned from various institutions that they largely agree that between 28,000 and 30,000 persons disappeared in BiH during the conflict. Of these missing persons, it is estimated that about two thirds of the missing people have been accounted for, while one third remain missing”.⁴
3. The expert member of the WGEID indicated since 1996 that the majority of the thousands of cases occurred in BiH can be qualified as enforced disappearance under the 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearance.⁵ He further pointed out that “the families of the missing persons have the legitimate right to know the truth and to get their loved ones back, alive or dead. They also have the right to compensation, and to provide their deceased relatives with a decent burial. Finally, they have the right to demand that those who are primarily responsible for the disappearance, torture or arbitrary execution of their loved ones are brought to justice”.⁶ In thousands of cases, families of disappeared people in BiH remain deprived of these rights until today.⁷
4. As noted, the very number of missing persons that have to be found and identified remains a controversial issue. In 2010 the ICMP and the ICRC estimated that around 10,000 people remain disappeared in BiH.⁸ In the additional information submitted by BiH to the HRC, it was declared that “there is still search going on for approximately 11,500 missing persons”.⁹ This lack of clarity in numbers and figures that ultimately correspond to human lives that have been broken and to the anxiety of thousands of relatives, friends and entire communities, represents a perpetuation of the uncertainty that characterizes the phenomenon of enforced disappearance and aggravates the suffering of family members, that remain caught between hope and despair after, for many of them, almost 18 years.
5. The answer of the authorities in the face of the real concerns of relatives of missing people must be

⁴ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

⁵ See Expert Report No. 1, *supra* note 2, para. 45; and Report by Mr. Manfred Nowak, Expert Member of the WGEID, *Special Process on Missing Persons in the territory of the former Yugoslavia*, doc. E/CN.4/1996/36 of 4 March 1996, para. 83. Hereinafter: “Expert Report No. 2”.

⁶ See Expert Report No. 3, *supra* note 3, para. 4. Accordingly, the Expert requested to all relevant authorities to “disclose all information on missing persons and refrain from the policy of reciprocity in respect of missing persons, whether alive or dead”; to “continue their efforts to clarify the fate and whereabouts of missing persons by means of exhumation, and to provide forensic experts working for the other parties or relevant international organizations with full and unrestricted access to all grave sites on territory under their control”; and to “fully investigate all reported cases of enforced disappearance, to bring the perpetrators to justice and to provide the victims and their families with adequate compensation” (paras. 117-118).

⁷ Reference to the subject of disappeared people and the ongoing related obligations of BiH was made also by the Committee against Torture. See Committee against Torture (CAT), *Concluding Observations on Bosnia and Herzegovina*, doc. CAT/C/BIH/CO/1 of 15 December 2005, para. 20.

⁸ See <http://www.icmp.org/icmp-worldwide/southeast-europe/bosnia-and-herzegovina/>. See also declarations released in April 2010 by Mr. Henry Fournier, head of the ICRC BiH: <http://www.rnw.nl/international-justice/article/thousands-still-missing-bosnian-war>.

⁹ See Further information received from Bosnia and Herzegovina on the Implementation of the Concluding Observations of the HRC, CCPR/C/BIH/CO/1/Add.4 of 7 April 2010, para. 12.

adequate, coherent and exhaustive. On the contrary, it remains plagued by contradictions and deficiencies and it is often used for political purposes. This situation shall be terminated as soon as possible to eventually ensure the right to know the truth¹⁰ of relatives of missing people as well as of the BiH society as a whole and to ensure that justice is made and that integral reparation¹¹ is granted to all the people that have suffered these most severe human rights violations. To this end, the effective functioning of the MPI, together with the prompt establishment of accurate and complete Central Records of missing persons (CEN) and of the Fund for Support to the Families of Missing Persons are of crucial importance.

2.2 The Functioning of the Missing Persons Institute (MPI)

6. The Law on Missing Persons - LMP- (Official Gazette of BiH, No. 50/04) came into force on 17 November 2004 and provided for the establishment of the MPI (Art. 7).¹² The MPI started to operate in June 2007, but it became fully operational only from 1 January 2008, which is well over three years after

¹⁰ In general, on the contents of the right to the truth in cases of enforced disappearance, see WGEID, *General Comment on the Right to the Truth in Relation to Enforced Disappearance*, 2010, available at: http://www2.ohchr.org/english/issues/disappear/docs/GC-right_to_the_truth.pdf. For a comprehensive study on the right to the truth, see United Nations, Commission on Human Rights, *Study on the Right to Truth*, doc. E/CN.4/2006/91 of 8 February 2006. See also preamble and Article 24.2 of the International Convention for the Protection of All Persons from Enforced Disappearance (“the 2007 Convention”); Article 32 of the First Additional Protocol of 1977 to the Four Geneva Conventions; and United Nations, Commission on Human Rights, *Resolution on the Right to Truth*, doc. E/CN.4/2005/L.84 of 15 April 2005. Further, see ICRC, *The Missing: the Right to Know. Summary of the Conclusions arising from Events held prior to the International Conference of governmental and non-governmental Experts*, Geneva, 2003; WGEID, *Annual Report for 1998*, doc. E/CN.4/1999/62 of 28 December 1998; *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* (“UN Principles to Combat Impunity”), recommended by Commission on Human Rights Resolution 2005/81 of 21 April 2005, doc. E/CN.4/2005/102/Add.1 of 8 February 2005, Principle 5, Principles 22 and 24; United Nations, Commission on Human Rights, *Report submitted by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearances*, doc. E/CN.4/2002/71 of 8 January 2002 (“Report Nowak”), paras. 78-80; and Council of Europe, Parliamentary Assembly, *Enforced Disappearances, Report to the Committee on Legal Affairs and Human Rights*, Rapporteur Mr. Christos Pourgourides (“Report Pourgourides”), doc. 10679 of 19 September 2005, paras. 50-51. It is worthy recalling that under Article 3 of the LMP “families of missing persons have the right to know the fate of their missing family members and relatives, their place of (temporary) residence, or if dead, the circumstances and a cause of death and location of burial, if such location is known, and to receive the mortal remains” (emphasis is added).

¹¹ See Giulio Bartolini, *Riparazione per violazione dei diritti umani e ordinamento internazionale*, Napoli, 2009; Office of the High Commissioner for Human Rights, *Rule of Law Tools for Post-conflict States, Reparations Programmes*, doc. HR/PUB/08/1, New York, 2008; International Center for Transitional Justice, *Reparations in Theory and Practice*, New York, 2007; Pablo de Greiff (ed.), *The Handbook on Reparations*, Oxford University Press, 2006; International Commission of Jurists, *The Right to a Remedy and to Reparation for Gross Human Rights Violations: A Practitioner’s Guide*, Geneva, 2006; Koen De Feyter, Stephan Parmentier, Mark Bossuyt, Paul Lemmens (eds.), *Out of the Ashes: Reparation for Victims of Gross and Systematic Human Rights Violations*, Intersentia, Antwerp, 2006; Dinah Shelton, *Remedies in International Human Rights*, Oxford, 2005; Ilaria Bottigliero, *Redress for Victims of Crimes under International Law*, Brill Academic Publishers, Leiden, 2004; International Review of the Red Cross, Special Issue: *Victims after the War – Humanitarian action, Reparation and Justice*, No. 851, September 2003; Roy Brooks (ed.), *When Sorry Isn’t Enough: the Controversy over Apologies and Reparations for Human Injustice*, New York University Press, New York, 1999; UNODCCP, Center for International Crime Prevention, *Handbook on Justice for Victims: On the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, New York, 1999; Roger S. Clark, *The United Nations Crime Prevention and Criminal Justice Programme: Formulation of Standards and Efforts at their Implementation*, Philadelphia, 1994.

¹² Article 24.1 of the LMP provides that “the BiH Ministry of Human Rights and Refugees shall oversee the enforcement of this Law”.

the entry into force of the LMP. The MPI is responsible, among other tasks, to collect, process and systematise the information on missing persons, as well as individual and mass graves; to establish a central, unified database on missing persons; to keep records, provide notification to families of missing persons, including the issuance of certificates on disappearance and identity of victims; to find, verify, and mark locations of mass and individual graves; and to participate in excavations and exhumations of mass and individual graves, collection of visible surface remains, autopsies, anthropological examinations.

7. It is composed of three management bodies, namely: the Steering Board, the Supervisory Board and the Board of Directors. There is also an Advisory Committee, composed of representatives of associations of relatives of missing persons (two Bosniak, two Serb and two Croat members).¹³ The members of these associations also participate in the work of the Steering Board, but they do not have the right to vote.
8. After conducting its visit to BiH, the WGEID declared that it was impressed by the work of the MPI and its level of commitment and that, in general, the institution “[...] should be supported and strengthened. In particular, the independence of the MPI should be guaranteed. More resources should be put at the disposal of the MPI to allow it do its work”.¹⁴ In general, also associations of relatives of missing people are quite satisfied with the work carried out by the MPI, especially because there is a good established cooperation between the latter and associations of relatives of missing persons and, over the past two years, a relation of trust has been construed. However, a number of obstacles to the effective functioning of the MPI and to the fulfilment of its tasks remain. It is noteworthy that some associations of relatives of missing persons such as *Izvor* (in particular from North-Western Bosnia), are especially critical towards the work of the MPI and its very composition. These associations allege that the personnel of the MPI is not specialized for the work and that the presence of people who also have political affiliations undermines the credibility of the institution and the effectiveness of its work. They argue that the appointment of the MPI staff was done automatically by transferring employees from the adjourned entity commissions and not on the basis of the results and qualifications of these persons.¹⁵ Moreover, they argue that the fact that the Board of Directors meets only once or twice a month consistently slows down the work of the MPI. In general, associations of missing persons claim that some of the employees of the MPI failed to successfully realize the tasks entrusted to them.

¹³ It is noteworthy that, among the associations that are submitting this additional information to the Committee, the Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality (Mrs. Vanda Havaraneck) is a member of the Advisory Committee of the MPI.

¹⁴ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

¹⁵ The Association *Izvor* has repeatedly expressed its deep concerns on the composition of the MPI, as well as on its functioning, addressing letters to different authorities, including the MPI itself (see Annexes 29-40 in the local language and in English). It is noteworthy that they have never received any formal answer to their letters and inquiries.

2.2.1 The Failure to Appoint New Members of the MPI Steering Board and to Approve its Audit Report for 2009

9. The functioning of the MPI is hindered by the fact that the Steering Board cannot operate due to the lack of members. In 2008 the Bosniak member (Mrs. Jasminka Džumhur) resigned because she was appointed as Ombudsperson. Since then, she has not been replaced, therefore leaving one of the key seats in the Board empty. In June 2009 the mandate of other members of the Board expired. Pursuant to the Agreement on Assuming the Role of Cofounders of the BiH Missing Persons Institute (Official Gazette BiH – International Agreements, No. 13/05),¹⁶ it falls under the responsibility of the ICMP and of the Council of Ministers of BiH to appoint the members of the Steering Board of the MPI. Since 2009 the ICMP and the Council of Ministers failed to find an agreement on the appointment of new members, with the consequence of paralyzing the regular functioning of the institution and undermining its legitimacy.¹⁷
10. Moreover, the ICMP and the Council of Ministers of BiH are in charge of the approval of the audit report of the MPI submitted by the Steering Board. While the ICMP approved the audit report for 2009, the Council of Ministers has failed to do so.¹⁸ The lack of approval of the audit report by the Council of Ministers represents a further obstacle to the regular and proper functioning of the MPI.

2.2.2 The Establishment of Mechanisms for the Tracing of Missing Persons Parallel to the MPI

11. One of the basic conditions for the establishment of the MPI was the transfer of the authority from the existing entity commissions for tracing missing persons. This was considered to be crucial for the elimination of potential discriminatory actions in the processes of exhumation and identification of missing persons. Also it was done in order to accelerate and improve the processes of tracing and identifying missing persons. However, even though the MPI managed to realize some of these goals, it did not last very long. Representatives from Republika Srpska left the MPI and with the support of the Government of Republika Srpska, on 6 June 2008 (five months after the MPI became fully operational) they set up the Republika Srpska Operative Team for Missing Persons, with the aim of collecting data relating to missing Serbs in BiH, which shall eventually be transmitted to the MPI. Further, parallel to the Republika Srpska Operative Team, the Government of Republika Srpska also established the Coordination Team for War Crimes and Missing Persons of Republika Srpska, as well as a Republika Srpska Centre for the Research on War Crimes. The Republika Srpska Operative Team is in charge of field work connected to tracing missing persons while the Centre for the Research is entrusted with the

¹⁶ An English version of the Agreement can be found at: http://www.ic-mp.org/wp-content/uploads/2007/11/agreement_en.pdf.

¹⁷ On this subject see two newspapers articles (Annexes 1 and 2, unofficial translation in English of the original versions), published respectively on 12 June 2010 by Avaz and on 7 July 2010 by Glas Srpske (“Voice of Srpska”) and the exchange of letters between the ICMP (the institution in charge of naming the three other members of the Steering Board of the MPI) and the BiH Council of Ministers on the validity of the decision made by the ICMP and on the lack of action by the Council of Ministers (Annexes 41-44 in the local language and in English).

¹⁸ See Annexes 1 and 2.

mandate of conducting research on war crimes, including enforced disappearance, committed on the territory of the Republika Srpska. For example, the Centre was given the task of reviewing the existing data about the casualties from Srebrenica in the period 1991-1995. The Coordination Team on the other hand, gathers all different actors who deal with the subject of missing persons in Republika Srpska such as representatives of the Operative Team, the Ministry of the Interior, the Prosecutor's Office and local associations of relatives of missing persons in order to improve the process of tracing missing persons through coordinating the work of all these institutions.

12. The original purpose of having a State institution for tracing missing persons which would ensure equal treatment of all victims and prevent manipulation with the number of missing persons, has been frustrated with the re-establishment of these entity bodies. This does create instances of overlapping¹⁹ and the ethnic, religious or national background of the victims is anew used as a criterion for the engagement in the search of missing persons. In fact, the establishment of these separate entities in Republika Srpska has reopened past conflicts between institutions dealing with tracing missing persons and it is fostering a climate of mistrust, overall confusion and animosity.²⁰ On the one hand, one of the directors of the MPI representing the Serb people (Mr. Milan Bogdanić), is being subjected to ongoing criticism, harassment and he has frequently been labelled as a "traitor". On the other hand, the Director of the Republika Srpska Operative Team for Missing Persons, Mr. Goran Krčmar, often releases statements in the press that underestimate the work of the MPI²¹ and that question the official numbers and figures of missing Bosniaks in BiH.²²
13. As a part of its mandate, the MPI is open to cooperation with any other institution concerned with missing people. However, at present the collaboration between the MPI and the Republika Srpska Operative Team for Missing Persons is almost inexistent and although there have been attempts in this sense, so far no formal agreement between the two institutions could be reached. On the contrary, cases of hindrance can be quoted and are reported to be on the increase. For instance, in many cases the information provided by the Republika Srpska Operative Team to the MPI with regard to the potential location of mass graves, resulted inaccurate or wrong, ultimately causing loss of time and resources of the MPI as well as a blow to the trust of families of missing persons in this institution. It is alleged that the prosecutor's offices at the State as well as the cantonal and the district levels, as well as the Court of BiH must play a key role in preventing hindrances and in duly coordinating the carrying out of exhumations and identifications of mortal remains, since this ultimately falls under their competence. In general, it is noteworthy that mortal remains represent material evidence that can be used in trials and that therefore they shall be adequately preserved. Indeed, the preservation of mortal

¹⁹ *Infra* para. 2.2.3.2.

²⁰ See Annexe 2.

²¹ *Ibid.*

²² See Annexes 5 and 6 (in the local language and English) reproducing an article published on 30 December 2009 by the newspaper Glas Srpske (The Voice of Srpska), entitled "The Institute is Blocking the Process of Tracing Serbian Victims".

remains shall be secured using unified standards and applying the same procedures throughout BiH.

14. In general, it would not seem that the Republika Srpska Operative Team disposes of adequate resources and personnel to carry out effective work (it currently disposes of only one pathologist doctor and it does not dispose of an adequate equipment to perform DNA matching). This situation, instead of increasing the chances of locating and identifying missing people and making their fate and whereabouts known to their relatives, further delays and complicates this highly delicate process.

2.2.3 The Role of the MPI in the Process of Exhumation and Identification of Mortal Remains

15. As already pointed out, one of the responsibilities of the MPI is the collection of information and the study of locations of individual, group and mass graves, as well as the participation in the process of exhumation of bodies of victims and the identification of the exhumed bodies. The last task is carried out in cooperation with the ICMP. It is noteworthy that, as pointed out also by the Advisory Committee of the Human Rights Council, “[...] the exhumation of human remains constitutes part of the right to know the truth and helps establish the whereabouts of the disappeared. It also dignifies the victims, as the right to bury the dead and to carry out ceremonies for them according to each culture is inalienable for all human beings. Exhumation serves several important purposes, including: recovery of the remains for physical examination and analysis for their identification; release of remains to relatives so as to facilitate funeral arrangements and emotional healing; documentation of injuries and other evidence for legal proceedings and to uncover human rights abuses; the search for clues that may assist in the historical reconstruction of events and revelations to create awareness; and acknowledgement that is necessary for healing and drawing lessons for the future of the community [...]”.²³ Accordingly, the prompt carrying out of exhumations in a thorough and effective manner²⁴ is crucial for guaranteeing the respect of a number of human rights enshrined in the Covenant (among others, Articles 2.3, 6, 7 and 23.1).
16. Although some relevant results have been accomplished, the carrying out of exhumations by the MPI has not always met international standards. This brings to a perpetuation of the situation of anxiety and uncertainty suffered by thousands of relatives of missing persons. Consequently, this also constitutes an ongoing violation of their basic human rights (in particular, in relation to Article 7 of the International Covenant on Civil and Political Rights in conjunction with Article 2.3). In this sense, in its recent general comment on the right to the truth in relation to enforced disappearance, the WGEID indicated that “the State cannot restrict the right to know the truth about the fate and the whereabouts of the disappeared as such restriction only adds to, and prolongs, the continuous torture inflicted on relatives”.²⁵

²³ Human Rights Council, Progress Report of the Human Rights Council Advisory Committee on Best Practices on the Issue of Missing Persons, doc. A/HRC/14/42 of 22 March 2010, paras. 73-74.

²⁴ In general, on the criteria to be followed in carrying out exhumations, see Human Rights Council, *Progress Report of the Human Rights Council Advisory Committee on Best Practices on the Issue of Missing Persons*, supra note 23, paras. 75-81.

²⁵ WGEID, *General Comment on the Right to the Truth in Relation to Enforced Disappearance*, supra note 10, para. 4.

17. Problems concerning the carrying out of exhumations may be summarized in four main categories: the speed and the manner in which exhumations are being carried out (also by the Republika Srpska Operative Team for Missing Persons);²⁶ the conflicts between the MPI and the Republika Srpska Operative Team for Missing Persons in the carrying out of exhumations; the lack of adequate psycho-social support for relatives of missing persons during and after the process of exhumation; and the lack of effective cooperation between the MPI and the Prosecutor's Offices.

2.2.3.1 The Speed and the Manner in which Exhumations are Carried Out

18. First, associations of relatives of missing persons complain about the pace of the DNA analysis process (which is materially carried out by the ICMP and then handled to the MPI) when mortal remains are located and the manner in which relevant data are disclosed, often misleading the public opinion. According to these allegations, when a mass grave is found, instead of communicating all together the data regarding the number of people found, exhumed and identified, this is done in small groups (e.g. three by three). This, on the one hand, lowers and dilutes the severity of the crime in the view of the public while, on the other, prolongs the level of anguish and frustration of relatives of the missing persons. In general, associations of missing people perceive that the work of the MPI is not adequately presented by the media, with the consequence of not providing a complete picture of the role of the institute, its activities and initiatives.
19. One example that created great dissatisfaction among the members of the organization *Izvor* in Prijedor is that of exhumations carried out in the area of Korićanske stijene and the way in which relevant information concerning the identification of bodies exhumed was released.²⁷ Already in 2003 the former Federal Commission for Tracing Missing Persons carried out exhumations in the area and allegedly discovered tiny bones on the rocky slope of the abyss. Prior to the exhumation, survivors of the massacre perpetrated there claimed that people were arbitrary executed in two separate locations not far from one another. Soldiers who admitted having taken part in the massacre confirmed these allegations.²⁸ In 2009 the MPI conducted other exhumations in a place located less than 200 meters away on the slopes of the same abyss in Korićanske stijene and discovered around 60 almost complete skeleton remains. The mortal remains exhumed in 2003 and 2009 have been transferred to the City

²⁶ See Annexes 7 and 8 (in the local language and in English) containing the list of Serb victims that have been exhumed at 26 March 2010.

²⁷ See also the article published on 20 August 2010 by the Balkan Investigative Reporting Network, *New Search Ordered for Korićanske stijene Victims*, available at <http://www.bim.ba/en/232/10/30091/>.

²⁸ On 30 June 2009 Mr. Damir Ivanković entered a plea agreement before the Court of BiH and declared that in the past he accompanied one of the Directors of the MPI (Mr. Amor Mašović) to Korićanske stijene, showing him the places where people were extra-judicially executed. In July 2009, in the presence of almost 200 visitors to the site of Korićanske stijene, Mr. Amor Mašović denied to know Mr. Damir Ivanković and to have ever visited the spot with him. For the plea agreement entered by Mr. Damir Ivanković see: http://www.sudbih.gov.ba/files/docs/presude/2009/Damir_Ivankovic_First_Instance_Verdict.pdf. On 18 March 2010, Mr. Velibor Vrabčić (witness of the Prosecutor's Office) declared that that the bodies of some of the victims of the Korićanske stijene massacre were mined and buried in the location where in 2003 the Federal Commission for Tracing Missing Persons had conducted the first exhumations. Part of this statement can be read at: <http://www.bim.ba/bh/210/10/26716>.

Cemetery in Visoko, where there is no forensic expert working full-time. The MPI did not coordinate any unified communication of DNA findings to the relatives of the identified victims who, as a consequence, had to organize themselves to visit the City Cemetery in Visoko, trying to discover from time to time whether their loved ones were among those exhumed in Korićanske stijene. Allegedly, the results of the DNA matching process with regard to the bones exhumed in 2003 were available already in 2004. However, they were not disclosed until 2009.²⁹ The results of the DNA matching process of the bodies located and exhumed in 2009 were made public in June 2010 during a public event in Kozarac attended by very few relatives of the victims of the Korićanske stijene massacre (the majority of which live outside Kozarac or even abroad). To date many relatives of victims of the Korićanske stijene massacre have not received any official notification by the MPI about the results of the DNA matching process, although in fact their loved ones are among those who have finally been identified. It is noteworthy that the MPI has all necessary contact details for these people, because they gave blood samples and filled ante-mortem questionnaires precisely for this purpose. This lack of organization in the disclosure of DNA matching process results has caused and is causing further suffering to relatives of victims of the Korićanske stijene massacre and it is unduly prolonging the violation of their right to know the truth on the fate and whereabouts of their loved ones. Also, it deprives them their right to mourn and bury the bodies in accordance with their religious beliefs and customs.

20. Further, there is criticism with regard to the facilities where mortal remains are kept and the way they are dealt with. For instance, it is argued that, over many years, the halls for autopsy and identification in Goražde were located in a ruined building, where wild animals used to penetrate and where any person could easily enter and manipulate mortal remains. In this sense, it must be recalled that “the dead should be treated with respect and dignity. [...] Acts of mutilation and despoliation must be criminalized. [...] Authorities must ensure that the examination of human remains and their identification are undertaken by qualified and competent people. [...] at all times, the dignity, honour, reputation and privacy of the deceased must be respected [...]”.³⁰ After associations of relatives of missing persons reported this situation to the Extended Advisory Committee of the MPI, a visit was conducted to the facilities in Goražde and, eventually, some of the walls were restored and windows were replaced so that animals cannot penetrate the building. Indeed, it is impossible to make up for the mortal remains that have been mutilated during many years and, in certain cases, this creates a prejudice which will never be restored. Another instance is that of the “Krajina Identification Project” (also known as Šejkovača) in Sanski Most. This facility was set up by the ICMP and to date no governmental institution has taken over the responsibility for the management and maintenance of the centre and more importantly for the hiring of a full-time forensic expert. Since exhumations can be carried out only in the

²⁹ In 2009 one of the Directors of the MPI disclosed a list of 37 names of people who had been exhumed and identified in Korićanske stijene.

³⁰ Human Rights Council, *Progress Report of the Human Rights Council Advisory Committee on Best Practices on the Issue of Missing Persons*, *supra* note 23, paras. 67, 69, 75 and 76.

presence of a forensic expert, the situation in Šejkovača is critical and numerous mortal remains are stored there waiting to undergo the process of identification. In general, with regard to this subject, after its visit to the country, the WGEID stressed that “[...] all available technology necessary to detect graves and to exhume them should be provided to the institution [MPI]”.³¹

21. It is also noteworthy that a number of fatal mistakes have occurred in the past during the identification of mortal remains by using only classical methods of visual identification. This situation has prolonged the suffering of relatives of missing people and made it almost impossible to determine the real identity of the missing persons. Indeed, the work of the MPI will not make up for these mistakes, which should nonetheless be considered when elaborating the figures of missing people who have been identified and whose fate and whereabouts have been established with certainty. For instance, in 1995 the mortal remains of Mr. Dragoslav Kulina who was a soldier of the Army of Republika Srpska (VRS) killed during the war were allegedly identified and buried. As the father of Mr. Kulina was also registered as a missing person, other members of the family gave their blood samples to facilitate the identification. In 2008, almost 13 years after the supposed burial of Mr. Dragoslav Kulina, it was demonstrated that the mortal remains of the latter were not those buried in the grave in 1995 – that his mother and relatives have been visiting and mourning over the last 15 years -, but they were actually kept in the identification hall in Lukavica. A second instance that may be recalled is that of Mr. Adnan Dupovac, a civilian who was arbitrarily killed³² in 1992 in the village of Grivica, Hadžići municipality. At the time, his father and his sister identified the body of Mr. Dupovac through the method of visual identification and his supposed remains were buried there. However, after seven years, because the sister of Mr. Dupovac was not completely sure about the identification, she gave her blood samples for cross examination. In 2008 the DNA analysis showed that, in fact, the mortal remains originally buried were not those of Mr. Dupovac but of a neighbour, Mr. Meho Cović. Mr. Dupovac had been buried in another grave for more than 13 years, while his family mourned someone else's mortal remains.³³ Another example that may be recalled is that of the mass grave located in 1998 in the old pit of the Ljubija mine (Jakarina kosa). At the time, the Federal Commission for Tracing Missing Persons was immediately notified about the locating of the mass grave and went to the site. The exhumations began only in September 2001. Eventually 325 skeleton

³¹ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

³² Mr. Kovacević and Mr. Zoran Golub (known as “Carlama”) were allegedly responsible for the arbitrary killing. The first one died during the war and the other passed away in 2009.

³³ Many are also the cases where dead bodies have been manipulated and removed, thus making it impossible to proceed to their exhumation and identification. For instance, Mr. Dusan Zorovac died by natural causes in 1991 and was buried in a cemetery near Mostar. After the signing of the Dayton Peace Agreement, Mr. Novica Zorovac, the son of Mr. Dusan Zorovac, went to the cemetery to honour his father's grave. He found an empty open grave. Allegedly, the body of Mr. Dusan Zorovac may have been used for exchange in the past. It has to be noted that the act of mutilating or despoiling the dead can constitute the war crime of committing outrages upon personal dignity, in particular humiliating or degrading treatment as identified in Art. 8.2.(b).(xxi) and Art. 8.2.(c).(ii) of the Rome Statute of the International Criminal Court. Further, criminal sanctions should be established for the non-respect of burial sites and the desecration of graves. In the reported case, no investigation has been opened and BiH authorities failed to identify, judge and sanction those responsible.

remains were exhumed from Jakarina kosa and, nine years later another 69 bodies were found at the same site. The latter have not been identified to date. For some of them it is impossible to carry out the DNA analysis because they remained exposed for too long to erosion in the mine.

2.2.3.2 The Conflicts between the MPI and the Republika Srpska Operative Team for Missing Persons in the Carrying out of Exhumations

22. The already mentioned problems of coordination between the MPI and the Republika Srpska Operative Team for Missing Persons have repercussions also in the processes of exhumation and conservation of mortal remains.³⁴ For instance, associations of relatives of missing people in the Republika Srpska argue that the District Prosecutor's Office conceded halls for autopsy and identification in East Sarajevo and Banja Luka to the Republika Srpska Operative Team for Missing Persons, although, according to the law, these facilities should be used by the MPI. It can also be recalled that, in March 2010, a witness informed about the fact that mortal remains of a missing person could be located in an individual grave near Srebrenica. The remains were laying on the ground surface and they were found by Mr. Slobodan Škrba, an employee of the Republika Srpska Operative Team for Missing Persons.³⁵ Mr. Škrba allegedly notified the police in Srebrenica and then, instead of waiting for the MPI and the representatives of the Prosecutor's Office, he proceeded to collect the mortal remains, putting them in a plastic bag which he subsequently handed over to the mortuary at the Srebrenica Hospital. Allegedly, when cleaning the Hospital premises, the maintenance lady unintentionally took the plastic bag with the remains and threw it into the trash. This unprofessional behaviour resulted in the permanent loss of mortal remains of a missing person, which will never be identified, thus depriving forever his or her relatives of their right to know the truth and to mourn and bury his mortal remains.

2.2.3.3 The Lack of Adequate Psycho-social Support for Relatives of Missing Persons during and after the Process of Exhumation

23. When the potential location of new graves is announced, relatives of missing persons experiment hope, expectations and, at the same time, as memories resurface, they go through debasement, doubts and anxiety. Instances of inadequate identification, inadequate handling of remains, disrespect or mutilation represent a form of re-traumatisation for relatives of missing persons that amplifies their suffering and may generate grave psychological and medical consequences. This creates an extraordinarily negative impact on individuals as well as on society as a whole and fosters a climate of mistrust. In general, exhumations should be seen as a process rather than a specific or isolated activity. In fact, they start before and continue long after the excavation and identification

³⁴ See Annexes 5 and 6.

³⁵ See also Annexes 3 and 4 (in the local language and an unofficial translation into English) containing a newspaper's article on this case (from the newspaper *Glas Srpske* – The Voice of Srpska - of 30 December 2009, *Exhumed Bones Thrown in the Dumpster*).

themselves, which are just the most visible and notorious parts of the work. Exhumations and identifications are essential for establishing the truth on what has happened, in obtaining justice and they are also reparatory in nature. For these reasons, it is crucial that relatives of missing people involved in processes of exhumation and identification are provided with appropriate psychological support.³⁶ While there are some instances of psychological accompaniment that has been provided to relatives of missing people by international organizations or NGOs, so far BiH has not addressed this aspect through providing a comprehensive and adequate programme. Thus, relatives of missing persons are exposed to ongoing suffering and often to re-traumatisation caused by the inefficiency and negligence of the competent State institutions.

2.2.3.4 The Lack of Effective Cooperation between the MPI and the Prosecutor's Offices

24. When the MPI receives information concerning a potential location of mass, group or individual graves, it carries out a process of verification. Afterwards, the data are officially forwarded to the Prosecutor's Office of BiH, which forwards the case to the Court of BiH where individual judges issue a warrant for exhumations and identification. The Court of BiH delegates the case to the district or cantonal prosecutor's offices, appoints the forensic experts, authorized representatives of the Ministry of Interior, utility, anthropologist, the place to keep the body for autopsy, the gathering of bone samples for DNA, determines who conducts the identification and determines the place of storage of personal items of the exhumed victims and other material evidence.
25. On the relationships between the MPI and the Prosecutor's Office, after having conducted its visit to BiH the WGEID noted that "for an exhumation to take place, a prosecutor has to obtain a court order. This has not always been easy and which court and which prosecutor has jurisdiction has been a complicating factor. The number of prosecutors working on exhumations and war crimes prosecutions is extremely low. They also have few resources and staff. Additional prosecutors at local level should be appointed to accelerate the process of investigations. Families of victims should be more regularly given information on the process of investigation, the results of those investigations and whether trials might be forthcoming. Courts at all levels should have consistent rules in dealing with the public in general and with families of the disappeared in particular. Special personnel should be appointed to meet with families and inform them, on a regular basis, of progresses made in their cases. Some courts have appointed psychologists. This should be more regularly done. Programs that especially assist women ought to be implemented".³⁷

³⁶ See, *inter alia*, Navarro-García, Pérez-Sales, Fernández-Liria, *Exhumations in Latin America: Current Status and pending Challenges: a Psychosocial View*, in *Peace and Conflict Review*, Vol. 4, No. 2, 2010, pp. 39-57; Navarro-García, Pérez-Sales, *Resistencias contra el olvido: trabajo psicosocial en procesos de exhumaciones*, Buenos Aires, 2009; ECAP et al., *Working Document for an International Consensus on Minimum Standards for Psychosocial Work in Exhumation Processes*, 2009 (available at: <http://www.congresoexhumaciones.com/images/stories/pdf/validacion%20peru.pdf>); Keough, Simmons, Samuels, *Missing Persons in post-conflict Settings: best practices for integrating psychosocial and scientific approaches*, in *The Journal of the Royal Society for the Promotion of Health*, 2004, pp. 271-275.

³⁷ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

26. There are many instances of malfunctioning of this procedure, which can be seen through the delay in the carrying out of exhumation and identification of mortal remains done by the Prosecutor's Office, ultimately jeopardizing the work of the MPI and further violating the human rights of the relatives of missing people.
27. A first example is the case of a mass grave located in Trnovo. All relevant information about it was provided to the MPI, which forwarded it to the Prosecutor's Office. It took more than one year and a half for the District Prosecutor's Office in East Sarajevo to issue the required authorization. Over this period, the District Prosecutor's Office did not provide any explanation or information about the process to associations of relatives of missing persons, thus fostering their uncertainty and anguish. Furthermore, it has to be stressed that the passing of time without the adoption of any adequate measure of protection of the site, increases the risk of interference with the grave, of despoliation and of permanent loss of evidence.
28. Second, a case occurred in 2007 in Vogošća can be quoted as an outstanding instance. A gentleman had bought himself a place for burial next to his wife in the Vogošća's cemetery. When he eventually passed away, the people who were digging the burial site came across someone's mortal remains. The Association of Relatives of Missing Persons from Vogošća Municipality was immediately informed and they notified without delay the local police as well as the Cantonal Prosecutor's Office. Initially, the latter did not even acknowledge the receipt of the notification. In the meantime, members of the Association remained at the cemetery as they feared that the mortal remains found could be removed or subjected to despoliation. It is noteworthy that the mortal remains remained exposed to the pouring rain for three days. Only after the President of the Association of Relatives of Missing Persons from Vogošća Municipality, Mrs. Ema Čekić, threatened the Prosecutor, Mr. Nedžad Corović, to go in the public with this case, he eventually raised an initiative for this case. He personally came to the cemetery, chasing away the relatives of missing people arguing that it was not their task to be there, and he exclaimed: "But this is one person only". Apart from the lack of professionalism, this is a mockery to relatives of missing people, who are devoting their lives to locating, exhuming and identification of their loved ones.
29. Many are also the cases where Prosecutors have received substantiated reports concerning grave human rights violations perpetrated during the war, including concurrent allegations on the identity of perpetrators (who, if interrogated, may have at least contributed in disclosing some information on the fate and whereabouts of missing persons).³⁸ As pointed out on many occasions by the HRC, States are under an obligation to identify, judge and sanction alleged perpetrators of gross human rights violations.

³⁸ On the drawbacks of prosecution of war crimes in BiH (with particular reference to the situation in the Republika Srpska), see, *inter alia*, Human Rights Watch, *A Chance for Justice? War Crime Prosecutions in Bosnia's Serb Republic*, March 2006, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/ngos/hrw-chanceforjustice.pdf>.

In many instances,³⁹ not only that Prosecutors have not acted upon the claims without any explanation, but they have also failed to provide witnesses, relatives of missing persons and those who had formally presented the claim, with information on the progress of their investigation. In this sense, the WGEID has clarified that “the relatives of the victims should be closely associated with an investigation into a case of enforced disappearance. The refusal to provide information is a limitation on the right to truth. [...] A refusal to provide any information, or to communicate with the relatives at all, in other words a blanket refusal, is a violation of the right to the truth”.⁴⁰ In the current situation, often relatives of missing persons feel ignored, when not openly mocked by the authorities.⁴¹ Given the length of time over which the ordeal of thousands of relatives of missing people has been dragged out and their incessant efforts, the silence and the indifference of BiH authorities amount to inhumane treatment in violation of Article 7 of the Covenant.

30. Associations of relatives of missing persons from North-Western BiH such as *Izvor*, also allege that in

³⁹ For instance, it can be recalled that in 2007 Mr. Mehmed Musić, the President of the Association of Relatives of Missing Persons from Hadžići Municipality, sent a formal letter to Mr. Milorad Barašin, denouncing that Mr. Slobodan Avlijaš, Mr. Vojo Vukotić and Mr. Tomislav Šipčić are responsible for the enforced disappearance of 48 people from the detention facility located in the Army Barracks Slaviša Vajner in Lukavica (see Annexes 17-28 in the local language and in English). Allegedly, on 23 June 1992 Mr. Avlijaš took away the 48 people from the detention camp to an unknown direction and their fate and whereabouts remain unknown since then. Mr. Slobodan Avlijaš is currently free and lives in the area of Pale – Bijelinja. Although the existence of many witnesses of his involvement in the mentioned crimes, he has never been questioned by the Prosecutor’s Office. A similar example is that of Mr. Edhem Godinjak, who was the commander of the BiH army in the territory of Trnovo, with headquarters in Tarcin. In 2004 over 20 witnesses were brought before the Prosecutor Mrs. Vesna Ilić and they testified about the involvement of Mr. Godinjak in the commission of a number of crimes (in particular, the enforced disappearance of 78 people from Trnovo). To date, Mr. Godinjak lives free in Sarajevo and he has never been questioned by the Prosecutor. Mrs. Ilić has never informed those who rendered their testimony and relatives of missing people from Trnovo on the steps taken on their claims. On the contrary, when relatives of missing people have approached her to request some clarification on the status of the case, she released contradictory information. On 2009, Mr. Milan Mandić (president of the Association of Relatives of Missing Persons from East Sarajevo – Romanija Region) approached Mrs. Vesna Ilić three times to seek information on the progress of the investigation about Mr. Godinjak. On the first occasion, Mrs. Ilić confirmed to be the person in charge of dealing with the case, but said that due to the complexity of the events, the investigation was taking a lot of time. On a second occasion, Mrs. Ilić told to Mr. Mandić that she was no longer in charge of the case. Subsequently, Mrs. Ilić told to a journalist that she is in fact in charge of the case and that the investigation is ongoing (see Annexes 9-14 in the local language and English). A third instance that can be recalled relates Mr. Dragan Pušara and Mr. Gavro Todorović, respectively commander and member of the Igman Battalion during the war. These men are suspected for the enforced disappearance and the arbitrary killing of 60 people who were fleeing from Hadžići to the free territory of Igman. After 2004, Mr. Mehmed Musić, the President of the Association of Relatives of Missing Persons from Hadžići Municipality, sent information about these crimes to the Prosecutor’s Office of Canton Sarajevo (Mr. Safet Hrapo). However, no formal investigation has been undertaken and the two mentioned people have not been questioned or indicted. With regard to Mr. Dragan Pušara, it is noteworthy that he is currently detained in Belgrade and that, therefore, a formal request for interrogation or extradition could be submitted to Serbian authorities. So far, this has not been the case and Mr. Mehmed Musić has not received any further information from the Prosecutor’s Office. After its visit to BiH, the WGEID recommended that “families of victims should be more regularly given information on the process of investigation, the results of those investigations and whether trials might be forthcoming. Courts at all levels should have consistent rules in dealing with the public in general and with families of the disappeared in particular. Special personnel should be appointed to meet with families and inform them, on a regular basis, of progresses made in their cases” (WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3).

⁴⁰ WGEID, *General Comment on the Right to the Truth in Relation to Enforced Disappearance*, *supra* note 10, para. 3.

⁴¹ See, *inter alia*, United Nations Development Programme (UNDP), *A Situation and Needs Assessment of the Cantonal/District Prosecutor’s Offices and Courts in the Field of Witness/Victim Support and Protection in War Crimes Cases in Bosnia and Herzegovina*, Sarajevo, 2010, available at: <http://www.undp.ba/upload/publications/Needs%20Assessment%20in%20the%20Field%20of%20Support%20to%20Witness-Victims%20in%20BiH.pdf>.

many cases, although the blame is put on Prosecutor's Offices, in fact those designated as "investigators" within the MPI are the ones who do not carry out their work effectively. They are the ones who fail to collect and communicate relevant information on potential locations of mass or individual graves where the mortal remains of missing persons could be situated. In 2009, the MPI did not have a single full-time investigator to cover the North-Western part of BiH. In this view, the MPI should hire more personnel to act as "investigators" in this area and, in general, there should be a thorough scrutiny of the work carried out by these officers.

2.3 The Establishment of a Central Database on Missing Persons

31. Article 21 of the LMP provides for the creation of Central Records of Missing Persons (CEN), intended to include all records that were or are kept at local or entity levels, by associations of families of missing persons and other associations of citizens, Tracing Offices of the organizations of the Red Cross in BiH, as well as international organizations. Article 22.4 of the LMP prescribes that "verification and entry of previously collected data on missing persons into CEN should be completed by the competent authority *within a year* of the date of the establishment of the MPI" (emphasis added). This means that the process of verifying and entering data in the CEN should have been completed by 1 January 2009. On September 2010, this has not been completed yet.⁴²
32. The only concrete steps forward in the setting up of the CEN are the adoption of the Regulation on the establishment of the CEN (Official Gazette of BiH, No. 80/09) by the Council of Ministries; the approval of the Rules of Procedure of the Verification Commission, and in September 2009 the hand-over of the missing persons database by the ICMP. Although BiH pledged that "the central database will be completed by the end of 2010",⁴³ unfortunately there seem to remain a number of obstacles to the prompt and effective completion of this task.
33. For instance, associations of relatives of missing persons point out that, so far, the creation of a unified and reliable database has been delayed and complicated by controversies concerning the total number of missing persons.⁴⁴ Allegedly, persons pertaining to different ethnic groups, and in particular spokespersons of political parties,⁴⁵ tend to diminish the number of missing persons claimed by other ethnic groups and increasing the number of those belonging to their group, thus delaying and obstructing the setting up of a unified registry.

⁴² After its visit to the country, the WGEID noted that "while the Law on Missing Persons provides for a Central Record of the Missing Persons (CEN) this has not yet been completed. This should be done as soon as possible and be made public with the listing of ethnic origin of those classified as missing. This will promote transparency, accuracy and certainty about who went missing. It will reduce the politicization of these issues" (WGEID, *Press Release of 21 June 2010 on the Visit to BiH, supra* note 3).

⁴³ Further information received from Bosnia and Herzegovina on the Implementation of the Concluding Observations of the HRC, *supra* note 9; para. 21 (b).

⁴⁴ *Supra* paras. 2 and 4.

⁴⁵ See for instance a newspaper article where Mr. Nedeljko Mitrović, the President of the Republika Srpska Organization of Killed and Missing Persons, declares that the number of victims in Srebrenica is half of what has usually been alleged, Annexes 5 and 6 (in the local language and English).

34. Associations of relatives of missing people refer to the existence of a further obstacle, namely the fact that certain persons have never been registered as missing because their relatives failed to do so as they are living abroad or because there are no relatives left to report the enforced disappearance of some missing persons. The number of missing persons who fall within these categories could be considerable and this would result in the inaccuracy of the CEN. Some instances may be recalled. In 2010 the mortal remains of Mrs. Mileva Misić were exhumed and identified. Notably, Mrs. Misić was not inscribed as a missing person under any registry and her identification was made possible through the investigation carried out by Mr. Zdenko Mitrović (of the Ministry of Interior), who eventually found relatives of the lady in Serbia and made the identification possible. Similarly, in 1993 the body of a man was exhumed in a location known as “Gorsko”, near Vogošća and he could not be identified, since his data and DNA did not match any person registered as missing.
35. Associations of relatives of missing persons also claim that in certain cases it is impossible to obtain precise data to set up the CEN, as the information is kept by the ICRC that, by mandate, is bound to confidentiality. For instance, it is known that, when the BiH army occupied Trnovo, 23 persons tried to flee in the direction of Kalinovik, but were captured and taken to the village of Dejčići,⁴⁶ where they were detained and subjected to interrogation. Allegedly, at the time the ICRC visited those prisoners. Out of the 23 persons, 19 were able to leave the detention facility, while the other four died due to the severe ill-treatment. Associations of relatives of missing people (in particular, the Association of Relatives of Missing Persons from East Sarajevo – Romanija Region), as well as persons who had been captured and held in Dejčići (namely, Mr. Mihajlo and Mrs. Bahra Lalović), tried to obtain data about this case from the ICRC. However, the institution refused to share information, as this would have been contrary to their mandate. It is not clear whether this type of information, which may be crucial when completing the CEN, will be duly secured and included.
36. Article 27 of the LMP (Entry into the Register of Deaths) provides that “three years after the date of the coming into force of the Law, persons registered as missing in the period from 30 April 1991 to 14 February 1996 whose disappearance has been verified within the CEN BiH, *shall be considered dead* and this fact shall be officially entered in the Register of Death [...]” (emphasis is added).⁴⁷ It is noteworthy that Article 9 of the LMP clarifies that “in the event that a missing person is proclaimed dead, but the mortal remains have not been found, the process of tracing shall not be terminated”. To date, as the CEN has not been established, Article 27 of the LMP has not been implemented either.
37. The WGEID has pointed out that “the fact that a disappearance is treated as a direct death does not take into account the continuous nature of the crime, the right to truth for the families of the disappeared and the obligation of the State to continue the investigation”.⁴⁸ The Human Rights Council Advisory

⁴⁶ See Annexes 15-16 in the local language and in English.

⁴⁷ On the obligation to obtain a declaration of death of missing people to obtain monthly pensions, see *infra* paras. 54-56.

⁴⁸ WGEID, *Annual Report for 2008*, doc. A/HRC/10/9 of 6 February 2009, para. 114.

Committee pointed out that “missing persons should be presumed to be alive until their fate has been ascertained. The foremost right of a missing person is that of search and recovery. A person should not be declared dead without sufficient supporting evidence”.⁴⁹ Article 27 of the LMP does not seem to respect these criteria, since it treats enforced disappearance as a direct death. Further, the sole fact that a person is registered as missing in the CEN does not seem, *per se*, a sufficient evidence to declare someone dead.

38. Enforced disappearance is by its very nature a continuous offence⁵⁰ and this brings a number of relevant legal consequences, among which the impossibility for statute of limitations for criminal proceedings to commence until the moment when the fate and whereabouts of the disappeared person are established with certainty. Under the current formulation of the LMP it is unclear if, after Article 27 will be implemented, the obligatory inscription of disappeared people in the Register of Death will bring significant consequences (and in case of positive answer, which) to the application of statute of limitations for criminal proceedings.⁵¹
39. The formulation of Article 27 of the LMP, by treating enforced disappearance as a direct death, creates a number of obstacles for the realization of the right to justice and the right to truth of relatives of missing persons. It should be made clear that the State not only remains under an obligation of continuing tracing activities, but also of granting the right to know the truth and to obtain integral reparation of the families, and of continuing investigations in order to identify, judge and sanction those responsible for the acts of enforced disappearance.

2.4 The Establishment of a Fund for the Support of the Families of Missing Persons

40. Article 15 of the LMP prescribes the creation of a Fund for the Support of Families of Missing Persons of BiH (“the Fund”). Paragraph 2 of the provision indicates that a decision on the setting up

⁴⁹ Human Rights Council, *Progress Report of the Human Rights Council Advisory Committee on Best Practices on the Issue of Missing Persons*, *supra* note 23, para. 60.

⁵⁰ See, *inter alia*, WGEID, *General Comment on Enforced Disappearance as a Continuous Crime*, 2010, available at: <http://www2.ohchr.org/english/issues/disappear/docs/GC-EDCC.pdf>. See also Article 17 of the 1992 United Nations Declaration for the Protection of All Persons from Enforced Disappearance (“the 1992 Declaration”); Article III of the Inter-American Convention on the Forced Disappearance of Persons; and Articles 8 and 24.6 of the 2007 Convention.

⁵¹ At present, enforced disappearance is not codified as an autonomous offence under BiH criminal law. In this sense, after its visit to BiH, the WGEID recommended that “the criminal codes at the Entity level should be harmonized with the criminal code at the State level, in particular with the view to integrate the crime of enforced disappearance as a crime against humanity and to set appropriate penalties. The criminal codes at all levels should be amended to integrate an autonomous crime of enforced disappearance”, see *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3. Article 172 of BiH Criminal Code refers only to enforced disappearances committed as part of a widespread and systematic attack against any civilian population, with the knowledge of the attack. Article 15 of the Criminal Code defines that the running of the period set by statute of limitation to institute criminal prosecution commences on the day on which the criminal offence has been perpetrated, without referring to any exception in the case of continuing offences or crimes. Article 19 of the Criminal Code provides that “criminal prosecution and execution of a sentence are not subject to the statute of limitations for criminal offences of genocide, crimes against humanity and war crimes, or for other criminal offences that, pursuant to international law, are not subject to the statute of limitations”. Under the existing legal framework it does not result sufficiently clear whether a statute of limitations for criminal proceedings would be applied to crimes of enforced disappearance that do not fall under the narrow definition provided by Article 172 of the BiH Criminal Code.

of the Fund “shall be issued by the Council of Ministers of BiH within 30 days of the date of the coming into force of the Law”. The same was provided for the organization of issues related to the work of the Fund. As noted, the LMP entered into force on 17 November 2004. In September 2010, which is almost six years after the required deadline, the Fund has not been established. The adoption of the decision on the establishment of the Fund (Official Gazette of BiH No. 96/06), addressed only partially the lack of implementation of the LMP. However, to date, the seat, the method of financing and management of the Fund, as well as other practical issues concerning the functioning of the Fund remain to be determined. In the meantime, the right of relatives of missing persons to obtain redress⁵² for the harm suffered continues being violated (contrary, among others, to Articles 2.3 and 7 of the Covenant).

2.4.1 The Lack of Agreement on the Financing of the Fund

41. At present, the main obstacle to the setting up of the Fund and to its proper functioning seems to be that the entity governments do not agree on the criteria to be used for financing of the Fund. The Agreement on the Financing of the Fund has not been adopted, since the governments of the Federation of Bosnia and Herzegovina, Republika Srpska and the District of Brčko have not agreed on the percentage of financing set aside for the Fund. Due to this ongoing non-coordination of positions, the Fund is unable to provide financial assistance determined in Article 19 of the LMP. After its visit to BiH, the WGEID pointed out that “[...] the establishment of the Fund is a priority”.⁵³

2.4.2 The Non Implementation of Constitutional Court Decisions that, on the Subject of Compensation, Refer to the Fund

42. While the Fund is not yet operating, the Constitutional Court of BiH has delivered a considerable number of decisions concerning cases of relatives of missing persons whereby it found violations of Articles 3 and 8 of the European Convention on Human Rights with respect to the applicants,⁵⁴ because of the lack of information about the destiny of their missing loved ones. In these decisions, the Constitutional Court did not pronounce itself on the issue of compensation, as it considered the latter to be covered by the provisions of the LMP concerning “financial support” and the establishment of the Fund. In these judgments, the Constitutional Court ordered “the parties referred to in Article 15 of the Law on Missing Persons”⁵⁵ to provide for operational functioning of the institutions established in accordance with the LMP, namely the MPI, the Fund and the CEN *immediately and without further delay*

⁵² See, *inter alia*, Article 19 of the 1992 Declaration and Article 24 of the 2007 Convention.

⁵³ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

⁵⁴ See, *inter alia*, decision No. AP 1226/05 of 23 February 2006 and the ruling of 18 November 2006 on the lack of implementation of the previous decision.

⁵⁵ Council of Ministers of BiH, government of the Federation of BiH, government of the Republika Srpska, and government of Brčko District of BiH.

and no later than 30 days”.⁵⁶ Given the present situation, the provisions referred to remain a dead letter and consequently also the Constitutional Court’s rulings are unimplemented. In this sense, the ECtHR has accepted that the State’s failure to fully enforce final domestic judgments causes to applicants distress, anxiety and frustration.⁵⁷

43. Article 74 of the Rules of Procedure of the Constitutional Court reads as follows: “1. The decisions of the Constitutional Court shall be final and binding. Every physical and legal person shall be obligated to respect them. 2. All bodies shall be obligated to enforce the decisions of the Constitutional Court within their competences established by the Constitution and law. 3. Every person who has a legal interest may seek enforcement of a decision of the Constitutional Court. 4. The Constitutional Court may specify in its decision the manner of and time-limit for the enforcement of the decision of the Constitutional Court. 5. Within the time-limit referred to in paragraph 4 of this Article, the body obligated to enforce the decision of the Constitutional Court shall be obligated to submit information about the measures taken to enforce the decision of the Constitutional Court, as required by the decision. 6. In the event of a failure to enforce a decision, or a delay in enforcement or in giving information to the Constitutional Court about the measures taken, the Constitutional Court shall render a ruling in which it shall establish that its decision has not been enforced and it may determine the manner of enforcement of the decision. This ruling shall be transmitted to the competent prosecutor or another body competent to enforce the decision, as designated by the Constitutional Court”. The Rules of Procedure do not establish any deadline for the Constitutional Court to adopt the mentioned ruling on the lack of enforcement of previous decisions.
44. In a number of cases concerning relatives of missing people the Constitutional Court adopted judgments of non-implementation of its previous rulings pursuant to Article 74.6 of its Rules of Procedure,⁵⁸ while in many other cases, notwithstanding the lack of implementation of its judgments, it did not proceed to adopt any further decision. Associations of relatives of missing persons are not aware of any instance where the Prosecutor has taken any action to enforce the Constitutional Court’s decision.
45. On the one hand the Constitutional Court has repeatedly declared that “no specialized institution on missing persons in BiH seems to be operating effectively”,⁵⁹ and on the other hand the very decisions of the highest judicial body in BiH are systematically not implemented and no action is undertaken by

⁵⁶ See, *inter alia*, Constitutional Court of BiH, Case *M. H. and others* (Case No. AP-129/04), judgment of 27 May 2005 (Admissibility and Merits); and judgment of 27 May 2006 (failure to implement the previous decision). The text of the two rulings can be found at: <http://www.ccbh.ba/eng/odluke/index.php?src=2>.

⁵⁷ ECtHR, Case *Čolić and others v. Bosnia and Herzegovina*, judgment of 10 November 2009, para. 21.

⁵⁸ *Supra* notes 54 and 56.

⁵⁹ Constitutional Court of BiH, Case *M. H. and others*, *supra* note 56, paras. 37-40. At para. 39 the Court noted that “[...] there is no specialized institution at the level of Bosnia and Herzegovina that operates efficiently, its task being conductance of impartial investigations concerning persons who went missing during the war”.

competent BiH authorities to enforce such rulings. This concretely puts relatives of missing people in a situation of defencelessness, where they lack any effective remedy. In this sense, after its visit to BiH, the WGEID has pointed out that “many orders of the Constitutional Court are not implemented. This should be done and failure to comply should be prosecuted as provided by the law of BiH”.⁶⁰

2.4.3 The Impossibility to Provide Integral Reparation to Relatives of Missing Persons through the Fund

46. Moreover, it has to be pointed out that, even when it will be eventually set up, the Fund is conceived to provide relatives of missing people with measures of social welfare that do not correspond and cannot replace compensation for the damage suffered and certainly do not amount to integral reparation. The government of BiH has pointed out that “the law provides that families choose the exercise of this right, which means that the family may be entitled to realize this right in accordance with state or entity regulation, **the choice of a more favourable right**, i.e. if you already realize this right by another law in one of the entities (as a civilian war victim or as the family of a missing person in the veteran fund) **you can decide to receive only one aspect of social cash benefits because both entities and Brčko District have the same source of funding for this right**. The Fund is planned as a restrictive Fund (generally entitles persons who would otherwise be supported by the missing person if alive), because it does not ensure this right to users on the basis for pension insurance **for people who receive more than the minimum pension** since this concerns an additional social right”.⁶¹
47. From the very words of the State, it results that the Fund is conceived as a restrictive Fund to grant to relatives of missing persons forms of social assistance. In this regard, the WGEID indicated that “measures should be taken in order to see that members of families of disappeared persons are entitled to social benefits and other measures of social support irrespective of where they live, including health care, special education programmes and psychological assistance”.⁶² However, the notion of “social assistance” shall be clearly differentiated from those of “redress” or “integral reparation”, to which relatives of missing persons are entitled for the harm suffered and independently from their economic situation or their ability to work.⁶³ The Fund alone, therefore, will not be enough to guarantee to relatives of missing persons their right to integral reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.

⁶⁰ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

⁶¹ Further information received from BiH on the implementation of the concluding observations of the HRC, *supra* note 9, paras. 33-34 (emphasis is used in the original text).

⁶² WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

⁶³ On the conditions to accede or to maintain the financial support granted by the Fund, see Articles 14 and 18 of the LMP.

2.4.4 The Inadequacy of the Existent Legal Framework Concerning Compensation for Relatives of Missing Persons

48. In its preliminary observations after the visit to BiH, the WGEID recalled that “[...] reparations are not only financial in nature. A national programme on reparations for relatives of victims of enforced disappearance, that includes compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition should be established. Reparation programmes should take into account a gender perspective, considering that most of family relatives of missing persons are women”.⁶⁴ So far, in BiH there is not a comprehensive programme designed to guarantee to relatives of victims of enforced disappearance during the war integral reparation. In general, often the notion of compensation is confused with that of social assistance.⁶⁵
49. According to existing legal framework in BiH, economic and social support for relatives of missing persons should in fact be provided by social welfare institutions. However, it is noteworthy that in BiH there is no central government body responsible for the social welfare system. This responsibility is discharged at the entity level, including through the introduction and implementation of legislation, the allocation of resources and the delivery of services. In the Republika Srpska the social welfare system is organized at the entity level, by the government of the Republika Srpska, and delivered through municipal departments of social welfare which provide services directly to citizens. The system of the Federation of BiH is decentralised. The federal authorities are responsible for the introduction of legislation and the allocation of resources to cantonal authorities, which then provide services directly to citizens. Each of the ten cantons of the Federation of BiH organises social care services in its own way, and the level and type of social support varies between different cantons.⁶⁶
50. In the Federation of BiH relatives of victims of enforced disappearance during the war are entitled to receive a monthly pension pursuant to the Law on the Rights of Demobilized Soldiers and their Families (Federation BiH Official Gazette No. 33/04, entered into force on 20 June 2004).⁶⁷ Under this law, relatives of missing people who are in a difficult economical situation, unable to work or those who have not terminated their studies, are entitled to receive a monthly pension, which is a form of social support. Indeed, to obtain or maintain such pension, they are forced to declare their loved ones dead.⁶⁸ This law

⁶⁴ WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3.

⁶⁵ See, *inter alia*, Popić, Panjeta, *Compensation, Transitional Justice and Conditional International Credit in Bosnia and Herzegovina*, Sarajevo, 2010.

⁶⁶ In this sense see, *inter alia*, Amnesty International, *Whose Justice? The Women of Bosnia and Herzegovina are Still Waiting*, London, 2009, pp. 6-7. Further, the legal framework for claiming compensations from individual perpetrators is unreasonably complicated and BiH authorities have failed to develop a system of free legal aid which would enable survivors to claim compensation in civil proceedings (*ibid.*, p. 66). In general, on the drawbacks of measures of reparation for victims of gross human rights violations during the armed conflict and their relatives see *ibid.*, pp. 36-60.

⁶⁷ See, *inter alia*, ICMP, *Guidebook for Civilian Victims of War in the Federation of BiH*, Sarajevo, 2008, available at: <http://www.icmp.org/wp-content/uploads/2008/02/guidebook-wictim-of-war-fbih.pdf>.

⁶⁸ See *infra* paras. 54-56.

does not guarantee to relatives of missing persons any form of rehabilitation, restitution, satisfaction nor any guarantee of non-repetition.

51. In the Republika Srpska, relatives of disappeared people during the war are entitled to receive a monthly pension pursuant to the Law on Protection of Civilian Victims of War of Republika Srpska (Official Gazette of the RS No. 25/93, 1/94 – special edition, 32/94, 37/07 and 60/07).⁶⁹ Under Article 1 of the Law “the rights prescribed can be awarded to citizens of the Republic of Srpska who have suffered body harm after 9 January 1992. The rights prescribed by this Law can also be awarded to citizens of the Socialist Republic of Bosnia and Herzegovina and the Social Federative Republic of Yugoslavia, if they settle on the territory of Republic of Srpska, acquire a Serbian citizenship and if they have body harm caused after 17 August 1990”.⁷⁰ Article 3 specifies that “rights under this Law are also awarded to *family-members of a civilian victim of war who was killed or went missing* under the circumstances enlisted in paragraph a point 1 of the Law as well as the family-members of a murdered person who was recognized as a civilian victim of war” (emphasis is added). It is further clarified that under the Law, “family members” are spouses, children and parents. Siblings and other relatives are therefore excluded from the scope of this Law. Indeed, the Law guarantees to those who are recognized as civilian victims of the war the access to pure welfare measures (e.g. disability pensions, nursing, help for those incapable to work, etc.) which cannot be considered *stricto sensu* as measures of reparation for the gross human rights violations suffered.⁷¹ Further, strict limitations are imposed to those who wish to apply to obtain the measures offered under this Law: among others, only those who can prove a certain degree of physical harm suffered due to the war, or that can demonstrate that they are incapable for work will obtain a monthly pension.
52. Another relevant piece of legislation in the Republika Srpska is the Law on the Right to a Compensation for Pecuniary and non-Pecuniary Damage, caused by the War Activities in the Period from 20 May 1992 to 19 June 1996 (Official Gazette No. 01-409/05 of 30 June 2005 and Amendments of 15 December 2008 published in the Official Gazette of the Republika Srpska No. 1/09).⁷² Article 6 of the original version of the Law (issued in June 2005) established that 30 June 2006 was the deadline to decide on

⁶⁹ See, *inter alia*, ICMP, *Guidebook for Civilian Victims of War in the Republika Srpska*, Sarajevo, 2008, available at: <http://www.icmp.org/wp-content/uploads/2008/02/guidebook-wictim-of-war-rs.pdf>.

⁷⁰ Article 2 of the Law defines as civilian victim of the war a person who: “1) Has suffered body harm because of harassment, rape, detention (jail, concentration camp, interment, forced labour etc.) or who during escape from the enemy has suffered injuries or wounds which have caused at least 60% of body harm as well as those persons who have been killed, died or went missing in these circumstances; 2) Has suffered at least 60% of body harm because of wounding or injuring caused by warfare such as: bombing, street fights, bullets, grenades from a cannon or a bazooka and similar; 3) Has suffered at least 60% of body harm because of wounding or injuring caused by old army materials or as a consequence of commando actions by the enemy”.

⁷¹ See Article 8 of the Law.

⁷² Under Article 5 of the Amendments of 2008 to the mentioned law, applications to receive compensation should be submitted to the Office of the Defence Attorney of the Republika Srpska before 31 December 2009. The existence of the amendments to the 2005 Law, which extend the number of persons that can apply for compensation was not diffused and publicized among victims of the war and their relatives.

all applications filed. In the amended version of the Law, which applies to relatives of disappeared people, Article 6 of the original version was abrogated and no other deadline was fixed. Indeed, compensation awarded under this scheme is to be paid in government bonds, which are to be amortised in ten annual instalments.⁷³ According to official data provided by the European Court of Human Rights, around 6,000 administrative decisions had been issued under this scheme by 7 August 2008. Around 21,000 cases were still pending. Some 9,000 judgments became final by 29 November 2005. The Republika Srpska was ordered to pay approximately BAM 140,000,000 in total plus default interest. Their enforcement (apart from legal costs and associated default interest which have recently been paid) has been suspended since 28 May 2002 pursuant to the Postponement of Enforcement Act 2002, the Temporary Postponement of Enforcement Act 2003 and the Domestic Debt Act 2004. The European Court of Human Rights has already been called to pronounce itself on the lack of implementation of the decisions adopted under this law, and it found violations of Articles 6 of the European Convention and Article 1 of Protocol No. 1 to the Convention.⁷⁴ Accordingly, it awarded compensation to the applicants, reminding to the respondent State that it is under “a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction under Article 41, but also to implement, under the supervision of the Committee of Ministries, appropriate general and/or individual measures. Such measures must also be taken in respect of other persons in the applicants’ position, notably by solving the problems that have led to the Court’s findings”.⁷⁵

53. In order to overcome the mentioned gaps and obstacles to the full guarantee of the rights of relatives of missing persons, the Office of the United Nations Development Programme (UNDP) is coordinating the development of a National Strategy for Transitional Justice.⁷⁶ This strategy is being developed also in consultation with representatives of associations of relatives of missing people⁷⁷ and could represent a positive opportunity to eventually ensure, among others, the right to obtain integral reparation of relatives of missing people. In order to do so, it is crucial that BiH ensures adequate support and funding to guarantee the prompt and full implementation of the strategy, assure shall guarantee the same rights to all beneficiaries, regardless of where they live and without any discrimination related to their ethnic belonging.

⁷³ It is noteworthy that under the Law of Debts in the Republika Srpska, there is a deadline of 50 years for cashing the bonds.

⁷⁴ See, *inter alia*, ECtHR, Case *Čolić and others*, *supra* note 57, paras. 10-11 and 15.

⁷⁵ *Ibid.*, para. 17.

⁷⁶ See, *inter alia*, UNDP, *Transitional Justices Guidebook for Bosnia and Herzegovina*, Sarajevo, 2009, available at: http://www.undp.ba/upload/publications/executive_ENG_WEB.pdf. After its visit to BiH, the WGEID declared that “the National Strategy for Transitional Justice should be fully supported and funded” (See, WGEID, *Press Release of 21 June 2010 on the Visit to BiH*, *supra* note 3).

⁷⁷ Among the associations of relatives of missing persons that are submitting the present document, *Izvor* and the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region are involved in the working group that is holding consultations to design the National Strategy for Transitional Justice.

2.4.5 The Declaration of Death of a Victim as a Pre-condition to Obtaining Compensation for Relatives of Missing Persons

54. In the Federation of BiH, Article 21 of the Law on the Rights of Demobilized Soldiers and their Families establishes that “the rights referred to in the paragraph 1 of this Article shall be also employed by members of family of missing defender *until he is declared deceased but not longer then two years after this Law comes into force if during that period they do not commence a procedure to declare the missing defender deceased*”. Accordingly, in order to accede or to maintain to a monthly pension, relatives of missing persons are forced to declare their loved ones dead in a non-litigation procedure, although this causes them additional pain, since in fact they do not know the fate and whereabouts of their loved ones.
55. In the Republika Srpska, although there is no specific provision that prescribes that it is obligatory to obtain a certificate of death to accede or to maintain a disability pension, *de facto*, this is the case. When assessing a request to obtain a disability pension pursuant to Article 25 of the Law on Protection of Civilian Victims of War of Republika Srpska and Article 190 of the Law on Administrative Procedure, Municipal Courts require evidences that prove that a loved one of the claimant has been subjected to enforced disappearance. In BiH, certificates of “absence for enforced disappearance” do not exist and Municipal Courts do not consider as valid means of proof certificates that a person has been registered as missing before the ICRC, or the MPI or any other tracing commission. The certificate of death is the only evidence accepted by Municipal Courts to award a monthly pension to relatives of missing persons who, therefore, are obliged to undergo this painful procedure in order to enforce their rights, although this determines that “enforced disappearance” is treated as a “direct death”, when, in fact, relatives do not know with certainty the fate and whereabouts of their loved ones.⁷⁸
56. The WGEID has declared that the fact that relatives, in order to obtain reparation, must apply for a death certificate, “re-victimizes families by making them go through the process of having a death certificate, although neither the fate nor the whereabouts of the disappeared person are known”.⁷⁹ The Committee against Torture observed that requiring the families of missing persons to certify the death of a family member in order to receive compensation could constitute a form of inhuman and degrading treatment for such person, by laying them open to additional victimization.⁸⁰ The Human Rights Committee considered that obliging the families of disappeared persons to have the family member declared dead in order to be eligible for compensation raises issues under Articles 2, 6 and 7 of the Covenant. Accordingly, it clarified that the responded State had to abolish the obligation in cases of

⁷⁸ See *supra* para. 37 and notes 48 and 49.

⁷⁹ WGEID, *Annual Report for 2008*, *supra* note 48, para. 113.

⁸⁰ CAT, *Concluding Observations on Algeria*, doc. CAT/C/DZA/CO/3 of 26 May 2008, para. 13. The Committee accordingly reminded that a State shall “[also guarantee the right of such families to seek redress or be fairly and adequately compensated, including by giving them the necessary psychological, social and financial support so that they may make the fullest possible readjustment (*ibid.*)”.

disappearance which makes the right to compensation dependent on the family's willingness to have the family member declared dead; and to ensure that any compensation or other form of redress adequately reflects the gravity of the violation and of the harm suffered.⁸¹

3. Conclusions and Recommendations

57. Although 14 years have passed since the conclusion of the war in BiH, thousands of relatives of victims of enforced disappearance remain caught between hope and despair to this very day, as they do not know the fate and whereabouts of their loved ones and BiH authorities have so far failed to guarantee their right to know the truth regarding the circumstances of the enforced disappearance of their loved ones, the progress and results of the investigation and the fate of their relatives; their right to justice and their right to obtain integral reparation and prompt, fair and adequate compensation. The present situation determines an ongoing violation by BiH of its obligations under Articles 2, 6 and 7 of the Covenant and, under certain circumstances, also of Articles 9, 10, 16, 23.1 and 24.1.
58. For the reasons explained above, the associations submitting the present document respectfully request the Human Rights Committee to recommend to BiH to:
- ▶ Elaborate within the shortest delay accurate and complete figures concerning the total number of missing people during the war as well as the amount of people whose fate and whereabouts remain unknown. This subject shall be treated with the utmost transparency and accuracy and BiH authorities shall refrain from any politicization. In order to be as credible as possible, these figures shall make reference also to those cases of "false" or mistaken identification of mortal remains occurred in the past.
 - ▶ Ensure that the Council of Ministers of BiH proceeds without any further delay to approve the audit report for 2009 of the MPI, as well as to find an agreement with the ICMP on the appointment of the vacant members of the Steering Board of the MPI, thus enabling this institution to discharge its mandate. With regard to the election of members of the Steering Board, the inclusion of representatives of associations of relatives of missing people should be considered, as it would increase the credibility of the institution, by ensuring more empathy and genuine understanding for the pain and suffering of relatives of missing persons. In order to increase the authority of the MPI, during their term of office the members of the Steering Board, of the Board of Directors and of the Supervisory Board shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time position.
 - ▶ Guarantee that the MPI and the Republika Srpska Operative Team for Missing Persons actively cooperate, eliminating any hindrance or conflict and carefully avoiding episodes of public mutual discredit.

⁸¹ HRC, *Concluding Observations on Algeria*, doc. CCPR/C/DZA/CO/3 of 12 December 2007, para. 13.

- ▶ Ensure the full independence of the MPI as guaranteed by the law, including preventing threats to members of the Institute, harassment and unfounded public attacks. When cases of harassment are reported, BiH authorities shall promptly investigate and sanction such acts.
- ▶ Ensure that adequate resources are put at the disposal of the MPI to allow it to do its work. In particular, all available technology necessary to detect graves and to exhume them should be provided to the institution, as well as more coolers and adequate facilities where mortal remains can be preserved and treated with respect and dignity. The preservation of mortal remains shall be secured using unified standards and applying the same procedures throughout BiH. More people within the MPI shall be deployed as investigators to gather relevant information for the location of mass graves, in particular in the North-Western part of BiH. The personnel shall be appropriately trained and work full-time.
- ▶ Ensure that relatives of missing people, including those who do not live in BiH, are regularly informed on the progress of the processes of exhumation and identification of mortal remains. Further, the release of information to the general public on the exhumation of mass graves shall be done in a manner that does not dilute the gravity of the crimes concerned and at the same time does not create false hopes or further disillusion for relatives of missing persons.
- ▶ Ensure that during and after the processes of exhumation and identification of mortal remains, relatives of missing persons receive, free of charge, adequate psychosocial accompaniment, provided by teams of professionals especially trained for this work and financed by the State.
- ▶ Ensure that the cooperation between the MPI and the Prosecutor's Offices is enhanced so that the process of exhumations is not unduly delayed. The number of Prosecutors working on exhumations and war crimes shall be increased and they must be ensured adequate resources and staff.
- ▶ Ensure that, in general, relatives of missing persons are given information on a regular basis on the process of investigation carried out by the Prosecutor's Office, the results of those investigations and whether trials might be forthcoming. Courts at all levels shall have consistent rules in dealing with the public in general and with relatives of missing persons in particular.
- ▶ Ensure that the LMP is fully implemented and that the CEN is completed within the shortest delay. Failure to comply with this shall be prosecuted and sanctioned. The information contained in the CEN shall include data from the 1991 census; data gathered from the Agency for Identification Documents, Registers and Data Exchange of BiH (CIPS) after the conclusion of the Dayton Peace Agreement; data managed by the entities' Ministers of Interior; data gathered by the ICRC; data in the possession of the Intelligence and Security Agency of BiH (OSA) and the State Agency for Investigation and Protection (SIPA); as well as data collected over the years by

any other body dealing with the matter of missing persons (e.g. the Research and Documentation Centre). The police and the municipal administration shall also be involved in this process. Given the high number of people who sought refuge abroad during and after the conflict, consideration shall be given to the setting up of a system of gathering notifications of missing persons through the diplomatic or consular headquarters of BiH or through mail with certified statements made by families of missing persons living abroad.

- ▶ Ensure that registration in the CEN is not considered as sufficient evidence for declaring a missing person dead. Given that this does not take into account the gravity and the continuous nature of the crime, Article 27 of the LMP shall be amended accordingly.
- ▶ Ensure that the Fund is set up without any further delay and its financing is entirely secured.
- ▶ Ensure that all judgments of the Constitutional Court on cases related to enforced disappearance are implemented without any further delay and failure to comply is prosecuted as provided by the law. The full implementation of the Constitutional Court's judgments shall include the carrying out of rigorous criminal investigations with a view to bringing the perpetrators to justice and to providing the relatives of the victims of enforced disappearance with information about the fate and whereabouts of their loved ones and ensuring them social assistance through the Fund and integral reparation.
- ▶ Make sure the Constitutional Court automatically adopts rulings on non implementation of its prior judgments and systematically transfers these to the Prosecutor's Office for prompt action, and eventually guarantees applicants a right to obtain such rulings within a reasonable delay.
- ▶ Ensure that all relatives of missing people have access to social benefits and other measures of social support irrespective of where they live. Such legislation should be adopted on the State level in order to avoid the continuation of the current situation in which there exists discrimination in access to and levels of social benefits depending on the Entity involved.
- ▶ Ensure that all relatives of missing persons are granted integral reparation and prompt, fair and adequate compensation for the harm suffered. This shall be done through the implementation of a national programme on measures of reparation for relatives of victims of enforced disappearance that encompasses compensation, reintegration, restitution, rehabilitation, satisfaction and guarantees of non-repetition. The State shall also grant, as a measure of reparation, access to psycho-social support, provided through State's institutions and health services.
- ▶ Ensure full support and funding to the National Strategy for Transitional Justice currently coordinated by the UNDP.

- ▶ Ensure an effective public system of free legal aid enabling relatives of disappeared people to receive legal support (counselling and, if need be, access to court), if they are not able to afford them.
- ▶ Take measures to raise awareness of the status of civilian victim of war and of relatives of disappeared people in particular, the possibility for applying for such status and the rights deriving from this.
- ▶ Amend the current legal framework so that providing social benefits and measures of reparation to relatives of victims of enforced disappearance is not subjected to the obligation to obtain a municipal court's decision certifying the death of the victim. Replace the certificate of death with a "certificate of absence due to enforced disappearance" that, while recognizing the gravity and real nature of the crime without treating it as a direct death, nonetheless allows to regulate the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

On behalf of:

Association of Families of Killed and Missing Defenders of the Homeland War from Bugojno Municipality

Association of Relatives of Missing Persons from Hadžići Municipality

Association of Relatives of Missing Persons from Ilijaš Municipality

Association Women from Prijedor – *Izvor*

Association of Relatives of Missing Persons of the Sarajevo-Romanija Region

Association of Relatives of Missing Persons of the Vogošća Municipality

Philip Grant

ACT Director

Annexes

1. Article published on 12 June 2010 by the newspaper "Avaz" (unofficial translation in English).
2. Article published on 6 July 2010 by the newspaper "Glas Srpske" – The Voice of Srpska – (unofficial translation in English).
3. Article "Exhumed Bones Thrown in the Dumpster", published on 30 December 2009 by the newspaper "Glas Srpske" – The Voice of Srpska (in the local language).
4. Article "Exhumed Bones Thrown in the Dumpster", published on 30 December 2009 by the newspaper "Glas Srpske" – The Voice of Srpska (unofficial translation in English).
5. Article "The Institute is blocking the Process of Tracing Serbian Victims", published on 30 December 2009 by the newspaper "Glas Srpske" – The Voice of Srpska (in the local language).
6. Article "The Institute is blocking the Process of Tracing Serbian Victims", published on 30 December 2009 by the newspaper "Glas Srpske" – The Voice of Srpska (unofficial translation in English).
7. List of Victims of Serb origin Exhumed and Identified at 26 March 2010, elaborated by the MPI Office in East Sarajevo (in the local language).
8. List of Victims of Serb origin Exhumed and Identified at 26 March 2010, elaborated by the MPI Office in East Sarajevo (unofficial translation in English).
9. Letter of 15 June 2006 from the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region to the Court of BiH (in the local language).
10. Letter of 15 June 2006 from the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region to the Prosecutor's Office (unofficial translation in English).
11. Letter of 15 June 2006 from the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region to the Court of BiH (in the local language).
12. Letter of 15 June 2006 from the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region to the Prosecutor's Office (unofficial translation in English).
13. Letter No. SU-521/06 of 7 July 2006 from the Court of BiH to the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region (in the local language).
14. Letter No. SU-521/06 of 7 July 2006 from the Court of BiH to the Association of Relatives of Missing Persons of the Sarajevo-Romanija Region (unofficial translation in English).
15. Statement forwarded in 2008 to the Cantonal Prosecutor's Office and to the State Prosecutor's Office by Mr. Savo Timotija (in the local language).
16. Statement forwarded in 2008 to the Cantonal Prosecutor's Office and to the State Prosecutor's Office by Mr. Savo Timotija (unofficial translation in English).
17. Letter No. 14-09/07 of 17 September 2007 from the Association of Relatives of Missing Persons from Hadžići Municipality to the Office of the High Representative for BiH (in the local language).

18. Letter No. 14-09/07 of 17 September 2007 from the Association of Relatives of Missing Persons from Hadžići Municipality to the Office of the High Representative for BiH (unofficial translation in English).
19. Letter No. 15-09/07 of 17 September 2007 from the Association of Relatives of Missing Persons from Hadžići Municipality to the High Judicial and Prosecutorial Council of BiH (in the local language).
20. Letter No. 15-09/07 of 17 September 2007 from the Association of Relatives of Missing Persons from Hadžići Municipality to the High Judicial and Prosecutorial Council of BiH (unofficial translation in English).
21. Letter No. 16-09/07 of 17 September 2007 from the Association of Relatives of Missing Persons from Hadžići Municipality to the State Prosecutor's Office (in the local language).
22. Letter No. 16-09/07 of 17 September 2007 from the Association of Relatives of Missing Persons from Hadžići Municipality to the State Prosecutor's Office (unofficial translation in English).
23. Letter No. 08-04 of 19 March 2010 from the Association of Relatives of Missing Persons from Hadžići Municipality to the Prosecutor's Office (in the local language).
24. Letter No. 08-04 of 19 March 2010 from the Association of Relatives of Missing Persons from Hadžići Municipality to the Prosecutor's Office (unofficial translation in English).
25. Letter No. 11/10 of 26 March 2010 from the Association of Relatives of Missing Persons from Hadžići Municipality to the Prosecutor's Office (in the local language).
26. Letter No. 11/10 of 26 March 2010 from the Association of Relatives of Missing Persons from Hadžići Municipality to the Prosecutor's Office (unofficial translation in English).
27. Press Release No. 26-06/09 of 30 June 2009 by the Association of Relatives of Missing Persons from Hadžići Municipality (in the local language).
28. Press Release No. 26-06/09 of 30 June 2009 by the Association of Relatives of Missing Persons from Hadžići Municipality (unofficial translation in English).
29. Letter No. 01-181/06 of 12 December 2006 from the Association *Izvor* to the Ministry for Human Rights and Refugees (in the local language).
30. Letter No. 01-181/06 of 12 December 2006 from the Association *Izvor* to the Ministry for Human Rights and Refugees (unofficial translation in English).
31. Letter No. 01-47-1/08 of 14 March 2008 for the Association *Izvor* to the Steering Board of the MPI (in the local language, on two separate pages).
32. Letter No. 01-47-1/08 of 14 March 2008 for the Association *Izvor* to the Steering Board of the MPI (unofficial translation in English).
33. Letter No. 01-72-1/07 of 16 April 2008 from the Association *Izvor* to the Steering Board, the Supervisory Board and the Advisory Committee of the MPI (in the local language, on two separate pages).
34. Letter No. 01-72-1/07 of 16 April 2008 from the Association *Izvor* to the Steering Board, the Supervisory Board and the Advisory Committee of the MPI (unofficial translation in English).

35. Letter No. 01-205/08 of 8 December 2008 from the Association *Izvor* to the Parliamentary Assembly, the Representatives' Chamber and the People's Chamber (in the local language).
36. Letter No. 01-205/08 of 8 December 2008 from the Association *Izvor* to the Parliamentary Assembly, the Representatives' Chamber and the People's Chamber (unofficial translation in English).
37. Letter No. 01-214/08 of 24 December 2008 from the Association *Izvor* to the Board of Directors of the MPI (in the local language).
38. Letter No. 01-214/08 of 24 December 2008 from the Association *Izvor* to the Board of Directors of the MPI (unofficial translation in English).
39. Letter No. 01-33/09 of 27 April 2009 from the Association *Izvor* to the Board of Directors of the MPI (in the local language).
40. Letter No. 01-33/09 of 27 April 2009 from the Association *Izvor* to the Board of Directors of the MPI (unofficial translation in English).
41. Exchange of communications between the BiH Council of Ministers and the ICMP from 29 January 2009 to 16 April 2010 on the nomination of the members of the Steering Board of the MPI (in English).
42. Letter No. 05-07-3-2193-1 of 23 July 2010 from the BiH Council of Ministers to the ICMP (in the local language).
43. Letter No. 05-07-3-2193-1 of 23 July 2010 from the BiH Council of Ministers to the ICMP (unofficial translation in English).
44. Letter No. 175-020/2010 of 10 August 2010 from the ICMP to the BiH Council of Ministers and copies of previous communications (in the local language and English).