

MACEDONIA

2002 – 2004 REPORT

Macedonia

Report 2002 - 2004

1. SUMMARY

1. In July 2002, the late President of Macedonia, Boris Trajkovski and the European Union Special Representative in Skopje, Alain LeRoy, invited the International Commission on Missing Persons (ICMP) to contribute to the process of determining the fate and whereabouts of persons missing as a result of the 2001 crisis in the former Yugoslav Republic of Macedonia. Both President Trajkovski and Ambassador LeRoy requested that ICMP conduct such work in light of the findings of the Commission on Kidnapped and Other Missing Persons (CKMP), which had conducted independent investigations, culminating in two reports, one in February 2002 and one in July 2002. However, without executive power, the CKMP was limited in its ability to go further.
2. Accepting President Trajkovski's invitation, ICMP opened an office in Skopje in November 2002 consisting of one international Head of Office and two national Program Assistants. From July to September 2004, a volunteer Legal Intern also worked with ICMP in Skopje.
3. Although there were only 22 known cases of disappearances, the fate of the missing had proven to be an impediment to building a viable political process through the implementation of the Ohrid Agreement and an obstacle to reconciliation following the violence of the 2001 crisis.
4. With the assistance of ICMP, the Government has legally identified nine of the 22 persons, with another two to four exhumations of mortal remains predicted for 2005. Blood samples have been collected from all families of the missing residing within the country.¹

2. BACKGROUND

5. The political situation in Macedonia was, and remains, complex and there is no doubt that the issue of the disappeared persons was a contributing factor to that complexity. This was particularly the case given that high-level persons within the crisis-era Ministry of Interior and similarly high-level persons in the NLA were alleged to have been involved in at least some of the disappearances
6. Family members representing missing ethnic Macedonians camped out in the Parliament building, where they accosted members of Parliament, as well as representatives of international organizations. In addition, the families often blocked entrances to, *inter alia*, the OSCE and EU offices in Skopje.
7. Contributing to the complexity of the situation, members of the families of both ethnic Albanian and ethnic Macedonian missing persons expressed strong concerns regarding political manipulation of the issue. In addition, many ethnic Albanian families were fearful of reporting cases of disappearances due to the perceived repressive environment enforced by the authorities at the time.
8. Of the reported twenty-two cases of missing persons, twenty-one are Macedonian citizens, of whom fourteen are ethnic Macedonians and seven are ethnic Albanians.² One is a citizen of Bulgaria. Most of the individuals disappeared around the time of the signing of the Ohrid Agreement in 2001. One of the reasons the issue of the missing was so politicized is that persons at high levels of the crisis-era

¹ Relatives of the missing persons Boshko and Slavko DIMITRIEVSKI currently reside in the United States.

² The terms "ethnic Macedonian" and "ethnic Albanian" are commonly used to differentiate between the two major communities in the country.

Government and the former National Liberation Army (NLA)³ were implicated in some of the disappearances.

9. The issue reached a critical stage following the discovery of an alleged “mass grave” in late October 2001. On November 11, the then Minister of Interior Ljube Boskovski⁴ deployed 150-200 police, including special forces, in armored vehicles to secure the site which was in a predominantly ethnic Albanian area near the city of Tetovo. That night three ethnic Macedonian policemen were killed during an exchange of gunfire in the area of the site. Four sets of mortal remains were located at the site. Despite efforts of the Government, the families of the missing ethnic Macedonians continually refused to submit to DNA testing of the remains, claiming that their relatives were alive.
10. Following an initiative of the Swedish Government through the EU, in November 2001, a decision was reached between the Macedonian President Boris Trajkovski and the EU to establish the CKMP. The CKMP was given an initial six-month mandate, ending on June 30, 2002, to solve the cases of “20 persons reported as kidnapped or missing in the course of the crisis in 2001.”
11. On July 8, 2002, the CKMP submitted its second report. Following investigations into the 20 cases of disappearances, the report stated that the CKMP was unable to solve a single case. In addition, the report asserted that individuals within the former NLA and others within the Macedonian security and police forces had information regarding certain cases of disappearances. After the release of the report by the CKMP in July 2002, there were daily roadblocks, accompanied by occasional outbreaks of violence, on the road between Tetovo and the capital Skopje.
12. This tense situation was compounded by the fact that the elections, originally planned for January 2002, were not held until September 2002. The outcome of the elections was a new coalition Government composed of the Social Democrats (SDSM) and the Democratic Union for Integration (DUI). The latter was the political incarnation of much of the former NLA.
13. The list of 20 persons sought by the CKMP was the result of an agreement between its three members. ICMP is aware of 22 cases, all reported to the International Committee of the Red Cross (ICRC) and, over time, the Ministry of Interior.

3. ICMP ACTIVITIES

14. ICMP opened its office in Skopje in November 2002. Its terms of engagement mandated ICMP to work with local parties towards the establishment of a viable process for addressing the cases of disappearances, the goal being the creation of a national process including both parties to the crisis. Following the model established in Bosnia and Herzegovina, the process would require an ad hoc commission that would report directly to the Government. It would also be responsible for working directly with the national judicial system, The aim was to ensure that the state authorities, rather than the international community, would become fully accountable and responsible for resolving these cases. From early on, a variety of politicians demonstrated significant political will to move the process. Hari Kostov, former Minister of Interior and then Prime Minister, was particularly noteworthy in this respect.
15. ICMP’s immediate objectives were three-fold:
 - 1) to begin the process of work with the national political players;

³ The NLA were the ‘rebel’ forces composed of ethnic Albanians.

⁴ Mr. Boskovski was recently indicted by the ICTY and was transferred by the authorities of the Republic of Croatia to The Hague to stand trial. The indictment may be seen online at <http://www.un.org/icty/indictment/english/bos-ii050309e.htm>

- 2) to ensure public involvement in the process through incorporating the families of the missing; and
 - 3) to provide technical assistance to the authorities on an as-needed basis.
16. As a result of the on-going efforts by ICMP and the specific political support of the OSCE Head of Mission (Ambassador Craig Jenness) and the EU Special Representative (Alexis Brouhns), on 31 March 2003 the Government adopted the *Information on the need to establish a Government-Parliamentary Commission* and forwarded it to the Parliament. Due to various conflicting interests in Parliament, and despite efforts by ICMP, this initiative was approved by Parliament in name only, with no members ever appointed.
 17. ICMP worked intensively with the families of missing persons concentrating initially on joining the ethnic Albanian and ethnic Macedonian families in their efforts to reach the common goal. In that effort, ICMP invited representatives of both the ethnic Albanian and ethnic Macedonian families, as well as representatives of the Government to its *Seventh Regional Conference on Missing Persons Issues in the former Yugoslavia* in Sarajevo, held on 16 – 19 May 2003, exposing them to the approaches used by other countries in the region regarding this issue. This was also an opportunity for the family representatives to see the ICMP facilities and DNA laboratories, as well as learn about the process of bone and blood DNA extraction and analysis.
 18. Between the 16th and 18th of May 2003, an “exhumation” was carried out on three sites in the area of Tetovo: at Neprosteno, Dzepciste and Dobroste (including the use of cadaver dogs from Germany). ICMP provided both monitors and a forensic archeologist. No remains were found. A formal assessment report of the three days was presented by ICMP to the Government (Minister of Interior) and the ‘Principals’ (US Embassy, Office of the EUSR, NATO, and OSCE) regarding technical shortcomings observed and recommendations for future activities.
 19. On 18 July 2003 ICMP organized the *Conference on the Right to Know – Determining the Fate and Whereabouts of the Arrested, Kidnapped and Otherwise Missing in Macedonia*, which was the first opportunity for all concerned parties to sit together and discuss the issue of missing persons as well as ways to move the process forward. The concept was based upon a resolution of the full Macedonian delegation to the *Seventh Regional Conference on Missing Persons Issues in the former Yugoslavia*, and the list of invitees, as well as the agenda, was decided upon jointly by representatives of both the ethnic Albanian and ethnic Macedonian families along with ICMP. Those present included the Principals, other Ambassadors, the Minister of Interior, and numerous other Governmental and Parliamentary representatives.⁵
 20. On 16 September 2003 a Memorandum of Understanding was signed between ICMP and the *Ministry of Foreign Affairs of the Government of Macedonia*, allowing the formal registration of ICMP in-country.
 21. In the efforts to incorporate the families of the missing into ICMP’s Civil Society Initiatives programme ICMP helped the ethnic Macedonian families register an association. In September 2003 ICMP approved a grant of 5,405 Euros to support a project of “Nadež” (the registered association of the families of the twelve missing ethnic Macedonians from the Tetovo area).

⁵ The conclusions adopted by the conference were: (1) The Government/Parliamentary Commission which was approved by Parliament on 24 June should become functional as soon as possible. Its competencies must be defined and deadlines should be declared for appointment of its members and commencement of work. (2) The passage of a law on witness protection should be supported. (3) Reciprocity should not apply to determining the fate and whereabouts of the missing. (4) It is essential that family members share information across ethnic lines. (5) The issue of the missing should not be politicized. (6) The international community should support the implementation and functioning of the Government/Parliamentary Commission.

22. On the basis of an instruction issued by ICTY to the Government, on 2 December 2003 samples from the bones exhumed from the Neprosteno/Treboš site in November 2001 were transferred to ICMP for DNA testing.⁶
23. As the Government-Parliamentary Commission never *de facto* started functioning, nor were any members appointed to it, ICMP continued support for the creation of a coordination body for the issue of missing persons. In December 2003 the Government appointed two *Coordinators for the issue of the missing*, to work in conjunction with ICMP and relevant State authorities: Mr. Subhi Jakupi of the Ministry of Justice; and Dr. Mihail Levenski of the Ministry of Health.
24. In the first few months of 2004, ICMP Skopje concentrated on two primary issues. The first was working with families of the missing with the goal of collecting blood samples for comparative DNA testing with, initially, the mortal remains already exhumed in November 2001. The second was to work with the *Coordinators for the issue of the missing*, appointed by the Government in December 2003, to develop a sustainable and functional mechanism to close cases of the missing.
25. On several occasions ICMP's DNA blood collection teams and DNA experts gave presentations for the families of the missing on the process of blood collection and DNA analysis. Finally, in April 2004, the families of all missing ethnic Macedonians living in-country agreed to donate blood samples to be tested by both ICMP and the State, initially against the four sets of remains which had been recovered in November 2001. One month later, three legal identifications were made, based on these DNA tests, by the Tetovo Investigative Judge. On 9 June the fourth identification relevant to the November 2001 remains was made, having been delayed by the lack of sufficiently close living relatives from whom blood could be collected.⁷
26. As had been predicted, the decision of the ethnic Macedonians was a sufficient step to see the process move even further. In May ICMP, along with ICTY, EU Proxima,⁸ and other international organizations, received information from the Ministry of Interior of an anonymous letter giving site locations relevant to six other missing persons. From 17 to 19 May, a recovery operation was conducted on the site "Jama" between Mavrovo and Debar. Unlike the previous unsuccessful exhumation in the Tetovo area in May 2003, this operation was carried out with sufficient planning amongst the Ministry of Interior, the Kicevo Court and Public Prosecutor, Forensics Institute, EU Proxima, and ICMP. From a legal and technical standpoint, it was well-organized; further, families and journalists were provided sufficient information and access as to prevent the "circus" atmosphere which surrounded previous endeavors. Unofficial speculation nonetheless reached the press. That notwithstanding, interaction with families of the missing remained positive, and on 3 June relatives of four of the seven missing ethnic Albanians, and the one missing Bulgarian, gave blood for DNA testing against the four remains recovered at "Jama".
27. Shortly thereafter, an unsuccessful attempt was made to locate a body (indicated in the same "anonymous letter") in Butel Cemetary in Skopje. The body had been initially recovered from under a bridge near the city of Veles in 2001, was then autopsied by the Forensics Institute and transferred for burial in an "NN", or unknown, grave at the Butel Cemetary. However, the attempted recovery on 25 May 2004, under the order of an Investigative Judge of Skopje Court II, was unsuccessful, as the

⁶ Due to the primacy exercised by the Tribunal over four potential cases, the original case before the Tetovo Court to which the mortal remains were attached was frozen. Thus, the Tetovo Court was prohibited from issuing further orders regarding the biological samples and it was necessary to have a request from ICTY to move the process within the legal system.

⁷ This lack of sufficiently close relatives meant that advanced DNA testing was required, which took additional time in the ICMP laboratories. ICMP results, to be issued to the State authorities, must through the review process reach a level of certainty exceeding 99%.

⁸ EU Proxima is the European Union Police Mission in Macedonia.

indicated location of the grave was proven to be incorrect. Despite opening over 10 graves containing some 14 bodies, none matched the autopsy report.⁹

28. Regarding this case, the ICMP, in agreement with the Forensics Institute, recommended to the judge that he issue an order to allow DNA testing against residual tissues remaining in the Forensics Institute from the original autopsy. Were such tests to indicate a match, which was considered highly likely given information known to ICMP and the Government, procedures could be initiated separately against the management of Butel Cemetery for, at a minimum, a *prima facie* case of negligence in handling mortal remains. More importantly, a legal identification could be generated. On 24 February 2005 ICMP received a request from the Forensics Institute to conduct DNA testing against the remaining residual tissue and on 16 March 2005, ICMP obtained the tissue sample and submitted it to DNA testing.
29. The sixth body referred to in the letter had been recovered in January 2003 under order of the Bitola Court at a site near Zli Dol/Demir Hisar. In December 2004 this sample was transferred to ICMP under the order of the Bitola Court. One month later, one more identification was made, again based on parallel DNA testing done by ICMP and the Forensics Institute.¹⁰
30. In July, matches were generated for two of the remains from “Jama” and submitted to the State authorities. However, given that relatives of three of the missing ethnic Albanians had yet to give blood, the investigative judge decided to wait for full results. Although not an irrational decision, it proved to be a major delay as the remaining families were attempting to tie the issue of the missing to an unrelated issue of non-application of the Law on Amnesty to one of their other relatives (whose alleged activities would not be covered by said law). On 22 September the judge finally announced the results in his possession.
31. Once again, the publication of results created further momentum, and thus on 21 October the remaining ethnic Albanian families gave blood samples. Moreover, on 22 October ICMP finally obtained a bone sample from a site opened in Depciste in March 2003, based in large part upon the “Jama” identifications and increased trust in the process. The DNA analyses of the sample did not produce a match, thus indicating that the sample could not be any of the persons for whom blood samples were collected.¹¹
32. On November 19-20, the ICMP hosted a technical working meeting in Ohrid on: *Missing Persons 2001: Recovery and ID - all aspects*, to include all the relevant state bodies which will continue to work on these cases: the Ministry of Interior, Ministry of Justice, State Forensics Institute, Public Prosecutor, Courts, and as their technical assistance will remain in place through 2005, EU Proxima. The goal of the meeting was to solidify plans for the recovery of the remaining missing from among a number of potential sites. This proved to be the culmination of a number of bi-lateral and multi-lateral meetings with the various parties, to agree on a work plan to close the remaining cases.
33. ICMP closed its office in Skopje at the end of 2004. However, certain aspects of its work continue into 2005. ICMP believes that at this stage the process of determining the fate and whereabouts has progressed to the stage where the relevant state institutions are both competent and willing to continue the process. This will require continued monitoring and technical assistance on an as-needed basis provided by ICMP in conjunction with the international community with a whole, and in particular EU Proxima.

⁹ The body in question was missing one arm. All bodies exhumed in the cemetery had both arms.

¹⁰ This identification related to the missing uncle of the former head of the NLA and current head of the DUI, Mr. Ali Ahmeti.

¹¹ That it, the sample could possibly correspond to one of the missing persons Boshko and Slavko DIMITRIEVSKI whose relatives live in the United States, or to an unrelated case, for example a victim of trafficking in persons.

34. To see the issue fully addressed, the following should be ensured:

- The Ministry of Interior should continue its intensified activities to locate new locations of the remaining gravesites;
- The interdisciplinary approach to recovery and identification should be strengthened, using the Government appointed Coordinators as the core of an expanded strategic, interdisciplinary team including the Forensics Institute, the Office of the Prosecutor, the Investigative Judges, and the Ministry of Interior.
- The team should be headed by a representative of the Supreme Court.
- The team members should be increasingly transparent in the sharing of information about the process. This would lead to greater confidence within the team and in the process itself;
- Technical assistance from the ICMP and EU Proxima in the area of recovery and identification, as well as general support and pressure from the international community, should continue at least through 2005.
- There should be continuing positive, proactive participation of families of the missing in the process; the Coordinators should serve as direct contact point for the families providing them with first hand information on each step on the process.

4. TIMELINE

November 2001

The Commission on Kidnapped and Missing Persons (CKMP) was established with Ambassador Lars Norberg as Chairman. The mandate of the CKMP was to request and receive statements of concern from the families of the missing persons who would like to receive help with establishing the facts surrounding the disappearances; to collect and compile information on the missing persons from all relevant sources, including central and local authorities and officials as well as from the public; to attempt to establish the facts on the cases submitted to it on the basis of the information received; and to report its findings by mid-2002. Also during this month, the exhumation of four mortal remains was completed on a site near the villages of Neprošteno/Treboš in the Tetovo area.

February 2002

The CKMP issued its first report of findings. Ambassador Lars Wahlund succeeded Ambassador Norberg as Chairman of the CKMP

July 2002

The CKMP issued its second and final report of findings. Then President Boris Trajkovski† invited ICMP to Macedonia, with then EU Special Representative Alain LeRoy sending a letter in support of the President's invitation.

November 2002

After acceptance of the letter of invitation by its Board, ICMP opened its office in Skopje with one international and two national staff members.

January 2003

Recovery of one set of mortal remains carried out in the area of Zli Dol/Demir Hisar under the order of the Bitola Investigative Judge Slobodanka Bakovska. The remains were transferred to the State Forensics Institute for autopsy, and on July 31 an autopsy report was returned to the court.

12 March 2003

An exhumation was carried out near the road leading to Neprošteno, close to the Tetovo village of Džepčiste, under the order of Tetovo Investigative Judge Nehat Ismaili. One set of remains, consisting of a half-body, was recovered.

31 March 2003

The Government adopted the Information on the need to establish a Government-Parliamentary Commission and forwarded it to the Parliament. Due to various conflicting interests in Parliament, and despite lobbying by ICMP, this initiative was approved by Parliament in name only, with no members ever appointed.

16 – 19 May 2003

ICMP held the *Seventh Regional Conference on Missing Persons Issues in the former Yugoslavia* in Sarajevo where representatives of the Government of Macedonia as well as members of the families of the missing persons attended and were exposed to the approaches used by other countries in the region regarding this issue.

16 – 18 May 2003

An “exhumation” was carried out on three sites in Neprošteno, Džepčiste and Dobrošte (including the use of cadaver dogs from Germany). ICMP provided both monitors and a forensic archeologist. No remains were found. A formal assessment report of the three days was presented by ICMP to the Government (to then Minister of Interior Hari Kostov) and the ‘Principals’ (US Embassy, Office of the EUSR, NATO, and OSCE) regarding technical shortcomings observed and recommendations for future activities.

18 July 2003

ICMP organized the *Conference on the Right to Know – Determining the Fate and Whereabouts of the Arrested, Kidnapped and Otherwise Missing in Macedonia*, which was the first opportunity for all involved parties to sit together and discuss the issue of missing persons as well as the ways of moving forward in the process.

16 September 2003

The Memorandum of Understanding was signed between ICMP and the *Ministry of Foreign Affairs of the Government of Macedonia*, allowing the formal registration of the ICMP Office.

26 September 2003

ICMP approved a grant of 5,405 Euros to support a project of “Nadež” (the registered association of the families of the twelve missing ethnic Macedonians from the Tetovo area).

2 December 2003

Bone samples exhumed from the Neprošteno/Treboš site in November 2001 were transferred to ICMP for DNA testing, on the instruction of the ICTY to the Government of Macedonia.

8 December 2003

The Government appointed two Coordinators for the issue of the missing, to work in conjunction with ICMP and relevant State authorities: Mr. Subhi Jakupi of the Ministry of Justice; and Dr. Mihail Levenski of the Ministry of Health.

6 April 2004

After prolonged negotiations commencing with ICMP’s arrival in Skopje, families of the missing ethnic Macedonians gave blood concurrently to ICMP and the State Forensics Institute for DNA testing.¹²

7 May 2004

Three identifications were made based on DNA tests conducted in parallel by ICMP and the Macedonian Academy of Arts and Sciences (MANU). These identifications were related to the four mortal remains exhumed at Nepresteno/Treboš in November 2001 (Krsto GOGOVSKI, Simeon JAKIMOVSKI, and Dimitrije DIMOVSKI). Notification was given to the families by Tetovo Investigative Judge Aleksandra ZAFIROVSKA with ICMP present.

17-19 May 2004

Four mortal remains were exhumed from the site “Jama” – located between Mavrovo and Debar. This involved the recovery of four “surface remains” from a deep pit. Planning was conducted in conjunction with the Ministry of Interior, EU Proxima, Forensics Institute, ICMP, and relevant Investigative Judge and Public Prosecutor. Legal procedures were fully followed throughout the recovery operation, which were additionally conducted with appropriate levels of transparency vis-à-vis family members of the missing.

25 May 2004

Exhumation/immediate reburial of 14 bodies from Butel Cemetary in Skopje – “unknown” graves. Body searched for not located (as per autopsy the body is missing one arm and thus distinctive). Investigative Judge Goran BOSEVSKI of Skopje Court II in charge of site.

3 June 2004

Blood collection from relatives of Islam VELIU, Ruzdhi VELIU, Sultan MEMETI, Xhelil OSMANI, and Radoslav BALEV.

¹² Except for the relatives of Boshko and Slavko DIMITRIEVSKI, *see supra*.

9 June 2004

Final identification issued relevant to 4 mortal remains from Neprošteno/Treboš site (Vasko MIHAJLOVSKI).

22 September 2004

Legal identification of Radoslav BALEV and Islam VELIU issued by Kičevo Investigative Judge Tance SOFRONIEVSKI.

21 October 2004

Blood collected from relatives Ibrahim and Zeqirja VELIU and Hajredin HALIMI. The VELIU cases are presumptive cases for the final remains recovered at “Jama”.

22 October 2004

Under direction from Tetovo Investigative Judge Nehat ISMAILI, Forensics Institute transferred bone sample from mortal remains (1/2 body) exhumed at the “Džepčiste” location in March 2003

September – October 2004

Ongoing meetings with the Ministry of Interior on possible sites.

18 – 19 November 2004

Working Meeting on recovery and identification of the missing between ICMP and representatives of the Ministries of Interior and Justice, the State Public Prosecutor, the Supreme Court, the Forensics Institute, and EU Proxima (police mission).

01 December 2004

Under direction from Bitola Investigative Judge Slobodanka BAKOVSKA, Forensics Institute transferred bone samples from mortal remains exhumed on 15.01.2003 in Zeleznec/Demir Hisar.

31 December 2004

ICMP closes Skopje Office, with plan for continued work on the issue by the normal legal institutions in the Republic, as outlined in the conclusions of the November working meeting.

17 January 2005

ICMP issued DNA match report for the Zeleznec/Demir Hisar bone samples followed up by legal identification issued by Bitola Investigative Judge Slobodanka BAKOVSKA.