

## A NEW INTERNATIONAL CONSENSUS ON MISSING PERSONS

By Kathryn Bomberger

On 15 December in Brussels the Foreign Ministers of the Netherlands, the United Kingdom, Sweden, Belgium and Luxembourg signed a Framework Agreement that grants a new legal status to the International Commission on Missing Persons (ICMP). This Agreement is important for ICMP – but its importance goes beyond one organization, because it reflects the emergence of a new international consensus on the issue of missing persons

ICMP was established in 1996 to ensure the cooperation of governments in the effort to account for the estimated 40,000 people who went missing during the conflicts in former Yugoslavia. In 2003, reflecting the organization's extraordinary success in implementing its task in the Western Balkans and recognizing the global nature of the missing persons problem, supporting governments extended ICMP's mandate and sphere of activity to address missing persons issues beyond the former Yugoslavia, including cases arising from disasters.

It is now active throughout the world, working with governments, civil society organizations, justice institutions, international agencies and others to address the issue of people who have gone missing as a result of armed conflict, human rights abuses, disasters, organized crime and other causes. It is the only international organization that is exclusively dedicated to this issue. However, until now its international legal status has derived principally from the agreements it has reached with governments in the Western Balkans, as well as with international organizations, such as Interpol and IOM.

At an international conference organized by ICMP in The Hague at the end of October 2013, governments and international organizations reached broad agreement that ICMP should address the issue of missing persons comprehensively and that it should lead the development of new tools, foster cooperation among States, International Organizations and others, and act as a truly global organization. Frans Timmermans, then Foreign Minister of the Netherlands and William Hague, then Foreign Secretary of the UK, announced their intention to seek the cooperation of like-minded States to elaborate an adequate legal basis for ICMP to exercise that mandate in the future.

The Framework Agreement that was signed in December constitutes ICMP as a formal international organization with its own system of governance and international capacities. It provides for a new organizational structure, including a Board of Commissioners as its principal organ, a Conference of State Parties as its plenary organ, and an executive to be headed by a Director-General.

This change in ICMP's status comes at a time when the vast scale and the pernicious nature of the phenomenon of missing persons in the 21<sup>st</sup> century are becoming apparent.

As authorities in Mexico and elsewhere scramble to address an epidemic of violent disappearances, as European governments search for a way of dealing effectively and humanely with the thousands of migrants from the Middle East and Africa who are shipwrecked in the Mediterranean every year, and as changing patterns of migration and unequal economic development produce a new wave of people trafficking in Asia, it is increasingly clear that the multi-faceted nature of the global missing persons problem must be addressed in a manner that matches its scale and its complexity.

For decades the problem has been treated as a humanitarian issue, or as a disaster-relief issue, or as a war-emergency issue – but it is now recognized as a systemic global challenge that requires a joined-up global response. Following the Framework Agreement, ICMP is positioned to make an effective and sustained contribution to that response.

From the very beginning, ICMP has championed two fundamental principles.

The first is that searching for the missing can be undertaken most efficiently through a rule of law-based approach. Accounting for the missing – from human rights violations, migration, war or trafficking – is a government obligation and must be undertaken by government institutions. Using modern forensic methods and standards, including advanced database informatics and protection is a critical component of this approach. In this regard, ICMP has been in the vanguard of DNA-led identification techniques and standards that have revolutionized the search for missing persons.

The second operating principle is that families and loved ones must be at the center of efforts to find the missing. This is about *empowering* people who have suffered trauma and tragedy and who face the daunting task of dealing with unfamiliar and often uncooperative official institutions.

The signing of the Framework Agreement and the development of ICMP into an international organization in its own right are an endorsement of this holistic, rule-of-law approach. The Agreement is an important step for ICMP and I believe it is an important step for the world as it grapples with the enormously complex challenge of missing persons.

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