

FRAMEWORK PLAN TO ADDRESS THE ISSUE OF PERSONS MISSING FROM CONFLICTS ON THE TERRITORY OF THE FORMER YUGOSLAVIA

1. Taking into account existing bilateral agreements, protocols of cooperation and mechanisms of cooperation, and supporting their full implementation, this joint Framework Plan aims to expedite the process of accounting for the 12,000 persons who are still missing as result of the conflicts of the 1990s on the territory of the former Yugoslavia.
2. The Plan will be implemented by the Missing Persons Group (MPG). The MPG will comprise domestic (DIs) that are responsible for the search and identification of missing persons from Bosnia and Herzegovina, Croatia , Kosovo* , Montenegro and Serbia.¹
3. The Directorate for Detained and Missing of the Republic of Croatia will support and participate in the implementation of the joint Framework Plan. In addition, by virtue of its status as an EU member state, its advisory role on missing persons issues that are pertinent to EU accession of other MPG members will be valuable.

I. OBJECTIVE

4. To intensify multilateral cooperation in order to search for and identify persons missing as a result of the conflicts on the territory of the former Yugoslavia in the 1990s.

II. COMPONENTS OF THE JOINT FRAMEWORK PLAN

2.1 Action to resolve the approximately 4,000 no name, or unidentified (NN) cases on the territory of the former Yugoslavia

5. There are more than 4,000 NN cases stored in facilities on the territory of the former Yugoslavia. The International Commission on Missing Persons (ICMP) has obtained DNA profiles from more than 3,000 of the NN cases; however, these do not match any of the thousands of sets of reference samples collected from families who are still searching for their missing relatives. Although some of the 4,000 NN cases have been subject to forensic anthropological examination and DNA testing in recent years, there remains a need to ensure resolution of the NN issue.
6. The MPG will develop pilot projects to address NN cases and possible misidentifications, based on previous experiences and best practice, taking into account the specific needs of MPG members.
7. Pilot projects may comprise some or all of the following activities:
 - Disaggregation of identifications according to those made on the basis of DNA analysis and those made using traditional methods of identification, unless previously completed;

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

¹ DIs are: the Missing Persons Institute of Bosnia and Herzegovina, the Directorate for Detained and Missing of the Republic of Croatia, the Kosovo Commission on Missing Persons, the Government Commission on Missing Persons of Montenegro, the Government Commission on Missing Persons of the Republic of Serbia.

- Documentation review of cases closed using traditional methods of identification. This review would include an analysis of previous excavations from which human remains were exhumed, and where some were identified by traditional means while others remain unidentified (NN);
 - A comprehensive review - including forensic examination - of unidentified remains in mortuary facilities to determine the number of unidentified cases and ensure that post-mortem samples have been taken for DNA testing;
 - Collection of additional DNA reference samples from family members of the missing that previously closed their cases without the help of DNA analysis in case of doubt about the results of identifications made using traditional methods of identification. Reference sample collection efforts will take the form of pilot projects and will target family members who traditionally identified relatives who were exhumed from gravesites where there were also exhumed cases that remain unidentified.
8. Such pilot projects could lead to new identifications, and a reduction in the number of NN cases. In this context, implementation of the Joint Project on DNA-led identifications between the Republic of Croatia and ICMP will continue.

2.2 Sharing data on missing persons cases among DIs, and with families of the missing by means of the “Database of active missing persons cases from conflicts on the territory of the former Yugoslavia” in the 1990s

9. The MPG members will:
- Update records on missing persons cases, i.e. open and close cases through the Database in line with the conclusions from the Podgorica meeting on 25 and 26 May 2018 and other consultative meetings held in the past;
 - Remove duplicate records on missing persons cases from the “Database of active missing persons cases from conflicts on the territory of the former Yugoslavia” (the Database);
 - Ensure the functioning of the Operational Working Group, which will regularly review and update missing persons cases of mutual interest² in the Database;
 - If required, the content of the Database may be augmented by adding additional documents relevant to verified records on missing persons cases, and which may assist in the search for missing persons. Additional documents will be accessible only to DIs.
10. Once the records within the Database are verified, and by mutual consent of all DIs, selected data categories from the Database will be placed in the public domain.

2.3 Exchanging information on potential locations of clandestine gravesites, and undertaking joint excavations

11. DIs will endeavor to access information within their archives and conduct other activities to obtain information that may be pertinent to locating clandestine gravesites; they will report regularly on progress on cases of joint interest to other DIs within the MPG.

² Cases of joint interest are those relevant for more than one member of the MPG.

12. ICMP's Site Locator may be used as a tool for the exchange of information about locations of potential gravesites.
13. DIs will ensure an exchange of information pertaining to excavations of gravesites of mutual interest.
14. DIs strive to ensure the timely exhumation of gravesites.

2.4 Engaging families of the missing in the process

15. To ensure the active engagement of families of the missing in the process of searching and identification of the missing, DIs will provide regular updates on their joint efforts to search for and identify missing persons at joint regional meetings with representatives of associations of families of missing persons.

2.5 Organizing joint commemorations to mark the International Day of the Disappeared

16. At the initiative of the associations of families of persons missing from the territory of former Yugoslavia, DIs may organize joint commemorations to mark the International Day of the Disappeared - 30 August.

III. IMPLEMENTATION AND REPORTING

17. MPG members will meet together at least twice a year to monitor and note progress on the aforementioned activities.
18. MPG members will, with ICMP's technical assistance, compile an annual report on implementation of the joint Framework Plan and other activities relevant to search and identification of missing persons. MPG may present the report at Western Balkans Berlin Process summits.

IV. MONITORING

19. The Regional Coordination of Associations of Families of the Missing from the former Yugoslavia, a civil society organization that gathers representatives from diverse associations of families, will monitor the implementation of the joint Framework Plan.

V. ROLE OF ICMP

20. ICMP will assist the MPG in implementing the joint Framework Plan through the following activities:
 - Ensuring access to DNA testing and matching of biological samples for the purpose of human identification of missing persons;

- Maintaining the “Database of Active Missing Persons Cases from Conflicts on the territory of the former Yugoslavia”, so as to ensure that data on active cases is shared among DIs responsible for the missing persons process;
- Providing technical assistance in resolving NN and misidentified cases;
- As needed, supporting excavations of mortal remains of joint interest in line with positive legislation of MPG members on whose territory the excavation is conducted;
- Facilitating regular multilateral meetings of the MPG to enhance cooperation on the implementation of the joint Framework Plan. The rotation model for organizing the meetings will be applied;
- Developing domestic capacities in terms of DNA testing of post-mortem biological samples for human identification purposes;
- Enabling DIs to access ICMP's online DNA matching module for human identification purposes.

VI. FINANCIAL SUPPORT

21. The EU and the UK have pledged funds to ICMP which ICMP will use for the purposes of facilitating the MPG and providing technical assistance to the MPG in implementing the joint Framework Plan. ICMP will make its audited annual accounts available to the MPG.

**EXPLANATORY NOTE
OF THE FRAMEWORK PLAN TO ADDRESS THE ISSUE OF PERSONS MISSING
FROM CONFLICTS ON THE TERRITORY OF THE FORMER YUGOSLAVIA**

I. BACKGROUND

1. For more than 20 years, Berlin Process participants from the Western Balkans, and the Republic of Croatia, that are affected by the issue of persons missing as a consequence of the conflicts on the territory of the former Yugoslavia in the 1990s have made a significant effort to fulfil the obligation to search for and identify missing persons. They have established dedicated institutions, created legal frameworks and developed technical capacities to account for the missing.
2. As a direct result of these efforts, more than 70 percent of the 40,000 persons who were missing at the end of the armed conflicts have been accounted for, a result that has not been equaled anywhere in the world.
3. Despite this progress, 12,000 persons are still missing across the territory of former Yugoslavia. It is therefore essential that efforts are intensified and all aspects of cooperation that are key to locating and identifying a greater number of missing persons are enhanced.
4. Because of the interconnected nature of the conflicts of the 1990s, it is not unusual to find that clandestine gravesites are located on the territory of one Missing Persons Group (MPG) member, families of the missing reside on another, and data pertinent to the search is in a third. Addressing the issue in an effective way therefore requires enhanced multilateral cooperation.

II. PODGORICA MEETING OUTCOMES

5. With UK support, International Commission on Missing Persons (ICMP) organized a meeting in Podgorica with the domestic institutions (DIs) responsible for dealing with the missing persons issue in May 2018. At that meeting, participants supported the adoption of a joint Framework Plan aimed at building on achievements to date and addressing the impediments to accounting for the 12,000 persons still missing in the territory of former Yugoslavia. The DIs expressed support for efforts to enhance multilateral cooperation through the development of a Framework Plan, which will build on existing bilateral agreements and mechanisms of cooperation. ICMP will provide technical assistance in the implementation of the joint Framework Plan, as required.
6. Wishing to contribute to the resolution of missing persons cases, the Republic of Croatia, as a full-ledged member of the European Union that has achieved international standards in the process of the search for missing persons, will support implementation of the Framework Plan with its participation in the work of MPG.

III. COMPONENTS OF THE JOINT FRAMEWORK PLAN

3.1 Action to resolve the approximately 4,000 no name, or unidentified (NN) and misidentified cases on the territory of the former Yugoslavia

7. Prior to the introduction of large-scale DNA testing in the identification of missing persons in 2001 on the territory of the former Yugoslavia, cases were identified primarily through visual recognition of human remains, personal effects and clothing (traditional identification methods), and in Republic of Croatia also by using ante-mortem and post-mortem comparison. Traditional methods of identification are not exact and hold a risk of error. Any potential misidentifications could present an impediment to resolving remaining active missing persons cases.
8. Examination and identification of human remains in the Republic of Croatia are carried out by the laboratories from the Republic of Croatia, partially through the cooperation with ICMP in the Joint Project of Identifications.

3.2 Sharing data on missing persons cases among DIs, and with families of the missing by means of the “Database of active missing persons cases from conflicts on the territory of the former Yugoslavia”

9. ICMP initiated the creation of the regional “Database of active missing persons cases from conflicts on the territory of the former Yugoslavia” (the Database), several years ago, with the aim of enhancing cooperation through the exchange of information on active missing persons cases. The rationale of the project was related to the fact that the conflicts on the territory of the former Yugoslavia were interconnected and that missing persons cases could be reported to two or more MPG members. There was a recognized need to exchange and compare lists of missing persons and to create a unified record of persons still unaccounted for.
10. In 2016 and 2017, ICMP concluded agreements with DIs on the creation of the Database. By the end of 2017, data on active missing persons cases had been submitted to ICMP by all participating DIs.
11. The project was created under the aegis of ICMP through a series of nine consultative meetings with DIs. At the last such meeting, held in Belgrade in December 2017, ICMP presented the first working version of the Database.
12. The Database will facilitate the exchange of information on missing persons in real time, aid the removal of duplicate and multiple records and provide insight into cases of joint interest¹. ICMP is maintaining this data on its servers, and, on the basis of reciprocity, each of the participating DIs can review all the data submitted by the five participating DIs.

3.3 Exchanging information on potential locations of clandestine gravesites, and participation at excavations of joint interest

13. As already noted, the armed conflicts that took place in the 1990’s led to significant population movements within the territory of former Yugoslavia. In many cases, persons reported missing from one region were killed or disappeared in another. As a result, clandestine graves might contain remains of victims reported missing in a territory different from the territory where the grave is located.
14. Existing bilateral cooperation agreements reiterate the need to increase cooperation in enhancing transparency of exhumations in locations that might be of mutual interest, and

¹ Cases of joint interest are persons who went missing on the territory of one country, and whose family members now reside in the territory of another.

establish mechanisms for cooperation and exchange of information. These provisions are still to be implemented in their entirety.

3.4 Engaging families of the missing in the process

15. Families of the missing share a common experience of loss and a degree of mutual understanding - no one else can better understand the sense of loss experienced by those who have a relative missing. Family associations have recognized the need for multilateral cooperation and joint action. The Regional Coordination of Associations of Families of Missing Persons from the former Yugoslavia brings together 17 associations and unions. The associations gathered around the Regional Coordination have supported and built momentum for the work of domestic institutions responsible for the issue of missing persons, and are keen to ensure that families of missing persons have greater insight on the work of these institutions. In addition, they aim to act as a bridge between the institutions and the families by providing a platform for the exchange of information, which will in turn ensure an enhanced degree of transparency in the process.

3.5 Organizing joint commemorations to mark the International Day of the Disappeared

16. Joint commemorations are a way of paying respectful tribute to persons missing as a result of conflicts on the territory of the former Yugoslavia, and raise awareness of the human dimension of the tragedy of missing persons while diminishing the politicization of the issue.

IV. REPORTING

17. Berlin Process summits are a platform for the MPG to report on progress in implementing the joint Framework Plan and other activities in relation to search and identification of missing persons . This will ensure visibility and transparency of work and help to sustain the results and the progress that has been made.

V. MONITORING

18. The active participation of civil society and in particular the families of the missing in the process of search and identification is essential. Families of the missing, as rights-holders, can play a key role in monitoring the actions of DIs in carrying out their duties.

VI. ROLE OF ICMP

19. Since 1996, ICMP has provided policy guidance and technical assistance in the search for and identification of missing persons.
20. ICMP's cooperation with Bosnia and Herzegovina is based on its Office Agreement in Bosnia and Herzegovina, concluded with the BIH Council of Ministers in 1998. In addition, in 2005 ICMP and the BIH Council of Ministers signed an Agreement on Assuming the Role of Co-Founders of the Missing Persons Institute of Bosnia and Herzegovina (the MPI Agreement).

21. ICMP's cooperation with Croatia is based on an Office Agreement signed in 2002, and an agreement on a Joint Project on DNA-led identifications signed in 2004. In January 2017, Croatia and ICMP also signed an agreement on the participation of Croatia in the Database project.
22. ICMP's cooperation with Kosovo* derives from an agreement that ICMP signed with the United Nation Mission in Kosovo (UNMIK) in 2003. Since 2008, ICMP has cooperated with EULEX on the basis of that agreement, and it has continued its support for the institutions in charge of missing persons and various other institutions.
23. ICMP's cooperation with the Government Commission on Missing Persons of Montenegro derives from agreements signed with the Federal Republic of Yugoslavia (FRY) in 2001.
24. ICMP's cooperation with Serbia is grounded in several agreements dating back to 2001. The first technical cooperation agreement was signed in 2001 with the FRY Ministry of Foreign Affairs. In 2014, ICMP signed an agreement with the Government Commission on Missing Persons of the Republic of Serbia regarding DNA testing and matching of biological samples for the purpose of identifying missing persons. In 2017, the Republic of Serbia ratified the international Agreement on the Status and Functions of the International Commission on Missing Persons and in so doing joined the ICMP Conference of State Parties.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.